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## Transparency is the Key to Legitimate Afghan Parliamentary Elections

### Summary

- On September 18, Afghanistan held its second parliamentary elections since the fall of the Taliban. Like last year's vote, these elections were marked by high levels of violence, low turnout and widespread reports of fraud.
- Despite the challenges, however, Afghans across the country defied Taliban threats and overcame problems with the electoral administration to signal their support for the democratic process. Participation appeared higher among the youth demographic, which is a promising sign for the future of democratic processes in Afghanistan.
- It is still too early to tell whether the quality of the elections was better than the flawed 2009 process, but the Independent Election Commission (IEC) has improved its procedures and transparency both before and after the elections, and has so far helped to restore the credibility of the institution as a neutral administrator of the electoral process.
- Meanwhile, the Electoral Complaints Commission (ECC) is again under-resourced, has had little time to establish and train the Provincial Electoral Complaints Commissions (PECCs) that will be adjudicating the 4,200 election day complaints, and has yet to make public its decisions regarding the campaign or polling complaints.
- The ultimate success of the 2010 elections depends less on the level of fraud that was committed on election day—which was bound to be high—and more on the way in which the fraud is handled by the IEC and ECC. If they are transparent and honest about the problems, and take responsible corrective action, then the elections can be considered a partial success despite its flaws.

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### Afghanistan's Second Parliamentary Elections

Afghanistan held its second parliamentary elections since the fall of the Taliban on September 18, 2010 with a record number of 2,506 candidates participating (396 of whom were women). They competed for a total of 249 seats in the Wolesi Jirga—Afghanistan's lower house of parliament—representing 34 provinces and the Kuchi (nomad) constituency. As with the 2009 elections, polling day was marked by a tremendous level of violence, with more than 600 attacks reported involving small arms fire or worse; at least 21 voters were killed and 46 were wounded in attacks around the country, and several election workers were kidnapped. This contributed to the lowest voter turnout in any of the four national elections held under the new Constitution, with an estimated

4 million voters out of approximately 15 million who are of voting age (the IEC estimated 11.4 million eligible voters, but this is a loose extrapolation of how many duplicates there are among 18 million issued voter cards).

Nonetheless, despite incredibly challenging conditions, millions of Afghans across the country defied the violence and Taliban threats, and voted. In Kabul, where I observed voting at 10 polling stations over the course of the day, large numbers of candidate agents and observers were present to scrutinize the process. Many of them as well as the voters appeared to be under 35. This is a positive sign: despite past problems with elections in Afghanistan, a younger generation of leaders will be familiar with and supportive of democratic processes as the means for choosing their leaders. Election officials in Kabul also appeared to be more familiar with the voting procedures, indicating that at least in more literate, secure areas of the country, administrative capacity is being built to improve the process for the future.

It is still too early to render judgment on the overall amount of fraud or the quality of the elections. The full preliminary results are scheduled to be released by mid-October, and it will then take weeks to resolve all complaints and certify results in the final provinces (scheduled for October 30). The picture that has emerged so far, however, is a mixed bag. In roughly half of Afghanistan's 34 provinces probably went reasonably well. Of the remaining half, a quarter of the provinces had irregularities that were significant but ultimately will be accepted; in the final quarter of the provinces—six to eight in all—there are likely to be significant tensions where one faction perceives it has lost representation in the parliament because of fraud or manipulation of the count. It therefore remains to be seen whether the Independent Election Commission (IEC) and the Electoral Complaints Commission (ECC) will be able to detect and address the bulk of the fraud. Their ability to do so will determine the success or failure of the elections.

## Electoral Preparation

In the wake of last year's deeply flawed presidential and provincial council polls, there was deep skepticism on the part of voters and observers that these elections would be credible or acceptable. Many called for reform of the IEC to reduce opportunities for fraud, improve its procedures for counting results, and hold corrupt polling workers accountable. In particular, parliamentarians had called for sweeping electoral reforms, and voiced concern about whether the electoral institutions were independent enough to be a credible administrator of their re-election.

In fact, the IEC significantly improved its preparations and performance during the campaign period through the election day. The new IEC Chairman Fazal Ahmad Manawi and Chief Electoral Officer Abdullah Ahmadzai are qualified and well-respected for their independence. Under their leadership, the IEC fired 6,000 polling workers from last year's elections who were suspected of enabling fraud (although their names have not been disclosed). The IEC also closed polling centers in insecure areas where ballot stuffing was likely, enhanced procedures to control sensitive materials to prevent tampering with results, and increased the transparency of the results process to build confidence in candidates and voters over the results.

Each of these reforms helped to enhance the credibility of the electoral process; however, the most far reaching was the IEC's decision to announce the final number and location of all polling stations one month in advance of the vote. This gave candidates and observers adequate time to plan where to recruit and place monitors on election day. The IEC also made a critical decision to open fewer polling stations this year than last year in areas with poor security. This addressed the most glaring problem from last year's presidential election, in which most of the fraudulent votes that were thrown out due to ballot stuffing originated from areas with poor security.

After announcing the polling stations that would be opened, the IEC resisted pressure to open additional stations where conditions were not conducive to holding a clean election—proving it has more resolve this year to take proactive measures against fraud.

While the IEC's preparations improved over the last year, the ECC has been hampered by a late start up, and a lack of capacity and resources. The new electoral law that was passed by presidential decree in February 2010 significantly altered the ECC structure to mandate that the Provincial Electoral Complaints Commissions (PECCs) handle all electoral disputes in the first instance (barring a specific risk to their safety or other exceptional cases), with appeals going to the ECC headquarters after a first decision was rendered. The new law also empowered the president to appoint all five ECC Commissioners (two of which are internationals nominated on the recommendation from the United Nations Special Representative) as well as all PECC commissioners. The net effect of these changes delayed the start of the new ECC and ensured that all commissioners handling complaints were acceptable to the office of the president—thereby undermining the perceived independence of the institution in the eyes of many candidates.

