

## ELECTORAL REFORM CRITICAL BEFORE AFGHANISTAN'S NEXT PRESIDENTIAL ELECTION

Afghanistan's 2009 presidential election and 2010 parliamentary election were plagued by pervasive fraud, which severely damaged the credibility of its electoral organizations and negatively affected the government's efficacy in the post-election environment. The Afghan government must make substantial improvements to the electoral process to successfully hold its next presidential election in 2014.

The head of the United Nations Assistance Mission in Afghanistan (UNAMA), Special Representative Ján Kubiš, has stated that the United Nations would oversee election day procedures, support the polls, and work to train Afghan electoral staff for the 2014 election.<sup>1</sup> The Afghan constitution prevents the electoral law from being changed within a year of the next election, so the United States, NATO partners, and UNAMA must engage with the Afghan government in 2012 to make critical and meaningful improvements to the electoral process.

In order for the next election to succeed, the Afghan government needs to reform electoral laws and procedures well before election day. The Afghan government relies largely on foreign assistance to conduct its elections, so the international community has the power to press the Afghan government for positive reform. Such improvements would reinforce the credibility of the Afghan government and improve perceptions among the population of their role in the future of their country.

The challenges of the 2009 and 2010 elections illustrated several elements of the electoral process that need to be improved if the 2014 presidential election is to be credible.

### STRENGTHEN ELECTORAL ORGANIZATIONS AND STRESS TRANSPARENCY

The responsibility for organizing and executing elections in Afghanistan falls to the Independent Election Commission (IEC), which is led by an administrative board appointed by the president. The Electoral Complaints Commission (ECC) then investigates and rules on electoral complaints, after which the IEC certifies the election results.<sup>2</sup>

Following reports of widespread fraud in 2009, candidates challenged the IEC's impartiality and alleged that IEC chairman Azizullah Ludin was biased in favor of President Hamid Karzai. Although Karzai initially hesitated to remove Ludin, the international community threatened to withhold critical election funds unless Karzai replaced him. As a result, Karzai replaced Ludin in 2010 with Fazel Ahmad Manawi, a justice

whose past judicial record was considered fair and impartial. The UN and international community praised the decision.<sup>3</sup>

Another strict condition of international funding was the removal of IEC employees who had previously been complicit in electoral fraud. The IEC therefore banned 6,000 of its staff and reshuffled many of its provincial election officers to limit the likelihood they would pressure local networks to commit fraud.<sup>4</sup> Foreign donors can again leverage necessary funding to press the Afghan government to further strengthen the IEC's capacity.

IEC Chairman Manawi's term is due to expire in April 2013, after which Karzai will be required to either extend Manawi for another three-year term or replace him. Karzai will also have to appoint new commissioners to the ECC at least 120 days before election day, as it is not a permanent body but exists only for the duration of the elections. It is crucial for the IEC and ECC to be staffed by impartial and independent officials who are experienced and free from political interference. UNAMA and the U.S. officials should press Karzai to work with the Afghan Parliament in selecting potential replacements, as that would help secure their buy-in and avoid potential allegations of cronyism.<sup>5</sup>

### CREATE A NEW REGISTRY OF ELIGIBLE VOTERS

After it registered voters in 2010, the IEC acknowledged its figure of 17 million registered voters was unreliable, as thousands of forged voter registration cards had been distributed in 2009. However, the IEC did not have time between the 2009 and 2010 elections to scrap the entire registration system or remove the fake cards from circulation. The IEC was therefore forced to rely on employees at each of the 20,000 polling stations to carefully scrutinize voter cards. To account for the ambiguity, the IEC used a "compromise" figure of just over 12.5 million estimated registered voters.<sup>6</sup>

In 2012 the Afghan government should abandon the old system and create a new comprehensive voter registry that lists eligible

voters in each district. The IEC should also implement newly-designed voter identification cards to replace past forgeries, which would help reduce the problem of “ghost” voters with duplicate cards. A new database would better enable IEC officials at polling sites to be sure that Afghans who show up on election day are properly registered.

## INTRODUCE A NEW ELECTORAL VOTING SYSTEM

Afghanistan uses the Single, Non-Transferable Vote system (SNTV), which permits multi-member constituencies in which any number of candidates can run for a position. Voters are given a single vote, regardless of how many candidates are running in their respective constituency. The SNTV system focuses on individual candidates rather than political parties and makes it possible for little-known candidates and members of small parties to win positions. However, the system has encouraged thousands of Afghans to vie for a relatively limited number of positions, which has resulted in candidates winning seats with only a small fraction of the total votes.<sup>7</sup> Winning candidates therefore tend to focus on localized interests representing their narrow base of support instead of pursuing broader, nationally-focused issues.<sup>8</sup>

Domestic and international election observers criticized the SNTV system as it limits the importance of political parties and impedes their development in Afghan society. The UN and multiple nongovernmental organizations should lead discussions with the Afghan government to consider potential replacements for the SNTV system, including implementing a proportional system to enable fair and accurate representation of Afghanistan's diverse society.

