



## Legislative Newsletter

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### **NEWS:**

#### **Interpellation of Minister of Energy and Water:**

##### ***Wolesi Jirga gives him vote of Confidence.***

The Wolesi Jirga (WJ) on the 3<sup>rd</sup> December 2012, interpellated the Minister of Energy and Water, Ismail Khan. The Minister was asked questions ranging from his poor development budget execution rates, corruption in his Ministry and the allegations of re-arming of mujahedeen forces. Despite the large number of Member's calling for his interpellation originally, his answers to lawmakers' questions was sufficient to gain him a vote of confidence from the Wolesi Jirga. He remains as Minister of Energy and Water.

In a move not consistent with practice when the Wolesi Jirga conducts an interpellation session of government officials, the Speaker of the Lower House, Mr. Abdul Rauf Ibrahim (Kunduz), read out the names of more than 50 MPs that had signed and called on the House to interpellate Mr. Ismail Khan. After the Members names were read, several MPs requested for their names to be removed from the list of members calling for the interpellation. While the call for interpellation by the members had been based in part on Ismail Khan's failure to bring transparency in the Ministry's contracting process, mismanagement of the Ministry's development budget, lack of geo-balance in the implementation of Ministry projects, as well as the alleged distribution of weapons to former Mujahedeen, few MPs were willing to be openly identified as having been the ones calling for his removal.

Mr. Mohammad Noor Akbari (Daikundi), Ms. Ms. Shukria Barakzai (Kabul), Ms. Wazhma Safi (Kunar), and Mr. Lalai Hameedzai (Kandahar) spoke on behalf of the MPs and each posed a series of questions to the Minister. They asserted that there has been imbalance in the Ministry's project distribution which some provinces seeing no work and the money allocated transferred to other provinces. "During the last few years, Bamian, Daikundi, Paktia, Paktika, Khost, Zabul, and Badghis provinces have shown zero budget execution (i.e. project implementation) in the Ministry of Energy and Water" Mr. Akbari said. The Members also believed that the lack of policy in the Ministry has caused delays in implementing projects, and the waste of millions of dollars on stop gap measures such as generators in Helmand province rather than building sustainable power infrastructures.

Ms. Shukria Barakzai said that the development budget of the Ministry of Energy and Water, which contained "very vital projects of the country," has shown a below 30% execution rate. "It's said that the Minister has personal issues with some of the provinces and [as a result] has not implemented projects." Ms. Barakzai mentioned that Afghanistan should have exported electricity to other countries, but unfortunately Afghanistan imports electricity. She attributed this to the "lack of capacity in the Ministry of Energy and Water."

Disputing the Minister's previous claims of achievement, Ms. Wazhma Safi pointed to the Kunar dam project which costs an estimated \$450 million and was given to an Iranian company which 'escaped' before implementing the project. According to her, "the Minister keeps promising the people of Kunar that the dam project will start, but to this day, the project still has not yet started." Mr. Hameedzai followed up by asking about the four dam projects scheduled in Kandahar province that had received the budget allocation, *but also had yet to start.*

In regard to the allegation that the Minister is supporting and arming groups in Herat, the Members were highly critical and attributed his actions to subverting the Afghan National Army (ANA) and Afghan National Police (ANP) and forming a "parallel unit" which has no official line of command to the central government. Mr. Hameedzai stated that the Minister is "leading this country into a crisis by distributing thousands of weapons to the people of Herat province."

Immediately following the Members' questions, Mr. Ismail Khan, Minister of Energy and Water, stood in from of the floor and said that he is glad to respond to the "uncertainties," as he believed most of their concerns were based on information that are not true. He addressed the floor by stating that he was there to answer questions "not just as a Minister. Being a Minister is the means to reaching my goal. I am not talking to you (MPs) as a Minister; I am talking to you as a person who fought for 21 years for the freedom of Afghanistan." He said that Parliament wasn't interpellating him on the basis of his development budget projects, but instead MPs "were interpellating their Minister because of Jihad." He once again stressed the 'fraternity' of the Mujahedeen and according to the Minister, "people are concerned about the exit of international security forces in 2014." Mr. Ismail Khan called on Mujahedeen "not to let the country to go into crisis."

Wherever possible it appeared that the Minister deflected blame on the international community or other state organs (such as the Ministry of Finance) from everything to lack of project implementation, low development budget execution, questionable spending and project planning, and security issues. Avoiding directly responding to most of the questions, the Minister stated that the task of "restraining water" is impossible to accomplish in just 10 years; "it's a long term project." He also said the Ministry has studied around 547 dams and they are now busy working on 133 dams. He laid the blame of the Kunar Dam project at the feet of the international community saying, "Kunar Dam will cost \$3 billion, which is impossible to finance from the National Budget, and the International Community won't pay for this project."

