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Legislative Newsletter

Calendar

- Wolesi Jirga (Lower House) Agenda:
 - Electoral Law
 - 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 Shia Affairs
 - Law on Movable Assets in Banking Transactions
 - Communication Services Regulatory Law
 - Law on Social Behavior
 - Afghanistan National Development Strategy (ANDS)
 - Higher Education Law
 - Law on Private Security Companies

- Meshrano Jirga (Upper House) Agenda:
 - Passport Law
 - Police Law
 - Law on Rights and Privileges of the Relatives of Martyrs and Missing
 - Government Structure Law
 - Law on Water
 - Extradition Law
 - Law on Mortgage of Immovable Assets in Banking Transactions
 - Private Investment Law
 - Income Tax Law
 - Organization and Jurisdiction of Courts Law
 - Law on Health
 - Cooperation and Friendship Treaty between Afghanistan and Tajikistan

- Joint Committees:
 - Law on Stamp Duties of Courts
 - Independent Election Commission Structure Law
 - Law on Foreign Citizen Travel, Work, and Stay
 - Law on Certified Documents Issued in Embassies and Consulates of Afghanistan
 - Law on Civil Servants
 - Law on Gatherings, Protests, and Demonstrations
 - Law on Rights and Privileges of the Disabled

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.

On 9 February, Wolesi Jirga Speaker Qanooni informed the plenary that the following bills have been rejected by the President and returned to the Assembly.

1. Juvenile Law
2. Statistics Law
3. Law on Duties and Structure of Military Courts
4. Political Parties Law
5. Civil Servants Law

Electoral Law

The Electoral Law establishes the electoral system and will regulate electoral issues, including voting centers/polling stations, observers, election campaigns, candidacy, and counting.

Update: Last week the Wolesi Jirga committees met jointly to discuss the draft. No further details available.

Education law

The draft law would guarantee equal and balanced access to free primary education for all Afghan citizens. The law aims to eliminate illiteracy and improve the quality of education countrywide.

Update: No change from last week. A joint meeting of Wolesi committees will combine inputs before the draft is sent to the plenary.

Law on Medals and Badges

The Law on Medals and Badges regulates affairs related to class, value, size, and production of official government medals and badges.

Update: The law is being discussed by the Wolesi Jirga Religious, Cultural, Education and Higher Education Affairs.

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 aims to promote respect for and monitoring of human rights, and govern the structure, functions, authorities, and activities of the Afghanistan Independent Human Rights Commission.

Update: No change from last week. The bill is with the Wolesi Jirga Women, Civil Society and Human Rights Committee.

Law on Personnel Affairs of ANA Sergeants

The law regulates personnel issues (appointment, transfer, vacation, discipline, rewards, and retirement) of ANA sergeants.

Update: No change from last week. The draft law is with the Wolesi Jirga Defense Committee which held elections for chairman last week.

Law on Shia Affairs

The draft law regulates the personal affairs of Shia citizens including marriage, divorce, remarriage (due to death of one of the partners), maintenance of orphan property, patrimony, and bankruptcy. The draft law dictates that the Supreme Court appoint professional judges to consider matters involving Shias.

Update: The bill's status within the Assembly is unclear after being returned from the Supreme Court. Whether or not the bill is in fact legislation or simply now a "statement" is under debate within the Wolesi Jirga and secretariat.

The controversy appears to stem from 1) divisions over contentious issues including temporary marriage and custody age of children in cases of divorce, and 2) whether or not the state should regulate issues specific to one religious group, with some arguing that legislation beyond or supplemental to the current Civil Code is unnecessary.

The Wolesi Jirga passed most articles of the bill two weeks ago when its Shia sponsors agreed to omit consideration of the provisions mentioned above. The differential treatment under the law question remains contentious.

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: No change from last week. Further discussion in a Wolesi joint committee is pending.

Passport Law

The law regulates Afghan citizens' travel abroad. The revised draft aims to streamline the process for obtaining a passport by removing four articles.

Update: No activity on the bill last week. The draft law is with the Meshrano Jirga Internal Security and Defense Affairs 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 police forces in the capital and the border as well as 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: The draft law was inactive in the Meshrano Jirga Internal Security and Defense Affairs Committee.

