

AFGHANISTAN

**PARLIAMENTARY
AND
PROVINCIAL COUNCIL ELECTIONS
18 September 2005**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

FINAL REPORT

Table of Contents

I. EXECUTIVE SUMMARY	1
1. Main Findings	1
2. Key Recommendations	3
II. INTRODUCTION.....	6
III. ELECTIONS TO THE WOLESI JIRGA AND PROVINCIAL COUNCILS	7
1. Political Background.....	7
2. Legal Issues.....	9
3. Voter Registration	12
4. Election Administration	15
5. Election Campaign.....	19
6. Media Environment	21
7. Participation of Women in the Electoral Process	24
8. Participation of Civil Society.....	26
9. Election Day.....	27
10. Counting and Tabulation.....	29
11. Complaints and Appeals	32
12. Announcement of Results	34
IV. RECOMMENDATIONS.....	35
1. Legal Framework for Elections	35
2. Voter Registration	36
3. Election Administration	37
4. Voting and Counting Procedures	37
5. Complaints and Appeals	38
6. Media Sector	39
7. Participation of Women in the Electoral Process	39
8. Domestic Observation.....	40
9. Civic Education.....	40
V. ANNEXES	41
1. Seats by Province for Wolesi Jirga and Provincial Council Elections	41
2. Media Monitoring Results	42
3. EU EOM Observation on Election Day.....	51
4. Counting and EU EOM Observation	54
5. Selected Statements and Press Releases Issued by the EU EOM.....	56

I. EXECUTIVE SUMMARY

1. Main Findings

Following the presidential election of October 2004, the parliamentary and provincial council elections held on 18 September 2005 were an important step in a transition process designed to put in place a representative government and thereby to help bring peace to Afghanistan after a quarter-century of conflict. The elections were held in extremely difficult conditions, and to a timetable that was very tight. Afghanistan is still emerging from decades of war and destruction, which have devastated its economy, infrastructure and human capital.

Overall, given their complexity and the operational challenges, the elections are an accomplishment, although there were notable shortcomings which will need to be addressed for the future. Pre-election preparations were generally good and voting on Election Day was largely peaceful. Although the turn-out was markedly lower than in 2004, millions of Afghan voters and thousands of candidates took part often in a challenging security environment. However, post-Election Day developments revealed significant deficiencies in the wider electoral process. Irregularities and fraud cast a shadow over the integrity of the elections in a number of provinces, a worrying development that should be honestly analysed and effectively addressed in the future.

The legislative framework can generally be considered to provide for the conduct of future elections and fundamental rights to participate (to elect and be elected) were largely safeguarded. However, the implementation of parts of the legal framework such as candidate certification was controversial due to the lack of consistency, contributing - in part at least - to the decrease in the voter turn-out rate and possible problems with the legitimacy of the outcomes.

The Joint Electoral Management Board (JEMB) was considerably more transparent compared to 2004 in terms of its openness to scrutiny, though various aspects of its decision-making process will require further improvement. The JEMB Secretariat (JEMB-S) faced a daunting logistical challenge in organising the elections, which it met in a largely satisfactory way. However, Provincial Election Commissions (PECs) were weak in most parts of the country and burdened with unnecessary functions. Voter education was inadequate as was the training of electoral staff, although this was partly due to the difficult circumstances. Subsequent events in the count centres demonstrated the need for a more substantial international presence throughout the electoral process in terms of administration.

Voter registration was one of the weakest points of the electoral process, as it failed to remedy the high levels of multiple and proxy registration 'inherited' from the 2004 registration process. Regrettably, this phenomenon was further entrenched and a Final Voters List was again not produced after two consecutive elections, with the result that there was no voters list in any polling station on Election Day. While the registration of returnees was a positive development, the decision not to hold an out-of-country registration and voting was never properly communicated to those concerned.

The election campaign was generally subdued and in certain areas impeded by serious security concerns. Tragically, eight candidates were killed during the electoral process as were a number of election workers, clerics and others. Female candidates and voters faced more limitations than men, and the regulatory framework did not ensure a level playing field between candidates in terms of resources used during the campaign. Intimidation of voters and candidates was common in some areas of the country.

Media legislation and the accompanying regulatory framework established a set of principles for the media's coverage of the elections. A free access scheme for candidates to have access to the media was established by the JEMB and benefited approximately 53% of candidates. However, in general, the role of the media was limited during the official campaign period. There was a lack of critical analysis and an absence of wide ranging coverage of candidates and election related debate.

Women's participation in the elections was marked by a higher share of female voters (44.4%) compared to 2004. Surprisingly, however, the highest increase in the rates of female registrants took place in provinces which happen to be among the most socially conservative areas of Afghanistan, which may be an indicator of considerable proxy registration in these provinces. Female candidates accounted for some 10% of the total and some of them had an impressive showing, but these were exceptions rather than the rule. While the share of women in the newly elected institutions is encouraging by any standards, some ambiguity over whether or not female candidates can win more than the reserved seats for women remains and should be addressed in the future.

The involvement of NGOs in the public outreach campaign was not entirely vindicated by the poor results of the programme. The Afghan Independent Human Rights Commission (AIHRC) remains the principal point of reference in the fight for the protection of human rights in the country, through the publication of reports on the verification of political rights produced jointly with the United Nations Assistance Mission to Afghanistan (UNAMA). The Foundation for Free and Fair Elections in Afghanistan (FEFA) deployed a large number of observers on Election Day, but will need to improve its methodology and reporting at future elections.

Election Day was largely peaceful and voting proceeded smoothly in the vast majority of the 1,100 polling stations visited by EU observers. Polling station officials generally performed their duties satisfactorily, however a number of irregularities mostly due to poor training were observed. The intake of materials at count centres was administratively chaotic in most provinces. Subsequently, reconciliation and counting revealed a worrying failure of the JEMB Secretariat staff to fully safeguard the integrity of the process. Such was the pressure to maintain the original timelines for the announcement of provisional results that many questionable decisions were taken to include suspect ballots in the count. Some 3% of polling stations were excluded from the counting process, and demonstrations by candidates and their supporters - though peaceful - were held in approximately one-third of the 34 provinces. Analysis of the reconciliation and counting procedures points to serious flaws in polling in a number of provinces, such as ballot stuffing, proxy voting, possible voter intimidation, etc.

Tabulation in certain areas of the country was also marred by cases of fraud as well as organisational bottlenecks.

The Electoral Complaints Commission (ECC) was institutionally weak at critical junctures and clearly under-resourced. The performance of the Provincial Election Commissions (PECs) as first-instance bodies was generally disappointing. Due to their inability to adjudicate, they referred to the ECC a considerable number of all the complaints lodged at provincial level. Confusion was caused by the time lag between various stages of the process of result announcement.

2. Key Recommendations

The following recommendations to improve the electoral and wider democratic process are offered by the EU EOM for consideration and action by the Afghan authorities and civil society and by the international community:

Legal Framework for Elections

As the Single Non-Transferable Vote (SNTV) system, apart from its political and financial consequences, places huge burdens on the electoral administration, the relevant authorities should give serious and urgent consideration to adopting a more suitable electoral system. If the SNTV system is retained, the IEC should undertake a process of consultation with relevant electoral stakeholders, including international donors, to assess all the political and financial implications.

The Electoral Law should be amended in a number of areas to (i) specify the role of the judiciary in the electoral process, and; (ii) establish rules for the use of state resources and the conduct of public officials in the campaign period, with clearly defined sanctions against the breach of such rules. Further, the continued existence of illegal armed groups (IAGs) is a serious issue which needs to be addressed. However, important as the goal of disarmament is, there are risks in attributing such a prominent role to electoral institutions in pursuing disarmament goals. In particular, public confidence in electoral institutions and the wider electoral and democratic process may be damaged if the outcome of disarmament is felt to be insufficient or not even-handed. Therefore, the IAG ground of exclusion from candidacy should be part of a wider disarmament strategy including an array of actors and means, and relevant provisions in the legal framework for elections should be consistently applied by the electoral authorities.

The possibility of imposing an additional penalty (e.g. deduction of votes from candidates) to the range currently available to the ECC should be considered. Given that irregularities and fraud can still be expected in future elections, such a penalty could usefully act as a deterrent short of disqualification. It might be applied in cases of proxy voting, ballot stuffing, intimidation, etc.

Voter Registration

The EU EOM strongly recommends that a census or civil registration be performed, possibly by an international agency, to be combined with a totally new voter registration. Following a census or civil registration, the Independent Electoral Commission (IEC) should establish a credible mechanism for the creation of localised voter lists, at polling centre level. Substantial efforts should be made to ensure voters are made aware of the polling centre to which they have been assigned. Consideration should be given to running a pilot programme to ensure the feasibility of the proposed mechanism before it is applied nationally.

A more effective procedure for the exhibition of the register of voters should be developed, based on the public display of voter lists for each polling centre at district level. Efforts should be made to increase awareness amongst electoral stakeholders to challenge the inclusion of names of ineligible voters. Greater steps should be taken to prevent voting by proxy.

Election Administration

The IEC, which is to take over from the JEMB, should remain a permanent body. However, the method by which members of the IEC are appointed should be revised in order to strengthen confidence in their independence and impartiality. Further, the IEC should establish a clear hierarchical structure for the administration of elections that stipulates the jurisdictional powers of the IEC and its Secretariat, including regional, provincial and district administrators. The IEC should prepare a comprehensive operational plan with achievable and realistic budget estimates, and should also seek verified long-term commitments to funding by donors.