Mr. Ismail Khan strongly disputed the figures that Members had cited claiming the Ministry's development budget execution rate is below 30%. He claimed that his Ministry has spent between 70% to 83% of its development budget (though he did not present any analysis or figures to support this claim), and blamed the Ministry of Finance for not dispersing money to their other projects. According to the Minister, when his Ministry

originally proposed 100 development projects, the Ministry of Finance only allocated money for four projects. Another cause for delay of project implementation he attributed to was insecurity in some districts and provinces.

He very lightly addressed the allegation of geo-political nepotism in terms of infrastructure project implementation saying a \$61 million dollar project will start soon in Paktia and alluded to the South as 'a difficult place to implement projects.' Mr. Khan argued that the Ministry does have a competitive procurement process and previously had awarded contracts to Azerbaijan, Russia and Iran, but so far Iran has the best project implementation rate of 30%. Other contract holders he claimed do not actually come to Afghanistan; they just hire Pakistani engineers to do the work.

Despite the lack of direct response, facts or figures to support the Minister's testimony, when the Speaker of the House put the Minister's responses to a vote, 141 MPs raised their green cards (satisfactory) and 32 MPs raised their red cards (not satisfactory). There were not enough votes of not-satisfactory to further pursue a vote of no-confidence and the Minister of Energy and Water remained in his position.

The results of the interpellation proceedings left some MPs unhappy. Ms. Barakzai recommending in the following plenary session (December 5<sup>th</sup>) that the names of MPs who sign a proposal to interpellate a Minister should not be made public or announced in front of that Minister. She criticized the Admin Board for not considering the immunity of the MPs and asked that only the Secretary General and the Speaker should have access to the list of names. Mr. Ramazan Bashardoost (Kabul) told APAP, "Mr. Ismail Khan should have used the time to talk about his ministerial achievements instead of his Jihadi achievements. He was summoned as the Minister of Energy and Water, not as a commander of Jihad." He also said that the Minister's claims that the Mujahedeen were solely responsible for defeating the Taliban was false, "We should not forget that the Mujahedeen were marginalized by the Taliban and only with the help of the American B52 airstrikes were they brought back to power."

Another MP anonymously told APAP that "We don't know what happened to those 30 MPs who decided to take their names off the proposal for the Minister's interpellation." They essentially changed their minds and used their vote to affirm their confidence in the Minister.

According to Article 92 of the Constitution, "Wolesi Jirga, based on a proposal by one-tenth of all members, can interpolate each of the Ministers. If the responses given are not satisfactory, Wolesi Jirga shall consider the issue of vote of no confidence. Vote of no confidence on a Minister should be explicit, direct, and on the basis of well-founded reasons. This vote should be approved by a majority of all members of the Wolesi Jirga."

## **MPs Discuss ERAW Law with Members of Civil Society in Balkh**

As part of their outreach efforts the Women Affairs, Civil Society and Human Rights Commission (WJ) traveled to Balkh province to commemorate the 25<sup>th</sup> November, “International Day on Elimination of Violence against Women.” Further marking the day, the Commission’s visit sought to oversee condition of shelters and prisons for women as well as to share the proposed amendments to the Elimination of Violence against Women law with Civil Society Organizations (CSOs). In addition to the Members from the Women Affairs Commission, the delegation also had Members from of the Education and Religious Affairs Commission (WJ) and from the International Security Commission (WJ).

During the meeting with the CSOs representatives, the Chairperson of the Women Affairs Commission, Ms. Fozia Kofi stated the Commission would like to consult with the CSO activists and hear their suggestions and input to the ERAW law. Ms. Kofi recognized the efforts of civil society and their enrichment to the ERAW law, particularly their proposing of relevant amendments to make it responsive to the needs of the society. She however indicated that there was still resistance and opposition in getting the ERAW law approved by the WJ. She listed the main reasons given by the opponents to the law:

1. Belief that most of the articles are in contradiction with Sharia;
2. Belief that there is no need for a specific law on women issues;
3. Belief that the ERAW law is being executed within the courts by a presidential decree consequently there is no need to get this law approved.

The delegation assured those present that the Women Affairs Commission was going to remain committed to the passage of the law and would be stepping up its advocacy efforts and consultation meetings with the CSOs, Ministry of Women Affairs and Ministry of Hajj and Endowment to find ways to at least decrease violence against women. The commission noted that there has been one major breakthrough they had seen emanating from continuous meeting with relevant ministries and building of coalitions around the law. The Ministry of Hajj and Endowment had agreed to train scholars to preach women rights from a Sharia prospective through the platform of the mosques.

