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Legislative Newsletter

Calendar

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 - Law on Regulating the Ethical Relations of the Three Powers of State
 - 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:
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 - Organization and Jurisdiction of Courts Law
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 - Law on Water
 - Law on Rights and Privileges of the Relatives of Martyrs and Missing
 - 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, candidate lists, voting eligibility, counting, and inter-agency cooperation on elections. The draft law addresses presidential, parliamentary, provincial, district, and mayoral elections.

Update: As reported last week, the Wolesi committees have completed review of all but the articles addressing a national constituency and designated Lower House seats for Kuchis.

Meanwhile, in a shock to many, the Wolesi Electoral Law Subcommittee Chairman, Honorable Registani (Panjshir), tendered his resignation from the National Assembly on 11 March. See *News* below. Further discussion by the ad hoc committee established to resolve the Kuchi representation issues is pending return of the Wolesi Jirga Legislative Affairs Committee Chairman, Honorable Rabani, and his introduction of a new Electoral Law Subcommittee chairman.

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

The law establishes a code of conduct for communications/exchange between representatives of the three branches of government.

Update: The draft law has been distributed to the Wolesi Jirga committees for review and comments.

Education law

The draft law guarantees 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 through modern methodology and parental involvement in managing schools. In addition the law calls for improved professional qualifications of teachers, school principals, and Ministry of Education employees. The draft sets a minimum education level for all Afghans of grade eight and mandates design of age appropriate curricula by the Ministry of Education. The Wolesi Jirga Religious, Cultural, Education and Higher Education Committee has amended the grade at which Islamic subjects should be taught from 10th to 6th.

Update: No change from last week. The bill is pending consideration by a combined 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 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. The committee has yet to select a chairperson.

Law on Personnel Affairs of ANA Sergeants

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

Update: The bill was inactive in the combined Wolesi committee last week. The committee has reviewed and approved 34 articles with Ministry of Defense participation. Central issues include the use of non-commissioned officers versus sergeants and whether the President or Minister of Defense should sign recruitment forms for the above.

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. The combined meeting of Wolesi committees has completed its deliberations and will introduce the bill to the plenary.

Law on Private Security Companies

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

Update: No change from last week. The Wolesi Jirga Internal Affairs, Borders and Local Administrations Committee has sent its amendments to the other Wolesi committees for consideration. The committee draft reduces the maximum staff size of a private security company from 500 to 100-300.

Government Structure Law

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

Update: No change from last week. After being returned from the Meshrano Jirga, the bill is with the Wolesi Jirga Justice and Judiciary Committee but has not yet been discussed.

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 is set to present the bill to the plenary this week.

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. A joint committee of the houses has approved the amendment.

Update: No changes from last week. The Wolesi Jirga National Economy Committee is writing the final joint committee amendments before the bill is sent to the President.

Organization and Jurisdiction of Courts Law

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

Update: The Meshrano Jirga Legislative, Justice and Judiciary Committee has completed considerations of the draft law. The committee is set to introduce the bill to the plenary this week where the Wolesi's amendment authorizing questioning of Supreme Court justices for "illegal" decisions will likely be addressed.

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 received Ministry of Justice advice on the constitutionality of charging for medical services that says “basic” services should be free of charge but that “advanced” services can be billed to help keep government-provided medical services competitive. The law is on the Meshrano Jirga plenary agenda 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 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 change from last week. Further consideration of Meshrano and Wolesi differences is pending formation of a joint committee of the houses.

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: No change from last week. Further consideration of Meshrano and Wolesi differences is pending formation of a joint committee of the houses.

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 Wolesi Jirga has named its members to a joint committee. The Meshrano expects to select its members this week. .

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: A joint committee of the houses has passed the bill and staff is drafting the final version for transmission to the President. The committee lowered the amount of compensation to the families of martyrs and missing in Articles 4 and 5 from one month's salary as follows: survivors of martyred and missing military and higher level civilian authorities are entitled to 35 percent of the martyred or missing person's last monthly salary and other benefits. Other government workers are entitled to 30 percent of the same.

Families of those missing since 1997 but remaining unregistered due to security circumstances will be able to register the relative's name and receive the benefits.

News

Budget Review Continues in the Assembly

Overview

On 3 February the Ministry of Finance presented the 1388 draft National Budget to Parliament for approval. The Budget, totaling USD 2.92 billion, is comprised of the operating budget (\$1.80 billion) and the development budget (\$1.12 billion). While the operating budget has been increased by 22 percent from 1387, the development budget has been decreased by nearly 50 percent. Domestic revenues, which are expected to be about USD 973 million, will finance only 33 percent of the total budget. The development budget, nearly all of which is funded by donors, is divided into discretionary funds (USD 267 million) and non-discretionary funds (USD 850 million).

