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Legislative Newsletter

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 - Counternarcotics Law
 - Law on Child Correction and Education Centers
 - Law on Registration of Commercial Trademarks
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 - 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 Private Security Companies
 - Government Structure Law
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 - Private Investment Law
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- Meshrano Jirga (Upper House) Agenda:
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- Joint Committees:
 - Law on Health
 - 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: No change from last week. 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 Wolesi Jirga Antinarcotics Committee last week requested that the Ministry of Counternarcotics officially introduce the bill to the Wolesi plenary before continuing debate.

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 committees have returned their comments to the Justice and Judiciary committee for discussion.

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. According to the law, a name, word, signature, written piece, map, title, stamp, picture, and advisement can be trademarked. The law also regulates registration, change, and transfer of trademarks and restricts the use by two or more individuals, companies, offices, organizations or institutions of the same trademark.

Update: The Wolesi Jirga National Economic Committee last week distributed the bill with amendments to all of the committees for a final review. A combined Wolesi committee will discuss differences if necessary.

Law on Chamber of Commerce and Industry

This law is drafted to improve commercial, industrial, agricultural, husbandry and other economic services in the private sector.

Update: Last week the Wolesi Jirga National Economic Committee amended six articles to include the sectors of agriculture and husbandry.

Law on Regulating 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: Last week the Wolesi Jirga Central Audit and Oversight on Implementation of the Law and Communications, Transportation, City Development and Municipalities committees discussed the bill and proposed amendments which will be included in the draft to the plenary.

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 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: The Wolesi Jirga Internal Affairs and National Security Committee has shared the bill with the Central Audit and Oversight on Implementation of the Law Committee for review and amendments. The former has amended several legal terms and changed the official name for security organizations from Private Security Company to Private Security Organization.

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 distributed the bill to the other Wolesi committees for

comments. The 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 change from last week. The Wolesi Jirga National Economy Committee has completed drafting the joint committee amendments but the bill has not been sent to the President.

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: No changes from last week. The bill is pending introduction to the plenary by the Meshrano Jirga Legislative, Justice and Judiciary Committee.

Organization and Jurisdiction of Courts Law

The law will regulate the structure, staffing, and rights and responsibilities of the courts. Under the law, the Supreme Court, as the highest judicial authority in the country, has the right to overturn or amend decisions of the lower courts. The courts review disputes, monitor implementation of the law, and protect citizens' rights according to the law.

Update: The Meshrano Jirga Legislative, Justice and Judiciary Committee completed deliberation of the bill last week, reversing the Wolesi amendment granting the Lower House the power to question Supreme Court justices for "illegal" decisions.

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: No change from last week. The bill was inactive in the Meshrano Jirga Defense Committee.

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 plenary passed the bill on 28 March without major amendments.

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: Further deliberation is pending formation of a joint committee of the houses to discuss their differences, including whether the government has the right under the Constitution to charge for “advanced” health services or should provide them free of charge as it is able.

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 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. Joint committee members must sign the bill before 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. Joint committee members must sign the bill before transmission to the President.

News

Wolesi Jirga Questions Security Authorities

Spurred by several recent incidents, on 25 March the Wolesi Jirga convened Minister of Interior Mohammad Hanif Atmar, Minister of Defense Abdul Rahim Wardak, Deputy Attorney General Faqeryar, and head of the National Directorate of Security, Amrullah Saleh, to discuss security issues. The majority of MPs criticized the government and international forces on MP security, civilian casualties, and the security situation generally, but one or two offered alternative views.

MP Safety

The assassination of Honorable Dad Mohammad Khan (Helmond) two weeks ago has heightened MPs' concerns about their own safety and increased frustration over what they see as the lack of resolution of cases involving ten MPs killed previously.

Honorable Oby Oghly (Faryab) highlighted MPs' these concerns and the problem of civilian casualties: "It is a reality that in recent years people have been killed; I am concerned that last year 45 members of Dad Mohammad Khan's family were killed, and now he has lost his life. I am concerned about the other MPs' lives. The security of the MPs should be considered seriously."

Addressing the security officials, Honorable Ustad Farid (Kapisa) agreed: "What have you done about the assassinated MPs? The arrested persons are related to which gang? Where are they from? Why are they are not shown on TV? If they have confessed to the crime, then why have their files remained untouched for the last three years? I would like to say that the security of the MPs is essential. You have

appointed four guards for each MP, but who will protect the house and children of the MPs?”