Ms. Zarghoona, a member Afghan Women Education Center (AWEC), and the representative of CSOs in the meeting, described to MPs some causes of violence against women in the area:

- Lack of awareness and public knowledge of women rights from the Sharia prospective;
- Unequal execution of the laws (rule of immunity culture);
- Corruption and acquiescence to violence and domestic assaults at all government levels
- Male dominant society, with problems of domestic violence, drugs addiction and discrimination
- Poverty and illiteracy;

Despite these problems, the civil society groups in the area also proposed some solutions such as public awareness on women rights, conducting workshops in rural areas, establishment and strengthening of CSOs advocacy group in provincial and district levels, coordination between CSOs and MPs as well as quarterly meetings between CSOs, MPs and government officials. Ms. Shamsia Azarmehr, the representative from Civil Society and Human Rights Network reiterated that “In order to have support of the communities before approval of the ERAW law, a vast awareness campaign is needed to notify the public on benefits of the law both to the domestic life [family] and to society.”

At the close of the visit, the CSOs and MPs announced their commitments to working jointly for the approval of the ERAW law and campaign for the rights of women. Both the CSOs and MPs agreed to strengthen and build a network of CSOs within the capital, the provinces as well as in the rural areas.

### **Senators Conduct Oversight Visit to Herat Province**

A delegation of seven Senators, led by the Chairman of the International Affairs Commission (MJ), Mr. Arifullah Pashtoon (Khost), conducted a field oversight visit to Herat province. Of concern to the delegation was the status of refugee affairs in the province and efforts being made by provincial authorities to provide for this growing population. The Commission also reviewed prison conditions, met with the provincial council, and discussed possible challenges post 2014.

The Commission found the operations in some of the provincial offices ‘dissatisfactory’ and noted the need for the Ministry of Finance to allocate more money to the province for service provision. At the end of the visit, the chairman remarked that “the International Affairs Commission will follow up on the problems they discovered as well as share their findings with other Commissions in the Meshrano Jirga.” He added that “Oversight [of government programs and policy] is one of the important responsibilities of the National Assembly. Such visits enable legislators to have firsthand access to information and understanding the concerns of the people, so that they may come up with a proper action plan.”

While in Herat, the Commission reviewed the conditions of foreign prisoners in Herat prisons, investigated trade problems along the Afghanistan-Iran border as well as in the Customs clearing house. The Commission delegation also met with heads of government institutions and held a public forum for members of civil society to discuss their views of possible challenges post-2014. Focusing on the legislative role, the members also engaged with CSOs to hear their recommendations on the Law on Social Organization and the Access to Information Law. During the visit the delegation also met with representatives for refugees, the Provincial Council, and the families of the 13 Afghan youths killed by the Iranian border police.

Visiting the Islam Qala border the delegation found that the Refugees' Affairs Directorate was not treating Afghans who either returned willingly or forcibly from Iran, well. According to Mr. Mohammad Younus Takhari (Takhar) the Senators saw three types of refugees, those who were forcefully deported, those who chose to return to their own country (Afghanistan) and those who were detained while entering the Iranian border. Mr. Takhari told APAP that "all those refugees, whom the Directorate of Refugees Affairs and the UNHCR are supposed to be helping, are not provided with sufficient assistance. The refugees spend nights in a cold tent; others don't have transportation back to their provinces or accommodation in Herat. There is no one here to take care of these issues."

The Commission also met with the Provincial Council to discuss the refugee situation. The Head of Herat Provincial Council, Mr. Faiz Zada, briefed legislators on people returning from Iran, the problems Afghans have with obtaining Iranian visas and concern that some Afghan refugees are being executed by the Iranian government. Mr. Faiz Zada also took this opportunity to advocate to the Senators on the need for "privileges and immunities" of provincial council members. He criticized the National Assembly for passing a bill that only provided for privileges and immunity for Members and Senators but did not consider the provincial council members. He clarified the position of the Provincial Council to Senators: "When we say immunity and privileges, we do not mean only the increase in salary. We want immunity during incumbency as the MPs and Senators have." This last point is essential he said because in some provinces Members (of provincial councils) feel they cannot speak freely or criticize government institutions for fear of reprisal or punishment.

The delegation held a public forum for members of civil society (CSOs). More than 23 CSOs representatives and 9 media outlets participated. The Senators and CSOs discussed the effectiveness of aid during the last ten years and the situation of Afghanistan after the withdrawal of NATO forces in 2014. The groups also discussed the proposed laws on Social Organization and Access to Information. During the course of the meeting, the CSOs proposed various recommendations to the Social Organization Law which included: removing the citizenship requirement as well as the 'adult' requirement in Article 7 to allow non-citizens and youths the opportunity to form and participation in social organizations; allow social organizations to operate whether registered or not (Article 14); and change the requirement for report submission on an annual, rather than semi-annual, basis as well as consideration should be given to exempting certain social organizations from reporting altogether or developing a simplified report for lower income social organizations (Article 25).

