

Upholding Democracy through Ballots

Presidential & Provincial Council Elections

AFGHANISTAN 2009



Report of the International Election Observation Mission

**The Asian Network for Free Elections
(ANFREL Foundation)**

Published by

The Asian Network for Free Elections (ANFREL Foundation)



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Free and Fair Election Foundation for Afghanistan

Book cover:

Somboon Udomwatchanasak, Pongsak Chan-on

Layout:

Chatchawan Rakchat

Photos courtesy: Mission observers

ISBN: 978-616-90144-0-9

Printed in Bangkok, Thailand, December 2009

A Tribute



The Asian Network for Free Elections Foundation (ANFREL) dedicates this book to late Mr. Kingsley Rodrigo, ANFREL's former Secretary General who passed away in August 2009 from prolonged deteriorating health problems.

His dedication and spirit of service will be missed by all in ANFREL. He has always encouraged ANFREL Secretariat staff and its members, collectively and individually to contribute their best to promoting the democratic principles of governance and to uphold the rights of the minorities and the vulnerable groups who need to be mainstreamed into the nation-building process and recognised as equals. Kingsley strongly supported the idea of public awareness about the electoral processes and transparency whenever the elections were held as the country's commitment to free and fair elections. ANFREL will continue to uphold the values he cherished and supported till his last.

Even though Kingsley is not present among us, we will not forget his footsteps. He walked with a lot of us in the Asian region working together as international observer from time to time and ensured that each mission lived up to its public expectations. His great contribution to democracy, free and fair elections is a shining example to the next generation. His physical presence will be missed, but his spirit will be with ANFREL forever.

Somsri Hananuntasuk
Executive Director – ANFREL

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Foreword

The Asian Network for Free Elections (ANFREL) Foundation which is a leading regional election network of civil society organisations was set up in 1997 to promote the process of democratisation and democratic consolidation through elections in Asia and also in other parts of the world. The Foundation has been striving to promote the principles of democracy in Asia led by Asians themselves. So far the Foundation has undertaken as many as 43 election observation missions across the Asian region in more than 20 countries.

Over 50 observers from as many as 13 different countries in Asia were engaged to observe the Presidential and Provincial Council Elections in Afghanistan which was held on August 20, 2009. Owing to the prevailing security situation and handicapped by the lack of adequate logistics and security support in the Southern and Eastern part of the Afghanistan, observers were deployed in the North, North East and Central regions only, covering a total of 15 provinces. The report no doubt provides only a partial picture, especially of the Pre-Election and Election Day activities, but it also contains a comprehensive analysis of the Electoral processes.

During the mission a close network was established with the Free and Fair Election Foundation of Afghanistan (FEFA), the most prominent domestic election observation group in Afghanistan, other civil society groups and the free media.

The 2009 Presidential and Provincial Council Elections showed the resolve of the Afghan people to move forward towards the restoration of democracy. Though, the elections were marred by fraud still it served as a big step towards the process of democratisation in the country. The voters trooped to the polls despite security concerns.

The elections brought to fore basic weaknesses of the electoral process in place notably gaps in the electoral law on contingencies when a run-off election is to be held; the need for an accurate and comprehensive voters' list; the electoral system design i.e. the unpopular SNTV; the

appointment of members of the Independent Election Commission (IEC); the ad hoc nature of the Electoral Complaints Commission (ECC) to name a few. Thus, the elections became much more significant in so far as it exposed the weaknesses of the political system in place with the end in view of looking at possible reforms for future elections.

While this report concerns itself primarily on the Presidential Election, it recognizes the significance of the provincial councils in the day-to-day political life of the Afghans. It is hoped that this report will find relevance to all who are interested in political studies, election processes and the electoral system in Afghanistan.

Election is not a one day event in itself but combination of the pre-election conditions, the impartial and professional election administration, the processes involved in developing a clean and comprehensive voter and candidate registration, the nuances of election campaigning, equitable access of the media by all the stakeholders for public information dissemination, voter education and the respect of the fundamental freedoms of expression, assembly, association and movement. I am pleased that ANFREL has been able to organize the Election Observation Mission (EOM) in Afghanistan which will surely serve as a step forward to meet the challenges to strengthen the democratisation process in Afghanistan.

Damaso G Magbual
Head of Mission
Chairperson of ANFREL

Acknowledgement

At the outset we would like to place on record our appreciation to the donors, local stakeholders, and local assistants for their support in undertaking this extremely challenging mission. This report is an outcome of untiring efforts of the writer, the pre-election and post-election assessment teams and local member networks.

The prevailing security conditions in Afghanistan would have deterred many to stay away in the safer confines of their homes in their respective countries. However, the 50 observers and five core team members showed admirable courage to join our EOM. For this we would like to express our deepest gratitude to them. The support extended by all the observers will go a long way to make the mission a visible attempt to support democracy building in Afghanistan.

This mission would not have been possible if not for the technical support of The Asia Foundation (TAF) in Kabul, and financial support from USAID and the AusAID. We are indebted to the donors for helping us in making this mission possible. Dr. Richard Smith, and his colleagues Ms. Najla Ayubi, Mr. Sunil Pillai, Mr. Abdul Ghafor Asheq, Mr. Madhu Baral Mr. D B Gurung and Ms. Susan Reesor of TAF and Mr. Abdullah Ahmadzai constantly supported the mission. We also extend our heartfelt thanks to the US Embassy, and the Australian Embassy in Kabul and all other support staff for their unflagging assistance.

The IEC (Afghanistan) was always very supportive to all our observers and gave us ample opportunity to observe and study the elections and also make recommendations for future elections in Afghanistan. The IEC commissioners, officials and their support staff were always kind and cooperative. We thank the IEC for all their support and also accrediting ANFREL as international observers.

The ECC members shared their opinions and findings on the elections with ANFREL teams. ECC Chairperson Grant Kippen deserves special

thanks for his initiative to keep ANFREL and other international observers groups updated about the elections complaints and adjudication process.

International organisations in Afghanistan made the mission more effective for ANFREL. For instance the UNDP (ELECT), International Foundation for Election Systems (IFES) and National Democratic Institute (NDI), and other organisations maintained a close coordination with ANFREL throughout the mission. We thank all these organisations and agencies including the European Union (EU) mission for supporting a strong coordination between international observers.

Local partners like the FEFA shared valuable findings with us throughout the election process. The support from other organisations, like the Afghan Civil Society Forum (ACSF), the Afghanistan Independent Human Rights Commission (AIHRC), the Afghan Women's Action Network (AWAN) and members of the faculty of Political Science of Kabul University is also appreciated. We thank the media, both local and international for their willingness to share their analysis with us.

Our thanks to all our local staff, especially Mr. Hakim Hashimy and Mr. Khushal Qaem who made life easy for us sometimes under very difficult circumstances.

We greatly appreciate the contributions of our editors, and contributors to develop this report. A special thanks Aimal Khan and Praveen Rai of Lokniti for their support. Our sincerest thanks also to Ms. Amrapali Basumatary and Mr. Sanjay Gathia for proof-reading some portions of the publications.

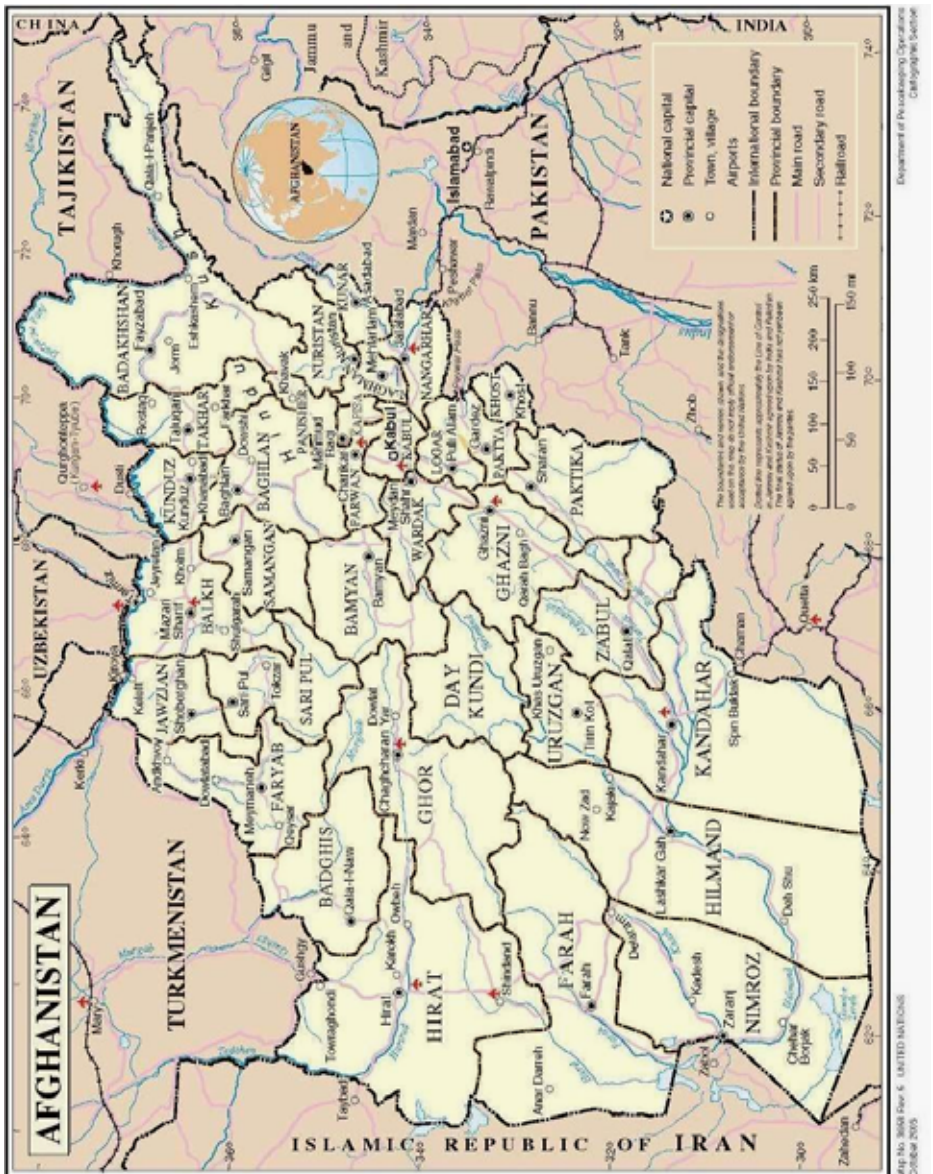
Lastly we extend our deepest thankfulness to our secretariat staff and core team members, who worked relentlessly to make this mission possible. Mission Director Ichal Supriadi's commitment to organize the mission is appreciated.

Somsri Hananuntasuk
Executive Director – ANFREL
Bangkok

Abbreviations

ACSF	Afghan Civil Society Forum
AG	Attorney General
AHRDO	Afghanistan Human Rights and Democracy Organisation
AIHRC	Afghanistan Independent Human Rights Commission
ANA	Afghan National Army
ANP	Afghan National Police
ANSF	Afghan National Security Force
AOG	Armed Opposition Groups
AUSAID	Australian Agency for International Development
CEO	Chief Electoral Officer
CoC	Code of Conduct
DFCs	District Field Coordinators
DI	Democracy International
ECC	Electoral Complain Commission
EOM	Election Observation Mission
EU	European Union
FEFA	Free and Fair Election Foundation of Afghanistan
HYA	The Hazara Youth Association
IAEC	Interim Afghan Election Commission
ICCPR	International Covenant on Civil and Political Rights
ICG	International Crisis Group
ICOS	International Council on Security and Development
IDPs	Internally Displaced Peoples

IEC	Independent Election Commission
IED	Improvised Explosive Devices
IFES	International Foundation for Election Systems
IMF	International Military Forces
INGOs	International Non-Governmental Organisations
IRI	International Republican Institute
IRI	International Republican Institute
ISAF	International Security Assistance Force
JEMB	Joint Electoral Management Body
LTO	Long Term Observer
NAMFREL	National Citizens Movement for Free Elections
NATO	The North Atlantic Treaty Organisation
NDI	National Democratic Institute
NGOs	Non-Governmental Organisations
OSCE	Office for Democratic Institutions and Human Rights Election Support Team
SNTV	Single Non Transferable Vote
STO	Short Term Observer
SVBIED	Suicide Vehicle Borne Improvised Explosive Device
UDHR	Universal Declaration of Human Rights
UNAMA	United Nations Assistance Mission in Afghanistan
UNAMAEC	United Nations Assistance Mission in Afghanistan Electoral Component
UNDP ELECT	United Nations Development Programme (UNDP)-ELECT
USAID	United States Agency for International Development
VR	Virtual Reality



Executive Summary

The Presidential and Provincial Council Elections in Afghanistan which was held on 20th August 2009 marked yet another important step in the process of democratic transition since the end of the Taliban rule in 2001. The elections were an historic event of sorts as holding it under the prevailing security conditions was extremely challenging. Although the legitimacy of its outcome has been shrouded in a storm owing to detection of large scale frauds and cheating, the significance of the process in rebuilding Afghanistan cannot be overlooked especially at this crucial juncture.

Following an extensive review of the election results and the process that preceded it, the ANFREL Foundation along with other international observation groups, also endorses it. A three phased EOM was undertaken by ANFREL starting on June 23 2009. Firstly, a five member exploratory team was sent to Kabul to conduct what essentially was a pre-election assessment of the prevailing security and political situation in the country and to decide whether an EOM should be undertaken within the restrictive conditions. Secondly, based on the findings of the pre-election assessment report a 55 member EOM divided as Long Term Observers (LTOs) and Short Term Observers (STOs) teams, were engaged to observe the elections. The observers were deployed in 15 of the 34 provinces (For details refer to 'Mission Overview,' page 39) between July 23 to August 27' 2009. Lastly, a 10 member post election assessment mission was undertaken to study the developments following the detection of frauds, call for a run-off for the Presidential Elections, the subsequent pull-out by one of the candidates and the fallout of the IEC decision regarding the declaration of the winner of the Presidential Election.

The 2009 EOM built on ANFREL's prior observation of the Afghan Presidential Election of October 9, 2004, and the National Assembly and Provincial Council Elections of September 18, 2005. These three sets of Afghan elections were the first in over thirty years, and they were profoundly different in scope, complexity, and type from the elections of past decades.

The EOM, in a very restrictive sense revealed significant aspects of the electoral process and how the future of democracy in Afghanistan depended on it. Furthermore, it was apparent to ANFREL observers on how this process could either pull the country together or further break it apart.

Holding the election was a big step for the Afghans; it brought expectant voters to poll stations in spite of the problems in security; it brought to fore the lack of preparedness of the election body to manage a complex exercise; it brought out gaps in the Election Law which the nation's Parliament needs to address; it declared as winner the incumbent President, legitimacy of which rested on political, not legal grounds; and it highlighted the lack of accurate census data and voters list thereby hosting election frauds.



Though, the results of the elections have been accepted by most people in the overall “national interest,” the IEC’s role as the most important institution in the exercise of an electoral process is being severely questioned in different circles. Perhaps the IEC has a long way to go before it is able to carry truthfully and proudly the full meaning of its name, the Independent Election Commission of the country. In spite of the hard work that the IEC put into administering the elections which started from “updating” the voters’ list up to declaring the winning

candidates, there were a number of allegations such as the inability to deter frauds like ballot stuffing, proxy voting, multiple voting, threat and intimidation of voters by warlords, etc, lack of transparency in the counting of votes, inability to anticipate the complexity of the security situation and make contingency preparations, inability to prosecute violators of the Election Law, the inability to check the use of government resources in favor of one candidate, etc.

Such list of accusations (rightly or wrongly deserved) brings out the issue of the need to introduce new provisions in the Election Law such as the need for Parliament's confirmation of the Presidential appointment and the manner of "exit" for the head of the Election management body and other members and Commissioners in question.

To redress the problems and grievances arising during the electoral process, the ECC was set up, its role being more like that of a big brother showing the ropes to a little brother and minding the bad men while the little brother is still unable to. The ECC is both very powerful and at the same time ineffective in undertaking its mandated function: "... deal with electoral offenses, complaints, and challenges." Powerful because it can override the decision of the IEC, but ineffective because of it has no implementing authority.

Objectively speaking, the ECC is a superfluous entity if the electoral body and the justice system of the country were fully functioning. However, in practice it is an ad-hoc body and which shall be dissolved 30 days after the certification of the results of the election. This year the ECC encountered several problems, such as its late establishment which delayed the process of setting up its provincial units, absence of a mechanism/unit to collect evidence and validate findings and its short shelf life (4 – 6 months), which prevented it from completing hearing the cases brought to it.

The mechanism to introduce checks and balance in the system was also undertaken partially by NGOs and civil society groups. Many CSOs particularly those which were involved in human rights, women awareness, and promotion of peace programmes mobilised themselves

before and during elections. Two local organisations are known to have assigned domestic observers all over the country: FEFA and the AIHRC. These two groups had a standard observation checklist following the principles of free and fair elections.

While it was the media which denounced the occurrences of election fraud in the South and in the North, it was these two local bodies which provided evidences and documents on the (alleged) anomalies to the IEC through their ground observers.

As far as the media is concerned, the reporting and analysis of the elections were more or less impartial and were fair and clean barring a few government controlled ones and some private groups patronized by a particular group or candidate. The Government media was perceived as biased towards the incumbent President.

The IEC accredited 49 national and 138 international media organisations. This shows the huge interest of the international community in the Afghanistan elections. The IEC had also set up a three-person Electoral Media Commission to monitor the reporting of the media, 60 days before the Election Day.

The campaign process for most part of the election was normal except for the security threat which constrained the movement of candidates in certain provinces. Most candidates confined their campaigns to town meetings and putting up posters instead of holding big rallies.

The cultural opposition against women in public life prevented them from freely exercising their basic right of expression. More often than not, their actions, especially to vote was dictated by the male members of the family. This was further compounded by security concerns. Consequently, campaigning by women candidates became very difficult or impossible in certain parts of the country.

Some of the violations observed during this period were providing food and transportation to voters, paying money to heads of villages and elders to secure “command votes” and threats by some Governors forcing voters to vote for a certain candidate

It was observed that the candidates spent inordinately huge sums of money for the campaign and that the Election Law has set no limit on the amount or level that candidates may spend. What the Election Law required was monthly reporting of campaign resources and expenses and the publication of this by the IEC. This was implemented only during the first month.

The picture coming out of the events during the Election Day in Afghanistan is now more complete and has the benefit of inputs from more sources, in addition to those which were observed by ANFREL’s team. The voting in most polling centers in many provinces where ANFREL observers were present (15 provinces) was found to be orderly and followed the provisions of the country’s Election Law.

However, observers reported several forms of inadequacies in certain provinces. For instance, less than 50% of the polling centers had political party agents watching the proceedings for their candidate. The notice of the last minute decision of the IEC to extend the voting hours came late in some polling centers, resulting in confusion. Some polling stations which had closed, reopened to follow the extended hour order.

The counting system was not uniform in the various polling centers across the country, i.e., did not start at the same time, no common procedure on the treatment of unused or stray ballots, no common procedure in recording the results, no common procedure in signatures of polling station officials and party agents, etc. This resulted in disorder and also created sufficient scope to interpret the IEC’s decisions as manipulative and therefore questionable.

The ECC received information on fraud committed in the South and South Eastern parts of the country and on September 8, it issued an order to investigate all ballot boxes applying six criteria. 3,789 ballot boxes were found to have been fraudulent based on the six-point criteria. Following investigation by the ECC, the number of votes polled by two of the leading candidates, incumbent President Hamid Karzai and Dr. Abdullah Abdullah were reduced. The IEC posted a figure of 49.67 per cent for President Karzai and 30.59 per cent for Dr. Abdullah Abdullah after the recount and auditing of the results.

On September 16, the IEC had announced that from a total of 5,662,758 valid votes President Karzai had polled 56.6 per cent votes while Dr. Abdullah Abdullah garnered 27.8 per cent. In the third place was Dr. Ramazan Bashardost with 9.2 per cent. But even after the recount and audit the IEC and ECC did not complement each other on the numbers of votes polled by a candidate. For instance the ECC posts the votes garnered by the leading candidate at 48.7% and not 49.67 as projected by the IEC. Intriguingly, this dispute over numbers has not been resolved, even though Karzai has been inaugurated for a second term as President.



Afghanistan President Mr. Hamid Karzai

photo from : www.guardian.co.uk

Photograph: Lucy Nicholson/Reuters



Afghan Presidential candidate

Dr. Abdullah Abdullah

Photo from : www.indianexpress.com

The complexities in the present electoral and legal systems in Afghanistan, the area of dispute resolution on election-related complaints, protests, and prosecution of violations is one big Gordian Knot that will confuse even legal election experts. For instance the body

(ECC) tasked to adjudicate all complaints and offenses (Article 52, Election Law) will self dissolve 30 days after the certification of the winner of the election. A government body (Office of the Attorney General) tasked to investigate election-related offenses referred the cases brought before it to the IEC, ECC, and the Interior Ministry. Article 58 of the Election Law directs the IEC to refer any infraction “to the relevant law enforcement or prosecution authorities...” But it has so far indorsed all cases only to the ECC.

In so far as the question of legitimacy of the elections results are concerned political considerations and the country’s interest weighed in on the decision of IEC to declare the incumbent President winner of the August 20, 2009 election. Foreign governments and international organisations including the United Nations have congratulated the declared winner. The citizens are holding judgment on the legitimacy issue; the greater issue for them is the performance of the President in the coming years. If he is able to solve the pressing problems of the country, especially corruption he will be deemed duly elected and legitimate.

The events that brought the IEC to make the decision is a pointer to the fact that there is a dire necessity to fill the gaps in the Constitution and in the Election Law to ensure clarity and legitimacy of future decisions.

However, in the backdrop of all these, what needs to be accepted and recognized is that security was undeniably a major challenge to the IEC and the voters in the August 20 elections. The month of August was declared the deadliest month in 2009, with 294 civilians killed. What number of this is election-related, no one knows except that the impact of security on the electoral process was substantial.



Pic: Yada Hatthatummanoon

Introduction

Afghanistan at a glance

The colorful kites dotting the blue skies is like a montage that best describes Afghanistan, a country with varied tales of waves of migration, conquests by great seats of powers, combats, and a cultural mix of populations from across different geographical realms, since very early in history to becoming a Cold War battlefield, and a theatre of modern day conflict. Scores of writers, researchers and historians have held the view that the strategic position of Afghanistan, once a meeting point of ancient civilisations—Chinese, Indian and European civilisations—has always made it an attractive destination for outsiders which has resulted in a saga of never ending invasion, war and confrontations.

In fact from extensive researches and documentation through time it is given to understand that the present day Afghanistan and the days preceding it in the mid-1980s was an outcome of its evolution as a geopolitically important location for great empires and modern powers, patterns of which are clearly reflected in its history. Thus a commonly held view is that the history of Afghanistan, its internal political development, its foreign relations, and its very existence as an independent state have been largely determined by its location at the crossroads of Central, West, and South Asia.

Perhaps such a pattern of evolution leading up to the present day conflict has convinced many a writer on Afghanistan to call it—a nation at the crossroads. Writers like Dan Cruickshank posits Afghanistan at the crossroads of ancient civilisations stretching back at least 3,000 years.¹

An astounding history of over 20 years of continuous war and conflict has impacted the growth of the Afghan people as a society and a nation. They are constantly confronted with complex challenges, which make the much desired transition towards democratisation a gargantuan task, with

¹*Afghanistan: At the Crossroads of Ancient Civilisations*, Dan Cruickshank.
www.bbc.co.uk/history/recent/sept.../afghan_culture_01.

strife and risk of life in almost every little step that they take to move forward. But the other reality is that the people of Afghanistan are not sitting back in utter dismay and hopelessness.

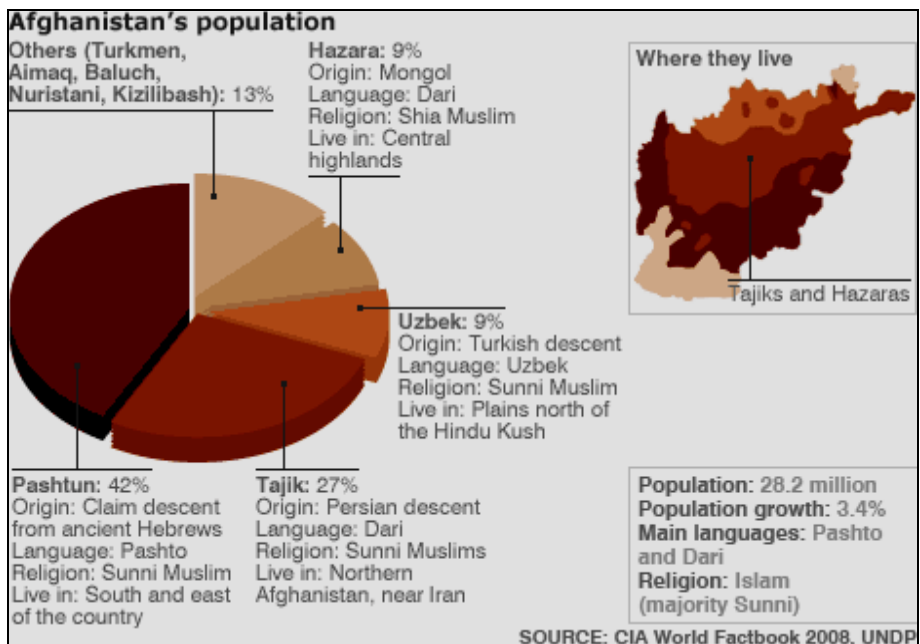
The tremendous changes in the social and political landscape of the country have also made more people conscious of the need for democracy and development in their lives, though the deteriorating security conditions have had perceptible changes in peoples' minds. The incessant confrontation between the US led forces, International Security Assistance Force (ISAF) and the Taliban has taken its toll on the people, with civilian casualties rising steeply. Besides, threats from Armed Opposition Groups (AOGs), ethnic rivalries and control by the warlords have also contributed to the falling security standards in Afghanistan.

In the backdrop of huge challenges that comes in different forms, such as security, governance and development related issues, Afghanistan faces another uphill task, to democratize through established electoral practices as is the case in most parts of the world. The International Crisis Group (ICG) report '*Afghanistan: the need for International resolve February 2008*', categorically states that the growing insurgency in Afghanistan reflects a collective failure to tackle the root causes of violence. The report is of the view that the international community has not found a diagnosis for the disease that ails Afghanistan. Six years after the Taliban's ouster, the country is yet to stabilize.

However, notwithstanding the lamentations of a "country in despair," all is not lost in Afghanistan. The deteriorating security scenario is bad news as it continues to affect development and transition towards democracy. But on the other hand the fact that two rounds of representative election has been held cannot be ignored. If not anything else these events could be treated as the first initial tentative steps towards democratic transition. It assumes great significance for a country which is trying hard to come to terms with its war insurgency ravaged past and present.

It goes without saying that over the last two decades or more people have displayed a renewed vigor, each time there has been an attempt to derail the process of democratisation, mostly through the process of elections. There is no doubt that ethnic divisions still determine the internal politicking and the social and cultural milieu in this war torn country, but there has been a considerable shift in the socio-cultural landscape as was evident in the 2009 Presidential and Provincial Council Elections where a marginal interest was on display to vote outside ethnic lines, for a candidate or a political formation which had some plan or objective to bring foreseeable changes in people lives and in rebuilding the country. Therefore, the linguistic mosaic that Afghanistan is made up of is seen to be transcending cultural boundaries to move forward towards peace and progress in the post Taliban era.

Society: The ethnic make-up of Afghanistan



Courtesy: BBC

Political Overview

Recent changes in Afghanistan's political system started with the drafting of the Constitution following the signing of the Bonn agreement in 2001. In fact the present day Constitution of Afghanistan was officially adopted at a *Loya Jirga*² on January 4, 2004. It practically emerged out of the Afghan Constitution Commission initiated by the Bonn Agreement.

The Constitution was the starting point for the beginning of a process of democratisation and elections when the Afghan peoples' hope of seeing an elected government was fulfilled on December 7, 2004. Hamid Karzai became the first ever democratically elected head of state in Afghanistan. This was followed by a successful Parliamentary Election on September 2005. But prior to this the political history had been dominated by strife, wars and conflicts between different factions, outside forces and warlords.

In fact documented evidence suggests that political reforms was attempted in the 20th century but it did not have any significant impact on shifting loyalties from the family and the tribe to that of the nation.³ The reason for this has been attributed partly to the lack of progress in expanding communication and transportation networks and the poor literacy rates in the country.⁴ The policy of the state to legitimize their power by paying off one group against another further increased social fragmentation and prevented the formation of a nation-state.

However, there were appreciable attempts in the past in between the early 60s and 70s (1963-73) during the last decade of King Zahir Shah's rule to introduce democratic reforms. The third Afghanistan Constitution was drafted in 1964 which created a constitutional monarchy, with a legislature. The Constitution also introduced an independent judiciary. The following year (1965) the first elections were held which presented a

² A *Loya Jirga* is the highest manifestation of the people of Afghanistan. The functions of the *Loya Jirga* is described in page 72 under Constitutional Overview

³ Famous Anthropologist Professor M. Nazif Shahrani's work has been referred to analyse the political reforms in Afghanistan before the Soviet invasion. Refer: <http://www.forcedmigration.org/>

⁴ *Ibid.*

broad based representation in the *Wolesi Jirga* (the Lower House of Parliament).

There were several significant developments, like the King's consent to establish a political party—a communist party which was called the People's Democratic Party of Afghanistan (PDPA). People were promised a second election four years later (as per Constitutional guidelines). But the political landscape in Afghanistan changed drastically with the disposition of King Zahir Shah in a *coup d'état* in 1973 by his cousin, Mohammed Daoud, who then proclaimed Afghanistan as a republic and himself as its new President of a one party system of government. Five years into his term, Daoud lost his republic and his life when the Afghan Communist Party overthrew the government during the 1978 “Inqilab-e-Saur.” (April Revolution).

The events that followed, such as the Communist Rule (1978-1992), during which period (1980) an interim Constitution was drafted, followed by the Mujahedeen (or Mujahidin) Rule (1992-1996) destabilized the country further. During the Soviet occupation a number of political parties sprang up to oust the Soviets. Prominent amongst these are Jamiat-i-Islami, Hizb-e-Islami, and Ittehad-i-Islami. These political parties disintegrated over time, as the Mujahedeen failed to establish a stable government owing to factional fighting among various armed Jihad groups for control over Kabul. Lawlessness and chaos during the Mujahedeen rule led to the emergence of a new group called Taliban, which ruled Afghanistan for six years (1996-2001).

The Taliban's rigid and extreme fundamentalist approach, which created an overwhelming atmosphere of fear amongst the people, besides their links with foreign extremist networks such as *Al-Qaeda* led to Afghanistan's international isolation.

The US intervened to replace the Taliban regime to facilitate a democratisation process, rule of law and respect for human rights in Afghanistan. There was an emphasis in these resolutions on a series of international, regional and national level measures to be implemented to curtail the terrorists in their activities.

The political road map, drawn in the Bonn agreement in 2001, has been successfully followed with three elections held within a period of nine years. The 2009 elections, though stained with frauds has provided an alternative space in that it has sparked a debate amongst the Afghan civil society for urgent political and Constitutional reforms, possibly before the Parliamentary Election in 2010. Civil society groups, political analysts, party workers, legal experts and the academia in Kabul have also underscored the need for review of the current electoral system, the Single Non-Transferable Vote (SNTV) to allow for greater scope for participation in electoral politics and governance by political parties in Afghanistan.

The Bonn Agreement and Some key developments (1999 to 2004)

- October 10, 1999: The United States government declared political and economical sanction against the Taliban regime in Afghanistan because of holding and supporting Saudi billionaire Osama Bin Laden.
- October 25, 1999: Taliban offer talks between Afghanistan and the US Government including the future of Laden.
- October 28, 1999: Laden declared his desire to leave Afghanistan
- November 5, 1999: Laden to stay in Afghanistan
- In response to the Taliban's refusal to hand over *Al Qaeda* operatives without the provision of tangible evidence linking *Al Qaeda* to the September 11, 2001 attacks and the Taliban's refusal to assist the U.S. in prosecuting *Al Qaeda*, the United States and its coalition allies launched an invasion of Afghanistan to oust the Taliban government.
- Sponsored by the UN, Afghan factions met in Bonn, Germany and chose a 30 member interim authority led by Hamid Karzai, a Pashtun from Kandahar.
- After governing for six months, former King Zahir Shah convened a *Loya Jirga*, which elected Karzai as President and gave him authority to govern for two more years. On October 9, 2004, Karzai was elected as President of Afghanistan in the country's first ever Presidential Election.

(Taken from different sources)

However, it is also true that more than seven years of strong military and political presence of international community has failed to achieve the desired results- elimination of terrorist threat and making Afghanistan a stable and democratic country. Weak governance, poor physical and social infrastructure, growing unemployment, price hike, corruption, disrespect for local sensitivities by international actors, increasing collateral damages of military actions, aid ineffectiveness and continued flow of volunteers and monetary support to the militants from abroad, are some of the reasons behind this failure. Some political and security analysts also blamed the international community for its insufficient commitment of troops and resources to the Afghan campaign.

The Taliban has been able to re-organize and remerge posing serious security threats primarily to the Afghan government. Western think tanks as well as the media frequently report about the increased activities of Taliban in Afghanistan.

According to a recent International Council on Security and Development (ICOS) report the Taliban has a permanent presence in 72% of the country in 2008 against 54% in November 2007. Moreover, it is now seen as the *de facto* governing power in a number of Southern towns and villages.

