



**USAID**  
از طرف مردم امریکا  
د امریکا دولس لخوا

**AFGHANISTAN  
PARLIAMENTARY ASSISTANCE  
PROJECT**

18 May 2009 Vol. 2, No. 16

# Legislative Newsletter

## Calendar

- Wolesi Jirga (Lower House) Agenda:
  - Electoral Law
  - Counternarcotics Law
  - Procurement Law
  - Customs Law
  - Law on Cooperative and Limited Liability Companies
  - Law on Transit
  - Law on Child Correction and Education Centers
  - Law on Registration of Commercial Trademarks
  - Law on Local Governance
  - 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
  - Law on Civil Servants
  - Government Structure Law
  - Communication Services Regulatory Law
  - Higher Education Law
  - Law on Rights and Privileges of the Relatives of Martyrs and Missing
  - Law on Rights and Privileges of the Disabled
  - Organization and Jurisdiction of Courts Law
- Meshrano Jirga (Upper House) Agenda:
  - Law on Chamber of Commerce and Industry
  - Law on Regulating the Ethical Relations of the Three Powers of State
- Joint Committees:
  - Extradition Law
  - Criminal Procedure Code for Military Courts and Law on Military Crimes
  - Law on Health
  - Police Law
  - 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. The bill remains under discussion in the Wolesi Jirga.

### ***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 promotes cultivation of alternative crops.

Update: The bill has been distributed to the Wolesi Jirga committees for review and is on the plenary agenda for 18 May.

### ***Procurement Law***

This bill addresses procurement of materials and services of the government and private entities. The draft law aims to promote transparency and equal opportunity in competitive procurement processes, control of financial and public expenditures, and supply of high quality goods and services.

Update: The bill is under review by the Wolesi Jirga Budget and Finance Committee.

### ***Customs Law***

This bill is drafted in accordance with Article 42 of the Constitution to legislate customs affairs, including government collection of customs revenue, establishing customs duties, specifying the authority conferred on customs personnel, outlining export policies and procedures, and preventing customs violations.

Update: The bill has been distributed to Wolesi Jirga Budget and Finance Committee members for review and comment.

### ***Law on Cooperatives and Limited Liability Companies***

The bill is drafted to govern the affairs and activities of cooperatives and limited liability companies.

Update: The Wolesi Jirga debated the draft last week, amending Article 10 to require that the Ministry of Commerce and Industry registration department charge 500 Afs for registering trademarks. A minority of MPs supported the original text which does not specify a charge.

### ***Law on Transit***

The bill is drafted to regulate transport affairs including provision of facilities for the transit of goods and their protection.

Update: The Wolesi Jirga passed the draft law on 16 May.

### ***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 re-education and protection of suspected, accused, and convicted children in child correction and education centers.

Update: The bill is with the Wolesi committees.

### ***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 draft is pending transfer to the Meshrano Jirga after its approval by the Wolesi Jirga last week.

### ***Local Governance Law***

The draft law addresses affairs related to provincial governors, district governors and sub-district governors.

Update: The bill is in the Wolesi Jirga plenary where MPs have discussed Articles 6-8. One group of lower house members argues that Article 6, which states that provincial governors be hired by the Independent Directorate of Local Governance, should instead require that governors be elected. Others contend that electing governors would weaken the central government and violate the Constitution.

Also under debate was Article 7, which states that new provinces be created by proposal of the Independent Directorate of Local Governance (IDLG), approved by the Cabinet, and endorsed by the President; and that new districts be proposed by the governor, approved by the IDLG, and endorsed by the Cabinet. The Wolesi Jirga Committee on the Disabled, Martyred, and Widowed introduced amendments to replace the provision for Presidential approval of new provinces and Cabinet approval of new districts with provisions requiring the National Assembly's approval.

Another proposed change to Article 8 places the IDLG under the Ministry of Interior's (MoI) authority rather than the President. Debate will continue this week.

### ***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.

Update: No change from last week. The draft law remains with the Wolesi Jirga Religious, Cultural, Education and Higher Education Committee.

### ***Law on Medals and Badges***

The Law on Medals and Badges regulates affairs related to the class, value, size, and production of official government medals and badges. The draft explains the types and purposes of various medals and badges and defines award conditions and processes.

Update: The draft law is with the Wolesi Jirga committees.

