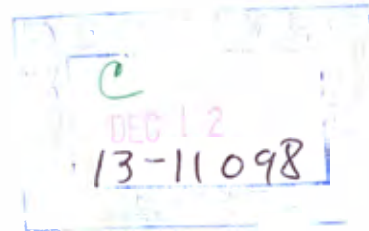


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Note to Mr. Eliasson



✓ Update on the 2014 Presidential Elections in Afghanistan: Issues for Consideration

12/12/13

1. Further to our joint note of 13 September on preparations for the 2014 Afghan Presidential and Provincial Council elections, this note provides an update on relevant developments, drawing attention to possible future challenges and measures to address them.

Political and operational developments

2. In November, the Independent Elections Commission (IEC) announced the final list of 11 presidential candidates out of 27 initial nominees - less than the 41 that competed in the 2009 polls. All but one are Pashtun and all have ethnically diverse tickets. This reflects recognition by the Afghan political elite that, to be viable, presidential slates must be representative of the country's largest ethnic group, but also of its ethnic diversity. There continue to be no obvious front runners, with President Karzai muted on who he supports. Political bargaining will continue over the next months and the final candidates' list may change. A run-off, if no candidate gets 50 per cent of the vote in the first round, looms as a significant possibility.

3. The IEC is functioning well while the recently established Independent Electoral Complaints Commission (IECC) operates with skeletal staff and is setting up its provincial offices. While some concerns were expressed as to the transparency of both bodies in deliberating on candidate disqualification, there has been no sustained rejection of their decisions. The UN provides technical support to these donor-funded bodies. Voter registration continues, with 3.2 million new voter cards (35% to women) issued so far. This brings the total number of cards issued in multiple top up exercises since 2003 to some 20 million (out of an estimated 30 million population). A decision on out-of-country voting by the President is pending, but the cost, timeline, and logistics for such an exercise render it unpalatable to the IEC and donors. Recently, in testimony to Parliament, the IEC Chairman expressed doubts that out-of-country voting will take place.

Key issues ahead: Inclusive participation, a credible process and an acceptable outcome

4. These Afghan-led and managed elections are meant to mark the first democratic transfer of executive authority in Afghanistan's history. The manner in which they will take place and the acceptability of the outcome will determine the country's stability and will influence the political and financial commitments of the international community.

5. The core challenge to the credibility and acceptability of the elections is balancing the inclusivity and integrity of the electoral process, with the pendulum seen as having swung too far in favour of the former in 2009 and of the latter in 2010. Insecurity and the likelihood that it will disproportionately impact Pashtuns drives this dilemma.

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6. Where polling centres open or not could adversely affect both the participation of one ethnic group over another and present an opportunity to commit large-scale fraud – either scenario potentially leading to an outcome that is not broadly acceptable¹. Limitations in opening polling centres or difficulties in accessing polling stations by voters due to insecure conditions, may lead to the disenfranchisement of large parts of the population (particularly Pashtuns) in the volatile south and south east. On the other hand, opening polling centres in highly insecure areas has in the past led to so-called ghost stations where mass fraud has been committed.

7. The assessment by Afghan security forces of what polling centres are deemed secure may therefore be a contentious issue if the assessment is too optimistic (as in 2009) or overly restrictive (as in 2010). Moreover, while Afghan security institutions will conduct the security assessment, the IEC will have the final say over which stations open and will have to carefully balance security assessments with their political and operational implications.

8. Traditional practices preventing female voters from accessing polling centres may also impact participation, especially in the conservative majority Pashtun east and south. In these areas there may be proxy voting for women by male relatives, as in the past. A lack of female polling staff may also deter female voting and/or increase proxy voting, which is considered fraud in international electoral practice. However, low female participation or elimination of ballots deemed to be the result of proxy voting would further compound turnout challenges in Pashtun areas and add to the Pashtuns' perception of disenfranchisement. There are already strong patterns of proxy voter registration in the south-east.

9. An additional factor affecting inclusivity is tribal voting: particularly in the south, certain communities vote along tribal lines and it would not be unusual to have 90 per cent of ballots cast in a polling centre for one candidate. The anti-fraud measures in place should not lead to the disqualification of ballots that may in fact be in line with the normal tribal voting practices. The new electoral law has attempted to clarify this issue so as to prevent unnecessary disqualification of ballots². Related to this, there are also instances of a tribal elder voting on behalf of his tribe especially if security conditions make access to voting difficult.