The Changing Security Environment

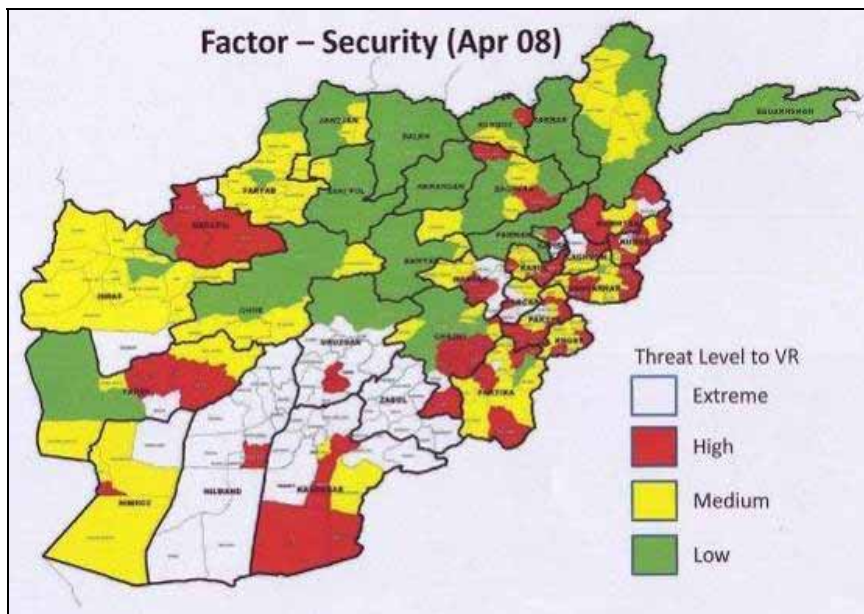
In comparison to the previous Presidential (2004) and Parliamentary Elections (2005), this time the security situation was comparatively worse. According to political analysts, the security environment in Afghanistan both before and during the August 20 elections was at its deadliest since the fall of Taliban administration in 2001. The ICG too endorses this fact.

According to a NATO 2009 report, the overall security picture in 2008 was mixed. It says that while the security situation in large parts of the North, Centre and West were relatively stable, in the South, South-East and South-West, "violence rose sharply leading to a significant overall increase in casualties from 2007." (See Annex)

The overall security in the country is under the command of the United Nations-mandated ISAF which is led by NATO. These security measures have been affected to secure the country from AOGs and the Taliban forces. The NATO led forces continue to support the Afghan National Security Forces (ANSF) in counter-insurgency operations and security related matters.

The security situation in the country has been used to classify the whole country into five levels, color coded with green as the safest and white as the most risky.

Map showing levels of threat in different parts of Afghanistan:



Source: The VR security map was provided by Security Consultants during the pre election assessment mission.

According to the United Nations Assistance Mission in Afghanistan (UNAMA), over 2000 civilians were killed in armed conflict from the start of the year to October 2009.

In a recent article writer Tom Engelhardt (*Afghanistan by the numbers*) maintained that Taliban attacks in the first five months of 2009 have increase by 59% compared to the same period in 2008.⁵

The Taliban attacks on coalition forces using Improvised Explosive Devices (IED) in 2009 recorded 114% increase over the same period in 2008. The rise in coalition deaths from IED attacks rose six-fold in July 2009 in comparison to July 2008.

The number of Afghan civilian deaths recorded 24% in January-July 2009 from the same period in 2008.

The security situation was extremely unstable in the phases before and after the 2009 Presidential and Provincial Council Elections.

The ICG in its latest report 'Security in Afghanistan' states that at least four candidates for the Provincial Elections were killed, and many more attempts were made. It claims that in July 2009 alone 71 ISAF troops were killed which is said to be the highest monthly toll since 2001. Quoting UN figures the report projects a figure of 1,013 as the number of civilian casualties between January and June 2009, up from 818 in the same period in 2008.⁶

⁵ Tom Engelhardt created and runs the Tomdispatch.com website, a project of *The Nation Institute*, New York where he is a Fellow. He is the author of a highly praised history of American triumphalism in the Cold War, *The End of Victory Culture*, and of a novel, *The Last Days of Publishing*, as well as a collection of his Tomdispatch interviews, *Mission Unaccomplished*. Each spring he is a Teaching Fellow at the Graduate School of Journalism at the University of California, Berkeley. He has written some widely acclaimed papers on Afghanistan, one of which is *Afghanistan by the Numbers*.

⁶ *Security in Afghanistan*, an ICG December 2009 report.

See. www.crisisgroup.org/home/index.cfm?id=3071&l=1

In fact August 2009 was declared as the deadliest month owing to the elections in the same month. It was reported that 294 civilians were killed. These figures reflect an increasing trend in insecurity due to election related violence. Voters identified ‘insecurity’ as a key factor causing inadequate pre-election activities and low voter turnout. They believe that the feeling of insecurity more than anything else may have prevented a sizeable number of the voting population of Afghanistan from exercising their franchise.

Around the elections the security situation gradually deteriorated and the militants increased their attacks. One of the reasons behind the increase in attacks was to disturb the election process and discourage voters from voting.

Though, the militants’ activities as well as the propaganda failed to sabotage the electoral process, but in some cases, particularly in the highly sensitive South and East, it adversely affected the voter’s turn out. Women voters were the most affected.

The worsening security situation also impacted the election campaign and in most cases the candidates and their campaigners avoided big rallies and meetings.



Election posters on Russian Tanks in Panjsher

There were tell-tale signs of deterioration in the security situation in the relatively peaceful North and North Eastern parts of Afghanistan prior to the elections. Kunduz, Baghlan and even Takhar witnessed some insurgency attacks. (Read Pre-Election Environment, page 97)

Underlining the need for security for smooth holding of upcoming elections, UN and other international bodies called for maximum security so that the voters could have confidence and cast their “vote without fear, without intimidation and in safety.”

Normal electioneering in some violence-hit areas of the country, particularly in South and Eastern parts could not take place and some polling centers either remained closed or were relocated due to security threats.

In comparison to the eight million in the 2004 Presidential Election this time the turnout was much lower. In general the turn out in urban centers was better than the rural areas. The total voter’s turnout was 38.7 % of which 58.42 voters were male, 38.75 were female and 2.73 were Kuchis.

A number of things have changed since 2004/5 in so far as the security situation is concerned. As things stands today:

1. Security situation is considerably worse (Please note: There are conflicting views on this amongst different people and Afghan Civil Society)
2. Anti-Government elements are now familiar with the election process
3. ISAF and not the coalition is responsible for the security of the country
4. Afghan National Police (ANP) and Afghan National Army (ANA) are in better shape but
5. IEC is the lead agency to conduct the election process.
6. People have seen what government can/cannot do (apathy).

(The above is a summary of the security analysis and the overall environment in Afghanistan. The summary was compiled by security experts during ANFREL’s pre-election assessment mission in June 2009.)

Over all the polling process was peaceful. Except few, most of the polling centers remained opened. There were very few cases of suspension of voting. According to official data there were 135 attacks on polling day leaving behind 54 person's dead, including 11 election staff, while 27 attempts were foiled.

For the deteriorating security conditions and resurgence of the Taliban during the last two years, the IGC in its report has pinned the blame on the ruling administration in Kabul for deploying what it called 'incompetent police and soldiers.' Thus to heighten the security preparedness, additional foreign troops were called in with the US assuring support of 21,000 extra military personnel and the NATO about 5,000.⁷

Security continues to be the overriding concern in Afghanistan even after the elections. The post elections developments saw two deadly attacks, one on the Indian Embassy on October 8 (the second in a span of 15 months) and the other on the UN House in Kabul on October 28 which left 11 people dead, including five UN workers. The attack on the Indian embassy left 17 people dead and 63 wounded. The attack on the Bakhtar guest house, a privately-owned, 42-room guest house in Kabul, where the UN employees were staying was carried out by the Taliban to disrupt the proposed Presidential Election run-off.⁸

These developments do not augur well for the future of democracy in Afghanistan. Deteriorating security during and after the elections have already eroded people's confidence to an all time low.

⁷ Information about additional troops deployment has been reported by the ICG in its latest (December 2009) report, 'Security in Afghanistan.'

⁸ Taliban spokesman Zabiullah Mujahid claimed responsibility for the attack in a telephone call to the Associated Press. Read. <http://news.bbc.co.uk/2/hi/8329140.stm>
Taliban spokesman Zabiullah Mujahid, confirmed that the Taliban carried out the attacks to disrupt the Presidential election runoff. The Taliban spokesperson was quoted in the media as saying that those working on the election had been warned that if they continued to do election related work they would be the targets of an attack.



The Election Observation Mission

In the backdrop of the upheavals and turmoil that Afghanistan has been through before and after the Cold War Soviet era, the dynamics of change or more realistically speaking the determination to move forward, made possible largely by the electoral process which was set in motion in 2004, assumes immense significance especially in the context of establishing democratic standards and values. The momentum towards democratisation is crucial to a country such as Afghanistan, where freedom of expression and human rights have been muzzled at different times by different groups and affiliations that have held control over the reins of administration.

Supporting democratisation at national and regional levels in Asia is ANFREL's primary objective, which derives from the belief that "every State should be possessed of a government whose authority derives from the will of the people as expressed by secret ballot in genuine free and fair elections held at regular intervals on the basis of universal and equal suffrage."⁹

ANFREL aims to bring a peaceful change in local democratic functions and protect the rights and freedoms of citizens, which are consistent with the States' obligations under the international law and do not violate the principle of non-discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, through an impartial, neutral and transparent election observation mission spelling out the necessary recommendations to strengthen peoples participation and the democratic functions.¹⁰ (Refer Annex)

⁹Guy S. Goodwin Gill in *Free and Fair Elections (New Expanded Edition)*, (2006), accessed at <http://www.ipu.org/PDF/publications/Free&Fair06-e.pdf>.

¹⁰ *Ibid.*

Therefore, given its stand on supporting the process of change through a process of free and genuine elections, ANFREL has thus far taken part in all the three elections—2004, 2005 and the 2009 Presidential and Provincial Council Elections. Essentially, ANFREL's commitment to local initiatives based on a regional perspective on Election monitoring/pre-post election, referendum and local election and other democracy-related processes has been the driving force to conduct election observation activities in Afghanistan.

Mission Objectives and Key Findings

The primary objective of the EOM in Afghanistan is to consolidate the process of democratisation through free and credible elections. ANFREL draws from international benchmarks which stresses on the need for respecting international laws defined under the Universal Declaration of Human Rights (UDHR) and the International on Civil and Political Rights (ICCPR). Democratic consolidation has been made possible through free and fair elections and this has been proven in many elections and the case of Afghanistan is no different. Therefore, with this objective in mind ANFREL put together a mission to observe the Presidential and Provincial Council Elections in Afghanistan.

Afghanistan is a late democratising country which would perhaps find place in a fourth wave of democratisation if there would be any. The state of democracy in Afghanistan is still very fledgling and this is not surprising given the prevailing security situation and the conflict between armed groups like the Taliban and the foreign forces led by the US and its western allies. The NATO has been a powerful player in ensuring that forces which are enemies of democracy are pushed back and sufficient space is created for establishment of a democratic order. Like all other international actors ANFREL too has lent its support to strengthen Afghanistan's fragile democracy that was established by the successful 2004 and 2005 elections in the country. Independent civil society groups that participated in the EOM fully endorsed ANFREL's resolve to support the process of democratisation in Afghanistan by showing solidarity with the people of Afghanistan.

Primarily the focus of the mission would be to assess the conduct of the elections based on international benchmarks and standards covering such vital areas as human rights, political and civil rights. It is also an attempt to understand if the condition of limited tolerance exists in the conduct of democratic elections given the security challenges in Afghanistan.

Therefore, the mission is designed to consider several things prior to making a final assessment. These are:

The continuous commitment from the state to ensure citizen rights and opportunity, without any restriction, including allowing people to involve in any government and public affair which concerns.

- a) Periodic and genuine elections
- b) The right to vote and to contest in the elections
- c) Universal and equal suffrage
- d) The right to a secret ballot and equivalent free voting procedure.
- e) Minority protection and privilege.
- f) Freedom of expression; association and assembly
- g) Freedom of movement without restriction; the government need to ensure the safety of the elections stakeholder to move in any place to participate in the election.
- h) Non discrimination in the exercise of political rights and legal arbitration.

Key Findings

Throughout the election period a major concern that surfaced was the deteriorating security. While insecurity cannot be tied to the question of legitimacy of the election, but as has been mentioned earlier it had a significant impact on the voter turnout and also hampered the process of a “free, transparent and credible elections.”

Incidents of violence before and during the polling day made the observation a challenging task as compared to previous election observation missions (2004 & 2005). In particular in Kunduz, Baghlan, Jawzjan and even capital Kabul where ANFREL observers were present, movement especially on the polling day was restricted owing to security concerns.

Security played a critical role in determining whether the enthusiasm which was seen amongst voters in most of the provinces covered by the ANFREL mission would actually translate into votes. In some areas, peoples' participation was restricted to a great extent by the prevailing security situation.

Besides the security situation, the observation mission brought to fore some serious concerns, which perhaps also explains why peoples' enthusiasm did not translate into votes.

Firstly, the low level of literacy, little to no experience of elections, and insufficient voter education activities which are perhaps the most plausible reasons to explain what kept voters, especially women, away from polling stations.

A few of the irregularities worth noting were use of multiple voter cards in some districts,¹¹ vote buying by paying of influential persons like village elders and local chieftains by candidates, and political groups and use of underage voters.

The quality of indelible ink that was used was of extremely poor quality, which could increase the chances of fraud. Many voters demonstrated how the ink could be wiped off within a few minutes after the polling process.

¹¹ *Instances of multiple voter cards have been reported by ANFREL observers from almost all over the North and Central parts of Afghanistan.*

Misuse of government resources and machinery is another critical area of concern. There is no system of checking misuse of government resources by those in power. The abuse of official positions and resources in favor of some “favoured candidates” and the participation of supposedly “non-neutral officials” in electoral campaigning were common allegations.

The field visits across different provinces revealed a deepening polarization amongst different groups too which may help to explain why government officials are unable to maintain their neutrality.

What perhaps needs to be highlighted is the fact that several factors impacted the turnout of women voters in many areas owing primarily to two reasons: The existing security situation and lack of awareness about their right to participate. Though, in a few pockets the turnout of women voters was encouraging.

The absence of a sound and scientific system to register eligible voters increased the chances of frauds and manipulation by election officials and influential groups and individuals. Different sources gave contrasting data about the number of voters in Afghanistan.

But what stands out as the most challenging issue_is perhaps the gap/gaps in the Election Law which has several shortcomings and lack of clarity in its operational aspects. (Refer to ‘The Election Framework in Afghanistan,’ page 72).

The IEC did reasonably well in conducting the elections from “updating” the voters’ list up to declaring the winning candidates, but with the goods it also has to accept the flaws resulting out of the lack of professionalism and preparedness in understanding the complexities of elections.

Mission Overview

The mission was undertaken according to the following plan:

1. An exploratory team consisting of five experts was sent to Kabul from June 20 – June 29, 2009 to assess the prevailing situation and determine the possibility of undertaking an EOM in a few (selective) of the 34 electoral provinces of Afghanistan.
2. The actual mission was divided into two segments, a team of LTOs consisting of 20 persons and 30 STOs. The observation mission was managed by a secretariat team comprising of ANFREL members and local staff.

Observers from 13 different countries and 30 different organisations, predominantly Asian NGOs working on election and human rights issues were invited to participate in the mission.

ANFREL is committed to gender equity and the mission included an equal number of women and men. Additionally, the observer team had more Muslims to make it possibly easier to have access to different individuals and groups cutting across cultural sensitivities.

Observers were deployed in pairs to the North, North East and Central regions of Afghanistan, covering a total of 15 provinces. The LTOs were deployed a few weeks before the elections to make a comprehensive assessment of the early election environment. STO teams were deployed closer to Election Day.

LTOs were briefed in Kabul for three days, from July 25- July 27, before being deployed on July 28. STOs were briefed on August 12 & 13 and deployed on August 14.

The Head of Mission was Mr. Damaso G. Magbual, ANFREL Foundation's Chairman and one of the leaders of the National Citizens Movement for Free Elections (NAMFREL) in the Philippines. Other senior observers included: Mr. Surya Prasad, a former chief Nepal Elections Commission in

Nepal from 1984-1992; Prof. Yamada from University Waseda, Japan; Ms. Somsri Hananuntasuk, ANFREL's Executive Director and Mr. Yunus Bin Lebai Ali, Chairperson for National Institute for Electoral Integrity (NIEI).

The secretariat team was composed of Amin Iskandar, LTO Coordinator, Somsri Hananuntasuk, STO Coordinator, Ryan D. Whelan, assistant to STO Coordinator, Pongsak Chanon Administrative Assistant, Sirirak Finance Assistant, Bidhayak Das, Media Officer and Ichal Supriadi, Mission Director.

Observation Methodology

The ANFREL mission was led by head of the mission, and the mission operations were managed by a mission director and a seven member secretariat team that is normally deployed eight weeks before the Election Day. But in the case of Afghanistan, owing to delays in procurement of visas, the core team had to be deployed in batches of two and four in two shifts a week before the election. The LTOs arrived minimum 4-5 weeks prior the Election Day to assess the preparations for the elections at the regional level (province) level. The STOs followed 10–14 days prior to the Election Day to boost the capacity of the mission, by engaging with the LTOs to cover more areas during the polling, counting and the tally process.



ANFREL observers learning to use the Sat phone during a security briefing in Kabul before Election Day.

ANFREL's observers were drawn from organisations with non-partisan backgrounds and proven track records with reputation for professionalism and high ethical standards. These organisations mostly work in areas related to the technicalities of electoral processes and the promotion of democracy.

The EOM which has been approved by the IEC of Afghanistan is conducted by respecting the country's sovereignty. All necessary steps and precautions are taken to ensure that the EOM does not operate against the rule of law in any country.

The mission does not intervene in the electoral process and has no authority to change, or correct any shortcomings or to request changes during the election process. The mandate of the mission is to collect and verify information related with the elections, following which the information is published after the end of polling. However, the EOM might call the attention of the IEC and electoral stakeholders regarding some concerns prior to the Election Day to avoid gross anomalies that could undermine the credibility of the elections.

The mandate of the mission is to collect and verify information related to the elections process. The next step is to make an analysis of the entire process and publish it during the post election period.

A periodic coordination is set up with the IEC at all levels, political parties/candidates, NGOs, INGOs and media to gather information and get a situation update on elections. The Observers determine the content of the report based on valid findings and after subjecting it through a process of intensive verification and clarification. The EOM will only use the facts that are verified and that conform to the basics of a mission report. Secondary data from ANFREL's network organisation in Afghanistan such as FEFA and other international observation groups or other entities and election stakeholders are also verified.

The mission statement is finalized with approval of the mission committee comprising a core team that has in it the head of mission, executive director, mission director, media officer and experts assigned for specific jobs during the mission. The statement is independent and it is a reflection of the findings from the field and reasonable analysis by the observers. The final report in the form of a publication which takes into account a post election study mission findings is prepared and completed two to three months after accomplishing the main mission.

A press conference is held 72 hours (maximum time limit) after the closure of the polls. In the case of the Afghanistan election the press conference was held on August 23, 2009. A statement was issued containing the preliminary findings based on the EOM. The press conference was led by the head of the mission, accompanied by mission deputy, Executive Director and other members and facilitated by the Media Officer.



ANFREL Press Conference held on August 23, 2009 at Hotel Serena Kabul

Approximately three months after the final results, a comprehensive report, is issued, which identifies the strengths and weakness in the electoral process. It also includes a series of recommendations for improvements to the overall electoral process and democratic environment.



Elections in the War Zone

The Election Challenges in Afghanistan

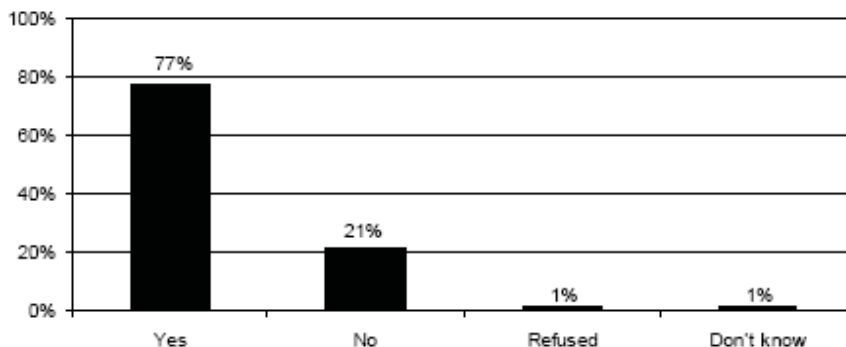
The ongoing conflict and low scale war in Afghanistan created apprehensions and tensions in the minds of the general public in Afghanistan and the international community on whether the balloting would be free, fair and democratic to pave the way for a strong government to ensure law and order and lasting peace. Incidentally, the large scale frauds that cast a shadow of doubt over the legitimacy of the election process in Afghanistan was preceded by controversies regarding the enumeration of voters since the very beginning. There was no system in place to detail the voters' registration correctly and prepare a comprehensive list of the electorates.

The inability to produce a credible voters' registry laid the foundation for frauds in the election. The inadequacies in the voters' list may not have been intentional, as continuous conflict and civil wars in Afghanistan has left the country without any proper population census. Soon after the 2004 Presidential Election there has been a concerted effort by the election management body and the international community to register voters, but the task has been extremely difficult owing to recurring conflicts and limited access to remote and far flung areas.

The inability of the IEC to enumerate all eligible voters is also reflected in a survey conducted by the TAF. According to the survey just over three quarters (77%) of respondents who were interviewed said they had registered themselves as voters, while around one in five (21%) said they had not.

Disparity between male and female voters was recorded with more than four-fifths (85%) of men saying they had registered, while it was just over two-thirds (69%) in the case of women voters.¹²

¹² For details of the TAF survey please see complete report. Report is available online at <http://asiafoundation.org/resources/pdfs/Afghanistanin2009.pdf>



Graph showing percentage of respondents who registered for voting and those who did not (Courtesy: TAF Survey)

As mentioned before (Refer to Key Findings, page 36) literacy and education played a crucial role in the preparation of the voters' registry. The TAF survey shows that almost nine out of ten (89%) respondents who have completed high school and four-fifths (81%) of those who have some level of secondary education had registered. This fell to under three-quarters (73%) of respondents who never went to school.¹³

The other important aspect that the survey highlights is the lack of knowledge amongst people on where to register themselves as voters. Of the 21 per cent respondents who said they had not registered as voters made up a large chunk of those who had no information on where to register to vote. About three-quarters (73%) of these respondents said they had no information of registration procedures. There were more women than men who did not know where to register to vote.

The survey indicates that "lack of information about electoral procedures" could be a key to why Afghans may have failed to register to vote.

Furthermore, the inability of the IEC to produce a voters' list for use in polling stations compounded the problems. Though it was easy for voters to vote anywhere, without a pre-assigned polling station, it left room for manipulation and frauds. The inability of the IEC to combine the previous

¹³ *Ibid.*

voters list with news voters registered during 2008-2009 led to duplicate and unknown number of voter identity cards.

During the course of the EOM it was discovered that many voters had registered twice or more so as to get “new and better looking cards,” which served the purpose of an ID card, as it had pictures and other important details.

Apart from the voters’ registration process, the other challenge was managing the elections, in a highly volatile situation. The IEC seemed not adequately prepared to conduct the elections. Shortage of human resources and lack of trained personnel was a key factor that hindered any attempts to hold credible elections. Though the IEC was projected as an “Afghan led process,” it was heavily dependent on the UNDP (ELECT) and other international agencies for technical back-ups.

Moreover, the absence of sufficient women staff in the IEC deterred the overall election management. Cultural reasons prevented women from staying back late which impacted the counting of ballots in the polling stations. In most polling stations counting of ballots began after 6:00 PM on the polling day and continued late into the night. Thus, unlike in other countries where cultural conditions are no barriers, in Afghanistan it becomes extremely challenging to replicate such a process. Besides, the non-participation of women as polling staff in female polling stations added to the complexities.

No doubt, the prevailing security situation made up for a major share of the challenges faced by the election management authorities to conduct the elections. Until two days before the election security agencies could not identify what center could be opened and what could not be opened. The security agencies did not react until election was very close which perhaps was key to determining if the elections would be clean or not. As many as 20 provinces out of 34 had security problems.

The IEC had no choice but to depend on the security agencies to determine which poll centres could be secured as it was the latter which decided if poll centres would open or not. Even after security clearances, a number of poll centres were classified as not secure and this resulted in further complications. The unstable security environment left the IEC with no other options but to initiate last minute changes. But last minute changes like retrieving of sensitive materials from districts which were “off limit” for the IEC was not possible.

Election administration is a complex exercise and managing an electoral process with a long history of armed conflicts and widespread violence is a challenge for any country. Afghanistan is no exception.

Prior to the elections a number of stakeholders who were interviewed summed up the challenges in Afghanistan as follows:

1. Security situation in the country continues to remain bad and grim and the existing ISAF along with Afghan security does not seem sufficient to provide logistical security during the elections.
2. Presence of international organisations from the first world countries and their meddling at various stage of electoral process may vitiate the elections and indirectly influence the electoral outcome.
3. Also the resurgence of armed groups in different parts of the country may not only deter the voters to cast their votes but also succeed in getting their candidates elected.
4. The logistics involved in holding an election in Afghanistan is also very challenging as around 15 million ballot papers need to be printed (In Britain) and distributed all over the country along with other election material.

5. The situation will become more difficult in logistical terms for the IEC if a 'run off elections' is to be held as the law proposes only a 15-day time limit for holding it after the result of first elections are declared with no one getting more than 50 % votes.
6. IEC has a tough road ahead as more than 150,000 election staff needs to be hired and trained by the commission and posted in around 28,000 polling stations spread across the length and breadth of the country.
7. ECC along with its regional offices is not fully functional to receive complaints and challenges and settle disputes at various stages of election.

A post election assessment by ANFREL revealed that most of the apprehensions aired by different sections of the Afghan society were reasonable and the picture that emerged was a consequence of the challenges that were left largely unaddressed.

Post election assessment based on discussions and interviews with different stakeholders can be summarized as follows:

1. The feeling of insecurity plummeted to an all time low as AOGs continuously succeeded in penetrating the security fortifications around capital Kabul and launch decisive offensives. As many as four incidents were recorded in Kabul alone within a fortnight before the Election Day.
2. Two days before the election that is on August 18 there were two attacks in Kabul, one a suicide bomb attack that left seven people dead and the other a rocket attack on the Presidential Palace in the early hours of the morning. The explosion was confirmed as a Suicide Vehicle Borne Improvised Explosive Device (SVBIED) attack against a passing International Military Forces (IMF) convoy.

3. On Election Day too there were incidences of attacks and encounters between police and armed gunmen in Kabul. The rate of civilian casualties continues to rise with each episode of a gun fight or a bomb explosion.
4. Further the Taliban's call to boycott the elections provided a new twist to the complexities. The boycott call was preceded by threats to chop off peoples' fingers if found stained in indelible ink. According to FEFA these threats were actually carried out in some parts of Kandahar, the Taliban's birthplace.
5. The IEC's limitation to manage the elections in all the polling stations across the country was evident. Though security was played out as a major reason for the inadequacies, there were other reasons like the "neutral character" of the IEC which has been questioned several times over by all and sundry. At different levels, the IEC personnel were found to be involved in the frauds that took place all over the country. (Refer Election Administration, page 75)
6. In the midst of all the anomalies and inadequacies, pre-election apprehensions that were raised about the "overbearing presence" of the "the international community," in the election process was a key issue even during and after the elections. Throughout the pre-election period different sections of the Afghan society, including academicians and intellectuals kept insisting on the need for an "Afghan led democracy rebuilding process." Some described it as "not the be all and end all of everything,"¹⁴ while accepting that it is a crucial step in the rebuilding process.

¹⁴ Professor Nasrullah Stanakzai, of the Kabul University advocated for "a more Afghan led process," especially when it concerns elections. While briefing ANFREL STO teams in Kabul he talked about three kinds of security, such as "physical security, psychological security, and economic security," to drive home the point that such things cannot be possible unless Afghans are allowed to decide for themselves and be politically independent. Similar opinions were expressed by Civil Society groups, the media and voters alike.

For the Afghans, who think that it would help them to rebuild their war ravaged country, the presence of the international community is important. But this belief is not a simple issue. Questions are being constantly raised about the levels of involvement by the international communities. Even after the declaration of the results of the elections there is a strong feeling amongst significant number of the Afghan people that “outside influence” shaped the election outcomes as well as most of the post election developments that led to the announcement of the run-off and then the subsequent pulling out of Dr. Abdullah Abdullah from the race.

Interviews and discussions during observers briefing in Kabul as well during the post election study mission revealed that, there is a perception that “the results of the election has been fixed,” and so participating in the process was a futile exercise. However, as mentioned earlier people are willing to move on with the outcome “in the interest of the country.”

There are other more critical factors such as power and money—a key to Afghanistan’s politics and governance—which allegedly played a crucial role in the elections. There were ample evidences to suggest that warlords continue to have a significant influence and they can decide fates of politicians and political parties. Experiences of the last two elections, 2004 and 2005 are cases in point of such power brokering by warlords.¹⁵

The presence of either domestic or international observers groups does not help to plug these flaws which are deeply entrenched into the system. Moreover, the prevailing security conditions forced observers to stay away from a good number of polling centres which were out of bounds. There was no mechanism which could be used by observer groups to monitor or report frauds from precincts where security was virtually absent. Most of the ghost polling stations where maximum frauds were committed were located in these areas.

¹⁵ Refer ANFREL 2004 and 2005 Election publications on Afghanistan.
See <http://www.anfrel.org/report/all.asp>

Most of the post election period, which witnessed delay in the recount process was a result of detection of fraudulent ballots from ghost polling stations. A senior UN official's insistence of removal of ghost polling stations from the list of polling stations, that led to a rift with his superior exposed in what many called, "an outcome of the lacunas in the process."

While it is a general phenomenon that attempts to infuse democratic ideals in the progress of a war-insurgency affected nation/country, will be met with immense varieties, sizes and levels of complex deterrants, Afghanistan's slowed transition towards democratisation is a special case in today's global world. The brutalisation of normal life, resulting from the persistent war/conflict that characterises the country also make the transition towards a peaceful democratic society a particularly difficult one. Yet, one has to acknowledge that all attempts towards reconstruction of a peaceful Afghanistan must be simultaneously accompanied by exercising of democratic processes, specifically the mechanism of elections, despite all limitations and hazards that arise during the process. If the anomalies and irregularities that have been mentioned above present to us a grim picture of Afghanistan's transition, we need to also acknowledge that the reality is not an irreparable one, though an extremely tough one.

The international community has to acknowledge its responsibility, beyond military support, in making the necessary transition a viable and sustainable one. After all it is a reality that Afghanistan's rich history and freedom has been tattered by forces external to it. If the principles of "free and fair" elections and "Afghan-led electoral process" are to translate into a lived reality, the bases which ensure this atmosphere also need to be rebuilt into solidity.

ANFREL's EOM Report is to bring forth the complexities that determine the Afghan electoral process, which can serve as a tool to understand the possibilities of democratisation and stability of Afghanistan and its people. While election is a necessary tool to ensure democratic principles as the basis of any modern nation state, its success will stand limited in relation to the nature of the society, on the degree of peace that exists in the society, on the material reality of the society.



Peoples' Participation in Democratisation

Voices from the People

The challenges notwithstanding, it would be too premature to conclude that Afghanistan is becoming a case of hopelessness. The hope expressed by the people on the streets and even the most illiterate, that “change is possible only through elections,” is a case in point of people becoming more receptive towards change and democracy.

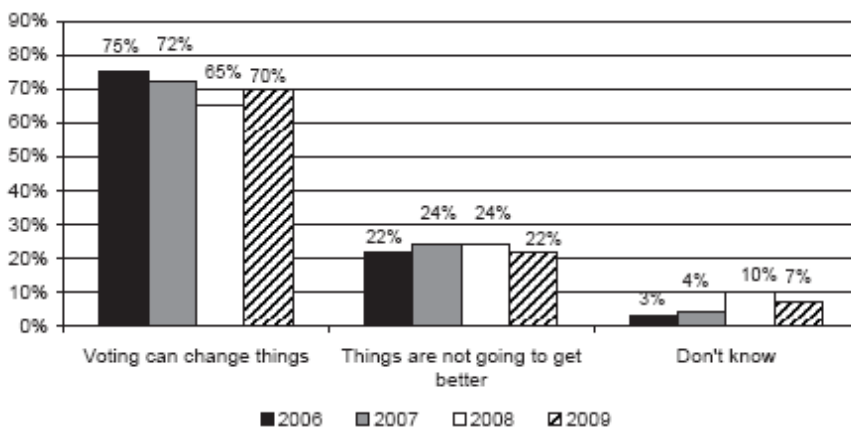
Different notions of ‘democratic rule’ is said to have been a feature of this great country in the past. Today however, the form of democracy that is often talked about is a popular one which is said to be representative of all sections that makes up the social milieu of this country.



To achieve this democracy the only real experiment that has been tried is the ballot or in other words elections with an aim to give power to the people. After the US victory against the Taliban in 2001, the first real test was in 2004 when the Presidential Elections were held, followed by the 2005 *Wolesi Jirga*. Since then a few things have changed but nothing much really. For many it's the same old Afghanistan where terror in one form or the other keeps everyone on tenterhooks.

The voices that we hear are of people who have seen it all from the fierce gun-battles to bomb attacks on civilians and man made devastation of centuries of culture and history. People are wary of this reality that is so fraught with violence and they genuinely desire a peaceful life and country, they want to move on with the rest of the world and not remain in isolation any more.

The TAF survey projects as much as 70 per cent, that is more than two-thirds of the population as saying that they believe that election can bring about changes. Only about one-fifth (22%) are skeptical of whether elections can change things regardless of whether they vote or not. (Refer to Annex)¹⁶

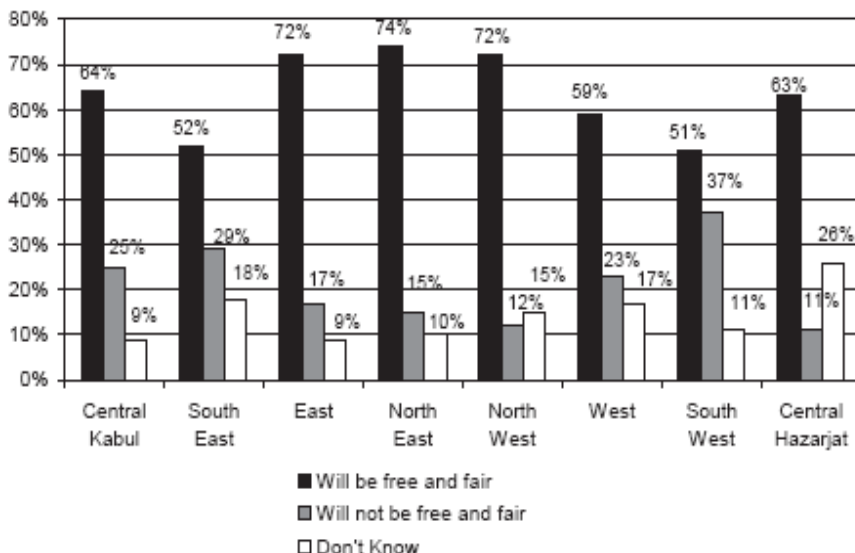


Graph showing respondents views on whether voting can lead to improvement in the future. (Courtesy: TAF Survey)

The survey has also indicated that as compared to the years between 2006 and 2008, the mood this year is more upbeat, perhaps for the fact the year happens to be an election year. The fact that the enthusiasm did not translate into votes has been already attributed to the changing security dynamics and inadequacies in the election to provide for a clean and fear free election process.