Voting and Counting Procedures

The training for counting centre staff should be considerably improved. Sufficient time should be envisaged for training programmes and all areas of the country should be effectively covered. Anti-fraud measures must be considerably strengthened at count centre level. Consideration should be given to the establishment of specially trained anti-fraud teams operating in the count centres. Procedures for quarantine of suspect ballot boxes and other sensitive materials should be developed and publicised well in advance of the count to allow greater understanding amongst agents and observers.

Complaints and Appeals

The financial and human resources of the ECC should be considerably increased to enable it to effectively process and adjudicate complaints in a thorough and timely manner. The ECC should stand outside the administration of the candidate certification process, which should be left to the IEC, and only function as an appellate body in relation to IEC decisions on the eligibility of candidates. It is recommended that the administrative function of the PECs should be undertaken by bodies exclusively acting as provincial structures of the IEC. The adjudication of complaints should be assigned to 'Provincial Complaints Commissions' set up as provincial branches of the ECC, not to be confused with the provincial structures of the

IEC. The prosecutorial authorities of Afghanistan should treat electoral offences much more seriously and should devote appropriate resources to investigation and prosecution.

Media Sector

The media and election laws should provide for clearer regulations establishing the role that the media should play in the official campaign period to ensure the population has access to debate and information about the candidates. A scheme that grants access to the audiovisual media for candidates on an equitable basis should continue to be encouraged, set down in legal measures and developed into a framework with clear guidelines. Efforts should also be made to ensure that candidates whose constituents do not have access to audiovisual media are granted a parallel set of resources in the absence of access to radio and television.

Participation of Women in the Electoral Process

Substantial efforts should be made to promote the role of women in political parties and as candidates in the electoral process. Further efforts should be made to improve the participation of women as voters, especially in the regions where the registration and turn-out of women appears to be particularly problematic. Reserved seats for women should be retained, until women can access the political system on an equal footing with men. The provisions of the Electoral Law should be amended to clarify whether or not female candidates can move beyond the minimum number of seats reserved for women.

Domestic Observation

Support should be provided to civil society groups seeking to promote voter participation in the election, especially domestic non-partisan observer groups. The capacity of domestic observers to monitor throughout the country should be strengthened, with stress to be laid on improving the quality of their observation methodology and reporting. Training should also be provided to candidate representatives and political party agents, so that their participation contributes to the transparency of the electoral process in a more meaningful way.

Civic Education

The IEC, with the support of international advisors, should prepare and implement a large-scale public awareness campaign across the country to inform voters effectively about the institutions emerging from elections. In addition, the IEC should establish special programmes for areas that are rural and/or where institutional reach has traditionally been limited; elements in these regional programmes could include earlier and more carefully monitored recruitment of civic educators, more thorough training for polling and count staff, specially tailored voter education, etc.

Concluding Remarks

The EU EOM would like to recognise the efforts and commitment demonstrated by the Afghan people, the Joint Electoral Management Body and its Secretariat as well the majority of the 160,000 officials who administered the elections.

The EU and wider international community should continue to assist the authorities and civil society of Afghanistan in further improving its electoral process.

II. INTRODUCTION

Following an invitation from the Government of Afghanistan, the European Union (EU) took the decision to deploy an Election Observation Mission (EU EOM) for the 18 September 2005 election to the Lower Chamber of the National Assembly (*Wolesi Jirga*) and Provincial Councils. The EU EOM was not mandated to observe the indirect elections to the Upper Chamber of the National Assembly (*Meshrano Jirga*) which took place in November 2005, after the Mission ended.

Commissioner Benita Ferrero-Waldner appointed Emma Bonino, Member of the European Parliament, as Chief Observer and the EU EOM was deployed on 7 July 2005. The Core Team comprised: Deputy Chief Observer, Plamen Tonchev (Greece); Election Expert, Maria Espinosa (Spain); Legal Expert, Andrew Caldwell (UK); Security Expert, Tom Karl Bil (Germany);¹ Deputy Security Expert, Peter McMahon (Ireland); Observer Coordinator, Lars Tollemark (Sweden); Deputy Observer Coordinator, Roberto Lora (Italy); Media Expert, David Ward (UK); Press Officer, Filippo di Robilant (Italy); Operations Expert, Martim Freire (Portugal); Country Expert, Lucy Morgan Edwards (UK); Democratisation Expert, Katarina Ammitzboell (Denmark).

The International Organisation for Migration (IOM) was selected as the Service Provider, and supported the Mission in all its operational activities.

The key objectives of the EU EOM were to undertake a comprehensive analysis of the entire electoral process and to provide an impartial, balanced and informed assessment of the elections. In making its assessment of the electoral process, the EU EOM took account of international standards for elections (based on Article 21 of the UN Declaration of Human Rights and Article 25 of the International Covenant of Civil and Political Rights) and good observation practice (see Handbook for European Union Election Observation Missions). In order to ensure a comprehensive and consistent analysis, the EU EOM also adopted the EU framework criteria for election assessment as set down in its Communication on Elections (2000), representing the key electoral elements to be considered:

- The degree of impartiality shown by the Election Administration;
- The degree of freedom for political parties and candidates to assemble and express their views;
- The fairness of access to state resources;
- The degree of access for political parties and candidates to media, in particular public media;

¹ Initially, Arild Nodland (Norway).

- The universal franchise afforded to voters;
- Other issues concerning the democratic nature of the election, such as campaign violence, rule of law, legislative framework and the electoral environment;
- The conduct of the polling and counting of votes.

The EU EOM deployed 60 Long-Term Observers (LTOs), representing 18 EU member states. The LTOs were deployed across Afghanistan and covered 29 of the 34 provinces of the country, either through being based there or by making short visits.

The EU EOM also maintained very close contacts with representatives of EU Member States and other European countries, represented in Afghanistan.

At the time of the election, the EU EOM was joined by 24 Short-Term Observers (STOs), representing 21 countries (including non member states Norway and Romania). The EU embassies and institutions also seconded a number of their staff to the EU EOM as observers. In addition, the EU EOM was joined by a delegation from the European Parliament, comprising 7 MEPs and 4 associated staff. Being 159-strong on Election Day, the EU EOM visited 1,124 polling stations.

The EU EOM wishes to thank the Afghan national and electoral authorities for their cooperation and assistance during the course of the observation. The EU EOM would also like to thank the candidates, political parties and civil society organisations for their valuable time and co-operation. In addition, the EU EOM would like to thank the Ministry of Foreign Affairs of Afghanistan for its invitation as well as other government institutions that welcomed the Mission. Special thanks are due to the United Nations Assistance Mission to Afghanistan (UNAMA), the Joint Electoral Management Board (JEMB) and its Secretariat, the EC Delegation in Kabul, EU embassies and the Office of the EU Special Representative.

III. ELECTIONS TO THE WOLESI JIRGA AND PROVINCIAL COUNCILS

1. Political Background

The population of Afghanistan is made up of various ethnic groups, the majority of whom are Pashtuns (some 40% of the total population) concentrated in an arc to the south of the Hindu Kush range, but are also to be found in pockets in the North. The second largest group are the Tajiks (approximately 25%) concentrated in the North, North East and Kabul. The Hazaras, who are thought to descend from the troops of Mongol invaders, make up some 10% of the population and are concentrated in the mountainous central highlands around Bamyan. Uzbeks are found mainly in the North, as are the Turkmen people, the smallest of the

principal ethnic groups. Exact population figures for Afghanistan are not known because there has been no census since 1979, but it is widely estimated that between 23 and 27 million Afghans currently live in the country.²

Some forty years of relative peace in Afghanistan came to an end in the years following the 1973 coup d'état as a result of which King Zahir Shah's cousin Daoud declared Afghanistan a Republic. The instability that followed culminated in the bloody coup of April 1978. Amidst the turmoil that followed, Hafizullah Amin invited the Soviet Union to assist in propping up his government; the Soviet troops entered Afghanistan in December 1979. During the Soviet occupation, Afghanistan saw a fierce opposition mounted by the *mujahiddeen* backed up by the US through Pakistan. After the Soviet withdrawal in 1989 and a short-lived Communist government, the mujahiddeen took over in 1993. The next phase was marked by inter-factional fighting which was terminated by the Taliban in 1996 and the creation of the Islamic Emirate of Afghanistan headed by Mullah Mohammad Omar. Subsequently, the arrival of Osama bin Laden and his Al-Qaeda fighters led to the development of large-scale terrorist operations which climaxed with the events of 11 September 2001.

The September 11th attacks on the United States of America ushered in an era of renewed international engagement with Afghanistan. The US-led overthrow of the Taliban in November 2001 was followed a month later by a summit in Bonn, which mapped out a transitional process. The ultimate aim of the so-called 'Bonn Agreement' was to create a stable and peaceful state in Afghanistan governed by institutions derived from and legitimised by a democratic political process. The Bonn Agreement therefore set down a broad timetable for achieving this aim and elections were an integral part of that framework. Furthermore, the Bonn agenda led to the establishment of an interim authority, with Hamid Karzai as interim president, the convening of an Emergency Loya Jirga in June 2002 (whereby delegates were to select a Transitional Administration), the adoption of a new Constitution (which took place in January 2004) and the conduct of a series of elections (presidential, parliamentary, provincial and district councils).³

However, it was decided that only the presidential election would be feasible in 2004, whereas the parliamentary, provincial and district elections were postponed to 2005 (initially April/May 2005). The presidential election, the first of its kind for an Afghan head of state, was held on 9 October 2004 and, despite certain shortcomings, was viewed by the international community as a significant achievement. Hamid Karzai won 55.4% of the votes, far ahead of the other principal opponents Younus Qanooni, Mohammed Mohaqeq and Rashid Dostum. The presidential election in October 2004 gave Karzai a clear mandate and strengthened the already powerful hand that the Presidency had won at the 2003/4

² A 2003 nationwide UN estimate put the total population between 23.5m and 23.8m, with 28.8 % in urban areas and 71.2 % in rural areas; World Bank figures (2003) estimated the population at 27.2 million.

