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Organization for Security and Co-operation in Europe

**ELECTION SUPPORT
TEAM
to
AFGHANISTAN**

**Recommendations
on**

**2005 PARLIAMENTARY
ELECTIONS**

6 October 2005

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1. Introduction

a. Mandate

The OSCE Permanent Council Decision 686, dated 7 July 2005, decided to send to Afghanistan, a cooperation partner of the OSCE, an Election Support Team (EST). The decision followed separate invitations to the OSCE from Afghan Foreign Minister Dr. Abdullah Abdullah, and the Chair of the Afghan Joint Election Management Body, Mr. Bismillah Bissmil, to observe the Afghanistan's National Assembly ("Wolesi Jirga") and Provincial elections, which took place on 18 September.

The OSCE Election Support Team was the second to be sent to Afghanistan, the first being deployed in 2004 in the context of last year's presidential election. As in 2004, the OSCE EST was not an OSCE election observation mission. The EST mandate was to analyse key elements of the election environment, including the electoral system, campaign and legislation; the electoral administration; voter registration; counting and vote tabulation; and the complaints and appeals process. It was also to prepare recommendations for improving future elections and for transferring election administration skills and resources to the national authorities. The mandate did not exclude giving advice to the authorities even during the elections as necessary.

b. Operational & security issues

The Election Support Team was deployed following an OSCE Exploratory Mission, sent to Afghanistan from 26 May to 1 June 2005 to analyse the preparations for the 18 September elections, and recommend modalities for a possible OSCE response to these invitations. The Exploratory Mission was led by Mr. Kare Vollan (Norway).

A provisional deployment plan and associated budget for the Election Support Team was established in June 2005. In early September, eight teams of two seconded experts were deployed in five provincial capitals - Kabul, Herat, Mazar-i-Sharif, Kandahar and Jalalabad - with a core group in Kabul.

Security was a priority of the EST. Letters of Agreement were exchanged with both the Combined Forces Command (CFC-A) and the NATO led International Stabilization Assistance Force (ISAF) as well as with the Afghan Government and the JEMB. The Mission worked under a demanding but necessary security umbrella. Personal security and administration was outsourced to a commercial security organization.

The EST comprised thirty two staff members from sixteen participating States. Nine were contracted staff from the Secretariat, six were engaged under service contracts and seventeen were seconded. The Head of Team was Mr. Craig Jenness (Canada).

c. Methodology

The EST held regular meetings with election administration bodies, candidates and political parties, civil society organizations and international community representatives. On election-day, teams visited approximately 250 of Afghanistan's 26,500 polling stations. Team members did not employ observation methodology, and polling station visits were often by a single team member and were varied in duration. EST teams visited 8 of 32 provincial count centres to analyze the count and vote tabulation process.

The OSCE EST was able to make recommendations during the process. This was done primarily through meetings with electoral officials, and through the production of written advice provided to electoral officials and observers on ballot overages, count location and transparency, and tolerance during ballot reconciliation.

d. Acknowledgments

The OSCE EST would like to express appreciation to the President of Afghanistan and his cabinet, the Minister of Foreign Affairs, the President of the Supreme Court, the Joint Electoral Management Body (JEMB), the Joint Electoral Management Body Secretariat (JEMBS) and other Afghan authorities at all levels for their support and assistance. It is grateful for significant assistance of the Afghan embassy in Vienna. The EST also wishes to thank the United Nations Assistance Mission in Afghanistan (UNAMA), the International Stabilization Assistance Force (ISAF), the offices of the EU Special Representative and Commission, numerous embassies and diplomatic missions in Kabul. It would also like to thank international and Afghan observers and organizations, including the EU Election Observation Mission (EUEOM), the Asian Network for Free Elections (ANFREL), the Free and Fair Elections Foundation of Afghanistan (FEFA) and the Afghan Independent Human Rights Commission (AIHRC). Finally, it wishes to thank and acknowledge the many Afghans that took the time to share their views and experience.

The UNAMA mandated Post Election Strategy Group (PESG) has developed a strategy to support the development of the Afghan electoral administration and its capacities. The recommendations of the EST are in broad agreement with those of the PESG.

2. Overview

The 2005 elections were considered an important step forward in fostering democracy, stability and human rights in Afghanistan.

Afghan and international security forces provided a relatively stable environment for the elections, despite ongoing security threats. Unlike in 2004, polling took place in all districts. Although it appears that somewhat fewer voters cast ballots than in 2004, the Afghan people again showed commendable commitment and often, especially in the case of women, considerable resolve and courage.

The Afghan political landscape is still dominated not by parties but by individuals. Political parties are nascent and viewed by some with suspicion. The Single Non-transferable vote (SNTV) electoral system, under which all candidates run as independents, reflected and also perpetuated personality-based politics. It did little to aid political party development. Very large ballots (Six pages and 380 candidates in Kabul) complicated logistics, polling and especially the count. In the absence of strong political parties, the new Parliament is expected initially to be fragmented. It will need immediate and sustained assistance and support.

Many Afghans and human rights advocates expressed disappointment that, despite a candidate vetting process, the ballot contained significant numbers of individuals linked to Afghanistan's recent violent past. At the same time many "war-lords" or "ex-commanders" garnered sufficient popular support to win seats. This issue clouded public and observer perceptions of the election. However electoral bodies, no matter how strong, cannot replace courts, truth commissions or disarmament panels. In the absence of sustained progress on the transitional justice agenda, public trust in future elections and parliaments may be undermined.