### ***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 law passed by decree promotes respect for and monitoring of human rights, and governs the structure, functions, authorities, and activities of the Afghanistan Independent Human Rights Commission. It now requires ratification by the NA in terms of the constitution.

Update: No change from last week. The draft is with the Wolesi Jirga Committee on Women, Civil Society, and Human Rights. The committee has requested that the Ministry of Justice formally introduce the draft law.

### ***Law on Personnel Affairs of ANA Sergeants***

The law regulates personnel issues including conditions for appointment, compensation for death and injury, rank, transfer, benefits, vacation, discipline, rewards, resignation, retirement, and reserve status of ANA sergeants and officers.

Update: The Meshrano Jirga received the draft on 11 May, and it was introduced to the plenary session the next day. The draft law is currently with the Defense Affairs and Territorial Integrity Committee which will lead deliberations on the bill.

### ***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.

Update: The Wolesi Jirga combined committee is tentatively scheduled to complete discussion of the draft this week.

### ***Civil Servants Law***

The draft 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 of education levels of Government employees; improve of employee qualifications and work ethic; and provide employee housing and other benefits.

Update: After rejection by the President over Assembly deletion of Superscale salaries, a combined Wolesi committee has reinstated the mechanism – intended to promote staff retention – and included a six level pay scale ranging from 300 USD to 1,500 USD per month.

### ***Government Structure Law***

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

Update: No change from last week. The bill is with the Wolesi Jirga Legislative Committee.

### ***Communication Services Regulatory Law***

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

Update: The bill is with the Wolesi Jirga committees and pending introduction to the plenary.

### ***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: No change from last week. The draft law is with the Wolesi Jirga Committee on the Disabled, Martyred, and Widowed.

### ***Law on Rights and Privileges of the Disabled***

The law will integrate and support the disabled economically.

Update: No change from last week. The draft law is with the Wolesi Jirga Committee on the Disabled, Martyred, and Widowed.

### ***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 in accordance with the law.

Update: No change from last week. The draft law is with the Wolesi Jirga Legislative Affairs Committee which has collected input from other Wolesi committees.

### ***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 property.

Update: The bill has been sent to the President.

### ***Chamber of Commerce and Industry Law***

The bill, drafted pursuant to Articles 10, 11 and 13 of the Constitution, aims to defend the rights of private sector enterprises; develop commercial, industrial, agricultural, husbandry and other economic services in the private sector; coordinate the handicraft, trade union, and service industries; and pave the way for economic development of private sector enterprises, nationally and internationally.

Update: The bill was introduced in the Meshrano Jirga plenary on 12 May. The National Economy and Budget Committee will lead deliberations on the bill. Wolesi

Jirga amendments include a provision that requires government approval for transactions of Chamber of Commerce and Industry property.

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

The draft law establishes expectations for behavior and communication between representatives of the executive, legislative, and judicial branches of government.

Update: The law was inactive in the Meshrano Jirga Justice and Judiciary Committee last week. There is a chance the document will be returned to the Wolesi without Meshrano approval due to concerns that the draft is “advisory” but would also limit Parliament’s authorities.

### ***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: Correction to last week’s report: The bill has been passed by the Meshrano Jirga with amendments.**

The Meshrano amended Article 3 of the bill by defining the term “funds and property” as including “assets of every kind, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments, including electronic or digital, evidencing title to, or interest in, such assets” of subjects of extradition.

The Meshrano Jirga concurred with a Wolesi Jirga amendment to Article 7 providing that, while Afghan women and children, and stateless children, cannot be extradited, they will be dealt with in accordance with Afghan domestic law.

The Meshrano also amended Article 10 to require the requesting state to submit evidence, including testimonies of witnesses, in support of an extradition request.

The upper house amended a provision in Article 15 to clarify that the 30-day period for submission of supporting documentation for extradition shall begin from the date of arrest of the person in question.

The Meshrano amended Article 25 to include among the grounds for refusal of an extradition request denial of a fair trial of the convict in the requesting state.

Finally, the Meshrano amended Article 34 to provide that, in the event a person is sought for extradition by two different countries for equally serious crimes, the request that was submitted first shall be granted.

A joint committee of the houses will be formed to reconcile the differences.

### ***Private Investment Law***

The draft law regulates issues related to encouraging and protecting private investment in a free market economy.

Update: This draft law has sent to the government.

### ***Criminal Procedure Code for Military Courts and Law on Military 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: Further consideration of the draft is pending introduction of a joint committee of the houses.