¹⁶ Report available online at <http://asiafoundation.org/resources/pdfs/Afghanistanin2009.pdf>

The survey shows that the majority of those who expressed optimism about elections and said that they believe votes can bring changes were from the North, North East and Central provinces, areas which were covered by ANFREL. In the South and Southwest, only half the numbers expressed their faith in electoral democracy.



Graph showing respondents' views on whether the upcoming elections will be free and fair. (Courtesy: TAF Survey)

Women's Participation in the Pre-Election Phase

Throughout the campaign period there were mixed reports regarding participation of women in the election process. On the one hand there were reports that women were under severe pressure forcing them to stay away from voting,¹⁷ whereas on the other there was ample evidence of women and minority groups voting without fear or duress.

From the findings it is evident that cultural reasons played a critical role in restricting women's participation in the elections in different parts of Afghanistan. There are several other factors which contributed to the

¹⁷ ANFREL reports from six provinces during the Pre-Election EOM

poor participation of women. However, a few Kabul based women's organisations provided a different picture and said that 58 per cent of the electorates who cast their votes in the August elections were women.¹⁸

These claims made by the women groups may not be unfounded as in a few of the provinces covered by ANFREL there seemed to be no let-up in the enthusiasm among women to go out and vote. Many women set aside fears to run in the elections. Two were among the more than three dozen Presidential candidates and 328 women ran for the Provincial Council Election,.

No doubt there was a conscious attempt, regardless of the obstacles, by women to make their presence felt. It maybe worth mentioning here that the Constitution of Afghanistan grants equal rights to women, allowing them to run for office besides providing them a 25 per cent seat reservation in the Provincial Councils.

Moreover, women's groups mounted two campaigns: Five Million Women's Votes and My Vote Counts. These campaigns apparently made a difference in some pockets of Afghanistan.

According to the women's groups their concerted effort was able to accomplish two things:

1. Increase in number of women who ran for Provincial Council positions (all provinces had women candidates)
2. Increase in awareness among women voters of the importance of voting

The women's groups screened the Presidential candidates, asking them about their position on issues affecting women. The groups then "educated" the women voters about the stand of the Presidential candidates on issues important to women. They mounted forums and meetings among women to disseminate this information.

¹⁸ ANFREL post election study team's interview with AWEC members

However, a contrary picture can be put together based on findings from as many as 10 provinces where the EOM was undertaken by ANFREL. If what reports from the ground are to be believed than it would indicate to “a serious lack of awareness about election amongst women.”¹⁹

While security was identified as the common factor impeding free movement of women during the electoral process, existing customs was the other major reason. In most of the interviews the male members seemed not too comfortable with the fact their women should be in the forefront of political activity. For most the pretext was the “conservative culture,” which they said did not allow for such concessions.

In most of the provinces male members of families said that they had no objection to their women voting and taking part in the process of democracy building, but when it came to questions like women taking leading roles as campaign managers and decision makers, the reply was in the negative.²⁰

The case of male not wanting the female members of their family into politics and decision making was not just a case amongst the illiterate and the poor, even the educated parroted the same lines. For instance in Sar-e-Pul from the 20 meetings attended by ANFREL observers, the answer to women’s active participation in politics was a firm “no.” Even a doctor said that he was against his wife becoming an active participant in politics.²¹

Women belonging to the Kuchi ethnic groups and those that stay in the Helmand refugee camps on the outskirts of Kabul appear not to have the right to go out and vote. Interviews with the Kuchi tribe and representatives of the Pashtun speaking internally displaced peoples (IDPs) from Helmand showed that women would not be allowed to go out to vote. The reasons cited were “cultural and religious restrictions”.²²

¹⁹ FEFA report

²⁰ Interviews with community leaders in Parwan, Baghlan, Faryab and Sar-e-Pul (also know as Sar-e-Pul in Persian)

²¹ A doctor in Sar-e-Pul hospital told ANFREL LTOs that he was opposed to the idea of women member of his families getting involved in politics.

²² Interviews conducted by ANFREL core Team and the post election assessment team.

A manager of a radio station said that a live radio chat programme conducted by them in Panjsher revealed that at least 10% of women cannot go to vote. Some men declared that they would tell women who to vote for.

Incidentally, ANFREL EOM findings are not too different from the FEFA reports. A FEFA report says that, “They (women) didn't know how to vote, so they asked IEC staff to help them to vote. A considerable number of women did not even know that they had to vote both for Presidential and Provincial Council Elections.”

The report further elaborates that on the Polling Day there were many cases of fathers voting with cards of their daughters and also their wives. “In the more conservative and poor areas of Afghanistan women do not have the freedom of choice.”²³

The report further states that challenges of elections are only a part of the problems that women face in Afghanistan. Generally, women's problems in Afghanistan depend on the following factors:

1. Illiteracy and lack of awareness in Afghanistan;
2. Patriarchy
3. Insecurity, especially for women.
4. Inadequate opportunities and financial resources for women (especially female candidates).

The report adds that the above mentioned problems are common to most provinces, with slight variations. For example, women in southern provinces face more problems than those living in Northern Afghanistan.

Women's participation both as candidates and voters was not as conspicuous as men. This perhaps explains why women face greater opposition than their male counterparts. In many cases it was discovered that though women had registered as candidates, they preferred to stay away from campaigns and even their constituencies.²⁴

²³ *Ibid.*

²⁴ *Reports from ANFREL LTO and STO teams in Takhar and Kunduz*

The media too did not report much of women's campaigns or threats that many women candidates were receiving during the pre-election campaign periods. This further prevented women from taking "unnecessary risks."

The ANFREL team received report from a group of young girls in Parwan province about how they were subject to violence for going to school. An 18-year old girl and her friend who were interviewed said acid was thrown on their face for not listening to some elders who told them not to go to school. The same girls said that their families stopped them from going to vote.²⁵

But in the same province there were those who believed that the situation had become much better. For instance a woman Provincial Council independent candidate said that the 2009 election is better than before as there is more space for women to participate in the election and also attend campaigns.²⁶

There were encouraging reports from a few provinces located in the extreme North. In Jawzjan for instance women were the more prominent campaigners who participated in large numbers in campaigns. The story of the 'women power' here was unique as they openly proclaimed that they would vote only if their leader General Dostum returned from exile and told them who to vote for.

Women's participation was particularly affected by the violence and intimidation in North, North East and Central provinces of Afghanistan as the case elsewhere. Women groups and women candidates who were viewed as an important vehicle of voter education for women came under threats from unknown groups and religious leaders who continue to resist participation of women in the political life of the country. A case in point is that of Masuma Shada, a Provincial Council candidate, who was told to stop campaigning. Her posters were torn down and she received messages asking her to stop.²⁷

²⁵ Report from ANFREL LTO team in Parwan

²⁶ Shohnawaz Dani, a Provincial Council candidate in Parwan province expressed hope in the electoral process. ANFREL LTOs met her in the province during an election campaign.

²⁷ Report from ANFREL LTO team in Sar-e-Pul

A similar case was reported from Baghlan where a female candidate, Gulshan Nawabi was allegedly threatened on the phone. She said people claiming to be Taliban called her twice telling her to withdraw from the elections.²⁸

Most of the women's groups interviewed criticized the IEC for the delayed preparation for the election in spite of the fact that the August 20 election had been scheduled several years earlier.

Women's organisations representing the Afghan Women's Network summed up the "IEC's inefficiency" as follows:

1. Inability to hire women poll workers, hence some poll stations for women were not open;
2. Inability to act on request from women groups to provide security to Provincial Council women candidates;
3. The 'Gender Unit' at the IEC was mobilized only on the last month of the election. The person designated to head the unit had no sense of the task(s) required of the unit or of the position.
4. The banes of the women's group are not the candidates or the voters; it is the media. The media continues to belittle or make fun of the programs and initiatives of women.
5. Ethnicity did not define voting, which is different from the claim of other CSOs. Women's issues did.

Most of the women depended on their experiences of the 2004 and 2005 elections to vote. During the campaign period participation of women was very low key. In most of the rallies attended by ANFREL observers mostly men were visible. Occasionally women turned up that too in not big numbers.

²⁸ *Report from ANFREL STO team in Baghlan*

Women Power-Speak

Jawzjan Women and the Afghan Political field

One of the most important and starkly visible aspects of the Jawzjan roads was the moving figure of the women clad in light blue burqa. The first few days in Jawzjan, I thought it would be quite impossible to see the faces of any women on the streets. What a loss. But all was not so uniform and homogenous. If there were faceless women, there were also women with faces, bright eyes, a clear skin and with extraordinary confidence. A few days before the grand and historic return of their “much loved leader” in exile, General Dostum, Afghan women along with the men and children thronged into the streets of Sheberghan city, aggressively demanding the return of Dostum.



***Ms. Amrapali
Basumatary, LTO,
Jawzjan***

The regular faceless visibility of the women turned into not only visible but strongly political presence as they rallied in the city. Standing in the forefront of the mass that gathered outside the palace of General Dostum, the women asked me to come closer to them so that they could be interviewed. Five to six women, who said they were active members and leaders of the “National Party”, stood together, vociferously stating “if Dostum is not brought back to Afghanistan, then we will not participate in the elections. Even if we participate, we will vote for our candidate of choice, we will not promise anyone”: the election was just five days away. If Dostum is the king-maker, then these women are indispensable parts of his life line. These women, clearly, could not be the ones to parrot a political choice which is external to their own politics. There was conviction, choice and resistance in their voice, unlike the usual projection of Afghani women as passive followers of male choice.

The politics of Sheberghan and the Northern provinces, which have been historically the stronghold of Dostum, is marked by the strong presence of women, who are unlike the imagery of Afghanistan women usually projected to the world outside. When finally the historic and dramatic return of Dostum did materialise, the jubiliante of his supporters was boundless. Thousands of his supporters gathered in the stadium in Sheberghan city on 17 August, 2009. The women, who had talked to me a few days back in the rally demanding his return,

were present. We recognised each other and they held my hand to tell me how happy and exalted they were. Umaira Khwazizada and Munira Arazu stood in front, like the previous day.



Pro-Dostum Rally, 14.08.09, Sheberghan, Jawzjan Province, Afghanistan.



Pro-Dostum Rally, 14.08.09, Sheberghan, Jawzjan Province, Afghanistan

While the “unflinching” support and pro-Dostum emotions might run high amongst these women, which could possibly evade the dangerous flaw in the iconic persona of Dostum, what these women cherish is the fact that Sheberghan and Jawzjan province, also the entire northern provinces of Afghanistan, wherever Dostum ruled as the favourite, in presence and in absence, gave them a history which was peaceful, more egalitarian and not conservative like the other parts of the country. These women know that they could be educated and employed and feel freer because the history of Sheberghan has been unique. It is important why so many women and with such vibrancy and vigour could be out there in the streets, doing politics. The nature of politics might evolve but these women have set the momentum of

history already, that is, to assert their politics and aspirations. The larger issue is about freedom, the word that they so much used and loved to use throughout our conversation, amidst twisted brows of concern about future of the people, happily interrupted by smiles and laughers, on the return of their leader. This moment in history, which these women inhabit and construct, will talk much about how democracy shapes in the ravaged country, notwithstanding the influence of the warlords, the men, the troops and the power mongers that feed on the country and its people.

The participation of Afghan women in the electoral processes and statistics of female voter turn out should be understood in terms of nature of both the Afghan society and the Afghan politics. It directly puts the principle of democracy into test and it is not merely a truism to state that democracy without women (or less participation of women) is no democracy at all. The inequities that exist in the structure of the society also puts into question as to how the democratisation process is evolving in Afghanistan. The various instances of, mostly lopsided, women's participation in the August 20 election and during the pre-election period is an index of what is and what needs to be done to ensure a free and fair election in the country that is struggling so hard to establish a stable democratic state.

The number of illiterate women clearly exceeds that of men.²⁹ And apart from the question of education, the question of patriarchal domination, blatant as well as subtle, needs to be addressed by the society. While the Northern provinces are relatively liberal than the Southern and Eastern ones, the plight of women across the country is a commonly lived reality. Where the Afghan's women have the right to equal opportunities is ensured by the Constitution, the patriarchal society arrests women's access to this right by a systemic and structural control and subjection of women.

However, the dent into this structural and systemic control is already witnessed in the women's willingness to participate in the electoral process, despite cultural taboos. The society is evolving and the standards of freedom and liberty that define the societies of other worlds, especially the west, cannot be the parameter on which the Afghan women's efforts towards a democratisation process which acknowledges the necessity of gender-equity in all realms of life. This is where one has to understand that the international community has to be sensitive to the type of regime/government that is elected by the people, the process must respect the basic value of women's life in terms of equality.

²⁹ Unofficial sourced disclosed 82 per cent women are illiterate in urban and rural area of Afghanistan.

ANFREL's focus on Afghan women's participation in the August elections has been to highlight and enable comprehension of Afghanistan's transition towards election-based democratisation, how successful it has been in real terms since the 2004 and 2005 elections. And because women are the worst affected in any situation of conflict and war, because the situation of Afghan women is caught in a complex web of war and cultural taboo, special in itself, all attempts of upholding and holding of free and fair elections, must take them along if Afghanistan is to be rebuilt.

The electoral law in Afghanistan provides that all eligible citizens are guaranteed the right to universal and equal suffrage as well as the right to contest elections without any discrimination. Imposition of any kind of direct or indirect restriction on voters or candidates on the basis of language, religious, ethnic, gender, tribal, geographical, or social status is prohibited. (Article 2 to 5)

As per the Election Law seats have been reserved for minorities and women in the country. Thus ten seats were allotted to the Kuchi under the law but it is mired in controversy with question on its constitutionality. This has been controversial, partly because, unlike the seats reserved for women it was not mentioned in the Constitution. Some have argued that it contravenes the Constitutional guarantee against discrimination and distinction between citizens (Article 22). The Constitutional reservation of 68 seats for women in the lower house of the Parliament is a right step in empowerment of women in electoral politics. However, the words "at least" in the Constitution make 68 a minimum and not a maximum leaving wider scope for women getting elected in the Parliament.

The Nomads (Kuchis): Forgotten People

Election will always be treated as a milestone in any democratic transition and so should be the case in Afghanistan which is in a similar transitory phase. The elections this year was definitely a significant step towards a democratic order, no matter the controversies. What is most important is to determine whether such a process raise hope within the people, in particular the electorate who went to the polling stations to cast their franchise regardless of the threats from AOGs.



***Ms. Somsri
Hanananuntasuk***

Amongst these brave voters were the Kuchis who make up about 2.83 per cent of the total of approximately 15,295,016 electorates in Afghanistan. The Kuchis are a nomadic tribe which has evolved as a fascinating migratory people moving across Afghanistan semi-annually. Kuchi in Persian means “those who move.” There are about two million Kuchis spread across Afghanistan. Their numbers have dwindled from over three million owing to continuous wars and modernisation.

Though small in number the participation of Kuchis in the electoral process in Afghanistan is extremely important. The Constitution provides them the right to vote in any constituency all over the country, but only for the Presidential Election.

The Kuchis interviewed in Kabul said they would go to vote. Most of the men said that they would go to vote, whereas the women preferred to keep silent.

A Kuchi leader staying in a camp on the outskirts of Kabul said “we want the government to look after us and give us back our lives as independent Kuchis and not mix us with IDPs. Because of war and no help from the government we have to forget our culture.” Many Kuchis have been reduced to casual labourers and beggars.

The Election Law needs to be more specific and clear on the participation of the Kuchis in the election process and in the politics of the country. For instance articles 29(2), 32(2) and 29(2) require seats to be allocated to Kuchis if they are present for provincial, district and village councils based on their population. But the article is silent on who will do it and what will be the criteria for determining their presence. This leaves scope for controversy. Further, there

has been a deadlock in the Parliament on the issue of allotment of ten seats to Kuchis (Reservation for nomads) under Article 9.



Kuchi polling station

While the reservation of seats in Parliament gets resolved the voting rights of the Kuchis must be ensured at all times. There must be continuous efforts to register young Kuchis every year after they enter the voting age. The IEC says that the problem with registering Kuchis is locating them to a physical street address. Special measures have been undertaken to calculate the Kuchi voting population while taking into consideration their special traditions of movement.



Talking to Kuchi families near Kabul

According to the IEC election operation plan there were specific polling stations for Kuchis in 31 Provinces, except Bamyan, Dykundy & Nooristan as Kuchis do not reside in these three provinces.

The total number of Kuchi polling stations provinces was 1348.

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Start Date: 05 Apr 05
End Date: 30 Dec 05

تاریخ شروع: ۱۷. حمل ۱۳۸۴
تاریخ ختم: ۹. جدی ۱۳۸۵

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قابل توجه
لطفاً هنگام عبور از پل آرماتورهای ششای و بارشودن
در تکیه و سطح کفش خود را از آرماتورهای



Election Overview

Constitutional Overview

The present Constitution of the Islamic Republic of Afghanistan was born out of the Bonn Agreement following the ouster of the Taliban led regime in 2001. It remained as an interim arrangement until January 4, 2004. Thereafter it became the official law of Afghanistan. More than 500 delegates representing Afghan men and women from across the country at the Constitutional *Loya Jirga* (December 13, 2003 - January 4, 2004) endorsed the Constitution.

The Constitution laid the foundation for a head of state, an elected President and a National Assembly and two houses, the Lower House of People (*Wolesi Jirga*) and the House of Elders (*Meshrano Jirga*). However, before the adoption of the Constitution, an emergency *Loya Jirga* nominated Hamid Karzai, a Khandhar resident and Chairman of the Interim Administration of Afghanistan, as the President of the Transitional Government on June 13, 2002. The Constitution was formally ratified by President Hamid Karzai at a ceremony in Kabul on January 26, 2004.

The first Presidential Elections took place on October 9, 2004, and Hamid Karzai won the majority of votes, which made him the President of the Islamic Republic of Afghanistan for a 5-year term. The election for the National Assembly was held on September 2005.³⁰

The Constitution involves a strong Presidential system. The President of Afghanistan is elected directly by the Afghan people to a five-year term, and can be elected no more than twice. The President has two Vice-Presidents, one being more important than the other because one is number one and the other is number two.

³⁰ For information on the 2004 & 2005 elections in Afghanistan read ANFREL reports, titled, 'Afghanistan Presidential Election 2004,' and Afghanistan: *Ushering in a New Era of Democracy, Wolesi Jirga and Provincial Council Elections 2005*. See www.Anfrel.org

First Transitional Government under Hamid Karzai

Name	Designation
Hamid Karzai	President
Mohammed Fahim	Deputy President
Karim Khalili	Deputy President
Abdul Qadir (d.)	Deputy President
Yunus Qanooni	Special Advisor on Security
Mohammed Fahim	Defense Minister
Abdullah Abdullah	Foreign Minister
Ashraf Ghani	Finance Minister
Ali Ahmad Jalali	Interior Minister
Mohammed Mohaqik	Planning Minister
Masoom Stanakzai	Communications Minister
Arif Nurzai	Borders Minister
Intayatullah Nazeri	Refugees Minister
Juma M. Mohammadi	Mines Minister
Mohammed Alim Razm	Light Industries Minister
Dr. Sohaila Siddiqi	Public Health Minister
Sayed Mustafa Kasemi	Commerce Minister
Sayed Hussain Anwari	Agriculture Minister
Abbas Karimi	Justice Minister
Saeed Makhdoom Rahim	Information and Culture Minister
Mohammed Fahim Farhang	Reconstruction Minister
Mohammed Amin Naziryar	Haj and Mosques Minister
Yusuf Pashtun	Urban Affairs Minister
Abdul Qadir	Public Works Minister
Noor Mohammed Karkin	Social Affairs Minister
Ahmed Shakar Karkar	Water and Power Minister
Ahmed Yusuf Nuristani	Irrigation and Environment Minister
Abdullah Wardak	Martyrs and Disabled Minister
Sharif Faez	Higher Education Minister
Mir Wais Saddiq	Civil Aviation and Tourism Minister
Saeed Mohammed Ali Jawad	Transportation Minister
Yunus Qanooni	Education Minister
Hanif Asmar	Rural Development Minister
Sheikh Hadi Shinwari	Supreme Court Chief Justice

The Constitution defines the Presidential responsibilities as follows:

1. Determining policies with the approval of the National Assembly.
2. Appointing the nation's ministers, the Attorney General (AG), the director of the central bank, and the justices of the Supreme Court with the approval of the main legislative body, the *Wolesi Jirga*.
3. Appointing the nation's first and second Vice Presidents

The Constitution consists of 162 articles and has not been amended till date. This year following the results of the Presidential Elections, the need for amendment to the Constitution has been expressed by members of the public, political parties and the civil society. The situation arising out of the IEC decision to declare Hamid Karzai as the President after his challenger Dr. Abdullah Abdullah refused to participate in the run-off elections to decide the winner has created sufficient scope for introspection amongst members of the public and the civil society on the need to review the Constitution.

The Constitution of Afghanistan authorizes the IEC to administer and supervise all elections, including referendums of the people. Article (156) of the Constitution, states that “the IEC shall be established to administer and supervise every kind of elections as well as refer to general public opinion of the people in accordance with the provision of the law.” Whereas, Article (61) suggests that a run-off election can only be held between two candidates who have received the highest number of votes in the first round, but have failed to get 50 per cent of the votes. The same article states that “the president shall be elected by receiving more than 50 % of votes cast by voters through free, general, secret and direct ballot”.

The law does not specify what should be done in the event of only one candidate participating in a run-off as was the case when Dr. Abdullah Abdullah pulled out. The decision of the IEC to declare the incumbent President Hamid Karzai the winner is not based on any of the articles governing the elections.

Moreover, the law is completely silent on what needs to be done in case of circumstances that point to the need for or the demand for removal for the IEC head. This situation was the case in 2009 when one of the two Presidential candidates vehemently accused the IEC leadership of committing fraud in the elections.

The only other mention about elections in the Constitution is in Article 83 which states that “Electoral constituencies as well as other related issues shall be determined by the elections law.” The article also says that “The elections law shall adopt measures to attain, through the electorate system, general and fair representation for all the people of the country, and proportionate to the population of every province.....”

Therefore, perhaps the question to ask is whether the IEC has the legal mandate to interpret these articles enshrined in the Constitution and take a decision that does not conform to Constitutional principles. A shared perception amongst various sections of Afghan society is that the situation as demonstrated by the recent Presidential Election process and the outcome warrants the need for a clear interpretation of the Constitution by the Supreme Court.

The post 2009 elections period has been dominated mostly by debates and controversies on whether the government under President Karzai’s leadership would be treated as legitimate by the people. There are different opinions, with a substantial number of the masses saying, the President has to prove his legitimacy over a period of time by weeding out corruption. The next best alternative according to the public and members of the civil society groups, political parties and the media is to amend the Constitution.

A review of the Election Law is also possible, but the general perception is that a *Loya Jirga* maybe the possible solution to the bottlenecks resulting from lack of clarity in the laws and Constitutional provisions.

Loya Jirga

A *Loya Jirga* is the highest manifestation of the people of Afghanistan. Members of the National Assembly, chairpersons of the provincial, and district councils, the ministers, Chief Justice and members of the Supreme Court can participate in the sessions of the *Loya Jirga* without the right to vote. *Loya Jirga* is convened to take decision on the issues related to independence, national sovereignty, territorial integrity, and supreme interests of the country, to amend the provisions of the Constitution, to prosecute the President in accordance with the provisions of Article 69 of the Constitution.³¹ The *Loya Jirga* in its first session elects from among its members a chairperson, a deputy-chair, and a secretary and an assistant secretary. The decisions of the *Loya Jirga* are taken by a majority of the present members except in cases as explicitly stated in the Constitution.

The Election Framework in Afghanistan

In any democratic society an election based on “fair rules of the game and transparent implementation” is important as it provides the citizens a freedom of choice to elect their representatives to govern the country. For a free and fair electoral competition in any democratic country it is necessary to have a legal framework of written laws and regulations, an independent election management body, and codified and transparent electoral processes. This not only ensures the credibility of elections but also the acceptance of results by the citizens of the country and the international fraternity. The legal framework for democratic elections should ensure that electoral laws provide equity to all the participants in elections, that various electoral processes can occur without conflict, and

³¹ Article 69 states that “The President is responsible to the nation and the Wolesi Jirga in accordance with this article. Accusations of crime against humanity, national treason or crime can be leveled against the President by one third of the members of the Wolesi Jirga. If two third of the Wolesi Jirga votes for charges to be brought forth, the Wolesi Jirga shall convene a Loya Jirga within one month. If the Loya Jirga approve the accusation by a two-thirds majority of votes the President is then dismissed, and the case is referred to a special court. The special court is composed of three members of the Wolesi Jirga, and three members of the Supreme Court appointed by the Loya Jirga and the Chair of the Meshrano Jirga.

that there is enough flexibility and space for the electoral management body to conduct a free and fair election.³²

The Presidential and Provincial Council Elections in Afghanistan was governed by an electoral law which was approved by the Council of Ministers on 12 May 2004. The law containing (11) chapters and (62) articles in general was issued in pursuant to the Articles 33 (1) and 159 of the Constitution of Afghanistan, regulating elections and electoral matters. The law mandated that the elections be conducted based on free, secret, universal and direct ballots with equal right to participation. The electoral law also called for the respect of free will, encouraged the voters to participate in the elections, and prohibited the imposition of any direct or indirect restrictions on voters and/or candidates on any grounds.

The Political Parties Law, the Electoral Law and the Constitution form the legal framework for the new legislature.

Political Parties Law

Article 32 of the 1964 Constitution of Afghanistan led to the adoption of this law and led to the establishment, functions, rights, obligations and dissolution of political parties in Afghanistan. According to Article 2 of this law, "political party" means an organized society consisting of individuals which undertakes activities for attaining its political objectives, locally and/or nationwide, based on the provisions of this law and its own Constitution. It also stated that the political system of Afghanistan was based on the principles of democracy and pluralism of political parties.

Besides all the existing regulations the IEC issued a Code of Conduct (CoC) as was done in the last two elections. The CoCs were issued for political parties, candidates defining "common rules, boundaries and purpose," for election staff, media, and election observers. A separate CoC was issued for the state media.

³² *Complete Electoral Law can be found in the IEC website www.iec.afg.org*

Incidentally the CoC which was meant to give more room to the IEC to increase the scope of its regulatory powers, made little difference as most of the cases were sent to the ECC for verification. The ECC which was set up under article 52 of the Electoral Law to deal with electoral offences, complaints and challenges, was largely responsible for investigating the large-scale frauds in the elections all over Afghanistan. The IEC did not use its own legal units to deal with cases regarding violations of CoCs. For instance during the nomination application period, instead of being rigorous in documentation on the background of candidates (their criminal background, citizenship, links to groups, etc.), the IEC entrusted all problems to the ECC, (For details refer to 'Electoral Complaints Commission,' page 78)

In-fact the massive frauds that were detected clearly point towards complete violation of the CoC by election officials on duty. The IEC has been defensive and has held the prevailing security situation as the main reason for the frauds, but cases of indulgence in cheating by IEC officials have been found. As many as 200 election officials all over Afghanistan have been blacklisted and have been forbidden from serving with the IEC in future elections.

The governing principle of the CoCs has been established under Article 56 of the Election Law. As per this legal provision in the electoral law the IEC or the ECC are authorized for "all intents and purposes" to take serious decisions against violators and offenders.

Based on the findings of the ECC, it was evident that some of the election officials' had violated the guidelines such as to perform their tasks "according to Constitutional provisions, electoral law, and other entered to force laws in Afghanistan," or to ensure "ballot secrecy." Besides ballot box stuffing in the south, the District Field Coordinators (DFCs) were responsible for misuse of sensitive materials from point of delivery to point of return to provincial office.

However, owing to lack of evidence and shortcomings in the law it may be difficult to take stringent actions against the violators.

An in-depth analysis of the legal framework which guides the elections in Afghanistan will reveal some of the crucial shortcomings in the laws. For instance, during a part of the post elections period, the IEC was under fire from different quarters, including international observers for not preventing frauds even in more secure areas of the country. The IEC's recruitment policy has been questioned and criticized by political parties, civil society organisations, lawyer's organisations, the media, and observer groups. There were demands for removal of the IEC President on charges that he has allowed the IEC to be misused by influential persons and parties for political gains. However, these allegations have not been confirmed and the law is either silent or vague on how such situations need to be tackled. As mentioned earlier the IEC decision on the outcome of the election was responsible for the debate, but owing to lack of adequate legal interpretations and explanations, the decision regardless of being unconstitutional has been accepted in the larger interest of the country and peace.

Election Administration

Structure of the Election Management Body

The IEC was set up following the dissolution of the Joint Electoral Management Body (JEMB) in 2006. The JEMB resulted from a merger between the Interim Afghan Election Commission (IAEC) and the United Nations Assistance Mission in Afghanistan Electoral Component (UNAMAEC). The JEMB was established by Presidential decree in July 2003 with a mandate to administer all elections during the transitional period as defined by the Bonn Agreement. It was primarily responsible for the conduct of the 2004 and 2005 elections in Afghanistan.

The JEMB was dissolved 30 days after the inaugural session of the National Assembly, and as of 2006, the IEC, which is essentially a fully Afghan led institution with its own financial resources supported through the Afghan National Budget has been in sole charge of all election activities in the country.

According to Article 156 of the Constitution, the IEC has the authority and responsibility to administrate and supervise all kind of elections as well as refer to general public opinion of the people, in accordance with the provision of the law.

It is made up of seven electoral commissioners appointed by Presidential Decree No.21, dated 19 January 2005. The board of commissioners consists of a Chairperson, a Deputy Chairperson and five members. The commission is an oversight body, responsible for the overall policy making and supervision of the process of the elections. The IEC secretariat is the executive body of the commission. Professional electoral staff of the secretariat are implementing decisions, regulations and procedures adopted by IEC.

The planning and execution of electoral operations, including candidate registration, polling and counting will be conducted by the IEC secretariat, which is headed by the Chief Electoral Officer (CEO) and two Deputy CEOs.

Independence and Neutrality of Independent Election Commission

The IEC vision and mission statement specifies that an independent and effective electoral body is fundamental if Afghanistan is to be seen as committed to the sustainable development of the democratic process. The topmost officials in the IEC seem to believe that the mechanisms of a democratic, free and fair election are a priority for the commission.

Unfortunately, there is a shared perception among various sectors of the Afghan society that the IEC was not independent, impartial, and transparent in the last Presidential Election. Unless this perception is corrected early enough, the citizenry may lose faith in the electoral process as the basic foundation of democracy or as a vehicle for a peaceful transition of power in government.

Different groups and individuals interviewed by ANFREL were critical of the IEC administration capabilities. There was apparently “no mechanism” to ensure the impartiality of the staff. The Free and Fair

Election Foundation of Afghanistan (FEFA) found that there were glaring lapses in the recruitment process as well. For instance in one area, a political party agent was the head of the poll center, which allowed her to indulge in violations to benefit her political party. A few cases showed that in some areas, the frauds that were detected were systematic and orchestrated with the help of IEC staff.

IEC Legal Status

The Constitution has only two provisions that mention the IEC (Article 156 and 159). Interestingly, the Constitution (Article 64) enumerates the duties and powers of the President such as the appointment of heads of the various government offices but no mention is made of the IEC. The Election Law is equally silent on the manner of the appointment of IEC members, their term of office, the manner and the reasons by which they can be removed as well as the qualifications for membership in the IEC. There may be decrees from the Transitional Government defining these. But this can only reflect the significance assigned by the framers of the Constitution and the Election Law to the IEC if not on the electoral process itself.

This is a departure from the practice of even emerging new democracies that place great significance on the composition, functions and management of an electoral body either in their Constitutions or in their electoral laws. This may partly explain the unwanted events that took place during the election period and the unresolved controversies that ensued in the post election period.

It must be reiterated that members of the Election Commission must not only be independent and impartial but must be perceived by all political contestants as objective. In the case of Afghanistan, the President alone has the prerogative to appoint the commissioners of the IEC with no “checks and balances” on this presidential prerogative, such as the concurrence of the parliament. Understandably, their ‘independence’ was put into question by the parties/candidates from the opposition since they owe their appointment solely to the President.

Guideposts

The Constitution speaks of an Independent Election Commission. Hence, this paper will not propose other EMB Models. We endeavor to present guideposts that can be considered within the short term to ensure that the IEC is independent, impartial and transparent. (Refer to recommendations)

An election is too often likened to a sporting game with different players performing distinct roles under an established set of rules that provide a “level playing field”. Every sporting game has officials who ensure that the game is played according to the rules. The rules mean little if the officials (umpires and referees) are partial and incompetent in overseeing the game. Similarly, an Election Management Body (EMB) plays an essential role in an election as they are assigned the task of enforcing the “rules of the game”. The credibility of an election then depends in large measure on how the members of the EMB perform their duties.

To be credible, the public must regard the EMB as independent, impartial, transparent, and accountable. It must not be beholden to any government power or political interest; it should apply the rules equally to all the political contestants, allow all the stakeholders (candidates, parties, media and civil society) to scrutinize all its official acts in a transparent manner, and must be answerable for all its actions and decisions.

The Electoral Complaints Commission

The ECC was established by the Election Law (Chapter IX, Articles 52 – 54) “In order to deal with electoral offences, complaints and challenges...” Apparently, this came as a result of mistrust on the judicial system of the country which many Afghans and others believe is not working. True to its mandate, the ECC performed its tasks creditably in the last election. It resolved complaints in an objective and impartial manner.

ANFREL trusts that the ECC used a statistically sound sampling method to audit the frauds. The decision of the ECC with regards to the recount and audit was based on evidence and conducted in a scientific and impartial manner.

The ECC detected sufficient frauds to declare 23 per cent (more than one million fraudulent votes) of the votes as invalid. The commission received 2,854 complaints. Its investigation of 452 polling centers found that 50 per cent of the polling stations were rigged. The ECC also found that in 23 polling districts 50 per cent of their polling station results were fraudulent. This perhaps explains why the conduct of the IEC staff at all levels should be questioned.