The election management bodies had to conduct elections in a challenging environment. As expected, electoral problems were greater where security was more tenuous, state authority weaker and observation limited. Afghanistan's rural/urban and north/south divides must be narrowed. This will require a broad multi-sectoral effort; the election administration can play an important role; but it must be led by the Afghan and international security framework.

The successful installation of the National Assembly and provincial councils will mark the end of the provisional arrangements set forth in the Bonn Agreement of 2001. Recommendations and lessons learned from these elections should be considered for the "post-Bonn" agenda.

Priority Recommendations -

1. Future elections must be run at a more sustainable cost while maintaining confidence in the process. This will require transfer of elections skills and resources to national authorities. The Independent Electoral Commission will need immediate support and resources.
2. From a technical perspective the fewer elections that can be conducted before the next scheduled state level elections (2009) the better. This period could be best used to:
 - consolidate and support the parliament and provincial councils;
 - strengthen the Afghan electoral administration;
 - conduct a sustainable voter registration, districting, civil registration and census;
 - build political parties; and
 - conduct extensive civic education, especially amongst women, youth, rural populations and in the south and southwest.

3. Afghanistan must make progress on the difficult issues of transitional justice now; particularly in the fields of administrative and judicial reform, truth seeking and documentation, and judicial accountability. Otherwise, there is a real risk that these issues will cloud future elections.
4. A multi-sectoral effort, supported by Afghan and international security forces, is needed to increase civic education and democratic understanding, especially in rural areas including in the south and south-west.
5. Women must continue to be strongly supported in their aspirations to participate fully in the political processes of Afghanistan.

3. Recommendations

a. The electoral calendar

The current election completes the “Bonn agenda”. However three more direct elections are required by the Constitution - for district, municipal and local councils. This raises the question of when these should take place, and in which order.

For the following reasons, it will be very difficult to hold elections in 2006.

- Not all district, municipal and local boundaries have been settled.
- A new or partial re-registration would be required to assign voters to their proper constituency.
- The elections have placed a strain on nascent Afghan institutions. A third election within three years might hamper institutional development and tax voter enthusiasm.
- For the foreseeable future, Afghan elections will need to be funded by donors¹. The UNAMA mandated Post-Election Strategy Group (PESG) estimates that the cost of a municipal election, including updating the voter register, could be above 100 million USD.
- Security for local elections may be more challenging than for higher level elections.

Regardless of the date of next elections, parliament must better synchronize the various levels of elections. At the moment, presidential and parliamentary elections fall every five years, provincial elections every four years, district and local elections

¹ The direct cost of the last two electoral cycles, including voter registration, was close to 300 million USD. This was paid completely by the international community. The Afghan government’s current total yearly domestic revenues are about 350 million USD.

every three years. This framework will produce elections almost every year in perpetuity, which Afghanistan can neither politically sustain nor financially afford.

Recommendations

- Parliament should decide promptly on a timetable for district, municipal and local elections.
- From a technical perspective, the fewer elections that can be conducted before the next state level elections (2009) the better. This period could be best used to:
 - consolidate the parliament and provincial councils
 - strengthen the Afghan electoral administration
 - conduct a sustainable voter registration, civil registry and districting
 - build parties
 - conduct extensive civic education, especially amongst women, rural populations and in the south.
- Parliament should agree quickly on the timeframe for next elections. The government, donors, and electoral stakeholders require certainty to properly sequence reform initiatives, and to prioritize programmes and resources.
- The commonly held view is that municipal elections are the next priority. Parliament should consider scheduling other lower level elections for a date after 2009. Parliament could also consider whether district or local elections could be constituted by indirect elections or a modified “jirga” process to reduce the number of direct elections to a more manageable number (four). This would require constitutional change.
- Parliament should create a two-tier election cycle, with Presidential and WJ elections held every four/five years, and lower level elections held with the same fixed term but offset two years from the national election.
- The legal authorities, terms and powers of each level of government should be clarified in law prior to the start of an election process for that body.

b. The electoral system

There is no international standard dictating the choice of electoral system. The Single Non-transferable vote system did complicate election administration and drive up costs, but other alternatives – like an open list system - could have done the same. There were legitimate questions about the suitability of a party-based system for these elections; in particular parties are nascent and distrusted in principle by parts of the population. However, in the long run, a party-based system is far more likely than SNTV to produce an effective parliament, inclusion of women and other marginalized groups, and the development of political party platforms rather than personality based politics.

The current allocation of WJ seats per province (and the number of Kuchi seats) was calculated on the basis of the 1979 census figures (adjusted by annual population growth), incomplete household listing survey and additional calculations (to ensure distribution between the provinces and ensure reserved seats for women). Current seat allocation has been somewhat controversial, and must be reviewed once accurate data is available.

