



Legislative Newsletter

16 November 2012, Vol. 8, No. 10

NEWS:

While Debate Rages Regarding Foreigners in the ECC, What will Happen with the Election Commission Law¹

This week the *Structure, Duties and Jurisdiction of the Election Commission*² (Election Commission Law) was presented at the Meshrano Jirga's plenary session on Tuesday, November 13th. While plenary debate has only begun on the law and proposed amendments, the fate and composition of the Elections Complaint Commission (ECC) is uncertain. The Government has said publically it will not support any law which included foreigners in the ECC (as proposed by the WJ) and call it a violation of Afghan sovereignty. What is unclear is whether the two Houses will be able to jointly pass the Election Commission Law or will the ECC issue stymie all efforts?

ECC issue

If the heart of the matter could be described in one word, it would be independence. Will the ECC continue as an independent entity in both form and function? Will Government exert undue influence? While suppositions and rumors abound some real steps were taken this week towards resolving the matter.

The law was brought to plenary this week and senators have just begun to discuss the bill and all the amendments; however, there is speculation that the likely fate of the independency of the Election Complaint Commission as well as its composition of members will go to a combined committee of both houses. On Tuesday 13 November, when, the *Law on the Structure, Duties and Jurisdiction of the Election Commission* was presented to the MJ plenary session for ratification, the discussion quickly dissolved into a heated debate over the independence, permanence and composition of the ECC. Despite over an hour of impassioned discussion, aside from changing the title of the law, only one substantive issue was voted upon and approved: the Electoral Complaint Commission would remain independent of the IEC (Independent Election Commission) but it would be a temporary commission i.e. with a new commission being established to handle each election as is the current practice. It is expected that next week's plenary will discuss the additional amendments to the law and tackle the question of the ECC's composition and whether two UN members (internationals) will be included or not.

¹ This abbreviated title was changed post-newsletter publication to correct confusion between the *Law on the Structures, Duties, and Jurisdiction of the Election Commission* (pending in MJ) and the heretofore expected law on elections, commonly referred to as the *Electoral Law*, either in the form of the currently pending member's bill or the government bill which the Ministry of Justice has not yet submitted to Parliament.

² The title was changed in the WJ to *Law on the Structure, Duties and Jurisdiction of the Election Commission & Independent Election Complaints Commission*. The changed title was accepted in the MJ plenary.

APAP has learned that the majority of the MJ Commissions have rejected the Wolesi Jirga (WJ) ratification on the presence of two foreigners in the ECC; yet, there are still some Senators who firmly believe that by excluding internationals from the ECC the validity of the of the elections will be put in doubt. Mr. Mahmood Danishjo (Balkh), a strong supporter of respecting the election process and the “Afghanalization” of the Election Complaint Commission, argues that this will take time to build. “In the current process, the Afghans need the experience and technical support from an independent supervisory delegation, who can at least certify the independency and legitimacy of the elections.” This mentorship of sorts would build the capacity of the ECC so that in later elections (i.e. post-2014) Afghanistan would not need as much support from the international community to hold elections with a clear and transparent process mechanism. In response to the claim that including foreigners on the ECC violates the ‘sovereignty of Afghanistan,’ Senator Danishjo notes “The previous ECC was composed of two foreigner and three Afghan members and there have been even more instances of foreigner involvement [in our country] – so why now are we claiming the ‘sovereignty’ issue and objecting to the temporary presence of two UN experts?”

The Chairman of the Legislative Commission, Mr. Hafiz Abdul Qayum Nooristani (Nooristan), in the Meshrano Jirga (the leading committee for the law) spoke candidly to APAP about Senators objections to foreigners on the ECC. He argued that while two UN experts, as temporary members, were included in the past Commission, this violated Article Four of the Constitution³ and also Article Seven of the United Nation Charter⁴. “The presence of foreigners as members on the ECC is against the sovereignty of Afghanistan, and we must respect Article Four of the constitution which instills the principle of sovereignty of the country.” He further posited that two foreigners (in relation to five Afghan members) members will not affect the election’s results. Mr. Nooristani conceded Mr. Danishjo’s remarks on foreigners in the ministries and other organization and acting advisors but believes “Afghans would not accept them as Ministers.” As a potential compromise (and perhaps a preview of coming plenary debate) he recommended, “having more foreigners as election observers, but not as executive members [on the ECC].”