10. Insecurity, traditional practices regarding female participation, and tribalism are likely to disproportionately impact Pashtuns more than other ethnic groups. This will shape how Pashtuns participate, perceive their participation in the elections, and impact their acceptance of the outcome. An election that has or is perceived to have ethnically disenfranchised the majority ethnic group will unlikely be acceptable to many Afghans. Most campaign teams understand that electoral victory and broad acceptance of the outcome depends on receiving votes not just from secure areas, at least in the first round. Nonetheless non-Pashtuns are unlikely to accept large scale fraud in insecure areas, particularly in a potential second round, which could evolve into a north-south, ethnically centred contest.

¹ This occurred in the 2010 Parliamentary Elections, where the majority Pashtun province of Ghazni was unable to secure polling centres in majority Pashtun districts. Voting occurred only in majority Hazara districts and no Pashtuns were elected, skewing the ethnic representation of the province and leading to a year-long political impasse over the results.

² Article 59(5) of the Electoral Law states, "Allocation of more than 80% of votes in a centre in favour of a candidate, as a single factor shall not be deemed as reason for declaring fraud"

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11. Voter participation may also be an issue in more secure parts of the country. Elections are scheduled for 5 April 2014 in accordance with the Afghan Constitution. The last two election cycles were held in late summer. This facilitated transport of electoral materials and actual voting. Elections in the spring present new challenges for the IEC due to potential weather conditions (snow, rainfall and flooding) and possibly reduced level of international military air support for electoral operations given ISAF's drawdown. This may impact preparations and voter participation in the country's north and central highlands, where most non-Pashtuns live.

12. The challenge of balancing inclusivity with credible anti-fraud measures is not new. In the 2009-2010 elections, almost one-third of the ballots boxes were disqualified due to fraud. Given the impossibility of investigating every box, disqualification decisions were based on audits and other mechanisms, and valid votes (in disqualified ballot boxes) were also excluded. The indiscriminate nature of these remedies was seen as further disenfranchising voters and has added to issues of voter apathy and disillusionment.

13. Fraud mitigation is further challenged by the lack of credible means of calculating the actual voting population or voter turnout. The voter registry in Afghanistan is simply a list of voters with no corresponding updated database (e.g. registering lost cards, residence changes or deaths). Moreover the registry does not link voters to polling stations, preventing polling station specific voter lists which would help detect and minimize fraud and ensure that ballot materials distributed correspond more precisely to the actual number of registered voters. Although the principal cause of fraud in past elections was ballot stuffing, not multiple voting using multiple voter cards, the existence of multiple voter cards has created perceptions that can impact the credibility of the electoral process.

Considerations moving forward

14. Security challenges will have to be addressed and not used as a political pretext to either disenfranchise parts of the electorate or avoid holding elections within the constitutional framework. This requires strengthened cooperation among security institutions (and between these and the IEC), the conduct of a credible security assessment, appropriate risk mitigation measures and instilling greater confidence through public awareness campaigns. Presidential candidates can also be an important voice in advocating for effective elections security.

15. UNAMA will continue to advocate the importance of addressing security challenges with all stakeholders, Afghan security institutions and the IEC in particular, and it will continue to coordinate messaging from the international community. UNAMA is also exploring engagement with the Taliban on civilian casualties and the right of people to vote, and is using its good offices at the local and national level to promote a more secure environment throughout the process.

16. Strategic anti-fraud measures are key to credible elections and need to be designed to increase participation and limit disenfranchisement; the role of national observers and candidate agents will also likely be critical. The IEC will need to reflect on how best to put in place anti-fraud measures that instill trust and promote a broadly accepted outcome. UNDP ELECT II advisors are providing technical support to the IEC's fraud mitigation plan, including on

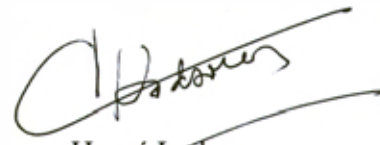
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operational measures such as higher quality materials, stricter controls on materials, reduction in errors due to improved staff training, and community ownership through increased public outreach. UNAMA's messaging will advocate both perception and expectations management and is engaging elections observation bodies to promote a comprehensive placement of monitors.

17. Political engagement by Afghan leaders and elites is required to prevent these elections from becoming ethnically polarized due to either disenfranchisement or fraud. The IEC's technical preparations have created a platform for improved elections but it is ultimately a question of political will: Afghan political stakeholders will have to work to create a political environment that encourages consensus slates and countrywide campaigns. UNAMA has used its good offices to garner political consensus on electoral rules and to promote oversight of electoral preparations. It can also play an instrumental role in emphasizing that transparently-run elections, respecting basic rights, with effective and neutral support of state institutions, and responsible conduct of participants (leaders, candidates, and voters) are most likely to achieve an accepted and peaceful outcome.



Jeffrey Feltman
12 December 2013



Hervé Ladsous
12 December 2013

cc: Ms. Clark
Ms. Haq