However, notwithstanding a very comprehensive method that the ECC undertook to investigate the frauds, its actions have not been effective in so far as the question of legitimacy of the electoral process is concerned. The reason for this could be attributed to the lack of a professional working mechanism between the ECC and the judicial system. For instance the AG's Office (prosecutor) seemed reluctant to follow-up where the ECC job ended, mostly on the pretext that there is "not enough evidence."

The ECC too does not have a professional investigation mechanism in place for further inquiry and the collection of evidence.

As per best practices any decision to prosecute should be taken on the available evidence and without political consideration. At the same time, failure to prosecute electoral offences can undermine confidence in the election and encourage further offences

However, what also assumes great significance in determining the functioning of the ECC is that it was established rather late and was therefore unable to set up its provincial offices on time. This to a certain extent compromised its ability to hire competent personnel that would have greatly reduced the number of complaints at the national office of the ECC. The recommendation of the ECC that the provincial ECCs be staffed by civil service personnel from the various ministries such as the

Ministry of Justice³³ should be looked into. This will greatly elevate the capacity of the provincial ECCs and provide a pool of professional staff that can be seconded to the ECC every time there is an election.

There is a need to clarify and delineate functions between the IEC and the ECC. If the ECC was swamped with complaints in this recent election, it was because the IEC found it convenient to refer complaints/problems to the ECC. The IEC for instance is empowered to screen and reject candidate nominations if the nominees are found to be unqualified. For instance during the nomination application period, instead of being rigorous in documentation on the background of candidate, e.g. crime, citizenship, links to groups, etc. IEC relegated all problems to ECC.

Similarly, the recount of questionable ballots from dubious polling stations could have been done much earlier had the IEC ordered the recount. Again, the IEC stalled and waited for the orders from the ECC. This unnecessarily prolonged the certification of the results of the election.

A reading of the Election Law would give the impression that the ECC has enormous powers. Yet, the law does not provide any mechanism by which the decisions and rulings of the commission may be implemented. As an *ad hoc* body, the commission ceases to exist thirty (30) days after the certification of results of the elections. Who and how will the ECC's decisions and rulings be enforced?, a representative of Afghanistan Human Rights and Democracy Organisation (AHRDO) believes, "the candidates and parties may just ignore them".

The coming 2010 Parliamentary Election is only months away. This will mean that there will be many more candidates from the 34 provinces and necessarily, it will mean a lot more filing of complaints. Now is the time that preparations should be made so that the provincial ECCs can be established with much more competent staff and greater capacity.

³³ *ECC Chairperson Grant Kippen provided several suggestions on revamping the ECC during an interaction with ANFREL observers. One of the suggestions was that the Provincial ECCs should be staffed by civil service personnel from the various ministries for the next election.*

The ECC with its present composition of three foreigners (UN appointees) out of the five members appear to be acceptable to the Afghan people simply because of their lack of trust on the prevailing judicial system. For the long term however, a transition plan should be considered so that this will be an all Afghan body. Elections are an act of a sovereign people of a sovereign nation. Therefore, it should be in the hands of Afghan citizens.

Inherent Limitations in the Laws

ANFREL is in agreement with the November 2, 2009 decision taken by the IEC to call off the second round elections, especially considering the high financial cost that the run-off elections would have incurred. The cancellation thus preserved the national interests of the country by preventing a possible political vacuum and political crisis which may have resulted had the process been prolonged.

However, there is no denying the fact that there are shortcomings in the law.

As mentioned earlier the law does not specify what should be done in the event of only one candidate participating in a run-off. The decision of the IEC to declare the incumbent President the winner is not based on any of the articles governing the elections.

It may be noted that provisions of Article (55) of the Election Law suggests “postponement, suspension or re-run of the elections if the security, financial or technical condition or other unpredictable events or situation make the holding of an election impossible or seriously threaten the legitimacy of an election.....”

There is no doubt that the IEC decision to cancel the run-off election and its setting aside of the corruption charges laid by the candidate who boycotted the election has created the potential for more problems. Reactions like, “How can it be legitimate when the process is flawed?”, “The future is bleak for Afghanistan” and “The people will treat the leadership as illegitimate”, were common statements given to ANFREL by

the educated and more literate sections of the society in the days following the decision to cancel the run-off election.

The electoral laws have shortcomings and is unnecessarily complex, with a number of overlaps between the Acts and regulations. In fact the IEC made substantial suggestions for changes and the draft law with amendments was submitted to the cabinet. The cabinet accepted only a few of changes suggested and the amended law was placed with the lower House or the *Wolesi Jirga*. However there was deadlock in the Parliament on the issues of ten seats allotted to Kuchi (Reservation for nomads) under Article 9. The only amendment in the electoral law accepted by the *Wolesi Jirga* for the 2009 Presidential and Provincial Council Elections is that it takes away IEC's right to determine where counting will take place and sets "districts and nahias" to be the counting centers. However since this amendment was not enacted by the Parliament the IEC acted on its own and has decided that counting of the votes would be done at the polling centers.

There is a lack of clarity in the operational aspects of the law. Some crucial one are as follows:

1. Articles 29(2), 32(2) and 29(2) require seats to be allocated to Kuchis if they are present for provincial, district and village councils based on their population. But the article is silent on who will do it and what will be the criteria for determining their presence. This leaves scope for controversy.
2. Article 16(2) provides a 15-day limit between first round Presidential Election results and the holding second round of elections. The time period for conducting the second round of elections is not at all practically feasible. Reason it does not take into account the time required for printing new ballots and distributing it all over the country.
3. Article 17 requires that the newly elected President be sworn into office 30 days after certified results are declared. This is a rigid clause and does not factor in the situation if a second round of Presidential Elections needs to be held.

4. In the previous election there was controversy over whether the reservations of 68 seats for women were a minimum stipulation or a maximum. The interpretation of the electoral laws seems to be the maximum while those in the Constitution seem to be a minimum. It is ambiguous and need to be amended accordingly.
5. Article 16 provides voting location with special groups voting rights. Though the list is comprehensive it does not include policemen on duty, patients in hospitals and those voters who are away from their province on Election Day.

The IEC had formulated CoCs for election observers, media and political parties. However the CoCs for observers had two provisions that were not in consonance with the CoCs issued by European Union and other organisations. The two provisions of CoCs that were a matter of concern with the observers are: *firstly* observers must respect any limitations of time and place imposed by IEC officials to deal with crowding by observers during an election process. This meant that polling officials had the discretion of defining overcrowding and stop observer from observing the elections. *Secondly* Observer organisations and their representatives must obey this CoC. Violation of it could lead to removing accreditation or serious *discipline* from IEC or the ECC.

Electoral System

The electoral system that was adopted during the first Presidential Election held in the year 2004 was based on “Single-Non-Transferable-Vote” (SNTV). Under SNTV system the voter votes for only one candidate regardless of the number of seats allotted in a given electoral constituency. SNTV was chosen as the electoral system for Afghanistan in 2004 due to two main reasons: Firstly SNTV is a very simple method of electoral system and was best suited for Afghanistan due to lack of exposure to elections for a long time coupled with high levels of illiteracy. Secondly the people of Afghanistan generally have a sense of distrust for political parties due to their role played during the invasion of the country by Soviet Union. SNTV does not facilitate the role for political parties but focuses more on candidates.

SNTV was need of the hour in 2004 as elections were important to establish a peaceful and democratic government in the country after three decades of conflict and widespread violence. But SNTV acts as a hindrance in the development of political parties as it does not promote party development and growth. The existing governments' apathy towards the political parties and playing it against one another led to non development of viable political parties which are essential in a Parliamentary system.

The flaws and limitation in SNTV as an electoral system are as follows:

1. SNTV presents a problem to parties in the nomination and fielding of candidates in the elections. If a political party fields too many candidates its votes may be fragmented and not a single candidate is elected.
2. Under this system, candidates of one party do not only compete against the candidates of rival parties but also against the candidates of his own party. As a result each candidate is concerned in winning his own election and is not much concerned for the other candidates of his party or the party.
3. The system does not allow for an even playing field for all the candidates as candidates with larger financial resources have a better chance of winning the elections. In comparison candidates with limited resources have lesser chances of winning as polls in 2005 elections in Afghanistan reveal.
4. SNTV promotes "personality cult in politics" as it does not necessarily elect candidates who are best qualified to be elected. As a result qualification for getting elected and the primacy of political parties fade in the background.

Political parties could have played an important role in embedding democracy in this election in Afghanistan by mobilizing candidates from diverse ethnic and linguistic groups. Party mobilization cutting across diverse ethnic groups with a pre election agenda would have played a constructive role in framing policy for the progress and development of Afghanistan.

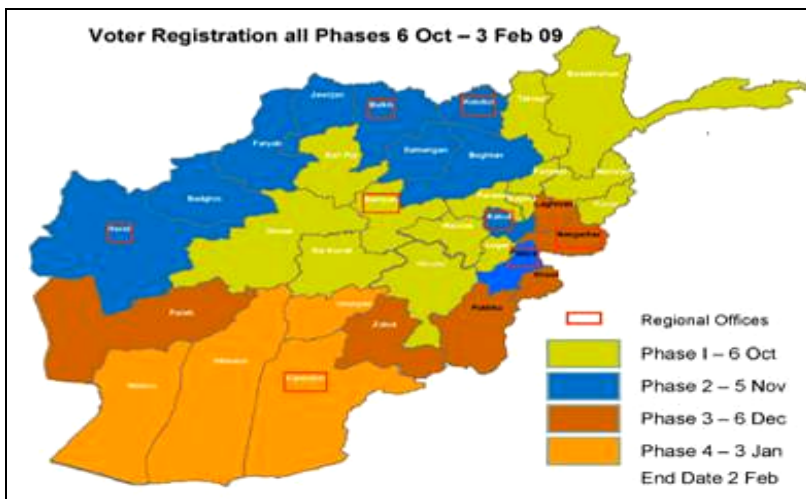
Voter Registration

No one knows exactly how many registered voters there are in Afghanistan. Interviews by ANFREL with various election stakeholders yielded varying figures. A representative of the Afghan Civil Society Forum (ACSF) said the IEC reported 17 million, a figure he doubts. He gave a plausible explanation for it, namely, that more than 2 million Afghans live in Pakistan and Iran, half of the population are under 18 years old and that half the population are women, many of whom are not registered. An official of the IEC claimed that the registry has 15 million voters while the ECC head said that the list is probably inflated by 4 million.³⁴ Afghanistan has no census data that would validate any of the differing claims.

IEC launched voter registration in four phases based on the climate and security situation of provinces. This four phase of voter registration drive was different from the 2004 election, when registration was done only in two phases, one urban and one rural.

The findings of the ECC on the frauds committed in the 2009 election can easily be traced to a lack of an accurate voters' list. Unless a given province has an accurate and comprehensive voters' list, one cannot determine the number of polling stations that will be opened on Election Day. Consequently, one cannot allocate the precise number/amount of sensitive materials (ballots and protocols) to be delivered to that province. This opens the floodgates to various forms of cheating such as multiple voting, the creation of "ghost polling stations", and misuse of sensitive materials such as ballots and protocols.

³⁴ Deputy Chief Electoral Officer Mr. Zekria Barakzai of the IEC made these claims during a meeting with ANFREL post election assessment team on November 2009.



1. ***In first phase:*** Badakhshan, Kunar, Nooristan, Wardak, Ghoor, Bamiyan, Daikundi, Ghazni, Sar-e-pul, Logar, Kapisa, Parwan, Takhar
2. ***In second Phase:*** Balkh, Samangan, Jawzjan, Faryab, Kabul, Herat, Baghdis, Baghlan and Kunduz.
3. ***In third Phase:*** Nangarhar, Laghman, Paktia, Khost, Paktika, Zabul and Farah
4. ***In fourth phase,*** Kandahar, Uruzgan, Nimrooz and Helmand

Source: IEC

When asked why it was not possible to have a voters' list on a per village basis at the least, a senior IEC explained that "in Afghanistan, the streets have no names and the houses no numbers".³⁵ This can only show the lack of initiative if not utter incompetence on the part of the IEC. If other countries that are similarly situated can have a voters' list on a per polling station basis, there is no reason why it cannot be done in Afghanistan. The villages in Cambodia and Bangladesh do not have street names and house numbers. Yet they have voters' list in each polling station. Mongolia with a great number of nomadic people

³⁵ IEC Deputy Chief Electoral Officer Zekria Barakzai shared his views on problems in the voters' registration with ANFREL Post Election Assessment team during a visit to the IEC in Kabul on November 2009.

managed to have a voters' list in every polling station in their last election (June 2008).

The present condition of the voters' list in Afghanistan can be traced to a lack of a well thought out work-plan registering voters with the necessary safeguards to preserve the integrity of the registration process. Civil society groups and local observers groups alleged that registration forms were unscrupulously distributed to elders, community leaders and other persons who were not authorized to receive these documents. This explains the possession of several voter registration cards to certain individuals. Worse, registration cards became a commercial commodity that was traded to the highest bidder as the election drew near.

The reason for a voters' list is to ensure the basic principle of "one person, one vote, one value". Unfortunately, the voters' list in Afghanistan as it is now cannot possibly enforce this great mantra.

It has often been pointed out that a clean election begins with a clean voters' list. Hence, unless the current voters' list is cleansed, the very anomalies that took place in the last election are bound to happen again.

It may not be possible at this stage to come up with a voter list that is tied to a specific polling station. The IEC has only a few months left to straighten things out. But a few courses of action can be taken to at least improve the situation. (Refer to recommendations).

The flawed voters' list has led to many people and organisations demanding a comprehensive census to be undertaken. The Hazara Youth Association (HYA) for instance were amongst the many groups interviewed that underscored the need for a census that not only would pave the way for a clean voters' list but would also help in exacting the population size and its ethnic distribution.

The fraud is said to begin from the voter registration process. Sporadic voter registration methods may have given way to multiple registrations. The HYA and other smaller groups alleged that the registration officers also misuse the process by distributing the blank forms to the elders and community leaders to enlist voters.³⁶

Political analysts and legal experts are of the opinion that there is a need for a new voters' list so one can tie a particular voter to a specific polling station. The validity of the voters' list is the first prerequisite for an honest election.

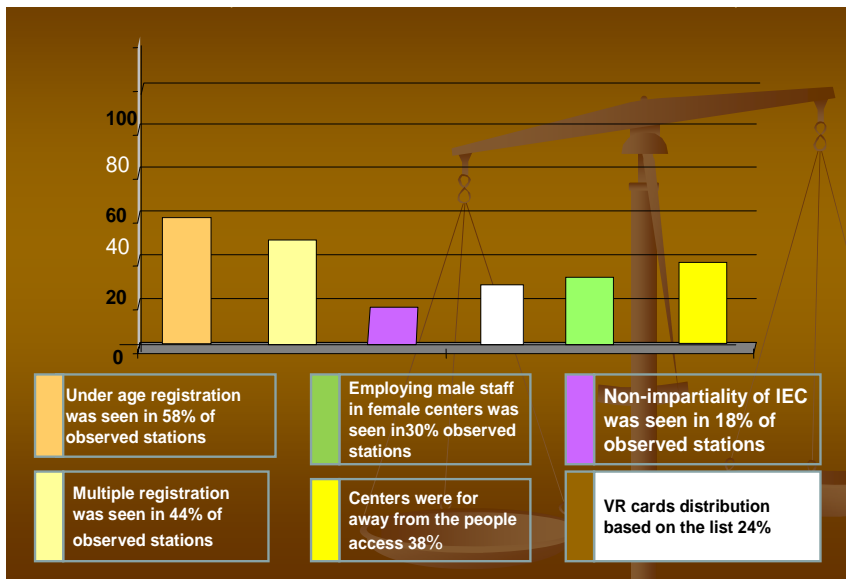
Given the extraordinary circumstances surrounding the outcome of the Presidential Elections, the decision to declare the incumbent as the winner has been accepted as legitimate by international agencies, including the United Nations. ANFREL too endorses this decision. However, a number of gaps in the conduct of the electoral process that surfaced during the assessment need to be highlighted.

For the Afghan Presidential and Provincial Council Election, the IEC launched its voter registration process in four phases based on the climate and security situation of the provinces. This four phase of voter registration drive is different from the 2004 election, when registration was done only in two phases, one urban and one rural. The prevailing violence and insecurity situation in the country coupled with the lack of voter list led to inconsistencies in the voter registration process. As a result of this there have been registration of false voters and multiple registrations of the same persons with different photographs and fictitious addresses. In its report on the voter registration drive FEFA claims to have found that fraudulent multiple registrations were seen in 40% of registering centers across the country.

³⁶ *Information regarding voters' registration was also collected from different ethnic groups. ANFREL Post Election Assessment team met the HYA to get their views on this issue during a meeting on November 2009.*

Voters Registration: FEFA Findings

All Figures indicate percentage of voter registration stations where violations occurred (observed by FEFA)



Courtesy: FEFA. Afghanistan Presidential and Provincial Council Elections 2009

Registration of Candidates and Parties

The process to register candidates and political parties for the Presidential and the Provincial Council Elections was for the most part hurdle free. To register as a candidate for the Presidential Election, the candidate has to be a citizen of Afghanistan, Muslim, born of Afghan parents whereas for the Provincial Council, the candidate has to be a citizen of Afghanistan or have obtained citizenship at least ten years prior to submitting candidacy.

The rules make it mandatory to submit a financial security deposit of 50,000 Afghanis (in local currency) which would be returned if the candidate (Presidential Election) receives 15 % of the total valid votes. Besides this, each candidate was required to submit the names, signatures or thumbprints, and voter registration card numbers of 10,000

voters who support the candidacy. In comparison, a Provincial Council candidate had to deposit 4,000 Afghanis as security, returnable if the candidate receives two percent of the total valid votes; and submit signatures or thumbprints and voter registration card numbers of 200 supporters residing in the province where the candidate will contest the election.

The financial deposits and other conditions can be afforded by candidates and it does not prevent participation, or stop some frivolous applications. In fact, a commonly shared view was that more than half of the candidates who fielded their nominations for the Presidential Elections were not aware of the basics on how to run for the elections. The ECC chair was categorical that there should be a training/workshop for candidates and political parties to make them aware of the electoral process before their applications are accepted by the IEC.³⁷



ANFREL Chairperson Damaso G. Magbual and former Chief Election Commissioner of Nepal Surya Prasad Shrestha with Dr. Abdullah Abdullah

³⁷ ECC Chairperson Grant Kippen suggested in a discussion with the ANFREL post election assessment team, that most of the candidates need better education as they do not seem to know the process, that is how to run a campaign, political party agents, nomination process, etc. He suggested a training course which the candidates have to clear in order to be admitted as a candidate. It was learnt that some candidates spent more time in the ECC office trying to understand legal technicalities instead of campaigning in the field.

Two Presidential, one Vice Presidential, and 54 Provincial Council candidates were disqualified, mostly for links to illegal armed groups. 41 Presidential candidates were on the ballot, including two women. For the Provincial Council Elections, 3,329 candidates registered successfully, including 328 women (14 more women registered this year than had registered for Provincial Council Elections in 2005).

Nominations for Afghanistan's 20 August 2009 Presidential and Provincial Council Elections closed on May 8. The list of candidates standing was finalized on June 14, after checks on eligibility by the ECC.



Presidential candidate Ramazan Bashardost with ANFREL team

The legal framework in Afghanistan provides that candidates and political parties enjoys the right to freedom of expression and freedom of association, has equal access to the electorate, and have an equal chance of success in elections. The law ensures that all candidates and political parties have equitable access to the state owned media and any discrimination is monitored and corrected by the Media Commission set up by the IEC. Similarly no unreasonable limitations are placed on the right of political parties and candidates to free expression during election campaigns. Political parties and candidates are equitably treated by regulation governing campaign finances and expenditures with the need to disclose the sources of expenditure twice during the election period. They need to disclose the source of income first time during the mid

campaign and secondly at the end of the campaign period. There is no limit on the expenditure during the elections but accepti campaign finance from foreign and illegal sources is prohibited.

Local and International Observation

According to the IEC there were as many as 1106 international election observers, of them 108 were female observers and 998 were male.³⁸ Compared to the previous elections that is in 2004 and 2005 this time around the presence of the international community was the biggest. The support extended by the IEC and the Government of Afghanistan perhaps made it possible for the international observers groups to participate in the election process.

The IEC official release indicates that 21 different domestic observers groups were also involved in monitoring the electoral process. There were as many as 9228 domestic observers of which 3758 were females and 5470 were males.

About 212,000 members of civil society organisations and candidate agents were accredited to observe the polls. FEFA, the leading domestic observers group in Afghanistan deployed 7,000 observers in all of Afghanistan's 34 provinces.

Amongst the largest international observers group were the ANFREL EOM, the European Union and the NDI, the Office for Democratic Institutions and Human Rights Election Support Team (OSCE) and the Democracy International (DI). Other observer groups were made up of International NGOs, representatives from Embassies and the International Republican Institute (IRI).

³⁸ For more statistical details on the numbers of observers and other groups which participated in the Presidential and the Provincial Council Elections please refer to IEC official website [iec.or.af](http://www.iec.or.af) or http://www.iec.org.af/subContent.asp?sect=6&page=obs_statistics. Please check section under Elections 2009: Accreditation.

The Observers Statistics

1	Provincial Council Candidates	2672	169709	36222	133487
2	Presidential Candidates	14	92897	21103	71794
3	International Observers	30	1106	108	998
4	Domestic Observers	21	9228	3758	5470
5	Domestic Media	51	638	126	512
6	International Media	149	609	152	457
7	Special Guests	4	261	86	175
8	Political Parties	31	6998	396	6602
Total Observers		2972	281446	61951	219495

Courtesy: IEC, official handouts.

The international observers groups coordinated and interacted with each other on a regular basis. Most of the international observers' groups meetings (mostly on a weekly basis a month before the elections) were facilitated by the UNAMA, the IEC (External Division) and UNDP (ELECT) combine and the US Embassy as well. The meetings between the observers were basically aimed at sharing information and updates on the electoral process and identify matters of concern facing the electoral process. The meetings helped in setting up an organized network between most of the international observer groups, who shared their findings and helped the IEC take decisions where appropriate.

The IEC had also set up a media centre at the Hotel Inter-Continental where coordination meeting of international groups was also held on a few occasion.



ANFREL Pre-election assessment team with FEFA members in Kabul

The international observers were guided by a CoC which was issued by the IEC under provisions of Article 56 of the Election Law. The purpose of the CoC was to manage the participation of observer organisations and their representatives, during various election processes. The legal and ethical criteria in the CoC were made applicable to observer organisations and their representatives during the voter registration process, candidate registration, the electoral campaign, polling day and vote counting. However, the provisions of the law were contradictory and this led to some objection from some international groups. (Refer to Inherent Limitations in the Law, page 81).

The EOM's by the international observer groups were conducted under heavy security owing to the prevailing situation. Organisations like the United Nations Development Programme (UNDP)-ELECT, United Nations Assistance Mission in Afghanistan (UNAMA), the United States Agency for International Development (USAID), the Australian Agency for International Development (AUSAID) which were not directly involved in the EOM *per se* extended support to international observer groups. Officials of the NATO, the ISAF, the ANA, and ANP also assisted in exchange of security related information during the mission.

A number of international observer groups observed the elections right up to the recount process. All International observer groups had access to the national tally centre throughout the counting process.

The real challenges were faced by domestic observer groups, like FEFA which had fanned out over 7000 observers all over Afghanistan with minimum security. FEFA observers received adequate training to observe the elections. During the candidates registration process FEFA provided a three day special training to 40 of its provincial observers to monitor the candidate registration process.

Observers were provided with checklists designed by the FEFA and its national and international advisors. Provincial observers interviewed 1176 candidates including 30 Presidential candidates and maintained checklists to ensure appropriate procedures were being followed throughout the process.

Most of the international observers groups formed close alliance with FEFA and exchanged information between them. In fact FEFA has been involved in the process since the beginning of the electoral process starting from the voter's registration through the election and detection of frauds and auditing of ballots.

However, there have been complaints against the FEFA as well. A number of cases about untrained and minors being used as observers were reported from different provinces. Though there were no serious complaints lodged with the IEC, international groups which were involved in imparting capacity building to FEFA underscored the need for more efficiency and a professional

قهرمان ملی کشور شهید احمدشاه مسعود



The Islamic Republic of Afghanistan



Pre-Election Environment

The Security Scenario

Security played a critical role in determining whether the enthusiasm which was seen amongst voters in most of the provinces covered by the ANFREL mission would actually translate into votes. It cannot be denied that, in some areas, peoples' participation was restricted to a great extent by the prevailing security situation.

Since the beginning of August several incidents occurred which threatened to disrupt the elections. The impact of insecurity resulted in a low voter turnout. The Afghanistan Independent Human Rights Commission (AIHRC) too acknowledged in its report that insecurity had "severely limited freedom of movement and constrained freedom of expression for candidates."³⁹

As Election Day approached the level of violence also escalated. The otherwise safe environs of Kabul were shaken by suicide and rocket bomb attacks one after the other till the Election Day. Deteriorating security situation continued to be a major problem which made the task of holding a "free and fair," election extremely challenging for the IEC. The two attacks in Kabul, on August 18, a rocket attack on the Presidential Palace in the early hours of the morning and the other a suicide bomb attack that left seven people dead, among them two UNAMA staffers were killed and one injured. These incidents were clear indications of escalating violence and the deteriorating security situation.

A number of incidents were stand off attacks. The attacks launched by the Taliban which were both sporadic and at times concentrated were basically aimed at dissuading voters from not going to the polling stations. These attacks no doubt resulted in civilian casualties, but they were not big enough to cause a major change in security planning. It was more of a show of strength by the Taliban which claimed responsibility for the incidents.

³⁹ *AIHRC media statements publicized by the Al Jazeera.*

Though declared a green zone, with relatively better security conditions, the attacks on the capital city of Kabul prevented free movement across the Northern and Central provinces even for the Presidential candidates. With daily changing security drills, the number of election campaigns by the candidates had to be reduced.

In almost all the provinces, during the run-up to the elections security has been a key factor inhibiting free movement of ANFREL observers. In fact a number of districts in the North and North East provinces were out of bounds with no access whatsoever for ANFREL observers. For instance in Darzab district of Jawzan, polling in 14 of the 16 polling centers remained uncertain even till a day before the Election. Police chalked out action plans with village elders to involve local youths for additional security and monitoring on the polling day.

Amongst all the provinces which were observed Kunduz remained the most risk prone from a security perspective. The common perception amongst the people in this province is that “during the day people do business and during the night they become Taliban.”⁴⁰

The security situation during the pre-election phase in a few areas of Baghlan (Baghlan Jadid), Takhar (Ishkamish, Bangi, Chah Ab, Rustaq, Darqad and Yangi Qala), Sar-e-Pul (Sayyed), Parwan (Shinwari, Koh-e-safi and Ghorband) and Jawzjan (Darzab) were reported as not satisfactory.

Provincial Council candidate, Mullah Khair Md., along with his two election workers were kidnapped in Darzab city on 7th August, 2009, at 5:30 PM and were taken hostage to Sayyad in Sar-e-Pul Province. They were released on 10th August, 2009, on the promise that he will withdraw his candidacy and never again participate in the electoral process.

⁴⁰ *Kunduz LTO team report.*

The highway to Kunduz, particularly the section between Shahrykohna and Gerdab has no security and prone to attacks by AOGs.⁴¹ The biggest problem district in Baghlan is said to be Baghlani Jadid.⁴² The risk in this district was regarded as “medium level” – which meant that the PRT/ISAF too had not been able to penetrate this area. Security forces were confident that all the “insurgent action” would come from the north of Baghlan, bordering the Kunduz province.

Intimidation

Throughout the pre-election period there were a number of cases of threat and intimidation to voters, candidates, in particular women candidates.

Voters were intimidated with “night letters,” from AOGs. Voters were asked to stay away from polling stations, failing which their fingers would be chopped off. Voters were told that they would not be spared if indelible ink mark was found on their fingers.

Unconfirmed reports of 13 incidents of fingers being chopped off were received by the IEC. All of these incidents but one had been reported from the Baghlan province.⁴³

In Kunduz people are said to have received threats directly or over phone from unknown persons. The callers clearly specified the consequences, one of which was to have the fingers chopped.⁴⁴

⁴¹ *Information on the security situation along the Highways was verified from the Provincial police and FEFA workers.*

⁴² *Based on an interview with a Hungarian Deputy Commander of a PRT/ISAF*

⁴³ *ANFREL STOs in Baghlan were told that armed groups had chopped off fingers of some people on the Election Day. However, police and the IEC in Baghlan province are yet to confirm the incidents.*

⁴⁴ *These reports were verified from different sources at the district and also at the provincial level by the LTO team based in Kunduz.*

There were also a number on incidents of indirect threats from warlords to voters. Though, the prevailing situation prevented a further investigation to cases of voter intimidation by warlords, a number of media groups informed ANFREL that “warlords had their own mechanism,” to dissuade people from voting.⁴⁵

A few governors were also accused of attempting to influence voters. For instance in Parwan and Baghlan voters alleged that the Governors of these provinces asked them to vote for a certain candidate.⁴⁶ A complaint in this regard was filed by one of the Presidential candidate with the IEC.

Women candidates were also subjected to intimidation from different “Unknown groups.” Masuma Shadab a Provincial Council candidate from Sar-e-Pul said she was warned by unknown individuals who wanted her to stop campaigning. Her posters were torn down and she received messages asking her to stop.⁴⁷

Security management

To tackle the security dilemma, the IEC depended completely on the arrangement by the security forces involving the police, ANA and ISAF. A three layered security drill was conceptualized by the security forces and the intelligence services. Accordingly, police were given the responsibility to man the first layer, the army took charge of the second layer and the third layer was monitored by the ISAF and NATO forces (two persons in each polling station). However, on the polling day ISAF men did not get too close to the polling stations with most doing mobile patrolling in and around the provinces.

⁴⁵ Interview with a prominent media organisation in Afghanistan by ANFREL Media Officer provided sufficient indications of warlords sending out their troops to intimidate voters. A few of the warlords were apparently sending out messages to voters that voting during the election would mean “supporting the formation of a puppet government with support from Americans.”

⁴⁶ Interviews in Salang and many parts of Baghlan told ANFREL teams that they were threatened by the Governor. The Afghan National Police said that they were investigating into the complaints but so far there have been no reports of any action taken against anyone found guilty.

⁴⁷ ANFREL LTOs in Sare-e-Pul interviewed women political candidates and verified cases of intimidation with local police officials and other senior functionaries of the provincial administration.

Pre-Election Security Chart

August 2009 was declared as the deadliest month in 2009 possibly as a result of the elections.

In the last 10 days before the elections insurgent attacks had averaged 32 per day, which rose sharply to 48 per day in the last four days before the elections this year.

The attacks included:

1. August 5: Police report that Jamsheed Group (part of Taliban), attack the ISAF members, injuring 2 ISAF staff members.
2. August 6: In Parwan city police found two bombs (unexploded). Police Deputy Commander in a statement said that the cases are linked to elections.
3. August 12: There was a deadly attack on an Afghan army vehicle at the Paghman district which left people five dead. An IED was used to carry out the attack.
4. August 15: A suicide car bomb struck NATO's headquarters at the core of Kabul's most fortified district. Seven people died and 91 were wounded, including several foreign soldiers, four Afghan soldiers, and a member of Parliament. The attack inside a highly secure zone, with the NATO military headquarters and the US Embassy located less than 150 meters from the site of the incident was attempted by the Taliban.
5. August 18: Rocket attacks near the Presidential Palace in Kabul. A suicide car bomb attack on a NATO convoy heading to a British military base killed nine people and wounded around 50. One NATO soldier was killed and two others wounded. Two UN staff members were killed, and a third was wounded. About 12 vehicles were destroyed and several surrounding buildings were damaged by the blast. A suicide bomb attack at the gates of an Afghan army base in the province of Uruzgan also killed three Afghan soldiers and two civilians.
6. August 19: Gunmen seized control of a bank in downtown Kabul one day before the Afghan election. Police reported that three fighters and three policemen were killed in the four-hour-long siege.
7. August 20: According to official data there were 54 deaths on Election Day, including 11 election staff. A total of 137 attacks were made and 35 were foiled.

Additional security back-ups were kept on standby. In many provinces observers were told that as many as three to four policemen would be on patrol in and around the polling stations. The decision to go with the police as the front layer was done primarily to reduce the chances of friction between army men and civilians and also to ensure the free flow of voters.



Security personnel guard strategic areas in Kabul on Election Day

A key component of the security drill, at least in a few provinces was an internally thought-out security management plan by involving village youths to guard polling stations during the voting process. For instance in Jawzjan's Mardyan District, an action-plan was drawn to have an additional recruitment of four civilians with two back-ups in each polling center to patrol the area and do security checks during the polls and help the police deflect insurgent activities in the area till the polls ended.⁴⁸ The police had sought the support of the village elders to encourage youths to take the responsibility. The students in three high schools of Mardyan were trained for the purpose. The elders undertook the responsibility of mobilizing and training the young population.

Furthermore, plans were made to have between three and five personnel in each polling station depending on the security situation in the respective places. Police were also given the responsibility to secure ballot boxes from different places to designated "safe places."

⁴⁸ ANFREL LTO and STO teams in Jawzjan province documented how local volunteers were training to be a part of the security on polling day.



Some aspects of the security planning were kept confidential and it was apparent to ANFREL teams located in the different provinces that security related information in many areas was blocked from observers and the media. It is notable to point to the Hairatan City (bordering Uzbekistan), from where no clear information on security plans was available. On Election Day, ANP, Afghanistan Army, and border police were supposed to secure the area. But, all attempts by ANFREL observers to gather information regarding security along the highly sensitive bordering areas proved futile as until the last stages of the Election Day there was no information available on the security management plans from these areas.⁴⁹

A more worrisome aspect was perhaps the lack of sufficient women police personnel to attend to women's issues.

⁴⁹ ANFREL team based in Sherberghan in Jawzjan province visited police and IEC provincial office to collect information regarding security management in some of the identified sensitive areas, but no information was made available to them on the pretext that security plans were constantly changing.

Campaign Environment

Most candidates and political parties had their own campaign officers and teams all over the provinces. Barring a few areas where the security status was critical and prevented free movement of people, candidates and political parties used different methods to campaign. A few of the places that were not conducive for campaigning and generally remained out of bounds were Darzab in southern Jawzjan, Shinwari, Kohsafi and Ghorband districts in Parwan province.

