

Decree

President of the Islamic Transitional State of Afghanistan on the convening of the Constitutional Loya Jirga

No.
Dated:
24.04.1382 (July 15, 2003)

Article 1: Procedure of the Loya Jirga:

Taking into account the history and desirable national traditions of Afghans and in accordance with the Bonn Agreement, the Loya Jirga of the people of Afghanistan for the adoption of the constitution whose draft has been prepared by the Constitutional Commission, shall be called and convened in the city of Kabul. It shall be convened according to the following composition and procedure.

Article 2: Composition and number of members:

1. The Constitutional Loya Jirga shall have five hundred members.
Four hundred and fifty members shall be elected and fifty members shall be selected.
2. The four hundred and fifty elected members shall be elected as follows:
 - a. 344 members shall be elected through secret ballot by the fifteen thousand district representatives who were chosen by their districts during the preparation for the Emergency Loya Jirga in Jawza 1381 (May 2002).
 - b. 42 members shall be elected by representatives of refugees in Pakistan and Iran, internally displaced people, Kuchis, Hindus and Sikhs in accordance with the provisions of article five of this decree. Fifteen percent of these shall be women.
 - c. 64 women members shall be elected by women representatives in the 32 provinces.
 - d. 50 delegates shall be appointed by the President of the ITSA in accordance with the provisions of article six of this decree.

In addition, the following personalities shall be invited to the Loya Jirga as observers:

- (a) Members of the cabinet of the ITSA (33 persons)
- (b) Chief of the Supreme Court (1 person)
- (c) Chairman and members of the Constitutional Commission (35 persons)
- (d) The chairpersons of the Judicial Commission and the Afghan Independent Human Rights Commission (2 persons)

The observer members do not have the right to vote and express their views during the proceedings of the Constitutional Loya Jirga unless they are asked specific questions or requested to give explanations by the Loya Jirga members.

Other senior government officials including governors, deputy governors, district administrators, mayors, army, police and National Security Directorate personnel are not eligible to participate in the Constitutional Loya Jirga.

Article 3:

Criteria for election:

- (a) The election of the members of the Constitutional Loya Jirga must be conducted in a free and fair manner, exempt from political pressure, ethnic tendencies or undue interference and inconvenience.
- (b) The principal criteria for the election of members of the Loya Jirga are patriotism, commitment to national unity and national interests of the people of Afghanistan.
- (c) Taking the above points into consideration, electors shall elect people who are literate and have sufficient command and relative knowledge of constitutional principles.

Article 4:

Procedure for the election of the Loya Jirga members:

- (a) In the months of Asad and Sonbola 1382 (August 2003) district representatives selected in connection with the Emergency Loya Jirga shall assemble in the provincial capitals. Detailed information on the process of election, criteria and procedure of the Loya Jirga will be provided.

In the event of the death of a district representative, the remaining representatives from the same district shall elect another eligible person and send him to the capital of the respective province.

- (b) In Sonbola 1382 (September 2003) district representatives shall assemble in the cities of Kabul, Jalalabad, Mazar-e-Sharif, Herat, Kandahar, Bamyan, Kunduz and Gardez and elect members of the Loya Jirga through secret ballot. Elections shall take place on a provincial basis. The number of elected members from each province shall be proportional to the number of members from the same province in the Emergency Loya Jirga.

Article 5:

Election of members by women, refugees, IDPs, Kuchis and Hindus and Sikhs:

- (a) Women shall assemble in every province and elect two members to the Constitutional Loya Jirga through secret ballot.
- (b) Refugees in Iran and Pakistan shall elect and introduce twenty four members through broad consultations.
- (c) Internally displaced people located in the provinces of Kandahar, Herat and Helmand shall participate in provincial gatherings and elect a total of six members.
- (d) Kuchis shall assemble in locations identified in consultations with their leaders and elect nine members following broad consultations.
- (e) Hindus and Seiks shall elect three of their representatives as members of the Constitutional Loya Jirga following broad consultations.

Article 6

Selected members

The President will appoint 50 members of the Constitutional Loya Jirga, of whom twenty five will be eligible women. The President will appoint the other twenty-five members from among legal scholars, specialists of constitution and other experts.

Article 7

Organization of the elections

The task of organizing, holding and convening of the elections of the members of the Constitutional Loya Jirga referred to in articles 4 and 5 is entrusted to the Secretariat of the Constitutional Commission. The Secretariat shall take, with the support of Government institutions and non-government organizations, the necessary measures to ensure that the process is carried out effectively.

Article 8

Security for the elections

In order to ensure full security, the Ministry of Interior shall take comprehensive security measures and designate a special security unit. This unit shall carry out its duties in close coordination with the Secretariat of the Constitutional Commission.

Providing security for the provincial and regional gatherings and transportation of members to election centers and the venue of the holding of the Loya Jirga are the responsibilities of the Ministry of Interior and the designated unit. The unit will receive adequate professional training, including orientation about election management with the cooperation of the Secretariat of the Constitutional Commission.

Article 9

Executive Committee

A: For the purpose of monitoring the elections of members and convening of the Constitutional Loya Jirga, the Executive Committee shall be established with the following composition:

1. Chairperson of the Constitutional Commission
2. Minister of Interior Affairs
3. Minister of Justice
4. Attorney General
5. Chairperson of the Afghanistan Independent Human Rights Commission
6. Special Representative of the Secretary-General of the United Nations, or his representative, as observer.

B: The Executive Committee evaluates the following issues and accordingly takes the required actions:

1. Receiving complaints of threatens, intimidation, pressure, interference and other abuses perpetrated against participants in the process of the election of members.
2. Taking measures aimed at correcting, deterring, prosecuting and punishing such abusers.
3. Overseeing the process of election of the members of the Loya Jirga.
4. Ensuring cooperation with and support to the process by Government authorities, tribal elders, and religious personalities.

C: In order to be able to monitor and protect effectively the process of election of the members of the Constitutional Loya Jirga, the Executive Committee shall establish sub-committees in the provinces. It shall maintain permanent contact with the regions and get updates and information on communication of orders and progress in the process.

D: The Executive Committee and the Secretariat of the Constitutional Commission shall prepare and implement the required and complementary procedures to this decree.

Hamid Karzai
President
The Transitional Islamic State of Afghanistan