Speaking on behalf of the CSOs Ms. Laila Samani, Director of New Ideas urged Senators to consider the proposed amendments. In regards to stability and security post 2014, Senator Najiba Hussaini (Appointee) assured the CSOs that if Afghans consider their responsibility [to peace and stability] nothing will happen after 2014. She also urged the CSOs to engage with Parliament; present their input during legislation and oversight visits from the Houses.

Commenting during the Public forum, the Chairman of International Affairs Commission called CSOs “the best source for firsthand information on post 2014 opportunities and challenges and which can help the Parliament as it deliberates on legislation.” Moreover, he indicated that the Commission saw value in interacting with CSOs “owing to their close connections with the grassroots of society.” Later Mr. Pashtoon said that the Commission will consider all findings of the oversight trips, share their finding with other relevant Commissions and in regard to the refugee situation in the province, would call the Minister of Refugee Affairs, Minister of Foreign Affairs and the Minister of Finance to discuss how to improve the conditions, border relations and increasing allocations to the provinces to deal with local issues such as refugee camps.

## **Legislative Status**

**28 November- 5<sup>th</sup> December 2012**

### **Upper House MJ:**

#### **Law of the Structure, Duties and Jurisdiction of the Attorney’s Office**

The law was introduced on 6<sup>th</sup> October 2012 to the National Assembly, the WJ approved on 13<sup>th</sup> October 2012, the law includes in eight chapter and 42 articles. This law has been enacted pursuant to the provision of paragraph (3) article one hundred and thirty four (134) of the Afghanistan constitution which says “The organization, jurisdiction as well as method of work of the Attorney’s Office shall be regulated by law.” This law is drafted for the purpose of regulating the affairs relating to the structure, duty, composition, authority and course of action of the Prosecutor Office. The principle objectives of this law are as follows: to strengthen legality and order in society; to defend the spiritual and corporeal rights, interests and freedom of individual and public for the purpose of rule of law and insuring the justice; to regulate the personal affairs of prosecutors and staff of civil service of the Attorney’s Office; and to regulate the affairs relating to the prosecutors’ punishment and disciplinary action responsibility.

**Status:** The Law is introduced on 6 October 2012 to the National Assembly, WJ approved the law on 13<sup>th</sup> October 2012, the law is currently under discussion in MJ Legislative Affairs Commission and during the week the Commission invited representatives of the Attorney General’s Office for clarification on the structure of the Prosecution Office as well as some of the mandates set forth in the law which Members viewed as interfering with the mandate of the NA and other governmental organs affairs. The First Deputy of the Attorney General appeared before the Commission and clarified the structure of AGO, and added that there is no intention of conducting “oversight or overseeing the implementation of legislation” but rather they mean to evaluate and study the complaints and cases before they are referral to the Investigation Department. It was agreed that a more suitable word than ‘oversight’ needs to be found.

### **Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade**

The Rotterdam Convention is a multilateral treaty to promote shared responsibilities in relation to importation of hazardous chemicals. The convention promotes open exchange of information and calls on exporters of hazardous chemicals to use proper labeling, include directions on safe handling, and inform purchasers of any known restrictions or bans. Signatory nations can decide whether to allow or ban the importation of chemicals listed in the treaty, and exporting countries are obliged make sure that producers within their jurisdiction comply. The conversion includes a preamble, 30 articles and 5 annexes.

**Status:** The Convention was approved by the WJ plenary session on 7<sup>th</sup> November 2012. The Convention was received by the MJ plenary session on 13<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **Stockholm Convention on Persistent Organic Pollutants**

This is an International Environmental Convention, signed in 2001 and effective from May 2004, that aims to eliminate or restrict the production and use of persistent organic pollutants (POPs). Key elements of the Convention include the requirement that developed countries provide new and additional financial resources and measures to eliminate production and use of intentionally produced POPs, eliminate unintentionally produced POPs where feasible, and manage and dispose of POPs wastes in an environmentally sound manner. Precaution is exercised throughout the Stockholm Convention, with specific references in the preamble, the objective and the provision on identifying new POPs. The conversion includes a preamble, 30 articles and 6 annexes.

**Status:** The Convention was approved by the WJ plenary session on 7<sup>th</sup> November 2012. The Convention was received by the MJ plenary session on 13<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **UN Multilateral Agreement for the Establishment of an International Think Tank for Landlocked Developing Countries**

The overall goal of the UN Multilateral Agreement for the Establishment of an International Think Tank for Landlocked Developing countries is to use quality research and advocacy methods to help build the capacity of Landlocked Developing Countries (LLDCs) with a view to benefiting from international trade. Long-term goals include poverty reduction and raising human development in Landlocked Developing Countries. The byproduct of the Agreement will be promotion of cooperation between LLCs, dissemination and sharing of information on trade related topics, and contributing to policy formulation as well as fostering quality views and approaches among Landlocked Developing Countries. This agreement includes a preamble and 15 articles.

