

Afghanistan's loya jirga convened to rubber-stamp an anti-democratic constitution

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The *loya jirga* or grand tribal council currently underway in the Afghan capital of Kabul is a thoroughly cynical political exercise. For all the hype about consulting the Afghan people, a select group of 500 delegates has been convened to endorse an undemocratic constitution and to consolidate the position of Washington's political puppet—President Hamid Karzai.

The gathering is taking place in a large tent in the grounds of Kabul Polytechnic Institute, heavily guarded by army units that have stationed tanks and set up machine gun posts near the perimeter. Soldiers from the 5,500-strong International Security Assistance Force based in the capital are patrolling nearby hills in order to prevent rocket attacks on the assembly.

The *loya jirga* opened on Sunday after being postponed for a day. According to Afghan and UN organisers, the delay was to allow time for delegates from outlying areas to arrive. Karzai and his backers, however, used the time to consolidate support for his choice of chairman—Segbatullah Mojaddedi—and for the proposed constitution that concentrates enormous power in the hands of the president.

Former president Burhanuddin Rabbini, a key Northern Alliance leader, has been one of the main figures criticising the proposed constitution. On Saturday after a flurry of high profile visitors, including Karzai, US ambassador Zalmay Khalilzad and UN special envoy Lakhdar Brahimi, Rabbini indicated that he would accept a presidential system “with certain checks”.

The behind-the-scenes deal making was evident on the first day when Mojaddedi was elected chairman, defeating Abdul Hafiz Mansoor, a newspaper editor and Karzai critic, 251 votes to 154. The decision is a pointer to the outcome of deliberations on the constitution itself.

Right from the outset, the entire process has been carried out behind the backs of the Afghan people. The framework was decided at a UN-sponsored conference in Bonn, Germany in December 2001, shortly after the collapse of the Taliban regime. While the UN organised the affair, it was the Bush administration that called the shots, insisting

Karzai be installed as interim president.

The hand-picked delegates in Bonn also rubberstamped the procedure for drawing up and approving a constitution and for national elections. Whatever their factional differences, all of those present traced their origins to the various right-wing Mujaheddin militia that were financed, trained and equipped by the CIA in the 1980s to fight the Soviet-backed regime in Kabul. Karzai developed an especially close relationship with Washington when he ran the Pakistani office of the group headed by Segbatullah Mojaddedi.

In June 2002, to provide a democratic veneer for the arrangements made in Bonn, an emergency *loya jirga* was convened in Kabul. Some 1,600 heavily-screened delegates were bullied, threatened and bribed into approving Karzai as president as well as his proposals for three vice-presidents, the chief justice and cabinet. Even at this stage-managed affair, there was bitter criticism of the standover tactics used, particularly by Zalmay Khalilzad, then US special envoy to Afghanistan.

Karzai and his transitional administration have applied the same anti-democratic methods to the constitution. A carefully selected committee drafted it in secret. The much-vaunted public consultative process, which involved stage-managed discussions with “focus groups,” began in June this year and was completed in late July, before the draft constitution was even available. When it was finally published on November 3, it clearly reflected the desire of Karzai—and Washington—for an autocratic presidency.

The final draft eliminated a proposal, contained in earlier versions, for establishing a prime minister as head of government. Instead the president will have extensive powers, including the appointment and dismissal of ministers, the attorney general, the central bank governor, judges, officers of the armed forces, police and national security, heads of diplomatic missions and other high ranking officials. The president will also appoint one third of the members of the upper house of the national assembly.

The president will be the designated commander-in-chief of the armed forces, with the power to declare war or a state

of emergency and to dispatch contingents of troops to foreign countries. He or she will preside over the government as chairperson of the cabinet and have the power to issue decrees. The president will be able to convene *loya jirgas*—declared to be “the highest manifestation of the will of the people of Afghanistan”—that will have the power to amend the constitution and override the national assembly. He or she will also be able to call a referendum, which can be used as means of sidestepping parliament.

The two houses of the national assembly by contrast will have very limited means for constraining the president. While both houses will have to approve laws, they will not be able to delay government bills indefinitely. The lower house may question and impeach ministers. But the impeachment of a president requires a two-thirds vote in the lower house to convene a *loya jirga*, a two-thirds vote in the *loya jirga*, and the approval of a special court, making such an eventuality all but impossible.

The draft constitution is dressed up with a list of fundamental rights for citizens. All of these are routinely flouted, however, not only by the warlords, military commanders and tribal chiefs who control most of the country outside Kabul, but by the US military. American troops conduct operations, often with terrible consequences for civilians, free of any constraints. Whatever is decided at the *loya jirga*, it is certain that basic constitutional rights will not apply to the prisoners held indefinitely without charge or trial, interrogated and tortured at US-run detention centres at Bagram airbase and elsewhere.

The US actions have generated widespread opposition to its occupation of the country, particularly in the majority Pashtun areas in the south and east. In the leadup to the *loya jirga*, the US military conducted its massive sweep involving 2,000 US troops along the border areas with Pakistan, in part to preempt any attacks on the assembly in Kabul. Washington’s tenuous position in Afghanistan is the prime reason it has insisted that the constitution concentrate power in the hands of its stooge Karzai, even at the expense of the Northern Alliance which were its main military allies in the ousting of the Taliban.

For his part, Karzai is completely dependent on the US—politically, financially and militarily. He has no significant base outside a limited one among his own Pashtun tribe. So precarious is his position that the US is providing a special guard to protect him from his nominal allies as well as his enemies. Until now, he has had to coexist with a cabinet in which the Northern Alliance—composed of ethnic Tajiks, Uzbeks and Hazaras—holds the key posts of foreign affairs and defence.

Under the new constitution, however, the president will

have significantly more powers than any of his ministers, including the right to dismiss them. This is the main reason for the opposition from Rabbani and sections of the Northern Alliance, who view the proposed constitution as a threat to their own power bases. Their criticisms also appear to have behind-the-scenes support from the European Union, whose representative Francesco Vendrell, argued that the regional warlords had to be given a parliamentary avenue in order to convince them to disband their military forces.

The only other opposition inside the *loya jirga* to the draft constitution has come from Islamic fundamentalists who insist that the document does not go far enough in entrenching reactionary Islamic law. These layers are demanding restrictions on the basic rights of women and a form of retributive justice that is not so different from that imposed by the Taliban regime before the US ousted it.

Whatever the factional differences between the delegates, it is highly likely that a majority will approve the draft constitution with minor amendments. In part, this reflects the fact that those present have either been appointed directly by the president or have been “elected” by carefully vetted groups of district representatives. It also a product of the enormous clout that Washington wields behind the scenes. On Saturday, Karzai insisted that he would only stand in next year’s presidential election if the presidential powers were passed intact. His statement only carried any political weight because all the powerbrokers in Kabul were well aware that behind the non-entity Karzai stands the Bush administration.



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