



Legislative Newsletter

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NEWS:

Wolesi Jirga Approves National Budget of the 1392 (2013)

On 20 January, Wolesi Jirga (WJ) finally approved the national budget of the 1392 Afghan calendar after having rejected it twice for different reasons. Presenting the report of the WJ's joint committee, the WJ Budget and Finance Committee Chairman Mr. Amir Khan Yar (Nangahar) said that the WJ rejected the second draft of 1392 (2013) National Budget on 16 January 2013 and asked the government to increase funding for indicated projects. Following the rejection, the Council of Ministers held an extra ordinary session and the Ministry of Finance included 1,000,000 USD for development of Zabul province's airport and 500,000 USD for development of a Ghailan to Gaghori road in Ghazni province.

Explaining the reasons of rejection for first and second drafts, Ms. Zaifnon Safi (Laghman) told APAP, "Wolesi Jirga had three demands: 1) MPs asked the Ministry of Finance (MoF) for an explanation of the budget; 2) they requested changes in budget guidelines; and 3) requested including more projects for some provinces. The MoF considered the first two demands and provided reasons that increasing the budget is impossible."

Although Mr. Yar explained that third draft of the National Budget had addressed their concerns, he noted that some of the MPs still had questions about the proposed budgetary transfer of capital to the Central Bank, banking fees charged to the government, and the Gardan Diwal project, a proposed road running from Kabul to Heart via Wardack, Bamayan, DaiKundi, and Gahor. With respect to the first point, he noted that the capital being transferred still belongs to the Central Bank, not Kabul Bank. Moreover, recapitalizing the Kabul Bank is one of the pre-condition of the IMF for continuation of donor's support to the Afghan government. Mr. Hazrat Omar Zakhelwal, the Minister of Finance, agreed, adding that it is donor money that flows into the reserved capital of the Central Bank.

Responding MPs other questions, Mr. Zakhelwal said that the Ministry of Finance prepared the budget based on the available resources, not the needs and desires of the country, since financial resources are scarce. He further stated that his ministry cannot finance Gardan Dewal project from the national budget, but if parliament allows him, he would be able to borrow money for that.

He added, "The Afghan government has a US\$100 million dollars discretionary budget. Since the donors are not interested in working on the infrastructure projects like dams, railways, and ring roads, the Afghan government should work on those projects themselves."

Mr. Sediq Ahmad Usmani (Parwan) noted that if the Ministry of Finance borrows money for these development projects, that will take time and the government will not be able to implement those projects in 1392. The minimum time would be 1393. He suggested. "The WJ should first approve the National Budget, and afterward, the Ministry of Finance should send the proposal for borrowing money for specific projects and the parliament will then decide on that."

The Speaker of the House Mr. Abdul Rauf Ibrahimi (Kunduz) stated that pursuant to Article 99 of the constitution, the parliament cannot go on recess until it has approved the National Budget. Mr. Ibrahimi and Minister of Finance both called on MPs to approve the budget. Consequently, the Speaker put the National Budget for a vote, and was passed by the majority of votes.

The National Assembly goes on Winter Recess

On 19th January, after passing an amended version of the law on the Duties and Jurisdiction of the Attorney's Office and referring it to joint commission to resolve differences with the WJ, the MJ declared a 45 day recess. The joint commission will consider the Attorney's Office law after the recess.

In order to finish its review of the budget, the WJ was forced to delay its recess by one day in order to hold an extra ordinary plenary on 20th January. After completing its final deliberations and passing the 1392 National Budget, the WJ also went on recess.

Legislative Status

17- 24 January 2013

Upper House MJ:

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

This law has been enacted pursuant to the provision of paragraph (3) Article 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." The law includes eight Chapter and 40 articles. 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 was introduced on 6 October 2012 to the National Assembly; the WJ approved on 13 October 2012, the MJ plenary session discussed the law and approved on 19

January 2013 and brought some amendments. The law has been referred to joint commission for further discussions following the recess.

