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# Legislative Newsletter

## Calendar

- Wolesi Jirga (Lower House) Agenda:
  - Electoral Law
  - Counternarcotics Law
  - Procurement Law
  - Customs Law
  - Law on Cooperative and Limited Liability Companies
  - Law on Transit
  - Law on Child Correction and Education Centers
  - Law on Registration of Commercial Trademarks
  - Law on Chamber of Commerce and Industry
  - Education Law
  - Law on Medals and Badges
  - Law on the Structure, Duties, and Authorities of the Afghanistan Independent Human Rights Commission
  - Law on Personnel Affairs of ANA Sergeants
  - Law on Private Security Companies
  - Government Structure Law
  - Communication Services Regulatory Law
  - Higher Education Law
  - Law on Rights and Privileges of the Relatives of Martyrs and Missing
  - Law on Rights and Privileges of the Disabled
- Meshrano Jirga (Upper House) Agenda:
  - Law on Regulating the Ethical Relations of the Three Powers of State
  - Extradition Law
  - Organization and Jurisdiction of Courts Law
  - Criminal Procedure Code for Military Courts and Law of Soldier Crimes
  - Law on Movable Assets in Banking Transactions
- Joint Committees:
  - Private Investment Law
  - Law on Health
  - Law on Mortgage of Immovable Assets in Banking Transactions
  - Police Law
  - Law on Gatherings, Protests, and Demonstrations

## Legislation

*The status update and description of bills remaining inactive for several weeks have been removed. They will be reintroduced as the drafts become active. Bills on the Assembly agendas will remain in the calendar above.*

### ***Electoral Law***

The Electoral Law establishes the electoral system and will regulate electoral issues, including voting centers/polling stations, observers, election campaigns, candidacy, candidate lists, voting eligibility, counting, and inter-agency cooperation on elections. The draft law addresses presidential, parliamentary, provincial, district, and mayoral elections.

Update: No change from previous report.

### ***Counternarcotics Law***

The draft law, in accordance with Article 7 of the Afghan Constitution, will prevent cultivation, trafficking, production, transaction, export and import of narcotics. The bill also addresses punishment of narcotics traffickers and promotes assistance from national and international organizations on countering narcotics processing, production, and facilities. The bill also promotes cultivation of alternative crops.

Update: The Antinarcotics Committee has reviewed four chapters and proposed amendments which committee staff has promised to share when finalized. No further information available at this time. As reported, the committee has removed a reference to a procedure for legal movement of narcotics to make all trafficking, including for medical purposes, illegal.

### ***Procurement Law***

This bill will address material and service procurement affairs of government and private entities. The draft law aims to promote transparency and equal opportunity in competitive procurement processes, control of financial and public expenditure affairs, and supply of quality goods and services.

Update: The Wolesi Jirga Budget and Finance Committee discussed the bill last week and made language and grammar amendments.

### ***Customs Law***

This bill is drafted in accordance with Article 42 of the Constitution to legislate customs affairs including government collection of customs revenue, establishing customs duties, specifying the authorities of customs personnel, outlining export policies and procedures, and preventing customs violations.

Update: After reviewing the bill, the Wolesi Jirga Budget and Finance Committee tasked three members to continue review of both the draft and Ministry of Finance suggestions and make recommendations to the full committee.

### ***Law on Cooperative and Limited Liability Companies***

The bill is drafted to govern the affairs and activities of Cooperative and Limited Liability Companies.

Update: The Wolesi Jirga National Economy, NGO, Rural Development, Agriculture and Livestock Committee reviewed 10 articles of the bill and proposed a new article mandating that the Ministry of Commerce and Industry registration department charge 500 Afs for registering trademarks.

### ***Law on Transit***

The bill is drafted to regulate all transit affairs including provision of facilities for the transit of goods and insuring their protection.

Update: The Wolesi Jirga Communication, Transportation, City Development and Municipalities Committee has amended the bill to require the transporter to inform the customer within two days about the arrival of its shipment. The original draft specified five days.

### ***Law on Child Correction and Education Centers***

The bill is drafted in accordance with the values embodied in Article 54 of the Afghan Constitution and the UN Convention on the Rights of the Child. The draft law addresses issues of reeducation and protection of suspected, accused, and convicted children in child correction and education centers.

Update: A combined meeting of Wolesi Jirga did not discuss the bill last week as scheduled. The meeting may take place this week.

### ***Law on Registration of Commercial Trademarks***

This law is established to organize the registration and use of trademarks for industrial, commercial, communications, and agricultural goods, products and services. According to the law, a name, word, signature, written piece, map, title, stamp, picture, and advisement can be trademarked. The law also regulates registration, change, and transfer of trademarks and restricts the use by two or more individuals, companies, offices, organizations or institutions of the same trademark.

