Loya Jirga from a Legal Perspective

By Hujjatullah Zia

In tribal belts, the issues are resolved by tribal council consisting of elders and influential figures, this tradition held stronger way in the past. Loya Jirga (Grand Assembly or National Assembly) rests its foundation on the seat of power controlled by the king, and the heads of tribes of Loya Jirga were decided to discuss about political issues related to tribal societies during the past regime. Tribal system rules Afghan culture and tribal leaders played a key role of governing society, cultural, and other issues in the past. They were even appointed by kings to represent a group in Loya Jirga. Loya Jirga is basically a judicial code which has been changed into a legal institution.

It was the Loya Jirga that appointed Abdal Shah Daran as king and it was Loya Jirga that approved a written constitution for the first time during Amirshah Khan's regime. Before having legal basis, Loya Jirga had no specific members and mostly tribal leaders and influential men attended the assembly.

Gradually, it was inserted in Afghan constitutions and defined as the representation of the central government (Article 113). To decide on issues related to independent, national sovereignty, and solidarity; and as a safeguard for national agencies, amend provisions of this Constitution; impound the President in according with the provisions of Article 69 of the Constitution. To save the past, the Loya Jirga was convened to resolve social and political issues and become one of the significant customs in tribal culture. Initially, Loya Jirga was convened by kings to discuss the problems, and later by the Islamic republic. For instance, the first Loya Jirga was convened in 7477 to approve and establish Afghanistan as a state. The second was convened in 1924 to approve the first written Constitution.

After the downfall of the Taliban's regime, a Loya Jirga was convened based on Bonn agreement and established an interim government. The Afghan Constitution was unique in Afghanistan's history since nation's representatives were centered on the basis of a completely and all the ethnic group, political group, and faction parties participated in the Jirga. In the past, Loya Jirga was held by kings' order, but Loya Jirga in the past decade needed the head of the state rather than the head of government for being conducted on people's will.

Conventionally, the president and National Assembly have the right to convene the Loya Jirga for the issues which were important for the state. Now that we to say, the executive and legislative powers can call for holding Loya Jirga. Nonetheless, some social and cultural factors are challenging for Loya Jirga. For instance, the former president of Afghanistan Hamid Karzai and his call for holding Loya Jirga in the view that the National Unity Government (NUG) is not based on race or custom meet the needs of the public.

Although the heads of the NUG agree to convene Loya Jirga in 2015 for establishing the post of executive officer / prime minister, but the executive and legislative powers do not take the Loya Jirga as the only part of the agreement which allowed the establishment of the NUG.

Whether or not Loya Jirga can be held, it is the government's task to answer responsibly. To sum up, Loya Jirga has originated from traditional Afghan dispensation to become one of the central institutions in the constitution. Loya Jirga, which is introduced in the constitution, is a part of the rule of public law, a branch of social and political arenas.

Any institution has to make decision about important political issues. Loya Jirga is a reasonable and necessary institution.

The Right to Health is Universal

By Michel Sidibé and Dainius Puras

O utstanding this year's World AIDS Day, on December 1, we estimate that nearly 55 million people have been infected with HIV and that 3.5 million people have died of AIDS-related illnesses, and the 2.7 million women and children are newly infected each year. To the end of 2017, we can celebrate the fact that nearly 21 million people living with HIV now have access to life-saving treatments. But only around 80% of people living with HIV know their status, and of these, only 60% who know their status have access to treatment. For the 170 million people living with HIV who are unaware of their status, the situation is even worse for nearly 15 million people are still awaiting treatment, while an estimated 11 million people progress to AIDS and 3.5 million die each year. The fact is that as of 2017, 1.2 million people were living with HIV in Afghanistan, and 20% of them did not have access to treatment.

The third United Nations Sustainable Development Goal (SDG3) is to ensure healthy lives and promote well-being for all ages. It is an ambitious goal to tackle non-communicable diseases; end AIDS, tuberculosis, and malaria; and eliminate maternal, newborn, and child mortality. (SDG3) addresses health. It aims to reduce road accidents; protect the right to health of all age groups; and address environmental and other regulatory issues, turn a blind eye to discrimination, and create effective health systems by 2030. The goal is ambitious and provides a framework for the world to look beyond the epidemiological facts. Guaranteeing the right to health and tackling non-communicable diseases in Afghanistan is a complex task: in the health sector various stakeholders are active, conducting thorough assessments of the health impact of key health threats and in the medium-term relief for the people.