Domestic observers and civil society groups monitoring the elections identified a number of places under Baghlan province as “no penetration zone,” even for security forces.⁵⁰ The places are: Qaiser-Khail, Cock-khelar, Jundekhail, Mangalha, Arabha, Baisaqal, Azemshore, Layaeqa, Aabqool, Mughoolha, and Nowrozak. These areas are said to be under control of armed insurgent groups. As has been mentioned earlier the biggest problem district in Baghlan is Baghlan Jadid which was completely out of bound from election campaigns.

In Kunduz where the security situation was reportedly the worst in comparison to other provinces where ANFREL observers were present the campaign activities were conducted by inviting people for talks and small meetings. Candidates spelled out their agenda to people who came to listen to them and also served food after such gatherings. Public meetings were rarely held. Election campaigns were limited to the city of Kunduz as accessibility to other districts was limited.

In places where things were relatively normal and seemingly secure political parties and candidates had their own campaign officers and teams moving around freely. More often than not Provincial Council candidates used their party workers to do most of the campaigning in their own areas.

⁵⁰ *Baghlan STO teams collected a list of highly sensitive zones which local domestic observer groups like FEFA claimed were out of bound for security forces. These areas apparently are controlled by different groups, some of who represent warlords and the others the Taliban.*

The cultural opposition against women in public life, further compounded by the lack of security, made campaigning by women candidates very difficult or impossible in many parts of the country.



Presidential Election campaign in Balkh province

Providing food and transportation to voters has often been shown to be part of culture and customary practice in Afghanistan,⁵¹ but that notwithstanding there were clear cases of vote buying during the campaign period. Payment for pasting pictures of candidates on cars sold for as much as \$20 US and paying money to heads of villages to get confirmed votes was rampant in some of the areas where ANFREL observers were present⁵². Not to mention of course the continuous dinners and lunches provided for voters right up to the election and transportation of people from villages to city headquarters bearing all the expenses.⁵³

⁵¹ This practice is regarded as prevalent in large measure in Asia. In many South Asian countries this aspect of electioneering is often explained as a cultural component of the electoral process. On this pretext this is deemed as acceptable and not tantamount to vote buying.

⁵² A number of cases of vote buying in different forms were reported from Kunduz, Takhar, Shamangan and Balkh province by ANFREL's LTO and STO teams.

⁵³ Reports of free food and free transportation were received from almost all the provinces. The most prominent were Kunduz and Balkh provinces.



Cars pasted with posters of candidates during election campaign in Badakshan

Throughout the pre-election period there were allegations and counter allegations from different candidates about paying off voters. Capital Kabul was flooded with such reports, though it was extremely difficult to determine the veracity of such reports. One report claimed that a certain candidate distributed as much as 500 Afghanis in one of his campaigns in Kabul.⁵⁴ People posing as campaign agents for candidates were openly saying that they paid a certain amount to voters.⁵⁵ A woman candidate testified that she had seen other candidates giving money during their campaigns.⁵⁶

In most provinces the pattern was similar, with a few strong candidates using their available resources to campaign whereas the others resorted to posters and door to door visits.

⁵⁴ A press officer of one candidate (name withheld) alleged that vote buying was taking place during election rallies in Kabul. Report by Kabul LTO.

⁵⁵ In Panjsher ANFREL teams came across some persons who said that they were paying off voters as much as 85,000 Afghanis in every district to vote for a certain candidate.

⁵⁶ Report from LTO team in Badakshan

For instance in the second biggest city that is Mazar-e-Sharif the only campaigns that were seen were of strong and powerful candidates. Most of these big and powerful candidates were said to have had the rich or businessmen backing them with monetary support, mostly by financing their campaign expenses.⁵⁷

The Election Law of Afghanistan allows prisoners to cast their vote. But prisoners participation in the election is perhaps becoming meaningless with no candidates or political parties showing much interest to reach out to them. Thus prisoners are usually left to their imagination about what how campaigns were being organised and what candidates had to say to the voters during public rallies and door to door visits.

Misuse of Government resources

There were allegations from different sections of the Afghan society that government resources were primarily used by the incumbent Presidential candidate.



Vehicles without number plates in use during the election campaign

⁵⁷ ANFREL's LTO team located in Mazar-e-Shariff came across several incidents of lavish campaigns by leading Presidential and Provincial Council candidates and political groups who had money and resources. Transportation of voters from remote parts of the city and its suburbs and distribution of food and other pleasantries was a common feature.

The neutral character of the Government officials and the role of Governors in a few districts were questioned by opposition candidates. However, the police and the IEC did not authenticate these allegations and dismissed them as inconsequential.

According to a UN election monitoring report there was mounting evidence that the government was using state resources to favour the incumbent President. An election commission report in July had noted that state-run Radio Television Afghanistan (RTA) had dedicated 71% of prime-time news coverage to the President.

Large scale violation of campaign regulations: FEFA

1. Equal opportunities such as access to public places, media debates for all candidates were not observed.
2. A decree from the government that “No official should use government resources to promote the candidacy of one candidate” was totally ignored.
3. In many provinces, campaigners were using government resources.
4. IEC could not implement the regulations to monitor misuse of government resources during the campaign period.
5. All candidates were supposed to disclose their campaign expenses. As of early November 2009, ten or more candidates have not submitted their reports. Though there are no limits on campaign spending the IEC announced before the campaign began that it will publish all expenditure reports. The incumbent President reported spending Afghanis 85 million (about \$1.7 million) in his first expense report.

Participation in the campaign process by smaller and minority groups

Unlike previous election observation mission, this time around the special security arrangements for observers made it extremely difficult to spend sufficient time with minority groups. Despite this a number of minority communities, like the Hazaras and the Kuchis were approached and their views solicited about the election. The responses were mixed and it differed from one group to another. For example, while the Kuchis did not show much enthusiasm in the elections on the pretext of being

not looked after by the governments that came to power, the Hazaras—one of the most suppressed groups on the ethnic mosaic—asserted their “right to vote to cement their place in the political mainstream.” Such messages were part of the speeches of Ramazan Bashardost, to people working as cart-pullers on the streets of Kabul and elsewhere. Bashardost was the Hazara Presidential candidate.

It mattered little to this Shiite group that their history has been one of oppression as most were willing to claim their “rightful place,” alongside the dominant Phastun and Tajik tribes. What perhaps comes as a welcome change and helps to lessen the polarization between minority and majority groups is that voters from dominant groups were keenly participating in election campaigns of Ramazan Bashardost. However, it is difficult to say if participation in election campaigns by dominant groups translated into votes for the Hazara candidate. Messages of government reform and social justice which Bashardost spoke of, have been acknowledged by bigger ethnic groups in what has been described as a sea of change in mindset in this conflict ridden country.⁵⁸

A media report said that Bashardost had received a surprisingly large amount of support from Pashtuns at home and abroad. Further, the report quoted the Hazara Presidential candidate as saying, “This is something very new for Afghanistan.”⁵⁹ The same report also quoted teachers and students of a new private Shiite college in Kabul, as saying that the elections are important for their community, no matter who wins, because they represent a step towards modern, democratic practices that can help overcome Afghan traditions of ethnic and tribal competition.

Hazaras comprise of approximately 20 % of the country's electorate as compared to the Kuchis, which have a little more than two million people.⁶⁰

⁵⁸ Interviews by ANFREL EOM teams and a post election study team documented opinions from a cross section of society. The reactions formed the basis of the analysis on possible reduction of ethnic gaps in politics and elections in Afghanistan.

⁵⁹ *Hazaras May Play Key Role in Afghan Vote, Long-Oppressed Minority Is Wooed By Karzai, Others.* By [Pamela Constable](#) Washington Post Foreign Service Sunday, July 26, 2009

⁶⁰ *The Independent Directorate of Kuchi Affairs (IDKA), estimates Kuchis number around 2-3 million of the total population of Afghanistan. For further details refer to: <http://www.unhcr.org>*

The Uzbeks who make up nine percent of the population displayed no reservation to participate in the elections. However, these groups which reside in the plains north of the Hindu Kush said that they would vote for anyone that will provide a safe passage for their leader General Dostum's return from exile to Kabul. On August 31 while demanding the return of their leader Uzbeks openly stated they would go by the decision of their leader. Such open proclamation was witnessed in Sherberghan of Jawzjan province.⁶¹ Similar reactions were recorded from the Uzbek population in Kunduz, Mazar, Faryab, Sar-e-Pul, and Samangan.

The Kuchis, who are Nomads have been reacting somewhat indifferently to the elections. Though the Constitution guarantees certain kinds of rights and reservation for the Kuchis, most felt disillusioned over the alleged neglect by the government towards their needs.



A Kuchi male grazing his cattle

⁶¹ More than 2000 supporters of General Dostum, who had gathered in Sheberghan city to demand the immediate return of their leader stated that they will go by their leader's decision and the candidate whom they support has to assure the return of their leader. This report was compiled by Jawzjan LTO team.

⁶³ Kuchis in Khajaqala village at Sazma Qala district in Sar-e-Pul said they have been discriminated against by the government and bigger ethnic groups. Similar reactions were found in a urban locale by ANFREL senior team which visited Kuchi families a few days before the Election Day.

Wherever Kuchis were interviewed, a common complaint was that they are discriminated against and the government does not respect their rights as enshrined in the Constitution.⁶³

As for their voting rights, Kuchis can vote for the Presidential Elections but not for the Provincial Council Elections owing to the nature of their lifestyle that is moving from one place to the other. Other minority groups like Baloch, Saadat, Qezelbash, Hindus and the Sikhs maintained a low key and did not display much enthusiasm about the elections.

Civil Society Organisations (CSOs)

The overall objective of the August elections was perhaps not confined to choosing national and provincial leaders for the country, but to demonstrate that electing leaders through fair and non-violent means with massive civil society participation is a crucial step forward for restoring democratic values. However, based on interviews by ANFREL with Afghan CSOs it was found that the CSOs believe that the process lacks a mechanism to institute civil society ownership on all accounts.

Irregularities in the election process coupled with insecurity and injustice have led to debate amongst various stakeholders regarding the legitimacy of the election results. The ability of the CSOs to monitor elected bodies and institutions seems to have been reduced and resulted in the recorded increase in irregularities. It was apparent to ANFREL observers that there was reduced involvement and interest of CSOs in the political process in comparison to previous elections.

Regardless of the deteriorating security conditions and the risks therein, CSOs have been trying to work under exceptionally difficult circumstances.

CSO leaderships' seem to be frustrated due to disregard of the need for cost-effectiveness of the election. Most of the CSOs interviewed accused the IEC and other international agencies of spending funds irresponsibly in the name of civic education (more than 15 times than what the CSOs spent in previous elections) with no apparent increase in quantity or quality.⁶⁴

The UNDP ELECT project too has been considered by CSOs as a part of the problem and not the solution in the electoral campaign and civic education. CSOs were largely unwelcome from both the space of the political environment and the resource perspectives of the election thereby deliberately marginalizing and undermining their invaluable role in civic and voter education campaigns.

The AIHRC, ACSF and FEFA which is the biggest domestic election monitoring body in Afghanistan and others strongly feel that the IEC "should not handle Voter and Civic Education – it should give this job to the NGOs because the NGOs are impartial." They categorically stated that the IEC mismanaged the election process, specifically the distribution of election materials, the handling of the procedures, the timetable, etc.

The CSOs working in the area of election monitoring are of the opinion that the audit and the final decision by the ECC on nullification of fraudulent votes and the candidates conceding to the decision is an important step forward to build public trust in future electoral processes in Afghanistan.

FEFA is making progress in developing a "well-known, informative, democratic, credible and non-partisan" domestic monitoring system with a committed, well-informed, and active citizenry. ANFREL believes that CSOs in Afghanistan are well-placed to help ensure that the electorate is free to make a choice and should be adequately informed about electoral contestants and procedures.

⁶⁴ Different CSOs interviewed during the post election assessment study claimed that huge amounts of funds were spent for the election. A few of the CSOs that ANFREL met include ACSF, AHRDO and FEFA.

Shortcomings of the August 2009 Elections: FEFA

1. Access to significant financial resources was limited to the two major Presidential candidates i.e. as far as contributions were concerned. As a result FEFA believed that “there were no equal opportunities for all the candidates”.
2. Civic education was low particularly among women in the rural areas
3. Capacity of the IEC was low
4. Recruitment of IEC personnel with regards to the administration of election was partisan
5. The IEC personnel/staff were themselves involved in frauds, threats to the voters on Election Day, ballot stuffing, etc.
6. The public was not properly informed on vital decisions/actions of the IEC such as polling stations that were not open on Election Day.
7. The IEC did not listen to FEFA officials when they asked for the replacement of IEC personnel who committed fraud during the registration period. As a result the same people again were party to cheating in the election.

The Media Role in the Elections

The media in Afghanistan is divided between those that are owned by the government and therefore more inclined towards providing coverage to the incumbent President, and those that are owned by political groups and candidates. In addition, there are privately owned media groups which are supposedly more free. However, some of the privately owned media too played partisan roles during the run-up to the elections. For instance, a few of the privately media groups were clearly influenced by incentives which were sourced from the coffers of different groups. This made it extremely difficult to depend on them for neutral election related coverage.



ANFREL-Chairperson, Mr. Damaso G. Magbual, during a radio interview in VOA (Left). ANFREL post election assessment team with Pajhwok News Editor Danish Karokhel (Right)

However, a few groups appeared to be somewhat neutral as they attempted for the first time to engage the Presidential candidates in debates and discussions through special bulletins about the election on both television and radio. The print media was essentially providing analysis on the developments surrounding the elections.

However a glaring shortcoming was the total absence of media, except for occasional radio coverage in remote and far flung areas,.

The presence of the international media was evident and they turned up in big numbers even during the pre-election period. A number of other foreign media set up camps in Kabul a few days before the actual day of election.

The IEC registered and provided accreditation to as many as 49 national media organisations , besides 138 international media houses.

A Media Commission was established by the IEC to ensure that media space was not misused by political parties and candidates alike. The Media Commission Establishment and Mass Media Activity Regulation were approved by the IEC under the authority of Articles 51 and 56 of the electoral law.



ANFREL team with the IEC Media Commission

Accordingly, a three-member Electoral Media Commission was established by the IEC 60 days before Election Day, with the task to monitor fair reporting in the media during the election campaign. However, with no legal mandate to penalize the media for bias or violations of the rules, the Media Commission could not make much of a difference in ensuring a completely free media and unbiased coverage of the elections.

Voter Education

IEC in its official communiqué claimed that before the polling day the approximately 1,600 educators, both men and women, were deployed to all areas of the country in order to explain the electoral process to voters. The statement also said that the IEC organized provincial seminars for elders, local leaders and influential women.

The IEC used a series of educational materials on the electoral process to conduct the voter education activities. These include posters, brochures, flyers, flipcharts and an accompanying manual, fact sheets, mock ballots, mock ballot stickers, and leaflets.

The Outreach division of the IEC informed international observers during weekly coordination meetings that a number of communication tools for radio and television, as well as print media such as newspapers and magazines had been developed by the IEC. The IEC members cited the installation of 684 billboards of varying designs across the country as a major component of the campaign.

The IEC Billboards, Posters, manuals and leaflets were visible in most of the provinces where ANFREL observers were present. However, the presence was lesser in remote areas. The IEC's outreach department designed special voter education materials for educating the voters. A special Hotline (109) was also set up for voters to call and find out about the electoral process.

In some provinces the IEC activities made definitive impact. For instance in Jawzjan province a conference on Afghanistan 2009 Elections and democracy, organized by the IEC gave people a better understanding of the electoral process.⁶⁵

In the provinces poll officers of the IEC conducted "mock ballots" for the general public, in order to reach out to the uneducated masses. Political party workers also disseminated adequate instructions about polling.



Voter Education posters distributed by IEC's Public Outreach unit

⁶⁵ On August 11 and 12, 2009 the IEC organized a civic education conference in Sheberghan city which was attended by government officials, village elders, observers attended and IEC's on officials. The second day was exclusively for women of the province.



Voter education posters were put up at different places by the IEC

However, inspite of the extensive arrangements made by the IEC, most of it was not effective. There were several reasons for this, one of which is the timing of the voter education activities. For instance most voters were not aware of the status of polling centres untill August 13. Besides, there was lack consistency on the dissemination of information by the IEC's outreach division.

In a number of provinces it was found that many voters were under the impression that only schools would be used as polling stations. According to some reports from Hairatan city even till a day before the election most voters said that they were told by the IEC officials that there would be only two polling stations. There are about 6,200 voters in this area, which is way beyond the carrying capacity of 600 for each polling stations as specified by the IEC.

Most voters said that they depended on the Television for information on voting process. In Panjsher for instance most people got election related information through radio programs. Besides this some

candidates during their campaigns informed voters about polling station locations. In some places socialization by women campaign managers of certain candidates helped in raising the level of awareness amongst voters.

Many others dependent on their experiences in the last elections to find out about polling station locations, candidates and political parties.

Prisons were surprisingly left out of most of the voter's education activities. For instance there is no civic education for prisoners in the Balkh provincial jail⁶⁶. In neighboring electoral provinces campaign and voter education was strictly prohibited inside prisons.⁶⁷

For whom are these Elections

The 2009 Presidential and Provincial Council Elections in Afghanistan witnessed low voter turnout. A number of reasons have been cited by different people, including experts and the media. But ask the younger generation and the answer you get is simple. "We are not ready for elections."



Altafur Rahman



Hameed Hossain

A 30-year old businessman of Kabul Hameed Hossain who manages a sizeable wedding hall is highly skeptical about the elections. He is amongst those who believe that all the talk about election strengthening democracy is misplaced. Most of his workers aired similar views and said they had destroyed their Voter Identification Card, so as to express their dissatisfaction about the "unpopular election."

Hameed says he does not represent "the corrupt new rich," of Kabul but instead belongs to that section of the society which is still struggling to maintain family business, which has been the main source of income for decades. He admits that

⁶⁶ Reports from Mazar-e-Shariff city collected by ANFREL LTOs.

⁶⁷ The information was collected by ANFREL LTOs in Sar-e-Pul and subsequently verified. The pretext for the restrictions according to the authorities was that the law does not permit such activities.

Kabul is changing, but says that the change is only to those who are in power and not for the ordinary people. “We have been suffering and our people are dying without any cause,” he lamented.

The country has been suffering from acute conflict where multiple actors are involved in a complex relation. This has caused confusion in the minds of the ordinary people who don’t have any confidence in anything to do with the system, “not even elections.” Not because they don’t like to take part in elections but over a period of time they have become disenchanted. Hameed feels that people have been part of two elections and they have not seen any change or reflection of their will in public policies and agenda.

This youth perhaps represents the disillusioned younger generation of Afghanistan for whom elections make no meaning. The reasons are very many. The growing insecurity and instability and a poor administration has almost left the youths with no hope whatsoever. Perhaps Hameed echoes the concerns of many others like him when he says, “elections must not be used as a tool by politicians to legitimize their corrupt ways.”

Pointing to the big and colorful billboards of election campaign surrounding his wedding hall Hameed rues, “what is the use of all these when the elections are not clean.”

“I have been in Kabul for my childhood and all these thirty years I have seen nothing but war. It is just happening without any hope towards peace. Every time the politicians promise reforms and peaceful transition towards democracy the very next day they either forget or they falter. This election is just one of those mock trials, where people have no stake.” Taken over with emotions Hameed asks, “If not for people this election for whom?”

However, there are many youths who think differently and are confident that elections are the only way to change towards democratisation. But what is important to note is that Afghans representing different age groups are gradually beginning to engage in critical discussions and dialogues on life beyond war and conflict.



Election Day in Afghanistan

Election Environment

The environment on Election Day was generally peaceful in most of the provinces where ANFREL observers were present. However, there were moments of anxiety in a number of areas as incidents of violence perpetrated by AOGs caused panic and fear amongst the voters. Incidents of violence occurred mostly in the morning during the opening of the polling process.



Voters queuing up to cast their franchise in a male polling station

A couple of incidents were recorded in the capital city. One such incident was a twin bomb blast near the Water Supply Scheme Company, Khawaja Musafar, Kabul⁶⁸ which left people panic stricken. This incident was meant to deter voters from coming out to vote which presumably had some impact on the voters' psyche. Throughout the day the response from voters in Kabul was very poor. Not far from Kabul, in Panjsher which

⁶⁸ ANFREL's core team and its video documentation unit covered Kabul and Panjsher from where incidents of violence were reported.

has been out of bound of the Taliban and other opposition groups, the somewhat tranquil environs were also affected by a couple of incidents minutes after the polling process began. The province Governor's vehicle was attacked by some unknown persons. However, the occupants of the vehicle survived the attack.⁶⁹ There were also cases of scuffles and gun-battle at Khenji in the same province at around 8:00 AM.

There were incidents of violence reported from the Northern parts such as Jawzjan where two rocket attacks took place and two landmines exploded within a range of 200 meters near the polling stations. In Kunduz, incidents of constant rocket shelling prevented both domestic and international observers from carrying out their duties. As many as 44 rockets landed at different places in Kunduz city. Observers who were out in the field during the incidents were advised by security officers to return back to their hotels and stay inside their rooms.⁷⁰ Similar incidents occurred in nearby Takhar province where road side blasts and threats of similar attacks forced observers to confine themselves to the safety of their hotel rooms.⁷¹



⁶⁹ ANFREL's STO Team documented these incidents at Panjsher

⁷⁰ LTO and STO team reports on election related incidents of violence during the opening and throughout the polling process on Election Day.

⁷¹ Observers had to return to base after noticing that the bomb blast destroyed a building of the Operation and Coordination Centre for Province (OCCP), a top level supervisory body set up between local police and ISAF for the elections. Police and security teams accompanying observers advised them to return back to their hotels.

In another neighbouring province, Baghlan, incidents of violence on the eve of and the Election Day impacted the turnout of voters. In the morning of Election Day at around nine, the Baghlan Jadid district police chief was killed by insurgents.⁷² Prior to Election Day, there were reports of insurgents threatening people in Baghlan. (See Pre-Election Environment, Security Scenario, page 97)

In Kabul the turnout was disappointingly low considering that it was supposed to be one of the safest areas in the country. In the twelve voting centers visited by ANFREL senior observers, the turnout was estimated at less than 40%⁷³



Security personnel carry out body search on voters outside the polling stations.

⁷² These reports were collected by the LTO/STO teams and verified with police and district security authorities.

⁷³ In one voting center (Ahmad Shah Masoud High school) with eight polling stations for men, only 403 voted or a turnout of 8.3% on the assumption that there would be 600 voters per polling station. Asked to comment on the low turn-out, the election authorities informed that the area was inhabited by foreigners. Kabul senior team report.

Polling Process

Opening

A good number of polling stations did not adhere to the IEC directive specifying polling stations to open at 7:00 AM.

In most of the polling stations observed by ANFREL opening was delayed and some materials such as the 'cutter,' seal for the voting materials and forms for recording voters' names were missing. In one instance these materials were delivered 30 minutes after the polls were opened. When asked to explain the reason for such delays the IEC Field Operations Unit confirmed that "all election materials reached the polling centers by the August 19." It was apparent to ANFREL observers that in some cases the materials were either kept in a house or in an undesignated location but not in the polling station.



Poll officials showing empty ballot boxes before polling commenced

Another reason for the delay was due to malfunctioning punchers and this was the case in almost every polling stations. The punchers had to be replaced by scissors to make a cut mark on the voter's identity card. Overcrowding of polling stations with party agents, domestic observers and also the presence of international observers contributed largely to the extent of confusion. However, there were no reports of observers disrupting or interfering with the electoral process directly.

Most polling stations were conveniently located and properly set-up. There were a few polling stations which were deemed inept due to poor lighting, unlit corridors and narrow passageways.

In a few polling centres mostly in the central province presence of government leaders and officials were recorded. A case in point is that of Salang and Jabul Sarej where various government leaders were found visiting polling stations.



Clockwise: Broken Hole Punches (a sample) had to be replaced by other tools for punching a hole in the voter registration card.

Some provincial party candidates also entered polling stations in Salang and Jabul Sarej in violation of the rules and regulations of the IEC. Besides there were religious leaders present outside the polling stations. Although no one seemed to mind the presence of persons with religious links, this could be interpreted differently, perhaps influencing voters to vote in a certain way and for a certain party.

In Baktash School which is in Balkh, an old man identified as the community leader sat near the entrance of the Polling station and urged people to vote for a certain candidate¹

In contrast to the cities where the polling centres were located in convenient places, in the villages they were located some distance from the center of the village. This made transportation of human and material resources a challenging task.

These minor hiccups apart the polling process were generally conducted with a fair amount of efficiency in a number of polling centres across Afghanistan. But this was not the case everywhere.

In a number of places the polling process was disrupted by party workers, police officials and unauthorized persons who entered the polling stations and went around asking questions to the polling staff.⁷⁴ For instance in Baghlan a Member of Parliament (MP) entered a female polling station and tried to influence the process.⁷⁵

Besides this there were posters of Presidential and Provincial Council candidates within 100 meters of the polling station in a number of polling centres. Supporters of candidates and political parties mingled freely with voters outside the polling stations and neither of them seemed too concern about this interaction.

⁷⁴ ANFREL LTO teams observing the electoral process in Parwan province recorded at least half a dozen cases on Election Day of various unauthorized individuals campaigning for candidates outside polling stations. Some police officers also entered a few polling stations. These cases were mostly documented in Salang & Jabul Sarej.

⁷⁵ In Baghland province a Member of Parliament identified as Shokrya Essakhail entered a female polling centre at Naswan Madan. She had an argument with the director of one of the female polling stations and left. There were disputing reports that she was trying to influence voters by campaigning for a particular candidate. The polling station director tried to stop her. ANFREL STO team in Baghlan documented this incident.

The use of children was rampant in most of the electoral districts covered. Minors who perhaps did not have any inkling about elections were used by candidates to campaign carrying different kinds of posters, pictures of candidates on post cards, stickers and other campaign materials.



Use of children in elections campaigns was a common sight

The environment inside polling stations, some of which were located in private houses varied from one place to the other. Polling officials took extra care to follow all the laid down procedures in the IEC manual. But that was not the case everywhere. Voter's fingers were either not inked properly or not inked at all.



Voter ID card of an under-age voter (left) and under-age voter (right)

The polling process was marred by under-aged voters who were detected in a number of polling stations across the nine provinces which were under the purview of the ANREL election observation mission. Though the IEC argued that the number of under-age voters was insignificant and did not impact the legitimacy of the polling process, the fact that under-age voters were registered completely violates the provision of Article 13 (Chapter IV) of the Electoral Law which states that a person is eligible to vote in the elections if that person is at least 18 years of age on the day of the election⁷⁶.

Intriguingly, in most cases young boys who were 12 or 13 had voter identification cards which stated that they met the voter age requirements. For instance, a 13-year old boy was allowed to vote in a polling station at the Khoshaal Khan Meena High School Kowara region of Panjsher province. His voter card indicated that he was 18 years old. He was restricted from voting. The boy was questioned and his identity card confiscated before being kicked out of the polling station by the presiding officer.⁷⁷

Overall the polling process seemed to be on track; however, there were shortcomings which surfaced due to the lack of awareness and knowledge on the voter's part about the election process. Voter education seemed not to have made much of a difference amongst people residing in very remote areas.

Poll workers in many polling stations throughout the observation areas displayed total lack of interest in checking voter's fingers which gave room for manipulation. This somewhat casual or flexible approach seen in polling stations complicated the problems as it increased the chances of multiple voting. Double or multiple voting was reported from a number of areas.⁷⁸

⁷⁶ Refer to IEC Electoral Law. www.iec.org.af

⁷⁷ ANFREL STO team and Media Officer witnessed these developments unfold in a polling station in Panjsher on Election Day.

⁷⁸ Reports from Balk and Takhar made a special mention of the problem of multiple voting.



Polling booths were not arranged properly in a few polling stations to assure voters' secrecy

Closing and Counting

The IEC's last minute decision to allow an hour's extension from the scheduled closing time i.e., 4.00 PM resulted in some confusion as the message from the IEC failed to reach some polling centres on time. Therefore, while some polling stations closed at 4:00 PM others adhered to the IEC directives. Voters who came after 4:00 PM were allowed to vote.



Ballot count in progress in a polling station

The counting process was not uniform and was somewhat chaotic. Moreover, the counting did not commence at the exact time in all polling stations. Therefore as it stands, there was no uniform pattern which was adopted by the polling stations officials. In most polling stations observed there was lack of awareness amongst polling officials that they should destroy unused ballot papers and put them in sealed envelopes. Polling stations officials said that there were no specific instructions to them to destroy unused ballot papers except counting them separately. Moreover, there was no common procedure in signatures of polling station officials and party agents, etc. This resulted in disorder and perception of manipulation of results by the IEC.

Each Polling station chairperson was responsible for organising the count in his/her respective polling station.

The persons who were allowed to witness the count and enter or remain for the count were Polling officials; IEC officials with special duties relating to polling and counting; Persons introduced by ECC; Accredited agents of political parties, coalitions and independent candidates; Accredited electoral observers, national and international, language assistants of international observers; Accredited members of the media with valid press cards; and special guests.



Counting under poor lights in a polling station in Faryab

In many polling stations however, ANFREL observers found that the ballot boxes were sealed correctly which were opened in the presence of observers before the counting process began. During this process no cheating or fraud was detected. What transpired following the counting process and whether the ballot boxes or the unused ballots were reused is difficult to say. Owing to the security protocol none of the observers could station themselves at the polling stations to witness the transportation of the ballot boxes to the provincial headquarters or to the central headquarters in Kabul.

Security conditions also prevented observers from staying back to observe the entire counting process which carried on late into the night. In some cases, counting continued until midnight or longer.



Counting in progress in a female polling station (top). Spoiled ballots lying unattended in a polling station (below).

Election Day Highlights

1. Both Television and radio stations violated the silence period on Election Day by allowing candidates direct speech while the polls were open.
2. The Ministries of Foreign Affairs and the Interior informed the media to not cover any violence on Election Day, in case this discouraged voting. The English version of the notice used the term “request”, but the Dari version used much stronger language, instructing media not to violate this rule. This led to confusion as there were different interpretations from different people and groups.
3. As many as 15 journalists, including both Afghans and foreigners, who tried to cover violent events in Kabul on Election Day were arrested. Several were assaulted while in custody, and one had money stolen from him. They were released after the polls.
4. However, various other media, especially foreign TV media covered the incidences of violence throughout the Election Day without any restrictions.
5. In a press conference after the polling, the IEC appointed Media Commission Chairman condemned the highhandedness of the police. An assurance was given to journalists that the incidents of police assaults on journalists would be investigated. A request to investigate the charges against the police was made to the Ministry of Interior.

Women's Participation on Election Day

The enthusiasm seen amongst women in the Afghanistan elections cannot be overlooked or dismissed as a rare phenomenon even though it may not represent the actual or growing interests among women in the political and electoral process. Women continue to face different kinds of challenges to overcome fear and insecurity to come out to vote and participate in the process of decision making both at home and outside it.



According to an AIHRC-UNAMA Joint Monitoring of Political Rights, Presidential and Provincial Council Elections, report.⁷⁹ “Women’s ability to vote was very much dependent upon local conditions. Generally, there were considerably fewer women than men at polling stations casting their votes.” The report says that female participation was heartening in relatively secure areas of the country, such as the provincial capitals in the Northern and Central Highlands regions and the Northeastern (Badakhshan province) and Central regions (Parwan province). Even more encouraging, in Sheberghan city, Jawzjan province and Qala-i-Naw, Bagdhis province, female turnout was higher than male turnout. In these regions, the high turnout was explained by some as a result of greater

⁷⁹ AIHRC-UNAMA Joint Monitoring of Political Rights, Presidential and Provincial Council Elections, Third Report 1 August – 5 October 2009. The full report can be accessed at <http://www.aihrc.org.af/>

levels of awareness with regard to the right to vote, including effective mobilization of female voters by female candidates.

The report further notes that there is no evidence to suggest that female voters or polling stations for women were particularly targeted by armed groups, but the insecure environment prevented women from coming out to vote. For example in Kabul city, women's political participation was lower than expected for an urban area. Many civil society intellectuals are of the view that women's decision to vote was probably more influenced by the insecure situation than cultural constraints.

In many areas of Northern and Central provinces the turnout of women voters was encouraging, whereas in others the numbers were very less. Women voters interviewed in Panjsher said they were keen on casting their votes "to bring about effective changes," and improve peoples' lives. In Balkh too women seemed to be aware of their right to vote to add to the process of change.

Special Voting Cases

The IEC set up special polling stations, 82 in all for people with special needs. Those who availed these services included the national army, police, internally displaced persons, prisoners (who have not been deprived from their civil and political rights by a court of law), people that are hospitalized, and those at the Presidential Palace.



Voting underway inside a prison at Sar-e-Pul



Post Election Developments

Counting and Announcement of Results

As per the schedule drawn out by the IEC the official preliminary results were to be declared two weeks after the August 20 polls (on September 3) whereas the announcement of the final official results was slated for September 17, 2009. A run-off, if the outcome of the results demanded it, would be held within two weeks after the official declaration of the results.

However, within three days of the counting the ECC began to receive complaints of frauds. Over 200 complaints were received by the ECC. Allegations of fraud were made by different groups and candidates. The ECC responded to the complaints and reported that in as many as 35 cases the fraud that took place were large scale and that it had the potential of altering the outcome of the elections. There were several kinds of complaints like intimidation of voters, poor quality of indelible ink and interference in the polling process. But the most common complaint was that of ballot stuffing.

There were other forms of complaints from different candidates who ran for the Presidential elections. One candidate claimed that in Lashkar Gah in Helmand province, elections officials doubled the number of votes in favor a certain candidate. Another candidate claimed that thousands of ballots cast for him had been removed from ballot boxes by his opponents and taken away to be destroyed. He displayed bags full of ballot from Kandahar that had been discovered by his supporters.⁸⁰

⁸⁰ *Deputy Speaker of the lower House of Parliament Mirwais Yasni told the media that his votes were destroyed in one of the polling station.*

Other candidates showed video footages to claim that there has been large scale rigging and cheating in the elections and that their votes were not counted. Most of the accusing fingers were pointed at the incumbent President.⁸¹

The ECC kept receiving information on fraud committed in the South and South Eastern parts of the country. On September 8, it issued an order to investigate all ballot boxes applying six criteria. 3,789 ballot boxes were found to have been fraudulent based on the six-point criteria.