Update: A combined meeting of Wolesi committees is schedule to discuss the bill this week.

### ***Chamber of Commerce and Industry Law***

The bill, drafted pursuant to Articles 10, 11 and 13 of the Constitution, aims to defend the rights of private sector enterprises; develop commercial, industrial, agricultural,

husbandry and other economic services in the private sector; coordinate the handicraft, trade union and service industries; and pave the way for economic development of private sector enterprises, nationally and internationally.

Update: Last week the Wolesi Jirga plenary decided that Chamber of Commerce membership when applying for or renewing commercial permits should be voluntary rather than compulsory. MPs also requested the National Economy, NGOs, Rural Development, Agriculture and Livestock Committee to draft a new article prohibiting the sale of Chamber of Commerce and Industry properties without National Assembly approval.

### ***Education law***

The draft law guarantees equal and balanced access to free primary education for all Afghan citizens. The bill aims to eliminate illiteracy and improve the quality of education countrywide through modern methodology and parental involvement in managing schools. In addition, the bill calls for improved professional qualifications of teachers, school principals, and Ministry of Education employees. The draft sets a minimum education level of grade eight for all Afghans and mandates design of age-appropriate curricula by the Ministry of Education.

Update: No change from last week. The bill is pending consideration by a combined meeting of the Wolesi committees. The Wolesi Jirga Religious, Cultural, Education and Higher Education Committee amended the grade at which Islamic subjects should be taught from 10<sup>th</sup> to 6<sup>th</sup>.

### ***Law on Medals and Badges***

The Law on Medals and Badges regulates affairs related to the class, value, size, and production of official government medals and badges. The draft explains the types and purposes of various medals and badges and defines award conditions and processes.

Update: Wolesi Jirga Religious, Cultural, Educations and Higher Educations Affairs Committee reviewed the bill and proposed minor grammatical amendments.

### ***Law on the Structure, Duties, and Authorities of the Afghanistan Independent Human Rights Commission***

Pursuant to United Nations General Assembly Resolution 48/134 dated 20 December 1993 and provisions of Article 58 of the Afghan Constitution, the bill promotes respect for and monitoring of human rights, and governs the structure, functions, authorities, and activities of the Afghanistan Independent Human Rights Commission.

Update: No change from last week. The bill was inactive in the Wolesi Jirga Women, Civil Society and Human Rights Committee. The committee has, however, elected a chairperson. See *News* below.

### ***Law on Personnel Affairs of ANA Sergeants***

The law regulates personnel issues including conditions for appointment, compensation for death and injury, rank, transfer, benefits, vacation, discipline, rewards, resignation, retirement, and reserve status of ANA sergeants and officers.

Update: Last week a combined meeting of Wolesi Jirga committees discussed the bill and reversed a Defense Committee amendment raising the grade of Army Academy graduates entering the ANA from sergeant to lieutenant.

### ***Law on Private Security Companies***

The bill regulates foreign and domestic private security companies (PSC) in Afghanistan and places licensing and oversight authority with the Ministry of Interior. The draft law establishes a board chaired by the Minister of Interior to oversee security companies' affairs. The board will review and approve applications before forwarding them to the Cabinet and revoke licenses or impose restrictions as deemed necessary.

Update: No change from last week. The bill was not discussed in the Wolesi plenary as planned.

### ***Government Structure Law***

The law regulates affairs related to government structure in accordance with the Afghan Constitution.

Update: No change from last week.

### ***Communication Services Regulatory Law***

The law is proposed in accordance with provisions of Articles 10 and 37 of the Constitution of Afghanistan in order to enhance and develop the telecommunications services, organize and monitor telecommunication markets, and govern business relationships between the Ministry of Communications, service providers, and customers.

Update: No change from last week. The bill is with the Wolesi committees.

### ***Law on Rights and Privileges of the Relatives of Martyrs and Missing***

The law regulates the special rights and privileges of families of the martyred and missing. The draft addresses the social, economic, and political needs of the families, including housing and employment benefits.

Update: The bill has been returned from the President reportedly for grammatical errors.

### ***Law on Rights and Privileges of the Disabled***

The law will integrate and support the disabled economically.

Update: The bill has been returned from the President reportedly for grammatical errors.

### ***Law on Regulating Ethical Relations of the Three Powers of State***

The draft law establishes expectations for behavior and communication between representatives of the executive, legislative, and judicial branches of government.

Update: The Wolesi Jirga has approved the bill and sent it to the Meshrano. In addition to the amendments reported last week, the Wolesi draft ranks MPs higher than Cabinet ministers for purposes of official ceremonies, etc.