Recommendations:

- The next WJ and Provincial Council elections (in 5 years) should be run under a party-based electoral system, with assurances of the right of independent candidates to stand for office on equal terms. The EST – like last year - recommends consideration of a hybrid system of closed list proportional representation for the entire constituency (with rules to ensure women are not relegated to the end of the list), with the remainder elected in a “first past the post” system from smaller constituencies.
- The choice of election system for pending elections should depend, amongst other factors, on an assessment of the strength and public acceptance of political parties at the time of the elections. The system should be announced well in advance of the election, following a broad public consultation process.
- If SNTV is chosen for another election, greater effort should be made to accommodate political parties. For example, parties should be able to have their name and logo by their candidates on the ballot. Similarly, if parliament chooses a party based electoral system, the rights of independent candidates must be guaranteed.
- Parliament should review seat allocation for the WJ before the 2009 national elections cycle. The census must be completed well in advance to allow sufficient time for parliament to debate and decide.
- If the SNTV is still in place for the next elections, large provinces should be divided into several multi-member districts.

c. Voter registration, districting and the census

There are widely recognized flaws in the voter’s register:

- There are allegedly large numbers of multiple registrations;
- Many registration cards do not contain information sufficient to assign voters to districts, municipalities or villages, or to polling centres within these jurisdictions;
- There is no systematic method to update the card, especially in the event of relocation; and
- Many women’s registration cards do not contain photographs.

These shortcomings, and the non-assignment of voters to specific stations, make turnout impossible to calculate, and increase the potential for voter perpetrated fraud (particularly multiple voting).

Thus far elections in Afghanistan have been held on the basis of well defined national or provincial boundaries. District boundaries are largely - although not completely - defined. Municipal and local boundaries are not defined.

Recommendations:

- The IEC and Ministry of Interior (MoI) should immediately facilitate an independent expert audit of the existing voter register. The findings should be used to plan a comprehensive and sustainable register, where voters are assigned to stations or precincts. If possible, voter and civil registration efforts should be combined with a view to extract the voter lists from a comprehensive civil register.
- The emphasis must be to create a sustainable register, and the process should not be rushed. The target should be to finalize the new register by the time of the next Presidential, WJ and Provincial council elections (2009). Any election held before that time would therefore have to be based on current voter cards with some process of updating.
- District, municipal and village boundaries should be established well in advance of voter registration, to ensure this information is properly reflected on a voter's card. Future precinct excerpts of the voter register should contain voters' names (date of birth and ID card number) instead of only the numbers of the voters' cards.
- The government should create electoral precincts in order to have more options for the choice of electoral systems for future elections. It should use the data from a new civil/voter registration in order to ensure accuracy and precincts of suitable relative size.²

d. Regional disparities

As expected, the standard of the election varied throughout the country. In general, they were better where security was good and institutional reach of the state was strongest. Poor electoral practice – especially allegations of intimidation of voters, and men voting for women - was more common in rural areas, especially in the south and south-east. Ongoing democratization of these areas will be a long-term, multi-sectoral challenge that will require sensitivity to local culture. It is important that future elections narrow, rather than widen, the existing rural/urban and regional gaps.

² First past the post elections on the basis of these precincts could not therefore be held before 2009.

Recommendations:

- It should continue to be a national strategic goal to have campaigning, polling and observation in all parts of Afghanistan during the next electoral cycle.
- Voter and civic education should be focussed in areas where institutional reach has traditionally been limited. Civic educators should be supported in this effort by the Afghan and international security apparatus. Afghan civil society, which better understands cultural sensitivities and can operate in more difficult security environments, should continue to lead this effort.
- The IEC should establish special programs for areas that are rural and/or where institutional reach has traditionally been limited. Elements could include:
 - Earlier and more carefully monitored recruitment;
 - Longer training for polling and count staff from these areas;
 - Specially tailored voter education; and
 - Proactive monitoring, with involvement of ECC, and strict enforcement.
- The capacity of domestic observers to monitor throughout the country should be strengthened, including funding and incentives to observe in more distant areas.
- Additional and specialized training should be provided to parties, candidates and agents from difficult areas. This could emphasize platform-based campaigns, multi-ethnic support bases, women in politics, campaigning in difficult environments, the complaints system, the importance of political opposition and acceptance of certified results.
- Efforts should be made to develop media outlets (especially radio) in more problematic areas.

e. Transitional justice and the electoral system

The electoral law mandates the disqualification of any candidate convicted of crimes, including crimes against humanity, or links to illegal armed groups. Although 33 candidates were eventually on these bases³, many Afghans and human rights advocates expressed disappointment that the ballot contained significant numbers of “war-lords” or “ex-commanders” linked to Afghanistan’s violent past. Some believe this was a cause of somewhat lower turnout, particularly in urban areas.

The candidate vetting process was important, but the expectations on it were unrealistic. The electoral system cannot replace functioning courts or truth commissions.

³ All for links to armed groups.

Recommendations:

- Afghanistan must make progress on the difficult issues of transitional justice, particularly in the fields of administrative and judicial reform, truth seeking and documentation, and judicial accountability. If not, there is a real risk that this issue will cloud future elections.
- Electoral bodies should support – not make - decisions related to disarmament and past crimes. The ECC is the appropriate body to adjudicate challenges to candidate eligibility and electoral offences. It must have sufficient resources and staffing to meet this task. However an elections panel cannot and should not determine criminal culpability or assess disarmament. Its decisions should be based solely on decisions of bodies specifically mandated and resourced for these purposes. Concretely:
 - *Links to armed groups*: The Joint Secretariat⁴ or similar expert body should continue to be the source of conclusive evidence of links to armed groups. However, its role should be codified, and all efforts should be made to ensure its procedures are uniform and transparent. For the foreseeable future, it should have broad representation including members of the international community.
 - *Crimes*: A candidate’s responsibility for crimes, including crimes against humanity, should be determined by a judicial body, or by another legally mandated body such as a truth commission or special judicial panel developed for that purpose.
 - Regardless of the chosen model, no candidate should be deprived of his or her right to stand for office without due process.
- No parliamentarian indicted for a serious crime, including crimes against humanity and failing to disarm, should be permitted to avoid prosecution by invoking parliamentary immunity.⁵
- The powers of any eventual Afghan truth and reconciliation commission should include:
 - Compelling electoral candidates to appear before it; and
 - Authority to make binding recommendations to exclude candidates, especially for failing to appear or fully co-operate.
- Civic education should stress to voters that they can “vet” unsavoury candidates by not voting for them; and that all measures will be taken to ensure the vote is secret.

