The 2009 Presidential and Provincial Council Elections in Afghanistan

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The National Democratic Institute (NDI) is a nonprofit, nonpartisan, nongovernmental organization that responds to the aspirations of people around the world to live in democratic societies that recognize and promote basic human rights.

Since its founding in 1983, NDI and its local partners have worked to support and strengthen democratic institutions and practices by strengthening political parties, civic organizations and parliaments, safeguarding elections, and promoting citizen participation, openness and accountability in government. Currently, NDI works in over 70 countries.

With staff members and volunteer political practitioners from more than 100 nations, NDI brings together individuals and groups to share ideas, knowledge, experiences and expertise. Partners receive broad exposure to best practices in international democratic development that can be adapted to the needs of their own countries. The Institute's multinational approach reinforces the message that while there is no single democratic model, certain core principles are shared by all democracies.

NDI's work upholds the principles enshrined in the Universal Declaration of Human Rights. It also promotes the development of institutionalized channels of communications among citizens, political institutions and elected officials, and strengthens their ability to improve the quality of life for all citizens.

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The National Democratic Institute is deeply grateful for the welcome and cooperation it received from Afghan voters and election officials, candidates and their supporters, political party leaders and members, domestic election observers and civic activists.

More than 100 Afghan and international observers, analysts and staff dedicated their time and expertise to the Institute's 2009 election monitoring effort. The mission's reports and statements, issued throughout the electoral process, were based on findings and information gathered by mission participants deployed across Afghanistan.

The Institute wishes to express its appreciation to Brian Bennett, the mission's report coordinator and the principal author of this publication. The mission and its final report were completed under the supervision of Peter Manikas, NDI Director of Asia Programs. Raissa Tatad-Hazell, NDI Senior Program Manager for Asia, Luke Wagner, NDI Senior Program Assistant for Afghanistan and Rob Runyan, NDI Senior Public Affairs Assistant provided assistance in editing and compiling this report.

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NDI in Afghanistan

The 2009 observation mission builds upon NDI's global experience monitoring more than 200 elections over the past 25 years as well as its election-related and operational experience in Afghanistan. The Institute arrived in Afghanistan in early 2002 and has conducted programs to promote the participation of Afghan civic groups, political parties and government bodies in the country's political and electoral processes. For the 2004 presidential and 2005 parliamentary and provincial council elections, NDI conducted technical assistance programs that engaged over 60,000 participants – including candidates, campaign staff and polling agents. It also assisted in the establishment of the Free and Fair Elections Foundation of Afghanistan (FEFA), an Afghan election monitoring network that conducted the most extensive domestic observation effort for the 2005 elections.

Currently, NDI has seven regional offices throughout Afghanistan and its operations are staffed by over 100 Afghan employees. For the 2009 elections, the Institute's programs were funded by the United States Agency for International Development (USAID), the Canadian International Development Agency (CIDA) and the United Nations Development Programme (UNDP).

Supporting Electoral and Political Processes To support the 2009 elections, NDI implemented programs to promote the effective participation of political parties, candidates and local civil society monitoring groups. The Institute worked with trainers of political parties on the development of key skills, including political campaign management and direct voter contact. In addition, NDI offered technical guidance to smaller political parties on approaches to strengthen their internal structures, help them build coalitions, and better position themselves to compete in the political environment. The Institute also responded to requests for technical assistance from FEFA in the days leading up to the election.

In addition, NDI conducted a program to promote women's political participation and support Afghan women candidates competing in the 2009 provincial council elections. The Institute organized Women in Politics Campaign Schools for candidates, utilizing a curriculum specifically adapted to the needs of Afghan women. More than 70% of women candidates across the country, representing 32 of the 34 provinces, participated in these activities. NDI also implemented a program to strengthen the capacity of candidate polling agents to observe and report on election-day activities. Through a pool of 80 Afghan master trainers, NDI supported workshops across Afghanistan to help more than 31,000 candidates and agents learn about election processes and procedures, effective election administration, and the rights and obligations of polling agents.

Strengthening National and Local Governance After the 2005 elections, NDI implemented programs to help strengthen political processes in the National Assembly and provincial councils. Activity areas in the National Assembly included supporting the development of a women's legislative network, advising parliamentary leaders on legislative rules of procedure, coordinating a parliamentary internship program, and providing professional development training to parliamentary staff. NDI also assisted five parliamentary commissions in adopting strategic workplans and coordinating oversight hearings.

Through its regional offices, NDI assisted provincial councils to develop basic skills, such as holding public meetings and keeping records, and drafting provincial development plan recommendations in response to local needs through consultations with local community leaders and civil society organizations. To support these efforts, NDI coordinated a provincial council internship program that provided administrative and technical support to councilors and gave youth the opportunity to experience the operations of local government. Following the 2009 elections, the Institute initiated a nationwide program to assist all 34 newly elected provincial councils.

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I. EXECUTIVE SUMMARY

On August 20, 2009 Afghans voted to elect a president and members of provincial councils for the second time in the nation's history. The elections were the first to be organized primarily by Afghan institutions and preparations for the elections took place amid armed conflict in the southern and eastern regions and sporadic violence in other areas of the country. The polling was marred by widespread fraud particularly in areas most affected by the insurgency. The final provincial council results were delayed for almost four months as electoral complaints were adjudicated and audits as well as recounts were conducted. Afghanistan's Independent Election Commission (IEC) announced a runoff election between Hamid Karzai and former foreign minister Abdullah Abdullah after no single candidate received more than 50 percent of the valid votes cast. On November 1, six days before the scheduled runoff, Abdullah announced he would not participate since adequate measures had not been taken to prevent the recurrence of fraud. The IEC cancelled the runoff and declared Karzai the winner of the 2009 presidential election. Karzai was sworn in as president on November 19.

Security affected every aspect of the electoral process in Afghanistan. As election day neared, the Taliban and other anti-government militants attempted to disrupt the polls through calls for a boycott, threats to retaliate against voters and violence directed at candidates and their supporters. Other militant groups also contributed to the overall instability of some locations. Despite the intimidation and violence, candidates campaigned actively and Afghan citizens demonstrated a keen interest in the electoral process. On August 20, the continuing violence often targeted polling sites and sometimes on voters themselves. Nevertheless, Afghans throughout the country participated in the electoral process, often at great personal risk. The Afghan people showed extraordinary courage and resolve in holding these elections and attempting to move the nation forward on a democratic path.

The elections, however, involved serious flaws that must be addressed in order to build greater confidence in the integrity of future elections. Much work, for example, is needed to improve the electoral administration. Delays in funding from donor countries and poor allocation of international resources stunted election preparations. A flawed registration process led to multiple registrations and the registration of ineligible voters. As a result, there is widespread agreement that substantially more Afghans are registered to vote than there are eligible voters. This leaves the door open for fraud and other types of misconduct, and, if not remedied, could further erode the Afghan people's confidence in the integrity of the electoral process. Other abuses, such as misuse of state resources, were observed in some areas of the country and adversely affected the credibility of the elections.

The fraud on election day was systematic and widespread. After vetting the results, the IEC excluded 18 percent of the votes from the final tally. While fraud was found to affect all top presidential candidates, Karzai stood to benefit most from the fraudulent votes. Seventy-six percent of the votes removed were marked in Karzai's favor.

Ballot box stuffing was the most common method of fraud. There is evidence of ballot box stuffing across Afghanistan. Most suspicious boxes, however, were found in the south, southeast, east and central regions of the country. A lack of transparency from the

IEC about the allocation of polling stations planned for election day initially masked the extent of the fraud. The high frequency of suspicious boxes correlated with a lack of security and poor recruitment of election officials.

In the months following the August 20 polling, the Electoral Complaints Commission (ECC) reviewed over 2,000 complaints and examined a sample of suspicious ballot boxes, finding that no presidential candidate passed the 50 percent threshold. Election officials discussed measures to reduce the potential for fraud in the days before the November 7 runoff, although no major reforms could be carried out.

Allegations of electoral fraud and other concerns surrounding the presidential vote tally also affected the provincial council vote count. In response to complaints received from candidates and polling agents, the ECC investigated cases and found indicators of fraud, such as lists of voters with fictitious voter card numbers and ballot box seal numbers that did not match figures on the official record.

Responding to concerns that little had been done to prevent fraud from marring future elections, NDI called for a rigorous and impartial inquiry concerning the failures of the 2009 election process. The inquiry, described in a statement by NDI on November 3, should be conducted by noted international and Afghan experts to reduce political tensions, establish credibility for future Afghan elections and reinforce the legitimacy of the Afghan governing institutions and the effectiveness of international electoral assistance.[1] In addition, NDI developed a comprehensive website to provide detailed information on election data, publicly available as a reference tool.[2]

The Institute also expressed concern over the lack of public confidence in the neutrality of the IEC.[3] The IEC, whose members are appointed by the President without legislative approval, is viewed by many key participants in the electoral process as beholden to the executive branch. While the commission performed many of its responsibilities well in 2009, its credibility depended not only on its actions but on the public's perception of its impartiality.

The rights of women in the electoral process require special attention. There has been a slow and modest increase in the numbers of women engaging in the political process in Afghanistan, however barriers still prevent their full participation. Women candidates and political activists, for instance, were frequently the targets of threats of violence, impeding their ability to campaign freely. Women provincial council candidates indicated to NDI observers that their ability to campaign was negatively affected by the lack of security. The IEC's difficulty in recruiting sufficient female staff to administer women's polling stations deterred women from casting their ballots. Women were vulnerable to practices such as proxy voting, and, because the photograph on their voting card was optional, women were also most vulnerable to identity fraud.

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[1] http://www.ndi.org/node/15870

[2] http://www.ndi.org/NDI_Launches_Website_that_Adds_Transparency_to_Afghanistan_Election_Data

[3] In April 2010, IEC Chairman Azizullah Ludin and the commission's Chief Electoral Officer Daoud Ali Najafi resigned. A new chairman, Fazel Ahmad Manavi, was appointed.

Given the problems linked to electoral violence, it is critical for the growth and survival of the nation's incipient democratic process that the continuing insurgency be brought to an end. In areas of the country that were least secure, there was a decrease from 2005 in the number of provincial council candidates seeking office (although there was an overall increase across the country in the number of candidates); violence affected the IEC's ability to recruit polling staff in some areas of the country and limited the ability of international and domestic observers to obtain access to the portions of the country that were most at risk of electoral misconduct.

Millions of Afghans demonstrated on August 20 that they want to participate directly in the country's evolving democratic political system. The legitimacy of the country's government rests on whether the will of Afghan voters is reflected in a credible electoral process. The threat of violence from the Taliban and other insurgent groups, doubts about the independence of election authorities, widespread vote fraud, and controversies surrounding top United Nations officials in Afghanistan have diminished the credibility of the August elections and could derail the faith of citizens in the country's nascent democratic institutions.

About the Mission

NDI organized an Election Observation Mission (EOM) for Afghanistan's August 20 elections. The mission's purpose was to demonstrate the international community's continued support for advancing the democratic process in Afghanistan and to provide an impartial assessment of the elections. The security situation in Afghanistan prevented observer groups, including NDI, from operating extensively in some parts of the country – especially portions of the south and southeast regions. Nevertheless, NDI deployed more than 100 accredited observers, including long and short-term international and domestic observers. The Institute was present in 19 of Afghanistan's 34 provinces. The mission's international observers included current and former government, political party and election officials, legislative staff, representatives of democracy and human rights organizations, and academics from 11 countries in Africa, Asia, Australia, Europe, and North and South America.

Alongside election day observation, this report's findings were informed by a team of 27 long-term international and national observers, based in various provincial capitals across Afghanistan. Long-term observers documented the electoral process from July to November 2009.

The Institute issued a preliminary statement on August 22 that found that the elections "involved serious flaws that must be addressed in order to build greater confidence in future elections." The Institute noted that "violence and threats of violence faced by election workers, voters and candidates "shaped many aspects of the electoral process." Despite problems, the Institute noted that "aspects of the 2009 elections were in accordance with democratic principles."

Following the polling, NDI observers and analysts remained in the country to monitor and report on the tally and complaints process. Over 40 of its international and national staff and a team of analysts observed the preparations for the cancelled runoff.

This report offers an assessment of the electoral process in Afghanistan and is not intended to render a final judgment on the election results. Ultimately, it is the people of Afghanistan who determine the credibility of these elections.

II. THE OBSERVATION MISSION

In carrying out its duties, NDI's mission was guided by the *Declaration of Principles for International Election Observation* which was formally adopted by the United Nations on October 27, 2005 and is currently endorsed by 35 organizations, including NDI, engaged in election observation.[4] Consistent with these principles, the mission did not seek to interfere with the electoral process and recognized that, ultimately, it is the Afghan people who determine the meaning and validity of these elections.

An accurate and complete assessment of any election must take into account all aspects of the process, and no election can be viewed in isolation from the political context in which it takes place. The mission made efforts to document factors that affected the conduct of elections in Afghanistan, such as: the legal framework for the elections set by the Constitution, including electoral and related laws; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political competitors to organize and reach out to citizens in order to win their support; the conduct of the mass media in providing coverage of candidates and issues; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution for their choices; the conduct of the voter registration process; the right to stand for election; the conduct of voting, counting, results tabulation, transmission and announcement of results; the handling of election complaints; and the installation to office of those duly elected. It should also be noted that no electoral framework is perfect, and all electoral and political processes experience challenges.

The dangers on the ground in Afghanistan made launching an election observation mission difficult. Traveling in parts of Afghanistan presented considerable risks to international observers and limited their access to some parts of the country, particularly in the south and southeast. To ensure the mission was able to gather as much information as possible about the electoral environment, NDI deployed Afghan observers alongside its international observers. This allowed NDI to be present in several provinces during the four weeks before the elections, on Election Day and during the counting and complaints process that followed. The NDI observation effort also benefited from communication with non-partisan domestic organizations that deployed thousands of monitors throughout the country.

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[4] http://www.accessdemocracy.org/files/1923_declaration_102705.pdf

NDI maintained a team of observers in Afghanistan during the entire tally and complaints process, collecting and analyzing IEC results. As the Institute has had a presence in Afghanistan since early 2002, NDI was able to draw on the networks and knowledge of its in-country staff based in eight provincial capitals. During the preparations for the cancelled runoff election, the Institute mobilized an analysis team which drew information from over 40 NDI national and international staff based in Balkh, Bamiyan, Herat, Kabul, Kandahar, Khost, Kunduz and Nangarhar.

Long-Term Observers

Beginning in July 2009, 27 long-term national and international observers deployed to eight regional hubs around Afghanistan. Long-term observers documented the campaigns, the electoral process, and the general political and electoral environment in their regions of responsibility. The observers represented nine countries including Australia, Canada, Kazakhstan, Paraguay, Serbia, United Kingdom, United States, Zimbabwe and Afghanistan. NDI's international and national long term-observers were based in the cities of Bamiyan, Herat, Jalalabad, Kabul, Kandahar, Khost, Kunduz and Mazar-i-Sharif.

During the course of six weeks, NDI's long-term observers across the country met with provincial council and presidential candidates, political party leaders, government officials, representatives of the Independent Election Commission, the Electoral Complaints Commission, the Media Monitoring Commission, United Nations Assistance Mission to Afghanistan (UNAMA), international and Afghan NGOs, women's groups, journalists and academics as well as members of the diplomatic community and donor aid agencies. The Institute also met with local observers from the Free and Fair Election Foundation for Afghanistan (FEFA) and the Afghanistan Independent Human Rights Commission (AIHRC) as well as the leadership and members of other international observer missions. In total, long-term observers interviewed more than 500 stakeholders, including 136 candidates, 95 IEC officials from all levels, 82 representatives of international organizations, over 20 Afghan media outlets and dozens of Afghan security officials.

Long-Term Analysts

Throughout the course of NDI's observation in Afghanistan, international analysts focused on core national issues affecting the election environment. Analysts looked closely at security, women's participation, election administration, the complaints process and the legal framework for elections.

Analysis on the participation of women was enhanced by interviews with female candidates from across Afghanistan in the lead up to and after August 20. The Institute tracked 18 female candidates in nine provinces, gaining insight into their experiences both as candidates throughout their campaigns and as voters. The women surveyed came from Kabul, Daikundi, Herat, Kunduz, Khost, Helmand, Ghazni, Kandahar, and Nangarhar. Eleven of the women were incumbents and ten were registered with a political party. They were interviewed three times, twice before and once after election day.

In preparation for the anticipated runoff, that was later cancelled, NDI expanded its analytical mission to include analysts assigned to collect information on geographic regions

of the country, with a particular focus on locations where there was a high frequency of fraud during the August 20 polling and counting process.

Short-Term Observers

On August 20, the mission deployed 112 accredited observers – these included current and former government, political party and election officials, legislative staff, representatives of democracy and human rights organizations, and academics from 11 countries in Africa, Asia, Australia, Europe, the Middle East, and North and South America.

NDI's election day delegation observed 472 polling stations in 290 polling centers. Of the 112 observers, 90 were Afghan nationals and 22 were international observers. Observers visited polling sites in 19 of Afghanistan's 34 provinces. Observers deployed in teams of two and three, and assessed conditions on polling day, including voting and counting procedures. In the central region, NDI observed in Parwan, Kapisa, Panjshir, Kabul and Bamiyan provinces (19 teams). In the north region, the Institute observed in Balkh, Faryab, Sar-i-Pul, Samangan, Jowzjan, Kunduz, Takhar, Baghlan, Badhakshan provinces (13 teams). In the east, NDI observed in Nangarhar, Laghman and Khost province (ten teams). In the west, NDI observed in Herat province (seven teams). In the south, NDI observed in Kandahar province (three teams).

Leadership Delegation

The EOM's leadership delegation was in Afghanistan from August 16 to August 22 to provide high-level analysis of the electoral and political environment and to present the mission's preliminary findings to the public. In the spirit of international cooperation, the delegation offered recommendations for improving the electoral process in Afghanistan in a preliminary statement released on August 22 in Kabul and Washington DC. The delegation was co-led by: Gary Hart, former U.S. senator; Karl Inderfurth, former U.S. assistant secretary of state for South Asian affairs; John Manley, former deputy prime minister and foreign minister of Canada; Nora Owen, former minister of justice of Ireland; Karin von Hippel, co-director of the Post-Conflict Reconstruction Project and senior fellow at the Center for Strategic and International Studies; Jamie Metzl, executive vice president of the Asia Society; Kenneth Wollack, NDI President; and Peter Manikas, NDI Director for Asia programs.

III. Electoral History and Legal Framework

The August 2009 elections were the latest step in Afghanistan's long road towards advancing a democratic political system.

Fall of the Taliban

On October 7, 2001, following the Taliban's refusal to expel Osama bin Laden from Afghanistan, the United States led an international coalition, including Australia, Canada, New Zealand and the United Kingdom in a military campaign to oust the regime. Operation Enduring Freedom, as the military campaign was known, removed the Taliban

from power and supported warlord-led opposition groups, including the United Islamic Front – commonly referred as the Northern Alliance – to regain control of Kabul. While the effort to disband the Taliban and capture Bin Laden continued, the United Nations began working with Afghan expatriates and the Northern Alliance to rebuild the country and create a stable governing body. Afghanistan had little sustained experience with democracy prior to the fall of the Taliban. Women, for five years under the Taliban regime, were excluded from every aspect of the nation's political and economic life.

The Bonn Agreement

In November 2001, the United Nations brought leading Afghan groups to Bonn, Germany to discuss plans for a future government in Afghanistan. The groups included: the Northern Alliance, which represented the governments driven from power by the Taliban in 1996; the Rome Group, which represented former King Zahir Shah; the Peshawar Group, which represented millions of Afghan refugees in Pakistan; and the Cyprus Group, which represented an Iranian backed group of Afghan exiles.

The meeting in Germany culminated with the signing of the Bonn Agreement, which provided for short-term power sharing among the Afghan groups in attendance and established a timetable for a two-year transitional period. According to the Bonn agreement, an Interim Administration would be established to govern Afghanistan for the first six months of 2002. The interim administration's immediate work was to administer the distribution of aid in the country.

In June 2002, the interim administration convened a Loya Jirga, a council of tribal leaders. King Zahir Shah, who returned to Afghanistan on April 18, presided over the gathering to give the process legitimacy, but otherwise played a largely ceremonial role. The meeting was unofficially chaired by representatives of the US government and Lakhdar Brahimi, the United Nations' special representative for Afghanistan. The Loya Jirga in turn elected a transitional authority to govern until a representative government was elected in 2004.

Hamid Karzai, the leader of the Pashtun Popalzai clan who broke with the Taliban early on and had a long-standing friendship with the former king Zahir Shah,[5] was appointed chairman of the interim administration. The government had a strong presence of personalities from the Northern Alliance, including General Mohammed Fahim, Younis Qanooni, and Dr. Abdullah Abdullah, who are all ethnic Tajiks from the Panjshir valley.

As stipulated by the Bonn Agreement, on June 9, 2002, an emergency Loya Jirga was convened. The Loya Jirga brought to Kabul more than 1,700 Afghans from across the country charged with selecting a broad-based, representative government. The attendees of the Loya Jirga included tribal and regional leaders, military and religious figures, royalty and government officials.

On June 19, Hamid Karzai was officially sworn in by the emergency Loya Jirga as interim President of Afghanistan. Ten days later, Karzai appointed a cabinet to lead the newly

[5] Karzai is also a distant relative of the late King Zahir Shah.

established Afghan Transitional Administration (ATA). Under the Bonn Agreement, the ATA was responsible for drafting and implementing a new Constitution. The constitutional drafting process was viewed by many political analysts and observers to be problematic because it took place largely in private. The government refused to release drafts of the Constitution for public review, preventing citizens from commenting on the actual document. This limited public input on a number of electoral issues that would be covered in a new Constitution, such as the type of electoral system used to choose politicians who would govern the country, the role of political parties and the role of women and minorities in the new government.

The Constitutional Loya Jirga (CLJ) was convened in mid-December 2003 which, after three weeks of deliberation, ratified Afghanistan's new constitution on January 4, 2004. The CLJ comprised of 450 elected delegates, and included reserved seats for women, minorities and refugees; 52 delegates were appointed by President Karzai, half of whom were women. Many observers reported intimidation and vote buying throughout the election process, enabling warlords to make a strong showing at the jirga. The new Constitution called for a strong presidential system of government, but gave the National Assembly—which consists of the Wolesi Jirga (the lower house) and the Meshrano Jirga (the upper house)—oversight powers including the right to impeach ministers and approve cabinet appointments.

The Constitution also stipulated that men and women have equal rights and duties before the law. Although Sharia law was not mentioned in the Constitution, it established Afghanistan as an Islamic republic with Islam as its "sacred religion," mandating that "no law shall be contrary to the beliefs and practices of Islam."

To administer the presidential election in 2004 and the Wolesi Jira and provincial council elections in 2005, a body called the Joint Electoral Management Body (JEMB) was formed to oversee the process. The JEMB supervised Afghanistan's elections and was comprised of representatives from the Afghan government and the international community. The leadership of the JEMB consisted of nine Afghan members appointed by the President and four international electoral experts appointed by the UN Special Representative of the Secretary General (SRSG) for Afghanistan. A non-voting Chief Electoral Officer ran the day to day operations of the JEMB Secretariat (JEMBS).

The 2004 Presidential Election

On October 9, 2004, Afghanistan held the first direct, universal presidential election in its history. Approximately 10.5 million Afghans registered to vote, with women making up 41.3 percent of those registered. The election was held in three countries – Afghanistan, Iran, and Pakistan (the latter two due to the sizable communities of Afghan refugees). The International Organization for Migration was tasked to administer the Out of Country Voting (OCV) elections. The 2004 election was generally well managed; however, there were instances of JEMBS Afghan staff and two international security advisors being killed. Despite widely publicized threats to disrupt the polling made by remnants of the Taliban regime, 18 candidates campaigned for the presidency and over 70 percent of registered citizens voted. Interim President Hamid Karzai was elected president with 55.4 percent of the vote, a total of 4.4 million votes.

Prior to the presidential election, some predicted the voting would be conducted primarily along ethnic and tribal lines. While ethnic affiliations played a strong role in the campaigning and voting, the actual polling results demonstrated that Karzai, an ethnic Pashtun, managed to gain substantial support throughout much of the country and from the various ethnic and tribal communities. The other 17 presidential candidates consisted of former officials, politicians with strong ethnic group support, professionals and tribal leaders. Karzai's strongest opponents were: former education minister Yunus Qanooni, a Tajik; Mohammad Mohaqeq a member of the Hazara ethnic group; and General Abdul Rashid Dostum, a commander during the civil war and a leader in the Uzbek ethnic group. Qanooni received 16 percent of the vote, Mohaqeq received 12 percent, and Dostum received 10 percent of the vote. The remaining 14 candidates received a total of seven percent of the valid votes cast.

Immediately after the vote, there were allegations of irregularities with the indelible ink used to mark fingers as well as allegations of fraud. The UN created a three-person impartial panel of experts who, along with their investigators from the OCV program, undertook the role of what was to become in 2005, the Electoral Complaints Commission.

The 2005 Parliamentary and Provincial Council Elections

On September 18, 2005, Afghanistan held its first elections for representatives of the Wolesi Jirga (lower house of parliament) and provincial councils. The upper house of the Afghan parliament, the Meshrano Jirga, was convened following the results of the provincial council races. The Meshrano Jirga is comprised of 102 members – 34 of which are members elected from among the provincial councils, 34 members from district councils and 34 members appointed by the President. In the absence of district councils, which have yet to be established, 68 members were elected from the provincial councils in November 2005. On December 11, 2005, Karzai announced his 34 appointments to the Meshrano Jirga.

Even as they were taking their seats, provincial council members expressed frustration at the lack of power under the Law on Provincial Councils. Aside from electing members to be sent to the Meshrano Jirga, the provincial councils play an advisory role in their province's development plans and primarily have little power to change or censure the decisions of the provincial governor. There remains little clarity in the law as to how power should be distributed between provincial councils, the governor's office, the community development committees and the local shuras.

The Electoral Framework

The legal framework that governs Afghanistan's elections consists principally of the Constitution of Afghanistan, the Electoral Law, the Independent Elections Commission Structure Law, Political Parties Law, applicable presidential decrees and the rules and regulations of the elections commission.

The government of Afghanistan, in its framing documents, has agreed to follow international and accepted standards for elections. Chapter 1 of Afghanistan's Constitution pledges respect for international agreements and treaties, including the

Universal Declaration of Human Rights. Article 21 of the Universal Declaration states that "the will of the people shall be the basis of authority of government; this shall be expressed in periodic and genuine elections…." Afghanistan has ratified or signed the major international instruments containing election standards. Chapter 2 of Afghanistan's Constitution provides for the protection of fundamental rights and duties essential for the conduct of elections that comply with international standards. These include the rights "to elect and be elected" as well as the rights of free expression, assembly, travel and to form political parties. Article 156 of the Constitution establishes an Independent Election Commission. Article 61 of the Constitution provides for the election of the president every five years. If none of the candidates for president receive more than 50 percent of the votes cast in the first round, a second round must be held within two weeks from the date election results are proclaimed. Article 138 of the Constitution provides for the election of provincial council members every four years.

The right of citizens to vote is guaranteed by Article 33 of the Constitution. All citizens 18 years or over on election day are eligible to vote, provided their voting rights have not been stripped by a court of law.

The Independent Election Commission

The 2009 polls were the first elections organized and implemented under Afghan leadership. Presidential elections in 2004 and parliamentary and provincial council elections in 2005 were administered by the JEMB, which was staffed by internationals and Afghans, and significantly supported by United Nations agencies. Since those elections, the JEMB has been dissolved and the IEC has assumed responsibility for election administration. To provide technical assistance and channel funding from international donors to Afghanistan's electoral institutions including the IEC, the UN through the United Nations Development Programme (UNDP) formed a separate body called Enhancing Legal and Electoral Capacity for Tomorrow (ELECT).

The structure and responsibilities of the IEC are contained in Presidential Decree No. 23 and the Electoral Law. The IEC oversees preparations for election day, the vote tally, registration of candidates, and the invitation of international election observers. The body also certifies and announces the official election results.

The leadership of the commission consists of seven members appointed by the President for a term of three years. From these members, two of whom are currently women, the President appoints a chairman and deputy chairman. Members and their immediate family members are barred from engaging in political activities. The IEC has a secretariat headed by a chief electoral officer and operates 34 provincial offices.

As a body solely appointed by the President, the commission faced the challenge of establishing its autonomy from the President during the 2009 election cycle. The credibility of the commission ultimately rests on the perception of its independence by the Afghan people. In the lead up to the August polls, this perception was tainted by 'decisions and statements' that the head of the IEC made during the electoral process that benefited President Karzai's candidacy. In February 2009, the Wolesi Jirga passed a law requiring

parliamentary approval of election commissioners. The change would have buffered the IEC from executive branch influence; however, President Karzai vetoed the legislation.

Retaining talent at the IEC has not been a priority during this, or any election cycle in Afghanistan. This has been a result, in part, of a lack of consistent funding for the functions of the IEC. Without the retention of talented and experienced Afghan staff at the IEC, the mistakes of each successive electoral cycle could be easily forgotten. Following the 2005 elections, most of the senior IEC headquarters and field staff left the commission for more lucrative positions. NDI observed that the IEC senior staff was not fully prepared to undertake complex operational decisions since they lacked the technical expertise.

The UN provided technical assistance through UNDP-ELECT. This body controlled the dissemination of donor funding for the elections and provided technical expertise, management coordination and project design. A team of over 160 international staff advised the IEC at all levels on technical and legal matters. [6] NDI observers noted a lack of effective cooperation between the IEC and UNDP ELECT which led to confusion and gaps in the overall conduct of the elections. Delays in the distribution of funding and resources from donors cut short many aspects of the IEC's election preparations.

Three months before the election, the IEC created a gender unit to improve women's participation in the electoral process. NDI observed the unit to be active and informed but lacking the ability to influence decisions made by the IEC leadership. IFES and UNDP ELECT supported the gender unit; however, the group was formed too late to address many of the problems women faced during registration and voting process of the 2009 election cycle.

The IEC made no major public announcements in the pre-election period about the critical role of women's participation in the elections and missed the opportunity to launch an effective public recruitment campaign for female poll workers. The issue of women's participation in the election was not addressed as an urgent issue by the IEC during their press conferences or public briefings. Announcements on the topic were limited to stating the numbers of women that had been recruited.

The Electoral Complaints Commission

The Electoral Complaints Commission (ECC) is an independent Afghan body established under Article 52 of the Electoral Law to adjudicate all challenges and complaints related to the electoral process. The ECC can hear complaints related to violations of the election law as defined in Article 53, and it has the authority to impose sanctions, as identified in Article 54, if an offense has been deemed to have been committed. In addition, the ECC can consider challenges to the eligibility of nominated candidates.[7]

The ECC is comprised of five members: three internationals appointed by the UN SRSG in Afghanistan and two Afghan commissioners, one selected by the Afghanistan Independent Human Rights Commission (AIHRC) and one by the Supreme Court. The ECC had a staff of

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[6] This is considerably less than the JEMBS; in 2005, at its peak, the body had 541 international staff.
[7] http://www.ecc.org.af/en/

270 nationals and 15 international advisers. In 2005, the ECC was a target for criticism, largely due to some internal management issues as well as the outsized expectation of what the body could accomplish with available resources. In 2009, UNDP ELECT provided the ECC with technical assistance as well as funding from international donors.