### ***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: A joint committee brainstorming session took place on 13 May with the Deputy Ministers of Justice and Finance as well as Kabul University Law Faculty professors to discuss potential unconstitutional components of the draft, including a provision that would allow fees for certain medical services. A date for the next joint meeting of the houses has not been set.

### ***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: The joint committee approved bill is pending transmission to the President.



## *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.

## News

### **MPs Exchange Views while Continuing to Press for Legalization of Foreign Troops**

Wolesi Jirga MPs on 11 May closed the lower house for half a day to continue their protest of the recent US-led air strikes in Farah Province which reportedly killed around 140 civilians and injured others. Prior to walking out, MPs prayed for the souls of Farah Province martyrs, debated the nature of the conflict, and reiterated their demand for a government draft law to legalize the presence and regulate the activities of foreign troops in Afghanistan.

Honorable Mohammad Naim Farahi (Farah) addressed his colleagues: “The number of victims exceeds 140 people, yet you are silent. I strongly request that the doors be closed for one week as a sign of protest. The issue of civilian losses should be discussed with the internal and external security officials during this time.”

Wolesi Jirga Speaker Qanooni said, “I think that is too much time for the house to be closed. Let’s close Parliament’s doors for the next three days. While the basic request was that the foreign troops be legalized by the government, let’s wait for the deadline [of one week]. If no [draft law is produced] by the government, no one can deprive you of the right of protest.”

Other MPs objected to the idea of closing Parliament’s doors. Honorable Mowlawee Ata Ullah Ludin (Nangarhar) said, “We are sorry about the martyrs and recent improper incidents in Farah Province. In my opinion, it is neither the first and nor will it be the last incident. Instead of protest, fundamental steps should be taken to study why these incidents have been increasing in frequency, why Afghanistan is experiencing a lack of trust [in international forces] in spite of the growing number of foreign and national troops.” The MP added, “If we close Parliament’s doors today, do we have the resolve to close Parliament’s doors over a larger incident tomorrow? Let’s raise our voice from this house against those intentional actions that are extending the fighting.”

Mohammad Noor Akbari (Daikundi) suggested a balanced view of the conflict: “The civilian casualties cannot be tolerated in any part of the country, but we are in a country which is at war. Are you looking at the techniques of the enemies? They are

using the public as a shield. These are the techniques of the enemies fighting to overthrow the government... We expect the Assembly to react against civilian casualties, but, at the same time, the methods used by the enemy should be illuminated and measures taken to prevent them. We should not let the Wolesi Jirga's forum be a propaganda tool of the enemies. We should not support the enemies' techniques, but rather study every side of these events."

Wolesi Jirga Secretary Abdul Satar Khawasi, read a statement to the media formalizing the lower house request that the government send a draft law to Parliament within a week.

### **MPs Stand for Presidential Election**

Five MPs, including one woman, have registered to run in the 20 August presidential election. Wolesi Jirga First Deputy Speaker Mirwais Yasini (Nangarhar), Ramazan Bashardost (Kabul), Mullah Abdul Salam Rocketi (Zabul), Abdul Qadar Amami (Ghor) and female MP Shahla Ata (Kabul) have submitted applications to the Independent Election Commission.

Candidate Yasini told the media during registration, "Second Deputy of the lower house, Aman-u-llah Paiman and Sayed Abdul Qayoum Sajadi (Ghazni), will be my running mates in the August presidential polls. We believe that the nation wants a positive change. We have the capacity to direct the nation toward prosperity, and we have sound plans for stability and development of the country."

Honorable Ramazan Bashar Dost (Kabul), a candidate for the previous presidential elections, has also announced that he intends to challenge President Karzai. Mr. Bashar Dost has chosen Mohammad Musa Barakzai and Hafifa Maruf as his running mates. The candidate told APAP, "I have the support of the honest sons of Afghanistan. If the election is implemented impartially, we hope to win. I will run independently. I have not come to this race to make deals with anyone or even dream of any negotiations or deals with other parties."

Candidate Mullah Abdul Salam Rocketi (Zabul) told APAP, "People are suffering from lack of security. If I win the election, my first priority will be stabilizing the country and meeting basic expectations of the nation...I have the support of my people. I will run until the end of the race, and I have decided to not deal with anyone."

The only female candidate from the Wolesi Jirga, Shahla Ata (Kabul), is one of two women candidates running for the presidency this year.

**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