The Multilateral Agreement for the Establishment of an International Think Tank for Landlocked Developing Countries was signed on 19 October 2011, by His Excellency, Dr. Zahir Tanin Permanent Representative of Afghanistan to the United Nations.

**Status:** The Agreement was approved by the WJ plenary session on 7<sup>th</sup> November 2012. The Convention was received by the MJ plenary session on 13<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week. This Convention has also been included in the agenda of Legislative Affairs Commission and several other commissions. Technically the convention falls under the jurisdiction of the International Affairs Commission as it is considered the principle commission.

### **Energy Charter Treaty**

ECT is an international agreement which establishes a multilateral framework for cross-border co-operation. The Energy Charter Treaty was signed in December 1994 and entered into legal force in April 1998. The treaty covers all aspects of commercial energy activities including trade, transit, investments and energy efficiency. The treaty is legally binding, including dispute resolution procedures. The Treaty's provisions focus on four broad areas: Energy Trade, Investment, Energy Efficiency, and Dispute Settlement. The treaty has been signed or acceded to by fifty-one countries and the European Union. Twenty four states and ten international organizations have the status of observers to the Energy Charter. Observers have the right to attend all Charter meetings and to receive all related documentation, reports and analysis, and to participate in the working debates taking place within the Energy Charter. The Islamic Republic of Afghanistan became an observer to the Charter in 2006. In December 2007, upon the country's completion of all the preparatory procedures, the Energy Charter Conference (the Charter's top governing and decision-making body) invited Afghanistan to accede to the Energy Charter Treaty.

**Status:** The charter was approved by the WJ plenary session on 17<sup>th</sup> November 2012. The Convention was received by the MJ plenary session on 25<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **Basel Convention**

This Convention has 29 articles and 8 annexes. The convention is an international treaty that was designed to reduce the movements of hazardous waste between nations, and specifically to prevent transfer of hazardous waste from developed to less developed countries (LDCs). It does not, however, address the movement of radioactive waste. The Convention is also intended to minimize the amount and toxicity of wastes generated, to ensure their environmentally sound management as closely as possible to the source of generation, and to assist LDCs in environmentally sound management of the hazardous and other wastes they generate.

The Convention was opened for signature on 22 March 1989, and entered into force on 5 May 1992. The members of the convention are around 175 parties. Only Afghanistan, Haiti, and the United States have signed the Convention but not yet ratified it.

**Status:** The convention was approved by the WJ plenary session on 17th November 2012. The Convention was received by the MJ plenary session on 25<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **Protocol on the Establishment of the International Renewable Energy Agency (IRENA)**

The protocol has 20 articles and 14 annexes. The International Renewable Energy Agency (IRENA) was founded in 2009 to promote widespread and increased adoption and sustainable use of all forms of renewable energy. IRENA facilitates access to all relevant renewable energy information, including technical data. Its statute entered into force on 8 July 2010. On June 2009, at the Preparatory Commission meeting Abu Dhabi was elected as interim headquarters of the Agency.

Objective of the IRENA is to become the main driving force in promoting a transition towards the use of renewable energy on a global scale:

Acting as the global voice for renewable energies, IRENA will provide practical advice and support for both industrialized and developing countries, help them improve their regulatory frameworks and build capacity. The agency will facilitate access to all relevant information including reliable data on the potential of renewable energy, best practices, effective financial mechanisms and state-of-the-art technological expertise.

**Status:** The protocol was approved by the WJ plenary session on 17th November 2012. The Convention was received by the MJ plenary session on 25<sup>th</sup> November and was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **Cartagena Protocol**

The Cartagena Protocol on Biosafety is an international agreement on Biosafety, as a supplement to the Convention on Biological Diversity. The Biosafety Protocol seeks to protect biological diversity from the potential risks posed by genetically modified organisms resulting from modern biotechnology.

The Biosafety Protocol makes clear that products from new technologies must be based on the precautionary principle and allow developing nations to balance public health against economic benefits. It will for example let countries ban imports of a genetically modified organisms if they feel there is not enough scientific evidence that the product is safe and requires exporters to label shipments containing genetically altered commodities such as corn or cotton.

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity has 40 articles, one preface & three annexes.

The member countries of this protocol are reached to 50 countries in May 2003. In accordance with the provisions of its Article 37, the Protocol entered into force on 11 September 2003.

**Status:** The protocol was approved by the WJ plenary session on 7th November 2012. The Convention was received by the MJ was sent to the International Affairs Commission. The convention has been included in the Commissions' agenda and will be discussed in the coming week.

### **Lower House (WJ)**

#### **Law on Higher Education**

This Law was enacted pursuant to the provisions of Article 43 and 46 of the Constitution of Afghanistan. Article 43 stated that "Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A. level in the state educational institutes free of charge by the state."

