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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
  - Government Structure Law
  - Law on Water
  - Extradition Law
  - Law on Mortgage of Immovable Assets in Banking Transactions
  - Private Investment Law
  - Organization and Jurisdiction of Courts Law
  - Law on Health
  - Cooperation and Friendship Treaty between Afghanistan and Tajikistan
  
- Joint Committees:
  - Income Tax Law
  - Law on Rights and Privileges of the Relatives of Martyrs and Missing
  - Law on Stamp Duties of Courts
  - 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.*

### ***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: The Wolesi Jirga committees are discussing and have approved 23 articles of the draft law but are delaying debate on those addressing Kuchi (nomad) National Assembly seats due to the contentious nature of the issue.

### ***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: The Wolesi Jirga Religious, Cultural, Education and Higher Education Committee has completed its consideration of the draft. Amendments include lowering the grade at which Islamic subjects should be taught from 10<sup>th</sup> to 6<sup>th</sup>. The bill is pending consideration by a joint meeting of the Wolesi committees.

### ***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 Wolesi Jirga Religious, Cultural, Education and Higher Education Committee has discussed eight articles of the bill, including those addressing the class/ranking of medals.

### ***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 was inactive in 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: The draft law is with the Wolesi Jirga Defense Committee which is planning to call Ministry of Defense and Ministry of Justice representatives to discuss the bill on 24 February.

### ***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 original draft law dictates that the Supreme Court appoint professional judges to consider matters involving Shias.

Update: In an apparent gesture to the bill's Shia sponsors, the Wolesi Jirga last week issued a statement "in support" of the bill and deferred to the Supreme Court for its "implementation." Both houses approved the statement. The actual bill has not been passed by the Assembly. The statement reads:

On Saturday, 30 January 2009, the Lower House approved the Law on Personal Affairs of Shiites with the following:

With the agreement of a committee of Sunni and Shia scholars on the omission of some issues, and in accordance with Article 131 of the Constitution, the Supreme Court shall pave the way for implementation of the Law on Personal Affairs of Shiites consisting of 249 articles. The implementation of the law does not require separate courts and judges.

Article 131 of the Constitution says:

The courts shall apply the Shia jurisprudence in cases involving personal matters of followers of the Shia sect in accordance with the provisions of the law. In other cases, if no clarification in this Constitution and other laws exist, the courts shall rule according to laws of this sect.

The status of the "laws of this sect" may now be open to debate by the sides, but some think the bill document will at least serve to inform decisions of the Court.

With the exclusion of specific contentious articles, the remaining debate centered on whether or not the state should regulate issues specific to one religious/ethnic group, with some arguing that legislation beyond or supplemental to the current Civil Code is unnecessary.

### ***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 remains in a joint meeting of the Wolesi committees, which has discussed 27 articles and is tackling complex issues around bank interest.

### ***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: The Meshrano Jirga Internal Security and Defense Affairs Committee has returned the draft to the government for clarification on Articles 59-62, which the government has sought to remove.

### ***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 Meshrano Jirga Internal Security and Defense Affairs Committee is discussing the bill and has made several amendments.

### ***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 forward to the plenary at an unspecified date.

### ***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 completed its discussion of the draft last week. The bill will now move to the plenary.

### ***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 Meshrano Jirga Legislative, Justice and Judiciary Committee did not discuss the draft last week as planned.

### ***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: The bill is pending review by the Meshrano Budget and Finance Committee, which is planning to call the Central Bank director, the MoF legislative director, and a Supreme Court representative to discuss the draft.

### ***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: No changes from last week. The bill is pending introduction to 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: No change. 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.

### ***Income Tax Law***

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

Update: This Meshrano Jirga passed the draft law with amendments last week. It will be considered by a joint committee of the houses.

### ***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 Meshrano Public Welfare and Environment Committee completed its discussion of the draft last week and the plenary approved the bill with amendments on 22 February. It now moves to a joint committee of the houses.

### ***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. A joint Meshrano-Wolesi committee is scheduled to discuss the amendments on 23 February.

