



Legislative Newsletter

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NEWS:

Inauguration of the 5th Session of Parliament

On Wednesday, March 6th the President of the Islamic Republic of Afghanistan, H.E. Hamid Karzai, officially inaugurated the 5th Session of the 16th term of Parliament.¹ This corresponds to the 3rd legislative year of Parliament. The chamber of the Wolesi Jirga, where the inauguration took place, was full as were both of the galleries. In attendance were Members of the Upper and Lower Houses, the President's Cabinet, Members of the Supreme Court, Heads of Departments/State Institutions, Foreign Ambassadors, International Partners, and Media.

The President highlighted many priorities for the country especially in the areas of security, the peace process, elections and transition for post 2014. The President praised the achievements made in the last ten years. He specifically mentioned the strengthening of rule of law and state institutions as well as achievements in the economy, society, and the political sphere. Mr. Karzai also thanked the international partners for their support especially the scholarships those partners have made available to Afghan students.

All was not rosy though and the President cautioned that the country is still on a journey with 'a final destination of peace and prosperity for all.' He said the desire of the people for peace is still 'unfulfilled' and people are still awaiting an end to war in the country. The President said that there have been and are efforts aimed at impeding the Afghan peace process and claimed that foreign countries are encouraging these efforts. According to the President, these 'external elements' do not want Afghanistan to 'own their government' and are trying to divide and fracture the government. The President spoke at length about talks with the Taliban and their place in the peace process. He said that there is a growing understanding among the Afghan Taliban for peace. Any peace in Afghanistan, Mr. Karzai stated, requires an inclusive peace process across the country. The High Peace Council offers this inclusivity and needs to enjoy the support of all. He remarked that there is no problem if the Afghan Taliban enters into peace talks with those within Afghanistan; however, he was critical of peace talks with foreigners. He called on the need for one unified channel of communication—the High Peace Council.

The President addressed the implementation of the post 2014 transition process in security and government/state institutions sectors. Currently Afghanistan is in the fourth tranche of the process. In terms of the security transition, the President said that Afghanistan will soon be responsible for the security of 87% of the population and he further assured those present that Afghanistan is capable of this security responsibility: "In all areas where security has already been transitioned to Afghan forces, the security has improved."

¹ A full video of the President's speech at the Inauguration of Parliament 5th session can be found here: https://www.youtube.com/watch?v=rAaUAZzAoZQ&feature=player_embedded

President Karzai called on all members of the political elite within the government to work for the further solidarity and unity of Afghanistan. *“The people of Afghanistan should enjoy all constitutional rights and freedoms. Respect for human and civil rights are high values. Our people have never felt safe. I personally commit myself to [ensuring] the human and civil rights of our people.”*

The President called on all Afghan security organs to place the rights of the people as their highest priority and that no violation of these rights will be tolerated. The President told the assembly that he is in a daily ‘war’ asking for the non-bombardment and ‘non-imprisonment’ of Afghans so that their rights are not breeched.

“The people have the right to hold us accountable” the President told the assembled Members, Senators and state officials. “I cannot blame foreigners if we are breeching our own people’s rights...You are the protectors of the rights and dignities of the Afghan people” and he called on them to exercise oversight to ensure that Ministry of Interior, NDS and all state institutions safeguard these rights.

President Karzai mentioned that many international partners would like to retain a presence in the country. He advised that each country should individually secure agreements with Afghanistan, but and to ‘have care for Afghanistan’s sovereignty’ in these matters. The President expressed his preference for bilateral agreements rather than large multilateral agreements.

Perhaps in a preview of the upcoming deliberation in Parliament regarding the Electoral Law, President Karzai stated that presidential and provincial council elections will be held next year. “Free and just elections are vital for our people. We will hold presidential and provincial council elections one year from today” the President promised. As he will be leaving office next year, Mr. Karzai said he would like his legacy to be that the elections are free and fair. “It is only good, free and fair elections that will guide Afghanistan to peace and prosperity.” The President further went on to say that Afghanistan is not a political laboratory for others to try their ideas out on. The Constitution of Afghanistan should serve as the country’s security: it presents a framework to guarantee sovereignty and freedom.