³ Art. 159 of the Constitution defines the transitional period as the time between the adoption of the Constitution and the date of inauguration of the National Assembly. One purpose of the Lower House and Provincial Council elections held on 18 September 2005 was to lay the basis for the convocation of the National Assembly, thus bringing the transitional period to an end. There is no legal date specified for convocation of the National Assembly.

Constitutional Loya Jirga.⁴ Hamid Karzai was thereby accorded broad powers and headed the executive branch of Government.

As the simultaneous conduct of parliamentary, provincial and district elections was deemed not to be feasible in the spring of 2005, it was decided that (i) the Wolesi Jirga and Provincial Council elections would be postponed to 18 September and (ii) the district elections would not be held in 2005. Ultimately, the JEMB took the view that it had authority to regulate the election of members of Provincial Councils to the Meshrano Jirga as well.⁵ It did so on the basis of its interpretation of the term ‘electoral process’ contained in the Electoral Law.⁶

2. Legal Issues

Legislative Framework

The legislative framework can generally be considered to provide for the conduct of future elections, though it will need to be brought closer in line with the Constitution and various aspects pertaining to its enforcement should be substantially improved. As noted above, the elections of 18 September 2005 are part of a process initiated by the Bonn Agreement in December 2001. The Bonn Agreement foresees a Transitional Period beginning with the adoption of the Afghan Constitution and ending with the date of inauguration of the National Assembly.

The National Assembly is a two-chamber body consisting of the Wolesi Jirga (the House of the People, the lower house) and the Meshrano Jirga (the House of Elders, the upper house). Under Art. 83 of the Constitution, the number of members of the Wolesi Jirga, proportionate to the population of each region, should not be more than 250 and currently has been set at 249. The Wolesi Jirga is directly elected, whereas the Meshrano Jirga is a body with three sources of membership: (i) 34 members appointed by the President⁷; (ii) 34 members elected by each of the newly elected Provincial Councils; and (iii) 34 to be elected by district councils – one from the district councils of each province. Some two weeks before the Meshrano Jirga elections the President issued a Decree⁸ authorising the newly elected Provincial Councils to elect a second member to represent the district councils of each

⁴ Presidential powers as outlined in Article 64 of the Constitution include, *inter alia*, supervising the implementation of the Constitution, determining state policies and issuing legislative decrees; acting as Commander-in-Chief of the military; appointing government ministers and members of the judiciary as well as high ranking officials of the police and armed forces. The President is limited to two terms of office.

⁵ The new JEMB policy and the associated Regulation (approved by JEMB Decision No. 83, 31 October 2005) came too late in the process for the EU EOM to observe these elections.

⁶ Electoral Law, Art. 7 (1); The Constitution, Art. 156.

⁷ Subject to certain conditions: Constitution, Article 84.

⁸ The Presidential Decree on the Election of Provisional Representatives of Provincial Districts for Membership in the Meshrano Jirga was published on 26 October 2005. Candidates nominated themselves and the actual election took place in November 2005.

province. While this Decree can be regarded as a practical solution, it does not accord with constitutional procedures for enacting amendments.⁹

The Right to Participate

The right of citizens to participate in the Afghan electoral process is declared by the Constitution.¹⁰ As regards the right of Afghan citizens to elect, there are no objectionable restraints upon this fundamental right by other legal provisions. In Afghanistan, where the system of representation is based on geographical districts, there is an obligation on the relevant authorities to try to achieve parity in the ratio of population to elected representatives across all districts. This principle is explicitly recognised in the Constitution.¹¹ The Electoral Law sets out a procedure for the Central Statistics Office to provide ‘...the latest official population figures or estimated population of each province.’¹² In order to comply with the Constitution, the Central Statistics Office must exercise great care in establishing the accuracy of its figures. In contemporary Afghanistan absolute precision in the figures is probably unattainable, but the EU EOM has also encountered claims from a number of its interlocutors that the figures supplied were, in the case of some provinces, inaccurate or implausible - thus prompting claims from local stakeholders that the data has been manipulated for political or ethnic advantage. The EU EOM is unable to comment further on this matter save to observe that the integrity of an electoral system can be undermined from various directions. The implementation of a census would greatly assist the production of accurate population statistics thus improving the credibility of seat allocations per province at Wolesi Jirga and Provincial Council levels.

As regards the right to be elected, the Constitution gives a general right to stand as a candidate, but attaches some requirements or conditions for eligibility. In general, the constitutional conditions for candidacy raise no concerns: any person may be a candidate if he/she is of a certain age (25 years for Wolesi Jirga); has Afghan citizenship; has no convictions by a court for committing a crime against humanity, and has not been sentenced to deprivation of civil rights.¹³ However, the Electoral Law further restricts the right to

⁹ Constitution, Articles 149 and 150. Strictly speaking, there is a constitutional impediment to the inauguration of the National Assembly – and thus to the end of transitional period and the Bonn process: since there have been no district council elections, this constitutionally required source component of the Meshrano Jirga is absent.

¹⁰ Chapter 2 (Fundamental Rights and Duties of Citizens), Article 33: ‘The citizens of Afghanistan have the right to elect and be elected. Law regulates the conditions and means to exercise this right.’

¹¹ Under Article 83 of the Constitution, it is also envisaged that: ‘... at least two females should be elected from each province.’ The issue of how the representation of women is achieved is dealt with in Section III, 7 of the report.

¹² Chapter VI (National Assembly Elections), Article 20 (Allocation of provincial seats).

¹³ Art. 85 of the Constitution, on the conditions that apply to persons seeking membership of the National Assembly – meaning, election to the Wolesi Jirga or appointment to the Meshrano Jirga. Interestingly, however, it does not require candidates to be registered voters – although Electoral Law, Art.13, does. Art. 85 of the Constitution requires persons nominated/appointed to the Meshrano Jirga to be at least 35 years old. One third of members of the Meshrano Jirga are elected from the membership of provincial councils but the Constitution imposes no age conditions in respect of candidacy for the provincial councils. This is an anomalous situation which may cause practical difficulties. It could happen that all members of an elected Provincial Council might be less than 35 years of age.

candidacy as set down in Article 15 (3): ‘Individuals who practically command or are members of unofficial military forces or armed groups shall not be qualified to candidate themselves for the elections.’

Important as the goal of disarmament is, it is the EU EOM’s view that the authorities should be cautious in using the electoral system for the pursuit of aims – however meritorious – that are not exclusively connected with the electoral process. The illegal armed group (IAG) basis for exclusion compelled the bodies responsible for candidate certification to function as quasi-judicial organs imposing a serious penalty – deprivation of candidacy – in respect of allegations that had not been proved in courts of law, due to the effective absence of a functional judiciary at this stage. Further, where it was concluded that the IAG ground of exclusion from candidacy was acceptable, then it should have been applied rigorously and impartially. Worryingly, the application of IAG grounds of exclusion was one of the most controversial aspects of the current electoral process.

The Electoral Complaints Commission (ECC) was the body given authority to adjudicate, *inter alia*, any challenges to a person’s eligibility as candidate.¹⁴ It received challenges from the Joint Secretariat (JS) of the Disarmament and Reintegration Commission, which led it to declare provisional exclusion on IAG grounds of 208 persons seeking candidate status on 12 June.¹⁵ By 11 July, this list had dramatically declined to 11 persons who were finally excluded by the JEMB on recommendation of the ECC. A total of 26 more candidates were excluded on IAG grounds post-certification, either a week before Election Day or after.

The ECC, which was seriously understaffed, took the view that it had no capacity to examine the credibility of the JS’s recommendations to exclude or the evidence that underpinned them. The decision-making process was deeply untransparent, as evidence against excluded candidates - or candidates considered for exclusion - was never published. By this policy, the ECC effectively gave the JS a special privilege in relation to evidence that it accorded to no other challenger, and gave *de facto* control of a key aspect of candidate certification to a body set up for purposes totally unconnected to the electoral process.

At the same time, the ECC attracted credible allegations of political manipulation and favouritism. Many persons who could have been refused candidacy on IAG grounds were finally certified and appeared on the ballots¹⁶. This outcome brought the electoral system into serious disrepute in the eyes of much of the electorate. It is reasonable to assume that this led to disillusionment with the elections and seriously impacted their outcomes, not least the level of voter turn-out.

¹⁴ Electoral Law, Art. 36.

¹⁵ By ECC letter dated 13 June 2005. This, *inter alia*, stated: ‘... Therefore, should you wish to remain a candidate for the upcoming elections, you need to make arrangements with the Joint Secretariat to comply fully with this criterion (not being commander/member of an IAG - MLE). The Joint Secretariat will make available facilities for the collection of weapons in each province for candidates willing to comply up to 30 June 2005. Once the Joint Secretariat has advised us that that you have met the terms and conditions of this process, no later than July 1, your name will remain on the candidates’ list.’

¹⁶ The fact that some who had been certified were subsequently disqualified on the same ground, does not vitiate the point.

Another major reason for the non-certification or post-certification exclusion of candidates was their failure to comply with the requirement to step down from government posts while candidates. 17 candidates were eventually disqualified on relevant grounds. The EU EOM finds this requirement justified.

