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Legislative Newsletter

Calendar

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 - 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 Movable Assets in Banking Transactions
 - Law on Private Security Companies
 - Government Structure Law
 - Communication Services Regulatory Law
 - Law on Social Behavior
 - Afghanistan National Development Strategy (ANDS)
 - Higher Education Law
- Meshrano Jirga (Upper House) Agenda:
 - Law on Shia Affairs
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 - Law on Mortgage of Immovable Assets in Banking Transactions
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 - Organization and Jurisdiction of Courts Law
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- 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: Honorable Registani, chairman of the Electoral Law Subcommittee of the Wolesi Jirga Legislative Affairs Committee, says that a combined meeting of Wolesi committees has reviewed about 70 percent of the draft. The issues of a national level constituency and designated Lower House seats for Kuchis remain.

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. The bill is pending consideration by a combined meeting of the Wolesi committees. The Wolesi Jirga Religious, Cultural, Education and Higher Education Committee made amendments to the draft, including lowering the grade at which Islamic subjects should be taught from 10th to 6th.

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 bill was inactive in the Wolesi committees last week.

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: Last week the Wolesi Jirga Defense Committee completed its discussion of the bill with participation of a Ministry of Defense representative and will meet with other committees this week to discuss its amendments.

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: In a combined meeting of Wolesi committees last week the Justice and Judiciary Committee raised concerns around bank interest, which it argues is not permitted under Islam. The Justice Committee also aims to simplify complex language in the bill and is discussing the issue with the Central Bank director.

Law on Private Security Companies

The bill regulates private security companies in Afghanistan. It places oversight authority with the Ministry of Interior.

Update: The draft law is under review by the Wolesi Jirga Internal Affairs, Borders and Local Administrations Committee.

Government Structure Law

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

Update: The Meshrano Jirga has identified what it sees as problems with the draft and returned it to the Lower House for clarification.

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: The Assembly statement about the bill document is pending transmission to the Supreme Court.

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 change from last week. The Meshrano Jirga Internal Security and Defense Affairs Committee is waiting for the government to clarify the status of Articles 59-62, which it 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 draft law has moved to the Meshrano plenary, but was not discussed last week.

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 bill is pending consideration in the Meshrano Jirga 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: No change from last week. The bill is pending consideration by the Meshrano Jirga Legislative, Justice and Judiciary Committee.

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 Meshrano Jirga Budget and Finance Committee has accepted the Wolesi amendments and will introduce the draft to the plenary at an unspecified date. The Central Bank director answered the committee members' questions on 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: The Meshrano Justice and Judiciary Committee is discussing the draft and Wolesi amendments, one of which mandates that in cases where the Supreme Court makes an “illegal” decision, the National Assembly reserves the right to question its justices.

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 bill is pending consideration by 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: A joint Meshrano-Wolesi committee discussed the draft on 25 February.

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 of the houses has passed the bill.

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: A joint committee of the houses passed the bill last week. The Assembly draft would increase the fees for certifying several types of documents. The draft now moves to President Karzai.

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: The joint Meshrano-Wolesi committee removed amendments that would have maintained the rights and privileges of MPs, including security accommodation, diplomatic passports, etc., even after a representative has lost his/her National Assembly seat. Superscale salaries for certain government employees have been eliminated from the draft.

News

Wolesi Jirga Rejects MoF 1386 Qatia Report

Wolesi Jirga MPs on 25 February rejected the Ministry of Finance Qatia financial report for 1386. The MPs cited discrepancies, as highlighted in a Budget and Finance Committee report on the Qatia, as their rationale. According to the report, developed with National Assembly Budget Office support, there are notable differences between revenue and expenditure figures reported in the Qatia and Da Afghanistan Bank records. The expense difference amounts to 1.2 billion Afghanis and the income, 7 billion. The House also cited a budget increase at mid-year without Wolesi Jirga approval as illegal. MPs noted that the 1386 report declined in quality from that of 1385.