The President called on all presidential and provincial council candidates to manage their campaigns per the law. He lamented the costly elections Afghanistan has held in the past. He noted that the cost was very high in last parliamentary elections in 2010; for every vote it cost approximately \$40 USD. In a poor country, such as Afghanistan, this is too high a cost to hold elections. “Afghanize the elections so that we can do it according to our needs.” He said that the upcoming elections should not be seen as a means to fund foreign salaries.

The President concluded his speech to applause by the House.

Meshrano Jirga Admin Board and Commission Elections

Directly following the Inauguration of Parliament on Wednesday, March 6th, the Meshrano Jirga held their first session of the new legislative year. The agenda for this session was to vote for the Admin Board Members. Commission Chair elections were also held.

Every year, the offices of First Deputy Speaker, Second Deputy Speaker, Secretary and Deputy Secretary are up for election. Together with the Speaker (who holds a five year term in that office), these five officials make up the Admin Board of the Meshrano Jirga.

This year each of the four positions was contested. The following table lists the candidates and the winners of each position.

Position	Candidates	Winner
First Deputy Speaker	1. Mr. Mohammad Alam Ezedyar* 2. Mr. Sher Mohammad Akhundzada	Mr. Mohammad Alam Ezedyar
Second Deputy Speaker	1. Mr. Haji Rafiullah Gul Afghan* 2. Mr. Mohammad Yonus Takhari	Mr. Haji Rafiullah Gul Afghan
Secretary	1. Mr. Mawlawi Raji* 2. Mr. Rafiullah Haidari 3. Mr. Sayed Farukhshah Jenab 4. Mr. Gul Ahmad Azimi 5. Ms. Najiba Husaini	Mr. Sayed Farukhshah Jenab
Deputy Secretary	1. Mr. Azizullah Ulfati* 2. Mr. Khaliq Dad Balaghi	Mr. Azizullah Ulfati

* Represents the incumbent

The only change to the Admin Board this year is in the position of Secretary with Mr. Jenab replacing Mr. Raji.

Commission chairs are also selected on an annual basis. As with the Admin Board, there was relatively low turnover with only three commission having new Chairs selected this year: Defense Affairs Commission, Martyrs and Disables Commission, and Legislative Affairs Commission. The table below lists the Commission and the Chairperson.

Commission	Chairperson	Re-elected or New
Economic, Budget and Finance	Mr. Mawlawee Abdul Wahab Urfan	Re-elected
Ethnic and Tribal Affairs	Mr. Lutfullah Baba	Re-elected
International Affairs	Mr. Aarefullah Pashtun	Re-elected
Petition and Complaints	Dr. Zalmai Zabuli	Re-elected
Provincial/Districts Councils and the Immunities and Privileges of the House	Mr. Mukaram Khan Naseri	Re-elected
Transportation and Telecommunication	Engineer Abdul Rauf	Re-elected
Internal Security and Defense Affairs	Ms. Rohgul Khairzad	New
Handicapped, Disabled,	Ms. Nafisa Sultani	New

<i>Dependents of Martyrs and Refugees</i>		
<i>Legislative Affairs, Justice and Judiciary</i>	Mr. Mawlawee Ghulam Mahiudin Monsef	New
<i>Widows, Gender Issues and Civil Society (Women Affairs)</i>	Ms. Sediqa Balkhi	Re-elected
<i>Public Welfare Affairs, Natural Resources and Environment (Health)</i>	Mr. Doctor Bashir Samim	Re-elected
<i>Religious Affairs, Higher Education, Education, Cultural and Scientific Researches Affairs</i>	Mr. Mawlawee Mahmood Daneshju	Re-elected

Change in the Meshrano Jirga Secretariat

During the recess another key development occurred in the leadership of the Meshrano Jirga Secretariat. Mr. Mohammad Kazim Malwan was shifted from Secretary General to Legislative Advisor to the Speaker of the MJ. Mr. Sayed Hafizullah Hashemi was named and confirmed as the new Secretary General.

Legislative Status Report

At the end of the 4th 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.