In the lead up to the August polls, the ECC attempted to address concerns that arose from the 2005 process. However, the late appointment of the commissioner and funding delays led the body to be constituted later than planned. The ECC was established in February 2009 but did not become active until May. The funding for the establishment of the ECC was delayed by the UNDP ELECT leadership that wanted to create a more streamlined ECC, without a full scale operation to receive complaints in the provinces. The ECC's work was hampered by a slow release of funding, a lack of logistical support from UNDP ELECT, a morass of legal guidelines for leasing offices in the field and the small number of international staff at headquarters.

Despite delays, the ECC was able to conduct some work during the candidate vetting period. The ECC disqualified three presidential and vice presidential tickets as well as 54 provincial council candidates. Most of the provincial council candidates who were expunged were ruled out for having ties to illegally-armed groups. Of note, as reported to NDI observers by the IEC and the relevant Governor's office, one PC candidate in Nangahar province was disqualified due to a case of mistaken identity.

The ECC created a Provincial Election Complaints Commission (PECC) in each of the 34 provinces of the country that gave the body a nationwide presence to receive and address complaints and appeals. However, similar to the challenges faced by the IEC, the ECC had problems recruiting sufficient numbers of competent lawyers and investigators, particularly outside the capital. Some provincial branches of the ECC were not established until late July. During the official campaign period, many candidates reported to NDI that the PECC staff was unresponsive, making candidates and their supporters reluctant to file further complaints.

Observers also noted the lack of public outreach on the complaints process. Many candidates, voters and civil society organizations were not clear on what information was required to file a complaint. As a result, many complaints filed were unsubstantiated or inappropriate for the ECC to pursue. Due to its late formation, the ECC did not have time to launch a robust outreach campaign before election day.

There is widespread agreement that the ECC has performed commendably and carried out a very important mission, especially given the massive scale of fraud uncovered after polling day. In elections in most other countries, the duties outlined for the ECC would be handled by independent judges from the nation's judiciary system. Presently, Afghanistan's courts lack the capacity to hear and vet electoral complaints in a timely and fair manner. Limited judicial reform and training is underway, but until the courts are improved, Afghan voters will have to rely on a separate, independent body like the ECC to rule on electoral complaints. Eventually, it should be a reliable constituted court system that hears complaints on electoral decisions.

The Electoral System

The single non-transferable vote system (SNTV) is the electoral system used for legislative and provincial council elections in Afghanistan. In the country's administration of the SNTV system, the country is divided into 34 multi-member constituencies and voters choose a single candidate on the ballot in their constituency. SNTV has been described as first-past-the-post for multi-member electorates; the candidates with the highest number of valid votes win the allotted seats.

Some supporters of SNTV state that in societies seeking to emerge from conflict, the diffusing of powerful entities, such as warlords and political power bases, is a necessary precursor for transition to peace – the SNTV system facilitates this dynamic. However, critics of the system argue that the only groups that are sufficiently disciplined and organized to take advantage of the characteristics of SNTV are the very warlords whose influence the Electoral Law was intended to diminish.

This system is an uncommon one and was once used for parliamentary elections in Japan, South Korea and Taiwan. Today, it is used in Vanuatu and the Pitcairn Islands as well as for elections in Jordan, the upper house of Indonesia and the senate of Thailand.

While the SNTV system has the advantages of being relatively easy to administer and provides an opportunity for independent candidates, it has several disadvantages: it discourages the participation of political parties; tends to generate a large number of candidates; and results in a very low threshold for election. In 2005, it was possible for a candidate to obtain a seat in the Wolesi Jirga with less than one percent of the vote. In addition, 68 percent of the votes were cast for candidates who failed to win any seats. In 2009, in Kabul province, 524 candidates competed for the 29 seats of the provincial council election. Candidates had difficulty distinguishing themselves from one another, and the voters found it challenging to differentiate candidate platforms. Candidates in provincial council races, particularly in large urban areas such as Kabul or Herat, campaigned on vague platforms, relying principally on social and familial networks for their votes.

IV. PREPARATIONS FOR THE 2009 ELECTIONS

Preparations for the 2009 elections began late, reflecting the lack of strategic planning by the Afghan government and international donors since the last election four years ago. The 2009 elections were allocated a budget of $224 million. In comparison, the 2005 Afghan parliamentary and provincial council elections cost $172 million.[8] Of note, the JEMB employed more international staff in 2005 than UNDP-ELECT did in 2008 and 2009.[9] Much could have been done between 2006 and 2009, such as developing a plan to assess security needs for the coming elections, conducting a census, properly reconstructing the voter registry, launching voter education drives, recruiting, retaining skilled staff and refining the complaints process. These were all areas that were identified during the past elections as needing reform.

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[8] The original budget was just over $150 million USD.

[9] At its peak, the Secretariat was staffed by 541 internationals and 179,384 nationals.

Attempts to Reform the Election Law

A growing dissatisfaction with the Election Law led to attempts by parliament to revise such measures in the run-up to the August 2009 elections. In 2008, for example, the Wolesi Jirga considered changes that would require a parliamentary vote of approval on the appointment of IEC commissioners and the head of Afghanistan's state-run media. Another draft law would have altered the electoral system to adopt a mixed proportional voting system. No new legislation was adopted however, in part due to disagreement over how to allocate legislative seats to Kuchis or the nomads of the populace.

Legislation was passed altering the Political Party Law to raise the minimum number of signatures from 700 to 10,000. The change could have consolidated the field of political parties, now at 108, to a more manageable size. The bill, however, was not signed into law by the President until after the election.[10]

Reforms to the Electoral Law are needed. The independence of the IEC needs to be firmly established and control of the state media should be insulated from an incumbent President running for office. Of note, Article 109 of Afghanistan's constitution prevents changes to the Electoral Law less than a year before the end of a legislative term. Given that Wolesi Jirga elections are planned for 2010, it would be too late to adopt revisions prior to the upcoming parliamentary polls. [11]

Voter Registration

An accurate voter registry can act as a safeguard against multiple voting and a deterrent to fraud. Unfortunately, previous efforts to create a usable voter registry in Afghanistan have been unsuccessful initiatives costing millions of dollars.

The lack of a recent census has been one barrier to creating an accurate voter's list. The Bonn Agreement in 2001 included a request to the UN to conduct a census of Afghanistan's population[12] – this has not been done. The most recent complete census was conducted in 1967 and a partial census was begun in 1979 but not completed. Scheduled to begin in June 2008, a UN-conducted census was postponed because of deteriorating security in the country. There were also public concerns that the census results could be politicized if conducted in the run up to the 2009 presidential election.

Without an accurate census, checks on voter registration and voter participation figures have not been possible. Election officials and observers lack reliable information on population density and gender breakdown. The latest population estimate from the National Risk and Vulnerability Assessment (NVRA), conducted by Afghanistan's Central

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[10] The bill was signed by the President and published in the official gazette on September 6, 2009.

[11] On February 17, 2010 Karzai issued a presidential decree that put into place a new electoral law. Among its key provisions, the new law grants the president the authority to appoint all ECC commissioners. The *Wolesi Jirga* rejected the decree in a nearly unanimous vote, but the upper house of parliament, the *Meshrano Jirga* refused to affirm the rejection and argued that the constitution prohibits parliament from discussing amendments to the election law in the last year of the legislative term.

[12] Bonn Agreement, 2001, Annex III

Statistics Organization and Ministry of Rural Rehabilitation and Development suggest that there are 24.96 million people in Afghanistan.[13]

In the run-up to the 2004 elections, over-registration was one of the first indications of potential fraud. In that exercise, there were some 10.5 million voter cards distributed, which exceeded the estimated number of voters of 9.8 million.[14] This figure includes cards issued for the OCV program. In some of the most insecure areas such as Nuristan, Khost, Paktia and Paktika, registration suspiciously exceeded the estimated number of voters by 140 percent. The 2005 voter registration update added another 1.7 million voter registration cards.[15] Forty-four percent of the cards were issued to women. At the time, the relatively high percentage of female voter cards raised suspicions of fraud.

Following the 2005 polls, electoral and government authorities decided to connect the voter registry to a civil registry to improve the accuracy of the voter list. A pilot registration program was launched by the IEC and the Ministry of Interior.[16] However, in July 2007 the Afghan government reversed its position and decided not to link the civil and voter registration; instead, it decided to update the existing voter registry.

The update was conducted from October 2008 to February 2009 and continued in some locations until July 2009. The effort, which cost about $80 million of an allocated $100 million, produced approximately 4.7 million additional cards. During this registration process, voters were assigned to a province, photographs were taken (this was optional for women) and fingerprints were collected. The effort brought the total number of voter cards in circulation to approximately 15.7 million. The figure is implausibly high, as the estimated population of Afghanistan over the age of 15 is 12.8 million.[17]

Following the registration update, at least three million duplicate registration cards were believed to be in circulation. According to FEFA, about one in five of the new cards went to underage boys and another one in five was a duplicate. Excess cards could be acquired by registering multiple times, buying blank voter cards on the black market, registering as "phantom voters," and registering minors, among other means. FEFA found high incidents of fraudulently obtained voter registration cards and multiple cards issued by proxy to village elders. In the south, southeast and east, FEFA noted a high occurrence of males registering on behalf of the female members of their family.[18] A frustrated IEC staff member approached NDI observers asserting that voter cards were being sold in bundles of 300 in Kandahar.

Many Afghan voters interviewed by NDI felt there were insufficient mobile registration teams during the process, particularly for those citizens living outside the populated

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[13] http://nrva.cso.gov.af/001.xls

[14] As there is no census, UNAMA estimated the potential number of voters by extrapolating information from the 1974 census and other sources.

[15] Martine van Biljert, *How to Win an Afghan Election*, Afghanistan Analysis Network, August 2009. Available at www.aan-afghanistan.org/.../2009%20AAN-MvB%20Afghan%20Election.pdf.

[16] UNDP and IEFS provided funding channels and technical support for the pilot program.

[17] Government of Afghanistan. National Vulnerability and Risk Assessment, Population by Residence, Sex and Age: http://nrva.gov.af/population.html.

[18] FEFA reports on voter registration: http://fefa.org.af.

areas. This most acutely impacted women's ability to register for themselves, especially in places where women rarely leave their homes.

Both new and old cards were to be accepted by election officials on election day. The new cards were different from previously issues voter cards, increasing confusion among voters. The polling station assignments given on the new cards were not used because no voters list was created; voters were allowed to vote at any center for the presidential election and any center in the province for the provincial council election. No effective mechanism was established to prevent those who were already registered from getting a second card. Voter cards for women do not require a photograph, making false registration and proxy voting possible. NDI heard reports of elders collecting voter cards for women in large numbers over and above their households. Voter cards were widely bought and sold as the election approached. These factors increased the vulnerability of the 2009 electoral process to manipulation and fraud.

Despite considerable apprehension and delays attributed to the deteriorating security environment, there were far fewer security incidents than had been anticipated. Of note, registration centers could not open in eight districts (five in Helmand, two in Ghazni and one in Wardak).[19] Other analysts report that registration was nominal or limited in large areas of the south and southeast.[20] This figure may underestimate the hardship of registration imposed upon potential voters in insecure areas as an unspecified number of registration centers had to be relocated to nearby districts.

The IEC's communication and information technology department intended to enter the new registrations into a searchable database. Some three million registration forms, about 60 percent, were entered before August 20. Fingerprints collected to improve the accuracy of the registration slowed down the process since they were captured manually and had to be scanned. Of the 12 scanners procured for the project, only one or two worked at any given time, and the project managers could not find the technical expertise needed to repair the scanners in Afghanistan. Although the database was able to identify thousands of duplicate registrations, the IEC was unable to act on the duplications before polling day.

While women's registration was generally low given security and cultural considerations, the number of registered women actually exceeded that of men in some of the most insecure areas. In Khost, Paktia and Logar provinces, for example, over 60 percent of voter registration cards were issued to women. In light of the social norms that limit the political participation of women, the high percentage of female cards in some areas was an indicator of the scale of identity fraud that plagued the registration process. As NDI observers noted, it is very unlikely this was a measure of women seizing their legal right to franchise.

Some women candidates and activists have proposed the use of a national identity card, which also could be used for voting. If such an ID card is tied to the receipt of government benefits, women might be more inclined to agree to have their photographs taken and used on the card.

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[19] International Crisis Group, *Afghanistan's Election Challenges* (Brussels, Kabul: ICG, June 2009), p. 23.
[20] van Biljert, *How to Win an Afghan Election.*

An accurate voters list is also a useful tool for investigating fraud. Without any form of evidence of voter participation, aside from inked fingers, it was more difficult for ECC investigators to track the trail of fraudulent activities. NDI observers noted that it would have helped investigators if the serial number of voter registration cards were recorded on election day.

Decision to Postpone Election Day

The 2009 elections were originally scheduled to be held in May but the deteriorating security environment raised concerns about the capacity of the Afghan government and its international partners to conduct the elections, especially in the most insecure parts of the country. In late January, the IEC announced that the elections would be postponed until August, relying upon a clause in the Election Law (Section 55) that a lack of security makes an election impossible.[21] Of note, Section 55 of the Election Law sits in contrast to Article 61 of the Constitution which stipulates a specific time when elections should be held.

The move to postpone the elections drew criticism from some Afghan and international political observers that the decision was extra-constitutional and would unfairly advantage the incumbent, as Karzai's term would have expired in May 2009. After several weeks of debate, the legality of the decision was eventually resolved by the Supreme Court, in a ruling that emphasized the IEC's authority under the Article 55 of the Electoral Law to postpone the elections for reasons of security, financial or technical conditions. The Taliban seized on the deliberations in propaganda, painting the Karzai government as an administration serving at the pleasure of the United States.

The Security Environment for Elections

The 2009 elections were planned and held during a period of increasing violence in Afghanistan. Since 2005, the Taliban and other militant anti-government elements have continued to consolidate their positions in the south, southeast and east and have steadily made inroads into areas of the north such as Kunduz, Baghlan, Badghis and Faryab. According to the United Nations, insurgent violence has increased every year since 2001.[22] In comparison to 2008, there was a 43 percent increase in monthly security incidents in 2009.[23] In 2009, UNAMA assessed that out of the some 350 districts[24] in Afghanistan, the government did not control ten and access was limited in another 165.[25]

Security concerns touched all aspects of the elections. The declining security conditions throughout the south, southeast, east and increasingly pockets in the north affected the

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[21] Other reasons given included logistical problems with distributing election materials, difficulty in hiring election workers, and problems with candidate fielding and campaigning.

[22] C. Christine Fair and Seth G. Jones, *Securing Afghanistan: Getting Back on Track* (Washington D.C.: USIP, 2009).

[23] United Nations, General Assembly Security Council, "The situation in Afghanistan and its implications for international peace and security: Report of the Secretary-General," June 23, 2009. Available at http://www.afghanconflictmonitor.org/UNSG_Afghanistan_S2009323.pdf.

[24] The exact number of districts and the placement of district boundaries in Afghanistan is in dispute.

[25] United Nations General Assembly Security Council, "The situation in Afghanistan and its implications for international peace and security: Report of the Secretary-General," March 10, 2009.

registration update, the placement of polling centers, the fielding of candidates, the hiring of candidate staff as well as election workers.

As the elections approached, Taliban leader Mullah Mohammad Omar called for a boycott on the grounds that the election was a U.S.-driven process to produce figureheads to do the bidding of the Americans. At the local level, anti-government elements issued night letters threatening those who participated in the elections with beheading. An interpreter for NDI's observers in Kunduz province was directly threatened with a note left at his door on August 4 that read, "We have been watching you for two days. It would be better for you to quit, or the result will be not good for you."

The deteriorating security environment forced candidates, campaigners, electoral staff and voters to limit their mobility and conceal their actions as much as possible. Female election workers were particularly vulnerable to intimidation which made hiring female employees especially difficult.

There were 14 attacks on convoys of election materials, multiple assaults on persons with voter cards at Taliban checkpoints, and the murder of at least two provincial council candidates in May (one in Khost and one in Ghazni). Twenty nine attacks on polling centers resulted in damaged election materials. In early August, three provincial council candidates and nine IEC officials were killed.[26] In addition, police were attacked in several incidents near registration centers.

Four suicide bombings during the week before the elections further intimidated voters and election officials. One was launched on August 14 in Helmand province, another on August 18 in Uruzgan, and two on August 15 and 18 in Kabul. The Kabul blasts broke a relative calm in the capital city, as Kabul had not seen attacks of that scale for months.

The security environment imposed limitations on international and domestic observers. Consequently, in the most insecure areas, there was virtually no independent check on fraud or fraud mitigation measures. As would become obvious in the days following August 20, security conditions made it possible and easier to execute electoral fraud.

Political Party Registration

Political parties in Afghanistan must register with the Ministry of Justice and provide a petition with 700 signatures. The right to form political parties is guaranteed under Article 35 of the Constitution and the operation of a party is governed by the Political Parties Law. The law states that parties may not: oppose the principles of Islam; use force

[26] AIHRC-UNAMA," Joint Monitoring of Political Rights, Presidential and Provincial Council Elections," Third Report October 5, 2009.

or the threat of force; incite ethnic, racial, religious or regional discrimination; endanger individual rights or disrupt public order; be affiliated with military organizations; or receive funds from foreign sources. For the August 2009 election, 108 parties were registered. NDI observers found that many Afghan voters were suspicious of political parties because of historic links many have to militant factions of the internecine civil war following the collapse of the Najibullah regime in 1992. Most candidates, even those receiving assistance from a political party, preferred to run as independents.

Candidate Registration

The candidate registration period for the presidential and provincial council races began on April 25, 2009 and closed on May 8, 2009. Candidates for president were required to appear in person at the IEC headquarters and present identification, a petition with 10,000 signatures and pay a fee of 50,000 Afghanis.[27] In total, 44 Afghans presented credentials to run for president, of whom two were women. Candidates for provincial council were required to take their documentation and a petition with 200 signatures in person to the provincial IEC headquarters and pay a registration fee of 4,000 Afghanis.[28] In total 3,324 registered for the provincial council races, of whom 342 were women.

Candidates for President cannot be citizens of any other country, according to Article 62 of the Constitution. Provincial council candidates must be Afghan citizens, reside in the province they are running to represent and resign from any positions they hold in the judiciary, electoral administration or government.

Afghan women face large cultural obstacles when launching a political candidacy. The total number of women running for provincial council races across Afghanistan increased from 2005 when 285 ran for office. But of the 342 women who registered to run in the election, the number dropped to 328 by August 20 as female candidates withdrew for security and other reasons. NDI observers found that Afghan women still needed a personal endorsement from leaders or elders to run and in many cases to vote.

The relatively large number of female candidates that filed was a result of a last minute effort by national and international organizations to encourage women to participate. The number of females registered 48 hours prior to the end of the filing period was notably low; unlike in 2005, the movement in 2009 to encourage women to run was organized late.

V. THE PRE-ELECTION PERIOD

Election Day Security Planning

During the months leading up to August 20, the international community and the Afghan government engaged in discussions on how to secure voters on polling day. The main point of contention centered on how directly involved international forces in Afghanistan should be in protecting polling sites.

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[27] This amount is the equivalent of $1,000 (US dollars).
[28] This amount is the equivalent of $80 (US dollars).

Ultimately, it was decided that the Afghan National Security Forces (ANSF) take primary responsibility for election security. The security plan consisted of three protective rings, described as concentric circles around the voting process. The Afghan National Police (ANP) comprised the first line of defense of the polling centers. The Afghan National Army (ANA) formed the second perimeter of defense, and ISAF committed to deploy only in cases of extreme situations (in extremis). The Afghan National Directorate of Security (NDS) also played a role at the national level in planning and gathering intelligence.

NDI observers found that few Afghans were aware of security arrangements for the election. Numerous election officials, candidates and voters noted that the government did little to publicize the security measures that were in place. While being careful not to compromise operational security, a public relations plan that explains the extent to which polling centers are being protected on August 20 would have been instrumental in easing voter concerns about going to the polls.

In preparation for the election, police were to receive special training. Under this "train the trainer" program, conducted jointly by UNDP ELECT and the European Union Police Mission to Afghanistan (EUPOL), some 500 officers were given three days of training. According to UNDP ELECT, the training was designed to focus on human rights and other election-specific modules.[29] By the time the cascade of training reached the districts, police likely received fewer than three hours of instruction. NDI observers reported that the implementation of this training was conducted in a sporadic manner across the country.

Overall, the planned security components were in place by August 20. There were six election command centers established, one in each of the Regional Commands as well as a command center in each of the 34 provinces.[30] However, American military interlocutors interviewed by NDI observers conceded that some of these elements were only installed days before the elections. For example, in Kunduz, the provincial level command center had been fully staffed with all elements only a week before the election. Given the steeply deteriorating security environment in Kunduz province during that period, this late deployment was particularly surprising. Also in Kunduz province, police officials would not share information about election day security planning with NDI observers on the grounds of operational security. NDI observers across the country found Afghan security forces unwilling to share information with the public about election day plans and the location of polling centers. Voters and candidates expressed frustration to NDI at the lack of information available for planning their activities on polling day, the coordination of their travel, and the distribution of candidate agents to polling stations.

NDI observers across Afghanistan found that the recruitment of female search agents (as well as polling agents) began only a few weeks before the election. As aforementioned,

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[29] UNDP, "Police Training," http://www.afghanelections.org/.

[30] ISAF oversees five contiguous Regional Commands (RC). Each is led by a two-star general officer under rotating leads. The disposition at the time of the election was: RC-Capital headquartered in Kabul (France); RC-North headquartered in Mazar-e-Sharif (Germany); RC-West in Herat (Italy); RC-South headquartered in Kandahar (Netherlands); RC-East headquartered in Bagram (United States). Troop contingents from other allies (including non-NATO partners) serve under these regional commands. See ISAF, "ISAF Regional Command Structure," January 14, 2009. Available at http://www.nato.int/isaf/structure/regional_command/index.html.

women were difficult to recruit for these positions. The problem was particularly acute in the southeast, where only 2,564 women were employed by IEC – less than a fifth of the 13,400 needed. In the south, the IEC had fewer than half of the 10,428 women required.

NDI received information concerning the proposed use of government-sanctioned community defense forces, or militias, which would help to provide security if the ANA or the ANP were not available. The justification for the use of such militias was that they could help to increase participation in the electoral process in insecure environments.

The proposed militia program was spearheaded by President Karzai's brother-in-law Arif Noorzai to address concerns about the shortfall of police to secure polling stations on August 20. Noorzai, the head of the Independent Directorate for the Protection of Public Properties and Highways by Tribal Support, explained that 10,000 newly recruited militia members would help secure polling centers in 21 of Afghanistan's 34 provinces for the election. The disposition of these militias was to be distributed in the south where insecurity may keep voters away. "We are trying to provide security for the polling centers and pave the way for the people to participate in the elections," Noorzai explained to the media. The militias, he said, "are filling the places where there are no police or the government has a shortage of security forces."[31]

Critics of the program noted that the militias were only being used in insecure Pashtun areas—not non-Pashtun areas that were also insecure. If the rationale was driven by a desire to protect the opportunity to vote for at-risk voters, then one would have expected the program to be used elsewhere. NDI observers further noted the opacity surrounding how the militias would be recruited, mobilized and paid.

In addition to the central Noorzai initiative, there were reported local provincial militia initiatives. For example, the Herat provincial government announced that it planned to recruit 1,000 men who would be armed to help the police on election day.[32] Other provinces also sought to implement the newly formed Afghan Public Protection Force (APPF).[33] In advance of Election Day, there was a lack of clarity as to how these militias might be recruited, funded and equipped, as well as to whom they would be accountable.

The IEC decided that election materials would only be provided to polling centers solely protected by the ANA and ANP. On August 20, NDI observers did not see any government-sanctioned militias operating near polling sites.

Recruitment of Election Officials

The IEC faced delays in receiving funding from UNDP ELECT and struggled to recruit and train the 165,000 qualified staff needed for the elections. This delay was due in part to UNDP's internal procedures. To supervise the 356 districts in Afghanistan, 3,150 district

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[31] Rahim Faiez, Associated Press, "Afghanistan hires 10,000 tribesmen to secure polls," August 11, 2009.
[32] Institute for War and Peace Reporting, "Herat Arms Villagers to Secure Voting," August 18, 2009. http://www.iwpr.net/?p=arr&s=f&o=355270&apc_state=hengarrc0e025be5972ba41024aa5c7c30dca12.
[33] For more information about the APPF, see Institute for the Study of War, "The Afghan National Police."

field coordinators (DFCs) were recruited and trained. Of the DFCs, 23 percent were women. Election planners determined that 60,892 female staff was needed to sufficiently run all female polling stations. On August 13, the IEC announced it had completed 90 percent of polling and counting staff throughout the country. The 10 percent shortfall in the recruitment of women staff, the IEC stated, would be filled using tribal elders, mullahs and the staff of women's organizations.[34]

Efforts by the IEC to recruit female staff started late even though IEC staff had acknowledged early on that it would be challenging to recruit qualified women. Of note, the literacy level of women in Afghanistan is estimated at 13 percent, and finding literate women to work as election officials, especially in rural areas is difficult. Another obstacle to recruitment was the late hours polling officials must be available to work on August 20, as election staff were required to remain for the counting process into the evening if necessary. In many parts of Afghanistan, women are expected to be home by nightfall, or in the company of their male relatives. Women were also needed to conduct body searches for female voters passing through the security perimeter around the polling centers.

As late as August 11, nine days before the election, the IEC's operations department told NDI that several provinces still had major shortfalls recruiting female staff. These included Helmand, Kandahar, Khost, Logar, Paktia, Paktika, Uruzgan, and Zabul.

Given the cultural norms in Afghanistan, many feared that not staffing female polling stations with women would discourage women from voting. To recruit women, UNIFEM printed 40,000 posters in Dari and Pashtu encouraging women to participate in election process as voters, polling center staff, body checkers and monitors. The posters had images illustrating each polling station job. Thirty four thousand of these posters were sent to provincial IEC offices in 34 provinces. Six thousand were distributed to election stakeholders such as FEFA, the Afghanistan Women's Network, Counterpart International and UNDP-ELECT. As the posters were delivered so close to election day, the provincial IEC offices were unable to widely distribute the material. ISAF radio also helped the IEC by making public service announcements to encourage women to become polling staff and election officials. These campaigns would have been more effective if they were launched at the beginning of the IEC recruitment process and not only days before the election.

Training of Election Officials

NDI observers noted that the training of election officials was not consistent and the quality depended upon the location. The training during the 2009 elections was managed primarily by the IEC training department with limited input from the international advisers throughout the process. As August 20 approached, the training department was generally able to convey last minute changes in procedures to offices outside of Kabul. NDI observers noted that IEC's polling day manual was clear and concise with appropriate graphic elements to help staff understand the procedures.

However, the widespread fraud during the polling cast a shadow on the training regime – although training was conducted according to best practices, there was a lack of foresight

[34] IEC Press Release, August 13, 2009.

and planning to counteract fraud. The training department actively distributed instructions for conducting audits in the provinces after election day and during the recount and audit ordered by the ECC. Unfortunately, due to a serious deficiency in the procedural framework, there was no record of the number and outcomes of audits conducted prior to the ECC ordered audit. NDI notes that this type of record keeping should be part of standard procedures and future training.

Distribution of Materials

The ballots and polling station equipment were delivered on time to polling sites. This is no small logistical feat; Afghanistan lacks a national road system and a large portion of the population lives in remote areas. Approximately 3,500 trucks and more than 3,000 donkeys were used to distribute over 35 million presidential and provincial council ballot papers across the country. It should be noted and acknowledged that at the ISAF brigade level, significant tasking involving the dispatch and retrieval of election material was undertaken to remote and difficult locations. Without this support, the ANSF and IEC would have had immense difficulty in delivering election material on time, if at all, to such areas.

The Polling Center List

The final list of planned polling centers nationwide was released a week before the elections and the precise location of the centers was not known by some voters as late as 24 hours before polling day. NDI observers noted that the late announcement of the final list may have prevented some voters from accessing their nearest polling center.

Poor communication between the IEC and the security forces led to unnecessary delays in the finalization of the polling station locations. In the weeks and months leading up to the elections, the IEC coordinated with and waited for Afghan security forces to check polling center locations before releasing the provisional list of centers. NDI observers noted that Afghan security forces were waiting on the IEC for a firm list of centers before conducting a full security review of the sites.

Further compounding the discord, the security forces and the IEC did not agree on which polling centers on the provisional list were unsafe. The IEC had asked its own district field commanders to submit a security review which conflicted with the security forces assessment. Even in the weeks before the elections took place, a number of polling centers were planned to open in locations where neither the Afghan security forces nor the IEC could operate. During this time, these planned centers in inaccessible areas came to be known among officials at UNAMA and the IEC as "ghost polling centers."

To address the issue, the IEC adopted the policy that no center was to open without IEC staff and Afghan security forces present. About ten percent of the estimated 7,000 centers were deemed unsafe and either did not open or were co-located with centers in safer locations. However, it is still unclear how many polling centers returned results despite having no IEC or Afghan security force supervision.

The allocation of polling centers and polling stations was conducted behind closed doors, beyond the gaze of the observer community, candidate and party agents and the media. This lack of transparency fueled speculation about the manipulation of the electoral map.

Voter and Civic Education

The IEC deployed 1,605 voter educators to operate in 132 teams throughout the country to inform voters on election procedures and the registration process. The commission launched public outreach initiatives focused on where and how to vote. The late announcement of the polling center locations limited the outreach on informing voters where to vote. During the campaign period, over one million flyers and 3.4 million mock ballots were distributed by the IEC and 684 billboards promoting voter awareness were installed. The IEC developed TV and radio programs, as well as sponsored roundtables and community meetings, on the role of observers and candidate agents, and safeguards to prevent fraud during polling and counting.

UNDP ELECT also funded civic education programs through national and international partners such as Internews and The Asia Foundation that used the media and other forms of communication, such as community meetings, to inform the public about the elections.

The scope of civic education in the run up to the elections was repeatedly scaled back. Donor funding for the budget was delayed and the request for proposals for voter education was not issued until late March 2009. In the program planning stages, a budget of $20 million was projected for two years of voter education; this was later cut to $15 million. The programs commenced with a budget of $2.5 million, and UNDP ELECT experienced difficulties finding organizations in Afghanistan that met its selection criteria to implement the voter education programs.

As a result of deteriorating security conditions, extensive areas in the south and southeast were not adequately covered by voter education campaigns. The threats to civic educators were noted in these areas as well as locations in the north. As an example, early in the public outreach campaign, gunmen killed a civic educator on July 6 as he was returning from putting up information posters in the village of Nawshahr Alizaye in Balkh province.

In addition, the IEC found it difficult to recruit female staff for voter outreach in unsafe areas, further diminishing the impact of voter education campaigns. Of female candidates NDI surveyed, the Institute noted that women's awareness about the electoral process was significantly lower than that of men.