There is, however, discord within the Legislative Commission (MJ). The Deputy Chair, Mr. Ghulam Mahiuddin Munsif (Kapisa) supports the presence of two UN experts as temporary members. He believes that invoking Article Four of the Constitution on this issue serves only political purposes. Senators claiming ‘sovereignty’ and the ‘constitution’ should then extend those principles to all organizations in Afghanistan. “There should not be any single foreigner in Afghanistan” he said. The Deputy Chairman was very critical of this line of reasoning.

The fate of the Election Commission Law

While the ECC amendment is not the only amendment in the Election Commission Law, it is the most contentious. The MJ is expected to vote on the amendments in the coming week and indications point to a rejection of the WJ’s version of the ECC amendment. Speaking

³ Ch. 1, Art. 4: National sovereignty in Afghanistan belongs to the nation that exercises it directly or through its representatives.

⁴ Article 7 of United Nation Charter: Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

with APAP on what might happen next, Mr. Haji Abullah (Kundoz) believes that due to the diversity of opinions on the ECC issue, the law will go to a Combined Committee of both Houses for reconciliation. He was somewhat skeptical that the Combined Committee would be able to solve or compromise on the issue, "As I see it, the views conflict fundamentally between Members of the National Assembly, and I am not sure if a Combined Committee will be able to reconcile these adverse amendments." The main 'adverse amendment' being the ECC issue.

According to what APAP has heard from many members, at this point, time becomes a potentially potent factor as well. Under the law, in a situation in which the Combined Committee cannot solve the disagreement, the defeated bill is considered void. The Wolesi Jirga may then seek to pass the bill by a 2/3rds vote and send to the President for endorsement (without the approval of the Meshrano Jirga). However, it must do so before the end of the 2012 session. Article 109 of the Constitution states that "proposals for amendments of the electoral law cannot be included in the working agenda of the assembly during the last year of the legislative period." 2013 is the last year of the legislative period before the 2014 elections.

In the event the Wolesi Jirga does override the Meshrano Jirga time still remains critical. Given the discussions this week in Parliament and from what APAP has learned from Members and Senators, following the override the President retains two procedural means of avoiding enactment of the amended Election Commission Law. First, once the President receives the approved bill from the WJ, under the constitution he has 15 days of which to accept or reject the bill. Under normal circumstances if he rejects the bill and sends it back to the lower house, the lower house can override his veto by a 2/3rd majority vote and the bill would become law. However, if the bill is submitted less than 15 days before the end of the term or if it is returned to the lower house and the lower house is unable to act before the end of the term, then his rejection of the amended law would stand. Once the Parliament goes on recess at the end of December, *they cannot take this issue back up in 2013*

Alternately, once the President receives the bill from the WJ he could send it to the Supreme Court to check for constitutionality. Under normal circumstances, the Supreme Court would review the law and, if necessary, submit advice on changes to the WJ for reenactment. In this case, if the Supreme Court's deliberations (intentionally or not) extend beyond the end of the 2012 session, then again Article 109 constrains any further action.

The Government's announced opposition to the ECC amendment suggests that it may elect to adopt one of these methods to defeat the amended law. Moreover, based on the precedent of the prior election law revisions which were issued as a Legislative Decree, it appears likely that the President would then use the recess to issue a new Legislative Decree enacting an election law in the form he chooses. Article 97 of the Constitution provides that: "Legislative decrees, after endorsement by the President, shall acquire the force of law. Legislative decrees shall be presented to the National Assembly within thirty days of convening its first session, and if rejected by the National Assembly, they become void." Should the President issue a Legislative Decree dealing with the ECC issue during recess, and if the WJ rejects it when they return from recess, Article 109 constrains the National Assembly from returning to the Election Commission Law.

