



Legislative Newsletter

15 March 2013, Vol. 9, No. 02

NEWS:

Wolesi Jirga Elect their Admin Board

This was a very busy week for the Wolesi Jirga; the House held four straight days of plenary sessions to elect the First Deputy Speaker, Second Deputy Speaker, Secretary and Deputy Secretary for this legislative year. These officials, along with the Speaker (who holds office for a five year term) constitute the house's Administrative Board (Admin Board). Many candidates were nominated for these positions including seven Female MPs, with at least one woman campaigning for each office. Voting was done by secret ballot and the winner needed to secure at least a fifty percent plus one majority (i.e. 50%+1 vote) of those present in plenary. Since daily plenary attendance averaged around 216 Members, this meant that the winners needed to garner around 109/110 votes to win. After three days of elections, only half of the Board Members were elected: the Second Deputy Speaker and the Deputy Secretary.

During the first three rounds of voting, candidates were selected by open nomination (either by themselves or nominated by others.) Citing the revised Rules of Procedure (WJ), Mr. Abdul Rauf Ibrahim, the Speaker of the House, said that since none of the candidates for First Deputy Speaker and Secretary had been able secure a majority of votes (50%+1) within the first three rounds of elections, then in the fourth round, the elections would be between the top two candidates (for each position) from among the three previous rounds of voting. This round would still be subject to secret ballot and require that the winner secure a majority (50%+1) of votes. If at the conclusion of the fourth round of election, no one had a majority, then the house would go to the fifth round of elections and voting would be done in public, with the candidate having a simple plurality (candidate with the highest number of votes regardless of percentage) being declared the winner.

During the fourth round of elections the final two Board Members were elected. Together with the Speaker of the House, the Admin Board of the Wolesi Jirga for the third legislative year of the 16th term is as follows:

Position	Winner
<i>First Deputy Speaker</i>	Mr. Mirwais Yasini*
<i>Second Deputy Speaker</i>	Mr. Saleh Mohammad Saljoqi*
<i>Secretary</i>	Mr. Sayed Ekram*
<i>Deputy Secretary</i>	Mr. Urfanullah Urfan*

* Indicates change from last year's Admin Board Members

It is expected that the Wolesi Jirga will actively resume its legislative work during the coming week.

Commissions of the Wolesi Jirga Elect their Leadership

Once the Admin Board elections were completed, the Speaker of the House (WJ) called for Commission elections on Wednesday March 13, 2013. At the time of this printing, seventeen out of the eighteen commissions have held their elections and selected their Admin Board Members (the Legislative Affairs Commission has not yet concluded their elections). The following list reflects the results of those elections for Commission Admin Board Members.

