



Legislative Newsletter

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NEWS

Non Implementation of Approved Laws - Wolesi Jirga Expresses Concern

The non implementation of laws passed in 2009 has irked the Wolesi Jirga. The law on Rights and Privileges of the Relatives of Martyrs, the Missing and the Disabled was passed by a two thirds vote of the Wolesi Jirga, which overturned a Presidential veto. It aims at economically empowering the disabled, regulating the special rights and privileges of families of the martyred and the missing.

Law on the Rights and Privileges of the Relatives of Martyrs, the Missing, and the Disabled

This Law, initially passed by the NA on March 10, 2009 and sent for presidential endorsement on April 2, 2009, was rejected by presidential veto on the basis that the financial obligations it sought to create could not reasonably be implemented. The reasons for the veto by the president were not considered by the WJ when they resolved to use the constitutional two-thirds majority vote to override the President's decision. According to the Constitution, the Law became effective and enforceable from the day of the WJ's two-thirds majority vote over ruling the Presidential veto.

WJ chairman of the commission on the Handicapped and Disabled, Bereaved Families of Martyrs and Widows, Engineer Mohammad Asem (Baghlan), told the plenary that while the WJ passed the Law in 2009, the government is yet to implement it.

“The WJ used the two-thirds majority vote to approve the Law on the Rights and Privileges of the Relatives of Martyrs. This Law states that any civil servant injured while on duty is entitled to 30% of the highest government salary while those incapacitated while employed by non-governmental organizations should receive up to 15% of the lowest ranked government salary, or approximately 750 Afghanis,” reported Engineer Asem. He argued that the non implementation of the law had deprived the intended beneficiaries of the stated benefits.

Eng. Asem added that the WJ increased the Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD) allocation in the 2010 budget to accommodate the allowances provided for in the Law. However, “There is no visible improvement in the lives of the disabled and the relatives of the martyred and missing,” he said. “We are not satisfied with the reasons provided by the ministry. The registered disabled have not received their increased benefits.”

Problems in the Education Sector

In the same plenary session, the WJ criticized the government for failing to implement changes to the Education law, passed in 2009. Poor service conditions and salaries for teachers were blamed for the low quality of education. Members complained that changes to the Education Law approved by the WJ aimed at eliminating illiteracy and improving the quality of education countrywide had not been implemented by the government. The changes set grade eight as the minimum education level for all Afghans and mandated the MoE to design age-appropriate curricula.

“The majority of teachers did not participate in the parliamentary election. The MoE has to consider this issue,” said MP Zarin Zarin (Herat), suggesting the poor service conditions in the education sector was one of the reasons for the low participation of people in the 2010 parliamentary elections.

Religious, Cultural, Education, and Higher Education Committee chairperson Haji Mohammad Mohaqeq seeking to explain government’s position, informed the plenary of the testimony given by Minister of Education Farooq Wardark at one of the committee’s prior sessions. He advised said that according to the MoE, government has begun a performance appraisal exercise which would be used to grade teachers and improve lesson quality. “The MoE is implementing the salary structure which was approved by the WJ,” MP Mohaqeq said, adding that, “According to Wardak, a minority of teachers hold higher education degrees or have graduated from teacher-training institutes. The rest are either high school graduates or have a traditional education—the MoE plans to reassign low quality teachers to other positions.” Chairman Mohaqeq also informed the house that the Minister had further advised committee members that the ministry is yet to receive biographies of those teachers who performed well in the performance appraisal exercise to begin reviewing their salaries.

Some members were not satisfied with the MoE’s explanation, deeming the proposed actions unrealistic. MP Sahira Sharif (Khost) countered that she has met with a number of teachers who advised her that they had successfully completed the appraisal exercise and submitted the results to the MoE. “A number of teachers told me that they passed the exam successfully and have submitted their biographies to the MoE but there is still no increase in their salaries. It is not realistic that a ministry should not have the biographies of its employees.” MP Sharif further accused the government of wanting to “damage the spirit of teachers” by failing to pay them proper salaries.

Some members questioned the logic of the performance appraisal exercise. “If their quality is low, we should build their capacity, but not demote them from teachers to clerks,” Farooq Meranai (Nangarhar) said .The statistics provided by the MoE suggest that of the twelve million children in Afghanistan, only seven million attend school, with the rest lacking access. Given this situation, some MPs were of the view that instead of appraising experienced teachers, the government should be building the capacity of teachers to enable them to provide quality education.

Farooq Meranai (Nangarhar) complained that the MoE is hiring people based on the recommendation of influential people without looking at whether there are vacant positions. “A number of people have been given offers of teacher positions without considering the current structure of the MoE. Now these people are pushing their MPs to find them vacant positions or recommend them to other jobs.”

Concluding the session, Speaker Younus Qanooni asked the Religious, Cultural, Education, and Higher Education Committee to follow up with the MoE on the issue of salaries and the missing biographies of teachers.

In respect of the earlier discussion on non implementation of laws passed, the House decided to summon the Minister of MoLSAMD to its next plenary session (Oct 2) to explain the government’s position regarding implementation of the Law on Rights and privileges of the Martyred and Disabled.