While the prospects of having the WJ amendments enacted into law appear bleak, they are not impossible. Much rides on the outcome of this week's debates.

Women Affairs Commission Working to Improve Women's Related Programs in the Media

The Civil Society, Women Affairs, and Human Rights Committee of Wolesi Jirga (Women Affairs Commission of WJ) held a forum on November 11th to discuss methods for improving and fostering more programs relating to the women in the media. Representatives from the WJ, the Ministry of Women Affairs, the Ministry of Hajj and Endorsement, the Ministry of Information and Culture, and 21 representatives of both print and broadcast media outlets attended. As a result of this one day forum, participants agreed to form a “working committee” and “working groups” to prepare a communication strategy for improving women related programs in the media as well as building better linkages between the government and the media for future “channels of communication.”

The Women Affairs Commission (WJ) presented several means of collaboration and partnership between government and the media such as: organizing televised or broadcast discussion forums after cases of violence against women are discovered to draw attention and coverage of the issue; producing special television and radio programs on women related issues as part of a public education campaign; decreasing the amount of charges on women advertisements by media outlets; and providing access to the producers of women related information to the TV and radio facilities of related ministries. While media outlets were encouraged to initiate programming, the commission also saw a role for related ministries to produce public awareness products to be aired in the media. It was particularly noted that, as the media largely shapes public perceptions, programs should be created to advocate for law of Elimination of Violence Against Women (EVAW).

Mr. Ghulam Hussain Nasiri (Wardak) said that the media has become the fourth pillar of the state and therefore it is of paramount importance to create strong bridges between all pillars of state and the people. He asked the media to separate “the Islam of the Taliban from the dominant or ‘real’ Islam of the Afghan government and to help raise public awareness and education on the rights of women.” In support of this last point, participants suggested that Mulla Amams and spiritual leaders also commit to preaching on women rights and elimination of violence against women at least once a month in mosques.

Media representatives welcomed these suggestions and identified more ways to strengthen communication. The editor of Aryan TV Mr. Abdulqadeer Merzaye suggested that a panel or group should supervise, coordinate and promote programs and coverage of women's issues (especially violence cases) saying that, “There is no process of supervision on who is doing what, [Aryan TV] has very good programs covering female issues, but we receive no acknowledgement of our programs from Parliament and government.” He also faces a particular challenge of locating women to participate in his programs due to ‘hesitation of appearing on TV’ and dearth of ‘expert women.’ Another prominent media outlet, TOLO TV, also committed to more women's programs and the Director of Programs, Mr. Sadeq

Ahmadzada, suggested constituting a body that would act as the coordinator for organizing roundtables and other discussion forums for televised and broadcast media.

At the end of the forum, the media representatives, Members and Ministry officials promised to work actively to make sure the Law on Elimination of Violence Against Women receives due attention on TV and radio. The Ministries of Women Affairs, Hajj and Endorsement, and Information and Culture committed to drafting a *strategy for strengthening women related communications and programs in media outlets* and the Ministry of Women Affairs will work with other related ministries to build a “working committee” and “working group” to oversee the implementation of the strategy.

Legislators to Mujahedeen: You will not destabilize the Country

Legislator in both houses of the National Assembly (NA) once again rebuked the call to arm Mujahedeen commanders made by Minister of Water and Energy, Mr. Ismail Khan, and strongly criticized the distribution of illegal arms in Herat Province. Speaking out in plenary sessions on Saturday, November 10th (WJ) and Sunday, November 11th (MJ), legislators emphasized that the reports filtering out of Herat about the formation of a new Jihadi military has caused “fear and horror” in the country. They publically rebuked those involved and termed it a threat to the country’s security and as moving towards a potential civil war. Legislators called on the government to assign a delegation to further investigate this matter.