Commission	Admin Board
Commission on Defense and Territorial Affairs	1. Mr. Hamayon-CHAIR 2. Mr. Haji Agha Jaan – DEPUTY 3. Mr. Ali Akbar Qasemi- SECRETARY
Commission on Finance, Budget, Public Accounts and Banking Affairs	1. Mr. Amir Khan Yar –CHAIR 2. Mr. Mohammad Azim Mohseni- DEPUTY 3. Mr. Enigeer Kamal Safi- SECRETARY
Commission on Complaints and Petitions	1. Mr. Ubaidullah Barakzai- CHAIR 2. Mr. Mohammad Aaref Tayab- DEPUTY 3. Mr. Abdullah Mohammadi –SECRETARY
Commission on National Economy	1. Mr. Mir Rahman Ralimani – CHAIR 2. Mr. Mohmad Reza Khoshak Watandoost– DEPUTY 3. Ms. Fawzia Naserias –SECRETARY
Commission on Internal Affairs	1. Mr. Mirdad Khan Nejrabi –CHAIR 2. Mr. Abdul Hai Akhundzada – DEPUTY 3. Mr. Mohammad Nawab Mangal - SECRETARY
Commission on Justice and Judiciary Affairs	1. Mr. Mohammad Mohaqeq – CHAIR 2. Mr. Abdul Rauf Imhami – DEPUTY 3. Mr. Mohammad Abdu – SECRETARY
Commission on Transport and Telecommunications	1. Mr. Qais Hassan – CHAIR 2. Mr. Farhad Sediqi – DEPUTY 3. Mr. Mohammad Hashem Urtaq – SECRETARY
Commission on Disabled, Martyrs and Widows	1. Mr. Sayed Hussain Aalami Balkhi – CHAIR 2. Mr. Hamidullah Tokhi –DEPUTY 3. Mr. Sayed Mohammad Nadershah Bahr – SECRETARY
Commission on Nomads, Tribal Affairs, Refugees and Migration (Koochies)	1. Mr. Nazir Ahmadzai – CHAIR 2. Ms. Hameeda Ahmadzai – DEPUTY 3. Ms. Yousouf Saaber – SECRETARY
Commission on Natural Resources and Environment	1. Mr. Mohammad Zekria Sawda – CHAIR 2. Mr. Qurban Kohestani – DEPUTY 3. Mr. Abdul Rahman Shahidani – SECRETARY
Commission on overseeing the implementation of law and Central Audit	1. Mr. Abdul Latif Pedram – CHAIR 2. Ms. Asefa Shadab – DEPUTY 3. Mr. Bashir Ahmad Tayanj – SECRETARY
Commission on Religious and Cultural Affairs, Education and Higher Education	1. Ms. Heelai Ershad – CHAIR 2. Mr. Mohammad Ali Akhlaqi – DEPUTY 3. Ms. Saifora Niazi – SECRETARY

Commission on Immunities and Privileges of the House	1. Mr. Sharifullah Kamawal - CHAIR 2. Mr. Hassan Sahrahi - DEPUTY 3. Ms. Zahra Tokhi – SECRETARY
Commission on Narcotics, Toxic Substances and Ethics	1. Mr. Mohammad Wali Alizai – CHAIR 2. Mr. Shah Abdul Ahad Afzali – DEPUTY 3. Mr. Chaman Shah Etemadi - SECRETARY
Commission on Women’s Affairs, Civil Society and Human Rights	1. Ms. Fawzia Kofi -CHAIR 2. Ms. Aziza Jalees –DEPUTY 3. Mr. Ghulam Sarwar Fayeze – SECRETARY
Commission on Health, Sports, Youths and Labor and workers	1. Mr. Dr. Naqibullah Fayeze – CHAIR 2. Mr. Mujib-ul- Rahman Samkanai – DEPUTY 3. Mr. Zaheer Sadaat- SECRETARY
Commission on Legislative Affairs	PENDING
Commission on International Affairs	1. Mr. Abdul Rab Rasoul Sayaf – CHAIR 2. Mr. Haji Mohammad Omar Nangialai –DEPUTY 3. Ms. Rahima Jaami – SECRETARY

Legislative Status Report

At the beginning of the 5th Session of the 16th Term

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 a joint committee for further discussions following the start of the 5th session of Parliament.

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 Religious Affairs and Education Commission debated and deliberated all 71 articles. The most debated articles were: Section one of Article 41 which states “professors of 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).” Another debated article was paragraph two of Article 42 which states “if a member of an academic position violates the rules and discipline of the institution, 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: At the close of the 4th session of Parliament, the law was inactive in WJ commission but expected to resume deliberation at the start of the 5th session.

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 the conduct of the elections, Chapter 12 covers elections violations & Chapter 13 covers miscellaneous provisions.

Status: It is expected that discussion and deliberation will resume at the start of the 5th session.

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: At the close of the 4th Session of Parliament, the law was in the 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: Discussions will resume at the start of the 5th session and the law is in discussion in the WJ Justice and Judiciary Affairs Commission.

Bills referred to Joint Committee

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 a joint committee. The Joint Committee 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 Committee. The Joint Committee is expected to meet after the start of the 5th session.

The Draft Law on Diplomatic & Consulate Staff-APPROVED

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 re-voted 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 Committee. The JC approved the law on 16 January 2013.