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 was inactive in the Meshrano last week.

Government Structure Law

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

Update: The Meshrano Jirga Legislative, Justice and Judiciary Committee completed its consideration of the bill and will send it to the plenary.

Law on Water

The law regulates protection of water sources, their effective and sustainable use, and the rights of users according to Afghan tradition.

Update: The Meshrano Jirga Transport, Communication and Municipality Committee is scheduled to discuss the draft next week.

Extradition Law

The proposed law regulates issues related to extradition of accused and convicted persons to and from Afghanistan. It also regulates the handling of requests for international judicial cooperation on criminal matters.

Update: The draft is has been rescheduled for review in the Meshrano Jirga Legislative Affairs, Justice and Judiciary Committee next 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 aims to: 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 changes from last week. The bill is pending discussion in the Meshrano Budget and Finance Committee.

Private Investment Law

The draft law regulates issues related to encouraging and protecting private investment in a free market economy. The Wolesi has amended the maximum lease period for foreign investors from 50 to 90 years.

Update: The bill is pending introduction to the Meshrano Jirga plenary.

Income Tax Law

The bill outlines tax rates and procedures in accordance with Article 42 of the Constitution.

Update: The draft is under review in the Meshrano Jirga plenary.

Organization and Jurisdiction of Courts Law

The law will regulate the structure, staffing, and rights and responsibilities of the courts.

Update: The draft was inactive in the Meshrano committees last week.

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: No change from last week. The Meshrano Jirga has returned the bill to the Ministry of Justice for interpretation after determining that it still contains provisions contradicting the Constitution.

Law on Stamp Duties of Courts

The law regulates the price of stamp duties and administrative expenses of Afghanistan courts.

Update: The Meshrano Jirga approved the draft with amendments, which include a 3.5 percent tax on immovable assets. The draft was not discussed in a joint Meshrano-Wolesi committee last week as planned.

Independent Election Commission Structure Law

The law will outline the funding mechanism, structure, duties, authorities, procedures, and staffing of the body.

Update: A joint Meshrano-Wolesi committee passed the draft law last week. It will be sent to the President for signature.

Law on Foreign Citizens' Travel, Work and Stay

The law regulates issues related to foreign citizens' entry, work, and stay in Afghanistan.

Update: A joint committee session between the houses did not take place as scheduled last week.

Law on Certified Documents Issued in Embassies and Consulates of Afghanistan

The law regulates fees for certification of business, education related and other legal documents (power of attorney, birth certificates, etc.) issued in Afghan embassies and consulates.

Update: No change from last week. Consideration of the draft is pending formation of a Wolesi-Meshrano joint committee.

Law on Civil Servants

The law addresses the salaries and ranks of civil service employees, and outlines measures to: make administrative corrections to Government systems; clarify job descriptions for Government employees; improve education levels of Government employees; improve employee qualifications and work ethic; and provide employee housing and benefits.

Update: A Meshrano-Wolesi joint committee discussed the draft last week. Superscale salaries for certain government employees have reportedly been eliminated.

News

Lower House Approves Two Ministers

The Wolesi Jirga on 9 February approved President Karzai's nominees for Minister of Commerce and Industry and Minister of Refugees and Repatriation. Wahidullah Shahrani received 110 votes of 192 cast to be confirmed to the commerce post and Abdul Karim Barahawi won 104 votes to be approved as Minister of Refugees. A third nominee, Asadullah Khaled, failed to win approval as Minister of Frontiers and Tribes with 91 votes. The 50 percent plus one threshold for approval was 97 votes.

Each candidate made opening arguments for their appointment, outlined their agendas, and responded to MPs' questions.

On commerce, MPs pushed Mr. Shahrani, if approved, to prevent importation of goods which can be produced domestically, improve fuel quality, and promote exports. Honorable Sayaf (Kabul) asserted that the Ministry of Commerce should prevent the import of intoxicants.

Honorable Farooq Meranai (Nangahar) pointed out that, "It is surprising the President has appointed two ministers from one family; as we know Niyamatullah Shahrani is currently working as Minister of Haj and Mosques and now his son has been appointed as Commerce Minister."