## The Polling and Counting Process

The election day was marked by high levels of violence, low voter turnout and, at the same time, a determined resolve by voters to defy threats against the process and vote for their representatives in parliament. In secure areas like Kabul, the polling staff seemed better prepared than in the past year, and observers reported good levels of organization and an orderly process. One positive feature of the elections was the record number of candidate agents and observers that were on hand to monitor the vote. The IEC registered more than 370,000 candidate agents, and 4,000 domestic observers who were watching the process.

In insecure areas, however, there were significant reports of voter intimidation before the polling (by the Taliban and power brokers supporting one candidate or another) and a variety of serious incidents of fraud. Allegations included: ballot stuffing in insecure areas or in polling stations that were captured by corrupt government officials; the use of fake or duplicate voting cards to vote multiple times; proxy voting by men 'on behalf of' women; and selective closing of polling stations to deny votes to candidates with strong support in a given area.

These problems are reflected in the flood of complaints that have inundated the ECC since election day, with 4,200 filed so far—compared to 2,600 lodged from last year's election day. The IEC itself is following up more than 600 reports from its own staff of irregularities that should be investigated. In some ways, the large volume of complaints is not surprising. With roughly 10 candidates running for each parliamentary seat, there are bound to be small margins of victory and each loser has some incentive to challenge the process. Still, the large volume of complaints places a heavy burden on the IEC and the ECC to respond in an organized, timely and transparent manner in order to convince voters and candidates that where there was fraud, it is being dealt with aggressively and fairly.

To this end, the IEC has improved its fraud mitigation measures by more closely tracking sensitive materials with unique serial numbers and bar codes; requiring that tamper-evident tape be placed on results forms to prevent post-election additions; limiting authority to change the tally in the IEC's results database; and by pledging to post scanned copies of all 17,000 results forms on its Web site so that anyone can verify the final results. Importantly, the IEC has already invalidated results from 225 polling stations and has issued orders for audits and recounts in 339 others—moves that the IEC failed to take any time in last year's presidential election. Moreover, the IEC has referred several polling officials, including the head of the elections in Khost province, to the Attorney General's office for criminal wrongdoing.

## Looking Ahead to the Final Results

It remains to be seen, however, whether this improved approach to fraud will actually result in cleaner results. The IEC recently pushed back the date it expects to release full preliminary results from October 8 to October 17. The IEC and the ECC then have an enormous amount of work to do over the next few weeks, both to work through the sheer volume of complaints and then to communicate their findings in a clear and credible way.

The full preliminary results will reveal a lot about the quality of the elections. First, the full results should indicate on a province by province basis how many polling stations the IEC has quarantined, and how many the IEC and the ECC have invalidated due to fraud. Second, voting patterns within the released results may indicate other problems with the vote. Key metrics include:

- improbably high vote totals in remote and/or insecure areas;
- only a few candidates receiving large blocs of votes each in particular polling stations within more tightly contested urban areas;
- higher numbers of female than male votes within polling center, particularly in the more socially conservative south and east; and
- a significant number of polling stations that were scheduled to open on polling day that did not report results.

In each case, the IEC and ECC should pay particular attention to complaints that provide information about wrongdoing in those areas, and should aggressively investigate for evidence of fraud.

Based on preliminary reports, one can expect a wide variation in the amount of irregularities from province to province, depending on the security conditions, the caliber of the IEC officials in the province, the level of competition among the candidates, and the degree of political interference that provincial power brokers assert. In general, half of the provinces will have reasonably good elections under the circumstances, and the results will be largely uncontroversial. In the other half, however, one can expect significant irregularities to occur. The question for the weeks ahead is whether and how these irregularities are dealt with.

The most important aspect of the results certification process is transparency. If the IEC follows through with its promises to fully disclose the number of polling stations that were open and closed on polling day, the specific stations that were invalidated or quarantined, the results of each polling station backed by the scanned results form, then there should be few complaints about the integrity of the data entry or the count. If the IEC does not disclose all of this information as promised, then candidates and voters have a right to question why.

It is critical that the ECC in particular ensures that each of its provincial commissions handles cases consistently and transparently. So far, the ECC has not been forthcoming with details about its decisions or how it plans to review the quality and consistency of the PECC's work. Many PECC's are not posting decisions at their offices, nor has the ECC posted decisions on its Web site as required. Given that the ECC is the final arbiter of all election disputes, including appeals of IEC decisions to invalidate compromised polling stations, it is essential that the ECC be accountable for its decisions and that the decisions themselves are open to the same close scrutiny to which the IEC is committed.

Finally, both international and Afghan observers should pay special attention to complaints arising from provinces where there is already high ethnic or tribal tension that could be exacerbated by results that appear unfair or nontransparent. These include provinces like Ghazni, where ethnic Hazara have raised claims that they were disenfranchised when polling centers were closed

## ABOUT THIS BRIEF

Scott Worden is a senior rule of law adviser at the U.S. Institute of Peace and observed the 2010 elections from Kabul, Afghanistan as a senior expert with the National Democratic Institute's observation mission. Worden was one of three U.N.-appointed commissioners on the 2009 Electoral Complaints Commission in Afghanistan.

in their districts despite good security conditions; provinces like Kunduz, where ethnic Pashtuns have complained that they were disenfranchised due to violence in their areas that closed polling stations; and provinces like Nangarhar, where a number of families and tribes are in a close contest to have influence in the parliament, and fraud could unfairly tilt the balance toward one party or another. In these cases, unaddressed fraud would not be a problem only for the integrity of the electoral process, but for the political and security situation in the country.



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