⁴ A mixed Afghan-international body mandated to oversee the disarmament process. Article 102 of the Constitution may codify this principle. The translation available to the EST was not clear.

f. The legal framework

The new parliament is obligated to review all decrees within its competence, including those concerning elections. Its election related priorities could include:

- Review and amend the Law on Provincial Councils;
- Delineate responsibilities of the new IEC and ensure budget support;
- Review the electoral timeline – which elections, when and how administered;
- New laws on Municipal elections (and other levels depending on agreed electoral timelines);
- Redistricting; and
- The census; civil and voter registration.

Recommendations:

- A new law must be passed immediately to clarify the mandate and strengthen the powers of Provincial Councils.
- Section eighty-six of the Constitution should be reconsidered in so far as it creates an obligation on the IEC to continually review the eligibility of sitting members of Parliament. The IEC role should be restricted to candidates and should not cover elected officials.
- The Parliament should maintain continuity where possible in the electoral law to avoid further pressure on a relatively inexperienced electoral administration and electorate.
- During review of the electoral law, the Parliament should re-consider the following matters:
 - *The “assassination clause”* - If a candidate dies or resigns he or she is replaced by the next most voted candidate of the same gender. Some fear this might lead to violence amongst elected officials. In the current Afghan context, where capacity for re-runs is limited, the only other practical alternative would be leaving the seat vacant.⁶
 - *Incompatibility with government functions* – A person obligated to resign from a government position after registering as a candidate is not entitled to return to the former position, unless reappointed. Some greater guarantees would be preferable.

⁶ A reference to the Supreme Court might be needed to determine whether Section 108 of the Constitution allows seat vacancies. It states that the “law shall undertake the replacement” of a deceased, resigned or dismissed Member of Parliament.

g. **The election administration**

The Independent Electoral Commission (IEC) is ultimately responsible for running elections in Afghanistan. For this election, the IEC was expanded to include an international component, the new body being called the Joint Electoral Management Body (JEMB). Observers and commentators have generally praised the JEMB and its secretariat for its transparency and efficiency. After this election process is completed the IEC will again be the body responsible for administering elections.

Recommendations:

- The IEC and its administrative support should be permanent. It should consist of the nine Afghan Commissioners, supported by a secretariat in Kabul and standing offices of its secretariat in all 34 provinces. The secretariat should be managed by a Chief Executive Officer. Provincial Election Commissions (PECs), or district or sub-district election commissions could be formed on an ad hoc basis to support specific elections⁷ or voter registration if required.
- Donors should provide immediate funding to retain staff (nine Afghan Commissioners, and up to 120 key Afghan administrative staff in Kabul and the provinces) and provide running costs for at least one year. Salaries would be competitive in the context of the Afghan civil service.
- The Afghan National Consolidated Budget should open budget lines and provide some limited support to the IEC and ECC in 2006. International assistance will be required for some time, on a sliding scale matched to the Afghan authorities increasing capacities and revenues.
- The IEC and its secretariat should be supported for the foreseeable future by international consultants to assist in such matters as:
 - Reviewing the 2005 electoral process and lessons learned;
 - Training and capacity building strategies for the IEC and electoral officials;
 - Technical assistance in matters such as planning, logistics, IT, management, legal affairs and public outreach; and
 - Developing a nationwide civic education programme.
- The IEC should take all measures to develop the public and political trust built in these elections. The IEC should:
 - maintain policies of maximal transparency and outreach established by the JEMB;
 - respond effectively to any allegation of staff bias; and
 - Increase efforts to ensure pluralism in electoral management, especially locally.

⁷ For this election, Provincial Election Commissions were answerable to both the JEMB and the ECC. This double structure caused some confusion.

- The functions of the electoral administration (IEC) and the independent electoral adjudication body (the ECC) must be kept separate.
- The IEC should make full efforts to diversify its recruitment to ensure that there is a multi-ethnic staff base and network for activities.

h. Electoral complaints and appeals

The creation and performance of the Election Complaints Commission (ECC) was an improvement over the 2004 presidential election. It needs a strong mandate and to be better resourced for future elections. Many complainants clearly did not understand the electoral process or the need to substantiate claims with concrete evidence.

Institutional weakness in other areas placed candidate vetting, and thus the ECC, at the centre of transitional justice efforts (see recommendations in part “e” above) After provisionally disqualifying 208 candidates the ECC finally excluded a total of 44 candidates by election day (most for links to armed groups). Twenty-two of the disqualifications came within days of the election and were too late for the electoral administration to amend the ballot or properly inform voters.

According to the Electoral Law, decisions of the ECC are final. However, days before the election, the Supreme Court intervened to try and reinstate a number of candidates excluded by the ECC. The dispute appears to have been resolved through informal consultations, rather than legal decision. The re-instatement of one female candidate in particular was highly questionable.