Vetting Candidates

The nomination period for presidential and provincial council candidates was from April 25 to June 12, 2009. Challenges to individual candidates were scheduled to be submitted to the ECC between May 16 and 21. A total of 302 challenges were received concerning candidates from 26 of Afghanistan's 34 provinces. The challenges included accusations of dual citizenship, crimes and candidates still holding public office.

The ECC received 50 challenges against presidential and vice presidential candidates. Challenges were made against approximately half of the candidates who filed. Following its investigations, the commission disqualified two presidential candidates and one vice presidential candidate. One presidential candidate was found to have dual citizenship. Another was found to have links to illegally-armed groups.

The ECC received 252 challenges against provincial council candidates and disqualified 54. Most of the disqualified provincial council candidates were ruled out for having ties to illegally-armed groups.[35]

NDI observers heard from many voters who expected a much higher number of disqualifications for candidates with ties to illegally-armed groups. In making its decisions, the ECC accepted the rulings of the Disarmament and Rehabilitation Commission (DRC) under the Disbandment of Illegal Armed Groups (DIAG) program. The commission is governed by a joint body composed of the Ministry of Interior, National Security Directorate, Ministry of Defense, the UN and ISAF. The ECC determined that it did not have the mandate or the manpower to investigate candidates' links to illegally-armed groups beyond what the DRC had already determined.

VI. THE CAMPAIGNS

The official campaign period for presidential and provincial council races began on June 16 and ended on August 18. The rights of candidates and supporters to freely assemble and debate were protected the Afghan Constitution and the election campaign regulation, issued by the IEC in May 2009 as required by Article 38 of the Electoral Law. Instability due to militant activity in parts of the country made active and open campaigning difficult. NDI observers generally saw campaigns, even in insecure areas, notably increase their visibility during the two weeks before the elections. Major campaign issues revolved around tackling corruption, improving the economy and resolving insecurity in the country through national reconciliation.

The Presidential Campaign

The ballot for the August 20 polls featured 41 candidates for president. By election day, three candidates had withdrawn from the race, leaving 38 active candidates.[36] The number of candidates increased from the 23 presidential candidates who stood for election in 2004. NDI observers noted that the leading candidates actively campaigned across the country, and the discussion of issues and platforms played a prominent role within the official campaign period.

Incumbent President Hamid Karzai ran on a platform of national unity, soliciting endorsements from power brokers across Afghanistan, including tribal leaders and anti-government elements. Dr Abdullah Abdullah, a trained ophthalmologist, former advisor to Ahmad Shah Masood, and former foreign minister under the post-Taliban transitional administration as well as Karzai's cabinet, campaigned on reducing the power of the presidency, switching to a parliamentary system and strengthening provincial governments. Dr. Ashraf Ghani Ahmadzai, an academic and former finance minister under the post-Taliban transitional government, campaigned on a platform that prioritized economic progress, employment and education. Ramazan Bashardost, former planning

[35] ECC Press Release, June 9, 2009.
[36] The IEC reported votes for 32 candidates in the final certified results.

minister under Karzai's administration and a sitting parliamentarian whose campaign gained momentum in the final weeks before the polls, ran on a platform of anti-corruption.

Two female candidates also participated in the presidential race. Member of parliament Shahla Atta ran on a platform that included judicial reform and mandatory education. Frozana Frana, a medical doctor, emphasized disarmament and equal rights for women in her Presidential campaign. In the 2004 Presidential election one woman, Masouda Jalal, ran for President. She was later appointed to serve as minister for women's affairs.

During the official campaign period, NDI observers noted that candidates were able to conduct campaign activities in provinces of different ethnic bases. For example, Abdullah held a campaign rally in Kandahar that was attended by more than 4,000 supporters, and Karzai held large campaign events in Herat, Mazar-i-Sharif and other northern cities. There were no reported clashes between supporters of different candidates.

Insecurity in many areas of the country limited the size of campaign gatherings. In the northeastern province of Kunduz, for example, where the militants gained strength during the months leading up to the elections, major presidential campaigns operated what were called "campaign houses" in the provincial capital in addition to their normal offices. These facilities provided room and board to visiting elders and imams from rural communities outside the city of Kunduz. Those local power brokers who agreed to support the candidate were given campaign materials that they took back to their communities.

Provincial Council Campaigns

Provincial councils are currently the only elected bodies at the local level and are critical to establishing a stable and self-sustaining Afghanistan. Without district councils, which have yet to be established, provincial councils are the most direct point of contact between citizens and the government. For the August race 3,196 candidates contested 420 provincial council seats, up by 171 candidates from the 2005 elections. This increase was primarily noted in the north, northeast and central regions; in the south and southeast, there were fewer candidates on the ballot than in previous elections.

Twenty five percent of the provincial council seats are reserved for women, and 328 female candidates participated in the 2009 race nationally, an increase from the 285 women who contested the 2005 polls. The quota created about three to five reserved seats per province. Kabul province, given its large population, had eight seats reserved for women. Across Afghanistan, a total of 124 reserved seats should have been filled by women. However, in the Kandahar and Uruzgan races there were fewer women running than the number of reserved female seats. This was a similar situation in Uruzgan in 2005.

The tone and visibility of provincial council campaigns varied greatly across the country. There were publicly contested elections in the more secure areas. Most campaigns focused on the development needs of the province. Incumbents tended to promise more construction projects and new candidates attacked incumbents for corruption and not fulfilling previous campaign promises. Many provincial council candidates described to NDI difficulties in raising funds for campaign materials and travel within the province.

In the southern part of the country, where the Taliban was actively targeting those participating in the elections, most of the campaigning took place inside the walls of private homes. NDI observers in Kandahar, for example, reported that there was little public campaigning for the provincial council seats, and candidates solicited support from tribal and religious leaders behind closed doors.

In many parts of the south and east, women found it was unsafe to campaign in public and faced pressure from conservative circles. Men have the advantage of campaigning in mosques, during bazaar days and in other important public settings that reach a range of audiences. In these areas, women were mostly campaigning behind closed doors, targeting family and friends and avoiding public gatherings. There were exceptions – some candidates described to NDI how they were able to organize door to door campaigns with the help of mullahs, local elders or other community leaders. "When I went to some far villages and districts of Khost province," one candidate who had the support of local tribal leaders told NDI, "people invited me to their houses, asked me for tea or lunch, and listened enthusiastically to my message."

Political Parties and the Campaigns

The major presidential candidates ran as independents with no party affiliation. However, party coalitions helped certain candidates garner votes. For example, Abdullah was endorsed by the National Front, a network of multi-ethnic parties generally opposed to the Karzai government. Political party endorsement had more influence on the Presidential campaigns in the northern and western provinces where parties have more robust networks of supporters.

More than 80 percent of the provincial council candidates registered as independents. In some areas of the country, particularly in the north and west, where political parties have a stronger presence, affiliation helped candidates raise funds and reach a network of supporters. Over 30 parties fielded candidates, and 11 parties supported at least 10 candidates. Junbish had over 80 candidates in 10 provinces; Wahdat Islami Mardom had more than 50 candidates in 11 provinces; while Hezb-e-Islami ran over 40 candidates in 14 provinces. Nearly 20 percent of all provincial council winners were formally affiliated with political parties.

In the pre-election period, some parties interviewed by NDI were thinking strategically about how to distribute votes on the provincial level to maximize their number of seats. NDI observers noted that Hezb-e-Islami Afghanistan and Hezb Jumhori Afghanistan (the Republic Party of Afghanistan), for example, were directing candidates to only campaign in targeted areas within a province, so as not to waste votes among other party candidates.

Campaign Finance

Presidential candidates were required to periodically report their campaign spending, under the Regulation on Campaign Finance Disclosure. The adhoc regulation was approved by the IEC on March 25. There was no such regulation requiring provincial council candidates to make financial disclosures.

Complaints from citizens and rival campaigns about the published figures were deferred to the ECC for investigation. The ECC issued fines to eight presidential candidates for failing to declare their second spending report by the July 18 deadline.[37] Three candidates failed entirely to submit the reports and five submitted reports late. Of note, neither the IEC nor the ECC had a systematic mechanism in place to check declared amounts against actual spending.

Female candidates had much difficulty funding their campaigns. Several organizations told NDI about women who decided not to run because of the cost of transportation and the $80 candidate registration fee. In Kabul Province, where 524 candidates ran, 65 of them women, female candidates felt additional pressure to campaign actively and cited the fact that they did not have funds to create posters that could compete with those of male candidates which were large and colorful. Male candidates were also more likely to have the financial independence to pay supporters to decorate and drive cars promoting their candidacy.

To assist female candidates, UNIFEM provided a location in Kabul where women could photocopy up to 1,000 of their posters in black and white. Women candidates found it to be one of the most useful resources available during the election period. One hundred and seventy women from various provinces made approximately 680 visits to the center to take advantage of this and other support that included one-on-one sessions to design and produce campaign materials, such as posters and business cards.

Media

The coverage of the Afghan political sphere by local news outlets has broadened and deepened across the country since the 2004 presidential election. During the course of an election, the Electoral Law gives the IEC the authority to regulate the performance of media outlets. The IEC's Code of Conduct for the Media requires that radio, television and the press cover the campaigns in an impartial and accurate way. To monitor the media's performance, the Electoral Law also provides for the creation of a temporary Electoral Media Commission. During the course of the 2009 elections, the media commission issued detailed and timely reports about the coverage of the candidates. In 2005, the Media Commission was similar to the ECC in that it was composed of internationals and Afghan commissioners. In 2009, all five commissioners were Afghans.[38]

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[37] ECC Press Release, August 8, 2009.

[38] http://content.undp.org/go/newsroom/2009/august/afghan-media-commission-monitors-election-coverage.en

The media commission's reports noted a strong bias in favor of Karzai on the state-run television and radio. The commission reported, for instance, that between July 21 and August 4, the government-operated RTA Radio devoted 91 percent of its election coverage to Hamid Karzai and only two percent to Abdullah and one percent to Ramazan Bashardost, Karzai's closest rivals. The commission also found that between July 6 and August 4, RTA Television devoted 68 percent of its coverage to Karzai, 10 percent to Abdullah and three percent to Ashraf Ghani Ahmadzai. The commission asked RTA to explain this unbalance, but took no further action.

In Nangahar province, NDI observers noted a unique effort – over a period of two months, every single PC candidate, including women were given the opportunity to participate in a free television session at 9pm each night to present their platforms. This initiative was supported by Nangahar National Television, and spearheaded by its managing director.

Private media, which has proliferated in Afghanistan since 2002, provided much needed balance to the election coverage. There have been attempts to set the state media outside the control of the executive branch. In 2008, the Wolesi Jirga passed a new media law establishing a public broadcasting system designed to help ensure RTA's independence from government control. President Karzai, however, did not sign the bill into law.

Women candidates faced difficulties being heard in the Afghan press. According to UNIFEM, female candidates complained that male candidates' press conferences were covered by the media and that theirs were not. Many candidates told NDI they were reluctant to seek out media coverage for fear of their safety and the safety of their families. The two female presidential candidates receive little to no media coverage. Of note, NDI visited women's radio stations in Herat and Kunduz during the campaign and found the stations to be helpful outlets to promote local female candidates and platforms.

Presidential Debates

For the first time in Afghanistan, presidential debates were held and broadcast nationwide over radio and TV. The media commission organized the debates, but found it impossible to accommodate all 41 candidates. In the end, the commission organized seven radio and eight television debates involving 33 presidential candidates.

The first debate to feature the leading candidates was held on July 23 and sponsored by Tolo TV. The program was reported to have been viewed by over 10 million Afghans. Of the top three candidates, only Abdullah and Ghani participated in this debate; Karzai withdrew from the debate at the last minute. A succeeding debate, held on August 16 on RTA TV, featured Karzai, Ghani and Bashardost, but not Abdullah. A later radio roundtable featured all the major presidential contenders.

Violence to Candidates

Candidates were among the most visible targets of the strategy of the Taliban and other elements to disrupt the elections. Night letters, threats, bomb attacks, assassinations and

kidnappings were part of an anti-government strategy to deter candidates and their supporters from participating. During the campaign period, five provincial council candidates were killed and another five were kidnapped.

In August, at least 15 attacks specifically targeted candidates and campaign staff occurred. An attack on the convoy of Karzai's provincial campaign manager in Ghazni province on August 1 killed a campaign worker and a guard. On August 2, a hand grenade was thrown at Abdullah's district campaign office in Kapisa province. On August 5, the vehicle of a provincial council candidate and Abdullah's provincial campaign manager were blown up in Badakhshan province. Five campaign workers for a presidential candidate were kidnapped in Badghis province on August 12 and were released two days later. On August 17, a provincial council candidate in Nangarhar province was the target of a remotely detonated bomb and, on the same day, two assassins on motorcycles shot and killed a provincial candidate in Jowzjan province.

Female candidates felt particularly vulnerable. To address such concerns, in the weeks leading to polling day, the Ministry of Interior's Security Working Group held discussions on the protection of women candidates. These discussions were televised and included the presence of candidate agents; however, NDI observers found that these deliberations took place late in the process and did little to help women in a practical way. Candidates told NDI that they had contacted police about threats received, but officers did little to investigate the incidents reported.

As August 20 neared, the Ministry of Interior announced it would provide police, guards and armored vehicles around-the-clock for the two female presidential candidates. The ministry also agreed to recruit, train, and arm one male guard for every female provincial council candidate. Unfortunately, information about this assistance did not reach the vast majority of female candidates. Two weeks before the election, NDI found that most candidates, even in the capital Kabul, were unaware of the help the ministry was offering to secure them.

The female candidates who tried to access these security resources from the ministry did not get very far, NDI found. Candidates were redirected to IEC provincial branches or received no response. Ultimately, security assistance was never provided for the majority of the candidates. Police chiefs in the provinces were unaware of the order, and, as each male guard was to be of the candidate's choosing, in many cases women did not have additional male family members available for this task. Moreover, according to the IEC gender unit, the salary for guarding a candidate was too low. Several women candidates told NDI that the provision of one security guard was not enough for them to feel safe while campaigning.

For female candidates who needed to leave their home immediately in the face of a security threat, UNIFEM established a program called the Urgent Response Fund and allocated a small amount of financial support, mainly to cover transportation costs. This effort was publicized by the Afghan Women's Network at the Five Million Women Campaign meeting in Kabul on August 4.

Candidate Withdrawals

In the weeks leading up to the election, the wide field of presidential hopefuls began to shrink. Even after the nomination process was over and the ballot was set, candidates announced their withdrawal from the race and some endorsed the leading campaigns. Questions arose about how to count votes cast for a withdrawn candidate.

Article 37 of the Electoral Law addresses how votes of a candidate who withdraws after the nomination process should be handled. The article states: "If a candidate withdraws his or her candidacy or dies after the end of the candidate nomination process, or if his or her name is excluded from the list of candidates by the ECC, the votes cast in his or her favor shall not be included in the counting process." The law does not set a specific deadline for withdrawal and does not define at which point in the counting process a candidate's votes should be withdrawn.

Campaigns and observers raised a number of questions about how a withdrawn candidate's votes would be counted. Would the votes for withdrawn candidates be excluded at the polling station or later in the process, at the tally center? Would votes for a withdrawn candidate be included in the total number of votes used to calculate the 50 percent needed to win the election?

In a statement issued on August 6, the IEC attempted to address the confusion. The IEC would allow candidates to give official notice of withdrawal and have their votes invalidated. The votes would be counted at the polling station and invalidated at the tally center. The decision meant that the totals between the tally center and the polling stations would not match up, making it more difficult for IEC auditors and observer groups to cross-check the tally.

VII. PARTICIPATION OF WOMEN

The challenges that Afghan voters faced—the failed registration process, the lack of prepared polling staff, an insecure environment that lead to the closing of polling sites — all disproportionately affected women. Cultural obstacles and a low literacy rate limit women's participation in the Afghan political process, and insecurity in the country is a further impediment to women's suffrage. Although it is less culturally acceptable for women to travel freely, particularly in the south and east of the country, threats by the Taliban and the use of violence leading up to the elections further deterred the participation of women. In the course of its observation, NDI spoke with dozens of female officials, voters and civil society leaders. To record and better understand the experience of women in the Afghan elections, NDI tracked 18 female candidates in nine provinces for the three weeks surrounding the elections.

The problems of electoral management and the overall challenges of the pre-election environment as well as lack of security hampered access for women. Observers reported that aside from Bamiyan and provinces in the north, the turnout of women for this election was notably low. In certain polling stations in the south and southeast, almost no women voted. To fill the staffing gap of female poll workers and searchers, the IEC

had recruited the help of village elders, mullahs and women's organizations;[39] observers noted that for some schools that served as polling stations, female teachers were present as body searchers and poll workers. A number of Afghan women observers underlined that the presence of males at female polling stations deterred women from voting.

In addition to the highly tense environment, the elections took place during a period of increased fear and uncertainty about the role of women in Afghan society, particularly among women in the south. The progress of women in Afghan society was threatened and visibly called into question when school girls and their teachers in Kandahar were sprayed in the face with acid in November 2008. In April 2009, a female provincial councilor from Kandahar and proponent of women's rights, Sitara Achekzai was assassinated by the Taliban, not the first attack on a prominent female in Kandahar.

In August, just days before the election, President Karzai passed the Shiite Personal Status Law, a controversial law that was to be applied to Afghanistan's minority Shiite population. Among its provisions, the law requires Shiite women to obtain their husband's permission to work, grants child guardianship to fathers and grandfathers, and allows a Shiite husband to deny his wife food and shelter if his sexual needs are not met. Political observers as well as local and international women's groups criticized the passage of the law as a direct appeal to Shiite clerics who had promised to mobilize votes for Karzai.

Security and Women

For female voters, intimidation, threats and violence influenced the electoral environment more than any other factor. For example, women candidates reported that in many families they knew, the men would not permit the women to leave their homes to vote for fear of violence. This was the case not only in the south and southeast but throughout the country, particularly outside provincial capitals. "I rented a car with my personal money to take some women to the polling station," one candidate told NDI, "but they refused to ride with me and told me that they were not permitted by their families."

The decision by the IEC to consolidate polling sites for security reasons impacted women to a greater degree then men. It is more difficult for women to use public transportation in some areas. In most parts of the country, observers noted that women came out later in the day to vote. Women told NDI that they were monitoring the level of violence on the morning of August 20 before deciding whether or not to head to the polls.

Women who campaigned for seats did so at considerable personal risk. Candidates faced harassment and threats of violence against themselves, their families and their supporters. Nearly all female candidates interviewed by NDI reported receiving night letters or threatening phone calls. One female candidate was stopped in her car on her way to a campaign event. Assailants told her she would be killed if she attended the event. Another candidate sent her family and local elders out to campaign for her for a week after receiving death threats. Yet another female provincial candidate told NDI she received many anonymous phone calls telling her she would be killed if she didn't quit

[39] This occurred in 2005, with similar results.

politics. Several letters threatening her life were thrown over the wall of her house and office. For the three months leading up to the election, she lived with relatives, away from her home because of the threats to her life. "Sometimes I get disappointed and hopeless," she told NDI, but "I am determined to defend the rights of myself and my people."

UNIFEM provided a security hotline for complaints and questions from female candidates. The call center received 320 phone calls between July 20 and September 1. Some calls were general inquiries about the campaign such as how to select a symbol for the ballot. The hotline received 17 phone calls from women candidates about serious security concerns. The hotline and resource center remained open to candidates throughout the complaints process.

Cultural Barriers

For nearly all the women candidates NDI interviewed, regardless of their reasons for running, an endorsement from family or village elders was crucial for them to campaign and win. In the largely Pashtun areas of the south and east, cultural beliefs create greater challenges to women's participation and significantly limited their role in the elections. Women candidates interviewed by NDI lacked funds to campaign and their gender made travel difficult. Women candidates in these areas targeted concentrated groups of voters by campaigning behind closed doors in neighborhoods close to home. Even in Herat province, considered a more liberal region, female candidates had difficulty traveling in the rural areas and some female candidates told NDI about poor treatment by rural elders and tribal leaders.

Some of the female candidates that NDI met with brought a male relative as their spokesman, conveying their platform for them. A fraction of the women surveyed by NDI admitted they had been selected by family members to run on behalf of a male family member, however this was not the case for the majority of candidates interviewed. Many candidates were articulate about what they hoped to accomplish.

Public Debate on Women's Rights

The elections provided the opportunity for gender issues to be placed at the center of the national dialogue in a constructive way. UNIFEM-Afghanistan supported the Afghan Women's Network and other civil society groups to host a televised debate with leading presidential candidates on issues of women's rights. The debate aired on August 13 on Tolo TV and involved Shahla Atta, Ashraf Ghani and Abdullah Abdullah. A debate on August 16 hosted by Radio Azadi and RTA among Hamid Karzai, Ashraf Ghani and Ramazan Bashardost also addressed the issue of women in Afghan society and highlighted matters such as Sharia law, inheritance and maternal mortality.

The fact that women's rights were addressed in the presidential races was the result of commendable work by prominent women's organizations in the lead up to the elections. The Afghan Women's Network (AWN), an umbrella organization of several Afghan women's groups, and other leading organizations placed a petition on women's issues before Ghani, Abdullah and Karzai. Weeks before the election, the AWN launched an event called the Five Million Women Campaign to raise awareness of the importance of

women participating in public life. The petition asked candidates to declare their stance on issues such as children's welfare, health and women's rights. Unfortunately, the presidential candidates only acknowledged the petition privately. However, the effort laid the groundwork for the August 13 televised debate and framed the topics raised in the public forum.

The Quota System

Having seats set aside for women on the provincial councils played a critical role in ensuring women's role in government. Of the 117 women elected in 2009, 20 women won competitive seats and 97 were elected through the quota. Women received enough votes to be seated without the quota in several provinces including Kabul, Ghazni, Nimroz, Uruzgan, Herat, Farah, Badakhshan, Takar, Jowzjan and Balkh. This is a significant improvement in provinces such as Uruzgan and Farah in terms of the acceptance of female engagement in the political process.

In Herat, female candidates received enough votes to be elected in third place with 8,824 votes and sixth place with 7,009; the first place candidate received 10,801 votes. In Kabul, the second and third place candidates were women with 8,421 and 6,589 votes respectively for 29 seats; the first placed candidate received 9,086.

However, fewer women were elected to the Kabul provincial council in 2009 than in 2005 – only six won competitively compared to eight in 2005. The success of women candidates likely was affected by lower female voter turnout, compared with 2005, and the worsening security situation.

Some organizations were concerned that the quota was not applied in accordance with Electoral Law, and UNIFEM looked into the election results to address these concerns. At issue was an IEC document showing the number of candidates running in each province broken down by gender – the document defined seats as "male" and "female." As competitive seats can be won by either male or female candidates, the printed classification should have read "female quota" and "open" seats to avoid potential confusion during the tabulation process. The circulation and use of the document may have prevented women from securing some open seats. The quota was designed to be a floor and not a ceiling for women's participation, and its implementation is a significant issue that needs to be clarified for future elections.

The SNTV System and Women Candidates

The complexities of the SNTV electoral system and the application of the quota may be suppressing the number of seats women could win in the provincial council elections. The electoral system provides that allocated quota seats be given to the highest female vote-getters, removing such candidates from contesting for competitive or open seats. Although some women who won quota seats had secured vote totals high enough to vie for one of the open seats, being granted a quota seat leaves other women candidates with lower vote totals to contend with their male counterparts for an open seat.

The SNTV system is also challenging for women in Afghanistan due to the large number of candidates that the system tends to generate. This makes it more competitive and less likely that Afghan voters would rally around female candidates. Should the country consider electoral reform at a later stage, legislators could consider a framework that strengthens the participation of women as candidates, such as a proportional representation or mixed system. As examples, Rwanda, Bangladesh, Jordan and Uganda have employed electoral reforms to facilitate the election of women that could be studied to improve the participation of women in Afghanistan's government.

VIII. ELECTION DAY

On August 20, the country saw the elections unfold in different ways – ranging from provinces with high voter turnout and peaceful polling activities to areas where polling stations were subject to violent attacks and polling workers threatened by the Taliban as well as blatant government interference. Bamiyan and provinces in the north saw, for the most part, orderly polling and relatively high participation. Taliban-issued threats against participation – including cutting off inked fingers – in the south, southeast, east, northeast and some areas of the capital region fueled an environment of fear and tension, resulting in low voter turnout overall and poor turnout among female voters.

A total of 112 NDI observers visited 472 polling stations in 290 polling centers in 19 provinces around Afghanistan on election day.

Violence on Election Day

August 20 saw an increase in attacks across the country. ISAF recorded over 400 incidents, a significant spike. However, the Taliban did not successfully launch a spectacular attack as had been feared. Rockets, mortars and improvised explosive devices (IEDs) were used to target polling centers in certain places in the northeast, east, south, southeast and capital region. In many provinces, polling centers were closed or did not open at all due to threats from the Taliban and other illegally-armed groups. In the Shendand district of Herat province, for example, Taliban forces succeeded in burning three polling centers. In Kabul, violent incidents occurred outside of the so-called "ring of steel," a series of several checkpoints manned primarily by ANP and ANA.

At least 31 died and 79 were injured in attacks on polling day. Of those killed, 11 were IEC staff performing their duties; 18 were Afghan National Police officers and eight were Afghan army personnel protecting polling centers and voters.

Media Blackout

The night before polling, a body within the Ministry of Foreign Affairs requested that domestic and international media refrain from reporting on electoral violence between 6:00am and 8:00pm on election day. The Afghan National Security Council issued instructions for a media blackout on any news of violent attacks intended to disrupt the voting and prohibited journalists from visiting any polling station that had been targeted. The majority of Afghan media outlets complied, citing the IEC's Media Code of Conduct.

Some 15 Afghan and international journalists in Kabul were detained by Afghan security forces for attempting to report on a shooting incident at a polling center. The reporters were released at the end of the day. International news outlets ignored the order.

Voter Intimidation

Voter intimidation in and around the polling centers was seen in various forms, including the harassment of election workers by Taliban and other illegally-armed groups. This type of intimidation did not appear to be systematic, but incidents were noted to be heaviest in the south and southeast.

Although most polling stations observed by NDI were free from intimidation during voting and counting, observers described specific incidents of intimidation in Herat, Nangarhar, Bamiyan and Kandahar. In Kandahar, for example, the Institute witnessed candidate agents registered from Karzai's campaign intimidating voters to vote for Karzai in a polling station at the Akhonzada mosque. IEC officials were present but did not stop these agents.

Opening of Polling Centers and Stations

The number and location of polling centers fluctuated many times in advance of the elections. In the run-up to August 20, the IEC planned to open 6,970 polling centers and 26,877 polling stations. The IEC submitted its list of polling centers to the Afghan security forces on April 14 for their assessment.[40] Of those, the security forces cleared 6,519 to open. On election day itself, the IEC stated that 6,199 polling centers had opened and 315 had not sent an update on their status.[41] Three weeks later, in the September 16 statement announcing the release of the preliminary results, the IEC stated that 6,210 centers and 24,183 stations had opened; in addition, materials from six polling centers were either lost or destroyed due to attacks. The number were revised again when the IEC released a detailed statement with the final results of the election stating that 6,167 polling centers and 23,960 polling stations were open.[42] None of these figures have held up to scrutiny and the actual number will likely never be known.

In a number of unsafe areas, many stations did not open at all – however, as would later become apparent, many of these unopened stations reported results. These became known among officials and observers as "ghost" stations and were one of the contributing factors to the widespread electoral fraud.

Of the 49 station openings directly observed by NDI, 18 opened late, largely due to violence or missing materials. In one polling centre in Nangahar, the boxes of sensitive materials (known as blue boxes) were not opened before 8am, as polling staff did not have any wire cutters; it took one person almost an hour to open all the boxes. During this time, no voters appeared. In five late-opening stations, voters left before casting their votes. Eleven percent of the stations observed by NDI were overcrowded and disorganized.

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[40] IEC Press Release, August 13, 2009.
[41] IEC Press Release, August 20, 2009.
[42] UNDP Weekly Electoral, October 26, 2009.

Voter Turnout

The accurate percentage of voters who turned out for the August 20 election is difficult to determine. A precise number of eligible voters is not available due to the lack of an accurate voter registry and flaws in the voter registration process. As previously mentioned, election officials used population estimates to inform election administration preparations. The IEC had planned for an estimated 15,295,016 voters. On election day, the IEC did not report turnout information – this fueled speculation of fraud and manipulation within the IEC.

When preliminary results for the presidential election were released on September 16, the IEC announced a turnout rate of 38.7 percent.[43] Of the voters, the IEC announced that 58.42 percent were men, 38.75 percent were women, and 2.83 percent were Kuchi. However, these results included a large number of fraudulent votes. NDI's analysis of the IEC certified 2009 presidential election results shows that the turnout on Election Day was approximately 4.6 million voters. (To compare, more than 8 million participated in 2004 and about 6.4 million in 2005).

NDI observers reported varying levels of turnout throughout polling day in different parts of the country. In the west, central, north and capital regions, observers described turnout as medium to high with the number of voters trailing off at the end of the day. Of note, turnout in Kunduz increased slightly as violence subsided in the afternoon, but overall remained relatively low.

Observers in the south and southeast reported extremely low turnout in most polling stations, especially among women, and several violent incidents disrupted the opening of polling stations and limited voter participation. Some teams in Kandahar and Khost, especially those observing in female stations, reported seeing only a handful of voters every hour. NDI observers attributed the low female turnout in the south to the lack of security as well as the fact that there were shortfalls in the recruitment of female poll station workers and body searchers who were required for female polling sites to function according to cultural norms.

In the north, central and western regions, women voted in significant numbers, and polling was conducted generally in an orderly fashion. NDI observers in Bamiyan province saw more women voters than men. In the days following August 20, as votes were counted, there were suspiciously high figures in places where women would not be expected to vote in large numbers. In Paktia and Daikundi, for example, women were reported to have turned out in higher numbers than men. In Panjshir, Faryab and Paktika, female voter turnout was less than four percentage points below male turnout. (Paktika had higher voter turnout than the estimated population.) These high female turnout rates were an indication of widespread ballot box stuffing and some proxy voting using female voting cards.

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[43] IEC Press Release, September 16, 2009.

Voting Process

Although most polling stations that NDI visited on election day were sufficiently run with enough numbers of male staff, observers noted the shortage of female election workers in some areas – as an example, a team in Jalalabad noted that some men were serving as officials in female polling stations. Of the female polling stations visited that were amply staffed, most were run with trained female election workers.

NDI observed that some election officials properly followed the basic voting procedures. Observers saw underage voters turned away at polling stations by officials in Kabul, Khost, Bamiyan, Herat and Kapisa provinces. In Faryab, observers saw an underage boy with five voter cards turned away. In Khost district 13, officials reported underage voters to the police. Observers noted though that officials were not properly checking identification in 14 of the 472 stations observed.

Poor training was observed in the Sar-i-Pul, Samangan and Kunduz in the north; Herat in the west; Khost in the southeast and Bamiyan in the central highlands. Observers in Panjshir, Kandahar and Khost saw some polling officials not recording voter card numbers. In Balkh province, an NDI observer team saw an IEC official handling ballots outside the view of observers and agents. IEC officials responded quickly to the violation.

