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Legislative Newsletter

Calendar

- Wolesi Jirga (Lower House) Agenda:
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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 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:
 - Passport Law
 - Extradition Law
 - Private Investment Law
 - Organization and Jurisdiction of Courts Law
 - Law on Health
 - Cooperation and Friendship Treaty between Afghanistan and Tajikistan
- Joint Committees:
 - Law on Mortgage of Immovable Assets in Banking Transactions
 - Police Law
 - Law on Water
 - Income Tax Law
 - Law on Rights and Privileges of the Relatives of Martyrs and Missing
 - Law on Stamp Duties of Courts
 - 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: According to Honorable Registani, Chairman of the Electoral Law Subcommittee of the Wolesi Jirga Legislative Affairs Committee, the committee has approved 69 of 71 articles in the draft, many with amendments. Decisions on Article 9, which allows a national constituency for Kuchi nomads, and Article 18, which allocates 10 seats for Kuchis in the Lower House, have not been made. The completed committee draft was scheduled to reach the Wolesi plenary on 4 March, but was delayed at the last minute, reportedly due to indecision on the mentioned articles. The committee of 10 Kuchi seat supporters and 10 opponents established nearly a year ago will again discuss the issue of differential treatment for Afghanistan's nomadic community.

The committee did agree on several Kuchi-related amendments including Article 32 which now says that the nomads should vote and run for office "where they live" rather than being free to do the same wherever they are at election time.

Other amendments include raising the signature threshold for presidential candidacy from 10 thousand to 40 thousand and lowering the same for National Assembly candidacy from 1,500 to 1,000.

One Ghazni MP strongly criticized the bill's delay saying, "The election law is so important, yet Registani has not finished it for over a year. It means there is something behind the curtain."

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. 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.

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.

Law on Personnel Affairs of ANA Sergeants

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

Update: A combined Wolesi committee reviewed and approved 34 articles last week with Ministry of Defense participation. Central issues included 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: The combined meeting of Wolesi committees completed its deliberations last week and will soon 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: 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: After being returned from the Meshrano Jirga, the bill is with the Wolesi Jirga Justice and Judiciary Committee but has not yet been discussed.

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 statement on the bill document has been sent to the Ministry of Parliamentary Affairs to be forwarded 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 to make the application process more efficient.

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 Meshrano Jirga Legislative, Justice and Judiciary Committee has placed the bill on its agenda for 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.

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 has taken issue with Wolesi amendments that would allow the National Assembly to question Supreme Court justices when the Court has made "illegal" decisions.

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 input on charging for medical services and will discuss the draft in the near future.

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: Last week the Meshrano Jirga plenary passed the bill with differences from the Wolesi draft. A joint committee will be established.

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 Meshrano Jirga passed the bill last week with differences from the Wolesi draft. A joint committee of the houses will be established.

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: Last week the Meshrano Jirga passed bill. A joint committee will be established to discuss differences between the houses.

Income Tax Law

The bill outlines tax rates and procedures in accordance with Article 42 of the Constitution.

Update: A joint committee passed the draft last week and sent it to the President on 8 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: 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 passed the bill and sent it to the President on 4 March.

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 and staff is drafting the final version for transmission to the President.

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 passed the bill which was then sent to President Karzai on 4 March. The joint 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

Legislators Support Presidential Decree on Election Date

Meshrano Jirga members last week voiced support for President Karzai's decree ordering the Independent Election Commission to hold spring elections per Article 61 of the Constitution.

Honorable Abdullah Haqayeqi (Parwan) criticized the IEC for not preparing the elections on time and demanded their adequate funding.

Honorable Mohammad Noor Akbari (Daikundi), member of the Third Line party, said that President Karzai had taken a positive step for Afghanistan and that it is everyone's duty to support the Constitution of Afghanistan. Acknowledging that security and springtime climate conditions will hinder many Afghans' ability to participate, the MP said there is no choice but to move ahead as soon as possible.

Similarly, Honorable Nadir Khan Katawazi (Paktika) supported the President's decision in spite of the fact that many candidates have not registered and face an inadequate campaign period. Katawazi said that, "We have to hold the elections despite the mentioned problems because we have to observe the Constitution."

President Karzai, along with the UN and a majority of donor countries, had previously supported an election date of 20 August 2009, but changed his mind. For several months a contingent of vocal MPs including the Lower House speaker have voiced opposition to the delay.

The Independent Election Commission has subsequently said that it cannot hold spring elections for logistical and security reasons and will stay with the 20 August date. President Karzai has said that he will stay in office until there are elections.

Source: Afghanistan Times

Lower House Approves Minister

The Wolesi Jirga on 2 March approved President Karzai's nominee for Minister of Finance, Hazrat Omar Zakhelwal, with 144 votes of 198 present MPs. In his opening statement and answers to MP questions, candidate minister Zakhelwal assessed the current state of Afghan finances and spelled out his plans – within the remainder of his potentially short term. The official said that development progress has been good in many areas but that in others funds could have been better utilized. Not surprisingly, an improved economy and creation of jobs are priorities and should be addressed through growth-oriented policies. The candidate minister argued that current government revenue could be increased with adjustments and by addressing corruption.

Asked whether he holds foreign citizenship, Zakhelwal responded, "Yes I have it, but I came here in 2002 and I am at the people's service until now. I did not come here to become a minister, but the President deemed me right for the position. It is your choice whether you give me the votes or not."

Outside the plenary hall, heated debate ensued along ethnic/provincial lines over support for the candidate (Pashtun) with one non-Pashtun pressuring another not to support the minister and the other responding that certain groups are trying to destroy national unity and “demolish the country” with such behavior.

MPs Support Talks with Taliban

MPs last week voiced support for NATO Secretary General Jaap de Hoop Scheffer’s statements that peace in Afghanistan will not come through military efforts alone but must be combined with attention to the civil sector and reconstruction.

Honorable Gull Pacha Majedi (Paktia) said that the international community would be well advised to focus on the civilian sector and jobs creation as the lack thereof is the source of most conflicts. Honorable Majedi. proposed that reconciliation without preconditions and removal of opposition names from government blacklists could be useful steps in resolving the conflict.

Accepting the Constitution and laying down weapons without conditions is required of the insurgents according to Honorable Noorulhaq Ulomi (Kandahar), member of the Wolesi Defense Committee. The MP also listed rule of law, removal of corruption, social justice, and attention to civilian life as conditions for security and peace in the country.

Honorable Moen Marasteyal (Kunduz), also accepting the NATO SG’s view, supports differentiating between the various groups of insurgents, arguing that those that who joined the Taliban out of dissatisfaction with the government should be brought back into the fold.

Source: Afghanistan Times

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