These factors arising out of complaints of fraud and investigation into the allegations by the authorities resulted in consumption of additional time.

Moreover, retrieval of election materials also encountered several hiccups and complicated the process further. It must be noted that the counting process began without all the ballot boxes having being retrieved from the districts to the provincial offices of the IEC. IEC officials said that over 70 per cent of the materials were retrieved till one week after the elections.⁸² Election materials from some of the polling centres had to be relocated owing to the security situation on Election Day. The counting for these centres were conducted in safe heavens: District capitals, more secure polling centres and in some instances back at the provincial offices. The IEC instructed the field office to ensure that, in the instances described, candidates and party agents as well as observers were present.

⁸¹ Dr. Abdullah Abdullah said in press conferences that his votes were not counted. He showed sealed ballot forms which he claimed were votes for him that were never counted; a vote ledger sheet from a polling station that listed only a few names, yet had a ballot tally on the bottom of 1,600. He also showed a video of ballot-stuffing that he said was recorded on August 22.

⁸² Information provided by the External department of the IEC.



Ballots from different provinces kept in the IEC strong room after the recount.

So far there has been no clear explanation to the questions regarding the lengthy process of counting and tallying ballots. The prolonged investigation of the frauds undermined the entire democratic process in the country. IEC senior officials were of the opinion that counting took time owing to the adjudication of complaints by the ECC.⁸³ The IEC submitted the result three weeks after election. The ECC made it clear that owing to the serious nature of frauds the recount process needed proper scrutiny.

The announcement of the partial results for the Presidential Elections began on August 26 and it finally ended on September 16, 2009 with the IEC projecting the following figures against four of the top candidates.

- Hamid Karzai – 3,093,256 votes, 54.6%
- Abdullah Abdullah – 1,571,581 votes, 27.8%
- Ramazan Bashardost – 520,627 votes, 9.2%
- Ashraf Ghani – 155,343–2.7%

Total Valid Votes: 5,662,758.

The figures were however disputed as from the very first day of the counting of the results it was apparent to ANFREL that the counting was unsystematic. The media projected contradictory figures and challenged the IEC claim that voter turnout was 38.7%.

Incidentally even after the audit the IEC figures do not match with the ECC's. The IEC has posted 49.67 percent for the Number one candidate while the ECC has said that the figure should be 48.7%.⁸⁴

⁸³ IEC Deputy CEO Zekria Berakzai maintained that the IEC stuck to the timeline and that security conditions and the investigation by the ECC were the main reasons for the time consumed in the counting process.

⁸⁴ ECC Chairperson Grant Kippen told ANFREL Post Election Mission team that the IEC has been asked to explain how it arrived at that figure. However, till the completion of the Post-Election mission no information was available to the ECC.

Final Certified Presidential Results

21-Oct-09 2:00 PM

Vote Order	Candidates Name	Votes from Stations not subject to complaints/audits	Added Votes **	Total Votes	%
1	Hamed Karzai	1,904,900	379,007	2,283,907	49.67%
2	Dr. Abdullah Abdullah	1,310,334	95,908	1,406,242	30.59%
3	Ramazan Bashardost	450,183	30,889	481,072	10.46%
4	Ashraf Ghani Ahmadzai	122,021	13,085	135,106	2.94%
5	Mirwais Yasini	45,538	1,973	47,511	1.03%
6	Shahnawaz Tanai	26,741	2,907	29,648	0.64%
7	Dr. Frozan Fana	19,544	1,968	21,512	0.47%
8	Mulla Abdul Salam Rakity	18,724	1,273	19,997	0.43%
9	Dr. Habib Mangal	15,971	2,775	18,746	0.41%
10	Motasim Billah Mazhabi	17,350	898	18,248	0.40%
11	Abdul Latif Pedram	15,099	363	15,462	0.34%
12	Mohammad Sarwar Ahmadzai	12,469	1,804	14,273	0.31%
13	Sayed Jalal Karim	12,719	770	13,489	0.29%
14	Mrs. Shahla Ata	10,176	511	10,687	0.23%
15	Mahbob-U-lah Koshani	9,963	292	10,255	0.22%
16	Alhaj Abdul Ghafor Zori	8,747	539	9,286	0.20%
17	Haji Rahim Jan Shinzad	6,939	258	7,197	0.16%
18	Zabih-U-llah Ghazi Noristani	4,273	2,011	6,284	0.14%

19	Abdul Jabar Sabit	5,791	399	6,190	0.13%
20	Mohammad Hashim Tawfiqi	4,880	163	5,043	0.11%
21	Bismillah Shir	4,457	93	4,550	0.10%
22	Dr. Ghulam Farooq Nijrabi	4,433	95	4,528	0.10%
23	Abdul Hasib Arian	4,409	63	4,472	0.10%
24	Eng. Moin-ul-din Ulfati	3,338	180	3,518	0.08%
25	Gul Ahmmad Yama	3,179	42	3,221	0.07%
26	Mulla Ghulam Mohammad Rigi	3,103	77	3,180	0.07%
27	Mohammad Akbar Oria	2,939	52	2,991	0.07%
28	Bashir Ahmad Bizhan	2,396	61	2,457	0.05%
29	Sangin Mohammad Rahmani	2,403	31	2,434	0.05%
30	Hidayat Amin Arsala	2,253	93	2,346	0.05%
31	Abdul Majid Samim	2,149	49	2,198	0.05%
32	Zia-ul-haq Hafizi	1,648	31	1,679	0.04%
Total Valid Votes			4,597,727		
Invalid Votes			156,725		
Invalidated Votes *			68,638		
Total Votes			4,823,090		
* Votes invalidated due to candidates' withdrawal(s).					
** Votes Added based on ECC Ordered Audit					

Courtesy: IEC

Dispute Resolution

The elections raised serious doubts about the legitimacy of the IEC's decision to declare Hamid Karzai as the President. The question of legitimacy assumes greater significance as the proposed run-off election was called following allegation of large scale frauds which brought down voting percentage of the leading candidate below the 50 per cent mark. However, as explained before, the existing laws do not have adequate provisions to provide for an alternative which would be acceptable to everyone, especially the people of Afghanistan. The IEC does not have mechanism for delivering electoral justice or undertaking what is called electoral dispute resolution.

The ECC was mandated under Article 52 of the Election Law to consider and adjudicate "complaints relating to electoral offences, including violations of the law in the conduct of the electoral process, provided that the complaint has been received prior to the certification of the results of the election."

The ECC work has been regarded by both domestic and international observers' groups and agencies as "the only institutional bulwark" against attempt by vested interests to rig the elections. Permanent institutions—political parties, the IEC, an independent and apolitical judiciary and prosecutorial service—that were meant to conduct a free and fair elections have been criticized and dubbed as dormant and complicit.⁸⁵

The ECC within its jurisdiction reacted to complaints and issued the September 8, order to investigate ballot boxes. However, the ECC was categorical that while it is mandated to adjudicate election related complaints, it was not a dumping ground of the IEC. The IEC has been accused of not using its own legal units to examine cases regarding a candidate's background, etc and instead relegating all problems to the ECC.⁸⁶

⁸⁵ Speech delivered by Alex Thier, Director of Afghanistan and Pakistan programs, in the U.S Institute of Peace. Thier testified on November 19, 2009 before the House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs on how to move forward in Afghanistan and work with President Karzai.

⁸⁶ ECC Chief Grant Kippen, told the ANFREL post election mission team election that all cases, even those that could have been settled by the IEC using its own legal units were dumped to the ECC.

The ECC is overloaded and it needs more time and space to adjudicate complaints as serious as ballot stuffing and cheating by election officials. The ECC is meant to be an extremely powerful institution primarily to resolve disputes, but as has been mentioned in the previous section (Read more about ECC, page 78) it does not have the teeth to enforce its decisions and rulings. The fact that the ECC has to wind up its activities 30 days after the certification of the results have come for strong criticism from different circles.

Most CSOs and the academia are of the view that the ECC has not been given sufficient time to undertake a thorough investigation and this has delivered a critical blow to the legitimacy of the entire process. The general impression is that electoral offences as is specified by the law must be adhered to at all cost and those responsible for cheating and violation should be punished.

Committing fraud in voting and vote counting is an electoral offence under Article 53 of the Afghanistan Constitution.⁸⁷ The article also says that “offering or receiving a payment or other benefit for the purpose of influencing the electoral process,” is an electoral offence. There have been a number of such cases reported in both the Presidential and Provincial Council Elections.

Article 54 of the Constitution mandates the ECC to determine electoral offence and impose sanctions and penalties. The law states that the ECC “can remove a candidate from the candidates list, if there are justified reasons.”⁸⁸

Furthermore, the law allows the ECC to impose sanctions on a political party or candidate for electoral offences committed by its members or supporters. In addition to imposing the above sanctions, the ECC may refer the offender

⁸⁷ Article 53 of the Constitution enlists several clauses to indicate what constitutes an Electoral offence. For more details about the article see, www.iec.ogr.af

⁸⁸ For the full text of Article 54 which specifies sanctions and penalties for electoral offence please see Afghanistan Constitution available online. See www.iec.org.af

to the Public Prosecution Office if it has evidence that the offender has perpetrated a criminal act.

The legal framework for electoral dispute settlement by ECC as provided in the Constitution is very strong but its actual functioning and work suffers from serious limitations. The ECC was setup just two months before the elections and it lacks infrastructural facilities for smooth and efficient functioning. Its provincial offices are still not operational resulting in all complaints coming to the commission directly in Kabul. As a result of its regional offices not being fully operational the complainants found it difficult to lodge complaints at the provincial levels. The reason for the delay in setting up the ECC is due to late decision taken by donor agencies hampering the work of the commission.

Therefore, given the current situation where the system appears to be deeply flawed there is not much option but to demand for an impartial independent enquiry or strengthen the judicial system.

Members of civil society and the AIHRC are of the opinion that the easiest and the most convenient way would have been to refer the case to the Supreme Court.⁸⁹ However, the AIHRC agrees that the independence and competence of the judicial system in Afghanistan is questionable and therefore, it would not help much to refer cases to the courts.

The position of the Judiciary, its independent character and whether disputes arising out of elections can be settled in the court of law needs to be reviewed.

⁸⁹ *The AIHRC had a project under UNAMA to monitor the political rights of the Afghans. The AIHRC reported its findings to the ECC and asked it to investigate. The AIHRC reported to the IEC that maximum fraud occurred in polling stations where there were not enough women employees.*

During the post election analysis not a single Afghan citizen expressed faith and confidence in the judicial system of the country. This assessment came no less from members of the Afghan Bar. They claim that the courts are not independent, that they are under the control and influence of powerful politicians and that they are essentially corrupt. Despite numerous complaints lodged with the ECC, only three cases were filed with the AG's Office for investigation and possible prosecution. This is indeed evidence of the public's lack of faith in the judiciary.

The office of the AG is mandated to investigate election related offences. The office of the AG is stated as an independent and impartial body in accordance with the Article 134 of the constitution. Prior to the elections 10 different committees were constituted by the AG's office to handle various cases—each committee headed and presided by central directors of the prosecutor's office. The three cases mentioned above which were filed with the AG's office for investigation and possible prosecution have been referred to the IEC, ECC and the Interior Ministry for verification, cross-checking and their action.



ANFREL team with ECC Chairperson Grant Kippen in Kabul.

However, till date there has been no action, response or reaction by any of the institutions mentioned above, which demonstrates the lack of coordination between these institutions. In fact Article 58 of the electoral law clearly states that “Where the Independent Electoral Commission believes that an infraction has taken place it shall refer the matter to the relevant law enforcement or prosecutorial authorities, giving the reasons for its request.”

Post Election Politics

Elections in Afghanistan were held with several incidents of violence and security threats which had a significant impact on the voters’ turnout. The post election period was dominated by allegations and counter allegations from leading political candidates and political parties of massive fraud committed during voting and vote counting.

Even before the results were announced allegations of systematic fraud began to emerge from the two leading camps, that of President Hamid Karzai and his main challenger Dr. Abdullah Abdullah. The media was flooded with reports of ballot stuffing, ghost polling stations and intimidation from all over the country. During this time the two leading candidates declared victory, thus setting in motion a high voltage drama which unfolded with the investigation of frauds by the ECC and ended with Dr. Abdullah pulling out of the proposed run-off elections.

Even as the international community, mainly the US, mounted pressure on the two candidates to take part in the run-off, Dr. Abdullah stuck to his guns claiming that unless the head of the IEC was removed from his position the run-off elections would be a futile exercise. His argument was that under the present leadership the IEC would not be in a position to conduct a fair poll. There are enough indications to suggest that backdoor negotiations were on with Dr. Abdullah, firstly, to contest the run-off elections and then to extend support to a Karzai led government if he did not participate in the polls.

On November 2 the IEC decided to declare Karzai as the winner. After some initial debates and mud-slinging in the media by those who opposed the decision, it was gradually accepted as the only possible solution in the absence of any Constitutional or legal provision to provide an alternative. However, Dr. Abdullah, who has worked with Karzai in the first elected government after the 2004 Presidential Election as the foreign minister, refused to enter into any power-sharing or support the new administration.

The media and several other post election documentation has quoted Dr. Abdullah as saying that he would work as the “loyal opposition” to Karzai (See Annex). However, Dr. Abdullah and his supporters who are primarily from the northern part of the country claimed that the Karzai government is “illegitimate” as the elections were deeply flawed and it has eroded public confidence immensely.

This may be a one sided view though it was clear from interviews with voters and that they are willing to accept the election outcome “in the larger interest of the country.”⁹⁰ Notwithstanding, the question of whether the Karzai’s government could be treated as legitimate or not, the general public, CSOs, media and even the academia said that unless election reforms are introduced such conditions are bound to surface. Most were willing to work under the present framework than see the country plunge into a political crisis of sorts, with no elected government to lead its people.

It is more or less accepted that the question of legitimacy in the preset political context in Afghanistan is an issue with no apparent resolution. The Constitution and the Election Law has ‘gaps’, to express in a word commonly used by the CSOs of Afghanistan.

⁹⁰ *Interviews with people from the various social layers in Kabul during a post election assessment study by ANFREL during November 2009.*

There are two schools of thought on the controversy:

- a. Those who claim the election was legitimate invoke the constitutional provision which says that the IEC shall “....supervise every kind of elections...” (Article 156) and expand it to mean declare a winner under all conditions.
- b. Those who deny legitimacy contend that there is no law that empowers the IEC to declare a winner in case a run-off election is called and one candidate withdraws.

The issue could have been settled had an interested party sought refuge with the Supreme Court. The Court could have taken cognizance of the issue pursuant to Art. 130 of the Constitution which states that “If there is no provision in the Constitution or other laws about a case, the courts shall in pursuance of *Hanafi* jurisprudence, and within the limits of this Constitution, rule in a way that attains justice in the best manner.”

But, right now the issue though should be treated as moot and academic with the recognition of the UN that the election was a legitimate political exercise. Still the need remains to fill in the ‘gaps’ by way of legislation to avoid a repetition in the future.

According to the common people the legitimacy of the President will reflect on the kind of administration he forms and performance of its efficiency. If the President is able to make an inclusive, effective and corruption free administration, then the question of legitimacy would be probably no longer relevant.

Some say let time decide the question of legitimacy. A commonly aired view is that the Karzai led government would be accepted as legitimate if it endeavours to reform and strengthen the rule of law, justice system and the fight against corruption.

The international community, especially the US appears to have put a raider as well. While endorsing the stand of the UN to declare the IEC decision as

legitimate, messages have been sent out to President Karzai to fight corruption and at the same time emphasis on reforming the judiciary. These conditions has found acceptance amongst the public and the intellectual sections in Afghanistan who strongly believe that without a working judicial system in place, the fight against corruption and cronyism will remain a losing battle.

Given the increasing demands from both at home and from abroad, President Karzai definitely has his job cut out. The ICG has expressed some amount of skepticism on whether President Karzai would pass this test. The task to accommodate the demands of his allies, the amalgamation of religious conservatives, tribal strongmen, factional leaders, regional power-brokers, powerful businessmen and local chieftains is gigantic.

The international community is keeping a close watch on the developments and constantly prodding Karzai to accord topmost priority to anti-corruption policies. ICG reports that intense pressure on Karzai caused the President to promise a focus on curbing corruption in his inauguration speech on November 19, while the government days earlier had announced the creation of a new high-level anti-graft body.

It would be difficult to overestimate the impact of deteriorating security on the polls. Violence has steadily risen in Afghanistan during 2009, and the weeks before and after the poll date saw the worst levels of violence since the invasion in 2001. At least four candidates for the Provincial Council Elections were killed, and many more attempts were made.

The elections were preceded by a large increase in foreign troops, with the U.S. committing 21,000 extra military personnel before the elections, and NATO contributing a further 5,000, all mostly deployed in the south and east. On 1 December, U.S. President Obama announced a new strategy for Afghanistan, which included the deployment of a further 30,000 U.S. troops and a tentative exit plan for July 2011.

RECOMMENDATIONS

1. Electoral Management and Conduct:

Immediate reform in the electoral management body must be undertaken, especially of IEC in accordance with universally adopted benchmarks to maintain the sanctity of such a body. A process of continuous training should be conducted for polling officials in order to create comprehensive and consistent electoral operations that will reduce the chance of irregularities and institutional flaws that surfaced during the election process this year.

To ensure that the IEC can be transformed into an independent, impartial and transparent body the following guideposts may be considered.

Appointment of IEC Members

The President remains the appointing authority. This is common practice in many democracies. Trust and confidence in the EMB is enhanced when the various stakeholders participate in the selection process. There are several ways by which this can be achieved. A screening committee may be formed; consultations can be held; nominations may be proposed from the political contestants; etc. All this can be done without prejudice to the Presidential authority to appoint.

The parliament, at the appropriate time, may enact a law that would introduce some measures that would validate the appointments made by the President. Again this is common practice in many democracies.

Tenure of Office

The independence of the IEC is best guaranteed when the members' term of office is defined and they enjoy security of tenure. Hence, they must serve for a reasonable length of time. In some countries EMB members serve for five (5) years as in Thailand, or till age of retirement as in India. Likewise, the manner by which they can be removed from office (example, through a process of impeachment) should be spelled out in the law.

Fiscal Autonomy

The IEC must likewise be guaranteed budgetary independence. It prepares its own budget which the legislature can review and subsequently appropriate the needed budget. Subsequently, the IEC assumes full responsibility and accountability. An EMB loses its independence when it has to “beg” for funds to carry out its duties and responsibilities.

Recruitment of Polling Staff

A number of cases of under-aged polling staff were detected in several polling stations. The practice of recruiting young, untrained and under aged polling staff should be discouraged as it is against established electoral norms and could jeopardize the credibility of the electoral process.

Other issues pertaining to the reforms process in the IEC that needs to be taken into consideration are:

The proposal of Mr. Zekria Barakzai, Deputy Chief Electoral Officer, IEC to set-up an “Internal Investigation Unit” to investigate erring IEC personnel is noteworthy. However, with the independence and impartiality of the IEC under question, this is hardly workable. Besides, the IEC becomes the jury and the judge at once in such a case. The matter is best taken care of by an independent court or a panel of experts or the ECC.

Some of the key concern that needs to be addressed includes:

- The reshuffling of IEC personnel at the lower levels should be done in the next election.
- The IEC officers/employees tainted with fraud should be prosecuted.
- There is a need to raise the level of capacity of the IEC at all strata.
- The procedures for the issuance, delivery and distribution of sensitive materials need to be reviewed and improved. Audit mechanisms have to be set up.

2. Female Participation in IEC:

The IEC should encourage and train women to fill the shortages of female poll officials. Such shortages were a problem that was found in most polling stations visited by ANFREL observers. Participation of women in polling stations would surely bring more women to the voting stations.

3. Strengthening of the Media Commission:

The Media Commission should be armed with more legal powers to be able to take punitive actions against misuse of media space by the media itself or candidates and political parties. Without a clearly defined law to control the media, the existence of the Media Commission is meaningless. The Commission should be independent as to be able to provide all candidates equal access to election debates and media coverage.

4. Voter Registration:

Considering the fact that the process of voter registration is questionable and inaccurate, a completely new voter registration system is recommended. During the observation a good number of cases of under aged and ghost voters were detected. Voter registration should be a continuous process rather than only in phases right before the election so as to remove these inadequacies that continue to exist. The IEC should have adequate time to sort out the voters' list in an order that can be easily accomplished.

This may be carried out:

By province, since the Parliamentary election has the provinces as constituencies; Segregate male from female voters since there are varying requirements (photo) for registration and they have separate polling stations; a separate list for the Kuchis since the entire country is their constituency.

Once the sorting out is done, a "Voter Registration Audit" can be done in each province. Under the circumstances, a provincial audit is much preferred and can more accurately yield results. NDI which is in Afghanistan has a program on how to conduct a "Voter registration Audit". ANFREL can likewise undertake the task if asked to.

The voters' list should be sorted out in numeric sequence. The reason is, those with successive/sequential numbers registered at the same time or close to each other and are probably living in the same village/locality . In fact the IEC conducted the voter registration going to schools and places. The use of latest technologies can greatly assist in this activity. Once this is accomplished, the list may be arranged in an alphabetical order.

Once the list is sorted out, a random "house-to-house" verification can be done by the local IEC with the help of the local domestic EMO or FEFA.

On its own, the IEC can start to randomly purge the voters' list with ineligible voters by verifying the photos (they presumably have them on the file). In the last election, ANFREL has uncovered minors voting simply from their looks and later on interviewed them. Almost all admitted they were underage.

5. Census and National Identity Cards:

In the long run the international community should assist the Afghan government to initiate a census and prepare a uniform system of National ID cards for all Afghan citizens. These ID cards could/should be used for voting. A nation-wide census and computerized data base could be extremely beneficial.

6. Strengthening and Institutionalization of ECC:

The legal framework for electoral dispute settlement by the ECC as provided in the constitution appears to be very strong and the ECC acted diligently in disqualifying candidates in finalizing the list of candidates after the nomination period. But in its actual functioning and day-to-day work it suffers from serious limitations. The ECC was set up quite recently and it lacks infrastructural facilities required for smooth and efficient functioning. Therefore, it is strongly recommended that the ECC be strengthened and institutionalized for the larger interest of free and credible elections. The ECC with its present composition of three foreigners (UN appointees) out the five members appear to be acceptable to the Afghan people simply because of their lack of trust on the prevailing judicial system. For the long term, however, a transition plan should be considered so that this will be an all

Afghan body. The short timeframes for establishment of the ECC complaints and the end of its term do not provide a suitable balance between the time pressures of an election process, and ensuring that there is sufficient time to conduct the investigation, allow a complaint/appeal to be lodged and heard fairly.

7. Comprehensive Voters' Education:

Voter turnout was probably affected by the absence of adequate and proper voter education which could severely impact upon the outcome of the elections. The IEC needs to reach out to places which are far-flung and out of bounds having no access to the media whatsoever. Women are often the vulnerable section of the society who are left out of such exercises. The IEC needs to pay more attention to this and ensure healthier participation of women.

The IEC should encourage a massive civic education programme with appropriate information, education and communication materials to suit the given literacy status. The involvement of civil society organisations in a combined civic and voter education project should be encouraged. There should be a logical and meaningful engagement with civil society at all stages of the electoral process.

8. Participation by Civil Society:

Logical and meaningful consultation with civil society at all stages of electoral process is important. The key actors of the electioneering including the international community should have offered more space for the CSOs in conducting civic education and public awareness programs that would have surely ensured more participation of the voters and cut down election fraud. There should be unity among civil society organisations for a unified voice towards policy change and creation of public awareness.

There is an urgent need to build capacities of CSOs, especially local domestic observation groups like FEFA to make them more effective. During the post election assessment mission there were reports from different other monitoring agencies regarding inadequacies in the FEFA.

9. Media Role in Elections:

The media in Afghanistan is in a transitional phase with only a small part of it being relatively free from direct control by the state. This section is categorized as the 'Private media' while there also exists what is known as the 'State owned media' (Government media) and 'political party controlled media.' A small section of the media is also under control of the warlords. In this context it is important to adopt a media law to control misuse of media by candidates during elections.

10. Code of Conduct for Government Officials:

A number of cases of government officials using their position and influence to campaign for some candidates were reported. These incidents could seriously impact upon the outcome of the elections. A code of conduct must be designed to ensure neutrality of government officials, police, governors and heads of districts during elections.

11. Check on the Misuse of Government Resources:

Stringent measures should be adopted to regulate the use of government facilities and infrastructure. In this context regulation on campaign finance should be adhered to by all candidates and the IEC should make it compulsory to disqualify those found guilty. Political parties and candidates are equitably treated by regulations governing campaign finances and expenditures with the need to disclose the sources of expenditure twice during the election period. The law should be followed without any compromises.

FEFA's suggestion that there should be more strict rules on campaign finances such as setting a spending limits and transparent reporting of campaign contributions perhaps needs to be taken seriously.

12. Campaign Regulations:

All campaigning on cooling days should be seriously prohibited. The IEC and the ECC should punish those who violate the law. All private and government security units should refrain from helping candidates campaign or keep campaign materials in their office or vehicles.

13. Regulations on Heads of Villages:

Heads of the villages should stay neutral and should not influence people to vote for a particular candidate. Village mullahs represent the pillar of religious civil society in Afghanistan and carry immense influence. It is imperative to engage mullahs within the framework of Islam, in collaboration with NGOs and CSOs to built partnership to deliver civic education.

14. Improvement of Logistics for Polling:

In many polling stations the quality of election materials was extremely poor. While the “Hole Puncher” was not working in most polling stations, the quality of indelible ink too was questionable in many locations. Since ink is the only reliable tool to prevent double or multiple votes, the poll officials must check all fingers on both hands before a voter enters the polling station. The procedures for the issuance, delivery and distribution of sensitive materials need to be reviewed and improved. A proper audit mechanism has to be set up.

15. Designated Voting Stations:

Despite the convenience offered by the current system of allowing a voter to vote at any polling station, a system of designated polling stations should be established where each voter is required to vote at a particular polling station. This would help eliminate instances of double voting and other irregularities that the current system fosters.

16. Women’s Participation and Mobilization:

As per the Election Law, seats have been reserved for minorities and women in the country. However, there is a need for mobilization of women both as voters and candidates. Female candidates must have freedom of movement during the campaign. The IEC must consider a long term action plan to encourage women to play a constructive role in the election process. It should be specially designed to boost the participation of women voters.

17. Freedom of Participation during Elections:

Apart from security concerns there are others factors, like traditional and ethnic considerations as well as social hierarchies which inhibit freedom of

assembly, expression, association and movement. The IEC must initiate a civic education program to underscore the need to shed such inhibitions and, while respecting local culture, allow for a freer environment for participation of all eligible voters in the elections.

18. Electoral Process for Voting in Prisons:

In Afghanistan the law allows for prisoners to vote. Therefore, to streamline the process of voting in the prisons, prisoners must be able to get sufficient information about the candidates and the polling process.

19. Streamlining Counting Procedures:

The procedures followed by polling stations officials varied from one centre to the other. A uniform process such as filing up the requisite forms, separating unused ballot papers by marking and maintaining strict timing are essential for guaranteeing a free and transparent process.

20. Strengthening the Legal System:

There is a need to clarify and delineate functions between the IEC and the ECC. A reading of the Election Law would give the impression that the ECC has enormous powers. Yet, the law does not provide any mechanism by which the decisions and rulings of the commission may be implemented. The investigation of election related complaints still are not clear in practice between the ECC and the AG's Office. In best practice any decision to prosecute should be taken on the basis of available evidence and without any political consideration. It is also not clear whether IEC has right and power to interpret these articles of the constitution and make the decision. There is a need of clear interpretation of controversial articles in the constitution by the Supreme Court's rule.

21. Electoral Reforms:

To overcome the existing inconsistencies in the mechanism of electoral operation, a process of reform in the electoral system is suggested. This is recommended because the management of elections unfolded differently in different places, where we had our observers, making the process somewhat inconsistent.

22. Alternatives to the SNTV system:

The SNTV system was apparently chosen as the electoral system for Afghanistan for two main reasons. First, SNTV is noted for its simplicity and therefore practical for a country with a high level of illiteracy. Regardless of the fact that the SNTV system is easy to administer, it has many disadvantages and therefore an alternative system that may be considered is the “proportional representation system.”

23. Security:

Impact of insecurity resulted in low voter turnout. Freedom of election cannot be attained without ensuring basic security for the people. A process of reform in the Afghan National Police and Army by providing adequate salary and boost morality is vital. The process of capacity building to create an Afghan State that is able to defend itself internally and externally must continue.



ANNEXES

Annex 1 – Mission Timeline

Period : June – August

Date	Activities
June 22 - 29	Assessment mission by elections expert
July 15 th -22 nd	Core team arrived in Kabul
July 22 nd -26 th	Long Term Observer Arrive in Kabul
July 26-28	LTOs Briefing
July 29	LTOs Deployment to the field and begin the observation
August 9	STOs Arrived in Dubai and other transit country
Aug 11 th	The STOs arrived in Kabul
Aug 12 - 13	STOs Deployment to the fields
Aug 14 th	STOs begin field Observation
20-Aug	ELECTION DAY
21 Aug	STOs and LTOs Return to Kabul
Aug22 nd	Observers de-briefing
	Committee meeting for press statement
Aug 23 rd	Press conference
Aug 24 th	STO Leave the country
	End of Mission

Annex 2 - Observer's List

N o	Code	Provinces	Coverage Area	Observers			Country
				Surname	First name	Title	
1	01	Kabul-1	Kabul city & outskirt	M. Altafqurahman	Shekh	Mr.	BANG
	02			Gadaingan	Kristina	Ms	PHIL
2	03	Kabul-2	Parwan & Pansjher	Srey	Sopheak	Mr.	CAM
	04			Lestari	Nurhayati	Ms	INA
3	05	Sar-i-Pul	city & outskirt	Mohd Tahir	Alfian Zohri	Mr.	MAL
	06			Rustinawati	Yuli	Ms.	INA
4	07	Badkhashan	city & outskirt	Paolo	Maligaya	Mr.	PHIL
	08			Adamy	Aulia	Ms	INA
5	09	Takhar	Takhar city & outskirt	Prasai Kumar	Ramesh	Mr.	NPL
	010			Istiqamah	Taibah	Ms.	INA
6	011	Kunduz	Kunduz city & outskirt	Khan Laghari	Imran	Mr.	PAK
	012			Najmiyah Amal	Sitti	Ms	INA
7	013	Baglan	city & outskirt	Teng Kiang	Lim	Mr	MAL
	014			Jabeen	Majida	Ms	PAK
8	015	Samangan	city & outskirt	Maskurudin Hafiz	Mohamad	Mr.	INA
	016			Tabitha Andoea	Margaretha	Ms	INA
9	017	Jawzan	city & outskirt	Faizal Bin Tadjudin	Mohammad	Mr.	MAL
	018			Basumatary	Amrapali	Ms.	IND
10	019	Balkh	Mazar city & outskirt	Nath Upreti	Prakash	Mr.	NPL
	020			Aliyah Darajatul	Siti	Ms.	INA

Core Team

1	021	Mission Director	Supriadi	Ichal	Mr	INA
2	022	Executive Director	Hananuntasuk	Somsri	Ms	Thai
3	023	Media Officer	Das	Bidhayak	Mr	IND
4	024	LTO Coordinator	Iskandar	Amin	Mr	MAL
5	025	Mission Assistant (STO)	D. Whelan	Ryan	Mr	USA
6	026	Logistic Coordinator	Chanon	Pongsak	Mr	Thai
7	027	Finance Officer	Preedametawong	Sirirak	Ms	Thai

AFGHANISTAN: *Upholding democracy through ballots*

Team Code	Seq No	Provinces	Observers			Country
			Surname	First name	Title	
S01	1	Kabul	Magbual	Damaso	Mr.	PHIL
	2		Ibrahim	Nawamohana. K	Ms	SRI
S02	3	Kabul	Prasad Shresta	Surya	Mr.	NPL
	4		Abe	Kazumi	Ms.	JPN
S03	5	Kabul	Rakchat	Chatchawan	Mr.	THAI
	6		Ciriaco	Raymond	Mr.	Phil
S04	7	Panjsher	Yamada	Mitsuru	Mr.	JPN
	8		Sharma	Gangga	Ms	NPL
S05	9	Parwan	Alvia	Eric	Mr.	PHIL
	10		Claudia	Sandar	Ms	BUR
S06	11	Jawzan	Bin Mohd Tahir	Tadzrul Adha	Mr.	MAL
	12		Mehboob	Uzma	Ms	PAK
S07	13	Badakhshan	Shresta	Kapil	Mr.	NPL
	14		Hatthatummanoon	Yada	Ms	THAI
S08	15	Takhar	Boon Keong	Ong	Mr.	MAL
	16		LY	Kheng	Ms	CAM
S09	17	Kunduz	Siwakoti	Gopal Krishna	Mr.	NPL
	18		Binti Muhammad Daud	Marini	Ms	INA
S10	19	Baglan	Bovonsirisan	Pornsak	Mr.	THAI
	20		Apriani	Pipit	Ms	INA
S11	21	Samangan	Bin Sheikh Ahmad	Omar Farouk	Mr.	MAL
	22		Bibha	Prajapati	Ms	NPL
S12	23	Balkh-1	Zuesongdham	Sakool	Mr.	THAI
	24		Mugleng	Achan	Ms	IND
S13	25	Balkh-1	Aree	Srawut	Mr.	THAI
	26		Binti Mohd Noor	Azura	Ms	MAL
S14	27	Sar-i-Pul	Bin Lebai Ali	M.Yunus	Mr.	MAL
	28		Chalieobun	Chompunut	Ms	THAI
S15	29	Faryab	Hettiarachchie	Rohana N.	Mr.	SRI
	30		Binti Madzlan	Azreen	Ms	MAL
S16	31	Documentary	Binti Wahdan	Jamilah	Ms.	MAL
			-			

Annex 3 – Basic Facts about Afghanistan

Official name	Islamic Republic of Afghanistan
Geographic coordinates	33° 00 N, 65° 00 E
Land area	647,500 sq km
Total area	647,500 sq km
Population	31,889,923 (July 2007 est.)
Government	Islamic republic
President	Hamid Karzai
Vice President	Ahmad Zia Massoud, Karim Khalili
Languages	Afghan Persian or Dari (official) 50%, Pashto (official) 35%, Turkic languages (primarily Uzbek and Turkmen) 11%, 30 minor languages (primarily Balochi and Pashai) 4%, much bilingualism
Capital and Largest city	Kabul
Religion	Sunni Muslim 80%, Shi'a Muslim 19%, other 1%
Currency	Afghani (AFN)
Race	Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, other 4%
Literacy rate	28.1% (2001)
Independence Day	19 th August (1919)
Time zone	(UTC +4:30)
Country calling code	+93
Internet TLD	.af

Source: <http://saarc.org/visit/afghanistan/afghanistan-fast-facts/>

Annex 4 – Extracts from NATO Afghanistan 2009 Report

Executive summary

In 2008, the United Nations-mandated International Security Assistance Force (ISAF), led by NATO, continued to support the nascent ANSF in the provision of security throughout the country. The overall security picture in 2008 was mixed. Violence rose sharply in parts of the South, South-East and South-West, leading to a significant overall increase in casualties from 2007.