Some cases of multiple voting and proxy voting were observed, but not to the degree anticipated in the run-up to the election. Proxy voting was observed in only four percent of the stations. NDI observers saw voters being allowed to vote on someone else's behalf in Waras, Kunduz, Rokha, Maymana, Herat City, Guriyan and Kandahar.

Institute observers found that 94 percent of the stations visited had sufficient materials to conduct polling procedures. A number of stations were missing ballots in Kabul District 15 and in Qarabagh district. During an Election Day press conference, the IEC confirmed that some provinces had shortages of ballot papers but claimed to have addressed the problem by the afternoon. NDI observers in Faryab, Kabul, Qarabagh and Kandahar reported that some polling stations did not have complaint forms available for candidate agents – without these documents, candidate agents were unable to file complaints on election day.

Early on during the polling day, hole punchers issued to station officials did not fully perforate the laminated voter cards. The IEC responded quickly to reports about the problem from observer groups and issued guidance to cut the corner of the cards with scissors. Observers noted that this issue did not disrupt the voting process in a meaningful way. Some observers reported isolated problems related to pigment in the indelible ink not being shaken enough and leaving only a light purple stain. Presidential candidate Bashardost claimed in a meeting with the IEC that he was able to remove the ink using chemicals. After testing the claim, it was dismissed by the IEC.

Throughout the day, NDI observers witnessed polling centers in Kandahar, Khost, Nangarhar and Kunduz temporarily close due to security incidents. In most cases voting resumed at these centers as soon as the situation allowed.

Midway through August 20, the IEC issued an hour extension for poll closing to help boost voter participation. NDI observers reported that since the announcement came late in the day, the extension did not have any impact in increasing voter turnout; in addition, as observers did not witness long queues of voters in any part of the country at midday, the need for the extension was unclear. More than half of NDI observer teams noted that there were no voters in line when the extended hour of voting commenced and turnout during the hour was very low. Some IEC polling station staff in different parts of the country did not extend voting hours, proceeded with the vote count shortly after 4 pm and turned away people seeking to vote.

Female Polling Staff

The IEC failed to recruit adequate numbers of female poll workers. IEC planners projected a need for 60,892 female staff; on August 20, only 47,056 women staffed the stations. To fill the gap, the IEC recruited 14,703 men in 3,504 polling stations where there was insufficient female staff. In every province except Herat, NDI observers reported that women were not sufficiently present in rural polling centers. In provinces such as Khost and Nuristan, FEFA observers reported that women were deterred from voting when they saw male workers staffing female polling stations.

Recruitment of female staff was hampered by Afghanistan's low literacy rate among women and cultural norms that deter women from working outside the home in many parts of the country. In many provinces in the south, as well as in Kabul and Herat, IEC officials told NDI that elder male staff and underage boys were hired instead of female polling workers, even if female workers were available. Observers also noted that several female polling staff listed to work on election day did not show up.

More women could have been hired had the recruitment process started earlier. In addition, a number of Afghan women's organizations offered to help recruit female workers, but the offers were refused as a result of poor communication between the IEC headquarters and provincial offices.

One effort by the IEC to address the lack of female staff recruited for election day was to ask mullahs to run the female polling stations. NDI received reports of some mullahs preventing women from voting by limiting them from entering the sites. One NDI observer reported that teachers, who worked in the school that served as a polling site, were serving in female polling stations but were not trained as election officials. NDI received reports of female staff leaving polling stations before the counting process took place as it was not deemed culturally appropriate for women to be out after dark.

There was also a shortage of female security searchers for the polling sites. The Ministry of Interior came close to its goal of recruiting 5,000 female searchers for election day; observers noted that the relevant recruitment campaign started only one month before polling day. A stronger partnership between the ministry and the IEC on women's security would have helped address this situation.

Campaigning on Election Day

Throughout the country, posters and other campaign materials were present within 100 meters of polling centers and inside polling stations – this goes against the Electoral Law. Campaign materials were posted in 31 percent of the polling stations NDI observed at the time of opening, and occurred most frequently in Herat and Kabul provinces. Throughout the day, NDI observers noted cases of active campaigning by candidates, supporters, polling agents and polling officials in some polling stations. One observer team in Kandahar recorded the presence of Karzai campaign material on some police cars and the provincial governor's house on election day.

Observers in some areas of the country noted that election officials were openly biased and actively supporting candidates in both the presidential and provincial council races. In Bamiyan, Kunduz and Kandahar, NDI directly witnessed polling officials instructing voters to support one political candidate over another. Of note, the ECC recorded 784 complaints of intimidation, political violence and campaigning at the polling sites.

Counting of Votes

The counting of ballots for the presidential race was conducted at the end of August 20, and the tally for provincial council candidate votes took place the following day. Given cultural traditions and the anticipation that women would need to return to their homes in the late afternoon, many female polling stations around the country postponed the vote count to the following day.[44] Across the country, observers noted that election officials appeared to understand the counting procedures, with female station workers appearing slightly less skilled in some provinces. The counting was complete in 90 percent of the polling stations by 5 pm on August 21, according to the IEC. There were reported delays in the counting in Kandahar, Helmand, Paktika, Logar and Farah provinces. These were all areas that would later show high incidents of fraud.

The counting took place at the polling stations where the votes were cast. This was a change from 2005, when ballot boxes were sent to provincial capitals for counting. Counting ballots at the polling stations eliminated this major logistical challenge of transferring the boxes for the count. However, it also made voter fraud and ballot box stuffing more difficult to prevent. Errors introduced during the counting process and large-scale fraud committed at the polling stations would slow down the release of results from the IEC in Kabul.

In a number of the stations where NDI observed counting, the officials failed to reconcile ballots before beginning the count. Without a proper reconciliation, observers were unable to see that all the ballots that entered the polling station were accounted for. After counting, in most stations, NDI observers saw that the results forms were filled out

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[44] NDI observers noted a number of female stations where the count was postponed. In Baghlan province, NDI observers reported that male polling officials from other polling stations completed the count after the female officials left. Observers in Bamiyan, Deh Sabz, Kandahar and Balkh noted that some female candidate agents left before the count was completed.

properly and handed to candidate agents and, with a couple of exceptions, were posted on the outside of the polling stations.

The public posting of results is an important method to preventing fraud at the tally center. However, NDI found that the candidate agents and observer groups lacked the ability to aggregate and process this data. In addition, there were many polling centers in remote and dangerous areas that observers and candidate agents could not reach, which limited their ability to make use of the posted results.

At the end of counting, the results were placed in a tamper evident bag and sent first to the provincial capital and then on to Kabul. IEC procedures also indicated that all remaining election materials from the polling sites should be placed inside the ballot boxes and sent to the respective provincial IEC office. NDI observed that some of the tamper evident bags did not arrive in Kabul until eight days after polling day.

Political Party and Candidate Agents

Polling agents for candidates and political parties can be effective advocates for the fair and equal execution of electoral procedures. They represent the interests of the candidates and political parties in seeing that procedures are properly followed on election day. IEC regulations barred agents from interfering directly in the polling, but allowed them to report violations to election officials and have such issues rectified on site. Agents were required to register with the IEC and display accreditation on August 20. Some candidates and political parties were frustrated that accreditation badges for some agents arrived late, making it difficult to distribute the cards to their supporters in more remote areas.

The IEC accredited agents representing 15 presidential candidates, 2,677 provincial council candidates and 31 political parties for the August elections.[45] In total, IEC accredited 92,897 presidential candidate agents and 169,709 provincial council candidate agents. Of the presidential candidate agents, 21,103 were women. Of the provincial council candidate agents registered, 36,222 were women. However, fewer agents actually observed activities on polling day. Delays in the distribution of poll watching credentials for some political party agents limited the ability of campaigns to make arrangements to get their agents to remote polling sites.

Although the two leading presidential candidates, Karzai and Abdullah, each planned to field 29,000 agents, the campaigns lacked the ability to organize the large amount of information gathered by their candidate agents. Abdullah's campaign informed NDI that they did not have the resources required to support the travel of their agents and thus had to significantly scale back their original mobilization plans.

With funding from the UNDP, NDI conducted trainings for candidate agents in the weeks leading up to the election and directly engaged more than 31,000 agents in basic polling

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[45] IEC Press Release. August 19, 2009.

procedures and the role of agents. Approximately 150,000 polling agent manuals in Dari and Pashto were printed by NDI and distributed to agents and the IEC provincial offices. Election day observer reports noted how such manuals were used as references by candidate agents in the polling centers on August 20.

There were agents present in most regions where NDI observed the elections, most of which were from Karzai and Abdullah's campaigns. Of note, observers in Kandahar and Khost saw very few candidate agents on election day.

NDI witnessed incidents of candidate agents not being allowed to observe in polling stations. As examples, in Kandahar city, the town of Sorkhood in Nangarhar province, in Kabul district 11 and Kabul district 14, NDI saw polling officials preventing accredited agents from observing voting procedures. In one station in Yakawlang in Bamiyan province, polling agents told NDI observers that they were removed by election officials. In that station, only one candidate agent, selected by the polling station chairperson, was allowed to remain for the voting. In Kandahar city and the town of Rokha in Panjshir province, NDI observers saw agents removed from the sites during the count.

Domestic and International Observers

The presence of domestic and international observers at polling centers can act as deterrent to fraud and provide independent information on the performance of election officials, the ability of citizens to vote and the accuracy of the results of the election. During the August 20 election, factors such as security risks, the country's rugged terrain and the lack of a comprehensive road network made it difficult to access many polling centers in the more remote regions. As a result, there were many areas of the country were observers could not be present. This, among many other factors, increased the opportunities for fraud.

In advance of election day, the IEC registered 21 domestic observer groups and accredited 9,228 domestic election observers. Of the registered domestic election observers, 3,758 were women. Delays in the delivery of accreditation cards made it difficult for some groups to mobilize observers, particularly to remote and less secure areas.

FEFA reported a deployment of 7,368 observers on August 20 and was present in approximately 60 percent of polling centers in all 34 provinces. (In seven of these provinces, FEFA was able to observe in every electoral district). Of the total number of FEFA observers, 2,642 were female. NDI observers noted significant numbers of female observers in polling stations, particularly in the north and west.

The Afghan Independent Human Rights Commission[46] cooperated with UNAMA in the publication of joint observer reports; 929 polling centers were visited by their observers on election day.[47]

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[46] The Afghan Independent Human Rights Commission (AIHRC) is a body sanctioned in the Afghan constitution. Article 58 says "The State, for the purpose of monitoring the observation of human rights in Afghanistan, to promote their advancement and protection, shall establish the Independent Human Rights Commission of Afghanistan. http://www.aihrc.org.af/english/

The IEC accredited 30 international observer organizations that fielded approximately 1,250 international observers, both long and short term as well as core team analysts. Of the international observers, 158 were female. International organizations present included the Asian Network for Free Elections (ANFREL), Democracy International (DI), the European Union, the International Republican Institute (IRI) and NDI. The Organisation for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an election support team to report and provide recommendations on the election process.

IX. POST-ELECTION PERIOD

The Tally Center

After the counting at the polling stations was completed on August 20 and 21, the results sheets and polling station journals were placed in tamper evident bags (TEB) and sent to the IEC provincial offices. From there, the TEB were sent on to the national tally center in Kabul. On August 29, the IEC announced it had retrieved 97 percent of the results.[48]

Once at the tally center, the tamper evident bags were opened and the results entered into the database. By August 31, 99 percent of the results had come to Kabul and 48 percent of those had been entered into the tally center computers.[49] Candidate agents and observers were present at the tally center to monitor the processing of the result sheets; however, due to the design of the center, observers could not actually see what was being typed in.

NDI observers noted that planning for the count and tally was a complex endeavor, and the outlined procedures complied with international standards. The computers and materials for the count and tally had been deployed in a systematic fashion, and the physical space of the data center in Kabul was well structured. However, once the central vote tally began, NDI observed a number of deficiencies – the collection of results was chaotic and took a long time, and a significant number of mistakes related to results sheets coming in from the polling station level slowed down the tallying operation. This was indicative of poor training of polling station officials and a high percentage of fraudulent results sheets. NDI noted that tally center managers were unable to cope with the volume of errors in a timely way. All these factors contributed to delays in the release of results.

Release of Results

During the four weeks following polling day, the IEC made seven announcements of partial results for the presidential election. The inconsistent and unpredictable way the partial results were released lacked transparency and undermined the credibility of the IEC. Among a number of issues, it was unclear to observers who was responsible for the

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[47] AIHRC – UNAMA report, "Joint Monitoring of Political Rights, Presidential and Provincial Council Elections, Third Report." October 5, 2009.
[48] IEC Press Release. August 29, 2009.
[49] IEC Press Release, August 31, 2009.

decision to process results – in varying proportions – for some provinces over others. When the same results were calculated by observers and independent bodies, the partial figures released were either incomplete or wrong, and it took days and weeks for the IEC and UNDP-ELECT officials to respond to such queries. In addition, results were not released in an electronic format that could be easily checked by observer groups. Observers had to employ cumbersome and time-consuming methods to put the IEC's data into a form that allowed an independent check of the results calculations.

Checks by observer groups revealed inconsistencies in the statistics generated by the IEC. Examples of inaccurate IEC figures released included the total number of valid ballots, the number of invalidated ballots for withdrawn candidates and the total number of polling centers and polling stations open on election day. In addition, IEC press releases on September 6 and September 8 made contradictory statements about whether some polling station results had been "quarantined" or "annulled."

The confusion and lack of transparency fueled a perception that partial results were announced in a manner designed to prepare the electorate for a specific result. The European Union election observation mission came to the conclusion that the way the partial results were released "points to considerable electoral engineering."[50] Partial results from different parts of the country seemed to have been made public in such a way as to obscure the incredibly high pro-Karzai vote tallies coming out of the south and east.

NDI observers noted that the international adviser from UNDP ELECT managed the day to day operations of the data center, and several IEC staff did not have a sufficient grasp of the technical aspects of the operation. Having international advisers closely involved in managing the technical operation could have contributed to the view that the international community was involved in manipulating the release of the partial results.

When the preliminary presidential results were released on September 16, after all the results sheets had been entered into the database, the IEC announced that Karzai had come in first with 54.62 percent of the total votes and Abdullah came in second with 27.75 percent. These preliminary results would change dramatically following the audit and recount that would find 18 percent of all votes to be fraudulent.

Of the two women that ran in this election, Frozana Fana came in 7th place with .47 percent of the vote and Shahla Ata came in 14th place with .2 percent of the vote.

The release of preliminary provincial council results began on September 26 with the announcement of results from 30 of the 34 provinces. Many protests were staged in provincial capitals by candidates and supporters complaining of discrepancies between the counts at the station level and the figures released from the IEC headquarters in Kabul.

With so many provincial races marred by significant amounts of fraud, the last of the provincial council results were not released until December 26 for Takhar and Herat.[51]

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[50] EU Election Observation Mission, "Islamic Republic of Afghanistan, Final Report, Presidential and Provincial Council Elections, 20 August 2009," p. 44.

[51] The results for Nangarhar province were delayed because of systematic fraud at the provincial level..

Audit and Recount

Before August 20, the IEC had established numerical triggers that would automatically set aside, or "quarantine" suspicious results. The precise details of the triggers were not made public but were based on the number of ballots in a station, for example, or the percentage of votes going to one candidate.

As the results came in, an exceptionally high number of stations set off the pre-determined triggers and were set aside for further review. With the sheer volume of quarantined results mounting, IEC officials were overwhelmed at the task of reviewing numerous suspicious ballot boxes in a timely manner. The commission decided to change its pre-determined triggers to quarantine results reported for stations that did not open (the so-called "ghost polling stations"), stations that had more than 1,000 votes cast, and stations that reported more votes than issued ballots.[52] Using these criteria, along with some additional audits, the IEC set aside 579 of the 23,314 results sheets received. The IEC then announced its September 16 preliminary results based on the remaining polling stations, putting Karzai at 54.62 percent and Abdullah at 27.75 percent. The IEC acknowledged in its statement that these percentages were preliminary and would change based on the investigations of complaints by the ECC.

As the partial results were being released, the ECC had been investigating the incoming results. In the course of its work, the ECC found a strong correlation between electoral irregularities and polling stations where there was an exceptionally high number of votes cast per station as well as ballots cast for one candidate. Based on these findings, the ECC ordered an audit and recount of polling stations that exceeded specific thresholds found by the ECC to be strong indicators of electoral irregularities.[53]

On September 8, the ECC declared that it had found "clear and convincing evidence of fraud" and ordered the IEC to conduct an audit and recount of polling stations nationwide that had vote totals equal to or greater than 600, or that had returns with any presidential candidate receiving 95 percent or more of the total valid votes cast, provided that more than 100 votes had been cast at the station. The criteria called for an audit of over 3,000 polling stations and the corresponding ballot boxes.[54]

Conducting an audit and recount of thousands of ballot boxes presented logistical and operational challenges to the IEC. A full audit would require time; with the winter season approaching, should the audit result in a runoff presidential election, officials were concerned that snow could prevent voting in some areas of the country. On the recommendation of three international electoral experts appointed by the UN SRSG[55], the

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[52] Polling stations were issued a book of 600 blank ballots. For planning purposes, the estimated maximum average turnout for each station was 540. Stations could request extra ballots from another polling station, if needed. Each station was required to record the number of blank ballots issued.

[53] ECC Press Release, September 8, 2009. http://www.ecc.org.af/en/images/stories/pdf/ECC%20ORDER%202009-9-8%20en%20dr%20_%20Final.pdf

[54] IEC Press Release, October 21, 2009.

[55] Two arrived in Kabul, one remained outside of Afghanistan during the entire process.

IEC decided to use a statistical sample instead of inspecting every ballot box subject to the audit. The approach was intended to save time and permit a runoff before the end of year, they argued. The IEC ordered that all ballot boxes that were part of the sample be brought to Kabul to help ensure consistency in the audit process and allow the broader participation of candidate agents.

The sampling procedure, although presented to the observers and the public as a widely used technique, was an unusual improvisation, and was questioned by most observer groups. The frequent changes in the procedure and the inadequate explanation of the statistical methodology to observers cast doubt over the entire enterprise. Communication about the sampling method was mostly handled by UNAMA, the international experts and later on by the UNDP ELECT leadership, which created the impression that these decisions were imposed on the IEC and the ECC.

Observers noted that in determining the extrapolation formula involved in the process, no professional electoral statistician was engaged by UNDP ELECT, IEC or ECC. There were no press conferences to publicize information on the sampling method; in select briefings on the finalized methodology for the audit, invited media representatives were asked not to use recording devices.

A sample of 358 ballot boxes or about ten percent of the suspicious boxes was audited.[56] The audit began on October 5 and was completed on October 8. NDI observers were present during the audit process which was conducted in a largely transparent and professional manner. Although the process was ordered by the ECC, the audit was conducted by IEC staff and on IEC premises. Candidate agents and observers witnessed how staff completed checklists for each ballot box; however, the ECC decided not to publicize these checklists – information that could have improved the transparency of the process. These checklists were used as the basis for the ECC decision to exclude certain ballot boxes.

Complaints

In 2005, the ECC received 5,443 complaints – the majority of which were related to the campaign period; in comparison, it entered 3,072 complaints in 2009 – and 2,639 of these were received during the polling and counting period. For the 2009 polls, 815 cases were classified as priority A or complaints which have the potential to impact the outcome of the election. Given the amount of electoral irregularity and fraud, the ECC was challenged to undertake simultaneous investigations of serious complaints in multiple parts of the country, especially insecure areas.

Polling irregularities was the most common type of complaint and made up 87 percent of category A complaints. Six percent of the category A complaints was related to counting irregularities. Other common complaints concerned intimidation and campaigning on

[56] IEC and ECC Joint Press Release, October 5, 2009.

election day and access to polling stations. The provinces with the highest number of category A complaints were Baghlan, Kabul and Kandahar.[57]

The ECC issued its findings on October 19. Following investigations of the category A complaints, the ECC ordered that 210 polling stations be invalidated. The ECC further ordered that the result of the sample audit should be applied to each candidate's votes using a complex formula applied to six different categories.[58] In addition, after investigating the 579 stations originally quarantined by the IEC, the ECC concluded that all but 18 should be excluded from the results.

Types of Fraud

The most common method of fraud in the 2009 election was ballot box stuffing. A statistically abnormal number of boxes had close to 600 ballots, the number allocated in each book of ballots per station.

During the course of the ECC's investigation, other indicators of ballot box stuffing became evident. In some boxes, there were identical markings on ballots, and the number of voters recorded in the polling station journal did not match the number of ballots in the box. Some ballot papers had not been folded, indicating that they were placed in the box before the box was sealed. Observers noted that the highest incidence of ballot box stuffing was in the southern region.

The ECC received complaints about IEC officials receiving bribes to alter the result, particularly in the provincial council races. Local ECC officials told NDI observers in Baghlan province, for example, that most of the 25 complaints they received accused IEC officials in Kabul of taking money to change the tally in favor of a provincial council candidate. In Nangarhar province, NDI heard detailed allegations of bribery designed to keep a member of a rival family off of the provincial council. The IEC suspended six provincial electoral officials in advance of the scheduled runoff election, for administrative reasons as well as due to the complaints received. Some of these officers later challenged their suspension and went before the Civil Service Commission; ultimately, a number were reinstated.

The decision to audit a sample of polling stations and apply the resulting statistical coefficients to the rest of the votes limited the ECC's ability to investigate specific incidents of fraud. A thorough audit of the suspicious polling stations could have led investigators to officials who perpetrated the fraud and helped deter similar abuse in future elections.

Results of the Presidential Election

Following the sample audit and the investigation of complaints, the IEC released the final presidential election results on October 19. The announcement decreased Karzai's

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[57] ECC Press Release, September 2, 2009.
[58] The ECC referred to each category as a "universe".

percentage of the vote from 54.62 to 49.67 and increased Abdullah's percentage from 27.75 to 30.59. As no candidate had more than 50 percent of the vote, by law, a runoff was required.

The IEC's final presidential results did not match figures calculated by observer groups and the ECC. The IEC final results awarded Karzai 2,283,907 votes and 49.67 percent of the vote. NDI's internal calculations using the IEC preliminary results data showed Karzai winning 2,106,492 votes and 48.26 percent of the vote. The ECC requested an explanation in a November 4 letter to IEC chairman Dr. Azizullah Ludin. Months later, the IEC has yet to respond to the ECC's request. Of note, UNDP ELECT did not release any information on the role of their staff in supervising the calculations.

Results of the Provincial Council Election

Provisional results from 30 of the 34 provincial council races were released by the IEC on September 26. A number of provincial races -- in particular those in Kandahar, Ghazni, Paktika and Nangarhar -- were marred by significant amounts of fraud that delayed the release of results. The preliminary results for Nangarhar province were not completed until December 6, over three months after the election.[59] The ECC completed the complaints process for the remaining provinces on December 12 and delivered its decision to the IEC for the certification of results.

Many of the provincial council seats fell along ethnic and tribal lines, particularly in the south. In Kandahar province, for example, five of the 14 seats were won by the powerful Alchazai tribe. Most of the provincial council seats in the south went to Pashtuns – of note, in Kandahar and Paktika, all of the councilors elected are Pashtun. Uruzgan province, where approximately 10 percent of the population is Hazara, elected one Hazara councilor to the otherwise all-Pashtun council. The councils are more diverse in the northeast, north and west. The Baghlan provincial council, for example, is made up of 11 men and four women and includes Tajiks, Pashtuns, Hazaras and Uzbeks.

Compared to 2005, the results of the 2009 polls brought about some improvement in women's representation in the provincial councils. As an example, in Uruzgan province, where no women ran for the previous provincial council, two women were elected to fill quota seats. Based on preliminary results and information collected from NDI's regional offices, 117 women were elected to the provincial councils, of whom roughly 47 are incumbents and 70 are first-time councilors. Approximately 24 of the councilors identified themselves with a political party during their campaign and 93 were independent. Of the independents, six stated that they received support from a political party during their campaign but claimed they are not party members. Of note, all three women elected in Nuristan are 18 years old.

Overall, the provincial councils had a relatively low number of incumbents reelected. In Paktiya province, for example, all of the male incumbents of the council ran for reelection

[59] The results for Nangarhar province were delayed because of systematic fraud at the provincial level designed to keep a member of a prominent family off the provincial council. The PEO was implicated in this fraud.

but only one gained a seat on the new council. (Both female incumbents in Paktiya won quota seats for the second time.)

Candidates with political party affiliations did better than expected. In Paktika province, for example, five of the nine councilors elected ran with a party affiliation.[60] In Kunduz, of the nine provincial council members, five are members of the Junbish party. Given the negative perception of parties, many candidates ran as independents despite being widely known to have affiliations with political parties. In Badakhshan, all the winning candidates officially ran as independents but all of the elected councilors are known to voters to have specific party affiliations.[61]

X. THE RUNOFF

In the days leading up to the IEC's announcement requiring a runoff, there was debate within the diplomatic community in Kabul and the Afghan government about the role of the international donors in the Afghan electoral process. A disagreement inside UNAMA over the nature of its support to the elections process went public. Peter Galbraith, the deputy to the UN SRSG, accused Kai Eide of not advocating for a rigorous vetting of the election results. Eide, for his part, addressed the accusations in an October 11 press conference. Frustrated with what he saw as foreign interference in the Afghan electoral process[62], one of the two Afghan ECC commissioners, Mustafa Barakzai, submitted his resignation. Karzai rejected Barakzai's resignation and asked him to return to the ECC, "in the best interest of the Afghan nation." Barakzai returned to his post at the ECC.

These events contributed to an atmosphere of tension and confusion in the country about how decisions were being made that affect the outcome of the elections. Senior members of Karzai's staff hinted in the press that the he would not participate in a second round, if one was required by the results of the audit. On October 20, the day after the IEC adjusted Karzai's percentage downward to 49.67 percent, Karzai appeared in a press conference and announced he would participate in a runoff. Standing alongside him were UN SRSG Kai Eide and key diplomats including US Senator John Kerry, US Ambassador to Afghanistan Karl Eikenberry, British Ambassador to Afghanistan Ambassador Mark Sedwell and French Ambassador to Afghanistan Jean d'Amecourt.

On October 22, the IEC announced that the runoff would be held on November 7. The campaign period was scheduled to begin on October 23 and run until November 4.[63] The IEC printed 15 million ballot papers for delivery to the polling centers. All materials were delivered to the provincial offices by October 29. The IEC Chief Electoral Officer Dr Najafi, told NDI that the preparations for the runoff had cost approximately US $8,000,000.

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[60] Four of the Paktika provincial council members are affiliated with the Mahaz Mili Islami Afghanistan party and one is affiliated with the Jamiat Islami Afghanistan party.

[61] Eight of the elected candidates in Badakhshan province are affiliated with the Jamiat Islami party there.

[62] Barakzai was referring to the ECC primarily.

[63] IEC Press Release, October 22, 2009.

Polling Centers

For the runoff, the IEC decided to increase the number of polling centers it had originally proposed to open. IEC planners had initially planned to open 5,817 centers for the November 7 election, but then added 505 additional sites for a total of 6,322 centers.[64] To accommodate the increase, the IEC announced that it would reduce the number of polling station staff from five to two. These were controversial decisions – observers noted how the IEC had overestimated its ability to staff and operate polling centers for the first round. Many reflected that the lack of supervision and security for centers during the August 20 polls made it easier to perpetrate electoral fraud.

Vetting Election Officials

As mentioned previously, the IEC suspended six provincial officials after the August elections. Eight officials were transferred to other provinces. Following performance reviews from election day, the IEC blacklisted 200 district field coordinators.

Hiring and training 3,054 district field commanders for the second round was challenging for the IEC. In Kandahar, for instance, the three day training scheduled for October 27 through 29 began two days later since materials were delayed. In Nuristan, staff training that could have been staggered was ultimately postponed until the full complement of staff was hired. NDI attended many of the district field coordinator trainings and found the sessions to be of inconsistent quality; participating officials varied in experience and competence. As an example, in Kabul province, 98 of the 200 district field coordinators were newly hired for the runoff.

Women's Participation

In advance of the scheduled runoff, IEC officials were unable to address deficiencies in polling procedures that could improve women's participation. In meetings with NDI observers, IEC officials said that the short timeframe leading up to the November 7 election made it difficult to address the problems women faced during the August 20 voting. In the intervening two months, NDI analysts saw little focus or energy put into improving security for women voters or training more female polling station workers.

Before the runoff was cancelled, the IEC officials decided not to hire female security searchers for the polling centers – no reason for the decision was publicized. IEC gender unit staff acknowledged to NDI that the decision would likely increase the risk to women voters and suppress female turnout. Before the runoff was cancelled, the AIHRC told NDI it expected the women's turnout to be "extremely low" given the logistical difficulties the winter roads present for women and a general feeling of disenchantment with the process among many women.

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[64] On October 29, the IEC announced it would open 6,300 polling centers on November 7.

Campaign Period

The campaign period for the runoff began on October 23. Campaigning by the two presidential candidates was subdued compared to the first round. Fundraising for the runoff campaigns was cut short by the delay in announcing the second round, and campaigns said there was less money available to fund their activities.

Abdullah did not launch a newly-energized campaign for the runoff. Even before the candidate announced he would not participate in the election, his supporters had organized a handful or rallies and there was hardly an effort to distribute campaign materials. Karzai's supporters held campaign events, but rallies were much smaller than the first round. In Herat, for example, Karzai supporters held rallies in mosques and during tribal gatherings. In Nangarhar province, the largest pro-Karzai rally was held on October 24 in Jalalabad and brought together about 1,500 supporters, a relatively small crowd compared to events during the first round.

The media commission met with both Karzai and Abdullah in late October and both candidates agreed to participate in a presidential debate in advance of the second round election. The debate was cancelled when Abdullah later announced he would not participate in the runoff.

Of note, in Nangarhar, the runoff was overshadowed by protests over the IEC's delay in releasing the provincial council election results. Demonstrations in late October closed schools and obstructed the critical supply road from Kabul to Jalalabad. Some 250 disgruntled candidates protested in front of the Nangarhar provincial IEC building on October 29.

Voter Education

Television, radio and mobile phone text messaging campaigns were used to inform voters about the second round. From October 26, the IEC mobilized trainers and public outreach officers and operated a call center staffed with 190 people to inform voters. NDI observers noted that even with these efforts, significant numbers of voters – particularly in remote areas where TV and radio signals were weak – were unaware of the possibility of an electoral runoff.

Security

As the runoff approached, the security environment continued to deteriorate in several parts of Afghanistan. Anti-government elements had gained momentum in the northern province of Kunduz, and a pattern of attacks and threats in Kabul hampered the efforts of international organizations working in support of the elections. On October 28, armed Taliban extremists stormed the Bakhtar Guesthouse in Kabul, killing five UN staff members and injuring nine others.[65] This incident led the UN to halt the movements of its personnel and evacuate over 600 international staff. Most of these staff remained on

[65] This particular guesthouse housed up to 35 UNDP-ELECT international staff.

administrative leave until January 2010. Had the runoff gone forward, the UN's ability to provide technical assistance to the IEC and ECC would have been dramatically reduced.