The two houses of the National Assembly have both used the plenary forum to issue strong criticisms of (and to) Mr. Khan, his link to the alleged distribution of weapons and the increasing public unease this has caused. This story surfaced two weeks ago in plenary discussion when Senators and Members strongly criticized the Minister’s comments at a gathering in Herat province.⁵ While the Minister has not backed away from his statements, he has rejected the provincial (Herat) government’s allegation that he is re-arming the Jihadi commanders.⁶ This week, Mr. Khan’s commanders reportedly rejected the claims that they received any weapons from their leader. APAP was told by Members in the National Assembly that they learned there was a gathering organized by citizens in Herat province to object to the “misuse” of the term Mujahedeen. Instead of remaining true to the original meaning of “one who strives or struggles on behalf of Islam,” it is being invoked for “personal privileges.”

To address this potential national security threat, Senators and Members have called for a delegation to be sent to Herat to investigate the matter as well as summoning the Minister to appear before the Senate for questioning. “Although, Mr. Ismail Khan has rejected the allegations of arms distribution, the government should assign a delegation to investigate the issue. If the accounts of arms distribution are valid, then Mr. Ismail Khan will need to

⁵ Please see the November 9th newsletter for a more detailed reporting on the comments.

<http://www.sunyaf.org/newsletter/2012/APAP%20Legislative%20Newsletter%209%20November%202012.pdf>

⁶ <http://tolonews.com/en/afghanistan/8249-jihadi-council-distributes-weapons-in-herat-provincial-spox>

give his explanation to the nation” Senator Ali Akbar Jamshedi (Daikundi) said. Mr. Mohammad Noor Akbari (Daikundi), Member of the lower house, claimed that the nation is concerned about the formation of Jihadi Councils. He has evidence that many businessmen are planning to stop investing in Afghanistan and even more are making arrangements to leave Afghanistan and emigrate with their families to safer countries. He added that “they do not want to get caught in a civil war that they are afraid is brewing.” Even the perceived notion that people are leaving the country will further undermine the public’s confidence that the country is secure from these threats of civil war.

Members Ms. Balqees Roshan (Farah) and Mr. Gul Afghan (Kabul) were concerned that the denigration of the Mujahedeen will insult all those who fought in the past. This scare tactic to invoke the name Mujahedeen to undermine the stability of the country was also insulting to the Members. “The real Mujahedeen won’t destabilize the country. Warlords are gaining power inside the government and by distributing illegal arms. Mr. Ismael Khan insulted all Mujahedeen.” Mrs. Roshan asserted. Mr. Afghan reasoned that since the Mujahedeen have already handed over their arms to the DDR, why would they then re-arm? Both feel that this is a ploy on Mr. Ismail Khan’s part to acquire more privileges (and power) in coming elections.

API Celebrates 115 Graduates

On Tuesday 6 November the Afghanistan Parliamentary Institute (API) held a ceremony of recognition for graduates of their various programs. 115 students (21 females and 94 males) were presented certificates of completion. The ceremony was presided over by the Secretary General of Meshrano Jirga H.E. Mr. Mohammad Kazim ‘Malwan,’ the Deputy Secretary General s of both houses, Directors from Departments in the Secretariats, and the Chief of Party from the APAP program.

Those receiving certificates completed one of more of the following courses in the past year: Report Writing; Legislative Research/Legislative Process; Preparing Bill Summaries; How to Conduct Public Hearings; and English and Computer courses.

H.E. Secretary General Malwan congratulated the graduates but also urged them to continue learning and benefiting from all the trainings that the Secretariat and API have to offer. Mr. Raheemullah Ghalib, on behalf of the Wolesi Jirga’s Secretariat added his accolades to the graduates and their contribution towards developing the capacity of the National Assembly.