However, the ECC's powers to disqualify candidates post-certification, though legally founded, created significant uncertainty for some candidates and electoral administrators and damaged the interests of some voters.¹⁷ This power should be reviewed such that it should be capable of application only up to certain points of time within the electoral process. In the current election, the ECC - close to polling day - had both disqualified candidates who had already been certified on 12 July and then reinstated some of them. The disqualification in some cases - and reinstatement in others - came so late in the process that the JEMB Secretariat had no ability to adequately inform the voters in the provinces concerned. The decisions themselves are not open to legal criticism but the ECC must have significantly greater regard to the practicalities of election administration when imposing disqualifications. As a result, many voters who cast their votes in good faith did not have their votes counted because they were not made aware that the candidates concerned had been disqualified. This is unacceptable and should be closely reviewed.

A Presidential Order¹⁸ prohibits Government officials including ministers, governors and their deputies, judges, public prosecutors, members of the Defence and Interior ministries and national security directorate from interfering directly or indirectly in the electoral process except as authorised by Electoral Law. Currently, the Order has no penalties and who deals with defaults is not specified. This is unsatisfactory and should also be reviewed.

3. Voter Registration

The system for voter registration showed serious shortcomings. In the absence of credible population statistics, a civil register, a national identity document scheme or double checks during registration, there were few means of preventing multiple or proxy registration and this phenomenon is acknowledged by a number of EU EOM interlocutors to have been widespread. It should be noted that the 18 September 2005 elections were held on the basis of two registration exercises, one in 2004 and another one in 2005. The voter registration process which took place from December 2003 to August 2004 for the presidential election produced 10,942,989 voter cards (59% issued to men and 41% to women). However, not all voters were allocated to provinces and there were a considerable number of voters registered more than once. These deficiencies were inherited by the election administration for the 2005 elections.

¹⁷ A total of 17 candidates were excluded by the time of candidate certification (12 July 2005), whereas 37 candidates excluded at a later stage appeared on the ballot paper. Of these 37 certified, 28 were excluded between certification and Election Day, and nine were disqualified after Election Day.

¹⁸ Order of the President of the Islamic Republic of Afghanistan on the Non-Interference of Government Officials in Electoral Affairs, July 2005.

2005 Voter Registration Update and Correction Period

In order to allow new voters and returnees to register for the 18 September 2005 elections, the JEMB ordered and carried out a Voter Registration Update and Correction Period commencing 25 June and ending 21 July 2005. This was a necessary initiative, but it did not avoid the problem of multiple or proxy registration, particularly of female voters. This, combined with the defects of the 2004 voter registration, added considerably to the potential for significant levels of electoral fraud. The Voter Registration Update took place in the district capitals in 1,052 male and female registration centres, including 82 registration centres earmarked for Kuchi (nomads) registrants. A total of 1,694,012 applicants obtained new cards or corrected existing ones: 1,526,249 of them presumably registered for the first time (90% of the Voter Registration Update total), 9% had missing cards issued again and only 1% had the information on their voter cards corrected. The voter cards issued in 2004 and 2005 thus reached a total of 12,469,238. Of the total number of new registrants in 2005, men account for 55.6% and women for 44.4%.

Having photographs on female voter cards was not compulsory, due to cultural sensitivities in the country, although many women's cards did carry photographs. However, the lack of photographs on some women's voter cards removed one of the safeguards against their use by other voters. Further, a higher percentage of women registered than last year, and the increase was particularly noteworthy in the more traditional areas of Afghanistan - the South and Southeast. This questionable rise increased the potential for fraud on Election Day (proxy voting, ballot stuffing, etc.)

Kuchis made up 9% of the total number of registrants in 2005, with 136,958 voter cards issued, bringing the total of Kuchi voter card holders for 2004 and 2005 to 532,726. However, a high number of Kuchis seem to have been unable to register due to distances from the registration centres.

Voter Registration for Returnees

The JEMB decision to provide special registration facilities to enable those who returned to Afghanistan outside the official registration update period was commendable and consistent with the constitutional obligation to enfranchise all those entitled to vote. In order to facilitate opportunities for voting for eligible returning Afghans, the JEMB agreed with the UNHCR to establish a number of registration centres in the UNHCR Encashment Centres across Afghanistan. During the entire period (from 18 July to 8 September) 39,332 returnees registered in the 8 registration centres for returnees.¹⁹ Out of all registrants, 16,938 (43%) were female; 636 individuals registered as Kuchis. The highest number of returnees was registered in the Central Region (11,565), South (9,128) and East (7,858). Returnees were able to register for the province that they declared to be their final destination, since individuals could only vote in the province indicated on their voter registration card.

¹⁹ The 8 registration centres for returnees were located in Herat (initially two centers, but one of them closed due to the limited number of registrants), Zaranj in Nimroz province, Daman in Kandahar province, Muhmand Dara in Nangarhar province, Kabul, Gardez in Paktia province (opened on 28 August due to the influx of returnees) and Khost (opened on 28 August due to the influx of returnees).

Although the continued registration of returnees was a positive development, not all the eligible voters from this group were registered. The share of registrants was 61% of the total number of returnees of voting age who were processed by the UNHCR Encashment Centres between 18 July and 8 September.

No Out-of-Country Registration and Voting

Special provisions were put in place to ensure that returnees continued to be registered as close as possible to Election Day. However, the JEMB chose not to address the issue of electoral involvement of large numbers of refugees residing in Iran and Pakistan. While the lack of an initiative for out-of-country registration and voting is understandable for a number of practical reasons, out-of-country voters were never properly informed as to whether or not they would be able to exercise their right to vote. Given the large number of Afghan citizens who reside in adjacent countries and beyond - many of whom had been able to participate in the presidential elections of 2004 – it was important that the matter be directly addressed by the JEMB and its decision disseminated. The failure of the JEMB to take such a decision was regrettable. The result was that many hundreds of thousands of persons who might have thought themselves eligible voters were left ignorant of their true position. This conduct must not be repeated.

No ‘Special Needs’ Voting

On the recommendation of the JEMB Secretariat, the JEMB decided not to provide a special needs voting facility to citizens who were homebound and hospitalised, prisoners, or members of the armed forces (Afghan National Army and Afghan National Police) on duty on Election Day. Several possibilities were contemplated around mid-August, such as ‘host province voting’, ‘absentee ballot’ and others, but it was finally decided not to pursue any sort of special needs voting. The EU EOM is of the view that this decision was not unreasonable in contemporary circumstances. Nevertheless, to effectively disenfranchise those who are unable to vote by themselves or who, by reason of public duty, cannot easily vote on Election Day, is not a trivial matter. The electoral interests of these groups must be protected in the future and the electoral authorities should begin planning early in the process to establish the necessary facilities.

Display of Voter Register

It was decided by the JEMB that the List of Registered Voters would be available for inspection at each Provincial Election Commission (PEC) from 27 August to 4 September, though there would be no possibility for correction in cases where a voter’s details were inaccurate or a voter’s name was missing. EU EOM observers reported that the displayed lists were incomplete (in certain provinces down to one-quarter of the full size) and in some cases they were not exhibited at all. The display was therefore meant to merely comply with legal formality rather than help improve the accuracy of the voter register, as there would be no Final Voters List on Election Day.

Assessment

The nature of voter registration, as conducted in Afghanistan over two elections, and the correspondingly issued voter cards are unreliable and are in need of urgent reform. During the Voter Registration Update corrections were a minimal part of the total number of new registrations. There was a considerable amount of multiple registrations and registration by proxy of women, particularly in the South and Southeastern regions. Mullahs and elders played an improper role in sanctioning minors to obtain voter cards, allowing for discrimination, pressure and introduction of underage voters into the electoral process. There were no mechanisms in place to remove any persons from the 2004 voter register, nor to recover old, invalid (by reason of death of the holders, changes of provincial residence, etc) voter cards. The absence of correction mechanisms resulted in the addition of errors from the 2005 update to the uncorrected errors of the 2004 voter registration, thus increasing the potential for fraud on Election Day.

At the same time, the absence of special needs voting, the remoteness of some registration centres from rural areas and Kuchi settlements as well as the lack of out-of-country registration and voting resulted in a considerable number of disenfranchised citizens. Thus, the phenomenon of multiple voter registration was accompanied by under-registration. Moreover, a Final Voters List was not produced for the 2005 elections and, regrettably, Afghanistan remains without this essential tool despite elections in two consecutive years. This is unacceptable and must not be repeated at future elections.

4. Election Administration

The JEMB

The institution legally responsible for administering the electoral process in Afghanistan is the Independent Electoral Commission (IEC), a specific requirement of Art. 159 of the Constitution during the transitional period.²⁰ The JEMB has power to issue Regulations, Procedures and Guidelines to implement the provisions of the Electoral Law.²¹

The current JEMB is a mixed entity of 13 voting members – the 9 Afghan members of the IEC appointed by the President of Afghanistan and 4 international members appointed by the United Nations Special Representative of the Secretary General (SRSG). The Chief Electoral Officer, appointed by the SRSG to head the JEMB Secretariat, is also a member but has no voting rights. Rightly or wrongly, there is a perception that Afghan commissioners appointed by the President are likely to appear less than independent. The procedures for appointing members of the IEC should therefore be reviewed to ensure wider representation of interests and thereby increase its credibility amongst electoral stakeholders.

²⁰ The functions and authority of the IEC are laid down in Art. 156 of the Constitution: ‘The Independent Electoral Commission will be established to organise and supervise any election and to hold a referendum within the country based on the provisions of law.’