The committee debated and deliberated all 71 articles. The most debated articles were: Section one of article 41 which says "professors of the higher education institutions shall be retired after age (70)". This article was amended as follow: "Professors of the higher education institutions shall be retired after age (75)."

Paragraph two of article 42 states "if member of academic position disobeys academic discipline rules, he/she shall be dismissed based on approval of the Higher Council in accordance with the provision of law". This paragraph was amended as follow: "Member of academic position in case of explicit violation of the law shall be punished with following disciplinary actions: 1) advice, 2) notification, 3) decrease of salary, 4) transferring and 5) dismiss".

**Status:** The Commission on Education and Higher Education included all articles proposed by the representatives of the private higher education institutions into the law with few changes to the law on higher education. The commission in its next step will share the law with the rest of WJ standing commissions for their consideration and comments.

#### **Law on Elimination of Violence against women**

The draft bill on Elimination of Violence against Women was prepared by the government of Afghanistan (MOWA) in accordance with article 24 and 54 of the Constitution and based on the Afghanistan Obligation towards CEDAW International Convention, in order to criminalize all types of violence against women. This bill was then submitted to Ministerial Council for approval when the Parliament was on summer recess. The Elimination of Violence Against women law has been approved by Ministerial Council through approval number 16 on 15/04/1388 in 4 chapters and 44 articles which has been later signed by the President through Legislative Decree number 91 on 29/04/1388. Afterward this law has been published in official GAZETTE number 989 since that the law is pending with the National Assembly.

The Principle Objectives of this law are safeguarding the religious and legal rights, protecting the human dignity of women, protecting the well-being of family, fighting against customs and traditional practices that cause violence against women contrary to the provisions of religion of Islam, protecting the victims of violence, ensuring public awareness and education on violence against women, and prosecuting perpetrators of violence against women. The law identifies all types of violence and set the punishment for each types of violence. Also, this law set the preventive measures and explained and the rights of victims, as well as identifying the implementing organizations and determined their duties and responsibilities.

**Status:** The WJ Women Affairs Commission finalized the law in the committee, all 18 commissions sent their views to the commission; the committee will have a Seminar on the law on December 9 2012. The Commission invited all parties to join the seminar and defend their arguments.

### **Social Organizations Law**

This law has been drafted in consideration of Article 35, of the Constitution that says “To attain moral and material goals, the citizens of Afghanistan shall have the right to form associations in accordance with provisions of the law. The people of Afghanistan shall have the right, in accordance with provisions of the law; to form political parties.....a party or association formed according to provisions of the law shall not be dissolved without legal causes and the order of an authoritative court. This law is drafted for the purpose of establishment of how to precede function, the rights, and obligation and dissolved of the Social Organizations. The law has 5 chapters and 31 articles, including: general provisions, registration and establishment procedure of the organizations, financial affairs, dissolve of the social organizations, miscellaneous provisions.

**Status:** The law is under discussion in the WJ Women Affairs Commission. There was a Joint Commission meeting scheduled for December 4<sup>th</sup> 2012 but due to the absence of MPs the Joint Commission session was postponed.

### **Law on Telecommunication**

This Law has been enacted pursuant to Articles 10 and 37 of the Constitution of Afghanistan in order to promote and develop telecom services, regulate and supervise the telecom market, ensure relations between the Telecommunications Regulatory Authority (ATRA), Operators or Service Providers, Users, and other relevant agencies in the country. The law includes 17 chapters and 67 articles.

**Status:** Under discussion in WJ commission.

### **Criminal Procedure Code**

This Law has been formulated pursuant to the provision of Article (134) and observance of provisions (123) and section (1) of Article (75) of the Afghanistan Constitution in order to regulate the issues related to discovery and investigation of crime, filing a criminal law suit

against the accused, proceedings for criminal cases in court, and the enforcement of decisions. The CPC aims to organize and regulate the criminal trails. Thus, it specifies the organization and jurisdiction of different bodies and criminal courts, and explains those principles which should be followed and those formalities which should be observed during detection and prosecution of criminals.

**Status:** the law is under discussion in WJ Justice and Judiciary Affairs Commission

### **Bills referred to Joint commission**

#### **Statistic Law**

This law is enacted for the purpose of organization of statistical activities in the country, formation, and determination of the duties and authorities of the Central Statistics Office. The law includes 7 chapters and 26 articles. WJ approved the proposed amendments to the Law on 22 September 2012. The MJ Economic Commission finalized the law and accepted some amendment brought by WJ but not all. The amendments were presented to the plenary session today 6th November 2012. The most debated article was Article Five which is about the establishment of the National Statistical Council to ensure better procedure of statistical activities in the country and to advise the Central Statistics Office. The Council shall be composed of ten members. Paragraph 2 of this article says "Authorized representatives of the related ministries and state administrations, will be members of this council." WJ amended the paragraph 2 through addition and identified the authorized representatives as follow: Minister on Economy, Minister of Finance, Minister of Education, Minister of Minister of Labor and work, Minister of Agriculture, Minister of Health, Head of Central Bank, Head of Science Academy, Head of ACCI, as member of the council.