However, large parts of the North, Centre and West of the country continued to be relatively stable. The ANSF grew in strength and capability and Afghan forces assumed responsibility for security in the Kabul area for the first time. ISAF force levels increased significantly and will continue to do so in 2009. Improved relations between the Afghan Government and the newly-elected Pakistani Government was matched by improved military coordination along the border leading, near the end of the year, to decreasing cross border support for the insurgency in Afghanistan. The capacity of the Afghan Government at the national, provincial and district levels remains limited and suffers from corruption. Continuing insecurity, criminality and, in places, the influence of the narcotics trade further impede efforts to improve good governance. Despite these challenges, the Government has made progress in extending and establishing its presence across the country. International donor-funded programmes are helping to develop the capacity of state institutions, including the civil service, reform at the central and sub-national levels, broad-based efforts to strengthen the country's judicial system and counter-narcotics capabilities. At the local level, initiatives run by the Government, notably the Independent Directorate of Local Governance (IDLG), to improve the links between central and local authorities are taking shape.

Afghanistan remains one of the poorest countries in the world but steady progress from this low base continues to be made. GDP continues to rise quickly (estimated 7.5% in 2008) and trade with Afghanistan's neighbours has increased significantly.

International support for the redevelopment of Afghanistan was invigorated at an International Conference held in Paris in June 2008 where more than 80 donors pledged 21 billion USD. Furthermore, the donors aligned themselves with the priorities set out by the Afghan Government in the Afghan National Development Strategy (ANDS), officially launched in June 2008 – a demonstration of growing Afghan capacity to guide its own future.

In 2009, Afghanistan faces the important democratic milestone of Presidential and Provincial Council Elections in August, set against the backdrop of continuing challenges in the security, governance and development fields. The International Community, including the NATO-led ISAF, will step up its support to the Afghan Government and people in this challenging year, including through a better-coordinated Comprehensive Approach.

Security

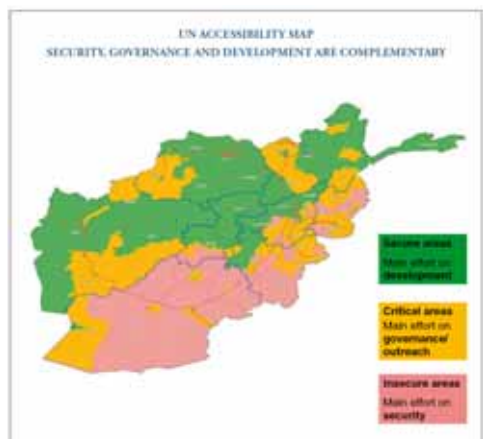
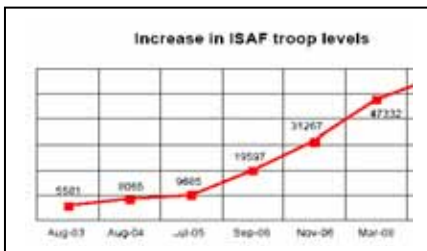
Effective governance and economic and social development need time and space to take root. To this end, NATO-ISAF's primary role in Afghanistan is to support the Afghan authorities in bringing peace and security to the people. The security picture in 2008 was mixed. Violence rose sharply in parts of the South, South-East and South-West as militants and criminals stepped up their efforts to limit the reach of the Government. This led to a significant increase in both civilian and security forces casualties, as well as the militants themselves when compared to 2007. Attacks against Afghan civilians and the International Community using Improvised Explosive Devices (IEDs) caused the greatest loss of life, while insurgents increasingly targeted isolated and vulnerable Afghan National Police (ANP) facilities, resulting in a significant rise in police fatalities. Furthermore, instability in Pakistan allowed insurgents to use safe havens from which to mount attacks across the porous border into Afghanistan.

However, the increased violence remained largely concentrated in the same areas as 2007. Substantial parts of the North, Centre and West of the country continued to be relatively stable. ANSF, growing in strength and capability,

took the lead role in providing security in Kabul Province, which showed a marked decrease in violence despite some high profile attacks. ISAF force levels also grew significantly in 2008. ISAF deployed additional ground forces to the South and East of the country to support the ANSF in exerting control over areas where previously insurgents had influence. Despite the continuing challenge of cross-border incursions from Pakistan, improved relations between the Afghan and the newly-elected Pakistani Government was matched by improved military coordination along the border between the two countries. Near the end of the year, a coordinated security operation on both sides of the border showed positive results against the militants.

Expanding Security

ISAF increased in size from approximately 43,000 troops in February 2008 to 56,000 in February 2009. This meant more troops in more areas that previously had little or no regular security presence. The consequence was actually more fighting as militants were pushed away from some of the more densely populated areas, such as in Musa Qala and Garmsir Districts in Helmand Province



Annex 5 – Extracts from The Asia Foundation Survey 'Afghanistan in 2009: A Survey of the Afghan People'

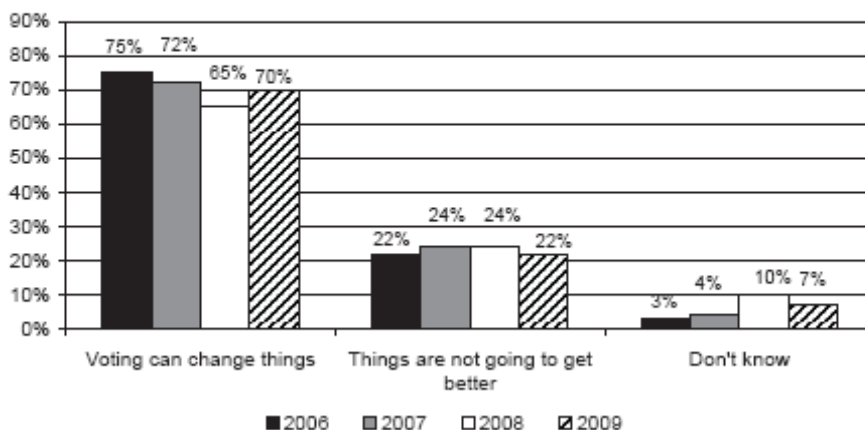
Attitudes toward elections

The survey also attempted to assess people's sense of efficacy to influence public decision-making specifically through the electoral process. Respondents were asked whether they think that voting can lead to improvements in the future or whether they believe no matter how one votes things will never change. More than two-thirds (70%) say that voting can change things, while just over one-fifth (22%) say that things are not going to get better regardless of how they vote.

Although there has been a steady decline in the proportion of people who have confidence in the efficacy of their vote between 2006 and 2008, results in 2009 reveal a certain renewed confidence in the electoral process. While three-quarters (75%) of respondents said they believe that voting can change things in 2006, this had fallen to 72 % in 2007 and around two-thirds (65%) in 2008. However, in 2009 the figure rose again to 70 % of respondents who say that voting can lead to improvements in the future. This may be a reflection of the fact that 2009 is an election year. This finding is also consistent with the slight increase in positive assessments of the performance of the central government and the parliament recorded in 2009

Attitudes in this regard vary between regions. The highest levels of confidence on voting are in the North East and North West where around 80 % of respondents think that voting can change things. This is also true for 75 % of respondents in the East and 72 % in the Central/Kabul region. However, just over half (55%) of respondents in the South West believe in the efficacy of voting to bring about improvement.

Do you think that voting can lead to improvement in the future or do you believe that no matter how one votes, things never change? (Q-77) COMPARISON BETWEEN 2006, 2007, 2008 AND 2009



It is interesting to note, that across almost all regions, respondents express higher levels of confidence that voting can change things than they do in their own ability to influence government decision-making. Only in the South West do slightly more respondents think they can have influence (57%) than believe that voting can bring about change (55%).

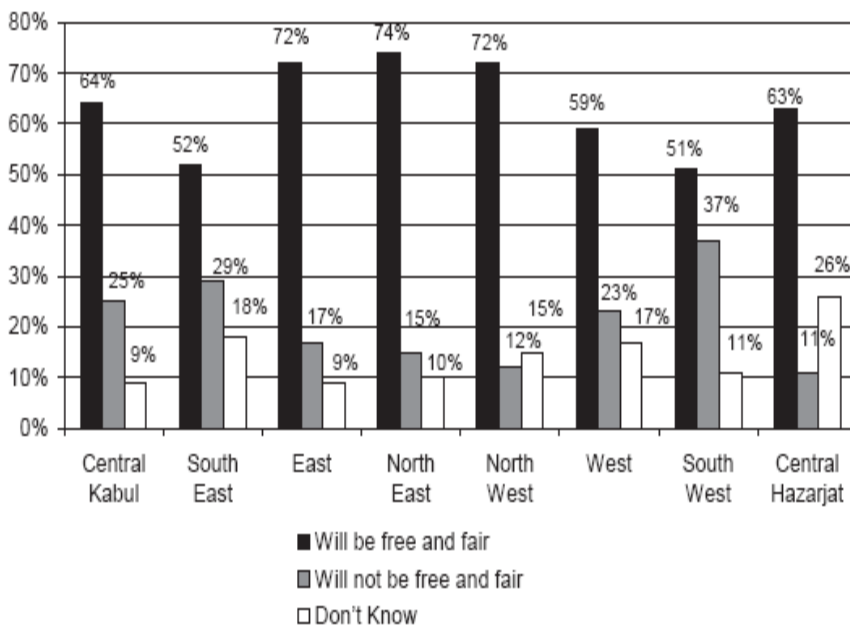
Electoral participation

The survey also sought to measure public awareness regarding the elections in Afghanistan scheduled in 2009. The survey was conducted in June 2009 and the Presidential and Provincial Councils elections were scheduled for August. Respondents were asked if they are aware of the upcoming elections due to take place in the next few months. An overwhelming majority (82%) said they were aware, but nearly one in six respondents (16%) said they were not. Levels of awareness were higher among men (85%) than women (78%).

Respondents were also asked whether they thought the upcoming elections would be free and fair. Before asking this question, respondents were briefed about what the terms ‘free’ and ‘fair’ mean in this regard. In an electoral context ‘free’ means that all people have the

chance to vote as they wish and that they are not forced to vote for a particular party or candidate. ‘Fair’ means that all candidates and parties are given equal access to public channels of communications, that they are not prevented from getting their message across to voters and that votes cast are counted correctly and results are not manipulated. Just under two-thirds (64%) of respondents said that the upcoming elections would be free and fair, while around a fifth (22%) said they would not. Doubts about the elections being free and fair were highest in the South West (37%), South East (29%), Central/Kabul (25%) and West (23%).

Do you think the upcoming elections will be free and fair, or do you think they will not be free and fair? (Q-75, Base 6406) BY REGION



(For the entire text please refer to ‘Afghanistan 2009: A Survey of the Afghan People,’ published by The Asia Foundation).

Annex 6 – Counting and Audit Process

Fact Sheet on the Audit Process in Response to ECC Order of 8 September 2009

In accordance with the 8 September 2009 order of the Electoral Complaints Commission (ECC), the ECC and the Independent Election Commission (IEC) agreed that auditing of suspect Presidential ballots shall be carried out through a random sampling of ballot boxes that fell within the order and were identified through triggers in the national database.

The objectives of the sampling process are:

- establish whether there are physical indicators of ballot box stuffing in the ballot boxes examined;
- to establish whether there are physical indicators of ballot box tampering in the ballot boxes examined;
- to establish whether there are physical indicators of any other electoral irregularity in the ballot boxes examined;
- based on the indicators identified, to establish patterns of fraud of sample populations that can be expressed mathematically.

The sampling and audit processes will be conducted on the basis of established statistical methods, with the aim to ensure that a clear outcome to Afghanistan's 2009 Presidential election is reached without undue delay.

In compliance with procedures agreed between the ECC and IEC, an initial selection of 313 ballot boxes was made. These were retrieved from the IEC provincial warehouses and brought to the IEC headquarters, under the constant observation of the ECC and candidate agents. However, it was later detected that, due to an administrative error, three initial categories were selected in a way that did not include all polling stations covered by the ECC Order of 8 September 2009. For example, ballot boxes that had been quarantined and were never added to the preliminary results should not be included in the audit process. Thirty nine quarantined boxes had been included in the sample and have therefore been removed from the audit sample. The total number of ballot boxes which correctly meet criteria set out in the Order is 3498.

In order to accurately reflect the corrected number of boxes a further 84 ballot boxes will be selected by the same random sampling technique on 5 October. These ballot boxes will be brought to the IEC under the same conditions and added to the audit. Thus the total audit sample will be 358 ballot boxes.

The IEC has set up an audit centre in its campus. The audit process will begin on 5 October and is expected to run for around four days. The IEC will examine the sample ballot boxes in a consistent manner. The ECC will verify that the IEC conducts this process in accordance with the agreed-upon audit and recount procedures. In accordance with the order of the ECC, the audit will be conducted in the presence of observers and candidate agents.

The ECC will use the information collected through this process in its decision-making, and all decisions will be final and binding.

The Audit Process

Six audit teams have been established. Two teams will work on one category of ballot boxes. Teams consist of two IEC members and one ELECT staff member. In addition there is an IEC Quality Control Team and an ECC Verification Team. Overall supervision of the process is the responsibility of the Operational Control and Command Group which consists of ECC, IEC members and an international electoral expert.

The examination of ballot boxes from one group is done independently from the other groups. Only one box will be examined at a time by each team. When a team has finished auditing all the ballot boxes in their group they may start auditing ballot boxes from another group as assigned by the Audit Centre Manager.

Boxes are opened and visually inspected by the audit teams, supervised by the IEC “Quality Control Team.” This takes place in the presence of accredited party agents and electoral observers.

Each team will follow and complete an audit checklist for the examination of each ballot box. This starts with a visual inspection of the ballot box for signs of tampering, opening of the box, display of the box contents and search for physical indications of irregularities or fraud.

At the end of the examination of the ballot box, all contents are put back in the box. The box is sealed with new seals and seal serial numbers are recorded in the Audit checklist. The check list is signed by the audit team leader, Quality control team and ECC verification team member. A copy of the checklist is made for the IEC and the original is provided to the ECC.

Candidate agents and observers are invited to follow each audit group and to take notes. However, they must not interfere with the process. If they have concerns they may address them to the IEC Quality Control Team or the Operational Control and Command Group.

Extrapolation of Results

The presence of clear and convincing evidence of fraud in the sampled polling stations will enable the ECC to determine the incidence of fraud in non-sampled polling stations from the same category. If a percentage of the votes in a sample is found to be fraudulent, the ECC would find this to be clear and convincing evidence to conclude that the same incidence of fraud applies to the votes cast at all polling stations in the corresponding category.

The ECC has adopted a policy for audit and recount evaluations. This policy can be found on the ECC website.

It should be noted that, in addition to the audit conducted as a result of the ECC order of 8 September, the ECC continues to investigate and adjudicate complaints submitted on and after Election Day (20 August 2009).

Annex 7 - Audit Checklist

تطبيق دستور مورخ 17 سبتمبر 1388 كميسيون انتخاباتي - Implementation of ECC Order of 8 September 2009

Audit Team Checklist

فرمونه ټيم لگښت

Province Name: ولایت: _____

PC Code: کد مرکز رایدهی _____

District Name: ولسوالی: _____

Station رایدهی:

م ټکور	F	کوچي	K
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PC Name: مرکز رایدهی: _____

Station Number: شمارة محل رایدهی: _____

مرحله Step	طرز العمل ها/ يادداشت ها Procedures / Notes					
الف: مشاهدات بصري صندوق رایدهی A. Visual inspection of the ballot box	<p>صندوق دارای برچسب است که نشان داده کد مرکز رایدهی باشد Ballot box has sticker indicating center code</p> <p>صندوق های رایدهی سالم و دست نخورده است / ballot box is intact and not damaged اگر نه، مختصراً تشریح کنید If No, provide brief discription/</p> <p>_____</p> <p>آیا در فرمونه تشخیصی در مورد صندوق رایدهی تخریب شده تگ ذکر داده شده؟ Is there any ballot box damage indication in the Hand over form? اگر بلی، آیا این تگ تخریب می تواند جوابگوی همه ای تخریب های فوق الذکر باشد؟ If yes, does this account for all damage described above? تقریبات، اگر موجود باشد / Comments, if any</p> <p>_____</p> <p>آیا صندوق رایدهی دارای همان توجیهی است که کمسیون انتخابات برای انتخابات موجود توزیع کرده است؟ Ballot box is as supplied by the IEC for these elections</p> <p>_____</p> <p>سرویس صندوق رایدهی دارای چند مهرهای پلاستیکی است؟ How many seals are on the ballot box lid: <table border="1" style="display: inline-table;"><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table></p> <p>آیا مهر یا لفل ها شکسته اند؟ / Are the seals broken? آیا در مهرهای صندوق کدام چیز غیر عادی دیگری دیده میشود؟ Are there any other irregularities with seals? اگر بلی، توضیح دهید / If Yes, explain</p> <p>_____</p> <p>آیا فرمونه تطبیق در صندوق وجود دارد؟ Is the Reconciliation form in the ballot box? آیا فرمونه نتایج در صندوق وجود دارد؟ Is the result form in the ballot box?</p> <p>_____</p>	1	2	3	4	5
1	2	3	4	5		
ب: باز کردن صندوق رایدهی / علامه فیزیکی دست نخوردهی در صندوق رایدهی B. Opening of the ballot box – physical indicators of ballot box tampering						
ج: علامه فیزیکی سایر بی نظمی ها C. Physical indicators of other irregularities/						

آیا ارقام نتایج کاندیدا در نقل اصلی فرمونه نتایج (و فرمونه از سوی مرکز مبنی نتایج تهیه شده) با نقل فرمونه نتایج در صندوق و نتایج نشر شده با هم مطابقت دارند؟ بلی / Y / نگیر N	
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<p>Are the candidates' results' figures on the copy of the original results form (as provided by National tally center), the copy of result form found in the ballot box and published results matching? If no, provide details of major discrepancies</p> <p>نظير، تفصيلات تفاوت عدد را شرحه نمايد/</p> <p>(_____)</p>	
<p>موجوديت ساير مواد در صندوق رأيدهي : Presence of other materials in the ballot box</p> <p>نظير / ي N</p> <p>a. Ballot paper stubs / نظير، ورق رأيدهي؟</p> <p>_____ If yes, how many stubs / نظر، چنده ورقه</p>	
<p>b. Polling station Journal / ب. ژورنال محل رأيدهي</p> <p>نظير / ي N</p> <p>Are there any significant comments in the Journal? / آیا کدام نظر مشتبص در ژورنال وجود دارد؟</p> <p>_____ If yes, describe / نظر، چنده کتيد</p> <p>(_____)</p>	
<p>c. Unused ballot paper / ج. اوراق رأی استفاده نشده</p> <p>نظير / ي N</p> <p>_____ If yes, how many ballot paper / نظر، چنده ورقه</p>	
<p>d. Envelope with spoiled ballot papers / د. پاکت اوراق رأی ضايع شده</p> <p>نظير / ي N</p> <p>_____ If yes, how many spoiled ballots in the envelope / نظر، چنده تعداد آرای ضايع شده در پاکت وجود دارد؟</p> <p>Any Remarks / نظر، بدهيد/</p> <p>(_____)</p>	
<p>ورق های نشانی شده در صندوق از کتيد جدا نه شده است. / Marked ballot papers in the ballot box are not removed from the ballot stubs</p> <p>نظير / ي N</p> <p>_____ If yes, how many ballot pads have marked ballots still attached to the stubs</p>	<p>D. Physical indicators of ballot box fraud/ علایم فزایکی تقلب در صندوق رأيدهي</p>
<p>آيا تفاوت بين تعداد مجموعی ورق رأی در پتل ها و آرای مجموعی نيکه در فورمه نتايج درج است، وجود دارد؟ / Is there discrepancy between total ballots bundled and total votes recorded in the results form?</p> <p>نظير / ي N</p> <p>_____ If yes, how many ballot pads have marked ballots still attached to the stubs</p>	
<p>آيا تفاوت بين تعداد اوراق کتيد در پتل ها وجود دارد يا تعداد آرای کتيد هر کتيد در فورمه نتايج درج گرديده است موجود است؟ / Is there discrepancy between the ballot bundles and votes allocated for each candidates as recorded in the results form?</p> <p>نظير / ي N</p> <p>_____ If yes, how many ballot pads have marked ballots still attached to the stubs</p> <p>آيا تفاوت بالاتر 50 ورق رأی وجود دارد؟ / Is there discrepancy over the 50 ballots?</p> <p>نظير / ي N</p> <p>_____ If yes, conduct partial check of all bundles to determine correct allocation of bundles to candidates</p> <p>هر نوع تصحيح لازم را تشریح نمايد/ Explain any corrections needed.</p> <p>(_____)</p>	
<p>ورق های رأی معلوم نميشود که توسط رأی دهندگان به طور جداگانه قات شده باشند. / Ballot papers do not appear to have been folded individually by voters</p> <p>نظير / ي N</p> <p>Estimated percentage of ballots that appeared not to have been folded</p> <p>کثير از / 5% - 10% - 25% - 50% - 75% - 100%</p>	
<p>There is identical or significant patterns of the same markings on \Ballots. / بالای اوراق رأيدهي علایم و نشانه های مشابه دیده ميشود.</p> <p>نظير / ي N</p> <p>If Yes, estimated percentage of ballots affected by same markings / اگر بلي، چنده فيصد آراء با اين نشانه های مشابه متاثر شده اند؟</p> <p>کثير از / 5% - 10% - 25% - 50% - 75% - 100%</p>	
<p>نشانی ها با مارکر روی 100 ورق رأيدهي ويا بيشتر از آن دیده ميشود. / Markings have been made with the marker on 100 and more ballot papers</p> <p>نظير / ي N</p>	

در پایان نخبش، صندوق ها را با قفل و مهر جدید بسته نمایند : Apply ballot box seals at the end of audit:

/

/

/

/

نام و امضاء تیم نخبش / Names and signatures of Audit team leader

Date / تاریخ

نام و امضاء عضو تیم کنترل کیفیت / Names and signatures of Quality control team member





































Date / تاریخ





































نام و امضاء عضو تیم تثبیت ساری کمیسیون انتخابات / Names and signatures of ECC Verification team member









Date / تاریخ

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Annex 8 – List of Presidential Candidates

		ABDUL WAHID KARZAI Abdul Wahid Karzai	100
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Annex 9 – ANFREL’s Press Statement

August 2nd, 2009

Asian Observers Return to Afghanistan to observe the Presidential Election and Provincial Council Elections

The Asian Network for Free Elections (ANFREL) will deploy 50 international election observers in 10 provinces to monitor the Presidential and Provincial Council election in Afghanistan scheduled to take place on August 20, 2009. ANFREL’s observers are drawn from different parts of Asia making it the only regional election observation group in Afghanistan.

ANFREL will work in close coordination with local election monitoring group, Free and Fair Election Foundation of Afghanistan (FEFA). This is the third time that ANFREL would be monitoring elections in Afghanistan, the last two being in 2004 and 2005.

The ANFREL team will be led by its Chairperson Damaso G Magbual from the Philippines. Executive Director Ms. Somsri Hananuntasuk and Mission Director Ichal Supriadi are currently supervising the Election Observation Mission (EOM) activities.

Established in 1997, as Asia’s first regional network of civil society organisations, ANFREL strives to promote and support democratisation at national and regional levels in Asia. From its very inception ANFREL has concentrated all its strength on supporting the process of democratisation in different parts of Asia.

A team of 20 Long Term Observers (LTOs) were deployed to different provinces of Afghanistan on July 29, 2009. Notwithstanding the security challenges and the restrictions on movements, most of the LTOs have expressed their optimism that the elections would pass off peacefully.

Prior to the LTOs deployment a five member core team of ANFREL arrived in Kabul in between July 21 and July 25. The core team’s visit was preceded by an exploratory mission to assess the prevailing political and security situation in Afghanistan. Following the visit of the exploratory team that was led by ANFREL Chairperson Damaso G Magbual, the decision to send a **20 member LTOs and a**

30 member Short Term Observers (STOs) was taken. The STOs will arrive in Kabul on August 12.

Like its previous missions ANFREL teams, including its High Profiled Team (HPT) will focus its attention on observing the election preparations by the Independent Election Commission (IEC) of Afghanistan, election campaigns, other events pertaining to the pre-election period, polling, counting and tabulation of results. The HPT will include former Chairperson of Election Commission of Nepal Mr. Surya Prasad Shrestha, former Bangkok Commissioner from Thailand Sakool Zuesongdham and Mohamad Yunus Bin Lebai Ali Chairperson from National Institute for Electoral Integrity (NIEI) Malaysia.

About the election in Afghanistan Chairperson Magbual said “ANFREL believes in consolidating the process of democratisation through free and credible elections. We are aware that this election is full of challenges especially in so far as the security is concerned. But we are confident that this step which is primarily an Afghan led process will create opportunities for different stakeholders and the people of this country to build a strong democratic structure.”

The ANFREL chairperson was of the view that this time round there are “huge logistical challenges as well.” He was hopeful that the difficulties notwithstanding the EOM would help in pursuing its mandate.

ANFREL Executive Director Ms. Somsri Hananuntasuk who is currently the head of the mission in Kabul too underlined the objective of the EOM as one that would support a clean and fair election to build a stable democracy for the people of Afghanistan.

“We find that many voters still lack the knowledge on voting process and are unaware about identity registration proof that they can use for voting in the ensuing election. But we still optimistic that two weeks before the August poll the IEC’s outreach program will help them (especially female and illiterate voters) to know about their franchise better” Hananuntasuk, said.

August 18, 2009

Afghanistan elections: An Important step towards consolidating democracy

With the stage set for the Presidential and Provincial council elections on August 20, 2009 the major concern that has surfaced is voters' registration and the deteriorating security situation. ANFREL observers who are deployed in as many as 11 provinces have all identified inadequacies in the voters' registration process which surely increases the chances of frauds in the ensuing elections.

ANFREL has 20 Long Term Observers (LTOs) and 30 Short Term Observers (STOs) deployed in different parts of North, North East and Central provinces of Afghanistan. The observers have been drawn from different from 13 different countries of Asia. The only regional Election Observation groups in Afghanistan, ANFREL undertook Election Observation Mission in 2004 and 2005 as well.

In most of the provinces, a common fear expressed by local residents was that it is too late to rectify the lacunas in the voters' registration process and that this would make a "huge difference," in determining the outcome of the elections. The problem is compounded further by an apparent lack of voter education, especially in remote and far-flung areas. Even in Capital Kabul there are complaints galore regarding insufficient voter outreach activities.

Cases of voters not knowing where to vote were common in Kunduz, Takhar, Parwan and even in some parts of Kabul. In a few districts in Balkh province voters complained of not conducting a proper and timely civic education program. Presumably some voters in Balkh do not know how to cast their vote.

The Independent Election Commission (IEC) has counteracted these claims and said that in the cities almost all the voting population has been covered by the public outreach department of the IEC. However, IEC President Dr. Azizullah Lodin told the ANFREL Head of Mission Mr. Damaso G Magbual and its senior team during a visit to the IEC recently that in areas where elections would be held, voters' registration and voter education has been conducted smoothly. He was of the opinion that the IEC has done its best to cover all voting population of 17 million. However, he admitted that in certain areas access to voters has been difficult owing primarily to the prevailing security situation and other factors.

But what perhaps cannot be overlooked is the veracity of the complaints by local residents. For instance in Mazar-e-Sherrif city there appears to be no checking system to register voter cards. The IEC is yet to clarify about young students in the age group of 15-16 receiving voters cards. Further about 10 per cent of the prisoners in Balkh prison have no voter cards.

Multiple voter cards have been reported from almost all the regions in the North and Central part of Afghanistan. In Parwan it was discovered that some voters had as many as four voter cards whereas others had two or three. However, unlike in the south and south west there has been no confirmation on media reports of voter cards being sold by unknown persons in the North or central provinces.

Deteriorating security situation continues to be a major problem and making the task of holding a “free and fair,” election extremely challenging for the IEC. The two attacks in Kabul, on August 18, one a suicide bomb attack that left seven people dead and the other a rocket attack on the Presidential Palace in the early hours of the morning are perhaps indications of escalating violence and the deteriorating security situation.

In almost all the provinces, security has been a key factor inhibiting free movement of ANFREL observers. In fact a number of districts in the North and North East provinces are out of bounds with no access whatsoever for ANFREL observers. For instance in Darzab district of Jawzan, polling in 14 of the 16 polling centres remains uncertain. Police have chalked out a plan with village elders to involve local youths for additional security and monitoring on the polling day.

Kunduz continues to be identified as the most risk prone from a security point of view. The common perception amongst the people in this province is that “during the day people do business and during the night they become Taliban.” Police authorities in the province claimed that security forces are more than normal with three layers of security—local police, Afghan National Army, ISAF and NATO forces—in place.

The security situation in some areas of Baghlan (Baghlan Jadid), Takhar (Ishkamish, Bangi, Chah Ab, Rustaq, Darqad and Yangi Qala), Sari-e-Pul (Sayyed), Parwan (Shinwari, Koh-e-safi and Ghorband) and Jawzjan (Darzab) has been reported as not satisfactory.

As far as campaigning by women candidates are concerned their campaign activities are mostly limited to the urban center because of lack of resources as well as the security situation.

Therefore, given the prevailing security situation, it can perhaps be said that the impact would be felt on the polling day possibly leading to a low voter turnout. A small section of voters seem to be convinced that the result of the Presidential Election has “been fixed.”

However, despite security concerns and the problems, voters expressed significant interest in the elections. The fear of being targeted after the elections by Taliban, which has issued different forms of threats asking voters not to vote, could prove to be a crucial factor, but the display of enthusiasm among voters cannot be overlooked. Response amongst female voters are mixed with many expressing their reluctance to vote while there are many who are determined to go to the polling stations to cast their franchise.

Other factors that would eventually determine the legitimacy of the elections are use of power and influence to buy voters. Cases of candidates providing transportation and money to people to attend their rallies have been reported from a number of provinces. Voting along ethnic lines, where villages elders and tribal chiefs would play a crucial role is another factor that came up for mention in most of the observation reports from the field.

Presidential candidates interviewed by ANFREL Head of mission and senior members believe that there would be expected level of fraud depending on which the credibility of the IEC will be decided. Most candidates, at least those in the opposition camps, complained of extreme misuse of government resources and positions by the incumbent candidate.

Finally while there is no denying that a large chunk of the 17 million voters are enthusiastic about making it to the polling stations on August 20. But the question that is being asked around is “does enthusiasm translates into action” or should we say votes.

Violence, intimidation fails to disrupt the spirit of democracy in Afghanistan Elections

The Asian Network for Free Elections (ANFREL) is hopeful that the Presidential and Provincial Council elections will serve as an important step towards democracy building in Afghanistan.

The 2009 Presidential and Provincial Council elections have proved that despite the odds, the resolve of the people to move forward towards complete democratisation cannot be undermined.

While there is no denying the fact that the elections were by and large acceptable, there were many gaps and irregularities which have to be corrected to build a strong democratic system in the future.

During the last month of observation, ANFREL observers who are primarily Asian see the potential for democratic growth as well as hope for peace. Elections are a tool to marginalize violence as an option within the country if different sections of civil society join hands to move forward and create an environment of free and fair elections.

Based on its findings, ANFREL has a number of recommendations to address the inadequacies covering electoral management, security, voter education, women's role and participation in elections, the legal framework effecting elections, the functioning of the media and the role of observers.

The ANFREL mission began as early as 23 June 2009 with the visit of a five member exploratory mission led by its chairperson Damaso G. Magbual. Following the visit of the exploratory team ANFREL decided to undertake the election observation mission (EOM) involving 20 Long Term Observers (LTOs) and 30 Short Term Observers (STOs). The regions covered by the ANFREL team included the North, North East and Central provinces of Afghanistan

The observers were drawn from 13 different countries within Asia. The only international regional Election Observation groups in Afghanistan, the ANFREL EOM was headed by Damaso G Magbual, Chairperson and leader of NAMFREL; the former Chief Election Commissioner of Nepal Surya Prasad Shrestha, ANFREL Executive Director and former Amnesty International Thailand Chairperson Ms. Somsri Hananuntasuk and Mission Director Ichal Supriadi. ANFREL had also observed the 2004 and 2005 elections in Afghanistan.

ANFREL has already issued its pre-election statement earlier this month. The timing of the release of the final statement is wholly dependent on the completion of the tallying of the results and resolution of complaints by the Electoral Complaints Commission (ECC) and announcement of the final results.

A few of the major highlights of the observation mission as was witnessed and felt by observers on the ground are explained below:

A major concern that surfaced was the deteriorating security. ANFREL observers, in all 55, deployed in as many as 13 provinces, had to overcome extraordinary security arrangements to observe the election process. Incidents of violence before and during the polling day made the observation a challenging task as compared to previous election observation missions (2004 & 2005). In particular in Kunduz, Baghlan and Jowzjan, movement especially on the polling day was restricted owing to security concerns.

Security played a critical role in determining whether the enthusiasm which was seen amongst voters in most of the provinces covered by the ANFREL mission would actually translate into votes. It cannot be denied that, in some areas, peoples' participation was restricted to a great extent by the prevailing security situation.

Besides the security situation, the observation mission brought to fore some serious concerns, which perhaps also explain why peoples' enthusiasm did not translate into votes. Firstly, the low level of literacy, little to no experience of elections, and insufficient voter education activities kept voters, especially women, away from polling stations.

As for the fraud, it remains to be seen if the few cases that were detected would have any impact on the legitimacy of the elections. The frauds that were detected include use of multiple voter cards in some districts, vote buying by paying of influential persons like village elders and local chieftains by candidates, and political groups and use of underage voters.

