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Afghanistan's Election Challenges

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

Afghanistan's forthcoming elections, with presidential and provincial council polls on 20 August 2009, and National Assembly and district elections scheduled for 2010, present a formidable challenge if they are to produce widely accepted and credible results. The weakness of state institutions, the deteriorating security situation and the fractured political scene are all highlighted by – and will likely have a dramatic effect on – the electoral process. The years since the last poll saw the Afghan government and international community fail to embed a robust electoral framework and drive democratisation at all levels. This has made holding truly meaningful elections much more difficult. Rather than once again running the polls merely as distinct events, the enormous resources and attention focused on the elections should be channelled into strengthening political and electoral institutions, as a key part of the state-building efforts required to produce a stable country.

The first round of post-Taliban elections in 2004 and 2005 were joint United Nations-Afghan efforts. This time they will be conducted under the sole stewardship of the Afghan Independent Election Commission (IEC) with the UN acting only in support. Preparations face a series of intertwined challenges:

- **Technical.** The momentum of the last elections was lost in 2006-2007. The Afghan government, UN and donors failed to use the interim period to build the capacity and resources of the IEC; strengthen the legal framework including replacing the inappropriate Single Non-Transferable Vote (SNTV) system; and produce a sustainable voter registry. Further, failure and delays in wider institutional processes such as disarmament programs and judicial and police reform have increased popular disillusionment and thus reduced buy-in for the state-building agenda, including potentially election participation.
- **Political.** The presidential elections in particular expose a highly centralised political patronage system in which the head of state wields enormous powers, bringing personalities rather than policies to the fore. The poor relationship between the branches of the state sees the new legislature ignored or overruled and its effectiveness greatly reduced by the absence of a formal role for political parties. The lack of an accepted constitutional arbiter in case of dispute means that even simple technical electoral processes have become highly charged political contests.
- **Security.** The insurgency, centred in the south and east of the country, may affect the ability of people in such areas to freely exercise their franchise and makes scrutiny of the process much more difficult, increasing opportunities for fraud. This may have wider implications for overall legitimacy given that the violence is centred in areas dominated by one ethnic group, the Pashtuns. The failings of disarmament programs due to lack of political will also increases the chances of intimidation across the country. The continued low quality of police makes providing security for elections challenging.

Proceeding with the polls is however widely recognised to be the least bad option. There are 41 candidates running in the presidential poll – most prominent in challenging Hamid Karzai are former foreign minister and leading Northern Alliance personality Abdullah Abdullah and former World Bank official and finance minister Ashraf Ghani Ahmadzai. The large number of candidates – about 3,300 (10 per cent of them women) – for the provincial councils provides ample evidence of continued interest in the process. The challenge now is to ensure credible and widely accepted results that promote stability.

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Participation is likely to be uneven with a drop in candidates in areas of the insurgency-hit south in particular, a stark reminder of the effect of violence. Expectations must not be inflated, but on the other hand the bar must not simply be lowered if there is to be faith in the result. The voter registration update, while adding some momentum to the process, failed to address striking flaws in the voter registry which could lay the groundwork for fraud and which the international community has not spoken up about. Much greater political will than in 2005 is needed in tackling powerful players who flout the rules. Ultimately what will matter in judging the success of the elections is the perception of the Afghan public.

In the short time remaining before the 2009 polls, the focus must be on strengthening security provision and the impartiality, integrity and professionalism of electoral staff – the front line against fraud. The lessons learned must be used to ensure a much strengthened process in 2010. The expense of the current exercise is unsustainable and highlights the failure after the 2005 polls to build Afghan institutions and create a more realistic electoral framework. There must also be well-sequenced post-election planning including ongoing training and oversight and sufficient funds to retain the thousands of new police recruited to help secure the polls.

More broadly there needs to be a focus on building consensus on how the Afghan political system can be made more functional and representative, ending the current over-reliance on a largely unaccountable executive that has encouraged an ever-growing culture of impunity. Weakness in institutional development has only fuelled wider instability through exclusion and a lack of government services. There must be broad agreement, even within the bounds of the current constitution, on a balance of power among the branches of the state and between the central and local government; on identifying which body is the ultimate constitutional arbiter; and ensuring a more appropriate role for political parties. Embedding democratic norms and building institutions will better ensure that the Afghan state is representative, sustainable and ultimately stable.

