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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
  - Political Parties Law
  
- Meshrano Jirga (Upper House) Agenda:
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  - Police Law
  - Law on Rights and Privileges of the Relatives of Martyrs and Missing
  - Government Structure Law
  - Law on Water
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  - 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:
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  - 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.*

### ***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 draft law is reportedly included in next week's Wolesi agenda. The contentious issue of ten designated Lower House seats and a national constituency for Afghanistan's nomads, the Kuchis, in the draft law is expected to shape the discussions. During spring session of 2008, a group of mostly non-Pashtuns boycotted the Wolesi for five weeks in protest of what it saw as an unfair "set-aside" for the minority nomadic group and its majority Pashtun tribe. (Most Kuchis belong to the Pashtun tribe.)

### ***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 Religion, Cultural, Education and Higher Education Committee completed its consideration of the bill. 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 now with the Wolesi Jirga Religious, Cultural, Educations and Higher Educations 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: 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. See *News* below.

### ***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 draft law has been passed by the Wolesi and reportedly returned to the Executive on 7 February due to contentious content. Of the draft, Honorable Mirani (Nangahar) said in the plenary last week, “Excellency Qanooni, I want to declare that there has been a lot of conflict inside the hall in the name of Pashto and Dari. Now there are some difficulties in the name of religion. I think we had better let the spiritual council of the country take this law under consideration and then refer it to the Wolesi Jirga for approval.”

During the Lower House debate, the issues of marriage age, separate vs. joint jurisdictions for Sunni and Shia, and polygamy were among the issues debated. The Wolesi draft sets the marriage age at 16 for females and 18 for males.

### ***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 Wolesi Jirga National Economy Committee completed its discussion of the draft. A joint Wolesi committee will compile inputs from other committees.

### ***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: Contrary to last week’s report, the draft law is reportedly still 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 Wolesi Jirga sent the draft with amendments to the Meshrano on 4 February.

### ***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 Jirga Welfare Committee has finished consideration of the draft. It will now move to the plenary.

### ***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 discussed 36 articles of the draft law. Committee members raised concerns that some significant agencies including the Independent Election Commission, the Central Audit Office, the Human Rights Commission, Advisors to the President, etc. are not included in the bill.

### ***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: No change. The draft law was inactive in the Meshrano Jirga Transport, Communication and Municipality Commission last 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 scheduled 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: 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 Meshrano Jirga National Economy and Budget Committee completed its discussion on 4 February and introduced the draft to the plenary.

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

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

Update: The draft law is under consideration by the Meshrano committees.

### ***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: 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, so it will be discussed in a joint session with the Wolesi this week.

### ***Independent Election Commission Structure Law***

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

Update: No change from last week. The Wolesi Jirga has requested a joint committee to discuss the Meshrano's amendments.

### ***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 is scheduled for next 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 introduction of Wolesi and Meshrano members to the 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: No change from last week. The Wolesi Jirga has requested a joint meeting with the Upper House to discuss the Meshrano's amendments.

## **News**

### **Election Date Debate Continues**

Lower House MPs last week continued criticism of the Independent Election Commission's announced date of 20 August for presidential elections. The legislators questioned the rationale for the delay and condemned what they see as a violation of the Constitution. Honorable Moeim Marastyal (Kunduz) said, "It would be contrary to the Constitution to change the election date. 22 May 2009 is the final day of the presidential term. After this date, the government would be illegal."

Rebuffing the security rationale for the delay, Honorable Haji Farid (Kapisa) added, "What guarantee does the Commission have that the security situation will be better in [August]?"

Speaker Qanooni (Panjshir) pledged to advocate on behalf of the MPs: “When the Constitution is being violated, the National Assembly shall determine its side. As the speaker of the Wolesi Jirga, I appreciate your responsibility. As the Speaker I am very sorry that the Constitution of Afghanistan is being played with. I officially express my concerns about the procedures being taken by the Independent Election Commission.”

Some downplayed the date change. Honorable Bidar Zaizai (Kabul) said, “Thirty thousand US troops are coming to Afghanistan. What is wrong if we postpone for three more months? And about the Constitution: it has been suggested in the Constitution that both presidential and parliamentary elections be held at the same time, but you divided the dates of those elections. Why did you act against the law?”

Evoking underlying issues, Honorable Kohistani (Ghor) said, “Let’s find the original trouble maker...Let’s find the real guilty.”

### **Legislators Oppose Additional Troops**

Afghanistan Times

A number of lawmakers are urging a rethink of the planned deployment of up to 30 thousand additional US soldiers, some of whom will be stationed in provinces adjacent to Kabul. The MPs argue that the strategy is unlikely to work and may exacerbate Afghanistan’s security problems.

Honorable Gul Pacha Mujidi (Paktia) called on President Obama to reevaluate the US military operation, economic strategy, reconstruction effort, and diplomatic ties with Afghanistan. The MP says, “The US should put pressure on places which pose threats to Afghanistan and the region and target the hideouts of terrorists.” The problems of Afghanistan cannot be solved through military means, but rather enhanced aid and development assistance. Afghan troops would be more effective in combating terrorism while additional US troops will increase civilian casualties, which will widen the growing gap between the people and government and could end with an uprising. Extra US troops should be sent to the border regions where the problem originates, argues Honorable Mujidi.

Honorable Shukria Barakzai (Kabul) agrees that the extra troops, coordinating with Afghan troops, should focus on infiltration through the border. She also agrees that additional US troops will make the situation more difficult: “I oppose additional US troops for Afghanistan. Protecting our homeland is the duty of Afghans and we have to make efforts to lead the anti-terror effort...The international community must allocate additional funds to train and equip the National Army and Police...If the US and its allies want to own the hearts of the Afghan people, they should listen to the voice of the people,” concluded the MP.

Honorable Nematullah Ghafari (Helmond) agrees with Honorable Barakzai and adds that the measure should have been discussed with the government and people’s representatives earlier.

Stressing his opposition to additional troops, Honorable Sayed Rahman (Laghman) explains that Afghans have experienced the results of foreign troops and cannot tolerate additional civilian casualties. With adequate support, the Afghan military is better suited to the Afghan terrain and will yield better results in fighting terrorism.

### **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.

### **Wolesi Committees Complete Elections**

Last week the Wolesi Jirga Defense Affairs and Territorial Integrity Committee elected Sayed Mohabat Shah Kashani (Badakhshan) chairman with eight votes. He replaces Mohammad Iqbal Safi (Kapisa). Sayed Mohammad Shafiq remains as deputy.

The Wolesi Antinarcotics Committee reelected Mullah Taj Mohammad Mujahid as chair and Mawlawi Shahzad Shahid as deputy.

Complaints: pending

Women, Civil Society and Human Rights Affairs: pending

### **Corrections:**

- Volume 2, Number 2, 1 February: President Karzai's term expires on 22 May 2009, not in June.
- Volume 2, Number 1, 25 January: Honorable Mirwais Yaseeni, Wolesi Jirga First Deputy Speaker, is from Nangahar, not Laghman.
- Volume 2, Number 1, 25 January: Sayed Hamid Gailani (Paktika) was incorrectly named as Sayed Ahmed Gailani.

### **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