In many polling stations, the quality of indelible ink that was used was of extremely poor quality, which will increase the chances of fraud. Many voters demonstrated how the ink could be wiped off within a few minutes after the polling process.

Misuse of government resources and machinery is another critical area which primarily has to do with the deepening polarization amongst different groups which makes it difficult for some government officials to maintain their neutrality. The abuse of official positions and resources in favor of their favorite candidates and the participation of supposedly neutral officials in electoral campaigning were common allegations.

Instances of multiple voter cards have been reported from almost all the regions in the North and Central part of Afghanistan. However, unlike in the South and South West there has been no confirmation on media reports of voter cards being sold by unknown persons in the north or central provinces.

What perhaps needs to be highlighted is the fact that several factors impacted the turnout of women voters in many areas owing primarily to two reasons, the existing security situation as well as the lack of awareness about their right to participate. Though, in a few pockets the turnout of women voters was encouraging.

However, what must be recognized is that the elections were held under extraordinary security arrangements. Despite the threats, intimidation, and violence, the Independent Election Commission (IEC) of Afghanistan conducted the process relatively efficiently without allowing it to be disrupted.

The shortcomings notwithstanding, the IEC conducted the elections within the given timeline and with some semblance of professionalism. In almost all the provinces where ANFREL observers were present, the election officials were reasonably efficient and well-trained. The ECC too made up for some crucial decisions pertaining to adjudication of complaints of fraud or irregularities. While perhaps starting slow, the ECC grew into its role as the election process continued.

Another positive aspect of the elections was that some candidates' campaigns ignored ethnicities and other traditional barriers to campaign in all the districts in the northern and central provinces. Though campaigns were not uniform per se, with only the rich and big candidates attracting huge gatherings, they attempted to focus on issues important to all of the electorate such as development and security.

A few of the key recommendations (please refer to complete ANFREL EOM recommendations) that deserves mention includes:

A systematic and correct voters' registration process which can be and supplemented by a national census and Identity Card program to make the system more reliable

Electoral reforms to correct the institutional flaws and operational challenges to make the system stronger and efficient.

A Comprehensive voter education covering all sections living in remote and far flung areas.

Strengthen election institutions such as the IEC, ECC and the Media Commission.

ANFREL Election Observation Mission Recommendations

Voter registration: The Voters' List was found to be inaccurate. Hence, a new voter registration is recommended to purge the list of ineligible voters such as minors and multiple registrants. Further, a continuing voters' registration system is recommended so the process can start as soon as the IEC concludes its operations on the current election.

Census and National Identity Cards: In the long run the international community should assist the Afghan government to initiate a census and prepare a uniform system of National ID cards for all Afghan citizens. These ID cards could/should be used for voting.

Electoral management and conduct: A process of continuous training should be conducted for polling officials in order to create comprehensive & consistent electoral operations that will reduce the chance of irregularities and institutional flaws that surfaced during the election process this year.

Female participation in IEC: The IEC should encourage and train women to fill the shortages of female poll officials. Such shortages were a problem that was found in most polling stations visited by ANFREL observers. Participation of women in polling stations would surely bring more women to the voting stations.

Appointment of IEC Election Commissioners: The IEC should not be influenced by government or those related or close to governing authorities. Checks and balances in the appointment of IEC officers should be introduced.

Recruitment of polling staff: A number of cases of underage polling staff were detected in several polling stations. The practice of recruiting young, untrained and underage polling staff should be discouraged it is against established electoral norms and could jeopardize the credibility of the electoral process.

Strengthening of Media Commission: The media commission should be armed with more legal powers to be able to take punitive actions against misuse of media space by the media itself or candidates and political parties. Without a clearly defined law to control the media, the existence of the media commission is meaningless. The Commission should be independent as to be able to provide all candidates equal access to election debates and media coverage.

Comprehensive Voter Education: Voter turnout was probably affected by the absence of adequate and proper voter education which could severely impact the outcome of the elections. The IEC needs to reach out to places which are far-flung and out of bounds with no access to the media whatsoever. Women are often the vulnerable section of the society who are left out of such exercises. The IEC needs to pay more attention to this and ensure healthier participation of women.

Code of Conduct for Government officials: A number of cases of government officials using their position and influence to campaign for some candidates were reported. These incidents could seriously impact the outcome of the elections. A code of conduct must be designed to ensure neutrality of government officials, police, governors and heads of districts during elections.

Check on the Misuse of Government resources: Stringent measures should be adopted to regulate the use of government facilities and infrastructure. In this context regulation on campaign finance should be adhered to by all candidates and the IEC should make it compulsory to disqualify those found guilty. Political parties and candidates are equitably treated by regulations governing campaign finances and expenditures with the need to disclose the sources of expenditure twice during the election period. The law should be followed without any compromises.

Strengthening and Institutionalization of ECC: The law provides enormous powers to the ECC in the resolution of electoral complaints. It has in fact acted judiciously in disqualifying candidates after the nomination period and has in fact settled a number of complaints in a transparent and independent manner. But in its actual functioning and day-to-day work, it suffers from serious limitations. It was set-up late and lacks the necessary infrastructural facilities required for efficiency. Therefore, it is recommended that it be institutionalized as a continuing body performing judicial functions which is the resolution of electoral disputes and complaints.

Alternatives to the SNTV system: SNTV was chosen as the electoral system for Afghanistan for two main reasons. First, SNTV is noted for its simplicity and therefore practical for a country with a high level of illiteracy. Regardless of the fact that the SNTV system is easy to administer, it has many disadvantages and therefore an alternative system that may be considered is the mixed proportional representation system.

Campaign Regulations: All campaigning on cooling days should be seriously prohibited. IEC and the ECC should punish those who violate the law. All private and government security units should refrain from helping candidates campaign or keep campaign materials in their office or vehicles.

Regulations on Heads of Villages: Heads of Villages should stay neutral and should not influence voters at the polling centers. Their presence at the polling centers should be restricted except when they cast their votes.

Improvement of logistics for polling: In many polling stations the quality of election materials was extremely poor. While the Hole Puncher was not working in most polling stations, the quality of indelible ink too was questionable in many locations. Since ink is the only reliable tool to prevent double or multiple votes, the poll officials must check all fingers on both hands before a voter enters the polling station.

Women's participation and mobilization: As per the Election Law, seats have been reserved for minorities and women in the country. However, there is a need for mobilization of women both as voters and candidates. Female candidates must have freedom of movement during the campaign. The IEC must consider a long term action plan to encourage women to play a constructive role in the election process.

Media role in elections: The media in Afghanistan is in a transitional phase with only a small part of it being relatively free from direct control by the state. This section is categorized as the 'Private media' while there also exists what is known as the 'State owned media' (Government media) and 'political party controlled media.' A few of the media are also under control of the warlords. In this context it is important to adopt a media law to place a control on the misuse of media by candidates during elections.

Electoral process for Voting in Prisons: In Afghanistan the law allows for prisoners to vote. Therefore, to streamline the process of voting in the prisons, prisoners must be able to get sufficient information about the candidates and the polling process.

Streamlining Counting Procedures: The procedures followed by polling stations officials varied from one centre to the other. A uniform process such as filing up the requisite forms, separating unused ballot papers by marking and maintaining strict timing are essential for guarantying a free and transparent process.

Freedom of participation during elections: Apart from security concerns there are others factors, like traditional and ethnic considerations as well as social hierarchies which inhibit freedom of assembly, expression, association and movement. The IEC must initiate a civic education programme to underscore the need to shed such inhibitions and, while respecting local culture, allow for a freer environment for participation of all eligible voters in the elections.

Designated Voting Stations: Despite the convenience offered by the current system of allowing a voter to vote at any polling station, a system of designated polling stations should be established where each voter is required to vote at a particular polling station. This would help eliminate instances of double voting and other irregularities that the current system fosters.

Legal Framework: Comments on the current legal framework of the election is contained in a separate paper.

Annex 10 - Media Coverage of ANFREL's Mission

Asian observers to monitor Afghan polls

AT News Bureau



women queue up to learn how to vote in the upcoming Afghan presidential elections, in Kandahar on August 1. The Afghan government warned Sunday it would deal strictly with anyone who uses violence to prevent the outcome of this month's elections, amid fears of a repeat of the bloody demonstrations in Iraq. (AFP)

KABUL: The Asian Network for Free Elections (ANFREL) will deploy 50 international election observers in 10 provinces to monitor the Presidential and Provincial Council elections in Afghanistan scheduled to take place on August 20, 2009, said a press release sent to this paper by the ANFREL on late Sunday.

ANFREL's observers are drawn from different parts of Asia, making it the only regional election observation group in Afghanistan.

ANFREL will work in close coordination with local election monitoring group, Free and Fair Election Foundation of Afghanistan (FFEFA). This is the first time that ANFREL would be monitoring elections in Afghanistan, the first two being in 2004 and 2005, the press release added.

Established in 1997, as Asia's first regional network of civil society organizations, the press release says ANFREL strives to promote and support democratization at national and regional levels.

in Asia. From its very inception ANFREL has concentrated all its strength on supporting the process of democratization in different parts of Asia.

A team of 20 Long Term Observers (LTOs) were deployed to different provinces of Afghanistan on July 29, 2009. Struggling with the security challenges and the restrictions on movements, most of the LTOs have expressed their optimism that the elections would pass off peacefully.

Prior to the LTOs deployment,

a five member core team of ANFREL arrived in Kabul in between July 21 and July 25. The core team's visit was preceded by an exploratory mission to assess the prevailing political and security situation in Afghanistan. Following the visit of the exploratory team that was led by ANFREL Chairperson Damso G Maghmal, the decision to send a 20 member LTOs and a 30 member Short Term Observers (STOs) was taken.

The STOs will arrive in Kabul on August 12.

Like its previous missions ANFREL teams, including its High Profiled Team (HPT) will focus its attention on observing the election preparations by the Independent Election Commission (IEC) of Afghanistan, election campaigns, other events pertaining to the pre-election period, polling, counting and tabulation of results. The HPT will include former Chairperson of Election Commission of Nepal Mr. Surya Prasad Shrestha, former Bangkok Commissioner from Thailand Sakol Zaewongtham and Mohamad Yusof Bin Latus Ali Chairperson from National Institute for Electoral Integrity (NIEI) Malaysia.

About the election in Afghanistan Chairperson Maghmal said "ANFREL believes in consolidating the process of democratization through free and credible elections. We are aware that this election is full of challenges especially in so far as the security is concerned. But we are confident..."

Asian observers to monitor Afghan polls

From P8

that this step which is primarily an Afghan led process will create opportunities for different stakeholders and the people of this country to build a strong democratic structure."

The ANFREL chairperson was of the view that this time around there are "huge logistical challenges as well". He was hopeful that the difficulties notwithstanding the ECOM would help in pursuing its mandate. ANFREL Executive Director Mr. Sumit Kumar Nandan was the head of the mission in Kabul and underlined the objective of

the ECOM as one that would support a clean and fair election to build a stable democracy for the people of Afghanistan. "We find that many voters still lack the knowledge on voting process and are unaware about identity registration process etc etc" but was sanguine in the voting election. But was still optimistic that two weeks before the August poll the ECOM outreach programs will help them, especially female and minority voters to know about their franchise better" Nandan said, the press release concluded.

3/08/09

Asian Network for Free Elections

Afghan Elections, a Positive Exercise

Highest standards of democratic values not expected in Afghanistan's fledgling democracy

By Our Correspondent
 KABUL - Damosa Magbual, chief of the Asian Network for Free Elections (ANFREL) Foundation, speaking to a press conference called Afghan elections as a positive exercise. Our 50 observers monitored the elections in 13 northern and central provinces and they termed the exercise as positive, taking into account the history of polls in the violence-wrecked country. Although, Asian election observers, head has accused key candidates of misusing governmental facilities and resources in presidential and provincial council polls held on August 20, 2009 but they would release their final report after all fraud allegations were addressed by the ECC. Describing insecurity... (More on P8)... (1)

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 1 Afghan Elec...
 as a huge challenge. Magbual said their observers could not freely monitor the elections in some of the northern provinces because of security concerns, he claimed, many registered Afghans failed to exercise their right to vote.
 ANFREL observers believed lack of awareness among females and security problems reduced the number of women casting votes, the chairperson added.
 The influence of tribal elders, misuse of government resources in favor of a specific candidate, use of low-quality ink, multiple registration cards and the participation of ineligible people were some of the irregularities noticed by the delegation.
 Afghanistan being a fledgling democracy could not be expected to show the highest standards of democratic values, he remarked, acknowledging election violations existed everywhere.
 ANFREL observers suggested Independent Election Commission officials should be appointed through a balanced system by parliament and not by an individual. There were complaints of the IEC workers demonstrating partiality, he concluded.
 General Philippe Morillon, chief observer of a European Union election mission, talking to newsmen on Saturday August 22, 2009 said, "The election had been 'fair generally but 'free was not the case in some parts of the country due to the terror'".

Parliament should have role in appointing IEC commissioners

AT News Bureau

KABUL: The Afghan parliament must play a major role in appointing the commissioners of the Independent Election Commission to preserve the impartiality of the electoral process.

This was stated by Damaso G. Magbual chairperson for the Asian Network for Free Election in Afghanistan (ANFREL) in a press conference after presenting a report on observation of the polls.

Mr. Damaso replying a question said they have no doubt in impartiality and independence of the election commission.

He also suggested IEC Commissioners be appointed in consultation and confirmation with the Afghanistan Parliament, and an individual can't solely appoint

IEC Commissioners in a country.

ANFREL giving examples of appointment of the IEC commissioners by the Parliament in a num-

Commissioner.

Also based on ANFREL findings they have a number of recommendations to address the in-



ber of countries said that the Afghan Senate and the Lower House have a significant role to play in appointing the IEC

adequacies covering electoral management, security, voter education, women's role and participation in election. ...P4

HANISTAN TIMES

Parliament should have role

From P1

The ANFREL team which observed the electoral process in a number of north north-east and the capital areas said that there were some problems in participations of the women in a number of provinces including Baghlan, Kunduz and Jawzjan due to insecurity while the people specifically the women participations in Parwan, Samangan and Panjshir was the better than the other areas.

Insufficient polling stations, punching underage voting, invalid ballot papers, prisoners' right of vote, prisoners' mobile team interference of tribal leaders were the major challenges in the polling process displayed the ANFREL.

Afghan elections require extraordinary cooperation and mutual respect for human rights

By Somsri Hananuntasak

The planning for the 2009 Presidential and Provincial Council Elections in Afghanistan has so far been met with a mixed response; while much of the public appears enthusiastic over the elections, citizens in more volatile areas of the country have dismissed the elections as providing no hope for change. Such views were prevalent in several provinces where voter enthusiasm has been dampened to a large extent by security concerns and allegations of fraud in the electoral system. Another common concern aired by most voters is a belief that "the results of

or her political beliefs. However, tolerance of the activities of such activists become unacceptable when such groups resort to underhanded methods, including physical violence, intimidation, or threats, to convince others not to take part in the voting process. Such activities undermine both the democratic rights of others and the electoral process as a whole.

Accordingly, the state must ensure that its resources are not misused or abused by powerful and influential individuals. In the absence of mechanisms to ensure the fair-

it may not be possible for the IEC's voter education program to reach all potential voters. Civic education, voter training sessions, mock elections and mobile outreach program are essential activities for all citizens, but especially for first-time voters, the illiterate, the elderly and the disabled.

Female candidates should be protected from threats by male candidates and illegal underground groups. There have been reports from election observers in various provinces around Afghanistan that some provincial candidates are afraid to travel to certain districts in

gal means should be treated as criminal offences and punished accordingly. Vote-buying is corruption, and it undermines the credibility and reputation of a country.

The IEC must also act diligently to ensure a fair and honest election. Voters must not attempt to remove the indelible ink from their index fingers after voting, and poll officials must ensure that they check the index fingers of all voters who attempt to enter the polling stations. Merely punching holes on registration cards is not a sufficient safeguard to prevent multiple voting be-

It is common in most democratic nations to find some group of individuals whose convictions make them dismissive of the electoral process. These individuals may even try to convince other voters not to vote. Rather than dismissing these activists outright, perhaps a better option is to respect their right not to vote; not voting is the valid exercise of an individual's right to choose how to express his or her political beliefs. However, tolerance of the activities of such activists become unacceptable when such groups resort to underhanded methods, including physical violence, intimidation, or threats, to convince others not to take part in the voting process. Such activities undermine both the democratic rights of others and the electoral process as a whole.

Continue

the election have already been fixed.”

While voter perception and a lack of voter enthusiasm are significant concerns which cannot be overlooked, a more productive response than dumping the blame on Afghanistan’s Independent Election Commission (IEC), which is often the knee-jerk reaction of both voters and international actors, is to develop a method by which stakeholders in the election process can support and monitor the work of the IEC and the Electoral Complaints Commission (ECC). Democracy, as established through free and fair elections, will be slow to take root, especially in a country such as Afghanistan with a long history of internecine conflict. The development of Afghan civil society must be given sufficient time to unfold, as it will take some time for Afghans to learn that they are central to the exercise. It is common in most democratic nations to find some group of individuals whose convictions make them dismissive of the electoral process. These individuals may even try to convince other voters not to vote. Rather than dismissing these activists outright, perhaps a better option is to respect their right not to vote; not voting is the valid exercise of an individual’s right to choose how to express his

ness of elections, it is the duty of all government officers, the police and the military strictly to uphold the law and to remain neutral in preventing all candidates or interest groups from misusing state resources, especially state vehicles, buildings and employees, in election campaigns.

No government facility or vehicle should show any signs indicating support of or preference for any individual candidate, candidates or party. The IEC and the ECC should disqualify any candidate who violates the law, punish those

some provinces. The IEC and ECC should investigate cases of threats or attacks on any and all provincial candidates, and should endeavor to provide adequate security to protect them from attack by anti-government elements or from political rivals. Female voters should be made especially aware that their vote is meaningful and important, that voting is their right, and that their votes are supposed to be secret.

Politicians and candidates must not create a “pay-to-play” political culture in Afghanistan,

cause of the prevalence of multiple or duplicate voter registration cards.

Voters have an obligation to be leaders by being honest and forthright, and by not allowing their votes to be obtained through promises of gifts of influence. Then, and only then, will true democratization become possible.

It is the electorate which is the most crucial component of any election. Citizens should refrain from the temptations of corruption both for the improvement of their present situations and for the benefits

Voter education should be provided by all interested stakeholders and organizations, including NGOs, the media and universities, because it may not be possible for the IEC’s voter education program to reach all potential voters. Civic education, voter training sessions, mock elections and mobile outreach program are essential activities for all citizens, but especially for first-time voters, the illiterate, the elderly and the disabled.

who disregard rules relating to the use of government resources, and do so prior to Election Day. Voter education should be provided by all interested stakeholders and organizations, including NGOs, the media and universities, because

stan, with respect to both explicit, overt acts of buying votes with money by paying off village leaders and to more subtle actions, including the provision of in-kind gifts such as meals and favors. All such actions to secure votes by ille-

that will accrue to future generations from an open and transparent democratic process. Ultimately, the onus is on the voters to demand free and credible elections.

(Asian Network for Free Elections)

http://english.ohmynews.com/ArticleView/article_view.asp?no=385517&rel_no=1

Taliban Attacks Kabul Before Elections

International community in a security rethink mood

Bidhayak Das (bidhayak)



 Email Article  Print Article

Published 2009-08-05 10:56 (KST)

Kabul: The latest rocket attack in Kabul city on August 4, has sent alarm bells ringing especially amongst the international community which is here in big numbers to monitor the presidential and the provincial council elections scheduled to take place on August 20.

At 4:00 AM on Tuesday August 4, eight rockets were fired from different directions and left half a dozen people injured, including a woman and child in Makiron and Masoud Avenue near the American Embassy. Vehicles and houses have been damaged in the rocket attacks.

The Taliban claim responsibility for the attacks. The local online media have quoted Taliban spokesperson Zabilluaah Mujahid as saying that the attack was launched to remind the government that the Taliban is not in favor of the elections. The Taliban spokesperson said that the attack was also meant to ensure that the Afghan government does not control security in and around Kabul during the run-up to the presidential and provincial council elections. The Taliban spokesperson claimed that nine rockets were fired, some towards the international airport and other strategic areas in the city.

Tuesday's attack on Kabul has forced the US and its allies as well as NATO, to review the security arrangements. "We are especially concerned we don't want election preparedness to be affected by these incidents," said a NATO official on condition of anonymity.

The international community has much at stake in the election. Should anything go wrong, their credibility to strengthen the process of democratisation in Afghanistan by marginalizing the Taliban would be questioned. The escalating cost of rebuilding this war torn country has been a cause of concern.

Approximately US\$1 billion is spent each day by the US to secure Afghanistan from the Taliban and armed opposition groups. The fight against these forces has cost the US, the UK and other European countries that are part of the United Nations International Security Assistance Force (ISAF), led by NATO.

A research by Amy Belasco of the Congressional Research Service shows that the total

AFGHANISTAN: *Upholding democracy through ballots*

budget authority for the Afghan War now totals \$171.1 billion for expenditures over the past eight fiscal years.

The fight against the Taliban and armed groups operating from different parts of Afghanistan, is turning out to be a nightmare for the US led forces and the NATO. "It's not easy to win this war here and the sooner this is realized the better," said Md. Hamidi, a human rights activist, when asked to comment on the prevailing security situation.

According to Aimal Khan, an Islamabad political commentator, the level and intensity of the violence is sending shock waves in US and major European powers of which troops are deployed in Afghanistan. "The months of July and August witnessed an increase in Taliban attacks and the highest casualties of foreign troops," he said.

Many Afghans would agree that the presence of the international community in Afghanistan is important but they at the same time they rue the fact that the operations against the Taliban, which has resumed in Helmand and some other provinces has led to more civilian casualties.

The NATO led forces continue to support the Afghan National Security Forces (ANSF) in counter-insurgency operations and security related matters.

According to a NATO 2009 report, the overall security picture in 2008 was mixed. It says that while the security situation in large parts of the North, Center and West were



▲ Scene of the rocket attack in Kabul
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relatively stable, in the South, South-East and South-West, "violence rose sharply leading to a significant overall increase in casualties from 2007." The security situation has not improved much; in fact security analysts have been critical of the growing bomb attacks and IED explosions in the neighborhoods of Kabul.

Reports of attacks by Taliban and armed opposition groups have been coming in from regions surrounding Kabul city and also from other provinces.



Pajhwok Afghan News

پښواک خبري اژانس

Pajhwok News, Kabul

ANFREL Foundation sees anomalies in poll process

Frozan Rahmani - Aug 23, 2009 - 21:33

KABUL (PAN): Asian election observers' head has accused key candidates of misusing governmental facilities and resources in presidential and provincial council polls held on August 20.

Speaking at a press conference, the Asian Network for Free Elections (ANFREL) Foundation chief said they would release their final report after all fraud allegations were addressed by the Electoral Complaints Commission (ECC).

Damosa Magbual said its 50 observers monitored the elections in 13 northern and central provinces and they termed the exercise as positive, taking into account the history of polls in the violence-wrecked country.

Describing insecurity as a huge challenge, Magbual said their observers could not freely monitor the elections in Baghlan, Kunduz, Takhar and Sar-i-Pul. Because of security concerns, he claimed, many registered Afghans failed to exercise their right to vote.

ANFREL observers believed lack of awareness among females and security problems reduced the number of women casting votes, the chairperson added.

The influence of tribal elders, misuse of government resources in favour of a specific candidate, use of low-quality ink, multiple registration cards and the participation of ineligible people were some of the irregularities noted by the delegation.

Afghanistan being a fledgling democracy could not be expected to show the highest standards of democratic values, he remarked, acknowledging election violations existed everywhere.

The Free and Fair Election Foundation of Afghanistan also spoke of violations and low turnout in the elections.

ANFREL observers suggested Independent Election Commission officials should be appointed through a balanced system by parliament and not by an individual. There were complaints of the IEC workers demonstrating partiality, he concluded. mam/mud

From Afghanistan: Observation of the August 20th Elections

The Asian Network for Free Elections (ANFREL), supported by The Asia Foundation with funding from AusAID and USAID, observed the recent 2009 Presidential and Provincial Council elections. With 55 observers representing 13 Asian countries, ANFREL teams covered 12 provinces in the North (Balkh, Smanagan, Faryab, Sar-e-Pul, Jawzjan), North East (Kunduz, Baghlan, Takhar, and Badakhshan), and Central (Kabul, Panjsher, and Parwan) regions of Afghanistan. Having also observed the 2004 and 2005 elections, ANFREL has experience covering Afghanistan. However, this year, the deteriorating security situation led to extraordinary security arrangements, which made it difficult for the observers to monitor the entire election process. In Kunduz, Baghlan, and Jowzjan, movement was especially restricted on polling day. The challenges were many.

Because of the security situation, ANFREL observers had difficulty in gauging whether or not voters' enthusiasm, which they witnessed in most provinces, would actually translate into votes. Factors other than security also kept Afghans, especially women, from voting. These factors included illiteracy, little to no experience with elections, and insufficient education on the elections – and women's right to participate in them. Still, in a few pockets of the country, the ANFREL observers noted the turnout of women voters was encouraging.

The misuse of government resources is another area of concern, as some government officials were apparently unable to maintain their neutrality. The abuse of official positions and resources to benefit favored candidates were common allegations observed by ANFREL.

Afghanistan's elections were held under extraordinary security arrangements. Despite the threats, intimidation, and violence, the Independent Election Commission (IEC) of Afghanistan conducted the process relatively efficiently without allowing it to be disrupted. The elections were conducted within the

given timeline, and with some semblance of professionalism. In almost every province where ANFREL observers were present, they reported that the election officials were reasonably efficient and well-trained. The Elections Complaints Commission (ECC) also made some crucial decisions over the adjudication of complaints of fraud and irregularities.

Finally, in Northern and Central Afghanistan, ANFREL teams noted that the candidates' campaigns seemingly ignored ethnicities and other traditional barriers and campaigned in each district. While only the rich and well-known candidates attracted huge gatherings, all candidates attempted to focus on issues important to the entire electorate, such as development and security.

Regarding fraud, it remains to be seen if the detected cases will have an impact on the elections' legitimacy. The reported fraud cases include the use of multiple voter cards, underage voters, and vote buying. In many polling stations with ANFREL observers, the quality of indelible ink used was extremely poor, which increased the chances of fraud. Many voters demonstrated how the ink could be wiped off within a few minutes after the polling process.

This entry was posted on Wednesday, September 9th, 2009 at 3:50 pm and is filed under | [In The News](#) .



Afghan poll faces monitor crisis

By Andrew North

BBC correspondent in Kabul

The US-funded Asia Foundation is backing an observation mission from the Thai-based Asian Network for Free Elections (Anfrel). But it will have less than 50 staff.

From : An Ariana Media Publication

ANFREL Foundation sees anomalies in poll process

Pajhwok

24/08/2009

By Frozan Rahmani

KABUL - Asian election observers' head has accused key candidates of misusing governmental facilities and resources in presidential and provincial council polls held on August 20.

Speaking at a press conference, the Asian Network for Free Elections (ANFREL) Foundation chief said they would release their final report after all fraud allegations were addressed by the Electoral Complaints Commission (ECC).

Damosa Magbual said its 50 observers monitored the elections in 13 northern and central provinces and they termed the exercise as positive, taking into account the history of polls in the violence-wrecked country.

Describing insecurity as a huge challenge, Magbual said their observers could not freely monitor the elections in Baghlan, Kunduz, Takhar and Sar-i-Pul. Because of security concerns, he claimed, many registered Afghans failed to exercise their right to vote.

ANFREL observers believed lack of awareness among females and security problems reduced the number of women casting votes, the chairperson added.

The influence of tribal elders, misuse of government resources in favour of a specific candidate, use of low-quality ink, multiple registration cards and the participation of ineligible people were some of the irregularities noted by the delegation.

Afghanistan being a fledgling democracy could not be expected to show the highest standards of democratic values, he remarked, acknowledging election violations existed everywhere.

The Free and Fair Election Foundation of Afghanistan also spoke of violations and low turnout in the elections.

ANFREL observers suggested Independent Election Commission officials should be appointed through a balanced system by parliament and not by an individual. There were complaints of the IEC workers demonstrating partiality, he concluded.

Annex 11 – Organisation Background

Introduction

Formed in November 1997, the Asian Network for Free Elections (ANFREL) has established itself as the preeminent NGO in Asia working on elections. ANFREL's main focus is in observing pre- and post-electoral processes, and developing and training civil society groups that are actively working on democratisation in their home countries. We also undertake specific research projects and advocate on good governance issues in Asia.

Since its formation, ANFREL has operated in more than 30 elections in 15 countries across Asia, from Timor-Leste to Japan to Afghanistan.

ANFREL draws its observers from a network of partner civil society organisations in Asia, listed below. Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is seen as locally developed rather than externally imposed. Through observing election administration internationally, our observers have developed a strong understand of international best practice – knowledge that can then be applied in their respective home countries.

Objectives

As part of its overall objective of supporting democratisation efforts in Asia, ANFREL is committed to supporting national based organisations initiatives on:

- A. Election monitoring / pre-post election, referendum and local election and other democracy-related processes
- B. Education and trainings on election and democracy-related studies
- C. Research on election and democracy-related issues and cover electoral and democratic reforms
- D. Conduct campaigns and advocacy work on issues related to democratic processes
- E. Information dissemination and publication of material related to election and other democratic processes
- F. Creation of an environment conducive to a democratic development in the spirit of regional solidarity

Election observation mission objectives

For all of our election observation missions, we aim:

1. To support the enhancement of the integrity of electoral processes and minimize election irregularities and election-related human rights violations
2. To provide accurate, impartial information and analysis on issues related to general elections in particular and prospects for democratic development in general
3. To enhance and sustain the capacity of civil society organisations to ensure an environment conducive for the conduct of free elections as well as for the realization of people's aspiration for democracy
4. To strengthen the civil society among participating nations (achieved in training and promotion of democratic values among members of the observation mission)
5. To support and strengthen local networks of elections observation bodies in organizing, information gathering and data exchanging activities during missions
6. To publish a mission report which underlines the outcome of the observation mission of the observation team, together with recommendations for the electoral process

For Further information about ANFREL, please visit our website at www.anfrel.org

National member organisations

Afghanistan	Free and Fair Election Foundation of Afghanistan (FEFA)
Bangladesh	ODHIKAR The Fair Election Monitoring Alliance (FEMA)
Cambodia	Committee for Free and Fair Election (COMFREL) Neutral & Impartial Committee for Free & Fair Elections in Cambodia (NICFEC)
India	Programme for Comparative Democracy (LOKNITI)
Indonesia	Komite Independen Pemantau Pemilu (KIPP) The People's Voter Education Network (JPPR)
Japan	InterBand
Malaysia	The National Institute for Electoral Integrity (NIEI)
Mongolia	Women for Social Progress (WSP)
Nepal	National Election Observation Committee (NEOC) National Election Monitoring Alliance (NEMA)
Pakistan	Human Rights Commission of Pakistan (HRCP) The Free and Fair Election Network (FAFEN)
Philippines	Institute for Political and Electoral Reform (IPER) National Citizen Movement for Free Elections (NAMFREL-NCR) The Parish Pastoral Council for Responsible Voting (PPCRV)
South Korea	People Solidarity for Participatory Democracy (PSPD)
Sri Lanka	People Action for Free and Fair Elections (PAFFREL)
Thailand	Open Forum for Democracy Foundation (Poll Watch Foundation-Thailand)
Timor-Leste	Women Caucus for Politic

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ANFREL's Previous Mission List

Country	Elections	Date	Donors / partners
Previous missions			
Afghanistan	Post election Assessment	Nov 2009	AUSAID through TAF Afghanistan
Afghanistan	Presidential and Provincial Council	August 2009	AUSAID through TAF Afghanistan
Indonesia	Presidential election	July 2009	British Embassy in Indonesia
Indonesia	Parliamentary	April 2009	TFD- Taiwan Foundation for Democracy. Rights and Democracy of Canadian British Embassy in Indonesia
Bangladesh	Parliamentary	December 2008	British High Commission in Bangladesh
Malaysia	By Election in Permatang Pauh, Penang	August 26, 2008	TAF Malaysia
Philippines	ARMM Regional Election	August 11, 2008	CIDA Canadian – TAF Philippines
Cambodia	Parliamentary	July 27, 2008	Taiwan Foundation for Democracy (TFD)
Nepal	Constituent Assembly	November 2007	DFID UK / The Asia Foundation
Thailand	Parliamentary	December 2007	AUSAID
East Timor	Parliamentary	May 2007	Taiwan Foundation for Democracy (TFD) WFDA and APSOC (partner)
East Timor	Presidential Elections	April 2007	SEARCH Canadian
Aceh	Local Election to select a governor and 19 Major/head of regency	December 2006	KIOS
Thailand	Parliamentary	February 2005	Norwegian Government
Afghanistan	Parliamentary (Wolesi - Jirga and Provincial Council)	2005	USAID / The Asia Foundation
Taiwan	Legislative Election	December 2004	Taiwan Foundation for Democracy (TFD)
Indonesia	Presidential + Legislative	2004	Rights & Democracy, KIOS
Cambodia	General elections	July 2003	Norwegian Government, National Endowment for Democracy (NED)

Pakistan	Parliamentary Elections	October 2002	National Endowment for Democracy (NED), International Center for Human Rights and Democratic Development (ICHRDD)
Cambodia	Commune council elections	February 2002	The Asia Foundation, Southeast Asia Fund for Institutional and Legal Development (SEAFILD), Norwegian Government, Swedish Government
Bangladesh	Parliamentary	October 2001	The Asia Foundation, Norwegian Government
East Timor	Constituent Assembly	August 2001	Norwegian Government, International Center for Human Rights and Democratic Development (ICHRDD)
Thailand	House of Representatives	January 2001	The Asia Foundation, Southeast Asia Fund for Institutional and Legal Development (SEAFILD), Open Society Institute
Malaysia	General elections	November 1999	Southeast Asia Fund for Institutional and Legal Development (SEAFILD)
East Timor	Constitutional referendum	September 1999	Portuguese Government
Indonesia	General elections	June 1999	Southeast Asia Fund for Institutional and Legal Development (SEAFILD), Trocaire, International Center for Human Rights and Democratic Development (ICHRDD), Terre des Hommes, The Asia Foundation
Cambodia	National elections	August 1998	The Asia Foundation, NOVIB, Southeast Asia Fund for Institutional and Legal Development (SEAFILD), FINNIDA, Canadian Human Rights Foundation, Friedrich Naumann Stiftung