²¹ Article 56 of the Electoral Law.

The responsibilities of the JEMB, its Secretariat, and those of the Chief Electoral Officer, are set out in several Presidential Decrees.²² Although the JEMB is supposed to reach decisions by a qualified majority vote²³, in practice members of the JEMB work collegially and attempt to reach decisions by consensus. As a result, a relatively small number of members can effectively prevent adoption of a decision which they do not favour. There is no evidence that this produced any problems in the current electoral process. However, on certain important occasions, the pursuit of collegiality and consensus prevented the taking of formal votes leading to some confusion as to who was supporting a given viewpoint and indeed whether there was majority in existence at all. This should be avoided: the Rules of Procedure (RoP)²⁴ foresee formal votes and the procedure should have been used more frequently for the sake of clarity. Furthermore, the meetings of the JEMB were occasionally marked by lengthy interchanges between Afghan members in Dari that were not always translated or summarised for the benefit of the international members or observers.

The work of the JEMB was considerably improved compared to 2004 in terms of openness. The decisions of the JEMB in relation to electoral matters were promptly posted on its website²⁵ in English, Pashto and Dari languages. In this regard, the JEMB website deserves special commendation as a model of clarity and ease of use that could be followed in many other jurisdictions. The JEMB took over 70 formal Decisions since early March, many adopting Regulations that governed fundamental aspects of the process.

By virtue of its Rules of Procedure²⁶, the JEMB has the power to invite national and international observers to observe its meetings and chose to do so. The EU EOM was invited, subject to modest conditions, to observe JEMB sessions relating to the Wolesi Jirga and Provincial Council elections, and in total, the Mission observed 24 sessions commencing on 31 July 2005. Somewhat later, the JEMB also authorised observation of joint meetings of its Legal and Operational Subcommittees particularly those relating to the inclusion or exclusion of polling stations from the count process. This commendable openness should be continued at future elections.

The JEMB Secretariat

The JEMB Secretariat (JEMB-S) can best be considered to be the executive-operational branch of the JEMB and was headed by an international Chief Election Officer. He was assisted by a Deputy, a Chief of Operations and a Chief of Staff – all of whom were internationals. In addition, all departments of the JEMB-S were headed by internationals with national counterparts. The Secretariat was headquartered in Kabul and had field operations functioning through eight Regional Election Offices and 34 Provincial Election Offices as

²² Principally, Decree No. 40 on Holding National Assembly, Provincial Council and District Council Elections as amended by Decree No. 24 dated 7 June 2005.

²³ Decree No. 40, Article 10, as amended, fixes the quorum for JEMB meetings at 10 members and requires decisions of the JEMB to be taken by a 4/5 majority of members present. Article 10 further clarifies: 'A 4/5 majority means that of 13 members, 11 votes must be in favour; of 12 members 9 votes in favour; and of 10 members, 8 votes in favour.'

²⁴ Adopted on 19 June 2005.

²⁵ www.jemb.org

²⁶ JEMB Rules of Procedure, Article 3 (14).

well as two provincial sub-offices. Each Regional Office was led by a Regional Election Coordinator and each provincial office by a Provincial Election Officer – again with national counterparts.

The Secretariat liaised closely with relevant security bodies both to minimise risks to staff and to ensure appropriate conditions for the various stages of the electoral process.²⁷ In addition to the JEMB and the Secretariat, there were several other bodies that performed functions in relation to the electoral process, such as UNAMA, government ministries and international military forces.

Provincial Election Commissions

Following the 2004 presidential election, there was a clear need for a lower tier of election administration to be formed at provincial level, in order to ensure the effective administration of the 18 September 2005 parliamentary and local elections. The JEMB considered the matter and established Provincial Election Commissions (PECs).²⁸ This followed the recommendations of many stakeholders, including those of the 2004 EU Democracy and Election Support Mission (DESM).²⁹

Each province had a PEC composed of three members, one of whom must be a woman. They were established *ad hoc* for the 2005 elections and then dissolved by the JEMB. The functions of the PECs include: receiving and processing complaints according to ECC Rules of Procedure; reviewing candidate nomination application packages submitted to the Candidate Nomination Office; advising the ECC on the eligibility and qualification of nominated candidates; ensuring accuracy of ballot papers; providing advice in relation to location of polling centres; monitoring the conduct of polling. Furthermore, during the Parliamentary and Provincial Council elections PECs were present in all Count Centres to receive complaints arising from the counting process, though their role proved limited. In addition to the exercise of administrative functions, PECs were also required to receive and adjudicate complaints.

The opinion of the EU EOM on the overall performance of PECs is negative. The basis of their selection must be thoroughly revised as there was a wide perception that many lacked sufficient independence and showed bias towards particular candidates. Furthermore, the selection of PEC members was based on social and political consensus and not on their professional expertise. While PECs were empowered to act as first-instance bodies for the purposes of complaints adjudication, many simply referred complaints to the ECC instead of adjudicating themselves. Moreover, a Regulation³⁰ gives clear priority to the implementation of policies decided upon by the JEMB Secretariat even if they conflict with views of the PEC

²⁷ JEMB Decision No. 21 of 11 May 2005 on Policy Guidelines for International Military Forces' Support of JEMB Activities.

²⁸ Decision No.19 of 3 May 2005 and approved a Regulation on the Establishment of Provincial Election Commissions.

²⁹ DESM Final Report, p. 40.

³⁰ Regulation on the Establishment of Provincial Electoral Commissions approved by JEMB Decision No. 2, 16 March 2005, Article 3.

itself. The problem appears to lie in the dual nature of the PECs in these elections, in the sense that they were subordinated to the JEMB Secretariat as well as being supposed to act as provincial branches of the ECC. It is therefore recommended that in the future the two functions (election administration and complaints adjudication) should be undertaken by two different structures, reporting separately to the ECC and the JEMB Secretariat.

Administration of the elections

The JEMB and its Secretariat faced a daunting logistical task in organising the elections and discharged it in a largely satisfactory way. These elections were considerably more complex than the presidential election in 2004, as they consisted of 69 separate ballots: 34 provincial ballots for the Wolesi Jirga, 34 more ballots for the Provincial Councils and the country-wide Kuchi ballot for the Wolesi Jirga. In 2005, the number of polling stations and staff had to be increased by 18% and 20% respectively, compared to the 2004 presidential election.³¹ Further, the large number of candidates³² and the SNTV electoral system, which did not allow candidates to be grouped together on party lists, necessitated the production of large and often unwieldy ballot papers - containing up to seven pages in three provinces - with the details of candidates. Of the 5,800 candidates in total, 2,775 ran for the Wolesi Jirga and 3,025 for Provincial Councils.

The 26,248 polling stations, clustered in 6,267 polling centres, were split into 14,859 male (56.6%) and 11,388 female stations (43.4%) - a reasonable ratio roughly corresponding to the proportion of registered male and female voters. 24,630 were 'regular' stations and 1,617 were allocated to Kuchi voters. The polling stations were staffed by over 160,000 election workers who had to be recruited and trained to a very tight timeline. The entire electoral process was conducted in harsh security conditions, in what was the worst year since 2001, with some 1,700 people killed in attacks throughout the country. The EU EOM commends the bravery of the staff members of the JEMB Secretariat and its implementing partners who worked under continual threat in many parts of Afghanistan.

A total of 40 million ballot papers were printed for these elections, 20 million for each type of election (the Wolesi Jirga and Provincial Councils). The JEMB Secretariat reasoned that the 40 million ballots papers were necessary to cater for all possibilities, given that voters were not allocated to polling stations and presumably a huge number of ballots were needed as a strategic reserve. However, at the end of the process, the majority of these ballot papers - approximately 27 million - were not used. The size and weight of the ballot papers and many other items related to the electoral process incurred considerable printing and transportation costs, and necessitated a number of additional procurement arrangements (e.g. larger ballot boxes).

³¹ The conduct of the 2004 presidential election required approximately 130,000 electoral staff in some 22,000 polling stations.

³² The decision not to hold district council elections had important political and legal implications. This forced the candidates to compete at Wolesi Jirga and provincial council levels. Had district council elections been held, many would have naturally opted to compete at that level, thus leading to smaller ballot papers for each election.

Given all these logistical challenges, the 2005 elections incurred a direct cost amounting to \$159 million. The \$24.8 cost per voter³³ is a high price by any standards, even in a post-conflict environment like Afghanistan's.

Training of Electoral Staff

Polling and counting manuals were produced in a timely manner and certainly earlier, compared to the preparation for the 2004 presidential election. However, the training of electoral staff was inadequate, although this was partly due to the limited timeframe. The lack of thorough training became clear on Election Day, particularly at the opening and closing stages of the process.

The Department of Training in the JEMB-S was responsible for the cascade training of all the electoral staff, starting from regional and provincial training teams by mid-August. Next, some 1,000 district field coordinators and 5,000 deputy district field coordinators undertook a substantial part of the recruitment and training of polling officials who were trained between mid-August and 17 September. Some 5,000 spare polling staff were additionally trained as the sixth member of teams for large polling centres (those having more than four polling stations), where they acted as centre management staff when not needed to replace polling station officials.

Regrettably, the provision requiring that only two of the five election officials in each polling station need to be literate was widely disregarded with respect to women by local JEMB staff. This was a particular concern in the case of the Kuchi population.