Shokeba Hashim (Kandahar) agreed: “We were waiting for the time to come when we would have security, but now we are hopeless. The assassins who have been arrested are second and third tier assassins; the security forces have never arrested the real killers. I confirm Sultanzoi’s speech that your police forces are addicted.”

Responding to MPs’ concerns, Amrullah Saleh, head of the National Directorate of Security, elaborated on existing threats to MPs, including pointing out that, “The enemies plan serious threats to the people’s representatives. They plan to threaten MPs from the frontier provinces between Kunar and Farah so that their members can enter the next Parliament. They plan to paralyze the government by placing their members in Parliamentary.”

Minister of Interior Atmar provided information on Dad Mohammad Khan’s assassination and asked the MPs to inform the security bodies of their activities and travel. The minister told the Lower House members that, “The national police serve the people and MPs in the capital and provinces. The rapid action unit is at your service anytime you ring them.” The minister also suggested a joint committee between MPs and the MoI on security matters.

Defense Minister Rahim Wardak explained that, although protecting Parliament is not the MoD’s primary responsibility, the ministry communicates closely with other security agencies. The minister gave several recent examples of shared intelligence on Parliament.

Deputy Attorney General Faqeryar updated the house on steps taken in each of the cases of assassinated MPs.

The MPs, security officials, and Deputy Attorney General criticized the High Court on the ongoing delays in the cases of convicted criminals.

Civilian Casualties

The issues of civilian casualties and house searches again rose to the surface during the security debate. Of the recent NATO raid in Imam Sahib District of Kunduz Province, Honorable Fazal Karim Aimaq (Kunduz) said, “NATO-led soldiers raided the residence of Sofi Abdulmanan, mayor of Imam Sahib District. His personal guards and household servants were killed with no questions asked.” The MP added, “According to the Chief of Police and head of the Criminal Department of Kunduz Province, the offensive was not coordinated with local authorities...there is no government and no security in Afghanistan and it would be better to take security measures into our own hands.”

Honorable Alam Gul Kuchi added, “We frequently cry, but nobody listens to us. You may think that we have no purpose. During these 30 years, everyone understands that they are abused, and still such abuses are continuing. We must say to foreigners in one united language that you came here to assist us in providing security as well as rehabilitation. So why do you act as an occupying force in our country? Our

foreigner friends must understand that if they continue such cruel acts in our oppressed nation then there will be an uprising against them.”

Honorable Tokhai (Zabul) offered another view: “We always complain about foreigners, while it is the case that incorrect reports are being received by foreigners from their hired interpreters. Honorable Dad Mohammad Khan’s family members were not killed by foreign troops, but by internal, so both Dad Mohammad Khan and the government knew the murderers. The killers were moving free in Kabul when, based on the incorrect information, the house and market of Dad Mohammad Khan were bombed.”

Of the issue Minister of Defense Wardak said, “We have followed the issue of civilian casualties from its beginning, and it is a priority of the Afghan security organs; the killing of any innocent person is condemned, and the maximum effort should be made to avoid such attacks. We have shown no neglect in gaining the coalition forces’ assistance in this regard. The President himself reacted so intensely to the issue that he endangered his position. Still, in war, preventing civilian casualties is not 100 percent possible.”

Addressing the Imam Sahib District incident, National Directorate of Security head Saleh explained that, “Two Al Qaida members of Tajik nationality were arrested in the mayor’s house. They entered Herat through Iran and moved to Kunduz. They have been chased by the coalition forces for several years. The coalition forces, while knocking at the gate several times, were being fired at from that house and the neighborhood.”

Afghanistan’s Importers Complain to MPs about Increasing Taxes and Illegal Payments

Last week the Wolesi Jirga National Economic Committee heard complaints of merchants who allege imposition of an illegal tax by security officials. According to the complainants, the total fees are 12,000 Afghani (USD 240) at the gates of Kabul and 10,000 Afghani (USD 200) inside the markets. At the same time, the merchants protested an increase in the legal import tax from 2% to 4%.

Committee member Honorable Obaidullah Achekzai (Kandahar) told APAP, “Around 4000 trucks are stopped on the borders. Merchants from all over Afghanistan are complaining that they cannot pay so high a tax...If the government increases the tax, the price of foods and materials will become high; this issue needs serious attention from the government.”

The Afghan merchants told the committee members that delay of their trucks due to their inability to pay the fees will cost them 2,000 Afghani (USD 40) per day and have requested the MPs to solve the problem as soon as possible.

The committee decided to call Ministry of Interior (MoI), Ministry of Finance (MoF), and municipal authorities to the committee to discuss the issues.

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
MOI – Ministry of Interior
MOD – Ministry of Defense