One of the graduates Mr. Matiullah, a former fellow of the API fellowship program and now a member on staff at Parliament, spoke on behalf of all the graduates:

“It is indeed a matter of honor and pride for us that today we are receiving the graduation certificates for the trainings conducted by SUNY/APAP for the parliamentary staff in the areas of legislative research/legislative process, report writing, management, English language and computer. I would like thank the Secretary Generals and the instructors of the Afghanistan Parliamentary Institute as well as the APAP project for their continuous support towards the parliamentary staff as they have

spared no effort to provide an opportunity for the staff to build their capacities with regard to their tasks.”

Mr. Enayatullah Ramz, student of past API courses said that “attending API courses has positively affected the capacity of the National Assembly staff. They now have the ability to work professionally and have communications with other committees.” He asked that APAP continue its works with the National Assembly staff to build human and institutional capacity.

The API provides tools to help Members and staff to more effectively play their roles in improving the lives of Afghan citizens in a complex and ever changing society and world. Besides teaching the skills that are basic for the efficient operation of all legislatures, the API courses include topics specific to the Afghanistan reality. The courses and programs are presented by lecturers, professional experts and speakers from prominent local and international universities as well as governmental and non-governmental organizations.

Legislative Status

07-14 November 2012

Upper House MJ:

Kyoto Protocol to the United Nations Framework Convention on Climate Change

The Protocol was initially adopted on 11 December 1997 in Kyoto, Japan, and entered into force on 16 February 2005. As of September 2011, 191 states have signed and ratified the protocol. Afghanistan will be added to the list of ratified countries once it is approved by Parliament. WJ ratified the Protocol on 3rd October 2012; the protocol includes a preamble and 27 articles. The objective of the Kyoto protocol is to obtain the consent of the industrialized countries to reduce their emissions of greenhouse gases.

Status: The Upper House (MJ) unanimously ratified the Kyoto Protocol on 13 November 2012.

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

The law was introduced on 6 October 2012 to the National Assembly, the WJ approved on 13th 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, authority 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 under discussion in MJ legislative 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

Status: the Law is under discussion in MJ Plenary session. During the 13 November plenary session the MJ debated whether the ECC should be an independent and permanent commission or independent and temporary commission. The House approved ECC as independent and temporary Commission. The House also approved the WJ proposed change in the title of the law to: *Law on the Structure, Duties and Jurisdiction of the Election Commission & Independent Election Complaint Commission*. Some senators protested against the voting procedure therefore the session is adjourned and the law will be discussed in next session.

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 MJ plenary received the Convention on the 13th November 2012, and referred to the relevant commission (International Affairs Commission).

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 MJ plenary received the Convention on the 13th November 2012, and referred to the relevant commission (International Affairs Commission)

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 LLDCs, 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 MJ plenary received the Agreement on the 13th November 2012, and referred to the relevant commission (International Affairs Commission)

Lower House (WI)

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 Religious, Cultural Affairs, Education and Higher Education Commission has reviewed 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) dismissal."

Status: the Law is under discussion in the Commission, the Commission will have a meeting next week with private Higher education universities receive their input regarding the Commission's proposed amendments

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 reviewing the law; the Commission will have a Conference on the law during coming days, and then will have a final joint Commission within the House (among WJ Commission). The law will be put to a vote during plenary after the Joint Commission has met and approved it. (Note: Status has remained unchanged since last week)

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 WJ Women Affairs Commission, the draft version will be shared with all 18 commissions for their consideration and review. (Note: Status has remained unchanged since last week)

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 (Note: Status has remained unchanged since last week)

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 trials. 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

Energy Charter Treaty (ECT)

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: under discussion in WJ commissions

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 on 6 November 2012. The most debated articles were Articles 5 and 6. Article 5 outlines the establishment of the National Statistical Council (NSC) to ensure better procedures for statistical activities in the country and to advise the Central Statistics Office. The Council shall be composed of ten members: The paragraph 2 of this article says "Authorized representatives of the related ministries and state administrations, will be members of this council." The WJ amended the paragraph 2 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, and Head of ACCI, as members of the Council.