- **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 law is remained inactive in WJ commission

Electoral Law

This Law was enacted pursuant to the provisions of Article 61, 83, 84 & 86 of the Constitution of Afghanistan. The Electoral Law contains 13 Chapters and 70 articles. The aim of this law is to regulate general, free, fair and transparent elections across the country. Chapter 1 of the electoral law covers goals and names of the election commission. Chapter 2 of the law covers constituencies, Chapter 3 covers candidates and voters, Chapter 4 covers presidential elections, Chapter 5 covers elections of the Lower House (WJ), Chapter 6 covers elections of the upper House (MJ), Chapter 7 covers elections of provincial councils, Chapter 8 covers district council elections, Chapter 9 covers village councils elections, Chapter 10 covers elections for municipalities and its members, Chapter 11 covers conduct of the elections, Chapter 12 covers elections violations & Chapter 13 covers miscellaneous provisions.

Status: The law remains inactive in WJ commission

Law on Elimination of Violence against women

The draft bill on Elimination of Violence against Women was prepared by the government of Afghanistan (Ministry of Women’s Affairs) in accordance with article 24 and 54 of the Constitution and based on the Afghanistan obligations under CEDAW (Convention for the

Elimination of Discrimination Against Women), 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. It was later signed by the President through Legislative Decree number 91 on 29/04/1388 and published in official GAZETTE number 989. Since then has been 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 law is remained inactive in WJ Women's Affairs Commission

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: The remains inactive in WJ commission.

Criminal Procedure Code (CPC)

This Law has been formulated pursuant to the provision of Article 134 and observance of Provision 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

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.

Status: The law was approved by the WJ on 7 May 2011. On 5 June 2011 the MJ discussed and approved. The MJ did not accept all WJ amendment and the law referred to joint commission. The law remains under discussion.

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.

Status: The law was passed by the WJ on 24 September 2012. The MJ plenary session on 20 November 2012 discussed the law and approved but MJ did not accept all WJ amendments therefore the law was referred to joint commission, The Joint Commission will meet after recess.

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 establishing the functions, 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, dissolution of the social organizations, and miscellaneous provisions.

Status: The law was approved by the Lower House (WJ) on 15 December 2012. The law was sent by the MJ plenary session on 25 December 2012 to MJ Women Affairs Commission of MJ. The MJ plenary approved the law on 8 January 2013 and referred to Joint Commission, The Joint Commission will meet after recess.

The Draft Law on Diplomatic & Consulate Staff

This Law was enacted pursuant to the provisions of Article 95 of the Constitution to regulate the affairs of diplomatic and consulate staff. The aim of this law is to recruit qualified, competent and expert diplomatic and consulate staff. This law has been enacted to realize foreign policy of the state and defend rights of the Afghan citizens abroad. The law has 5 Chapters and 8 articles.

The law was approved by WJ on 30 July 2012; the MJ approved the law on 24 September 2012. The law was sent to the President for endorsement. The President rejected the amendment of both Houses and suggested both Houses review paragraph 2 of the article 5 of the law. The National Assembly in its amendment of article 5 restricted recruitment in MoFA to the Faculties of Law, Journalism, Literature and Economic. The President suggested the criteria for the recruitment should be only Bachelor degree from any faculty. The WJ also added word of wives (Wives of diplomats and consulate staff) in the law. In paragraph 1 of article 5 which states, "Diplomatic & Consulate staff and their wives/husbands should have only Afghan citizenship". The WJ discussed and approved suggestion of the government and amended paragraph 1 & 2 of article 5 of this law.

Status: The government rejected the amendments of both Houses and sent the law back to NA. WJ revoted on the law on 24 December 2012 and approved the government proposed amendments. The MJ approved the amendments on 13 January 2013 and referred to Joint Commission. The JC approved the law on 16 January 2013.