Observers and Candidate Agents

The IEC decided that media and observer credentials from the August 20 elections would be valid for the second round. The domestic observation network FEFA planned to field approximately 7,000 observers on November 7.

Candidate agents were required to go through a new round of registration for the runoff. The IEC stated that the new registration was necessary to exclude the badges of agents who had observed for other presidential candidates in the first round. This requirement was an additional burden to the Karzai and Abdullah campaigns.

Abdullah's Withdrawal

On November 1, Abdullah announced that he "will not participate" in the runoff election. In a press conference, he read a list of grievances about Afghanistan's electoral process, mentioned that the IEC had favored Karzai, and said that government resources had been used to support Karzai's campaign. For weeks, Abdullah had been advocating for the Afghan government to take major steps to fix problems that allowed wide scale fraud in the August 20 polling. He had said repeatedly that his participation in the runoff depended on Karzai's administration answering a list of demands that included the removal of the head of the IEC, the suspension of three ministers, and the ability of his campaign to observe all meetings at the IEC data center. For the announcement, broadcast live across the world, Abdullah gathered major political figures in opposition to Karzai.

The words Abdullah chose in the announcement were notably ambiguous. He did not use the Dari words for withdraw (*enseraf*) or boycott (*tahrim*). He said, specifically, he "will not participate" (*sherkat nami konam*). Some Abdullah supporters told NDI that the statement left open the door to negotiations, and that Abdullah may still be willing to run if his concerns about the partiality of the IEC were resolved.

The IEC Decision to Cancel the Runoff

The day after Abdullah's announcement, the IEC announced there was no need for a second round and declared Karzai the duly elected President of Afghanistan for another term.[66] Holding the November 7 election was "not in the interest" of the country, stated the IEC, citing the huge cost of holding the runoff and the complexities of staging a second round of voting.

Observers noted that no regulation within the Afghan electoral law specifically addresses the withdrawal of a candidate from a second round election. Other countries have also faced this scenario – in Zimbabwe, for example, in 2008 opposition leader Morgan Tsvangirai withdrew one week before the second round polls; the election went ahead and incumbent Robert Mugabe was re-elected with 85% of the vote. The Zimbabwean

[66] IEC Press Release, November 2, 2009.

Election Commission said the withdrawal was a 'nullity' with no legal consequence because it was filed too late.[67]

In establishing legal grounds for cancelling the runoff election and declaring Karzai the winner, the IEC adopted a pragmatic reading of its powers under the Constitution and Electoral Law. Article 156 of the Constitution establishes the IEC as the body to "administer and supervise every kind of election." Under Article 49 of the Electoral Law, the "results of the election are final and binding once they have been certified by the commission." The IEC also has the authority to postpone the election "if unpredictable events or situations make the holding of an election impossible, or seriously threaten the legitimacy of an election." There are no specific provisions for a candidate withdrawing from the runoff, and a revision and clarification of the Constitution in this regard is needed.

There were mixed reactions across Afghanistan to the IEC decision declaring Karzai the duly elected President for a second term. The first day following the decision, the opposition was largely silent. One exception was the governor of Balkh province who, in a meeting with NDI, called the election illegal and insisted Afghans had the right to protest the decision. Among Karzai supporters, NDI observers in Herat, Kandahar, Jalalabad and Khost saw celebrations. Many local politicians contacted by NDI praised the fact that the election had been brought to a close, saving money and lives, and congratulated Karzai. These sentiments, however, were immediately followed by pleas to the new administration to rein in corruption, curb drug trafficking, strengthen the judicial system and improve security.

On November 4, two days after the IEC decision, Abdullah said in a press conference that the IEC decision had "no legal basis" and called the Karzai administration "illegal." Despite his rhetoric, Abdullah told reporters he would not appeal the decision to the Supreme Court. In the November 4 session of the Wolesi Jirga, members engaged in a heated debate over the legal reasoning behind the IEC decision and whether the body had the authority to declare Karzai President. The session ended in a chaotic shouting match and several members leaving the chamber.

Shortly after the election announcement from the IEC, the United Nations General Assembly announced that they approved of the electoral result. The resolution, initiated by Germany, was approved unanimously, with almost 100 delegations, including the permanent UN Security Council members, acting as the co-authors.[68]

In the end, no legal challenges to the IEC's decision were brought and Karzai was inaugurated as President for a second term on November 19.

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[67] http://allafrica.com/stories/200806290011.html

[68] http://www.un.org/News/Press/docs/2009/ga10884.doc.htm

XI. ELECTION DATA MAPPING

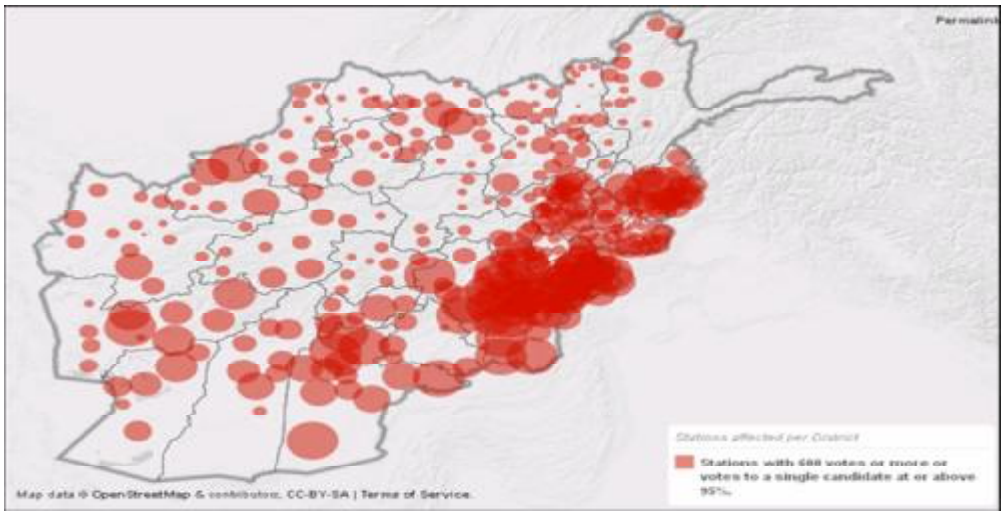
As mentioned previously in this report, observers noted the IEC's lack of transparency in releasing election results. Information made public by the IEC was published in a format that could not be easily verified – for instance, the data released on September 16 was issued in a 2,500 page PDF document, making it difficult for voters, candidate agents and observers to study and check the information.

As part of its election observation effort, NDI launched a website, ***Afghanistanelectiondata.org***, to make data from the August 2009 presidential elections more accessible and transparent. The site features an innovative online mapping tool designed to facilitate analysis of election results data using demographic, ethnographic, topographic and security information. Visitors can run customized queries with the results displayed as lists, charts, and maps that might show, for example, how a specific candidate fared in mountainous areas that were the most secure or which candidates had more votes in areas where fraud was identified through the parameters of the audit and recount ordered by the ECC.

The website uses all open source software and makes the data easily available for download in CSV (comma-separated value) format from any filtered data set or map the visitor creates. This open data approach allows site visitors to use their own analysis tools, which provides additional levels of openness and transparency and seeks to become an example that may foster similar "open government" type initiatives around the world. By making this data publicly available, those involved in the Afghan political process, including government officials, political parties and domestic monitoring groups, as well as those in the international community can use the information to improve future elections.

The following are examples of analyses derived from the information available on this website.

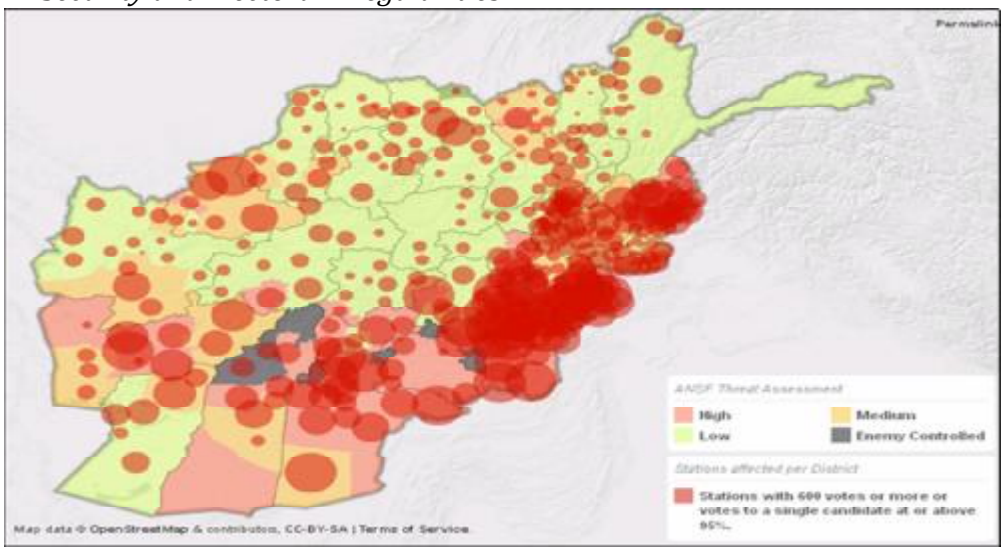
Frame 1: Polling Stations that met the ECC Audit Criteria



On September 8, the ECC ordered the IEC to conduct an audit and recount of polling stations nationwide that had vote totals equal to or greater than 600, or that had returns with any presidential candidate receiving 95 percent or more of the total valid votes cast, provided that more than 100 votes had been cast at the station. A total of 3,376 stations and over a million ballots came under this order.

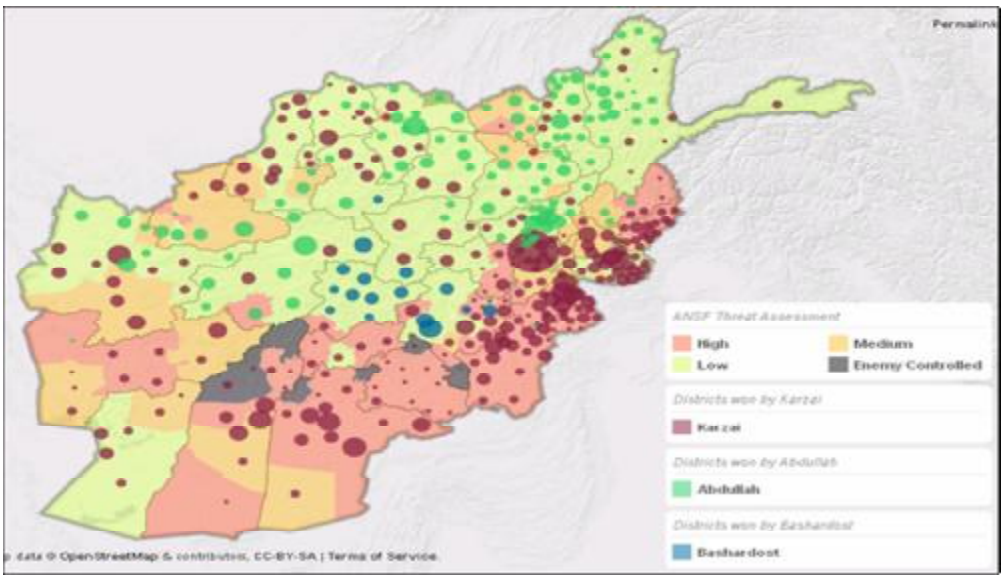
On this map, the orange circles represent the location and percentage of polling stations per district that met the audit criteria of 600+ votes or 95% returns for a single candidate.

Frame 2: Security and Electoral Irregularities



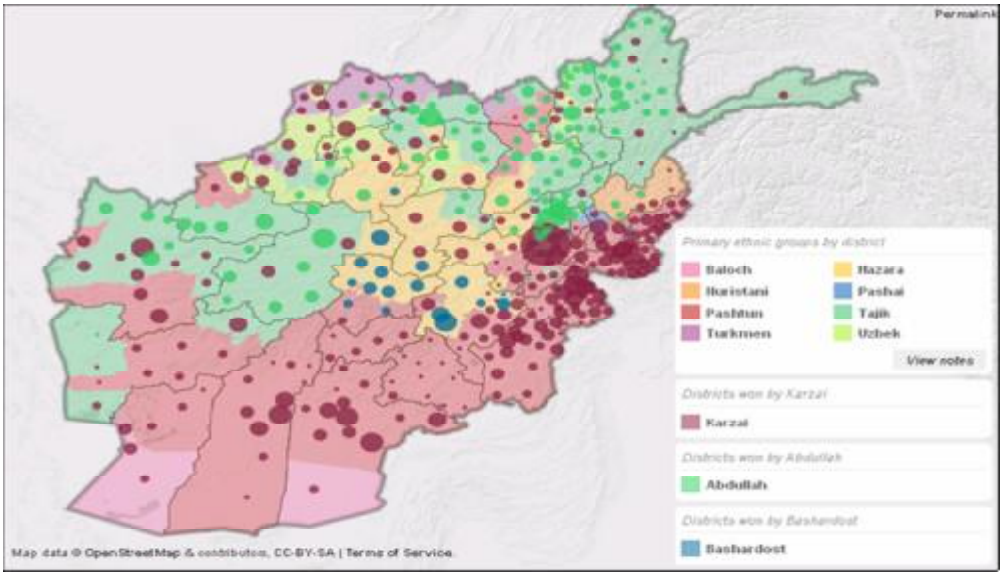
As NDI and other observer groups reported, the Afghan elections unfolded in different ways on polling day. In areas of the country with low to moderate threats of violence, the process was generally orderly. In areas that were less secure, where extremist violence disrupted voting and where observers could not go, the process was fraught with problems – including significant numbers of electoral irregularities.

Frame 3: Security and Candidate Performance



As described by the data on this map, Karzai was strongest in the least secure regions (south, southeast and east). Abdullah won in the areas of the country with less violence (north, central and west). Bashardost secured votes in the central region and pockets of the southeast – areas of the country with different security threat levels.

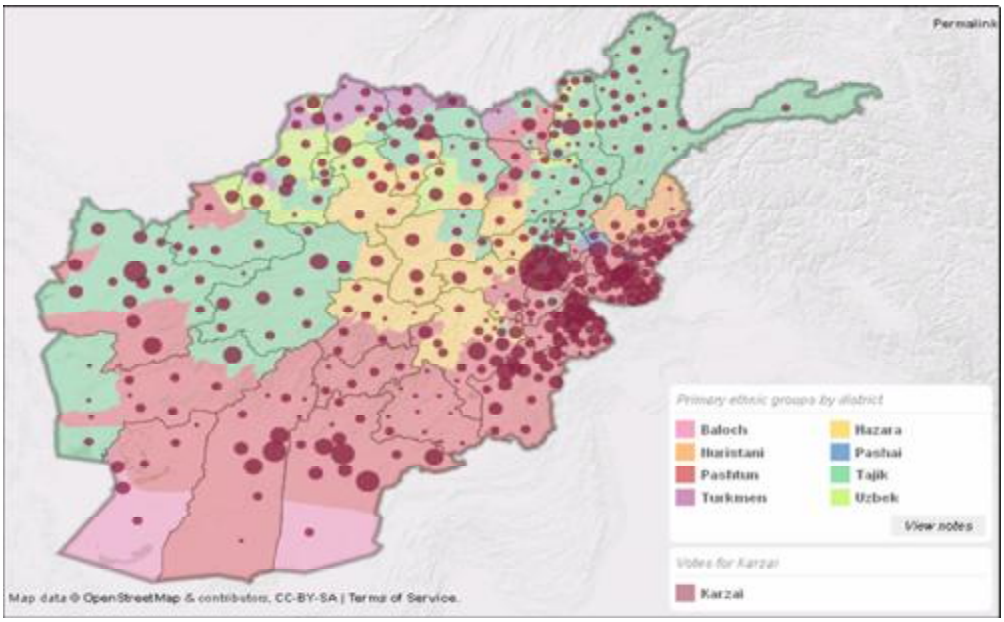
Frame 4: Electoral Race Outcomes – Performance of top candidates and ethnographic data



Given the electoral results, it may appear as though ethnic groups voted for the candidate of the same ethnicity. This map shows Karzai's wins in the Pashtun-majority areas, Abdullah in the Tajik-majority areas, Bashardost in the Hazara-majority areas.

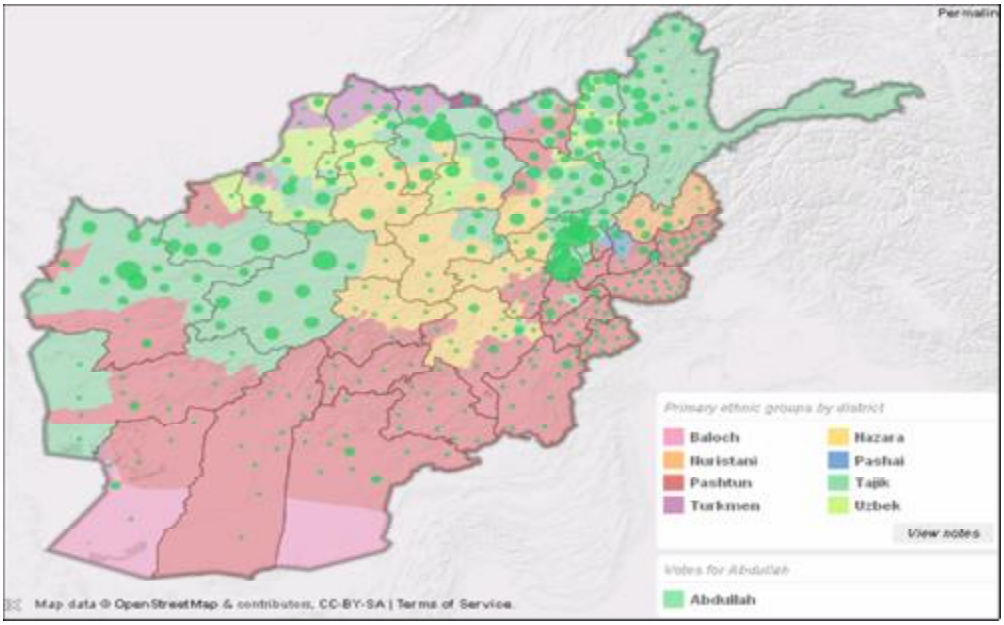
However, compare this to the following frames:

Frame 5: Electoral Race Outcomes - Votes for Karzai and ethnographic data



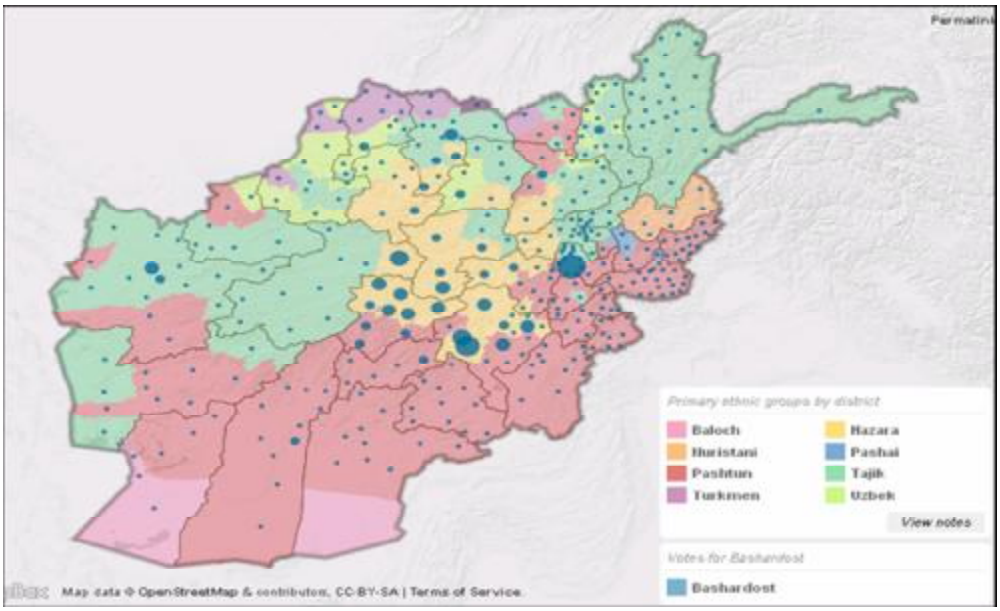
This frame shows votes that Karzai secured outside of Pashtun-majority areas.

Frame 6: Electoral Race Outcomes – Votes for Abdullah and ethnographic data



Electoral returns data shows that Abdullah garnered votes throughout the country – outside of the Tajik majority areas.

Frame 7: Electoral Race Outcomes – Votes for Bashardost and ethnographic data



Bashardost got votes outside of Hazara majority areas. One could relate this to the campaign that Bashardost ran – he traveled all around the country and organized campaign events in various regions.

XII. RECOMMENDATIONS

Given the findings of its comprehensive observation effort, NDI offered several recommendations at various phases of the 2009 electoral process.

<u>Issued on August 22, 2009</u>

A. Electoral Oversight and Preparation

1. The Wolesi Jirga should again review the manner of appointment for members of the IEC. Members of the IEC are now appointed by the President without legislative oversight. To help prevent the appearance or reality that commissioners are acting in a biased manner, a check on executive authority in the selection of commissioners is desirable and would be consistent with international best practices. In 2009, the Wolesi Jirga – the lower house of the National Assembly – presented legislation to the President calling for legislative involvement in the approval of election commissioners. The President did not approve the proposed law. Article 109 of Afghanistan's Constitution prevents the legislature from amending the Electoral Law during the last year of its legislative term, so it is too late for legislative action to affect the next election. However, in the longer term, the Wolesi Jirga should again launch a review of the law and the President should informally consult with the legislature on commission appointments prior to the 2010 elections.

2. An accurate voters' registry should be prepared. An accurate voters' list is an important means for preventing electoral misconduct and for assisting the IEC in preparing for the polls. There is widespread agreement, however, that the existing voter registry is grossly inaccurate; in some provinces, registered voters exceed total population estimates. The existence of large number of duplicate and counterfeit registration cards could seriously undermine public confidence in the electoral process.

3. A census of the population of Afghanistan should be conducted as soon as possible. Accurate population figures are needed to properly allocate seats in legislative assemblies, demarcate district boundaries as well as to assist officials in planning for development programs and help electoral officials make arrangements for elections. Annex III of the Bonn Agreement of 2001 requests the United Nations to conduct a census as soon as possible. A census, however, has not been conducted; though one was planned in 2008, it was indefinitely postponed due to security concerns. Currently, population estimates are prepared by Afghanistan's Central Statistics Office.

4. The international community, in partnership with the Afghan government, should immediately begin preparing for the next election cycle. Little was done between 2005 and 2009 in preparations for the 2009 elections. Funding gaps and delays affected the implementation of electoral preparations, including the recruitment and training of election personnel, voter education projects, and support for the ECC. Given the impending date of the 2010 parliamentary elections, planning should begin immediately, taking into consideration lessons learned in 2009 and previous elections.

B. Electoral Design and Conduct

5. The IEC should improve the staffing of women at registration and polling centers. The IEC had difficulty recruiting female staff for registration and polling centers. As the 2009 election approached the IEC indicated it had female staff at only 30 percent of the polling stations allocated for women. Since it is considered culturally insensitive for women to confirm their identity to a male, the presence of female staff at registration and polling sites is critical in protecting the right of women to participate in the electoral process.

6. All candidates for elections should be strongly encouraged to participate in ECC programs explaining campaign regulations and the complaints process. Many candidates do not have sufficient knowledge of the electoral process and this deficit results in violations of the election law or the withdrawal of candidates late in the elections process. A better understanding of the roles and responsibilities could better prepare candidates upon launching their campaigns.

7. An independent commission should be established to organize candidate debates. Three debates were held for the presidential candidates in the lead-up to the 2009 elections. These debates were organized by individual news media

organizations. Unfortunately, the participation of all the candidates did not take place in the two televised debates. Establishing an independent commission would increase the candidates' confidence in the impartiality of the debates and secure broader participation.

8. The IEC and the ECC should receive adequate funding to initiate programs to train and retain their staffs. As the 2009 elections approached, the IEC and the ECC had many new staff members who had no previous experience in election administration. In addition, funding for election administration was received late in the elections cycle, leaving little time to plan and implement training programs. Planning for the 2010 elections should begin immediately and this will require that the international community and the Afghan government provide needed resources to both organizations as soon as possible.

9. Funding for voter education should be increased and greater efforts are needed to reach women voters. The IEC conducted an extensive voter education campaign, involving religious leaders, mock ballots and television and radio promotion. However, voter education often did not reach many people living in remote rural areas; these regions have the least access to the news media and are often not reached by their messages. In addition, the IEC was unable to recruit female staff, especially in the least secure areas of the country.

10. A clear deadline for the withdrawal of candidates should be established. The 2009 elections saw candidates withdrawing close to Election Day; too late for the candidate to be removed from the ballot. This resulted in considerable confusion as to how the votes cast for that candidate will be handled at the polling station and the national tally center. Establishing a clear timeline would help to eliminate the uncertainty surrounding candidate withdrawal.

11. The Wolesi Jirga should review alternatives to the Single Non-Transferable Vote system. As in the past legislative elections, in the 2009 provincial council elections the SNTV system produced a large number of candidates. While the SNTV system has the advantages of being relatively easy to administer and provides an opportunity for independent candidates it also has several disadvantages; it results in a very low threshold for election (in the past legislative elections a candidate could win a seat in Kabul with less than one percent of the vote) and discourages the participation of political parties. Although it is too late to seek changes for the 2010 elections, a review of the appropriateness of the SNTV system should be high on the agenda for the next session of the legislature.

12. The ECC should be reconstituted as soon as possible following the 2009 elections and provided with the resources needed to prepare for next year's Wolesi Jirga elections. The Electoral Law requires that the ECC discontinue its work no later than 30 days following the certification of election results. The ECC had inadequate time to prepare for the 2009 elections and was unable to properly train its staff and inform the public concerning the complaints process well in advance of the elections. In order for the ECC to sufficiently prepare for next

year's Wolesi Jirga elections it should be immediately re-established, receive adequate funding and commence its work.

C. The Role of the Media

13. A new media law should be adopted providing for the independence of government operated media. The Afghan government should transform Radio Television Afghanistan (RTA) into a responsible public service broadcaster available countywide and dedicated to public affairs programming. Its program content should reflect the diversity of Afghanistan's regions and people. Its independence should be ensured along the lines proposed in the media law that was adopted by the Wolesi Jirga in 2008, but not signed into law by the President.

14. The IEC, ECC and Media Commission should enforce the Media Code of Conduct. The Media Code of Conduct states that the IEC, ECC and the Media Commission can impose sanctions and take other major steps for any violation of code provisions, including those that specify impartiality, accuracy, fairness and equity. These bodies should take strong action and impose sanctions and appropriate measures for all media, including state-run media, that violate the code.

D. Security

15. Security planning should commence immediately for the 2010 elections. The issue of security has shaped many aspects of Afghanistan's 2009 elections process—from the ability of candidates to campaign throughout the nation to the ability to recruit and deploy IEC staff, domestic election monitors and international observers, and to secure the right of women to fully participate in the political process. Planning for the security needed for the upcoming parliamentary elections will require the cooperation of the Afghan army, police, and appropriate ministries, as well as the international community. Enhancing security measures will be critical for the success of next year's elections and improving the nation's stability.

16. The IEC should undertake a security assessment of all polling center locations and periodically review security as the elections approach. The IEC did not undertake a comprehensive review of all polling center locations until late in the 2009 elections cycle. Better preparation is needed to help ensure that security arrangements are appropriate for each site and that there is adequate time to recruit polling officials.

17. The Afghan National Security Forces (ANSF) should be the sole providers of security for polling sites. The proposed use of militias in the 2009 elections was controversial. There is a lack of transparency in how these proposed militias would function and a lack of clarity regarding their relationship with other security forces, such as the Afghan army, police or the international military forces.

Issued on October 21, 2009 – in the lead up to the runoff

While NDI's post-election statement proposed a series of recommendations to improve procedures for elections in future years, the Institute highlighted steps that could be taken that would have an impact on the runoff. These included the following measures:

- Security by the Afghan police and army and international forces should be enhanced so that secure voting areas are expanded. For the August 20 balloting, more than 10 percent of all polling sites were closed due to a lack of security.

- To eliminate so-called "ghost" polling stations, no ballots should be sent to polling centers that are not secured by Afghan security forces and adequately staffed by IEC.

- Polling centers that experienced fraud during the Aug. 20 election should receive targeted IEC scrutiny on election day and during the counting process. The targeted assistance could include additional personnel from outside the area who are less likely to be susceptible to local pressures.

- Planning should begin immediately to ensure that sufficient staff from the IEC and the ECC are available for the voting, tabulation and complaint process, including female staff.

- Both candidates should make forceful public statements, as well as give instructions to their supporters, that no one should commit fraud or allow fraud to be committed on their behalf.

- The agents of both candidates, as well as domestic and international observers, should be ensured full access to all levels of election administration.

Issued on November 3, 2009 – after the IEC announcement that a runoff would not be held

High-Level Review is Needed for Afghan Electoral Reform

While the IEC announced on November 2 that a presidential runoff is not required, the systematic and widespread fraud that deeply marred the 2009 Afghan electoral process remains unaddressed. A rigorous and impartial inquiry by noted international and Afghan experts concerning the failures in the 2009 election process is needed to reduce tensions, establish credibility for future Afghan elections and reinforce the legitimacy of the Afghan governing institutions and the effectiveness of international electoral assistance.

Afghans deserve a full account of the vulnerabilities that allowed the fraud to take place, identification of those who were responsible for the failures, as well as the fraud, and an appraisal of reforms that are required to prevent a recurrence in the

2010 parliamentary (*Wolesi Jirga*) and future elections. A formal review should not only examine the nature of flaws and failures, it should offer recommendations for reform that, if adopted, could secure authentic elections in the future and build Afghan confidence in the country's political institutions.

A recent example of such an inquiry is the Independent Review Commission on Kenya's 2007 flawed presidential election, commonly known as the "Kriegler Commission" (named after the Commission's Chairman, former South African Constitutional Court Justice Johann Kriegler). Mediation by former UN Secretary-General Kofi Annan, which ended Kenya's tragic post-election violence, led to the formation of that commission. The Kriegler Commission included noted Kenyan and international experts and had a broad mandate to examine all relevant actors and processes surrounding the elections and to recommend electoral reforms, including constitutional, legislative, operational and institutional aspects, as well as accountability mechanisms and other measures it deemed necessary. The Afghan people deserve a similar inquiry and related actions to guarantee that their will is respected in elections and genuine representative governance is ensured.

The IEC should thoroughly evaluate to what degree fraud may have affected Afghanistan's provincial council elections, which were also held on August 20. Afghan electoral contestants and domestic election monitors documented fraud in these polls, and the Electoral Complaints Commission reviewed over 2,000 complaints and examined a sample of suspicious ballot boxes, finding that no presidential candidate passed the 50 percent threshold. That led to the IEC's determination that a runoff was required. Some actions were taken to reduce the potentials for fraud in the runoff, scheduled for Nov. 7, although a full stocktaking and major reforms were not carried out.