Article 6 discusses the duties and authorities of the NSC. The WJ added two paragraphs to clarify the procedures of deposition of the Director of the Central Statistics Office: "the NSC can propose for deposit of the Director if he/she found weak and misuses his/her management office in according to the provisions of law. The NSC can refer the Director of the CSO for prosecution if he/she hid the truth or release spurious statistic data. The MJ approved the original (government) text not WJ Amendments.

Status: On 6 November 2012 13 articles were amended with the MJ Plenary taking the following positions:

- Supported the WJ revised amendments to Article 5.
- Supported the revisions to Article 7 made by the Economic Commission of MJ
- Supported original government text of articles 3, 6, 7,8,9,10,11, 14,16, 18 and 20, rejecting changes made by the WJ.

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 6 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 which gives the 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 law under discussion in Joint commission

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

The Law on Personal Affairs of Officers and Sergeants of the Afghan National Police has 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 Law was presented to the WJ on 25 October 2010, and after a long discussion over the bill, conducting three Joint Commissions of WJ. This law was finally approved by WJ on 12 May 2012. This law was then received by MJ on 15 May 2012 and was approved by MJ on 30 July 2012. The MJ rejected amendments made by the WJ and the law was referred to a Joint Commission.

The most debated article of this law was clause 3 of the Article 14, 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. 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 justified their change to the Article claiming that receiving a promotion to the higher ranks is considered based on the years of hard services done, but if due to any structural/organizational limitations an officer or sergeant is assigned to a lower position than his/her rank then they are not benefiting from the privileges of the actual rank he/she has; therefore, promotions to the higher ranks will be meaningless. MJ did not agree the WJ amendments and approved the original article of the Law.

Status: it was supposed both houses will hold joint commission on the law but due to the absence of some MPs and senators the joint commission will be held on Nov 19th 2012

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 still pending in joint commission for discussion.

Anti-Hoarding Law

This Law is regulated based on the provisions of Article 10 of the Afghanistan Constitution, for the purpose of preventing of hoarding the essential commodities, necessities of life and livelihood and fighting against 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. The MJ rejected amendments made by the WJ and the law was referred to a Joint Commission.

This law has 4 chapters and 12 articles. Chapter 1) general provisions; chapter 2) the establishing of committees for the better implementation of the provisions set forth in this law; chapter 3) obligations of persons who are engaged in trading and supplying the essential commodities as a wholesaler or retailer; chapter 4) 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 of 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 law is currently pending for the Joint Commission discussion between the MJ and WJ.

Law on National Standards

The Law was drafted in February 2007, and then presented to the WJ on 25 October 2010, and after long discussion on the bill, finally the bill was approved on 25 July 2012. This law was received by the MJ on 31 July 2012 and was approved the MJ on 2S September 2012. Most of the amendments brought to this bill by the WJ were rejected by the MJ; therefore, the law will be debated in a Joint Committee between the two houses.

The law has 5 chapters and 26 articles based on Article 75 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.

The most controversial article of this bill was Article 2 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 reasoned that for preparation of standards the law on procurement is applied. The MJ also said 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 currently pending for the joint committee discussion between the MJ and WJ.

Law on Rights & Privileges of the Disables:

This law is enacted pursuant to the Article 53 of the Constitution for the purpose of ensuring the financial, social, political, cultural, recreational, athletic, educational and rehabilitating support to the disabled for their active participation in the society and for the protection of their rights and privileges.

The Wolesi Jirga amended the Article 4, 8, 24 on 3 September 2012. While the MJ proposed different amendments to the Article 4, 8, 24 on 16 October 2012.

Original Text of the Article 4 of the Law:

Article 4: The following persons mentioned in Article 7 of this law may benefit from the rights and privileges set forth in the provisions of this law:

1 – Military officers who were disabled during the actual discharge of duty or in relation to a governmental activity.

2 – Lieutenants & Sergeants who were disabled during the actual of duty, 15 months' salary will be paid with accessories and attachments.