### ***Extradition Law***

The bill governs the transfer of suspects, accused, and convicts to and from Afghanistan and addresses requests for judicial cooperation on criminal matters between Afghanistan and other countries. In line with Articles 7 and 28 of the Constitution, the bill seeks to implement Afghanistan's obligations under bilateral extradition treaties as well as consolidate procedures in existing laws which address Afghanistan's obligations under multilateral conventions, including the United Nations Convention against Transnational Organized Crime and the Convention for the Suppression of the Financing of Terrorism.

The proposed law generally follows the principles of the UN Model Law on Extradition and of most extradition laws, including those on covered offences, dual criminality requirement, prohibition against double jeopardy, and grounds for refusal of extradition requests. In addition, the bill conditions Afghanistan's approval of extradition requests on the provisions of the International Covenant on Civil and Political Rights and the Prohibition of Torture and Other Cruel, Inhuman, and Degrading Treatment.

Update: The Meshrano Jirga Legislative, Justice and Judiciary Committee continued its consideration of the draft law last week. No date has been set for its introduction to the Meshrano plenary.

### ***Organization and Jurisdiction of Courts Law***

The law will regulate the structure, staffing, and rights and responsibilities of the courts. Under the law, the Supreme Court, as the highest judicial authority in the country, has the right to overturn or amend decisions of the lower courts. The courts review disputes, monitor implementation of the law, and protect citizens' rights in accordance with the law.

Update: On 14 April the Meshrano Jirga approved the draft law, which will return it to the Wolesi Jirga after it is checked for legal and grammatical accuracy.

### ***Criminal Procedure Code for Military Courts and Law of Soldier Crimes (one document)***

The draft law addresses issues of crimes committed by Afghan National Army officers and soldiers. Procedures involving criminal investigation and reporting, arrest of the accused, collection of evidence, access to witnesses and evidence, rights of the convicted, court verdicts, punishment, etc. are covered.

Update: The Meshrano Jirga Defense Committee has finished consideration of the law and distributed it among the senators. A date for consideration in the plenary is to be determined.

### ***Law on Movable Assets in Banking Transactions***

This draft law outlines the rights and responsibilities of the parties to a transaction, and establishes parameters for management of mortgage affairs in banking deals involving movable estates.

Update: The bill is included in this week's Meshrano Jirga agenda.

### ***Private Investment Law***

The draft law regulates issues related to encouraging and protecting private investment in a free market economy.

Update: The Wolesi has amended the maximum lease period for foreign investors (Article 21) from 50 to 90 years by Executive request. However, contrary to last week's report, the Meshrano Jirga has approved the Wolesi amendment but made it conditional on renewal every three years, reportedly to offset a stipulation of Islamic Law that says if someone leases a property for more than 30 years, he/she has the right to claim ownership of the property. The draft law is pending approval by a joint committee of the houses.

### ***Law on Health***

The law regulates private health services and health centers, implementation of health projects in different areas of the country, prevention of disease, and protection of mothers and newborns.

Update: Last week's scheduled meeting did not take place. Another meeting has been set for this week.

### ***Law on Mortgage of Immovable Assets in Banking Transactions***

The draft law regulates business and banking transactions that use immovable property as security and specifies the rights and obligations of the parties involved. The law will secure debt and contracts using immovable property; facilitate access to negotiable credit by securing immovable property; provide mutual agreement between parties to a banking transaction; and facilitate expansion of commerce, credit, investment, and economic growth.

Update: No change from last week. The law was inactive in the joint committee.

### ***Police Law***

The law regulates the structure, responsibilities, duties, activities, and authorities of the police forces. The Wolesi draft gives the Minister of Interior responsibility for supervision of Kabul city, border, and highway and traffic police forces nationally. The regular MoI police forces in the provinces and districts would be supervised by provincial governors and district administrators.

Update: A scheduled joint meeting of Meshrano and Wolesi committees did not happen last week but is tentatively scheduled again for this week. There is speculation that the draft will be returned to the Wolesi Jirga as the joint committee is unable to decide the contentious issue of Wolesi amendments that would place provincial police chiefs under the governors' authority during emergency situations. When joint committees cannot resolve their differences, the Wolesi can pass the bill with a two-thirds majority.

## News

### **Assembly Intensifies Debate on International Forces**

Last week members of both houses criticized the Coalition Forces for an operation that reportedly killed two women, an infant, and two government employees in Ghurbaz District of Khost Province on 11 April. The next day a group of MPs from Khost, Paktia, and Ghazni walked out of parliament to demonstrate their dissatisfaction. Other MPs have also pledged to walk out.