Voter and Civic Education

Civic education was sub-contracted by the JEMB to other organisations and groups. Although significant efforts were undertaken under extremely challenging timelines and there was evidence of some improvement as Election Day approached, overall the civic education programme did not reach sufficient numbers of voters in remote areas, villages and minority enclaves. Women remained generally less informed than male voters, and this was particularly true in the South and Southeast where house confinement of women is widely observed. When civic education did reach voters, it focused primarily on informing voters about polling procedures, whereas it did not adequately address wider issues, such as the role and functions of the institutions which were to emerge from these elections.

5. Election Campaign

Overview of the Campaign

The EU EOM managed to observe the campaign in 29 of the 34 provinces of the country either through being based there or by making short visits³⁴. 30 Long-Term Observer teams

³³ The total direct cost of the elections, divided by the final voter turn-out (6.4 million).

³⁴ The provinces not covered by the EU EOM - for security reasons - were Kunar, Nuristan, Uruzgan, Dai Kundi and Farah.

of two were deployed to their respective areas of responsibility in early August, before the official start of the campaign period (17 August 2005). The EU EOM interviewed a large number of candidates, voters and other stakeholders, and observed various campaign activities.

Election campaigning began prior to the official campaign period and candidates' posters were evident in many areas across the country. Rallies were also held in many parts of Afghanistan, but overall campaigning was localised and mosques and traditional meeting venues such as shuras were key sites for candidates to reach potential voters. The campaign environment varied throughout the country. In certain areas a vibrant and competitive environment emerged and in others the campaign was far more subdued. In a number of areas there was a strong and widespread expectation that tribal affiliations would determine who voters would elect and campaigning was of secondary importance. Security concerns also restricted campaigning in certain parts of the country.

Female candidates faced more limitations due to the scarcity of venues for their campaign meetings and activities, as the main locations used by male candidates (mosques and shuras) were not open to them. The instruction of the Ministry of Education that forbade the use of educational buildings for any elections-related activity removed from the female candidates one of the main locations available to them, further hampering their electoral campaign. The Ministry policy should be altered in the interest of maintaining a level playing field for all candidates.

EU observers reported that a number of candidates offered financial inducements to voters and, in some cases, literally bought voter cards for the purposes of committing electoral fraud. Further, the EU EOM is aware that in some areas government officials, from provincial governors to district police chiefs, involved themselves in political campaigning on behalf of certain candidates. This ranged from specific endorsement of candidates to covert provision of resources. These acts are a clear breach of the Presidential Order on the Non-Interference of Government Official in Electoral Affairs, which states that offending officials will be subjected to legal sanctions. However, there is no evidence that any sanctions have been applied, which is regrettable.

Campaign Finance

The Regulation on Campaign Finance³⁵ introduced a rudimentary, precedent-setting series of restraints on candidate expenditures and receipt of donations. A campaign expenditure limit of 750,000 Afghanis (approximately US\$15,000) was imposed on Wolesi Jirga candidates and 375,000 (approximately US\$7,500) on Provincial Council candidates. The maximum permissible level of contributions to Wolesi Jirga candidates by individuals was set at approximately US\$1,000, and to Provincial Council candidates at approximately US\$500. There were widespread allegations that many candidates grossly exceeded these limits. EU observers from certain provinces recorded incidents of lavish hospitality given by candidates to potential supporters – whether village elders, tribal leaders or mosque authorities. While

³⁵ Approved by JEMB Decision No. 48, 1 August 2005.

these activities should be seen against a widespread cultural norm of providing large-group hospitality, there can be no doubt that wealthier candidates were able to purchase substantial influence and advantage within the electoral process.

The Regulation on Campaign Finance did not remotely provide a level playing field between candidates of terms of the resources at their disposal. Its enforcement provisions were weak: candidates were not under an obligation to actually file reports on expenditures and contributions but only create them and produce them if requested by an authorised body (the JEMB and/or its Secretariat, the ECC and the Media Commission). Given Afghanistan's high level of illiteracy and near total lack of accounting practices, institutions and personnel, it would have been unrealistic to expect any more rigorous system to function well. However, the 'period of grace' granted to political players should progressively be brought to an end. The future electoral framework must contain provisions that compel candidates to produce documentation on their campaign income and expenditures at specified points in the electoral timeframe.

As far as campaign financing is concerned, candidates reported that they had spent from US\$1,000 to US\$12,000 on average, with far larger spending in the case of the more powerful candidates and parties. Candidates claimed to have relied first on their family and friends' support and voluntary contributions to finance their campaigns. None of the candidates admitted to using paid personnel for their respective campaigns and all insisted on the voluntary character of the work of their supporters.

Intimidation of Voters and Candidates

Intimidation and security concerns seriously limited, and sometimes totally impeded the campaign activities in the provinces of the South and Southeast. Additionally, decisions by local *shuras* and tribal bodies in these regions narrowed the number of candidates by directly endorsing some and persuading others to withdraw. Such behaviour further limited campaign activities in these areas.

There were EU observer reports of intimidation of candidates, voters and election staff. The EU EOM deplores the death during the electoral process of eight candidates, election workers, clerics and others. In addition to outright violence, intimidation took various forms, but even the mere perception and expectation of intimidation were equally damaging as direct intimidation itself. Fear and suspicion negatively affected the electoral process in parts of the country, notably in the South and Southeast, but also in certain northern provinces. State officials, such as chiefs of police, were observed by the EU EOM in several provinces directly exerting pressure on candidates and voters.

6. Media Environment

Background

Media conditions in Afghanistan have been improving in recent years though there remain some difficult challenges in terms of providing a sustainable media culture that reflects the

diversity of the country. The sector is characterised by both state and private broadcasters and newspapers that largely operate on local and regional levels; there are also some national services and the international radio services of the BBC and Voice of America are widely listened to throughout the country. The conditions for journalists have also improved, but these conditions remain difficult with a culture of self-censorship, low skill base, external pressures and lack of resources. Radio is the most popular medium across the country followed by television. Apart from the national service of RTA all radio broadcasters have very limited capacity in terms of transmission and many are limited to a range of 20 kilometers.

Media Law and Regulatory Framework

The Electoral Law establishes a set of principles for the coverage of the election campaign by the mass media. Article 50 obliges all of the mass media to accept the views and opinions of the candidates in a 'fair and unbiased manner,' in accordance with the Code of Conduct issued by the Electoral Media Commission (EMC).³⁶ The other main features of the regulatory framework for the elections were a sponsored advertising scheme that provided candidates with free access spots on radio and television and a strict ban on paid-for advertising on the broadcast media. Although campaign advertising was allowed in both the state and private print media there was a ceiling placed on individual candidates as regards the amount of campaign advertising they could acquire in the print media.

Media Monitoring Results³⁷

Due to the extraordinary number of independent candidates the reporting of the elections presented a challenge to the media in maintaining balance in their coverage. However, such a challenge was not seriously taken up by a large percentage of the media. In the state and private broadcast and print media there was a notable absence of election-related coverage in mainstream programming and news.

Radio Coverage

A total of 35 independent candidates or political parties were covered on the national service *Radio Afghanistan* that was excluded from the free access scheme devised by the EMC. The volume of coverage was extremely small and in total an average of a little less than five

³⁶ The mass media are also obliged to provide opportunities for candidates to present their campaigns in the media and they should also ensure fair coverage of the candidates (Article 50, 1 and 2). Pursuant to Article 50 (3) the state media are under a special obligation to abide by paragraphs 1 and 2. Article 51 of the Electoral Law also establishes the EMC that should be operational no later than 60 days before Election Day.

³⁷ The methodology employed for the media monitoring is both quantitative and qualitative and includes a content analysis of a representative sample of media outlets. Both state and private radio, television and newspapers were covered in the sample and were monitored by six media monitors on a daily basis during peak time listening and viewing throughout the official campaign period. The monitoring unit assessed media coverage of the elections in the context of: (i) the access granted to political parties and independent candidates in the mass media and whether the coverage of candidates was fair and balanced; (ii) the tone of media coverage towards the candidates.

minutes per day was allocated to candidates or political parties in all programming. The independent candidate Shukria Barakzai received the most coverage of 14% due to her appearance on two talk shows about the elections. She was followed by Afghan Melat and Tanzim-e-Jabha-Mili-Nejat-e- Afghanistan who both received 9% share of coverage. A number of candidates and parties received between 4-8% coverage and the remaining 33% of coverage was divided between 23 candidates and parties who each received less than 3% of coverage and the majority below 1%. Including free access 170 candidates were covered by the private radio stations. However, the free access scheme disguised the real trends in the coverage of the candidates on private radio which, in a similar manner to other media outlets, was extremely small in terms of volume. Only *Killid Radio* aired a substantial amount of free access slots as *Arman* received little demand for the slots in the monitoring period. A total of 114 candidates were covered on the two radio stations during the official campaign period, starting on 17 August, with the majority of coverage allocated to a range of independent candidates who each received less than 1% of coverage.

Television Coverage

On *Afghanistan National Television* 31 candidates or parties received total coverage that averaged a little less than five minutes per day. Afghan Melat received 19% of coverage followed by Nahzat-e-Mili-Afghanistan with 12% and a number of other political parties which received between 4% and 10% of coverage each.

Tolo TV's election coverage was nearly double that of *Afghanistan National Television* totaling approximately nine minutes per day, covering over 50 independent candidates or parties, excluding the free access slots. Democrat-e-Afghanistan was the most covered party with a share of coverage of 14%. The independent candidate Jafar Rasooli received a 10% share of coverage and Tanzim Dawat-e-Islami-e-Afghanistan 7%. Mutahed-Mili received 6% of coverage and two parties and three independent candidates each received 5%. The remaining 48% of coverage was divided between a wide range of parties and independent candidates. *Ayana TV* was the television channel with the least amount of election coverage, totaling an average of 3:30 minutes per day. Its coverage was dominated by Junbish-Milli Islami Afghanistan which received 72% share of coverage, due to the status of Abdul Rashid Dostum.³⁸ Afghanistan-e-Naween and Wahdat-e-Islami-e-Mardom-e-Afghanistan both received 3% share of coverage on the channel.