When problems appeared in past reports, the Assembly returned the draft to the government to allow corrections. The MPs have taken a harder line this time,

referring the report to the Attorney General's Office for investigation into the discrepancies and what Wolesi Jirga Budget and Finance Committee Chairman Usmani called violations of the law. The Chairman stopped short of accusing government officials of corruption, saying it is the Attorney General's job to identify illegal behavior.

MPs Positive about Afghan Participation in Strategic Review, but Question Leadership

On 23 February, MPs offered positive words about and input on Afghan involvement in the Obama Administration's Afghanistan strategy review. Honorable Mojadedi (Logar) suggested that the delegates push the US to prevent imprecise airstrikes which result in civilian casualties and boost support to the Afghan military and intelligence services. Voicing concerns that striking deals with the Taliban in Pakistan will negatively impact security in Afghanistan, the MP suggested that the US put pressure on Pakistan to cease such deals.

Honorable Marastial (Kunduz) said that, beyond military support, the US should support the civilian sector by increasing economic aid to accelerate reconstruction and create jobs, and engage Iran and Pakistan in seeking a regional solution to Afghanistan's problems.¹

On 25 February, however, other MPs continued their objections to Minister of Foreign Affairs Spanta's participation in the review and leadership of the Afghan delegation to Washington. The MPs see the minister's authority as illegitimate; the Lower House gave Minister Spanta a vote of no confidence in May 2007 for failing to stop Iran's expulsion of Afghan refugees. At the time, President Karzai opposed Spanta's termination and referred the case to the Supreme Court, which ruled that the vote of no-confidence had no basis as Iran's deportations were outside the minister's control.

Honorable Sabrina Saqeb said last week, "While Dr. Spanta is not respecting the Wolesi Jirga's decisions, Dr. Spanta is not at fault. Our problem is actually with President Karzai himself. He is blameworthy." Honorable Sayaf, Chairman of the International Affairs Committee, suggested that despite his disagreements with Minister Spanta and his opposition to the official's appointment as head of the delegation, the Assembly should wait until after the Washington talks and Spanta's return to take up the issue.

Speaker Qanooni argued that National Assembly and civil society members should have been part of the delegation, which the MPs supported in a unanimous vote.

Legitimacy of Independent Administrators Questioned

Citing "inattentiveness" of the Independent Directorate of Local Governance (IDLG), to difficulties with provincial and district governors and other problems, MPs last week put forward ideas on making it and the other independent directorates more accountable to Parliament. The first, as outlined by Honorable Majidi, Chairman of

¹ Afghanistan Times. 24 February 2009.

the Wolesi Jirga Immunities and Privileges Committee, would subject the head of the IDLG to a vote of confidence in the Lower House, just as ministers are approved or rejected by Parliament. The second would place the departments under the Ministry of Interior, which is accountable to Parliament.

“The IDLG matter is significant because as much as 88 percent of the government’s current authority is held by this unit,” according to Honorable Tokhai. Honorable Ranjbar added, “We have to act in conformity with the Constitution. The IDLG is different from other independent departments; its powers are so wide that it is like a ministry, so I support the words of Mujidi.”

Honorable Sayaf agreed: “For the first time in the Wolesi Jirga’s history I support the words of Honorable Ranjbar. Record today’s date in history as the day that Sayaf confirmed the speech of Ranjbar. The IDLG’s authority is greater than the Ministry of Interior’s, thus its leader should be subjected to a vote of confidence. But to avoid double-standards, the other independent department heads should also be subjected to a vote of confidence.” Honorable Nasrat added, “I agree and ask that we include other independent departments, such as the human rights body.”

Speaker Calls for Support of Women’s Committee

Last week Wolesi Speaker Qanooni called on MPs to join the Women, Civil Society and Human Rights Committee as a “significant committee that must be supported. I request my brothers and sisters to register in this committee as Honorable Babrak Shinwari and Honorable Alami Balkhi have voluntarily done.” Committee members have resigned until only four remain, according to second deputy Honorable Qaderya Yeezdan Parast.

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