Honorable Taj Mohammad Mujahed explained, "Your Excellency Qanooni, you know that the MPs of Khost Province left the hall in response to the bombardment of innocent people. MPs have repeatedly presented the people's problems but have had no influence in the Assembly, until they left the hall. Whenever innocent people are killed, the government only makes a few deceptive promises to take action. You, as a strong speaker of Parliament, of a gallant nation, should show your reaction to the blind, disorganized, and mad American forces and declare Parliament closed as a protest for one week. We cannot let the MPs of each province stand alone."

At a press conference outside the Assembly, boycotting MP Said Mohammad Gulabzoy (Khost) told journalists, "People can no longer tolerate such operations and killing of civilians, our boycott will continue until the murderers were brought to justice."

Inside the hall, Honorable Eng. Khial Mohammad Rahmani (Ghazni) argued that, "The Coalition Forces repeatedly conduct operations during the night; they use dogs to search houses and have killed civilians. Mistakes in air strikes can be understandable but there is no excuse for direct killing of civilians." The MP called for a delegation of the Assembly speakers and other MPs to talk with NATO forces and security officials to prevent additional incidents.

Honorable Shikh Ahmad Jebrailee (Herat) explained that, “A few days ago we witnessed a press release from the Afghan Ministry of Defense and the International Security Assistance Force (ISAF) which explained a plan to avoid targeting civilians, but they have not kept the agreement. We have to ask the government for legalization of the foreign forces. If the government fails, we have to use our position in the legislature.”

Before having his microphone switched off, Honorable Sategh, (Daikundi) said, “Afghanistan belongs to the people. For the sake of the Almighty Allah, have courage. The foreigners must not interfere in our internal issues. If they continue, then it would be better to stand side by side with those who are involved in fighting the government.” It was unclear whether the statement alluded to military activities or legal matters such as the recent Shia Family Law debate or both.

Moderating the discussion, Honorable Shukria Barakzai (Kabul) pointed out that, “Today no one likes to see armed foreign troops on their roads. Our history confirms the fact. But we are afraid of our past. If these troops are not here we can imagine the future as the past three periods of war... Every month MPs travel abroad. Why are we not sending an official delegation to NATO, the UN and the United States to discuss these issues? Today someone explains his political ideology while another is talking about his own pocket. Do we know who we are? Where are our political parties? Where are our strong messages to mobilize the Afghan people? Where is our capacity? Unless we have addressed our responsibilities, we will be faced with these issues.”

During the session, representatives of Khost Province issued a state to the President and UN Secretary General which calls for identifying and pursuing those who provide false information to foreign forces, legalizing the operations of the foreign forces, refraining from arbitrary house searches, coordinating with national forces during operations, and respecting Afghan culture and tradition.

Speaker Qanooni announced that Assembly leadership would seek to convene a meeting with the President, government and judicial branch officials and Coalition Forces to seek a solution to the problem.

### **Wolesi Jirga Complaints Committee Summons Head of IDLG**

The Wolesi Jirga Complaints Committee summoned the head of the Independent Directorate of Local Governance (IDLG), Ghulam Jailani Popal, on 12 April to address complaints of the Ghazni Provincial Council against Governor Usmani for insulting Provincial Council members, corruption, smuggling, and not consulting the council on development projects.

The governor in turn has accused the Provincial Council members of spying for neighboring countries. Responding to the governor’s accusations, Chairman Shalgari said, “Members of the Provincial Councils are bridges between the government and people, it is not good to insult them by any name.”

The committee members asked for the suspension of the governor and that a joint panel consisting of Attorney General, Ministry of Interior, and IDLG investigate the Provincial Council's accusations.

IDLG head Popal rejected suspension of the governor but promised the MPs that Usmani will be prosecuted if recognized as guilty.

In a general comment last week, Honorable Taj Mohammad Mujahed commented that "The leadership of the local administrations is headed by individuals who have no national identity and have no ability to be the district governors; there are some unknown district and provincial governors who are not loyal to people and country."

### **Wolesi Women's Committee Elects Chairperson**

After an extended impasse, Wolesi Jirga Women, Civil Society and Human Rights Committee members elected Honorable Tahera Mirzad (Kapisa) chairperson late last week. This dissipates the speculation that the committee would be incorporated into the Central Audit and Oversight on Implementation of the Law Committee as suggested by Wolesi Jirga Speaker Qanooni as a solution to the impasse. There is speculation that the tribal diversity of the committee is contributing to the indecision.

### **Acronyms:**

ANA – Afghan National Army  
ANDS – Afghanistan National Development Strategy  
ANP – Afghan National Police  
CSO – Civil Society Organization  
DIPR – Department of Information and Public Relations  
IEC – Independent Election Committee  
IHRC – Independent Human Rights Commission  
ISAF – International Security Assistance Force  
NATO – North Atlantic Treaty Organization  
NDS – National Directorate of Security  
MOF – Ministry of Finance  
MOI – Ministry of Interior  
MOD – Ministry of Defense