If decisive actions are not taken to tackle the corruption in the 2009 election process, the 2010 parliamentary and other elections will remain at risk. In that case, the ability to govern the country will be undermined by the very processes that are designed to provide the legitimacy of government. Unless reforms are identified and instituted, the credibility of, and public confidence in Afghan elections and governance will likely erode further.

Political will among Afghans and the international community is required for an effective mandate and adequate resources to produce a report and recommendations that will benefit the 2010 parliamentary and future elections. The time needed for the review should not preclude necessary, immediate changes, including measures that would ensure the impartiality and effectiveness of the IEC. The scheduled 2010 elections should remain on track as the review progresses.

APPENDICES

APPENDIX A

NDI 2009 Election Observation Mission (EOM)
Presidential and Provincial Council Elections in Afghanistan
Mission Personnel

Country Operations, Chief of Party	Susan Carnduff
EOM Director	Paul Rowland
EOM Long-Term Observation and Reporting Coordinator	Brian Bennett
EOM Election Day Coordinator	Laura Grace
EOM Program Support	Mohammad Daoud Kohi Mohammad Naeem
Country Operations, Resident Director for Security	Henry Maranon
EOM Security and Operations Manager	Adib Faris
Country Operations, Resident Director for Finance and Administration	Tara Stone
EOM Finance Support	Angela Cromwell Michael Taginski
EOM Administrative Support	Stephanie Mylnar Munib Zuhoori Najib Wahili Massoud Ashraf Mohammad Jawad Tess Pantow Luke Wagner
EOM Leadership Delegation Liaison	Anne Tsai Bennett
EOM Leadership Delegation Operations Support	Daniel Reilly
EOM Media Liaison	Kathy Gest
Country Program and Grant Management	Raissa Tatad-Hazell

Thematic Analysts, First Round of Elections

Election Administration and Electoral Complaints	Stefan Coman
Security and Electoral Violence	Christine Fair
Women's Participation in the Electoral Process	Kristin Haffert

Regional Observer Teams, First Round of Elections

North Region

Long-term observation of developments in Balkh, Jowzjan, Sari Pul, Faryab and Samangan
Election-day observer presence in Balkh, Jowzjan, Sari Pul, Faryab and Samangan
Long Term Observers (based in Balkh): Ajay Patel, Angela Swayze, Aziz Ahmad, Haroon Khalil
Election Day Observers: Fawad Khuram, Ferozuddine, Neggina, Shamsuddine, Hayatullah, Rohullah, Feriba Akbari, Sadiah, Said Karim, Friba Sabah, Habibullah

Northeast Region

Long-term observation of developments in Kunduz, Baghlan, Badakhshan and Takhar
Election-day observer presence in Kunduz, Baghlan, Badakhshan and Takhar
Long Term Observers (based in Kunduz): Andrew Bennett, Maud Nyamhunga, Nastratullah Yarash
Election Day Observers: Ghullam Habib, Sukrullah, Mohammad Asef, Sabour, Ghulam Rasol, Ghullam Hazrat, Gullalai, Khatera, Nasima, Humaira

Central Highlands Region

Long-term observation of developments in Bamiyan and Daikundi
Election-day observer presence in Bamiyan
Long Term Observers (based in Bamiyan): Mohammad Amin Joya, Mohammad Hassan Paiwand
Election Day Observers: Musa Shafiq, Mohammad Naim Karimi, Rukhsara, Sima

Kabul/ Central Region

Long-term observation of developments in Parwan, Panjshir, Kapisa, Wardak, Logar, Ghazni, and Kabul. Election-day observer presence in Parwan, Panjshir, Kapisa and Kabul
Long Term Observers (based in Kabul): Jeffrey Olsen, Jasenka Djakovic, Devin O' Shaughnessy, Yousuf Rashid
Election Day Observers: Abdul Wahid, Hamed Dostzada, Syed Hadi Mosavi, Abdullah Frotan, Mohammad Reza Farhang, Mohammad Yasin Elham, Abdul Bari, Ahmad Shah Ejtemayee, Abdul Latif Shafiq, Sanaullah Moheb, Mohammad Fahim Samadi, Fardin Azimi, Mohammad Osman Adil, Zabiullah, Said Jan Saidzada, Khalid Ahmad Hussaini, Zahra Hussaini, Zahra Naveed, Shokria Kazimi, Farhad Taqdosi, Roqia Hashimy, Nilofer Niazmand, Gulghotai Subhanzada, Zuhra Mohebzada, Zakia Binawa, Mohammad Neik Kabuli, Mohammad Daoud Kohi, Mohammad Naeem, Shekiba Broumand

West Region

Long-term observation of developments in Herat, Nimroz, Badghis, Farah and Ghor
Election-day observer presence in Herat
Long Term Observers (based in Herat): Luis Maria Duarte, Karla Jamankulova, Mohammad Shafiq, Masood Husseni
Election Day Observers: Sayed Jamal Zekri, Nimatullah Joya, Gh. Hassan Mairo, Abdul Hamid Noor, Wais Kakar, Abdul Sami Mahmood, Karima Tolo, Bolqis Neekzad, Ayesha Farid, Sima Farhonda

East Region

Long-term observation of developments in Nangarhar, Kunar, Laghman and Nuristan
Election-day observer presence in Nangarhar and Laghman
Long Term Observers (based in Nangarhar): Andy Campbell, Sandra Gale, Omaid Abdaini, Mohammad Asif Jalazai
Election Day Observers: Siad Jan, Khushal, Imran Danish, Mohammad Kabir, Mohammad Enam, Ajmal Hashimi, Asifa Allahyan, Sana, Sahra, Dr. Obidulrahman

Southeast Region

Long-term observation of developments in Khost, Paktia and Paktika
Election-day observer presence in Khost
Long Term Observers (based in Khost): Abdul Mateen Zadran, Ehsamullah,
Election Day Observers: Mir Qadim, Mir Habib Shah, Mohammad Khan, Safia Safa, Aogay, Haidary

South Region

Long-term observation of developments in Kandahar, Helmand, Zabul and Uruzgan
Election-day observer presence in Kandahar
Long Term Observers (based in Kandahar): Janashah Separ, Mohammad Nawaz
Election Day Observers: Ubaidullah Bakhtyalli, M. Ebrahim Mohseni, A. Ahad Faraz, Zakia Barkzia

Leadership Delegation

Gary Hart	Former U.S. senator (D-Colorado)
Karl Inderfurth	Former U.S. assistant secretary of state for South Asian affairs
John Manley	Former deputy prime minister and foreign minister of Canada
Nora Owen	Former minister of justice of Ireland
Karin von Hippel	Co-director of the Post-Conflict Reconstruction Project and senior fellow at the Center for Strategic and International Studies
Jamie Metzl	Executive vice president of the Asia Society
Kenneth Wollack	NDI President
Peter Manikas	NDI Director for Asia programs

Internal Call Center for NDI Election Day Observers, First Round of Elections

Team Alpha***: Coverage for the North and Capital Regions***

Team Leader: Rishi Datta

Members: Mohammad Hadi Mahmoodi, Borran Khwaya Akbar, Mirwais Alekozai, Mariam Pirzad, Abdullah Sadat, Farhad Ebrahimi, Ali Yawar Adili, Mohammad Kushal Nasrat, Ahmad Javed , Tara Stone

Team Bravo***: Coverage for the Southern and Eastern Regions***

Team Leader: Devin O' Shaughnessy

Members: Yousof Rashid, Sulaiman Syed Mustafa, Deana Sultanzada, Shafiq Danish

Team Charlie***: Coverage for the Central and Western Regions***

Team Leader: Brian O'Day

Members: Saber Daqiqi, Shams Rasikh, Rasool Ehsany

Thematic Analysts, (Cancelled) Runoff Elections

Election Administration	Ajay Patel and Mohammad Naeem
Security and Electoral Violence	Andy Campbell and Henry Maranon
Women's Participation in the Electoral Process	Jasenka Djakovic and Shekiba Broumand

Regional Analyst Teams, (Cancelled) Runoff Elections

North Region ***(Balkh, Jowzjan, Sari Pul, Faryab and Samangan)***

NDI Kabul office based analysts: Brian O'Day, Mohammad Daoud Kohi, Mohammad Hadi Mahmoodi
NDI Balkh office based analyt: Danish Danishwar
In-region observers: Haroon Khalili, Sayed Karim, Shamsuddin, Habibullah

Northeast Region ***(Kunduz, Baghlan, Badakhshan, Takhar)***

NDI Kabul office based analysts: Sandra Gale, Rasool Ehsany
NDI Kunduz office based analysts: Dr. Haroon Nasrat, Wahidullah Bek
In-region observers: Nasratullah Yarash, Mir Faizudin Saboor, Mohammad Asif, Gulalay Rahim

Central Highlands Region ***(Bamyan, Daikundi)***

NDI Kabul office based analysts: Luis Maria Duarte, Shams Rasikh
NDI Bamiyan office based analyst: Jawad Hakimi
In-region observers: Hassan Paiwand, Musa Shafaq, Nargis, Mohammad Younus

Kabul/ Central Region ***(Parwan, Panjshir, Kapisa, Wardak, Logar, Ghazni and Kabul)***

NDI Kabul office based analysts: Devin O' Shaughnessy, Yousuf Rashid, Borran Khwaja Akbar, Abdul Latif, Khalid Hussaini

West Region ***(Herat, Nimroz, Badghis, Farah, Ghor)***
NDI Kabul office based analysts: Luis Maria Duarte, Shams Rasikh
NDI Herat office based analysts: Aziz Samim, Fazily
In-region observers: Shafiq Habibi, Ghulam Hassan Majrooh, Abdul Hamid Noor, Ayesha Raid

East Region ***(Nangarhar, Kunar, Laghman, Nuristan)***
NDI Kabul office based analysts: Sandra Gale, Rasool Ehsany
NDI Nangahar office based analysts: Haji Yousuf Aleozai, Sharifullah
In-region observers: Najibullah Kotwal, Sayda Jan, Dr. Ubaid-ur-Rahman, Mohammad Inam Hanif

Southeast Region ***(Khost, Paktia, Paktika)***
NDI Kabul office based analysts: Andy Campbell, Yousuf Rashid, Khushal Nasrat
NDI Khost office based analysts: Dr. Mandozai
In-region observers: Abdul Mateen Zadran, Mir Habib Shah, Mir Qadim, Safia

South Region ***(Kandahar, Helmand, Zabul, Uruzgan)***
NDI Kabul office based analysts: Andy Campbell, Yousuf Rashid, Khushal Nasrat
NDI Kandahar office based analysts: Haji Sateh, Noor Nawaz
In-region observers: Abdyl Wajid, Zakia Barakzai, Ubaidullah Bakhtyalai, Ibrahim Mohsini

NDI Afghanistan Country Office – General Mission Support

Administration	Abdullah Sadat, Arash Amiry, Omid Sayed Amiri, Khalid Ramz
Finance	Sulaiman Syed Mustafa, Mariam Pirzad, Deana Sultanzada
Information Technology	Farhad Ebrahimi, Najib Wahili
Security and Transport	Mukhtar Safari, Haroon Wahidi
Translation Department	Ali Yawar Adili, Shafiq Danish

APPENDIX B

VOTER REGISTRATION

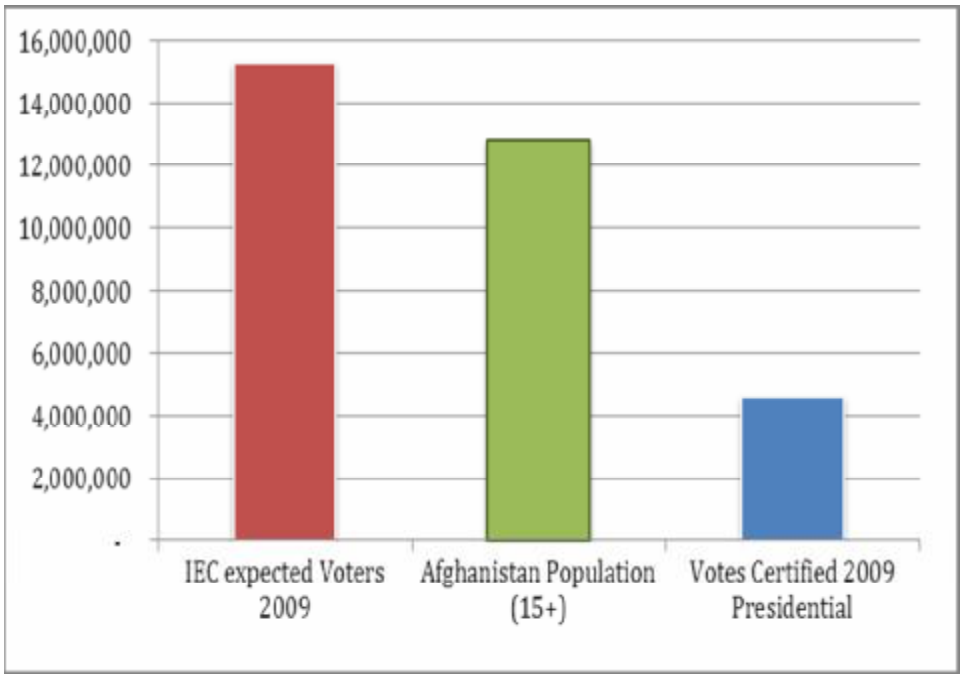
Total Voters Estimated by the IEC[69]
15,295,016

Afghanistan Population (15+)[70]*
12,839,600[71]

Total Afghanistan Population[72]
24,960,100

New Registrants (Aug 2008 – Feb 2009)
4,720,906

New Female Registrants
1,675,596



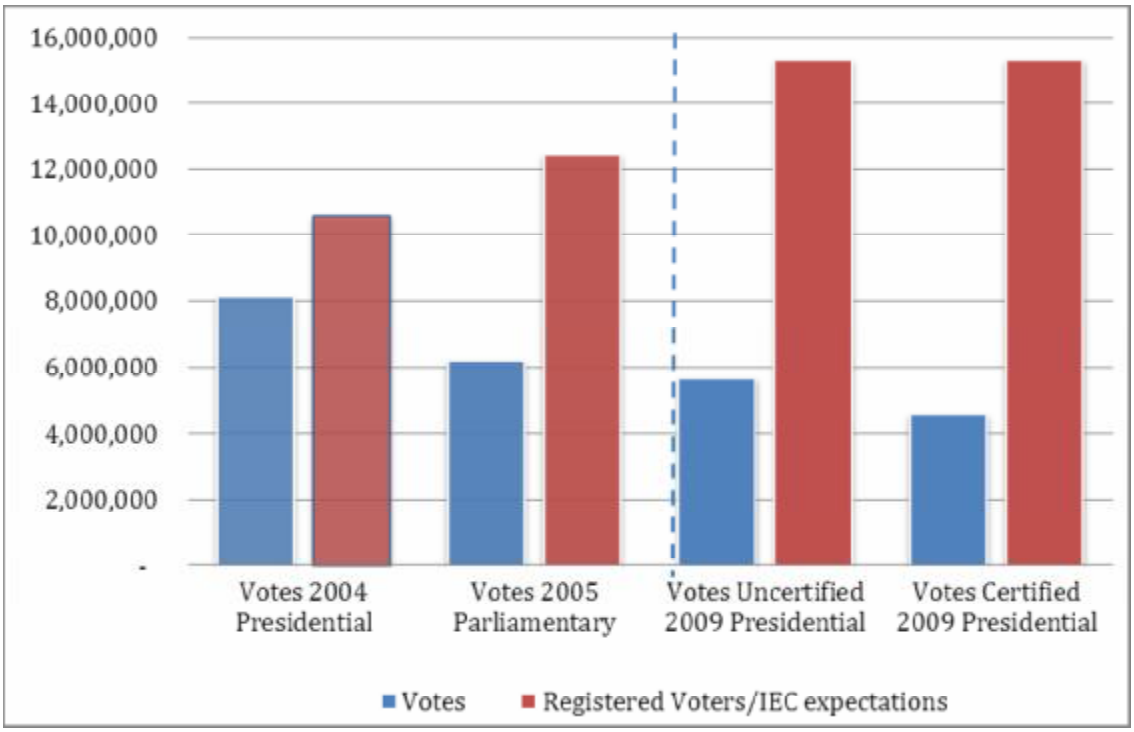
*note: Afghan Voter Age: 18+ years[73]

[69] IEC Press Release, September 16, 2009
[70] 2007/8 National Risk and Vulnerability Assessment
[71] 51% of total population
[72] 2007/8 National Risk and Vulnerability Assessment
[73] Electoral Law of the Islamic Republic of Afghanistan

APPENDIX C

HISTORICAL TURNOUT

Election	Votes	Registered
Votes 2004 Presidential	8,128,940	10,567,834
Votes 2005 Parliamentary	6,208,062	12,443,231
Votes Uncertified 2009 Presidential	5,662,758	15,295,016
Votes Certified 2009 Presidential	4,597,727	15,295,016

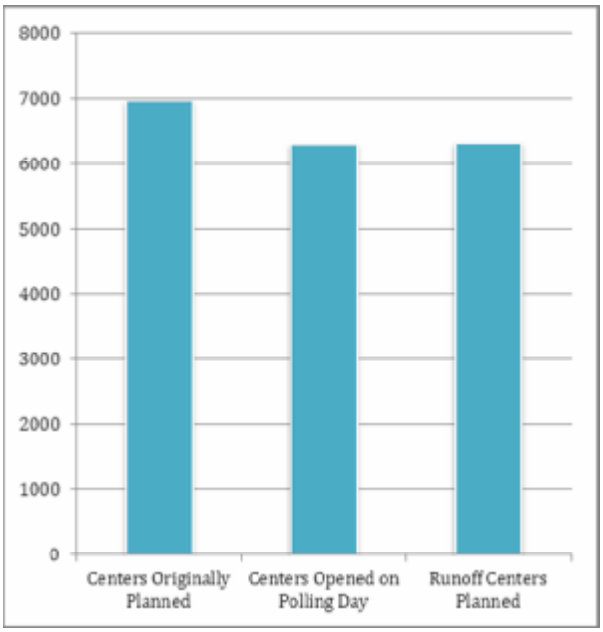


APPENDIX D

POLLING CENTERS AND STATIONS

Originally the IEC Planned:[74]

Estimated Voters	15,293,015	
Total Centers	6,970	
Total Stations	28,679	
Male Stations	15,781	55%
Female Stations	11,550	40%
Kuchi Stations	1,348	5%

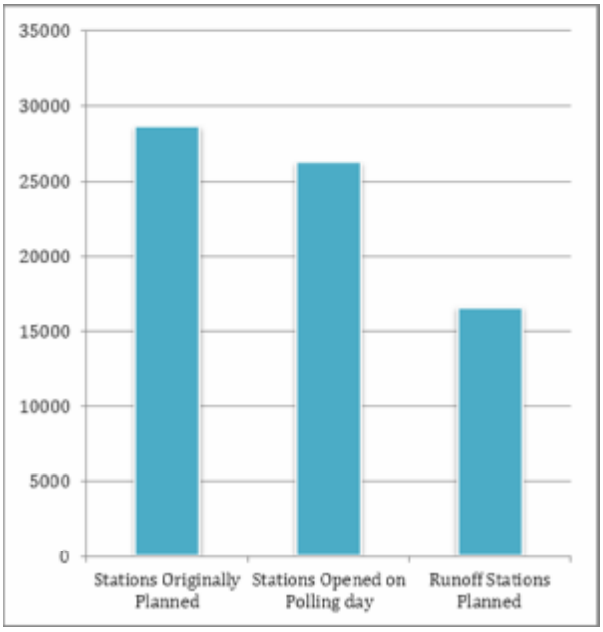


Revised pre-Election Day Plans:

Estimated Voters	15,293,015
Total Centers	6,970

Opened on Election Day:[75]

Estimated Voters	13,977,364	
Total Centers	6,306	
Total Stations	26,275	
Male Stations	14,441	55%
Female Stations	10,720	41%
Kuchi Stations	1,130	4%



Failed to Open on Election Day:[76]

Total Centers	216
Total Stations	824
Total Voters Expected to Have Voted at Closed Stations	414,177

[74] IEC Original Master List, 9 July 2009
[75] IEC Master List released post-election
[76] *Ibid*

These figures were contradicted on September 16, 2009, when the IEC released the Uncertified Results.[77]

IEC stated they had originally planned:

Estimated Voters	15,295,016	Difference: 2,001
Total Centers	6,970	
Total Stations	26,877	Difference: 1,802

IEC stated the Revised Election Day Plan (due to security situation) included:

Total Centers	6,210
Total Stations	24,183

IEC stated that on Election Day the following ***did not*** open, due to security incidents:

Total Centers	760
Total Stations	2,694

Opened, but materials destroyed

Total Centers[78]	6

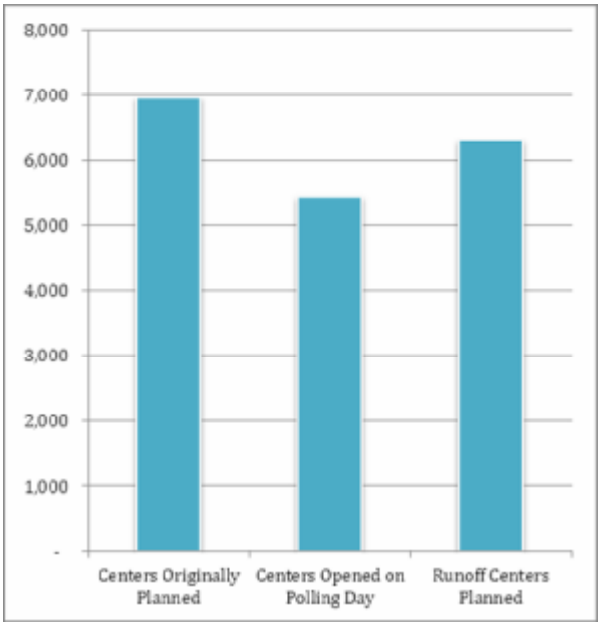
IEC stated they had "therefore" received results from:

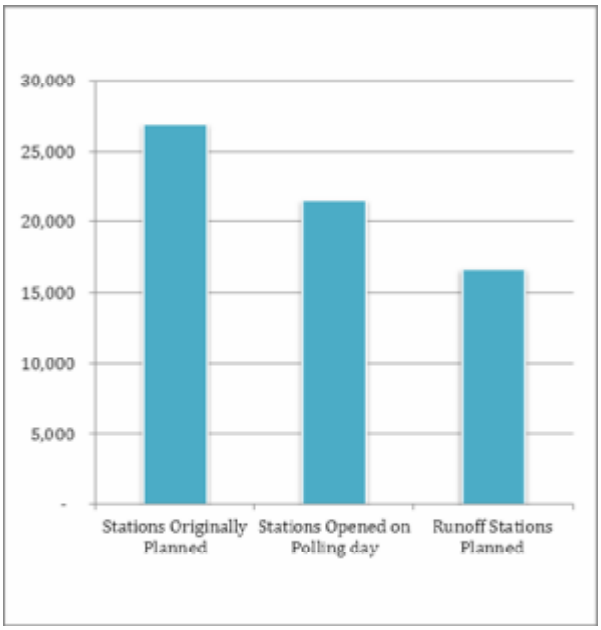
Total Stations	23,893

In the September 16 statement, the IEC did not state the total stations and centers opened, but:

	Stations	Centers
(revised plan)	24,183	6,210
(closed due to security)	2,694	760
(destroyed)	Unknown	6
	21,489	5,444

*Note: The number of Polling Centers closed due to security (760) subtracted from the original number of Centers planned (6,970) is equal to the number of Centers indicated in the revised plan (6,210)





[77] IEC Press Release, 16 September 2009

[78] These Centers were located in Balkh, Herat, and Wardak

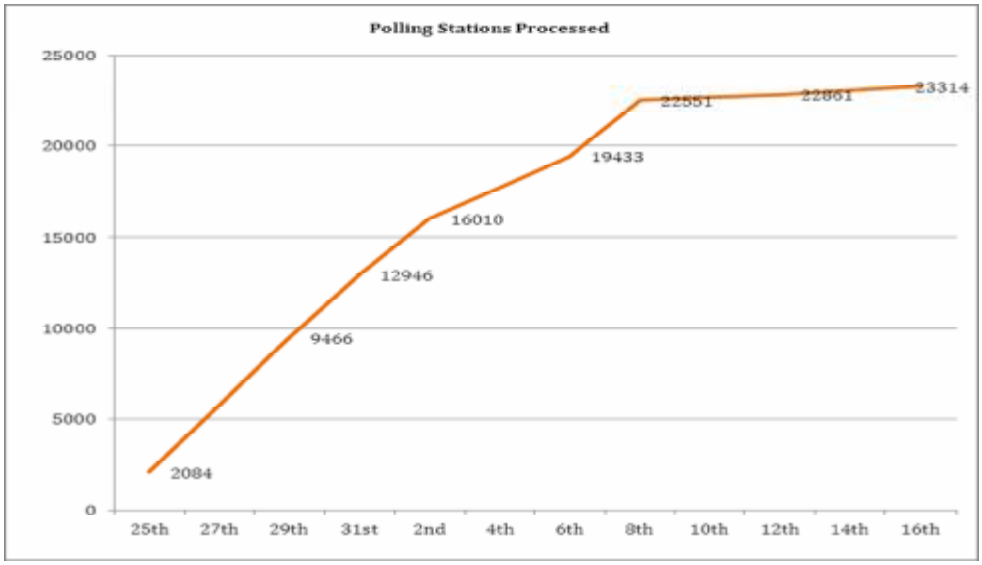
APPENDIX E

PRESIDENTIAL ELECTION: THE TALLY AND THE RESULTS

Polling took place on:	August 20	
The Tally began the following day, on:	August 21	
The Audit was announced on:	September 8	
The Uncertified Results were released on:	September 16	
The Tally took:	27 days	(all inclusive)

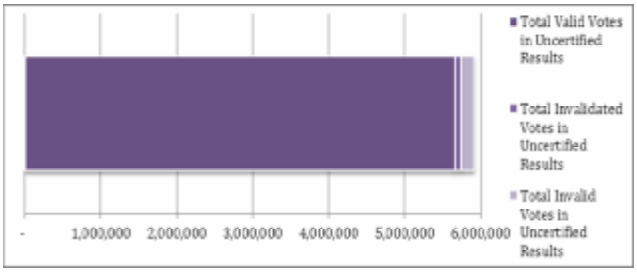
During this period, the IEC released 7 progressive sets of results prior to the final uncertified results

The final certified results were released 34 days later, on:	October 20	
Certification took:	35 days	(all inclusive)
In total, the Round One process lasted:	62 days	



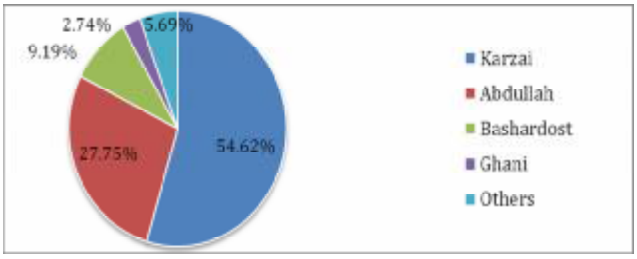
Uncertified Results

Total Centers	5,983	
Total Stations	23,314	
Total Valid Votes	5,662,758	
Total Invalidated Votes	82,783	1.4%
Total Invalid Votes	173,200	2.9%
Total Votes	5,918,741	
Stations with Zero Votes	425	



IEC Total Uncertified Valid Ballots

Candidates	*Votes*	
Karzai	3,093,256	54.62%
Abdullah	1,571,581	27.75%
Bashardost	520,627	9.19%
Ghani	155,343	2.74%
Others	*321,951*	*5.69%*
Total	5,662,758	

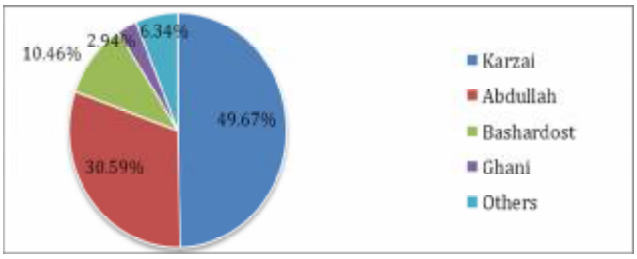


Certified Final Results

IEC Total Certified Ballots	4,597,727	
Total Invalidated Votes	68,638	1.4%
Total Invalid Votes	156,725	3.2%
Total Votes	4,823,090	

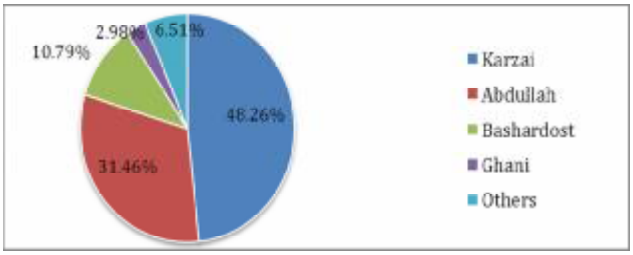
Candidates	*Votes*	
Karzai	2,283,907	49.67%
Abdullah	1,406,242	30.59%
Bashardost	481,072	10.46%
Ghani	135,106	2.94%
Others	*291,400*	*6.34%*
Total	4,597,727	

Net Votes Reduced from Uncertified Results	1,065,031	19%



NDI Estimated Calculation of Final Results after Audit

Candidates	*Votes*	
Karzai	2,106,492	48.26%
Abdullah	1,373,126	31.46%
Bashardost	471,056	10.79%
Ghani	129,978	2.98%
Others	*284,138*	*6.51%*
Total	4,364,790	

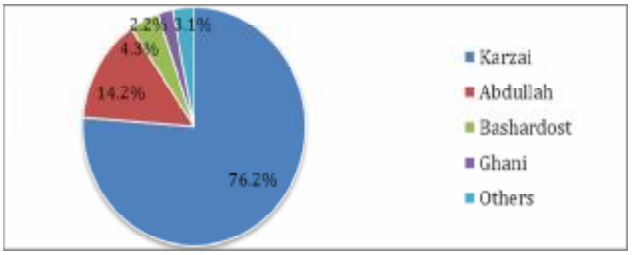


These estimates were made using NDI's calculations of the co-efficient, and are marginally different from the ECC's.

The estimate does not compensate for unknown quantities of Quarantined Stations. The ECC estimated these to equate to 20,000 votes.