RECOMMENDATIONS

To the Independent Election Commission (IEC):

1. Ensure a robust, credible process by:
 - (a) rigorous training of election day staff particularly on new counting procedures;
 - (b) enforcing multi-layered checks on the results during their transport including the provision for observers to travel with the results forms and ballots;
 - (c) extra auditing of results from random polling booths in areas of reported high female turnout as a check on fraud given unusual registration numbers, as well as on returns from areas where little observation is possible because of insecurity;
 - (d) scrutinising campaign finance reports of all presidential candidates and random successful provincial council candidates; and
 - (e) requiring all candidates in 2010 to submit their tax returns.
2. Combat allegations of partisanship by:
 - (a) the chairman and other electoral staff refraining from public statements except on technical issues; and
 - (b) early and robust action in case of wrongdoing or partisanship by members of staff.
3. Ensure preparations for the 2010 elections are strengthened and community understanding of the process enhanced by holding public workshops in partnership with local civil society organisations on lessons from the 2009 polls.

To the Elections Complaints Commission (ECC):

4. Create a more open complaints process by conducting a high-profile public awareness campaign and carrying out training for civil society organisations to aid understanding of the grounds for submissions and the required standards of proof.

To the Government of Afghanistan:

5. Foster the confidence of voters and candidates through:
 - (a) ensuring firm, immediate action against government and security officials seen to be interfering with the process or intimidating electoral workers, candidates or voters;
 - (b) demonstrating compliance with accountable and transparent appointments mechanisms; and

(c) guaranteeing the independence of Radio Television Afghanistan and fostering its role as a public service broadcaster.

6. Strengthen the 2010 election process by:

- (a) building trust in the IEC by putting all commissioners to a vote in the Wolesi Jirga;
- (b) strengthening the quality of data on illegal armed groups to ensure robust but fair vetting;
- (c) driving district delineation required for planned district elections; and
- (d) building in specific budgetary allocations for this and future election cycles.

7. Ensure a more sustainable subnational government framework by tasking the Independent Directorate of Local Governance (IDLG) with supporting constitutionally mandated representative institutions, rather than parallel projects or bodies.

8. Create a post-election strategy group including all relevant ministries, the National Assembly, civil society and major donors to lead strategic planning for the 2010 election and beyond including agreement on:

- (a) the date of the 2010 poll and a sustainable electoral timetable;
- (b) the creation of a robust voter registry and population data collection (census and/or civil registry); and
- (c) an appropriate legal framework for elections.

To the National Assembly:

9. Help ensure a solid and comprehensive legal framework for future elections, opening the issue to public hearings, including but not limited to:

- (a) selecting an appropriate party-based or mixed electoral system to replace SNTV in the Electoral Law;
- (b) clarifying Article 6 of the Political Parties Law relating to ethnic, racial and sectarian "bias" and removing unnecessary curbs on party formation and functioning, as well as setting out clear procedures regarding the bar on links to armed groups; and
- (c) considering the future shape and scope of the ECC to ensure a credible and sustainable mechanism to impartially enforce electoral standards and arbitrate disputes.

10. Issue clear guidelines to members on use of official resources in their campaigns in 2010, to be monitored by the standing committee for members' immunities, salaries and privileges.

To the U.S., European Union and its Member States and other Donor Nations:

11. Increase election security by:

- (a) ensuring ISAF's additional troops provided for the election remain in the areas where they are required, if necessary beyond the August polls, and are sufficient for the 2010 polls;
- (b) pressing Pakistan to end cross-border movement of insurgents; and
- (c) ensuring ongoing training and oversight and sufficient funds to retain the thousands of additional police recruited to help secure the polls.

12. Support robust, ongoing democratisation by:

- (a) refraining from any words or actions that might be seen as endorsing individual candidates;
- (b) providing firm funding commitments for several more election cycles subject to specific goals for capacity building and sustainability, developed as part of the proposed post-election strategy group; and
- (c) in the remaining time before the 2010 polls, contributing information on illegal armed groups to ensure a strengthened vetting process and demanding action on disarmament.

13. Balance support to the branches of state by providing far greater resources and attention to

representative bodies by:

- (a) meeting regularly with the heads of political parties and parliamentary groupings;
- (b) providing technical assistance for the Wolesi Jirga and provincial council commissions;
- (c) funding women in local government initiatives; and
- (d) information-sharing and feedback sessions on development proposals with the relevant provincial councils and Wolesi Jirga commissions.

To the United Nations:

14. Build confidence in the electoral process by:

- (a) the Special Representative of the Secretary General (SRSG) robustly using his good offices to help mediate between parties on contentious issues on the electoral framework;
- (b) maintaining pressure on government and electoral institutions to uphold standards and speaking out against violations;
- (c) instructing local UN offices on appropriate forms of assistance to the process including monitoring the recruitment of district electoral staff; and
- (d) encouraging the international community to help provide information on illegal armed groups to strengthen future vetting processes.

15. Drive forward-planning, as part of the proposed post-election strategy group, for the UN's role in future elections to retain momentum and ensure a smooth transition – including funding mechanisms – at the end of the current Enhancing Legal and Electoral Capacity for Tomorrow (ELECT) project in 2010.

Kabul/Brussels, 24 June 2009

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