### ***Law on Foreign Citizens' Travel, Work and Stay***

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

Update: No change from last week. The bill is pending consideration by a joint committee of the houses.

### ***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. Consideration of the draft is delayed over an article which allows open competition for positions by government employees without a baccalaureate degree.

## News

### **MPs Continue Criticism of Civilian Casualties and Additional Troops**

Spurred by the death of 13 civilians in a US airstrike in Herat Province last week, Lower House MPs condemned the action and called for bringing foreign troops under a national legal framework. Defense Committee member Honorable Noorulhaq Ulomi said the measure would help control US troop operations and put an end to civilian casualties.

With regard to President Obama's decision to deploy an additional 17 thousand troops to Afghanistan, Honorable Mawlawi Khabir asked, "Why don't they require Parliament's decision on this matter? The foreign troops are responsible for the war and misery that is intensifying day by day. The more foreign troops we have in the country, the more misery and war we will have. Whoever voted to invite the forces and whoever is approving this issue right now are responsible before God and the people. This issue has dangerous consequences."

Presenting another perspective, Mohammad Khan (Ghazni) said, "Why shall we talk about the foreign troops? We have been talking about these troops for two weeks. The forces came to Afghanistan without the National Assembly's approval and now they are staying without the National Assembly's approval. The issue is the Minister of Foreign Affairs who is still signing agreements even though he received a vote of no-confidence." Honorable Sultanzoi (Ghazni) added, "I think in Honorable Spanta's case, the Constitution has been violated. It is the obligation of the President to stop the murdering."

Honorable Akbar (Daikunki) also suggested that the National Assembly should decide the term of foreign troops in Afghanistan and asked, "For what reason did these troops come to Afghanistan, to help or to fight? If they came to help, they should consider our religion and culture and they shall not act arbitrarily."

Responding to First Deputy Speaker Mirwais Yassini's (Nangarhar) attempts to focus the debate on pending legislation, several MPs accused the leader of inappropriate priorities. Honorable Bashar Dost (Kabul) said, "Honorable Yassini, you are supporting the government while you are sitting in the chair of the people's representatives. You are ignoring the vital issues by entertaining committee games and defending the Minister of Foreign Affairs. While you cannot defeat a rat, how could you confront a dragon?"

Honorable Yassini responded that he represents the people, not the government.

### **MP Critiques House**

The chronic absenteeism of approximately 80 MPs has delayed around 80 percent of the legislation passing through parliament, according to Honorable Abdul Kabeer Ranjbar, former chairman of the Wolesi Jirga Central Audit and Oversight on Implementation of the Law Committee. The MP accused the Administrative Board of

mismanagement and an unwillingness to disincline offenders (by announcing their names to the media and docking salaries) per Lower House rules, given the prominence of some of the figures. Honorable Ranjbar also accused the leadership of being ignorant of the views of members, as room for in-depth discussion is lacking.

First Secretary Abdul Satar Khawasi responded that names would be announced to the media.

Source: Afghanistan Times

### **Meshrano Completes Review of National Budget**

The Meshrano Jirga has completed review of what is, according to the National Assembly Budget Office, an incomplete draft 1388 budget. Missing from the budget are an account of unspent funds from the 1387 budget, detail on many of the budget categories, and a budget statement. The bill does include new projects and their costs. The MoF submitted the same version to the Wolesi Jirga on 22 February.

The Wolesi Budget and Finance Committee has developed a list of 25 follow-up questions for the MoF, but other MPs favor reviewing the submitted version and voting it up or down on its merits.

### **MPs Meet with Obama Representatives**

On 16 and 17 February, by invitation of Gul Agha Shirzai, Governor of Nangarhar Province, several MPs and Senators, CSOs, religious, and tribal leaders met with Obama administration and US Department of Defense officials. The meeting was held at the request of President Obama's representatives to gather input on US Afghanistan policies. Governor Shirzai acted as spokesman for the group of approximately 100 Afghans.

### **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