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## Delays Will Not Improve Afghan Elections

### Summary

- The presidential and provincial council elections held in Afghanistan in August 2009 were marred by irregularities and fraud, leading voters and candidates to question the fairness and utility of the democratic process there.
- The Afghan government announced in late January that it will delay Parliamentary elections until September 2010—several months beyond the deadline set by Afghanistan’s constitution.
- The extra time is needed to make adequate logistical preparations, but little has been done so far to reform electoral institutions or policies to prevent a repeat of the problems of the 2009 elections.
- Without significant changes in the personnel and policies of the Independent Electoral Commission (IEC)—the constitutional body responsible for overseeing all electoral processes—the 2010 election is likely to fall below international standards and risks undermining government (and international) legitimacy at a critical period for the counterinsurgency strategy.
- In addition, significant long-term reforms, including a wholesale revision of the voter registry, must be initiated now to ensure that the district council and other future Afghan elections are credible and acceptable.

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### Presidential and Provincial Council Elections: One Step Forward, Two Steps Back

The 2009 Afghanistan presidential and provincial council elections were a significant setback in the development of democracy in Afghanistan. They were the first to be run entirely by Afghan institutions, although with significant international financial and technical support. Yet despite \$490 million in donor funds (including the 2008-09 voter registration exercise) and significant input by dozens of international advisers, the elections struggled to meet minimum standards of credibility and acceptability.

The Electoral Complaints Commission (ECC), which was mandated to adjudicate all electoral violations, invalidated more than 1.2 million fraudulent votes in the presidential election—resulting in a less than 50 percent majority for any candidate and requiring a runoff between the incumbent President Hamid Karzai and the runner up Dr. Abdullah Abdullah. (The second round was not held because Dr. Abdullah withdrew from the race, citing the lack of fraud reduction mechanisms as one of his main reasons.)

The provincial council elections were equally flawed. Although fewer complaints were filed, the ECC still found hundreds of polling stations across the country to be fraudulent, and invalidated thousands of votes.

Numerous observer organizations—including the Afghan Free and Fair Elections Association (FEFA) and the European Union Observer Mission—and the United Nations Assistance Mission in Afghanistan pointed out significant problems in the way the elections were conducted and noted concerning irregularities in the results.

On the positive side, the flaws were transparent and voters did peacefully accept the results. But given the considerable shortcomings of the 2009 elections, it is reasonable to ask what can and is being done to ensure that improvements are made for the 2010 parliamentary elections?

Unfortunately, so far the answer is not much. The Afghan government has yet to acknowledge that significant election irregularities occurred. The same IEC personnel who oversaw fraud are still in their jobs and the same policies that allowed fraudulent votes to be counted are in place. Blame for the electoral failures in 2009 lies with all stakeholders in the elections—the donor community, Afghan government institutions, the IEC, and candidates and agents themselves. But until the government and the election commission recognize that dramatic improvements are needed to correct problems with the 2009 elections, there is little prospect for Afghanistan having better elections than before.

## Key Flaws of the 2009 Elections

Among the many deficiencies in the conduct of the 2009 elections, three problems stand out as most significantly affecting voting irregularities and fraud:

*Fraudulent Voter Registration*—First, Afghanistan does not have a proper voter registry, which means that anyone can show up at any location in the province in which they registered to vote, and there is no way to verify their identity or determine whether or not their voter registration card is valid. The IEC embarked on a \$100 million donor-funded voter registration exercise to enable new voters to register for the 2009 elections, but its implementation was so fundamentally flawed that the new vote cards issues actually increased the opportunity for fraud. Of the 4.5 million new voter cards issued in the 2009 registration exercise, more than 1 million of them may have been fraudulent (because of improper record keeping, it is impossible to tell). Moreover, the IEC was unable to process data entry of vital registration information in several provinces before the election, which meant that lists of voters recorded at polling stations could not be verified against a database of actual registered voters to see whether multiple voting occurred.