Recommendations:

- The ECC should not be a standing body but should be constituted for the purpose of adjudicating electoral offences during specific electoral cycles. It must be given a clear and strong mandate and sufficient resources to accomplish its task.
- For any lower level elections held before 2009, the ECC should maintain its current mix of national and international members. By the 2009 elections, the ECC should have only Afghan members (perhaps with international advisors). Thereafter, depending on the pace of judicial reform, consideration should be given to placing ECC authorities within the court system.
- The respective authorities of the IEC and ECC should be clear and separate. The “double-hatting” of the PECs created confusion for complaints and real or perceived conflict of interest.
- Representatives of the ECC should be present in all provinces during the electoral cycle, with authority to make binding decisions on certain defined matters, and sufficient resources and training to accomplish their task.
- The complaints form should be simplified and specific procedures developed to facilitate complaints from people lacking in literacy skills.

- Decisions of the ECC should be made public, in appropriate languages, as soon as possible.⁸ The ECC should regularly and at the close of an electoral cycle publish comprehensive reports which include national statistics and patterns.
- The EST again recommends immediate clarification of the role of the Supreme Court in electoral matters. In accordance with general principles of administrative law, IEC or ECC decisions should be final as to the merits. In exceptional circumstances an appropriate court could review decisions only on narrow jurisdictional grounds or for compliance with the Constitution.
- In principle, there should be no deadline (other than final certification of results) for disqualifying candidates that commit electoral offences or are found ineligible. However, in future, all efforts should be made to avoid disqualification immediately before elections.

i. Polling procedures and operations

Polling procedures appeared to have been generally well followed and electoral materials appear to have reached polling stations as required. Electoral malpractice, especially men voting by proxy for women, was more common in rural areas, especially in the south and south-east. Training was evidently improved from 2004. However implementation of opening and closing procedures was weak in some areas. No provision was made for “special needs voting” (for example security forces on duty, election staff on duty, or hospitalised persons).

Recommendations:

- The IEC should prioritize efforts to discourage proxy-voting by men for women. This is still too common, especially in rural areas.
- The IEC should send clear public messages to polling officials that intentional acts of election malpractice will not be tolerated. The policy of not re-hiring polling officials from badly performing stations should be continued. Prosecutions should be pursued where appropriate.
- Explicit directions should be stated on assistance that can be given to voters who are not blind or disabled but who are asking for help. This issue arose regularly because of the particularly high levels of illiteracy in the country. Directions will require a balance of enforcing the secrecy of the vote while providing necessary assistance to people who might be confused by the process.

⁸ Names or other specific details could be excluded if necessary for the safety of an individual or group of individuals involved in the complaints process.

- “Special needs voting” programs should be implemented in future elections, particularly for those voters who are hospitalized or on duty in constituencies where they are registered.

j. Counting and tabulation

The counting and tabulation process was exceptionally complex due to the unusually large size of ballots, centralized counting, and the need to mix ballots before counting to protect the secrecy of communities’ voting preferences. Counting at a provincial level enabled the use of staff with specialised training, more space and time, batching of polling station ballots to protect secrecy, and a higher degree of observation. However it evidently slowed the count and delayed the release of results.

Recommendations:

- The decision to count at provincial centres was correct in the circumstances of these elections. Counting at polling stations is a desirable practice, but only if security is in place, as well as electoral competency, effective transparency checks and an environment free from undue pressure. As an interim step, counting could be conducted at the sub-provincial level, with numbers of centres per province to be determined by local requirements (based on population, logistics etc).
- Intake and count staff should receive as much training as is possible. Civic education staff could be recruited as count staff to maximise on the electoral expertise they have gained during their work.
- Greater emphasis could be placed on the importance of securing and accounting for unused ballots on election day. All sensitive election materials (unused and spoilt ballots and voters lists) should be accounted for upon receipt of the voting materials.
- Any election held before the new voter register (2009) will require substantial numbers of spare ballots. In such circumstances, the IEC will again need to prioritize observable measures to ensure ballot security and accounting.
- With more experienced polling staff, there could be a reduction in the tolerance level for ballot discrepancies at reconciliation. (currently +/- 10 ballots per polling station). In particular, there should be limited tolerance where the number of reconciled ballots is a number greater than was originally issued.
- The procedure that ballots without a stamp are not to be counted should either be more strictly enforced or discontinued.
- Clearer opportunities should be provided to observers and agents to object to a decision over whether a ballot is valid and to request a recount.

- Procedures for quarantine of boxes should be developed and publicised well in advance of the count to allow greater understanding amongst agents and observers.

k. Candidates and political parties

There are currently 78 political parties registered in Afghanistan. Most are in a nascent stage of development. Many citizens claim a lack of faith in political parties because of their perceived role in the nation's violent past. However few dispute that a strong parliamentary democracy can be built only with stronger political parties. Only 12% of the nearly 5,800 candidates claimed membership in a political party, although the rules did not allow this to be reflected on the ballot. The flow of information between the election administration and the many candidates (often managed in other jurisdictions through political parties) was a major electoral challenge. Accredited candidate and party agents totalled more than 200,000 by election-day. Although this placed an enormous burden on the electoral management, and caused confusion in some polling stations and count centres because of sheer numbers, it substantially increased electoral transparency.

