



USAID
از طرف مردم امریکا
د امریکا دولس لخوا

**AFGHANISTAN
PARLIAMENTARY ASSISTANCE
PROJECT**

22 March 2009 Vol. 2, No. 9

Legislative Newsletter

Calendar

- Wolesi Jirga (Lower House) Agenda:
 - Electoral Law
 - Counternarcotics Law
 - Law on Child Correction and Education Centers
 - Law on Registration of Commercial Trademarks
 - 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
 - Private Investment Law
 - Higher Education Law
- Meshrano Jirga (Upper House) Agenda:
 - Extradition Law
 - Organization and Jurisdiction of Courts Law
 - Law on Health
 - Criminal Procedure Code for Military Courts and Law of Soldier Crimes
- Joint Committees:
 - Law on Mortgage of Immovable Assets in Banking Transactions
 - Police Law
 - Law on Rights and Privileges of the Relatives of Martyrs and Missing
 - Law on Rights and Privileges of the Disabled
 - Law on Gatherings, Protests, and Demonstrations

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: Further discussion by the ad hoc committee established to resolve the Kuchi representation issues is pending Electoral Law Subcommittee Chairman Registani's return or appointment of his replacement. The MP's resignation has not yet been recognized in the Wolesi plenary.

Counternarcotics Law

The draft law, in accordance with Article 7 of the Afghan Constitution, will prevent cultivation, trafficking, production, transaction, export and import of narcotics. The bill also addresses punishment of narcotics traffickers and promotes assistance from national and international organizations on countering narcotics processing, production, and facilities. The bill also promotes cultivation of alternative crops.

Update: The draft law has arrived at the National Assembly. The Wolesi Jirga Antinarcotics Committee is set to open discussion this week.

Law on Child Correction and Education Centers

The bill is drafted in accordance with the values embodied in Article 54 of the Afghan Constitution and the UN Convention on the Rights of the Child. The draft law addresses issues of reeducation and protection of suspected, accused, and convicted children in child correction and education centers.

Update: The Wolesi Jirga Justice and Judiciary Committee made four amendments, including one strengthening the language of Article 19 to *require* the Ministry of Public Health to provide health facilities for convicted children.

Law on Registration of Commercial Trademarks

This law is established to organize the registration and use of trademarks for industrial, commercial, communications, and agricultural goods, products and services.

Update: The Wolesi Jirga National Economic Committee has made minor amendments to the draft, including clarifying commercial terms in Article 3.

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: No change from last week. 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 bill aims to eliminate illiteracy and improve the quality of education countrywide through modern methodology and parental involvement in managing schools. In addition, the bill calls for improved professional qualifications of teachers, school principals, and Ministry of Education employees. The draft sets a minimum education level of grade eight for all Afghans and mandates design of age-appropriate curricula by the Ministry of Education. The Wolesi Jirga Religious, Cultural, Education and Higher Education Committee 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 promotes respect for and monitoring of human rights, and governs 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.

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 brought amendments to 33 articles of the bill, many of which involve clarifications of legal terms. The bill may reach the plenary next week.

Law on Private Security Companies

The bill regulates foreign and domestic private security companies (PSC) in Afghanistan and places licensing and oversight authority with the Ministry of Interior. The draft law establishes a board chaired by the Minister of Interior to oversee security companies' affairs. The board will review and approve applications before forwarding them to the Cabinet and revoke licenses or impose restrictions as deemed necessary. The Wolesi Jirga Internal Affairs, Borders and Local Administrations Committee draft reduces the maximum staff size of a private security company from 500 to 100-300.

Update: No change from last week. A Wolesi joint committee did not meet as scheduled due to the burial ceremony for former President Daud Khan.

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.

Communication Services Regulatory Law

The law is proposed in accordance with provisions of Articles 10 and 37 of the Constitution of Afghanistan in order to enhance and develop the telecommunications services, organize and monitor telecommunication markets, and govern business relationships between the Ministry of Communications, service providers, and customers.

Update: The Wolesi Jirga Communications, Transportation, City Development, and Municipalities Committee has amended 13 articles of the draft law, which include development and enhancement of telecommunication networks to decrease costs of telecommunication services.

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 has completed drafting the joint committee amendments. Transmission to the President's office is expected this week.

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 did not present the bill to the plenary last week due to cancellation of the session.

Organization and Jurisdiction of Courts Law

The law will regulate the structure, staffing, and rights and responsibilities of the courts. The Wolesi has amended the draft to authorize Assembly questioning of Supreme Court justices for "illegal" decisions.

Update: The bill was still pending introduction to the Meshrano plenary at the end of 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: The Meshrano passed the bill on 22 March. Apparently accepting Ministry of Justice advice on the constitutionality of charging for "advanced" public health

services, the Meshrano approved the government draft which allows said charges. In doing so, the Upper House rejected a Wolesi amendment to Article 2 calling for free basic *and* advanced health services as the government is fiscally able. It is unclear whether a joint committee will be called.

Criminal Procedure Code for Military Courts and Law of Soldier Crimes (one document)

The draft law addresses issues of crimes committed by Afghan National Army officers and soldiers. Procedures involving criminal investigation and reporting, arrest of the accused, collection of evidence, access to witnesses and evidence, rights of the convicted, court verdicts, punishment, etc. are covered.