The law passed by 2/3 vote and proposed changes to the Education Law represents a need to ensure that a proper bill costing is done prior to passage of legislation. Government through the Ministry of Finance has previously maintained that there are no resources to implement the law on Disabled and Martyrs. The highest government salaries are at least the equivalent per official of USD 2500 a month, payment of 30% of this amount to hundreds of thousands of people would prove difficult for the national fiscus to sustain. Difficulties in implementing the performance appraisal exercise can also be linked to fiscal limitations.

Non Implementation of Law, Minister Responds - WJ Not Convinced.

The Minister of Labor, Social Affairs, Martyrs and the Disabled, Ms. Amina Afzali, attended the October 2 plenary session to respond to Wolesi Jirga concerns over the government’s failure to implement the law on the Rights and Privileges of the Relatives of Martyrs, the Missing, and the Disabled. This followed a summoning resulting from the September 27 plenary session in which the matter had been raised.

“We approved the amount of compensation to the families of martyrs and the missing in Articles 4 and 5 (of the Law),” Eng. Asem said, reiterating concerns articulated in the plenary debate of the 27th September. “Survivors of the 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, but so far the government has not taken any action.”

Chairing the plenary, Speaker Younus Qanooni concurred, adding that there has been a big time-gap between approval (January 2010) and implementation of the Law. “The MPs did their job and approved the bill, but there’s been no progress from the government side,” he said. “Due to the existence of bureaucracy in the ministers’ council, the law still has not been sent to the Ministry of Labor, Social Affairs, Martyrs and the Disabled.”

Responding to MPs' concerns, Minister Afzali explained that the government has still not published the Law in the Official Gazette and her ministry is waiting for the go ahead from the president's office to begin implementation. "We are eagerly waiting to receive the bill from the Ministry of Justice to implement it, but there are some ideas inside the government that the bill needs some amendments."

She added that some government security organizations are not happy with Articles 4 and 5 of the bill. They believe that giving 35% of the last monthly salary as compensation to the families of martyrs will decrease interest in working for security organizations. She advised the House that instead of 35%, they were proposing a payment of 100% of the last salary.

MPs took issue with the purported government intent to amend a law before even implementing it. They argued that the Afghan constitution is clear that when a bill is approved by two-thirds of the NA, the draft becomes Law and is deemed endorsed and enforceable. There was no need for a further presidential action in their view.

Explaining the legislative process, chairman of the Central Audit and Oversight of Implementation of the Law Committee of the WJ, Dr. Abdul Kabir Ranjbar, criticized the government for interference in bills after their resounding approval by the house. "The government does not have the right to amend any bill before implementation. This bill was approved by two-thirds of the Wolesi Jirga and should be implemented."

He added that the issues being raised by the Minister were discussed during the processing of the law in WJ committees. "It is discriminatory that survivors of martyred and missing military personnel be entitled to 100 percent of the martyred or missing person's last monthly salary and other government workers are entitled to 35 percent."

MP Sultan Mohammad Awrang (Badakhshan) called the prospect of government amendment unacceptable. "If the government is going to amend a bill after approval by two-thirds of the members or after enforcement, then why do we need to make legislation?"

Ending the session, Speaker Qanooni said that the most deserving and oppressed people in Afghanistan have been deprived of their rights. "We have to seriously work to give them their privileges and rights, otherwise nobody will make a sacrifice for this country," he concluded.

Meshrano Jirga Welcomes New Minister for Parliamentary Affairs

The Meshrano Jirga (MJ) on October 3 welcomed the appointment of Humayun Azizi to the post of Minister of Parliamentary Affairs. Mr. Azizi, formerly the head of the Herat Provincial Council, replaces Mohammad Anwar Jegdalek.

Speaker of the MJ, Hazrat Sebghatullah Mujadidi (Kabul), while appreciating the contribution of the former minister, called on Azizi to focus on improving Wolesi Jirga relations with the Executive. "We have had good relations with other pillars of the state, but

there were some tensions between the Wolesi Jirga and government. I hope you will focus on mending Wolesi Jirga-Executive relations,” Speaker Mujadidi said.

In response, Minister Azizi told MJ members that he will work to improve relations between parliament and the Executive. “If the three pillars of the government are coordinated and unite, the government can better serve the will of the nation,” Azizi said.

Senators took the opportunity to inform the Minister of their roles and responsibilities. Reflecting on their oversight and representation functions, Gulalai Akbari (Badakhshan) said, “As you know, besides legislation we also have oversight and representation responsibilities. The cabinet has decided that ministers will set aside one day a week for consultations with senators; they have indicated to us Monday is the day. This however is the same day on which most of the ministers attend cabinet meetings. I propose you raise this issue in the ministers’ council meeting and change the proposed day.”

The new Minister of Parliamentary Affairs considered the senators’ statements and added, “As a former head of a Provincial Council I understand you. I will have regular meetings with the National Assembly and also the doors to my ministry will always be open to all National Assembly members.”

Legislation

There is no legislative activity to report at this time

Acronyms

MJ	Meshrano Jirga
MoLSAMD	Ministry of Labor, Social Affairs, Martyrs and Disabled
MoE	Ministry of Education
NA	National Assembly
WJ	Wolesi Jirga