Recommendations:

- A candidate's party affiliation should be identified on the ballot. Independent candidates should maintain the privilege of using symbols for the purpose of differentiation.
- To limit spurious candidates or high numbers of withdrawals, clear and public information concerning a candidate's role and responsibilities should be made available well in advance of the nomination process.
- Candidates should be required at registration to submit sufficient details to allow them to be easily contacted by electoral officials. This would allow information on important matters such as the complaints mechanism, rule changes etc to be easily transmitted to them from the IEC. They should also be required to submit some minimal information on their platform that could be published/broadcast in a format determined by IEC for the benefit of voters.
- The IEC should institutionalize the successful practice of party and candidate forums during the electoral cycle, bringing the electoral officials and party and candidates together regularly to discuss electoral developments.
- There should be no limits on absolute numbers of agents. However, the number of agents per candidate in each station and count centre should be regulated. A party based political system would reduce the current unmanageable numbers of agents. Training of agents should continue as a priority. Parties or candidates should be personally accountable for any misbehaviour of their agents.

l. Long-term political party and candidate development

Recommendations:

- Political party and candidate development should be a major priority in the coming years, focussing particularly on the following areas:
 - Party structure and organisation;
 - Role of parties in opposition and unsuccessful candidates;
 - Gender issues;
 - Parliament and government structures;
 - Development of policies and platforms;
 - Financial record-keeping; and
 - Communication and promotional work (including with the media).
- The parliament, with expert input, should re-assess the current laws and procedures for party registration. The process should enable easy impartial registration and should also ensure that parties registered have sufficient size and organisational capacity.
- Training and capacity building assistance could be specifically targeted at parties that promote multi-ethnicity and gender equality, as enshrined in the Afghan Constitution. Similarly, parties and candidates should be encouraged to appeal to a cross-ethnic and cross-tribal support base.
- In order particularly to assist less affluent or developing parties, centres might be established where parties and independent candidates can use resources such as computers and photocopiers, meeting and training space and civic education material. A library could be available with written and oral resources on political, governance and party issues.
- All candidate and party training should include their ongoing responsibility to disassociate themselves from illegal armed groups and support fully the disarmament process. Parties should be encouraged to take internal responsibility to vet candidates who continue to have such associations or who have past links to serious crimes.
- Afghanistan's recent history has featured at times violence between political factions and winner-take-all approaches to politics. Training and political discourse must also focus on the value of participation, of accepting defeat and the key role of loyal opposition in a democracy.

m. The campaign

The campaign environment was varied. Some areas were lively whilst in others opportunities were limited and campaigning was quiet. Generally it was characterised as personality based and lacking in a substantive exchange of platforms and positions, as might be expected from an election with large numbers of candidates running

independently. Particularly in rural areas, campaigning was often undertaken through contacts with traditional or tribal leaders. Security concerns limited campaigning, especially by women, particularly in some non-urban areas.

A number of candidates appear to have breached the campaign expenditure limit. The President's order that government officials were to remain strictly neutral appeared to have had some positive effect. However, there were many allegations of misuse of government positions and resources. Such complaints resulted in the ECC disqualifying nine candidates.

Recommendations:

- General broad efforts to improve security and freedom of movement, especially for woman, will obviously improve the environment for future election campaigns.
- Parties and candidates should be required to submit recent financial accounts to the IEC. These reports should be published and open to public scrutiny. Maximum donation limits and campaign spending limits should be determined for all candidates for the different electoral races.
- Clear guidelines should be established and actively enforced on the misuse of state positions and resources.
- Donors could consider programmes which would provide some minimal campaigning materials to candidates that lack resources. A fixed value of goods could be allocated to each candidate (with candidates choosing whether they prefer to take goods in the form of posters, printed material, megaphones, tee-shirts etc.).
- The IEC should consider measures to facilitate dissemination of summaries of candidate/party platforms, including through non-written means. Discussion of issues and positions should also be promoted by the holding of debates etc. live and on audiovisual media.

n. Civic and voter education

In addition to other agencies active in this field, the JEMB put considerable resources into civic and voter education (approximately US \$20 million). While this is recognised to be a substantial commitment to voter education, there has also been criticism that it was not far-reaching enough and this may have contributed to a somewhat reduced turnout.

Recommendations:

- Civic education needs to be an on-going project that is continuous (rather than simply being active in pre-election periods)
- Civic education should focus particularly on rural areas and areas of the country that have had more difficult electoral environments. Woman, Kuchi and other disadvantages groups will require special programmes.

- Civic education training and resources should be available for a variety of stakeholders (e.g. youth, community leaders, mullahs, provincial councils, media representatives, school and education workers, health practitioners, and civil society organisations).
- Youth, especially in secondary school, should receive special attention. The Ministry of Education's plan to support civic education in schools should be supported, including financially.
- Themes for civic education should include the concept of the division of powers, the role of the legislature/executive/judiciary, accountability, elections, democratic functioning and the role of women.
- NGOs now experienced in civic education should be given the opportunity to continue their work (subject to satisfactory performance) as they have gained skills and contacts during the course of their work.
- All NGOs involved in civic education should receive on-going training and support in capacity development. Full monitoring is required to ensure that services are being accurately and efficiently delivered.
- A variety of mediums must continue to be used (e.g. through religious structures, radio, non-paper based etc.). There should be face-to-face work that is in-depth and conducted in people's first language. Additional efforts must be made to use forums where women meet and gain information. Similarly, messages must be kept simple and relevant (e.g. how having accountable governance structures can benefit a community, how to use your representative etc.).
- A post-election voter impact survey could be conducted to assess where voters received their messages from, what knowledge they have and are missing, the reasons given for not voting, and for identifying suitable mediums for information. These findings could form the basis of future civic and voter education work.

o. The media

The Electoral Law provides for an Electoral Media Commission (EMC) which regulated media coverage during the election period, including the receipt and assessment of complaints. The EMC was also used to manage candidate sponsored advertising (limited free air time available to all candidates). Approximately 53% of candidates used this opportunity. There generally appeared to be a rather low level of election related information and features in the media (except for the sponsored advertising and voter education slots).