Under the Constitution, preparation and implementation of the Budget falls under the executive, while Budget adoption and oversight authority is given to the legislature. The executive body, in accordance with the Constitution and Public Finance and Budget Law, presented the draft to Parliament 45 days prior to the Afghan New Year to allow time for review and debate.

Assembly Review

The budget and finance committees of the Upper and Lower Houses have led the Assembly review process, but joint committees of the houses discussed the Budget with Ministry of Finance officials on several occasions. After reviews by the Meshrano Jirga (see 22 February *Newsletter*), the MoF presented the Budget to the Wolesi Jirga plenary in the second week of March. Discussions are ongoing in the Assembly with technical assistance from the National Assembly Budget Office.

The Wolesi committees have characterized a variety of issues with the Budget as problematic including the lack of sustainability of some projects; the low employment creation potential of many projects; missing information such as provincial and program budgeting data; the fact that many projects meant for a particular region have often gone unimplemented in past years; that in many cases the draft budget does not support ANDS benchmarks and priorities; and that the Budget lacks gender responsiveness.

In the plenary last week, Honorable Fahimi (Sar-e-Pol) pointed out that the Budget, in his view, does not reflect real citizen priorities and cannot bring balanced economic development to the country. “We have to balance development funding equally while planning the state budget. There are about 115 projects of the Ministry of Water and Energy, but none of them are allocated to the northern regions.”

Former head of the National Economy Committee, Honorable Sultanzoi (Ghazni), added, “I have noticed 15-16 mistakes; I suggest sending this law back to the government to balance the development projects.”

MP Resigns

Citing dissatisfaction on several fronts, Honorable Registani (Panjshir), Chairman of the Wolesi Jirga Electoral Law Subcommittee, submitted a letter of resignation to Parliament on 11 March. “I have resigned because of repeated violations of the Constitution by the President. The President attempts to remain in power after May 20, against the Constitution.”

“I also want the people to consider my resignation a sign of protest against the lack of a timetable for the presence of international forces in Afghanistan,” the MP told APAP on 12 March.

When asked if elections issues are motivating his resignation, Honorable Registani replied, “I am not a presidential candidate and I do not support any of the candidates.”

And with regards to Electoral Law on which he has worked for over a year the MP said, “This is no longer my business. The Wolesi Jirga must take care of the law. But I believe the President will not want this law to be approved before the election. The President’s supporters – the Pashtun Kuchi – will lose many advantages [10 designated Wolesi Jirga seats] if the law is approved.”

Wolesi Jirga Secretary, Abdul Satar Khawasi, believes Mr. Registani’s resignation will not be accepted. “The resignation must be read to the plenary session. Only if accepted will we take action to release Mr. Registani from the Parliament officially,” explained Khawasi.

The Electoral Law Subcommittee deputy, Honorable Dekan Nejad (Herat), concerned about the law’s fate, said, “First the committee will need to elect a new chairman. Obviously the work will go on, but we will feel Registani’s absence every step of the way.”

Commenting on the issue in the 14 March Wolesi plenary, Speaker Qanooni said, “Registani has not consulted anyone on his resignation; he has decided on his own. The reasons he has provided will not help the causes over which he resigned. I talked to Registani but he had already made his decision and submitted a written resignation to the House. We will consider the issue.”

Assembly Commemorates Women’s Day

On 7 March the Wolesi Jirga celebrated International Women’s Day in a ceremony at the new Parliamentary Annex building.

In opening remarks, Wolesi Jirga Speaker Qanooni congratulated the National Assembly’s female lawmakers and employees. “Afghan women must continue their struggle to experience full rights against the injustice of the current reality. Family violence, restrictions on education, and arranged marriages are major problems that Afghan women face,” said Qanooni.

Kabul MP Qadria Yazdanparast recalled Afghan women’s struggle, heroism and hardship throughout history and explained that the Wolesi Jirga’s theme for this year’s Women’s Day is “Women and Elections.” The MP encouraged women to obtain voting cards because, “If women across the country want to change their lives, they must use their vote to choose a leader who is concerned about women and their rights.”

Appealing to the National Assembly members, Deputy Minister of Women’s Affairs Sayeda Mejgan Mautafawi said, “The Ministry requests that the Assembly approve the law on violence against women. This law will enable us and all women in Afghanistan to fight for their rights with legal backing.”

Both houses held a joint Women’s Day celebration on the 12th. Approximately 160 female National Assembly employees participated.

Speaker Criticizes Lack of Recognition of Prophet’s (PBUH) Birthday

Wolesi Jirga Speaker Qanooni in the 12 March plenary criticized the government for its lack attention to celebrating the Prophet Mohammad’s (Peace Be upon Him) birthday. He assigned the Higher Education and Religious Studies Committee to contact relevant authorities and report to the plenary on the issue.

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