Newspaper Coverage

Coverage in the newspapers was also extremely small with the exception of *Anis*, which was the only newspaper to allocate significant space to the election campaign. *Anis* covered over 130 candidates during this period. Tafahum Wa Democracy-e-Afghanistan was the most widely covered with 9% share of coverage. Gulalai Habib received 4% and Nahzat-e-Azadee Wa Democracy-e-Afghanistan 3%. The remaining coverage was divided between a wide range of candidates and parties. The other newspapers failed to provide any significant coverage of the elections or the campaign.

³⁸ Abdul Rashid Dostum, the founder of Junbish-Milli Islami Afghanistan, is currently the Chief of Staff of the High Command of the Armed Forces of Afghanistan.

Electoral Media Commission

The Electoral Media Commission (EMC) had a mandate to assess complaints about media coverage and breaches of the Code of Conduct, although its mandate was broadened significantly prior to the elections as it adopted an administrative capacity towards the free access scheme for the candidates to radio and television. The EMC retained the right to make its own decisions on complaints; however, these were open to appeal for complainants to the JEMB.

The EMC's sponsored advertising scheme had mixed results throughout the country where in some areas participation was extremely high and in others very low. It is to the benefit of the election process that, according to the EMC, approximately 53% of candidates took up free slots on radio and television. However, approximately 47% did not, or could not participate in the scheme due to technical restrictions. Where, because of technical restrictions, candidates were excluded from the scheme no alternative provisions were made to include these candidates. This was a far greater problem than recognized by the EMC as many districts and constituencies lie outside the limited range of the local broadcasters. The awareness of the candidates of their right to free access to radio and television at the start of the official campaign period was extremely poor in many regions of the country. Details of the scheme were distributed to candidates as part of the sizeable collection of documents describing their rights and responsibilities and covered in a limited number of candidates' briefings, immediately prior to, or during the official campaign period. This suggests that the information conveyed to candidates was badly tailored to their needs. Despite a handful of stakeholder meetings hosted by the EMC, the Code of Conduct was not widely publicized and, as a result, journalists had at best a vague awareness of its existence and little understanding of how to put its provisions into programming.

Assessment

With the exception of the free access scheme the volume of election-related coverage was extremely small across all of the mass media. This essentially means that access of candidates to the mass media was limited by the failure of the media to engage with the election campaign. Despite the positive introduction of the free access scheme the large number of candidates that did not take up the available slots also indicates that the scheme was only relevant to certain sections of the country and unsuitable in these areas as a campaign vehicle.

7. Participation of Women In The Electoral Process

Registration of Female Voters

Of the 10.9 million registrants in the voter registration process for the 2004 presidential election 41.5% were women. After the Voter Registration Update for the Wolesi Jirga and Provincial Council elections in 2005, the share of female voters rose to 44.4%. Although a higher percentage of women registrants appears in the 2005 Voter Registration Update figures, the proportion of women registrants was lower in 2005 in 19 provinces when compared to the registration of 2004. The proportion of women registrants increased slightly

in 7 provinces and showed remarkably big increases in 8 provinces. Surprisingly, the highest increases in the rates of female registrants took place in provinces that are generally acknowledged to be among the most socially conservative areas of Afghanistan - the South and the South East - where women are often kept in household confinement.³⁹ In certain registration centres in some of those areas, e.g. in Ghazni province, there were on some days several hundreds of women allegedly registered, as compared to a few dozen men. This points to registration by proxy and raises serious concerns about the validity of registration in those areas.⁴⁰ Where such proxy registration occurred, it was likely that it would be followed by proxy voting or ballot stuffing in order to maximize the benefits of the fraud⁴¹.

Registration of Female Candidates

The 582 female candidates for both Wolesi Jirga and Provincial Council elections accounted for approximately 10% of the total - 12% of Wolesi Jirga candidates and 8% percent of Provincial Council candidates. The Electoral Law, consistent with the Constitution, provides for a minimum of 68 women to be elected to the 249-seat Wolesi Jirga (27.3% of the total) and a minimum of 124 women to be elected to the Provincial Councils out of a total seat number of 420 (approximately 29%).⁴² The reserved seat system represents an appropriate method for ensuring the presence of women in public life.

In general, female candidates were faced with additional difficulties. Security threats affected men and women alike, but female candidates certainly were more vulnerable. Many could not travel during the campaign period, according to some third-party reports.⁴³ Some male candidates perceived female candidates to be very popular and hence serious competitors, which also posed threats.⁴⁴ According to the Ministry of Women's Affairs, some female candidates complained about insufficient financial resources available for campaigning and their problems in travelling over long distances.

General and Reserved Seats For Women

Analysis of the election results shows that in no province did women exceed the statutory number of reserved seats whether in Wolesi Jirga or provincial council elections. The female reserved seat system guaranteed that there would be at least 68 women out of 249 members in the Wolesi Jirga and at least 124 out a total of 420 seats in the Provincial Councils. Of a total

³⁹ The provinces that largely carried the weight of the increase for the whole of Afghanistan were Paktika (59%, i.e. 12% more than last year), Khost (58%, i.e. 16% more than last year), Paktia (56%, i.e. 8% more than last year), Kandahar (45.2%, i.e. 18% more than last year), Uruzgan (52%, i.e. 45% higher than last year) and Helmand (45%, i.e. 30% higher than last year).

⁴⁰ Proxy registration is an electoral offence.

⁴¹ These are the districts with serious indications of registration by proxy, reported by EU EOM interlocutors: Ajiristan, Deyak, Zanakhan, Andar, Giroo, Karabakh, Obant, Gilon and Nawa (Ghazni province), Janikhel, Wazakha, Khairkot and Yahya Khel (Paktika province), Spin Boldak, Zhare (Kandahar province).

⁴² No female candidates were certified in Uruzgan province because none applied. The 3 female seats will remain vacant.

⁴³ Human Rights Watch (2005) Campaign Against Fear – Women's Participation in Afghanistan 2005 Elections, p. 17.

⁴⁴ For instance, Ms Safia Sediqi attracted many followers at her election campaign meetings in Nangarhar province. Her convoy was attacked by gunmen close to Election Day; she survived and continued her campaign.

of 181 general seats available in the Wolesi Jirga (249 minus 68 reserved women's seats), women would have gained only 10 on their own merits (5.5%). None gained any general seat because the most voted women are compelled to 'consume' the reserved seat(s) in each province and the next most voted women candidates after them are highly unlikely to have enough votes to successfully challenge the most voted men. While the current system of reserved seats guarantees a fairly degree of women's representation in the Wolesi Jirga and the Provincial Councils, clarity is needed as to whether the 68 seats in the Wolesi Jirga and 124 in the Provincial Councils reserved for women are the minimum or the maximum.

If there had been no women's reserved seats per province but the total number of seats per province remained the same, women would have gained only 20 seats out of a total of 249 (8%) in the Wolesi Jirga. The above figures indicate that without the system of reserved seats presence of women in the Wolesi Jirga and Provincial Councils would be drastically reduced though there are one or two provinces where women individually did exceptionally well.

Civic Education for Women

The JEMB established a gender unit to try pro-actively to target assistance in support of women's opportunities in the elections as both voters and candidates. Civic education was conducted nation-wide, but the limited timeframe seriously impeded the outreach programmes in remote areas and made impossible time consuming information programmes for women in more socially conservative provinces. Security restrictions in the South and Southeast were also a significant impediment for reaching women in those areas. According to the JEMB, approximately 2.4 million women were reached directly through civic education and public outreach (and more women were reached indirectly through other campaigns).

For understandable reasons, it was difficult to identify a sufficient number of female civic educators because of lack of literacy and travel restrictions. 1,844 civic educators (35% of the total) were women, a number that fell short of the share of registered female voters (44.4%). Given these difficulties, civic education for women should be given considerably more time and resources in the future. More innovative and appropriate actions should also be considered, such as conducting public outreach programmes separately for men and women.

8. Participation of Civil Society

Civil Society Actors

Civil society in Afghanistan is mainly associated with NGOs that have been active in delivering humanitarian aid during the war. NGOs, both national and international underwent a considerable expansion after the Bonn Agreement. The public outreach programme was mainly subcontracted to the Afghan Civil Society Forum (ACSF)⁴⁵ and delivered in partnership with the National Democratic Institute (NDI). While its contribution to the

⁴⁵ The Afghan Civil Society Forum, funded through Swiss Peace, is an umbrella of local NGOs that is based on a network structure reaching most of the country.

electoral process should be acknowledged, it was nevertheless a high-risk strategy to delegate the main responsibility for civic education to one organisation.

Afghanistan has well developed traditional forms of civil society, such as clan structures and local councils that comprise elders, mullahs and other influential members of the community. These structures were also widely involved by the JEMB as well as by candidates for the promotion of the electoral process.

The Afghan Independent Human Rights Commission (AIHRC) remains the principal point of reference in the fight for the protection of human rights in the country, through the publication of reports on the verification of political rights produced jointly with the United Nations Assistance Mission to Afghanistan (UNAMA). The AIHRC is closely linked to domestic observation activities, as one of its commissioners is also the head of the non-governmental Free and Fair Elections Foundation of Afghanistan (FEFA).