Recommendations:

- Train and provide resources to journalists, editors and managers in the private and state sectors on principles for media coverage of elections. Additional mentoring could be provided to Radio Afghanistan and Afghanistan National TV.
- Electoral and media laws on principles for election related media coverage, violations and penalties should be clarified.
- Support should be provided to the nascent permanent independent regulatory media authority responsible for audiovisual media, for promoting and maintaining standards in the media (including election-related media coverage).
- Sponsored advertising schemes should be made more user-friendly for candidates by having clear information available in advance and in easy formats.
- There should be on-going development of media outlets and coverage to areas that are currently lacking any radio or television outlet.

p. Domestic observation

The Free and Fair Elections Foundation in Afghanistan (FEFA), the largest domestic observer organisation, is a recently formed coalition of civil society groups. FEFA states that on election-day they deployed over 7,400 observers in approximately 65% of the districts (a commendable increase from the Presidential elections). Other domestic observer groups appear to be much smaller, and generally worked in the same geographical area as FEFA observers on election-day.

Recommendations:

- Donors should continue financial support to FEFA and other organisations interested in electoral observation. Technical capacity and organisational development must also be actively assisted. FEFA and others should be supported to monitor other aspects of governance (for example the functioning of the WJ and provincial councils).
- All actors should work to ensure extended observation to all districts in the country in future elections.
- Domestic observer groups should place greater emphasis on recruitment that is pluralistic and includes greater support for female observers.
- Afghan observer groups should be encouraged and supported to link with observer organisations operating in other countries in the region and beyond. This could include study opportunities and participation in observation missions abroad.

q. Civil society

There are approximately 2,000 non-profit non-political civil society entities (many of which are professional associations). Some of these are organised under umbrella bodies, such as the Afghan Civil Society Forum (which promotes democratic principles and participation), the Afghan National Coordinating Bureau (which has a wider agenda) and the Afghan Women's Network (which promotes women's participation in public life).

Recommendations:

- Donors should continue to support the development of Afghan civil society through technical assistance (e.g. through seminars and workshops) and by raising awareness about the importance of civil society (including with Afghan authorities). Assistance should be particularly targeted to areas of the country where there is weaker civil society activity.
- The Afghan Government should change the existing legislation on registration of social and non-government organizations, merging the legislation into one single law dealing with registration of non-government and non-profit, non-political entities. There should be a rationalisation of the complex registration and reporting requirements (e.g. applications should all be submitted to only one executive entity only). Similarly review is needed of the currently cumbersome process of obtaining prior approval for any proposed project.
- Continued international funding should be available but with a long-term objective of projects and entities becoming self-sustainable without foreign assistance or funding being required.

r. New parliamentarians

Numerous programmes are planned to build capacity of newly elected members of the Wolesi Jirga and for the newly appointed members of the Meshrano Jirga (Upper House). This includes training, mentoring of parliamentarians and staff, infrastructure and budgetary assistance and even refurbishment of premises. There are few obvious gaps. There is a general concern that no such comprehensive programme exists for the new Provincial Councils.

The immediate donor assistance priorities should therefore be:

- Implementation in a coordinated fashion of planned programmes for national parliamentarians; and
- Prompt development of coordinated programmes to support provincial parliamentarians.

Recommendations:

- An immediate assessment should be undertaken of priority needs of provincial councils, including infrastructure, running costs and capacity building.
- Programmes must take into account that some parliamentarians will be largely or wholly illiterate. Literacy training should be mandatory for those that need it. Consideration should be given to priority training in national official languages and at least one international language.
- Parliamentary support should include programmes for journalists, NGOs, interest groups etc on how to work with parliaments and parliamentarians (parliamentary reporting, lobbying etc.)

4. Women and the electoral process

A minimum of 25% of seats in the Wolesi Jirga and Provincial Councils are reserved for women. It is anticipated that this will result in some women candidates winning seats with a fraction of the votes of their male counterparts. The 10% of candidates that are female were subject to additional difficulties such as restrictions in movement, reduced access to campaign resources and spaces (e.g. to tribal networks and to Mosques), and general discrimination (including some violent attacks). A disproportionately high number of female candidates withdrew (nearly 18%, 50 out of 286). In three provinces there were not enough women candidates for the number of reserved seats.

There was a slight increase in female voter registration (up to 44% compared to 41.5% during registration in the Presidential election). However there is concern that the dramatic increase in female voters may be due to registration for the purpose of proxy voting. Approximately 15% of accredited observers and agents were female, meaning that there was disproportionately lower coverage of these crucial transparency measures in female polling stations. There were consistent reports of proxy voting disadvantaging women (in particular men voting for women). This called into question high female turnout figures in some areas.

Recommendations:

- Quotas for women should continue, until women can access the political systems on an equal footing with men. Quotas, at the present level or higher, should be applied to all levels of elected government.
- The IEC should continue to have a “gender section” that provides information on gender issues and promotes equality of opportunity for male and female voters, candidates, staff, agents and observers. The gender section could also take on a co-ordination role for training, facilitation of meetings for women and promotional work (including in the audio visual media).