Article Six which is about the NSC duties and authorities. WJ added two paragraphs talking about the deposition of the Director of the Central Statistics Office (CSO), which says that "the NSC can propose for deposit of the Director if he found weak and misuses in management according to the provisions of law. The NSC can refer the Director of the CSO for prosecution if he hid the truth or release spurious statistic data. The MJ approved the original text; not WJ Amendments.

**Status:** The law is under discussion in Joint Commission.

#### **Audit and control Law**

The Central Office of Audit and Control is the highest authority that has the responsibility of inspection of the financial activities of the administrations in the state. The Law was enacted based on the provisions of paragraph 4 of Article 75 of the Constitution of Afghanistan. Paragraph 4, of Article 75 of the Constitution stated that "Prepare the budget, regulate financial conditions of the state as well as protect public wealth". This law has 3 chapters and 27 articles. Chapter 1) discusses general provisions; chapter 2) discusses powers and duties of the Central Office of Audit and Control; chapter 3) is about miscellaneous provisions.

The Law is officially presented to the WJ plenary session on 6th August 2012 and approved. MJ approved the law on 12 August 2012 accepting some amendments of the WJ not all and the law was referred to the Joint commission. The JC had meeting on 10 September 2012 to discuss the Law and went through seven articles only, the discussion ended without agreement on Article 7. The MJ was supporting the government proposal that give to President Power to appoint the Head of the High Office of Central Audit (HOCA). Whereas WJ proposed that the President should nominate the HOCA head who should be approved by the Lower House. The JC agreed to send the issue to the Independent Commission of Oversight on Implementation of the Constitution requesting for their view and advice in this regard. The JC will have final discussion to finalize the rest of articles after the ICOCC view and advice.

**Status:** The Independent Commission on Oversight of Implementation of the Constitution (ICOIC) supported view of the MJ in article 7 of the law which says, “The President has Power to appoint the Head of the High Office of Central Audit (HOCA).” The ICOIC was of the opinion that the WJ cannot give their approval of the appointment of the Auditor General as his office was not one of the offices provided for in the constitution as requiring NA approval. Essentially the ICOIC agreed with the interpretation of the MJ. The Joint Commission is due to meet again in the coming week.

### **Law on Personal Affairs of Officers and Sergeants of the Afghan National Police**

The Law was presented to the WJ on 25th October 2010, and after a long time discussion over the mentioned bill and conducting three joint commissions of WJ finally this law was approved by WJ on 12 May 2012. This law was received by MJ on 15 May 2012 and was approved by MJ on 30 July 2012. The Law on Personal Affairs of Officers and Sergeants of the Afghan National Police was enacted in 8 chapters and 59 articles pursuant to the article 95 of the Afghanistan constitution to regulate the personal affairs including issues related to the appointment, recruitment, transfer, promotion, vacation, reward, punishment, suspension, resignation, retirement, and other personal affairs of the officers and sergeants of Afghan National Police.

The most debated article of this law was clause 3rd of the Article 14th, which the original Law provides that; “Article 14 Clause 3: the salary and privileges of the officers and sergeants will be paid in consideration to their ranks and years of services they have done and based on the norms as specified by the Council of Ministers”. The WJ amended the mentioned article as follows: (the salary and privileges of the officers and sergeants will be paid in consideration to their ranks and years of services they have done as so that if the rank of an officer or sergeant is higher he/she is entitled of the rank salary scale and if the position of an officer or sergeant is higher he/she is entitled of the position salary scale and other privileges will be paid based on the norms as specified by the Council of Ministers). WJ justifies that; principally getting promoted to the higher ranks is considered based on the years of hard services done, if due to any structural/organizational limitations an officer or sergeant is assigned in a lower position than his/her rank and is not benefited from the privileges of the actual rank he/she has, so getting promotions to the higher ranks will be

meaningless. MJ did not agree the WJ amendments and approved the original article of the Law.

**Status:** Both Houses agreed to hold joint commission on the law but once again due to the absence of WJ MPs the joint commission was postponed for the second time.

### **Law on Personal Affairs of the Afghanistan National Army Officers and Lieutenants**

The Law on Personal Affairs of Military Officers and Lieutenants was enacted in 9 chapters and 70 articles pursuant to the article 95 of the Afghanistan constitution to regulate the personal affairs including issues related to the appointment, recruitment, transfer, promotion, vacation, reward, punishment, suspension, resignation, retirement, and other personal affairs of the officers and sergeants of the Afghan National army.