Update: The law was sent to the Meshrano Jirga on 14 March. The Defense Committee will lead the Upper House deliberation of the bill.

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 will 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 Meshrano-Wolesi joint committee discussed and approved the Meshrano's amendments on 14 March. The bill was sent to the President 19 March.

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.

Law on Rights and Privileges of the Disabled

The law will integrate and support the disabled economically.

Update: A joint committee of the houses has passed the bill and staff is drafting the final version for transmission to the President.

News

Roadside Bomb Kills MP in Helmand Province

On the afternoon of 19 March, a roadside bomb killed Honorable Daad Mohammad Khan and three of his bodyguards in Nahr-e-Seraj District in southern Helmand. The MP was traveling to provincial capital Lashkar Gah.

Honorable Fawzia Kofi (Badakhshan) said of the MP's death, "It is an attack on the Afghan people, but it can never change our morale. Like all MPs traveling to their provinces to help people create prosperity, Daad Mohammad Khan was the same; he was going there to encourage communities to participate in the coming election and educate them to take advantage of their rights."

"With Daad Mohammad Khan's death, the Afghan Parliament has lost eleven members so far. The most deadly attack on MPs was that in Baghlan Province, where six MPs were killed" in 2007.

Taliban spoke person Qari Yosaf took responsibility for the attack in an interview with Taand Website.

Wolesi Jirga Approves National Budget

On 18 March, after 15 days of debate in the Upper House and 30 in the Lower, the Wolesi Jirga approved the 1388 National Budget with 73 votes of 127 present.

MPs during long committee and plenary debates took issue with several aspects of the budget, including the lack of balanced allocation among provinces, that the value of new 1388 development projects is less than those of 1387 (though this does not account for carryover funds to be added to the 1388 development budget in April and May), and that the budget does not stimulate creation of jobs.

Of the real or perceived allocation imbalance between provinces, Honorable Sayed Jamal Fakori Beheshti (Bamyan) said that, “The provinces that have ministers in the cabinet have special budgets. For example, in Herat Province, three million USD is allocated to the Ministry of Water and Energy for one project.”

Honorable Shah Gul Razaee (Ghazni) countered that the differences between provinces are fair due to varying population levels.

Honorable Shinkai Karokhil (Kabul), concerned about the budget decrease from 1387, said, “The international community is worried about the misuse of donor money for the next elections. I guess that can be the only reason they are not increasing their commitments.” The MP went on, “I support rejecting the budget, but we cannot achieve anything by doing so because our government does not have its own money; this money belongs to the international community.”

Supporting Karokhil’s comments, Honorable Mawlawee Said Rahman (Laghman) told APAP that, “I was against this budget, but I know that the government cannot do anything; much of the funds come from other countries. If approval of the budget is postponed, the government will be obligated to delay civil servant and teacher salaries, which will disrupt the whole country.” The MP also suggested that the international community increase its commitments: “This budget is not enough; many provinces are deprived of funding.”

Joint committees of the houses discussed the issues with Ministry of Finance and line ministry representatives on several occasions. The MoF, acknowledging several inputs from MPs, made adjustments to the final draft.

Lower House Budget and Finance Committee Chairman, Seddiq Ahmad Usmani, explained that the government allocated \$20 million within the development budget discretionary fund to 12 new projects. \$7.5 million of the \$20 million was allocated to agricultural projects by request of MPs.

Lower House Approves Minister of Transport and Aviation, Rejects Nominee for Minister of Hajj and Religious Affairs

The Wolesi Jirga on 16 March approved President Karzai’s nominee for Minister of Transport and Civil Aviation, Hamidullah Farooqi, with 128 votes from the 168 MPs present. The same day the Lower House rejected nominee Mohammad Sadiq Chakari for Minister of Hajj and Religious Affairs with 109 no confidence votes from 174 voting MPs.

In his opening statement and answers to MP questions, candidate minister Farooqi assessed the state of the Ministry of Transport and outlined his plans. The minister explained that, “I am committed to increase transport revenues, promote private transport, and hire honest and experienced employees to demonstrate to the public and the international community that our ministry is a competent and accountable institution.”

Responding to Honorable Daud Sultanzoi's (Ghazni) suggestion that he investigate corruption, the nominee acknowledged the existence of the problem in the ministry and pledged to wipe it out.

Many MPs criticized Mohammad Sadiq Chakari, nominee for Minister of Religious Affairs, for being willing to join President Karzai's cabinet after having expressed anti-government sentiments. Honorable Gul Pacha Majeedi (Paktia) said, "Last week you said negative things about President Karzai's cabinet members in a TV interview, so what is the reason now that you have left your anti-Karzai ideas and come to this house?"

Honorable Sultanzoi criticized the nominee's plans as impractical and asked whether, if approved as minister, he would campaign for his party's presidential candidate or president Karzai.

Chakari denied using derogatory terms for cabinet ministers and declared that, in accordance with Article 80 of the Constitution, he will not, if approved, use his position for the benefit of any political party.

His responses were nonetheless unacceptable to MPs who voted him down.

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