Vote Discrepancy Between NDI Estimates and Certified Results

Candidates	*Votes*	
Karzai	177,415	76.16%
Abdullah	33,116	14.22%
Bashardost	10,016	4.30%
Ghani	5,128	2.20%
Others	*7,264*	*3.12%*
Total	232,939	



APPENDIX F

WOMEN PRESIDENTIAL CANDIDATES

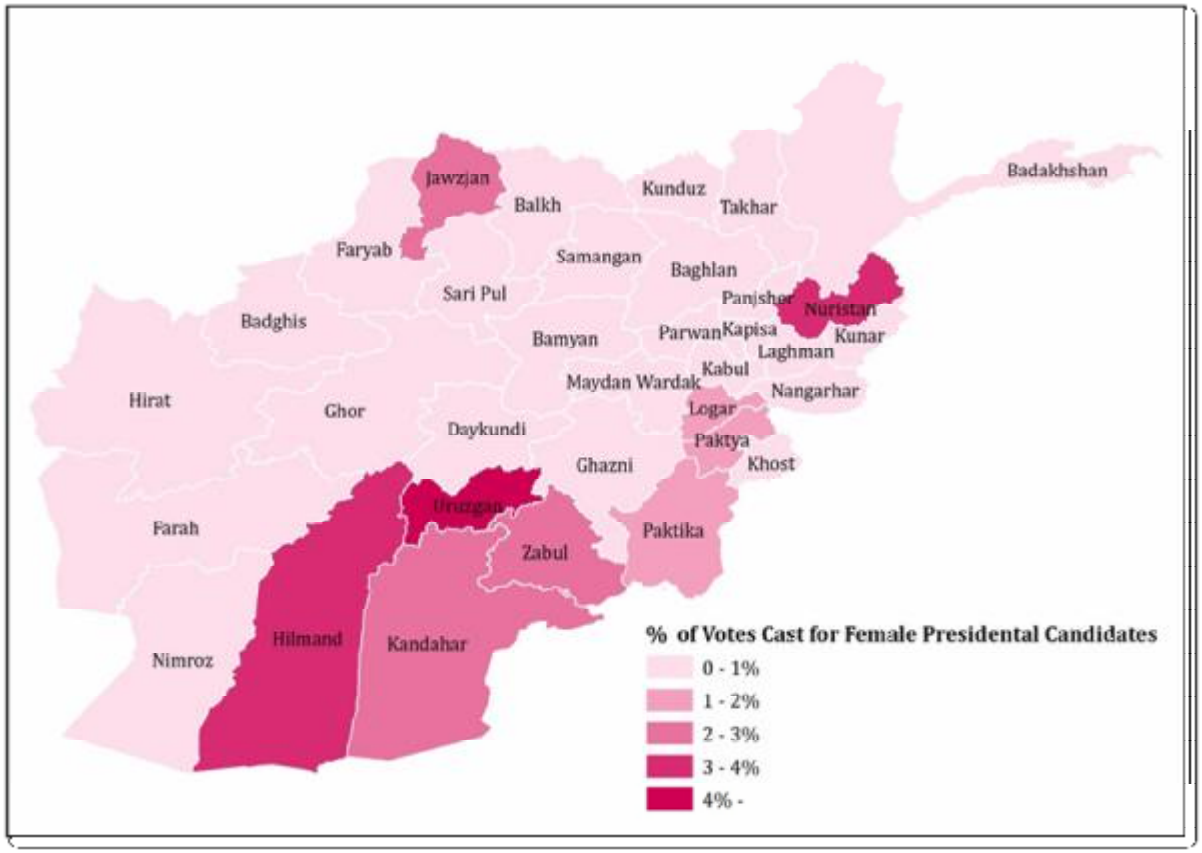
Two women candidates participated in the 2009 presidential race. Combined, they won 29,270 votes (0.73%) in the initial uncertified results (prior to audit and quarantine) and 32,199 (0.70%) votes in the final certified results.

In the final certified results, these candidates ranked 7th and 14th out of the 32 candidates. Dr. Fozan Fana won 19,544 votes in the uncertified results and 21,512 votes in the certified results. Mrs. Shahala Ata won 10,176 votes in the uncertified results and 10,687 in the certified results.

Where Votes for Women Candidates Came From

Using the gender allocations given to NDI by the IEC and the certified results, it would appear that both genders are equally likely to cast their votes for female candidates.

	Male Stations	Female Stations	Kuchi Stations
Votes Cast for Female Candidates	61.42%	36.44%	2.14%



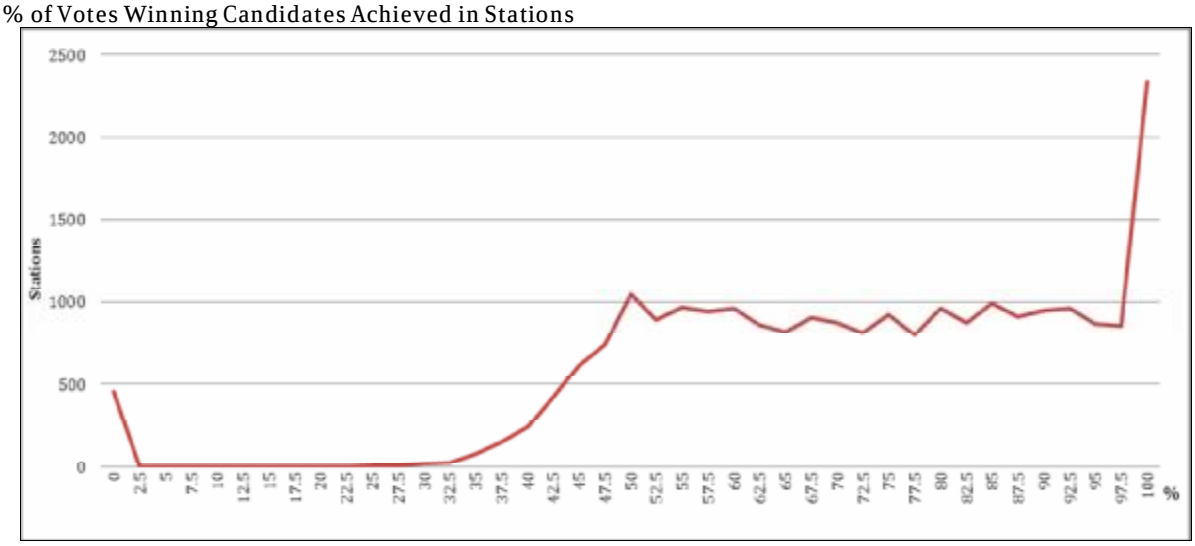
APPENDIX G

DETECTING ELECTORAL IRREGULARITIES

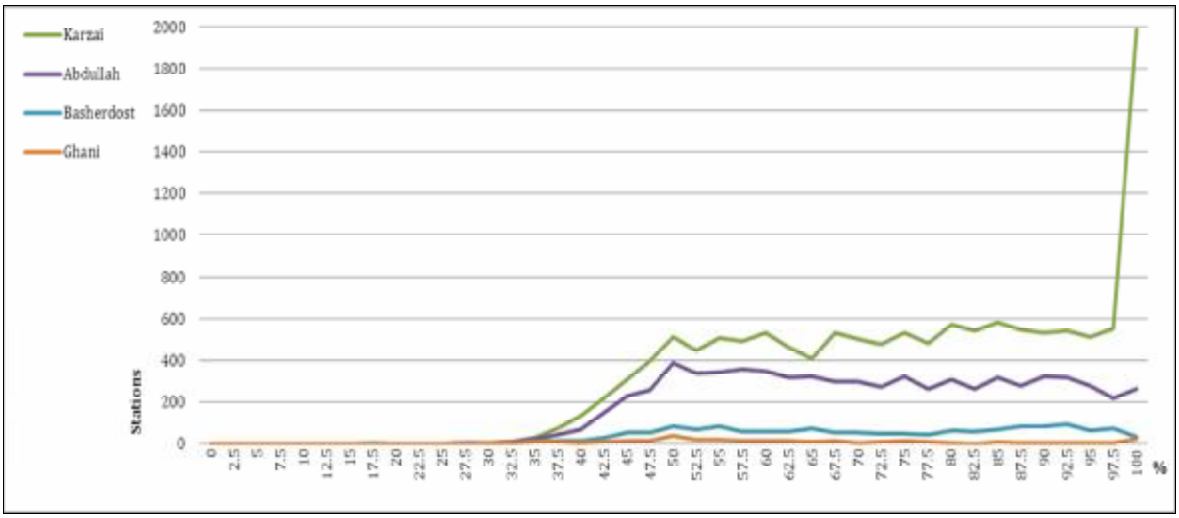
In the graph below, the frequency of different winning percentages by leading candidates at the polling station level is plotted. One can see that there is a fairly uniform distribution of winnings above 50% until the last bracket, 97.5% and above. Here, the number of stations won at this level spikes dramatically.

This spike is anomalous and raises suspicion about the validity of votes in these stations.

% of Votes Winning Candidates Achieved in Stations



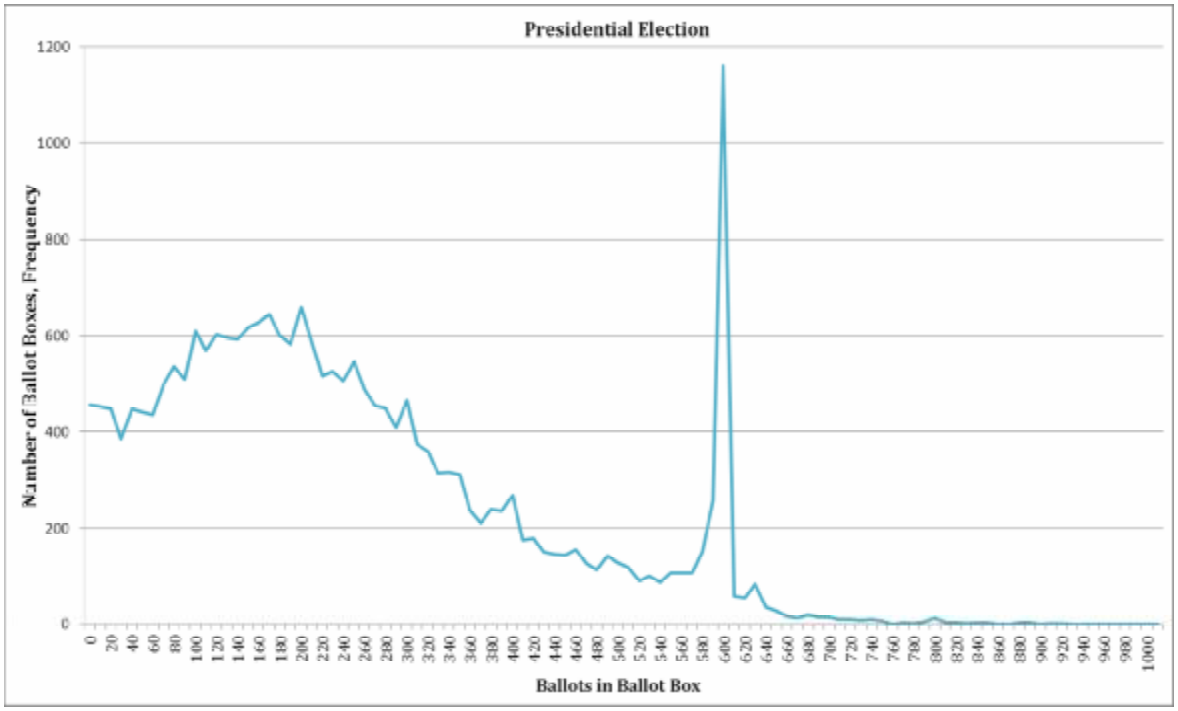
The second graph below breaks this down by candidates.



APPENDIX H

VALID VOTES CAST IN POLLING STATIONS: FREQUENCY OF THE NUMBER OF BALLOTS PER BOX

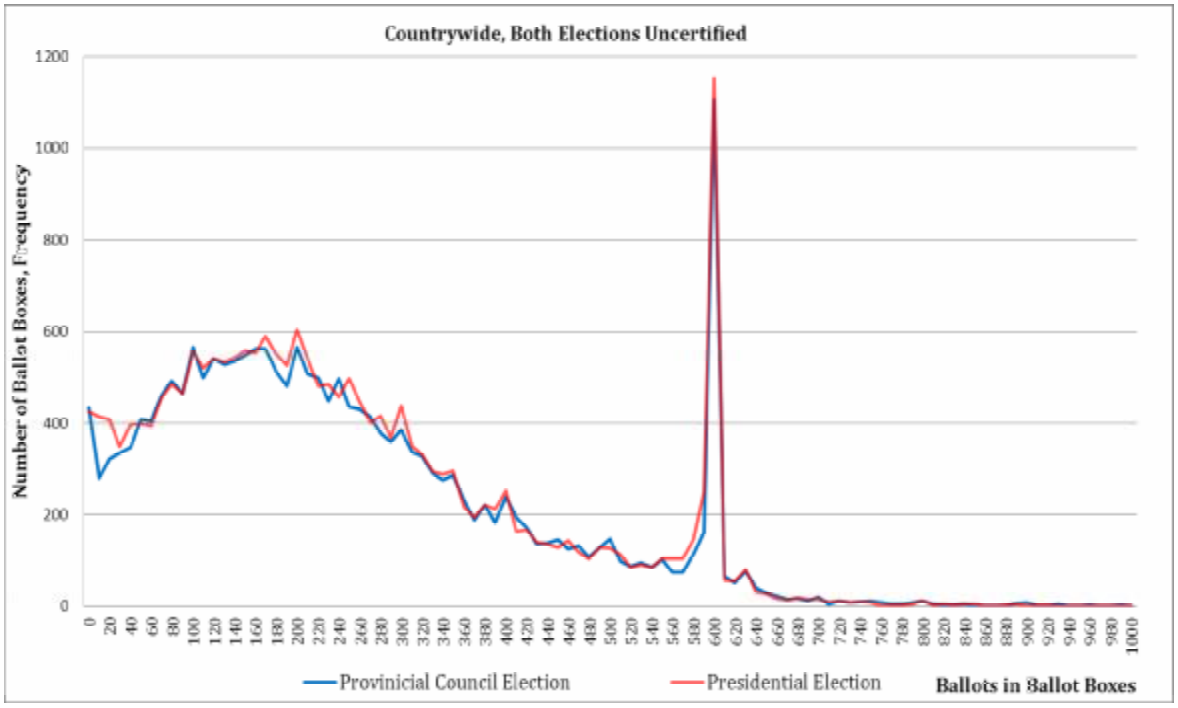
There is a natural curve, as expected from a graph showing the frequency of ballot boxes with variable valid votes cast. However, there is a massive spike around 600 votes. This spike is highly suspicious and raises concern of voter fraud. In addition, there are stations with over 600 valid ballots cast; since each station was only allocated 600 ballots, figures above this are of concern. These issues are compounded by the fact that this graph only shows valid votes (invalid ballots increase the number of ballots cast, which makes resulting figures more suspicious).



APPENDIX I

VALID VOTES CAST IN POLLING STATIONS: PRESIDENTIAL AND PROVINCIAL COUNCIL RACES

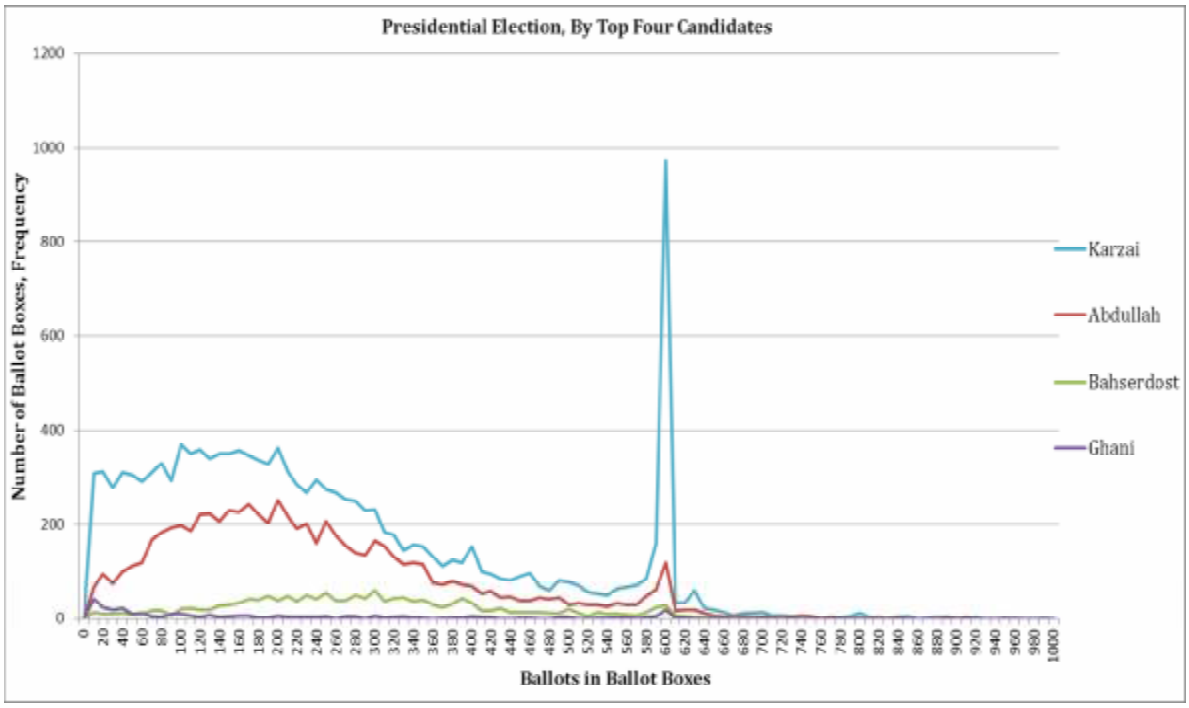
The graph below compares the results of both the Presidential and Provincial Council elections. One can see that they shared similar issues.



APPENDIX J

VALID VOTES CAST IN POLLING STATIONS: BROKEN DOWN BY LEADING PRESIDENTIAL CANDIDATES

Below, the graph shows results separated by winners of the stations. Stations won by Karzai had a disproportionate number of boxes that had over 600 ballots.



APPENDIX K

PRELIMINARY STATEMENT OF THE NDI ELECTION OBSERVER DELEGATION TO AFGHANISTAN'S 2009 PRESIDENTIAL AND PROVINCIAL COUNCIL ELECTIONS

Kabul, August 22, 2009

This preliminary statement is offered by the National Democratic Institute's (NDI) election observer delegation to Afghanistan's August 20, 2009 presidential and provincial council elections. The delegation visited Afghanistan from August 16 to August 22. The delegation was co-led by: Gary Hart, former U.S. senator; Karl Inderfurth, former U.S. assistant secretary of state for South Asian affairs; John Manley, former deputy prime minister and foreign minister of Canada; Nora Owen, former minister of justice of Ireland; Karin von Hippel, co-director of the Post-Conflict Reconstruction Project and senior fellow at the Center for Strategic and International Studies; Jamie Metzl, executive vice president of the Asia Society; Kenneth Wollack, president of NDI; and Peter Manikas, NDI's director of Asia programs. This observation mission was funded by a grant from the United States Agency for International Development.

The security situation in Afghanistan prevented observer groups, including NDI, from operating in some parts of the country – especially portions of the south and southeast regions – on election day. Nevertheless, NDI deployed more than 100 credentialed observers, including long and short-term international and national observers. The mission's international observers included current and former government, political party and election officials, legislative staff, representatives of democracy and human rights organizations, and academics from 11 countries in Africa, Asia, Australia, Europe, the Middle East, and North and South America. NDI's election day delegation was deployed in 19 of the country's 34 provinces, and observed nearly 500 polling sites.

The delegation's findings were informed by reports from a team of 27 long-term international and national observers, based in regional capitals across Afghanistan. These long term observers have been monitoring the electoral process since July. The NDI observation effort also benefited from ongoing communication with non-partisan domestic organizations that deployed thousands of monitors throughout the country. Prior to the election, the NDI delegation met with provincial council and presidential candidates, political party leaders, the Media Monitoring Commission, government officials, representatives of the Independent Election Commission, the Electoral Complaints Commission, international and Afghan NGOs, women's groups, domestic election monitors as well as members of the diplomatic community and donor aid agencies.

The delegation's purpose was to demonstrate the international community's continued support for advancing the democratic process in Afghanistan and to provide an impartial assessment of the August 20 elections. NDI conducted its activities in accordance with the laws of Afghanistan and the Declaration of Principles for International Election Observation.

The delegation recognizes that the tabulation of results is still underway, official results have yet to be announced, and electoral complaints and challenges still must be considered and resolved in accordance with the rule of law. This is particularly important in the context of Afghanistan's security situation,

since many of the most serious election-related problems are likely to take place in areas of the country that are the least accessible to observers and the full extent of such problems may not be known until the results of the polls are carefully analyzed. The delegation, therefore, does not intend to render a final assessment of the election process at this time. Moreover, a runoff will be held if one of the candidates does not garner a majority of the votes cast. Ultimately, it is the people of Afghanistan who will determine the credibility of these elections. Further statements may be released in the post-election period and NDI will issue a final report shortly after the electoral process is completed.

I. OVERVIEW

On August 20th, Afghans voted to elect a president and members of provincial councils for only the second time in the nation's history. The elections were the first to be organized primarily by Afghan institutions and preparations for the elections took place amidst conflict in the southern and eastern regions and sporadic violence in other areas of the country. As election day neared, the Taliban attempted to disrupt the polls through calls for a boycott, threats to retaliate against voters and violence directed at candidates and their supporters. Despite the intimidation and violence, candidates campaigned actively and Afghan citizens demonstrated a keen interest in the electoral process. On election day, the continuing violence often focused on polling sites and sometimes on voters themselves. Nevertheless, Afghans throughout the country participated in the electoral process, often at great personal risk. The Afghan people have shown extraordinary courage and resolve in holding these elections and attempting to move the nation forward on a democratic path.

NDI observers saw the elections unfold in different ways on election day. In those places that Afghans were able to organize elections without violence or the threat of violence, the process was generally orderly. In most of the provinces of the north, west and central regions, the election took place in a relatively peaceful manner. In several provinces in the south, southeast and in pockets in the central region, such as Logar and Wardak, extremist violence disrupted the voting, and, in certain places where voting occurred, the threat of violence appeared to suppress voter turnout, especially among women. The absence of observers in these areas makes an assessment of their quality uncertain. However, while the threats and acts of violence had a significant effect on the election, ultimately violence did not derail the process as many had feared.

Aspects of the 2009 elections were in accordance with democratic principles. Afghanistan had no substantial experience with democracy prior to the fall of the Taliban almost seven years ago and women, under the Taliban regime, were excluded from every aspect of the nation's political and economic life. In the 2009 elections, 38 candidates, including two women, contested for the nation's highest office and 326 women, an increase from 285 in 2005, competed for seats on the provincial councils.

While the outcomes of the elections have not yet been determined, the vigorous campaigns launched by the presidential and provincial council candidates, as well as public opinion polls conducted in the lead-up to the elections, indicated that Afghanistan's political system is more competitive at every level than many have believed. In the lead-up to the presidential elections, major candidates crossed traditional ethnic lines and campaigned in all areas of the country. The candidates often attracted large and enthusiastic crowds; in the nation's less secure regions, campaign activity sometimes took place in the private homes of a candidate's supporters. The elections were remarkably free of clashes involving the supporters of opposing candidates. In addition, public opinion polls conducted in Afghanistan have consistently shown that a majority of Afghans would consider voting for a member of another ethnic group.

During the campaign period, there was also a focus on issues and platforms. This type of campaign was absent in 2004 and 2005. The presidential campaign was the nation's first to include national

debates that were widely covered by the news media, and were seen or heard by millions of Afghans. In addition, in many parts of the country, the election was generally well-administered. Election materials were delivered on time, polling station staff was sufficiently trained, international and domestic observers, as well as candidate agents were present and the elections were conducted in a generally transparent manner.

The elections, however, also involved serious flaws that must be addressed in order to build greater confidence in the integrity of future elections. Much work, for example, is needed to improve the electoral administration. A lax registration process led to multiple registrations and the registration of ineligible voters. As a result, there is widespread agreement that substantially more Afghans are registered to vote than there are eligible voters. This increases the potential for fraud and other types of misconduct, and could erode the Afghan people's confidence in the integrity of the electoral process and in the institutions that emerge from the polls. Other abuses, such as misuse of state resources and proxy voting, were observed in some areas of the country and could adversely affect the credibility of the elections.

In addition, the IEC, whose members are appointed by the president without legislative oversight, is viewed by many key participants in the electoral process as less than independent. While the commission performed many of its responsibilities well, its credibility depends not only on its actions but on the public's perception of its impartiality.

The rights of women in the electoral process require special attention. Despite the growing numbers of women engaging in the political process, barriers still prevent their full participation. Women candidates and political activists, for instance, are frequently the targets of threats of violence, impeding their ability to campaign freely. Women provincial council candidates with whom the delegation met indicated that their ability to campaign was negatively affected by the lack of security. The inability of the Independent Election Commission (IEC) to recruit sufficient female staff to administer women's polling stations could have deterred women from casting their ballots. Women are also most vulnerable to practices such as proxy voting and because the photograph on their voting card is optional, women are also most vulnerable to identity fraud.

Violence and the threat of violence have shaped many aspects of the electoral process. The problem of election-related violence is not fully in the control of Afghan government and electoral officials, but it is critical for the growth and survival of the nation's incipient democratic process that the continuing insurgency is brought to an end. In areas of the country that were least secure, there was a decrease from 2005 in the number of provincial council candidates seeking office (although there was an overall increase in the number of candidates); it affected the IEC's ability to recruit polling staff in some areas of the country and limited the ability of international and domestic observers to obtain access to the portions of the country that were most at risk of electoral misconduct.

This election has demonstrated that millions of Afghans want to participate directly in the country's evolving democratic political system. The August 2009 elections were the latest step on Afghanistan's long road toward constructing a democratic political system. This delegation strongly believes that the international community must continue to assist them in this journey. A democratic and peaceful Afghanistan is in the interest of the Afghan people and the international community.

II. RECOMMENDATIONS

In the spirit of international cooperation, NDI offers the following recommendations:

A. Electoral Oversight and Preparation

1. The Wolesi Jirga should again review the manner of appointment for members of the IEC.

Members of the IEC are now appointed by the president without legislative oversight. To help prevent the appearance or reality that commissioners are acting in a biased manner, a check on executive authority in the selection of commissioners is desirable and would be consistent with international best practices. In 2009, the Wolesi Jirga – the lower house of the National Assembly – presented legislation to the president calling for legislative involvement in the approval of election commissioners. The president did not approve the proposed law. Article 109 of Afghanistan's constitution prevents the legislature from amending the electoral law during the last year of its legislative term, so it is too late for legislative action to affect the next election. However, in the longer term, the Wolesi Jirga should again launch a review of the law and the president should informally consult with the legislature on commission appointments prior to the 2010 elections.

2. An accurate voters' registry should be prepared.

An accurate voters' list is an important means for preventing electoral misconduct and for assisting the IEC in preparing for the polls. There is widespread agreement, however, that the existing voter registry is grossly inaccurate; in some provinces, registered voters exceed total population estimates. The existence of large number of duplicate and counterfeit registration cards could seriously undermine public confidence in the electoral process.

3. A census of the population of Afghanistan should be conducted as soon as possible.

Accurate population figures are needed to properly allocate seats in legislative assemblies, demarcate district boundaries as well as to assist officials in planning for development programs and help electoral officials make arrangements for elections. Annex III of the Bonn Agreement of 2001 requests the United Nations to conduct a census as soon as possible. A census, however, has not been conducted; though one was planned in 2008, it was indefinitely postponed due to security concerns. Currently, population estimates are prepared by Afghanistan's Central Statistics Office.

4. The international community, in partnership with the Afghan government, should immediately begin preparing for the next election cycle.

Little was done between 2005 and 2009 in preparations for the 2009 elections. Funding gaps and delays affected the implementation of electoral preparations, including the recruitment and training of election personnel, voter education projects, and support for the ECC. Given the impending date of the 2010 parliamentary elections, planning should begin immediately, taking into consideration lessons learned in 2009 and previous elections.

B. Electoral Design and Conduct

5. The IEC should improve the staffing of women at registration and polling centers.

The IEC had difficulty recruiting female staff for registration and polling centers. As the 2009 election approached the IEC indicated it had female staff at only 30 percent of the polling stations allocated for women. Since it is considered culturally insensitive for women to confirm their identity to a male, the presence of female staff at registration and polling sites is critical in protecting the right of women to participate in the electoral process.

6. All candidates for elections should be strongly encouraged to participate in Electoral Complaints Commission (ECC) programs explaining campaign regulations and the complaints process.

Many candidates do not have sufficient knowledge of the electoral process and this deficit results in violations of the election law or the withdrawal of candidates late in the elections process. A better understanding of the roles and responsibilities could better prepare candidates upon launching their campaigns.

7. An independent commission should be established to organize candidate debates.

Three debates were held for the presidential candidates in the lead-up to the 2009 elections. These debates were organized by individual news media organizations. Unfortunately, the participation of all the candidates did not take place in the two televised debates. Establishing an independent commission would increase the candidates' confidence in the impartiality of the debates and secure broader participation.

8. The IEC and the ECC should receive adequate funding to initiate programs to train and retain their staffs.

As the 2009 elections approached, the IEC and the ECC had many new staff members who had no previous experience in election administration. In addition, funding for election administration was received late in the elections cycle, leaving little time to plan and implement training programs. Planning for the 2010 elections should begin immediately and this will require that the international community and the Afghan government provide needed resources to both organizations as soon as possible.

9. Funding for voter education should be increased and greater efforts are needed to reach women voters.

The IEC conducted an extensive voter education campaign, involving religious leaders, mock ballots and television and radio promotion. However, voter education often did not reach many people living in remote rural areas; these regions have the least access to the news media and are often not reached by their messages. In addition, the IEC was unable to recruit female staff, especially in the least secure areas of the country.

10. A clear deadline for the withdrawal of candidates should be established.

The 2009 elections saw candidates withdrawing close to election day; too late for the candidate to be removed from the ballot. This resulted in considerable confusion as to how the votes cast for that candidate will be handled at the polling station and the national tally center. Establishing a clear timeline would help to eliminate the uncertainty surrounding candidate withdrawal.

11. The Wolesi Jirga should review alternatives to the Single Non-Transferable Vote system.

As in the past legislative elections, in the 2009 provincial council elections the SNTV system produced a large number of candidates. While the SNTV system has the advantages of being relatively easy to administer and provides an opportunity for independent candidates it also has several disadvantages; it results in a very low threshold for election (in the past legislative elections a candidate could win a seat in Kabul with less than one percent of the vote) and discourages the participation of political parties. Although it is too late to seek changes for the 2010 elections, a review of the appropriateness of the SNTV system should be high on the agenda for the next session of the legislature.

12. The ECC should be reconstituted as soon as possible following the 2009 elections and provided with the resources needed to prepare for next year's Wolesi Jirga elections.

The electoral law requires that the ECC discontinue its work no later than 30 days following the certification of election results. The ECC had inadequate time to prepare for the 2009 elections and was unable to properly train its staff and inform the public concerning the complaints process well in advance of the elections. In order for the ECC to sufficiently prepare for next year's Wolesi Jirga elections it should be immediately re-established, receive adequate funding and commence its work.

C. The Role of the Media

13. A new media law should be adopted providing for the independence of government operated media.

The Afghan government should transform Radio Television Afghanistan (RTA) into a responsible public service broadcaster available countywide and dedicated to public affairs programming. Its program content should reflect the diversity of Afghanistan's regions and people. Its independence should be ensured along the lines proposed in the media law that was adopted by the Wolesi Jirga in 2008, but not signed into law by the president.

