



INTER-PARLIAMENTARY UNION

CHEMIN DU POMMIER 5
1218 LE GRAND-SACONNEX / GENEVA (SWITZERLAND)

TELEPHONE + 41 22 - 919 41 50 - FAX + 41 22 - 919 41 60 - E-MAIL postbox@mail.ipu.org

COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

CASE No. AFG/01 - MALALAI JOYA - AFGHANISTAN

*Decision adopted by the Committee at its 124th session
(Geneva, 19 - 22 January 2009)*

The Committee,

Referring to the outline of the case of Ms. Malalai Joya, a member of the House of Representatives of Afghanistan, and to the resolution adopted by the Governing Council at its 183rd session (October 2008),

Having been informed of the meeting held between the Secretary General and the Permanent Representative of Afghanistan to the United Nations Office in Geneva and *taking into account* information provided by the sources on 11 December 2008 and 19 January 2009,

Recalling that during the meeting held on the occasion of the 119th IPU Assembly (October 2008), the Deputy Speaker was unequivocal about the fact that the suspension of Ms. Joya's mandate until the end of her term was unlawful and that she should be reinstated as quickly as possible, and he gave assurances that parliament would make every effort to reinstate Ms. Joya before the closure of the parliamentary session (early December 2008); *noting* that, in the meeting he had with the IPU Secretary General, the Permanent Representative of Afghanistan to the United Nations Office in Geneva also expressed the view that parliament should reinstate Ms. Joya's as quickly as possible and *noting* that this has, however, not happened although several members of parliament had reportedly raised the issue in parliament,

Recalling that, in February 2008, after having found a lawyer willing to take up her case, Ms. Joya submitted a complaint regarding the suspension of her mandate to the Supreme Court; that, apart from asking parliament to assign a representative to respond to the case, the Court has reportedly taken no other legal action; *noting* in this respect that, according to the sources, the attorney assigned by the Court to follow the case, Mr. Attaullah Wais, has failed to take any action to speed up the proceedings; *noting further* that, according to the sources, the parliament has so far failed to assign a representative and that the Deputy Speaker and other parliamentary authorities which Ms. Joya's lawyer contacted several times were unwilling to speak to him,

Recalling lastly that Ms. Joya has constantly been receiving death threats and that her safety in Afghanistan is in jeopardy, as is that of many other members of parliament,

Bearing in mind that Afghanistan is a party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to life and to security and freedom of expression; that Afghanistan is also a party to the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which enshrines the right to equality of women,

1. *Deeply regrets* that the parliamentary authorities, in spite of the assurances given in October 2008, have taken no action to reinstate Ms. Joya; *deplores* the fact that they are thus perpetuating a situation which they themselves have qualified as unlawful;
2. *Emphasizes* in this respect that suspension is a disciplinary measure, which is necessarily limited in time, and that a suspension for the entire term is in fact a revocation of the parliamentary mandate, which is wholly unlawful in this case;

3. *Firmly recalls* that in failing to reinstate Ms. Joya, the parliament is not only violating its own Standing Orders, but is also denying Ms. Joya's her right to exercise the mandate entrusted to her by the people and is depriving her electorate, in particular women, of representation in parliament, a situation which can only undermine parliament's legitimacy as the body representing the people and hence is highly detrimental to democracy;
4. *Urges* therefore the Speaker and the Deputy Speaker to put an end to this situation and to take immediate action to reinstate Ms. Joya so that she can continue to fulfil her mandate as soon as parliament resumes after the winter recess;
5. *Expresses concern* at the failure of the Supreme Court to act with the necessary diligence on Ms. Joya's complaint; *strongly believes* that a complaint concerning the unlawful suspension of a member of parliament should be dealt with as a matter of priority because of its implication for democracy; *calls therefore on* the Supreme Court to act on Ms. Joya's complaint without further delay;
6. *Calls on* the authorities to do everything in their power to identify and bring to justice those persons making the death threats against Ms. Joya; *would appreciate* any information on the steps taken by the parliamentary authorities to ensure that the competent authorities fulfil their duty to dispense justice;
7. *Requests* the Secretary General to inform the Head of State of the IPU's concerns in this case, and to convey this decision to the parliamentary authorities and the Chief Justice; *requests* the Secretary General also to share the IPU's concern in this case with international organizations;
8. *Decides* to continue examining this case at its next session, to be held during the 120th Assembly of the IPU (April 2009).