Chapter 1 covers the general provisions, Chapter 2 provides for the rights and responsibilities, Chapter 3 provides for position of Officers and Sergeants, Chapter 4 states the promotion of Officers and Sergeants, Chapter 5 provides for appointment and transfer of Officers and Sergeants, Chapter 6 discusses issues related to the leave and vacation for Officers and Sergeants, Chapter 7 provides for suspension, resignation and retirement of Officers and sergeants, Chapter 8 provides for reserve services and Chapter 9 covers the miscellaneous provisions.

The law is approved by WJ on May 7 2011. On June 5 2011 MJ discussed the law and approved. The MJ did not accept all WJ amendments and the law were referred to Joint commission.

**Status:** The law is under discussion in joint commission.

### **Anti-Hoarding Law**

This Law is regulated based on the provisions of Article 10<sup>th</sup> of the Afghanistan Constitution, for the purpose of preventing of hoarding the essential commodities, necessities of life and livelihood and fighting against it in the hunger, increases in prices and starvation situations". The Law on Anti-Hoarding was drafted in 1965 than it was reviewed and amended by the Ministry of Industry and Trade in 2010 and sent it to the National Assembly for approval. WJ officially received the Law on 17 September 2012 and approved on 22 September 2012. MJ approved the Law on 16 October 2012.

This law has 4 chapters and 12 articles. Chapter 1) discusses general provisions; Chapter 2) discusses regarding the establishing of committees for the better implementation of the provisions set forth in this law; Chapter 3) discusses the obligations of persons who are engaged in trading and supplying the essential commodities as a wholesaler or retailer; Chapter 4) is about miscellaneous provisions.

The most controversial article of this bill was Clause 1 of Article 2 which discusses terminologies used in this law such as raw materials. The original text of Clause 1 Article 2 states "raw materials: raw materials of livelihood that necessary for the people daily use are

comprised of the wheat, flour, rice, different kind of alimentary oils and combustible materials gas and oil.” Clause 1 of Article 2 was amended by the WJ as follow: “raw materials: raw materials of livelihood that necessary for the people daily use are comprised of the wheat, flour, rice, sugar different kind of alimentary oils, medicines, flammable materials gas and oil and wood and coal.” MJ disagreed with the WJ amendments and approved the original text of the bill.

**Status of the law:** The Joint Commission was held on the law on 28<sup>th</sup> November 2012. The commission approved the law.

### **Law on National Standards**

The Law was drafted in Feb, 2007, and then presented to the WJ on 25/10/2010, and after long discussion on the bill, finally the bill was approved on 25/7/2012. This law was received by the MJ on 31/7/2012 and was approved the MJ on 2/9/2012. The law was enacted in 5 chapters and 26 articles based on article seventy five of the Afghanistan Constitution for the purpose of promoting standardization, improving quality of products, processes and services, by defining their characteristics which determine their capacity to meet given needs; improving the quality of life, safety, health and the protection of the environment and consumers; developing economy in human effort, materials and energy; and promoting international trade by preventing any technical barriers to trade.

Most of the amendments brought to this bill by the WJ were disapproved the MJ, therefore the law will be debated in a joint committee between the two houses.

The most controversial article of this bill was article two which the original text of the bill provides “preparation, formulation, amendment, publication and implementation of the national standards and technical regulation (compulsory standards). This article was amended by the WJ as follow: “*formulation of rules and regulations for preparation, resumption, derivation and implementation of the national standards, technical regulations and evaluation procedures according to the international recognized methods.*” MJ disagree with the WJ amendments and amended the article as follow: “*preparation, formulation, resumption, derivation and implementation of the national standards, technical regulations and evaluation procedures according to the international recognized methods.*” MJ justifies that for preparation of standards the law on procurement is applied. The MJ also justifies that formulation, resumption, derivation and implementation of the national standards are required based on the economic and social needs, therefore there is no need enact of extra rules and regulation beside this law.

**Status of the law:** The law is under discussion in joint commission.

### **Law on the Structure, Duties and Jurisdiction of the Election Commission**

The Law has been codified pursuant to the provisions of Article 156 of the Afghanistan Constitution which says "The Independent Elections Commission shall be established to administer and supervise every kind of election as well as refer to general public opinion of the people in accordance with the provisions of the law." The law is adapted for the purpose of regulating affairs regarding the Structure, Duties and jurisdiction and regulating the

function and procedure of the Independent Election Commission. The law includes 4 chapters and 23 articles. The law was passed by the WJ on 24 September 2012.

The MJ amended the following articles in the Election Commission Law: 1, 5, 7, 8 & 12 13, 15, 17, 18, 20, 24, 26, 27, 28, 29, 30, 32, 33 & 34.

The House also added some paragraphs to the text in article 18 & 22.

The House omitted article 19 & 33 of the law.

**Status:** The law is under discussion in joint commission.