In this opening statement and responses, candidate minister Shahrani outlined his intention to promote transparency in investment, expand the private sector, improve transit, clarify customs rules, increase exports, create jobs, and win World Trade Organization membership. Shahrani also pledged to align economic policy with the Afghan Constitution, prevent the import of low quality materials, try to prevent alcohol imports, and combat the "economic mafia."

Responding to Honorable Meranai's concern, Mr. Shahrani said, "The decision of the President with regard to the appointment of two ministers from one family does not contradict the Constitution, but it is the authority of the House to confirm or reject me."

MPs lobbied candidate refugee minister Barahawi to promote repatriation of refugees, improve host country treatment of refugees, and create townships and jobs for returnees. Honorable Mohammad Aref (Kuchi) asked what action the candidate minister will take to ensure Afghan refugee participation in the upcoming presidential election.

Mr. Barahawi pledged to work in collaboration with the international community for refugee rights and to push Iran to halt involuntary repatriation. The minister agreed to make efforts to create job opportunities, ensure voting in the coming presidential election, and build townships for returnees.

Candidate Minister of Frontiers and Tribes, Asadullah Khaled, faced tough questions from MPs on his past governorship of Kandahar. Honorable Farooq Meranai (Nangahar) accused the governor of taking ten thousand Afghans from each vehicle passing through the province. Honorable Kahled Pashtun (Kandahar) also criticized Mr. Khaled, saying, "The people of Kandahar complained about administrative and moral corruption during the time Asadullah Khaled was governor of Kandahar." Honorable Pashtun also asked Mr. Khaled what he would do to mitigate inter-tribal tensions.

Mr. Khaled pledged to seek assistance from tribal leaders with the reconciliation process for Taliban fighters and to support the peace process, including liaising with the Ministry of Defense on security matters. The candidate skirted the question of the Durand Line as an issue more appropriately addressed by the National Assembly. Mr. Khaled defended his financial record saying, "I have submitted the expenditure

documents to the concerned government departments on time.” President Karzai is reportedly attempting to reintroduce Mr. Khaled for reconsideration by the Assembly.

Health Minister Wins Vote of Confidence

Health Minister Dr. Sayed Muhammad Amen Fatimi last week won a vote of confidence by a vote of 98 to 19 after satisfying Lower House MPs with responses to their questioning.

The decision to question the minister came after the Wolesi Jirga health committee alleged bribery and corruption in the ministry, a lack of fiscal oversight of development budget expenditures, hiring employees without due process, and the Minister’s earlier failure to appear before the committee.

Upper House Renews Call to Halt Civilian Casualties

On 8 February, the Meshrano Jirga issued a declaration calling on international forces to stop killing civilians with imprecise aerial bombings, arguing that the actions will create a gap between the Afghan government and the international community. Senators also raised concerns over house searches. Speaker Sebghatullah Mujadid vowed to close his office if civilian casualties continue.

Source: Afghanistan Times

National Budget Arrives

After being ratified by the Cabinet last week, the National Budget for 1388 was submitted to the Meshrano Jirga on 3 February. The Upper House has 15 days to consider the bill before passing it to the Wolesi Jirga, which then has until 20 March to complete its deliberations before voting the bill up or down.

The internal ordinary and development budgets total \$2.92 billion while the external budget is \$3.37 billion. Domestic revenues account for \$973 million of the operating budget while donors have committed \$639 million. The Ministry of Finance reports that 12.78 billion Afghanis have been allocated to the Ministry of Defense, 21.75 billion Afs to the Ministry of Interior and 2.42 billion Afs to the National Directorate for Security.

The following sectors receive external budget support: \$2 million to the Ministry of Defense, \$75 million for energy, \$102 million for education, \$147 million for agriculture, \$.06 million for the Ministry of Economy, \$93 million for health, and \$162 million for the presidential and provincial elections.

Other funds are designated as compensation and/or benefits for retired military personnel and government staff laid off during administrative reforms.

Wolesi Committee Completes Elections

Complaints

Abdul Jabar Shalgari elected chairman with seven votes.

Haji Mohammad Arif Tayeb reelected as deputy.

Women, Civil Society and Human Rights Affairs: pending

Acronyms:

ANA – Afghan National Army

ANDS – Afghanistan National Development Strategy

ANP – Afghan National Police

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