14. The IEC, ECC and Media Commission should enforce the Media Code of Conduct.

The Media Code of Conduct states that the IEC, ECC and the Media Commission can impose sanctions and take other major steps for any violation of code provisions, including those that specify impartiality, accuracy, fairness and equity. These bodies should take strong action and impose sanctions and appropriate measures for all media, including state-run media, that violate the code.

D. Security

15. Security planning should commence immediately for the 2010 elections.

The issue of security has shaped many aspects of Afghanistan's 2009 elections process—from the ability of candidates to campaign throughout the nation to the ability to recruit and deploy IEC staff, domestic election monitors and international observers, and to secure the right of women to fully participate in the political process. Planning for the security needed for the upcoming parliamentary elections will require the cooperation of the Afghan army, police, and appropriate ministries, as well as the international community. Enhancing security measures will be critical for the success of next year's elections and improving the nation's stability.

16. The IEC should undertake a security assessment of all polling center locations and periodically review security as the elections approach.

The IEC did not undertake a comprehensive review of all polling center locations until late in the 2009 elections cycle. Better preparation is needed to help ensure that security arrangements are appropriate for each site and that there is adequate time to recruit polling officials.

17. The Afghan National Security Forces (ANSF) should be the sole providers of security for polling sites.

The proposed use of militias in the 2009 elections was controversial. There is a lack of transparency in how these proposed militias would function and a lack of clarity regarding their relationship with other security forces, such as the Afghan army, police or the international military forces.

III. ELECTORAL CONTEXT

Legal Framework for Elections

The legal framework that governs Afghanistan's elections consist principally of the nation's 2004 Constitution of Afghanistan, the Electoral Law, the Independent Elections Commission Structure Law, Political Parties Law, applicable presidential decrees and the rules and regulations of the elections commission.

Chapter 1 of Afghanistan's constitution pledges respect for international agreements and treaties, including the Universal Declaration of Human Rights. Article 21 of the Universal Declaration states that "the will of the people shall be the basis of authority of government; this shall be expressed in periodic and genuine elections…." Afghanistan has ratified or signed the major international instruments containing election standards. Chapter 2 of the constitution provides for the protection of fundamental rights and duties essential for the conduct of elections that comply with international standards. These include the rights "to elect and be elected" as well as the rights of free expression, assembly, travel and to form political parties. Article 156 of the constitution establishes an Independent Elections Commission (IEC). Article 61 of the constitution provides for the election of the president every five years. If none of the candidates for president receive 50 percent of the votes cast in the first round, a second round must be held within two weeks from the date election results are proclaimed. Article 138 of the constitution provides for the election of the members of provincial councils every four years.

The structure and responsibilities of the IEC are contained in Presidential Decree No. 23 and the Electoral Law. The IEC has seven members who are appointed by the president. The commission develops policy and oversees preparations for the polls. The IEC has a secretariat headed by a chief electoral officer and operates 34 provincial offices.

The electoral system used for legislative elections, including elections to the Wolesi Jirga (National Assembly) and provincial councils is the Single Non-Transferable Vote (SNTV) system, in which each voter may vote for one candidate in a multi-member constituency. This system is an uncommon one; in addition to Afghanistan, it is only used in three countries: Jordan, the Pitcarin Islands, and Vanuatu. As in the past legislative elections, in the 2009 provincial council elections the SNTV system produced a large number of candidates. While the SNTV system has the advantages of being relatively easy to administer and provides an opportunity for independent candidates it also has several disadvantages; it results in a very low threshold for election (in the past legislative elections a candidate could win a seat in Kabul with less than one percent of the vote) and discourages the participation of political parties. The SNTV system tends to generate a large number of candidates. They have difficulty distinguishing themselves from one another, and the voters find it challenging to differentiate candidate platforms. Candidates in provincial council races, particularly in large urban areas such as Kabul or Herat, tend to campaign on vague platforms, relying principally on social and familial networks for their votes. In Kabul, for instance, 524 candidates are competing for 29 seats.

The Political Parties Law provides for the registration of political parties with the Ministry of Justice – currently, there are 108 registered parties. No party may register if it has less than 700 signatures. The law states that parties may not oppose the principles of Islam; use force or the threat of force; incite ethnic, racial, religious or regional discrimination; endanger individual rights or disrupt public order; be affiliated with military organizations; or receive funds from foreign sources.

There has been growing dissatisfaction with the election laws, resulting in attempts to revise them. In 2008, for example, the Wolesi Jirga considered changes that would provide greater legislative

involvement in the selection of election commissioners. The proposed legislation also would have altered the electoral system to adopt a mixed proportional voting system. No new legislation was adopted however, in part due to disagreement over how to allocate legislative seats to Kuchis (nomadic tribesman). Legislation was passed altering the Political Party Law to raise the minimum number of signatures from 700 to 10,000. The bill, however, was not signed into law by the president.

Article 109 of Afghanistan's constitution prevents changes in the electoral law less than a year before the end of a legislative term. Therefore, it is too late to adopt revisions prior to the Wolesi Jirga elections planned for next year.

Election Administration

Presidential elections in 2004 and parliamentary and provincial council elections in 2005 were administered by the Joint Electoral Management Body (JEMB), which was staffed by internationals and Afghans, and significantly supported by United Nations agencies. Since those elections, JEMB was dissolved and the Independent Election Commission (IEC) has assumed responsibility for election administration. The 2009 polls were the first elections organized and implemented under Afghan leadership.

The IEC consists of seven members appointed by the president. From these members, two of whom are currently women, the president appoints a chairman and deputy chairman. Members and their immediately family members are barred from engaging in political activities. In February 2009, the Wolesi Jirga passed a law requiring parliamentary approval of election commissioners, but President Karzai vetoed the legislation. Because the IEC is an appointed body, it faced the challenge of establishing its autonomy. Irrespective of the actions taken by the commission during this election process, its credibility ultimately rests on the perception of its independence.

Planning for the 2009 elections began late, reflecting the lack of strategic planning by the Afghan government and international donors since the last election four years ago. Much could have been done in this period, such as developing a plan to assess security needs for the coming elections, conducting a census, reconstructing the voter registry, launching voter education drives and refining the complaints process. These were all areas that were identified during the past elections as urgently needing action, but the opportunity to make improvements during this period was squandered.

The final list of polling centers nationwide was released a week before election day and the precise location of the centers was not known by some voters 24 hours before election day. This may have prevented some voters from accessing their nearest polling center and led to their disenfranchisement.

The commission faced budget shortfalls and struggled to recruit and train the 165,000 qualified staff needed for the elections. In particular, the recruitment of female poll station workers was difficult in light of deteriorating security in many parts of the country. A week before the elections, the IEC announced that it had recruited 90 percent of the polling and counting staff needed. NDI observers noted that the trainings for election officials that were hired were conducted professionally and thoroughly.

The distribution of election day materials reflected a well-developed process for the distribution of ballots and polling station equipment, which were delivered on time to polling sites. This is no small logistical feat; Afghanistan lacks a national road system and a large portion of the population lives in remote areas. Approximately 3,500 trucks and more than 3,000 donkeys were used to distribute over 35 million presidential and provincial council ballot papers across the country. The distribution of poll watching credentials for some political party agents did not go as smoothly; the delegation received information that some party headquarters did not receive credentials for their agents until three days

before the election, leaving them little time to make arrangements to get to a distant polling site. To monitor the elections, the commission accredited over 203,000 candidate and political party agents, journalists and domestic monitors and international observers.

During the campaign period, 3.4 million mock ballots were distributed and over 600 billboards promoting voter awareness were installed throughout the country. The IEC developed TV and radio programs, as well as sponsored roundtables and community meetings, on the role of observers and candidate agents, election day security, and safeguards to prevent fraud during polling and counting. In addition, the IEC engaged over 1,600 voter educators to operate in teams throughout the country to inform voters on election procedures. However, extensive areas in the south and southeast were not adequately covered due to the security conditions. In addition, the IEC found it difficult to recruit female staff in unsafe areas, further diminishing the impact of voter education campaigns. NDI observers noted that significant numbers of voters were unaware of the possibility of an electoral run-off. Thus, prospective voters might not realize that their votes would have an impact (by depriving another candidate from receiving more than 50 percent of the votes) even if their preferred candidate did not win.

Election Security

The security planned for the elections involved three protective rings, described as concentric circles around the voting process. The inside ring, closest to the polling stations, was the Afghan Police. The second ring consisted of the Afghan National Army (ANA), and the outermost ring comprised of the International Security Force (ISAF), which was to provide support and assistance to the Afghan government as needed.

The delegation also received information concerning the proposed use of government-sanctioned community defense forces, or militias, which would help to provide security if the ANA or the police were not available. The justification for the use of such militias was that they could help to increase participation in the electoral process in insecure environments. There was, however, a lack of clarity as to how these militias might be recruited, funded and equipped, as well as to whom they would be accountable. The IEC decided that it would not provide election materials to polling centers that were not protected by the ANA and police. The NDI mission did not observe any government-sanctioned militias operating near polling sites on election day.

The recruitment, training and equipping of the police has been a continuing problem. While the police are widely considered the first line of defense against the insurgency, their professionalization has been a slow and arduous process. If greater resources are devoted to developing a professional national police force, there will be no need to consider the use of militias in the electoral context.

The IEC made several decisions on the grounds of security, such as the failure to open polling centers in some areas in which they has been planned, the closure of other polling centers, as well as their relocation and consolidation. The basis on which these security decisions were made is not clear. Such decisions could appear to be politically motivated if they are viewed as advantaging one candidate over another. The problem is aggravated if the IEC is viewed as lacking independence from the government.

Electoral Complaints

The Electoral Complaints Commission (ECC) is charged with vetting candidates for compliance with legal qualifications to stand for election and adjudicating allegations of election violations and appeals. It is comprised of five members: three internationals appointed by the United Nations and two Afghan commissioners, one selected by the Afghanistan Independent Human Rights Commission and one by the Supreme Court. In 2005, the ECC was a target for much criticism, largely due to the outsized

expectation of what the body could accomplish with available resources. Although a number of candidates were disqualified for having links to illegal armed groups, the general public expected a much higher number of disqualifications. In addition, delays and the lack of timely information about the status of complaints fed a general dissatisfaction and mistrust about the process and its effectiveness.

In the lead up to the August polls, the ECC attempted to address the concerns that arose from the 2005 process. However, commissioner appointment and funding delays led the body to begin activities later than anticipated. Nonetheless, during the candidate vetting period, the ECC disqualified three presidential and vice presidential tickets as well as 54 provincial council candidates – the latter individuals were largely ruled out for having ties to armed groups.

The ECC has a Provincial Election Complaints Commission (PECC) in each of the 34 provinces of the country, enabling nationwide reach to receive and address complaints and appeals. However, similar to the challenges faced by the IEC, the ECC had problems recruiting sufficient numbers of lawyers and investigators, particularly outside the capital. In addition, during the official campaign period, many candidates reported to NDI long-term observers that the PECC staff was unresponsive, causing candidates and their supporters to be reluctant about filing complaints. Observers also noted the lack of public outreach on the complaints process.

There is widespread agreement that the ECC has performed commendably and carried out a very important mission. However, the need for the ECC also reflects the absence of a functioning judicial system in Afghanistan. Eventually, it should be a duly constituted court system that hears appeals from electoral decisions; these decisions that may have far reaching consequences for the development of Afghanistan's political process.

Voter Registration

Annex III of the 2001 Bonn Agreement requests the United Nations to conduct a census of Afghanistan's population. The most recent complete census was conducted in 1967 and a partial census was begun in 1979 but not completed. Scheduled to begin in June 2008, a U.N.-conducted census was postponed because of deteriorating security in the country. There were also public concerns that the census results could be politicized if conducted in the run up to the 2009 presidential election. Without an accurate census, election officials and observers lack reliable information on population density or the gender breakdown. In the absence of a census, accurate checks on voter registration and voter participation figures have not been possible.

Voter registration for the 2005 elections resulted in a high number of duplicate voter cards. Following those polls, electoral and government authorities decided to connect the voter registry to a civil registry to improve the accuracy of the voter list. However, efforts shifted in late 2008 and early 2009 to update the voter registry with a series of registration drives around the country, resulting in 4.5 million new ID cards. Unfortunately, no effective mechanism was established to prevent those who were already registered from getting a second ID card. The domestic election monitoring organization, the Free and Fair Elections Foundation of Afghanistan (FEFA), observed the voter registration process and found high incidents of counterfeit cards, cards issued to underage voters and multiple cards issued by proxy to village elders. Voter cards were widely bought and sold as the election approached, though this appears to have occurred largely on a retail, rather than wholesale, basis. These factors increase the vulnerability of the electoral process to manipulation and fraud.

In many areas, the number of ID cards issued exceeded the estimated population, including those who are not even old enough to vote. Voter cards for women did not require a photograph. In the south, southeast and east, FEFA noted a high occurrence of males registering in behalf of the female

members of their family. There are also several areas where the number of women registrants appears implausibly high – often greatly exceeding the number of registered men – given the prevailing cultural norms in those regions; this led many local and international observers to believe that women's ID cards may be used to cast fraudulent votes on election day. NDI observers noted that such problems may occur throughout the country, but are more likely to occur in the less secure areas – which will have fewer monitors on election day. Some women candidates and activists have proposed the use of a national identity card, which could also be used for voting. If such an ID card is tied to the receipt of government benefits, women might be more inclined to agree to have their photographs taken and used on the card.

The Presidential Campaign

Forty-one candidates were featured on the ballot for the August 20 polls. By election day, three candidates had withdrawn and there were 38 active candidates. This is an increase from the 23 presidential candidates who stood for election in 2004. NDI observers noted that candidates actively campaigned, and the discussion of issues and platforms played a prominent role within the official campaign period. Incumbent President Hamid Karzai ran on a platform of national unity, soliciting endorsements from diverse power brokers across Afghanistan, including anti-government elements. Abdullah Abdullah, former Northern Alliance commander and former foreign minister under the post-Taliban transitional administration as well as Karzai's cabinet, campaigned on reducing the power of the presidency, switching to a parliamentary system and strengthening provincial governments. Ashraf Ghani Ahmadzai, an academic and former finance minister under the post-Taliban transitional government, put forward a comprehensive platform that prioritized economic progress, employment and education. Ramazan Bashardost, former Planning Minister under Karzai's administration and a sitting parliamentarian whose campaign gained momentum in the final weeks before the polls, ran on a platform of anti-corruption. Two female candidates also participated in this race. The major presidential contenders selected vice presidential running mates to promote ethnic balance.

During the official campaign period, NDI observers noted how candidates were able to conduct campaign activities in provinces of different ethnic bases. For example, Abdullah held a campaign rally in Kandahar that was attended by more than 4,000 supporters, and President Karzai held campaign events in Herat as well as a number of northern provinces.

The major presidential candidates ran as independents with no party affiliation. However, party coalitions helped certain candidates garner votes – Abdullah Abdullah was endorsed by the National Front, a network of multi-ethnic parties generally opposed to the Karzai government.

For the first time in Afghanistan, presidential debates were held and broadcast nationwide over radio and TV. The first debate, held on July 23 and sponsored by Tolo TV, was reported to have been viewed by over 10 million Afghans. Of the top three candidates, only Abdullah and Ghani participated in this debate; President Karzai withdrew from the debate at the last minute. A succeeding debate, held on August 16 on RTA TV, featured Karzai, Ghani and Bashardost. In addition, a radio sponsored roundtable featured all of the major presidential contenders.

The Electoral Media Commission, which was established by an IEC regulation and reports on the media's coverage of the candidates, stated that the election coverage had broadened and deepened in Afghanistan since the 2004 presidential election. The commission's reports also noted a strong bias in favor of Karzai on the state-run television and radio. The commission reported, for instance, that between July 21 and August 4, the government operated RTA Radio devoted 91 percent of its election coverage to Hamid Karzai and only two percent to Abdullah Abdullah and one percent to Ramazan Bashardost, president Karzai's closest rivals. The commission also found that between July 6 and

August 4 RTA Television devoted 68 percent of its coverage to President Karzai, 10 percent to Abdullah and three percent to Ashraf Ghani Ahmadzai. The commission asked RTA to explain this unbalance, but took no further action.

The Code of Conduct for the Media, adopted by the IEC, requires that all electoral reports "be prepared with impartiality, accuracy, fairness and equity." Government operated stations failed to comply with the Code. It was unfortunate that the Media Commission did not impose sanctions in response to a violation by the government operated media. It could have taken action on the alleged violation.

Afghanistan's private media, which has proliferated since 2002, provided greater balance in their election coverage than the government operated media.

In 2008, the Wolesi Jirga passed a new media law establishing a public broadcasting system designed to help ensure RTA's independence from government control. President Karzai, however, did not sign the legislation.

Provincial Council Campaigns

Provincial councils are the only elected bodies at the local level and are a key component of establishing a stable and self-sustaining Afghanistan. Provincial councils are the most direct point of contact between citizens and the government. For the August race, 3,196 candidates contested 420 provincial council seats, up by 171 candidates from the 2005 elections. However, this increase was primarily noted in the north, northeast and central regions; in the south and southeast, there were fewer candidates on the ballot. Twenty five percent of the provincial council seats are reserved for women, and 326 female candidates participated in this race, an increase from the 285 women who contested the 2005 polls. In Kandahar and Uruzgon, there are fewer women candidates than reserved seats.

More than 80 percent of the provincial council candidates registered as independents. However, over 30 parties fielded candidates, and 11 parties supported at least 10 candidates. Junbish had over 80 candidates in 10 provinces; Wahdat Islami Mardom had more than 50 candidates in 11 provinces; while Hezb-e-Islami has over 40 candidates in 14 candidates. Candidates running with party affiliations were seen mostly in the northern provinces. A handful of national parties interviewed by NDI were thinking strategically about how to distribute votes on the provincial level to maximize their number of seats. NDI observers noted that Hezb-e-Islami Afghanistan and Hezb Jamhori Afghanistan (the Republic Party of Afghanistan), for example, were directing candidates to only campaign in targeted areas within a province, so as not to waste votes among party contenders.

The tone and visibility of provincial council campaigning varied greatly across the country. There were publicly contested elections in the more secure areas. In the southern part of the country, where the Taliban was actively targeting those participating in the elections, most of the campaigning took place inside the walls of private homes. NDI observers in Kandahar and Kunduz, for example, reported that there was little public campaigning for the provincial council seats, and candidates solicited support from tribal and religious leaders behind closed doors. Long term observers in Kunduz reported that some candidates refused to appear on radio programs, fearing retaliation.

IV. ELECTION DAY

On election day, the country saw elections unfold in different ways – ranging from provinces with high voter turnout and peaceful polling activities to areas where polling stations were subject to violent attacks and polling workers were threatened by the Taliban. Bamiyan and provinces in the north saw, for the most part, orderly polling and relatively high participation. Taliban-issued threats

against participation – including cutting off inked fingers – in the south, southeast, east, northeast, some areas of the capital region fueled an environment of fear and tension, resulting in low voter turnout overall and poor turnout among female voters. The night before polling, government officials requested that domestic media refrain from reporting on electoral violence between 6:00am and 8:00pm on election day.

Voting Process

For the north, central and western regions, polling activities were relatively normal, with isolated incidents of intimidation. In these areas, women voted in significant numbers, and polling was conducted generally in an orderly fashion. In Kabul city and Kabul province in general, turnout was lower than expected, and several reports early in the day of possible polling station closures due to the lack of supplies shifted as large numbers of ballots remained at the end of the day. In the south and southeast, several violent incidents disrupted the opening of polling stations and limited voter participation. Observers reported that in a number of unsafe areas, stations did not open at all. The IEC reported that 6,192 polling centers were open on election day.

Midway through election day, the IEC issued an hour extension for poll closing to help boost voter participation. NDI observers reported that since the announcement came late in the day, the extension did not have any impact in increasing voter turnout; in addition, as observers did not witness long queues of voters in any part of the country at midday, the need for the extension was unclear. Some poll workers in different parts of the country did not extend voting hours and proceeded with the vote count shortly after 4:00pm.

Across the country, poll workers experienced problems with punchers intended to perforate used cards. The IEC quickly issued an instruction to use scissors to mark used cards instead, and observers noted that this issue did not disrupt the voting process in a meaningful way. Some observers reported isolated problems related to the indelible ink, but did not have a significant impact on the overall process.

Isolated cases of proxy voting and the use of multiple voting cards by men were seen in a few areas around the country, including in the south and southeast, and observers noted that they did not occur in the frequency that many anticipated.

Throughout the country, posters and other campaign materials were present within 100 meters of polling centers and inside polling stations. Some active campaigning by candidates and their supporters, in violation of the law, were observed in several areas around the country.

Counting of Votes

The counting of ballots for the presidential race was conducted at the end of election day, and the tally for provincial council candidate votes occurred the following day. Given cultural traditions and the anticipation that women would need to return to their homes in the late afternoon, many female polling stations around the country postponed the vote count to the following day. Across the country, observers noted that election officials were knowledgeable of the counting procedures, with female station workers seeming slightly less trained in some provinces.

Participation of Women

Observers reported that aside from Bamiyan and provinces in the north, the turnout of women for this election was notably low. In certain polling stations in the south and southeast, almost no women voted. To fill the staffing gap of female poll workers and searchers, the IEC had recruited the help of

mullahs and women's organizations; observers noted that for some schools that served as polling stations, female teachers were present as body searchers and poll workers. A number of Afghan women observers underlined that the presence of males at female polling stations may have deterred women from voting.

Violence on Election Day

Election related violence and threats of violence were reported in various parts around the country, and affected the participation of voters, candidate agents and election monitors. Rockets, mortars and improvised explosive devices (IEDs) were used to target polling stations in certain places in the northeast, east, south, southeast and capital region. In many provinces, polling centers were closed or did not open at all due to threats from the Taliban and other armed groups. In Kabul, violent incidents occurred outside of the 'ring of steel', a series of several checkpoints manned primarily by Afghan National Police and Afghan National Army.

Voter intimidation was seen in various forms, including the harassment of election workers by Taliban and other armed groups. This type of intimidation did not appear to be systematic, but incidents were noted to be heaviest in the south and southeast.

V. THE DELEGATION AND ITS WORK

An accurate and complete assessment of any election must take into account all aspects of the process, and no election can be viewed in isolation from the political context in which it takes place. Among the factors that must be considered are: the legal framework for the elections set by the constitution, including electoral and related laws; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political competitors to organize and reach out to citizens in order to win their support; the conduct of the mass media in providing coverage of candidates and issues; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution for their choices; the conduct of the voter registration process; the right to stand for election; the conduct of voting, counting, results tabulation, transmission and announcement of results; the handling of election complaints; and the installation to office of those duly elected. It should also be noted that no electoral framework is perfect, and all electoral and political processes experience challenges.

The delegation is grateful for the welcome and cooperation it received from voters, election officials, candidates, political party leaders, domestic election observers, and civic activists.

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Appendix L

FOR IMMEDIATE RELEASE
September 9, 2009

Contact: Kathy Gest,
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NDI EXPRESSES CONCERN ABOUT AFGHANISTAN ELECTION FRAUD COMPLAINTS

WASHINGTON, DC – The National Democratic Institute (NDI) today expressed deep concern over the high levels of fraud complaints filed with Afghan election authorities.

"The credibility of Afghanistan's elections now depends largely on the thorough investigation of these complaints by the Electoral Complaints Commission (ECC)," the Institute said in a statement. "Unless the 'clear and convincing evidence of fraud' found by the ECC is addressed, it will be impossible to determine the will of the Afghan people."

NDI said that it will continue to observe the counting and complaint processes. "The electoral process has not been completed and it is essential that the international community continues to observe every stage," it said.

NDI conducted an international election observation mission in the country for the Aug. 20 presidential and provincial council elections. The Institute mobilized more than 100 international and Afghan observers, covering 19 of the country's 34 provinces, to observe every aspect of the election process, including the campaign, balloting on election day and the post-election period. The group came from 11 countries on six continents and included current and former government officials, political party and election officials, legislative staff, representatives of democracy and human rights organizations, and academics.

The Institute also noted that it is not just the presidential election outcome that is at stake. "The concerns extend to the 34 elections for provincial councils, the governmental bodies that are closest to the people. Their legitimacy is also critical to the credibility of Afghanistan's governing institutions," it said.

One of the serious problems identified was unusually high turnout figures. An NDI analysis of election results found grounds for concern in a number of provinces, including Nuristan, Paktia, Helmand and Bahdgis, where large numbers of polling stations reported more than 600 votes each, which is 100 percent of the estimated votes for these stations. These

provinces are among the country's least secure. Similar anomalies and other irregularities have been uncovered by journalists, local monitors and international observers.

The ECC has received a total of 2,842 complaints, of which 726 were assessed as serious or "priority A." Declaring that it had found clear evidence of fraud in a number of polling stations, the ECC on Sept. 8 ordered Afghanistan's Independent Election Commission (IEC) to conduct an audit and recount of polling stations nationwide that had vote totals equal to or greater than 600, or that had returns with any presidential candidate receiving 95 percent or more of the total valid votes cast, provided that more than 100 votes had been cast at the station. As of Sept. 8, the IEC had tallied 91.6 percent of the total vote. It expects to complete the tallying process before initiating a recount.

"Afghans must be confident that the results of the elections reflect the will of the people," NDI said. "This is essential for the credibility of any government that emerges from the polls."

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FOR IMMEDIATE RELEASE
October 21, 2009

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NDI RECOMMENDS IMPROVED SECURITY, OTHER MEASURES TO AVOID PROBLEMS IN AFGHANISTAN RUNOFF ELECTION

WASHINGTON, DC – The scheduling of a Nov. 7 presidential election runoff in Afghanistan leaves authorities little time to make improvements in the election process, but there are a number of steps that can be taken to avoid the major problems of the Aug. 20 polls, the National Democratic Institute (NDI) said today.

The Institute noted that the runoff could be an important step in ensuring that the government that results from this process will be considered legitimate by the Afghan people. Despite widespread fraud that occurred in the August balloting, the complaints investigation process carried out by the Electoral Complaints Commission (ECC) ultimately helped protect the will of Afghanistan's voters, NDI said.

NDI, which conducted an international election observation mission in the country for the Aug. 20 presidential and provincial council elections, has continued to monitor the process and will field a group of experts for the Nov. 7 runoff. The Institute issued a preliminary statement immediately following the August election, along with a subsequent statement expressing concern about the fraud complaints.

While NDI's post-election statement proposed a series of recommendations to improve procedures for elections in future years, the Institute also believes there are steps that can be taken now that will have an impact on the upcoming runoff. They include:

- Security by the Afghan police and army and international forces should be enhanced so that secure voting areas are expanded. For the Aug. 20 balloting, more than 10 percent of all polling sites were closed due to a lack of security.

- To eliminate so-called "ghost" polling stations, no ballots should be sent to polling centers that are not secured by Afghan security forces and adequately staffed by the Independent Election Commission (IEC).

- Polling centers that experienced fraud during the Aug. 20 election should receive targeted IEC scrutiny on election day and during the counting process. The targeted assistance could include additional personnel from outside the area who are less likely to be susceptible to local pressures.

- Planning should begin immediately to ensure that sufficient staff from the IEC and the ECC are available for the voting, tabulation and complaint process, including female staff.

- Both candidates should make forceful public statements, as well as give instructions to their supporters, that no one should commit fraud or allow fraud to be committed on their behalf.

- The agents of both candidates, as well as domestic and international observers, should be ensured full access to all levels of election administration.

Millions of Afghans voted on Aug. 20 despite the threats of violence, demonstrating their strong desire for a government that derives its authority from the will of the people, NDI said. Everything possible should be done in the limited time available to apply lessons learned from the first round of polling to ensure that the results of the runoff election meet the desires of citizens and ensure legitimacy for the elected government. NDI will continue to offer its support for the continued development of democratic governance in Afghanistan through and beyond these elections.

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FOR IMMEDIATE RELEASE
November 3, 2009

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HIGH-LEVEL REVIEW IS NEEDED FOR AFGHAN ELECTORAL REFORM

While the Afghan Independent Election Commission (IEC) announced on Nov. 2 that a presidential runoff is not required, the systematic and widespread fraud that deeply marred the 2009 Afghan electoral process remains unaddressed. A rigorous and impartial inquiry by noted international and Afghan experts concerning the failures in the 2009 election process is needed to reduce tensions, establish credibility for future Afghan elections and reinforce the legitimacy of the Afghan governing institutions and the effectiveness of international electoral assistance.

Afghans deserve a full account of the vulnerabilities that allowed the fraud to take place, identification of those who were responsible for the failures, as well as the fraud, and an appraisal of reforms that are required to prevent a recurrence in the 2010 parliamentary (*Wolesi Jirga*) and future elections. A formal review should not only examine the nature of flaws and failures, it should offer recommendations for reform that, if adopted, could secure authentic elections in the future and build Afghan confidence in the country's political institutions.

A recent example of such an inquiry is the Independent Review Commission on Kenya's 2007 flawed presidential election, commonly known as the "Kriegler Commission" (named after the Commission's Chairman, former South African Constitutional Court Justice Johann Kriegler). Mediation by former UN Secretary-General Kofi Annan, which ended Kenya's tragic post-election violence, led to the formation of that commission. The Kriegler Commission included noted Kenyan and international experts and had a broad mandate to examine all relevant actors and processes surrounding the elections and to recommend electoral reforms, including constitutional, legislative, operational and institutional aspects, as well as accountability mechanisms and other measures it deemed necessary. The Afghan people deserve a similar inquiry and related actions to guarantee that their will is respected in elections and genuine representative governance is ensured.

The IEC should thoroughly evaluate to what degree fraud may have affected Afghanistan's provincial council elections, which were also held on Aug. 20. Afghan electoral contestants and domestic election monitors documented fraud in the Aug. 20 polls, and the Electoral Complaints Commission reviewed over 2,000 complaints and examined a sample of

suspicious ballot boxes, finding that no presidential candidate passed the 50 percent threshold. That led to the IEC's determination that a runoff was required. Some actions were taken to reduce the potentials for fraud in the runoff, scheduled for Nov. 7, although a full stocktaking and major reforms were not carried out. Dr. Abdullah Abdullah withdrew from the election process, stating that safeguards for the runoff were inadequate to ensure electoral integrity.

If decisive actions are not taken to tackle the corruption in the 2009 election process, the 2010 parliamentary and other elections will remain at risk. In that case, the ability to govern the country will be undermined by the very processes that are designed to provide the legitimacy of government. Unless reforms are identified and instituted, the credibility of, and public confidence in Afghan elections and governance will likely erode further.

Political will among Afghans and the international community is required for an effective mandate and adequate resources to produce a report and recommendations that will benefit the 2010 parliamentary and future elections. The time needed for the review should not preclude necessary, immediate changes, including measures that would ensure the impartiality and effectiveness of the IEC. The scheduled 2010 elections should remain on track as the review progresses.

NDI is continuing its long-term observation and analysis of the Afghan election process. The Institute also has conducted programs in Afghanistan to promote increased participation by women in the political process, support domestic election monitors and train candidate polling agents. NDI's election observation mission began in July 2009 with long-term observers and more than 100 national and international observers from 11 countries for the Aug. 20 polls. The Institute will issue a final report, including further recommendations, in the near future.

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