- The IEC should invest increased resources in female staff at all levels of the IEC.
- The IEC should mandate compulsory photographs on women's voters' cards (in order to reduce the opportunity for men to vote on behalf of women). This should be facilitated by having registration conducted by women in women-only spaces.
- The IEC should intensify efforts to reduce proxy voting, through public information, increased training and monitoring of staff and penalties for staff who are found to be conducting or complicit to proxy voting.
- The Ministry of Women's Affairs (and in particular its provincial departments) should be reinforced with a stronger role, more training and resources. The Ministry should liaise with other governmental departments, non-governmental actors and religious leaders to promote women's issues and gender equality at a national and local level (in general and specifically for elections). The Ministry's provincial level departments must be particularly active and will need increased support. Priority initiatives include additional security, facilitation of travel and meetings, literacy training, legal literacy development, and civic awareness.
- Women parliamentarians should consider forming their own caucus within the Parliament to share views and to help promote women's issues and gender equality.
- Various programmes should be developed specifically targeting women parliamentarians at both the national and provincial levels. This could include general skills programmes such as public speaking, literacy assistance, parliamentary skills training, and more specific programmes such as child-care and mobility assistance (for accessing constituencies). Female Afghan parliamentarians could be linked with other female parliamentarians worldwide.
- Male parliamentarians should also be targeted for training, encouraging in particular equality and gender sensitivity in parliament. Female and male Parliamentarians should be encouraged to take an active role in promoting women's political participation, including through speaking tours and the media.
- A suitable NGO should be secured to conduct a post-election evaluation with successful and unsuccessful female candidates, including their recommendations for assisting female candidates.
- Additional support should be provided to promote female candidates from rural areas. This will be especially important for lower level district and municipal elections where candidates should be from the constituency.

- Women in politics forums should be held for gathering recommendations for the Parliament, provincial councils, political leaders and parties, civil society and donors.
- Work should be conducted with political parties and candidates on the importance of women, as potential voters, candidates, the need to recruit and support female agents, the illegality of proxy voting and accessing female voters.
- Civic education programmes should be reviewed through consultations with women and NGOs in order to improve the strategy for accessing and informing women, especially in conservative areas.
- On-going awareness work should be conducted with community and religious leaders on supporting and promoting women in politics. In particular, working with men to encourage them to actively promote women's political participation (as this is regarded as a major obstacle to women's activity).



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DECISION No. 686
ELECTION SUPPORT TEAM TO AFGHANISTAN

The Permanent Council,

Taking note of the letter by the Minister for Foreign Affairs of the Islamic Republic of Afghanistan, Dr. Abdullah Abdullah, to the OSCE Chairman-in-Office of 26 November 2004, inviting the OSCE to observe the upcoming National Assembly and Provincial Councils elections in Afghanistan,

Also referring to the letter by the Chairman of the Joint Election Management Body of the Islamic Republic of Afghanistan, Mr. Besmillah Besmil, addressed to the OSCE Chairman-in-Office, Dr. Dimitrij Rupel, of 6 June 2005, inviting the OSCE to be present to observe Afghanistan's National Assembly and Provincial Councils elections.

Taking note of the findings of the OSCE/ODIHR Exploratory Mission to Afghanistan from 26 May to 1 June 2005,

Taking into consideration the status of Afghanistan as a Partner for Co-operation of the OSCE, which has an important impact also on neighbouring regions of the OSCE,

Underscoring the importance of democratic elections for fostering democracy and human rights and for furthering stability in Afghanistan, and contributing to international efforts to combat terrorism,

Taking note of Permanent Council Decision No. 622 of 29 July 2004 on sending an OSCE Election Support Team for the Presidential elections in Afghanistan on 9 October 2004,

Taking into account conditions in Afghanistan, in particular the security situation,

Decides, in response to the specific request of the Afghan Government, to send to the National Assembly and Provincial Councils elections in Afghanistan

scheduled for 18 September 2005, an election support team, to be organized and led by the ODIHR and the Secretariat;

Decides that the main focus of the OSCE Election Support Team for the forthcoming elections should be to analyse the following key elements of the election environment:

- Electoral system, campaign and legislation,
- Electoral administration,
- Voter registration,
- Counting and vote tabulation,
- Complaints and appeals;

Also tasks the Election Support Team to prepare recommendations for improving future elections and for transferring election administration skills and resources to the national authorities. Such a mandate would not exclude giving advice to the authorities even during the elections as necessary. The Election Support Team should refrain from public statements assessing the election in line with OSCE commitments in order, *inter alia*, to remove any possibility for contradictions between OSCE elections activities in its region and any such activities outside of the OSCE region;

Requests that the ODIHR closely co-ordinate with other international and domestic election monitoring organizations in Afghanistan, including the United Nations Assistance Mission in Afghanistan (UNAMA) and the European Union Observation Mission;

Tasks the Secretariat to conduct consultations with the Afghan Government, international military forces, as well as with the United Nations, in order to spell out clearly in the appropriate form and put in place the necessary security arrangements for the Election Support Team;

Recommends that the size of the Election Support Team should not exceed 50 election experts, to be seconded by OSCE participating States in accordance with the rules and procedures followed by the OSCE/ODIHR. Considering the still volatile security environment in Afghanistan, the OSCE/ODIHR should accept only election experts with relevant field experience appropriate to the circumstances.

Expenses for the Election Support Team will be covered by extra-budgetary contributions.

This decision does not set a precedent for OSCE activities beyond the Organization's geographical area of responsibility.