3 – Governmental High-ranking officials, civil servants, members of provincial, district & village councils disabled during the actual of duty will be paid 6 months' salary with accessories and attachments.

The Lower House (WJ) omitted Article 4. The Upper House approved original text of the law.

The Original text of the Law Article 24 states:

1 - Upon the distribution of land in the capital (Kabul) and provinces, the municipalities shall allocate a 5% separate share with 50 % discounts to the homeless disabled persons. If the disables were not able to pay the cost of the land, upon the agreement of both sides (Disable & Municipality) should pay the cost of the land within 5 years to the municipality in installments. During this period the disables cannot sell the land to other people.

2- Upon the distribution of residential apartments, the Ministry of Urban Development and other relevant institutions shall allocate a separate share in the total price to the homeless disabled persons. If the disable was not able to pay the cost of the residential apartment, upon the agreement of both sides, can pay the cost of the apartment within 10 years to the ministry of urban development or to relevant organs of the government.

3 - Upon the agreement of the ministries of Public Works, Martyrs, Urban Development and Municipalities & relevant organs can sign agreement to provide residents to disables.

4 - Those homeless disabled persons who have official jobs and are in the same conditions as the others, they shall be given the priority upon the allocation of land and residential apartments.

WJ amended paragraph one of the article 24 as follow:

1- Upon the distribution of land, the municipalities shall allocate a 5% separate share free of cost to the homeless disabled persons.

But MJ amended the above article as below:

1) Upon the distribution of land in the capital (Kabul) and provinces, the municipalities shall allocate a 7% separate share with (75 percent) discounts to the homeless disabled persons. If the disables were not able to pay the cost of the land, upon the agreement of both sides (Disable & Municipality) should pay the cost of the land within 5 years to municipality in installments. During this period the disables cannot sell the land to other person.

The Upper House approved original text of paragraph 2,3 & 4 of the law

Status: The Joint Commission was held on this law on 12 November 2012 and approved proposed amendment of MJ in article 4 & 24. Article 4 & 24 were termed important in this law. The Joint commission also approved MJ's proposed amendment in Article 8 of this law.

Law on Rights & Privileges of the Dependents of the Martyrs & Missing Persons

The Law on Rights & Privileges of the Martyrs and Missing Persons based on Article 53 of the Afghanistan Constitution in order to provide economical, social, political, cultural, educational, training, entertainment and sport support to the disables (Women, Men and Children) to take active part in the society and protect their rights and privileges.

The Wolesi Jirga approved the following amendments in the law on 3 September 2012.

WJ amended the Article 3:

1 - Paragraph 1 of Article (3): Dependents of martyrs and missing military personnel and personnel of government administrations, mixed and private agencies, members of the National Assembly, Provincial Council, District Council and Village Council, equivalent to (12) months of its latest salary including accessories and attachments.

While MJ amended the article as follow:

1 - Paragraph 1 of Article (3): Dependents of Martyrs and Missing persons of military and government, mixed, private agencies and high rank government officials, members of the National Assembly, Provincial Council, District Council and Village Council, are entitled of equivalent to (12) months of its latest salary including accessories and attachments.

WJ amended the Article 10:

1 - Government to allocate 5% of foreign scholarships which expenses are covered by the Government of the Islamic Republic of Afghanistan and donor institutions to dependents of martyrs and missing persons.

While MJ amended the article as follows:

1 - Government to allocate 7% of foreign scholarships which expenses are covered by the Islamic Republic of Afghanistan and its donor institutions to eligible dependents of martyrs and missing.

2 - Ministries of Work and Social Affairs, Disabled and Martyred, Education and Higher Education in agreement with private educational institutions to pave the conditions for 7% of overall newly enrolled students to eligible dependents of martyrs and missing or to agree on 50% percent of fees discount in mentioned institutions.

Status: the law was discussed in the Joint Commission on 12 November 2012. The Commission approved proposed amendment of the MJ in article 3 and 10 of the law.