## CONTINUE PROVIDING LOCALIZED ANTI-FRAUD MEASURES

Previous efforts to curb electoral fraud had mixed results due to inconsistent awareness among IEC officials on how best to implement the measures. After casting a vote, Afghans dip their finger into a bottle of ink to prevent them from voting again. The UN conducted tests throughout 2010 on various types of indelible ink and chose a formula that used the highest concentration of silver nitrate considered safe for application on human skin.<sup>9</sup> However, election day reports emerged of voters being able to wash off the ink with a combination of water and bleach. Although the UN had helped Afghan government officials distribute ink bottles, in many cases they reportedly failed to instruct IEC officials to mix the contents prior to application.<sup>10</sup>

International partners should work with the IEC to further improve election materials, since ballots with unique serial codes, tamper-evident tape, and tamper-evident bags were effective countermeasures in 2010. The IEC and Afghan National Security Forces (ANSF) can develop detailed plans to

escort and track ballot materials between polling centers and district and provincial centers using ISAF airlift capabilities.<sup>11</sup>

In previous years, Afghan National Army corps commanders delegated authority to their subordinate units to record the conditions of their local polling centers.<sup>12</sup> As the Afghan government assumes greater security responsibility in 2012 and 2013, the International Security Assistance Force (ISAF) should again support ANSF efforts to check each of the 6,000 polling centers across the country well before election day. The assessments should update existing databases with information about the accessibility of the sites, soundness of the structures, and the local security situation.

## ENGAGE KARZAI IN HIGH-LEVEL DISCUSSIONS

The Afghan constitution dictates that “no individual may be elected for more than two terms as President.”<sup>13</sup> In addition to technical and logistical electoral assistance, it is crucial for the international community to talk directly with Karzai and emphasize the need for an orderly political succession after his current term expires. They need to make clear that Karzai must adhere to the existing legal framework and that international partners will not accept any changes to the Afghan constitution permitting Karzai to extend his presidential tenure or allow him to run for a third term. Any extrajudicial effort to interfere in electoral matters would also be unacceptable, as Karzai's Special Election Tribunal caused a protracted controversy that brought the government to the brink of a constitutional crisis in the aftermath of the 2010 elections.<sup>14</sup> Any such attempts would severely undermine the democratic process, polarize existing factions, and would deter politicians from active and legal participation in the electoral process.

A successful presidential election in 2014 could restore credibility to the electoral process, bolster support for representative democracy in Afghanistan, and reduce the gulf between the central government and its population. Throughout 2012, high-level meetings and funding incentives must be used in a complementary fashion to press the Afghan government to conduct transparent elections processes. Scott Worden, who served as an election commissioner during the 2009 elections and was an election observer in 2010, warned that “political context and the process of selection matter more than individual merits. The immediate focus should be on recalibrating the incentives and rewards of the electoral system to produce a more fair and predictable result rather than trying to pick a winner in advance.”<sup>15</sup> A failure to do so would strip the 2014 election of credibility inside or outside the country, which could spur violence between political factions and worsen security across the country. This would undermine the rule of law and directly impede the international community's efforts to create a stable and secure Afghanistan.

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## NOTES

<sup>1</sup>“Resolution 1917 (2010),” United Nations Security Council, March 22, 2010.

<sup>2</sup>“The Second Periodic Report under the Covenant of Economic, Social and Cultural Rights,” The Government of the Islamic Republic of Afghanistan, 2006.; “Secretariat,” Independent Election Commission of Afghanistan, 2010.

<sup>3</sup>Shalizi, Hamid, “Karzai names election chiefs, ends standoff with U.N.,” Reuters, April 17, 2010. ; “Karzai appoints new elections chief for Afghanistan,” Trend News Agency, April 17, 2010.

<sup>4</sup>Shalizi, Hamid, “Karzai names election chiefs, ends standoff with U.N.,” Reuters, April 17, 2010. ; “Karzai appoints new elections chief for Afghanistan,” Trend News Agency, April 17, 2010.

<sup>5</sup>“2010 Electoral Law of Afghanistan,” Government of the Islamic Republic of Afghanistan, February 2010.

<sup>6</sup>Foschini, Fabrizio, “An Update on Voter Registration,” Afghanistan Analysts Network, August 15, 2010.

<sup>7</sup>“Single Non-Transferable Vote (SNTV),” Democracy International, 2010.

<sup>8</sup>Worden, Scott, “The elephants in the room at Bonn,” *Foreign Policy*, December 3, 2011.

<sup>9</sup>“Testing of indelible ink at the IEC, ahead of parliamentary polls,” United Nations Assistance Mission in Afghanistan, September 14, 2012.

<sup>10</sup>“Intimidation and washable ink mar Afghan vote,” IBN Live, September 18, 2010.

<sup>11</sup>“Afghanistan Elections Update,” National Democratic Institute, September 4, 2010.

<sup>12</sup> Interview with a U.S. Intelligence Officer, 2011.

<sup>13</sup>“The Constitution of Afghanistan,” Government of the Islamic Republic of Afghanistan, 2004.

<sup>14</sup>Shukla, Paraag, “*Unchecked and Unbalanced: President Karzai and the Afghan Parliament*,” Institute for the Study of War, August 1, 2011.

<sup>15</sup> Worden, Scott, “The Past as Prologue, Without Afghan Political Reforms,” *Foreign Policy*, October 6, 2011.