*Poor Security*—Second, the security situation was so poor in many areas of Afghanistan that there was no way for observers or candidate agents to independently verify whether voting procedures were followed—or even whether real voting occurred. According to ISAF figures, Election Day 2009 had by far the greatest number of security incidents nationwide since it began tracking that data in 2004. Twenty-six people were killed in election related violence on polling day—most were members of Afghanistan's security forces. And for weeks before the election, the Taliban—as well as warlords and other powerbrokers that sought to disrupt the vote—were warning voters and observers to stay inside on Election Day or risk being harmed.

In this climate of violence and fear, observers and candidate agents were unable to reach planned polling sites to witness the voting process, even in the relatively more peaceful north and west of the country. Most international observers were deployed only to provincial capitals and could only travel within tight security boundaries. This left the door wide open for corrupt or biased officials to stuff ballot boxes and falsify return forms in favor of their preferred candidates. ECC investigations indicated that this occurred on a massive scale.

*Official Misconduct*—Third, and most poignantly, the fraud could not have occurred on the large scale that it did without serious flaws in the way the Independent Electoral Commission (IEC) recruited and trained staff, as well as how it compiled and counted the results. Although many of the IEC's staff is dedicated professionals who managed a very complex electoral process under difficult conditions, clearly a number of the IEC's provincial administrations were corrupt and enabled massive fraud to occur. The ECC identified 1,400 polling stations of some 25,000 total nationwide where 100 percent of the votes for the presidential election were fraudulent. It also found that at least 50 percent of the polling stations in 450 polling centers and 23 districts were fraudulent. This fact alone directly implicates hundreds of electoral officials who were either complicit in committing fraud or at least failed to report it so that the IEC could invalidate the results.

More problematic—and controversial—is the degree to which the IEC leadership and other government officials may have contributed to or enabled fraud. Dr. Abdullah and other candidates accused the IEC chairman of bias in favor of President Karzai (who directly appoints all IEC commissioners) and Abdullah withdrew from the runoff election in part because the IEC chairman remained in his post despite manifest irregularities in the presidential election. Observer organizations have also questioned the IEC's impartiality and transparency—particularly its calculations of vote totals at the counting center. Moreover, reports of improper government interference indicate that in many cases IEC officials may have been pressured to look the other way to enable fraud. While a comprehensive, objective investigation would be needed to determine the extent to which any government official was directly involved in electoral misconduct, it seems clear that at the very least, the IEC did too little to stop fraud from affecting the results.

## Fixing the Problems for Parliamentary Elections in 2010

Considering these flaws, one must ask what can be done to fix electoral problems to avoid a repeat of the 2009 fraud in 2010?

Unfortunately, many of the necessary reforms simply cannot be achieved between now and the September election. A proper voter registration drive would take at least a year and cannot be implemented in many areas of the country during winter. Meaning, the earliest that a new registry could be in place for future elections is in spring 2011. At this point, however, it would make more sense to have the voter registry combined with a long-planned civil registry that would link voters to specific addresses and polling districts. This will take even more time to coordinate.

Observers and candidate agents are unlikely to have fundamentally greater access to elections in 2010 because the security situation is also unlikely to improve until at least the end of the year (although more can be done to recruit and train observers in safer areas of the country). The surge of international security forces provided by the U.S. and NATO will not be fully deployed until the summer of 2010, and the surge in Afghan troops must wait until new trainers are put in place and recruiting intensifies. While the Afghan government has recently announced it will embark on a new reconciliation strategy with the Taliban, no one knows when this will be achieved or if it will yield any 'peace dividend' in time for the September elections.

## The Urgent Need to Reform the IEC

The most useful reform that may be taken in the short term therefore lies within the IEC. As the principal institution responsible for regulating and administering Afghan elections, there is much that needs to be changed right away by President Karzai and the IEC commissioners:

- First, President Karzai should replace the IEC chairman and other IEC leaders who failed to take adequate action to prevent or punish fraud as soon as possible. This is necessary to signal to candidates, voters, and IEC staff members that it will not be 'business as usual' for the parliamentary elections and to enable IEC adoption of more rigid and transparent fraud prevention policies. The new IEC chairman should be selected in consultation with key Afghan stakeholders, including parliamentary leaders, but overall should be an individual widely recognized for his or her independence and integrity. In the future, the law should be amended to require parliamentary consent for IEC commissioner appointees.
- The IEC must also substantially reform its staff to ensure that workers who were responsible for fraud, and those who did nothing to stop it, are replaced. This applies to a handful of headquarters staff and hundreds of field staff who are linked with clear violations of IEC procedures. The IEC must initiate personnel reforms as soon as possible so that a comprehensive training program can be put in place to ensure old and new staff understands clearly the election rules and the importance of enforcing them.
- The IEC must work to improve the transparency of the electoral process. First, it should allow sufficient time between candidate nominations and the certification of the final candidate list so there can be a thorough public review and vetting process. Second, the IEC must promote access by observers and agents to the counting process by certifying agents more quickly so they may receive training on counting procedures. Third, the IEC must publish station-by-station results so that candidates and observers can verify the results they witnessed at counting locations are properly recorded (This was done for the presidential election but not for the provincial council races.)
- The IEC can mitigate the negative effects of bad security in many areas of the country by limiting the number of polling stations in insecure areas, and/or by reducing the number of ballots sent to those areas. In 2009 the IEC sent thousands of ballots to polling stations where it was unrealistic for more than a few hundred people to vote. These were highly sensitive decisions, because of the need to strike a balance between the risk of disenfranchising voters in remote or dangerous locations against the risk of providing materials to insecure places that could be used to promote fraud. Clearly, this balance was struck in favor of fraud in 2009.
- Finally, the IEC should institute a host of technical policy changes that would make fraud more difficult—including better tracking of both used and unused ballots sent to the provinces; ensuring that questionable patterns of results are investigated before being included into the count; and better protection for the chain of custody of sensitive materials. But even the best policies and procedures will have no impact if the people implementing them are ineffective or corrupt.

Ultimately, however, the responsibility for conducting free and fair elections rests with all stakeholders to the process, including Afghan government agencies (beyond the IEC), candidates and their supporters, voters, and donors as well. Therefore, public education and outreach programs must begin now to better educate all parties about what the voting process is for and how fair elections benefit them. In particular:

- Afghan government officials—including the security services—must fear real consequences for improperly interfering in the electoral process.
- Candidates must realize that unfair elections undermine their legitimacy in office.
- Observers and agents must fully understand the complex process they are tasked with monitoring.

## ABOUT THIS BRIEF

Scott Worden is a senior rule of law adviser with the U.S. Institute of Peace, and recently served as one of three international commissioners appointed by the United Nations Special Representative to the Secretary General for Afghanistan to serve on the Electoral Complaints Commission (ECC) for the 2009 Afghan elections. The ECC was mandated to adjudicate all electoral disputes according to the Afghan electoral law. This report reflects the personal views of the author.

- Voters must realize the value of their votes and to report wrongdoing protect them from being diluted by fraud by reporting wrongdoing.

In addition, donors should recognize that their money and assistance is wasted if necessary resources are not available in enough time to help achieve the above reforms, and if the Afghan government and the IEC do not demonstrate the political will to reform. Donors must ultimately consider whether enough has been done to improve the electoral process to warrant its considerable financial and diplomatic support.

## Conclusion

Overall, the announcement of a delay in the parliamentary elections until September 2010 is a positive development that recognizes the formidable logistical difficulties of organizing elections in Afghanistan. It is important to realize, however, that the benefits of this delay will be limited given the substantial reforms that need to occur to address the widespread fraud that occurred in the 2009 presidential and provincial council elections. Indeed, no election in Afghanistan can hope to meet international standards as long as the security situation remains as bad as it was in 2009 and until a proper voter registry can be established. Even then, it takes years of civic education to build a base of reliable election workers and observers to self-enforce a fair process.

Nonetheless, there are urgent reforms that can and must be made within the IEC to avoid the most acute problems of the 2009 elections. New IEC leadership would signal to candidates, voters, and donors that better practices will govern the 2010 elections. It would also pave the way for removing IEC field staff that contributed to fraud and for implementing more robust fraud prevention procedures. In addition, work should begin now to create a credible voter registry that would enable district council elections to improve upon the parliamentary process in 2010. Even the most progressive changes will not make the 2010 elections a democratic model to follow. But without significant reforms, they are sure to be just as flawed as before.



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