Domestic Observers and Agents

Domestic observers, candidate agents and party representatives, were present on Election Day, certainly played a role in increasing the transparency of the electoral process, though their training will need to be substantially improved ahead of future elections.

FEFA, acting as an umbrella for 25 local NGOs, is the biggest domestic observer group in Afghanistan. On Election Day, it deployed approximately 7,300 observers to 217 districts across the country to observe polling as well as to accompany some of the convoys carrying the sensitive material from polling stations to the provincial counting centres. Unfortunately, FEFA published its detailed findings very late in the process, nearly six weeks after Election Day. The presence of FEFA observers was recorded in many polling stations visited by the EU EOM on Election Day, though it slipped from 63% at opening to 56% during polling and 50% at closing.

The presence of party representatives and candidate agents fluctuated between 72% and 77% of the polling stations visited by EU EOM observers throughout Election Day. In some cases the extraordinarily high numbers of party representatives and candidate agents were overwhelming and, in conjunction with their poor training, even obstructive. Many of them lacked understanding of the scope of their functions. In general, their knowledge of electoral procedures was poor and particularly those relating to the intake of election materials at count centres and counting. These factors added considerably to the confusion that marked the intake and counting procedures after Election Day.

9. Election Day

The EU EOM was able to draw on the reports of a total of 159 observers who visited 1,124 polling stations in 24 provinces on Election Day.⁴⁶ The number of polling stations observed

⁴⁶ The Preliminary Statement of the EU EOM on 19 September 2005 was based on reports from some 900 polling stations processed by the time of the press conference.

accounted for more than 4% of the total country-wide, with a sufficient degree of coverage of urban/rural areas and different ethnic communities as well as male and female polling stations. It should be noted, however, that this sample is based on observation in relatively safe areas, whereas high-risk areas with presumably bigger problems remained unobserved by the EU EOM.

On the basis of EU observer reports, Election Day was generally calm and peaceful in the areas covered by the EU EOM and the incidents that occurred did not affect polling.⁴⁷ Security was provided effectively by 60,000 members of the Afghan National Army and Afghan National Police, supported by international military forces. While a number of deficiencies were observed by the EU EOM, no major disruption of the process was reported. The election administration in the polling stations observed generally performed its duties in a satisfactory way in admittedly difficult circumstances. The overall assessment of polling, based on reports produced by EU observers, was 'very good' in 35.9% of the stations observed, 'good' in 53.0%, 'poor' in 8.3% and 'very poor' in 2.8%. However, the EU EOM observed various shortcomings related to the inconsistent implementation of regulations and procedures which exemplified the need for better training of the electoral staff. Although these deficiencies did not substantially affect polling, some of them appear to have paved the way for the irregularities and fraud that would eventually cast a shadow over the electoral process during the count.

The EU EOM observed late opening in the vast majority (81%) of the polling stations visited.⁴⁸ The secrecy of vote was compromised in polling stations (some 24%), group voting being the most frequent irregularity observed; however, there is consensus that generally this could be attributed to illiteracy, poor voter education and often inadequate infrastructure (layout of the polling stations) rather than deliberate fraud. In 6% of the polling stations observed, there were voters who were allowed to cast their vote without producing voter cards. In 22% of the cases observed, ballots received by the polling staff were not properly recorded. EU observers reported that during the closing process procedures were not properly followed in 24% of the polling stations, and Polling Return Forms were not secured in the Return and Complaints Bags (22% of cases). The list of candidates not contesting the elections (due to death or disqualification) was not displayed at polling stations, despite the relevant policy of the JEMB.

In its Election Day Report (issued on 20 September 2005), the JEMB Secretariat conceded that 'The full spectrum of irregularities seen in post-conflict environments were certainly present – such as fraudulent voter registration cards, double voting, proxy voting, misapplied procedures, intimidation and disruptions by agents – but there has been no indication of any

⁴⁷ Two voters were killed and three injured in Kunar province, two electoral staff were assaulted in Paktia province, one policeman was wounded in Ghazni and one Afghan employee was injured in Kabul. There were 19 incidents related to polling centres and 17 other election-related incidents including attacks on convoys transporting ballot papers.

⁴⁸ Polling time was from 06:00 am (instead of 07:00 as initially envisaged) to 16:00. The decision was taken by the JEMB only a few days before Election Day, the result being that not all polling staff were duly informed, though delays can be attributed to other reasons as well (e.g. insufficient training of the polling staff in opening procedures).

systemic problem or orchestrated attempts to defraud the election so far'. The EU EOM is of the view that in possibly one-third of the provinces certain systemic problems and attempts at fraud must have occurred, as illustrated by strong indications that surfaced mostly at a later stage, during the counting process.

A total of 242,503 observers had been accredited by Election Day. The vast majority, 197,981, were candidate representatives; 31,854 political party agents; 10,607 domestic observers (FEFA representatives and more than 3,000 from other NGOs); 1,280 covered polling for the media; and 781 were international observers.

Voter Turn-out

According to the JEMB Secretariat, an estimated 6.4 million voters cast ballots on Election Day, corresponding to 51.5% of the total of registered voters.⁴⁹ The voter turn-out was marked by a 12% drop compared to the 2004 presidential elections (7.3 million) and was particularly noticeable in urban areas (e.g. in Kabul province). At the same time, the 51.5% rate may be artificially low, as it is calculated on the basis of the 12.4 million registered voters, many of whom are thought to hold more than one voter card; it is reasonable to assume that, had multiple and proxy registration been addressed more efficiently, the voter turn-out percentage would have been higher and closer to the actual rate.

The estimated voter turn-out, as announced by the JEMB Secretariat, rose from 6 million immediately after polling to 6.8 million voters a week after Election Day, with no convincing explanation. This discrepancy was attributed to problems in communication with the district field coordinators. The 6.4 million figure was established at a much later stage, after the end of the count.

The highest voter turn-out rate on a provincial basis was recorded in Bamyan (71.7%), Takhar (67.9%) and Paktia (67.7%); the lowest in the provinces of Zabul (21.4%), Uruzgan (24.4%), Kandahar (27.0%) and Kabul (35.4%). The highest female voter turn-out rates were recorded in the provinces of Panjshir (58.5%), Paktia (58.0%) and Ghazni (54.9%); the lowest in Zabul (3.7%), Uruzgan (13.8%) and Helmand (14.5%). The combined share of invalid and blank ballots (5.9%) is not very high, but is not negligible either.

10. Counting and Tabulation

Counting was conducted at provincial level - and not at polling stations - in 32 count centres.⁵⁰ This was decided upon due to (i) the need to ensure that the secrecy of vote was further protected through the mixing of ballots from different polling stations, and (ii) the lack of security forces that would have been necessary to be deployed to all the polling stations. Although this policy was challenged by certain Afghan politicians on the grounds

⁴⁹ Estimates by the EU EOM, based on reports of its observers on Election Day, point to a slightly lower figure (some 6.3 million voters or 51%), with female participation recorded at approximately 40%.

⁵⁰ Ballots from the provinces of Nuristan and Kunar were counted in Jalalabad (Nangarhar province), for security and logistical reasons.

that counting at polling station level would have been more transparent, the EU EOM is of the view that the decision of the JEMB was justified.

The Mission observed the count and tabulation of ballots from 27 provinces in 25 provincial count centres. By the time of its departure, the EU EOM had monitored the count and tabulation of some 3.9 million ballots, i.e. 61% of the 6.4 million voters who turned up on Election Day.

Intake

The procedures at intake were marked by confusion and disorder in most provincial count centres observed by the EU EOM. Despite the efforts of the election administration, the training of the count centre staff proved to have been insufficient. Intake staff often appeared to lack understanding and management supervisors were often needed to decide on relatively simple procedural issues. Further, the low voter turn-out left a large number of unused ballot papers outside the materials boxes envisaged for their transportation and they were delivered at count centres inadequately secured. This oversight on the part of the election administration should not be repeated. The presence of large numbers of candidate agents and party representatives, without proper training, only added to the confusion in many count centres.

Reconciliation, Counting and Tabulation

Reconciliation proved to be one of the most problematic stages of the electoral process. It revealed the inadequate training of polling staff, as many ballot boxes were accompanied by documents that were filled in erroneously or incompletely. In 22% of the cases observed, there was a discrepancy between the number of ballot papers found in ballot boxes and the figures recorded in documents accompanying the ballots boxes.

An official JEMB decision of 8 September set the margin of tolerance at 10 ballots per ballot box⁵¹. In cases where discrepancies were higher than 10 ballots per ballot box (either surplus or deficit) or where ballot stuffing was obvious, quarantine was to be maintained and an audit carried out. In some cases, ballot boxes were removed from quarantine after discrepancies were attributed to minor administrative errors. Reconciliation led to the initial quarantine of ballot boxes from some 800 polling stations, some 3% of all polling stations country-wide, due to discrepancies larger than the margin of tolerance. Subsequently, the JEMB decided to increase the margin of tolerance for surplus/deficit of ballots in quarantined boxes up to 20, clearly in an attempt to include as many polling stations as possible in the count, without a thorough investigation into the reasons for the discrepancy.

Even more worryingly, however, most of the EU EOM observer teams reported that ballot boxes that could be the product of ballot stuffing, proxy voting or voter intimidation were actually counted. In at least 6% of the cases observed, ballot boxes were counted without an audit or a recount that should have been necessitated by the discrepancy found. There were

⁵¹ The 'margin of tolerance' refers to the permitted discrepancy between the number of ballots recorded in accompanying documentation and the number of ballots actually contained in a ballot box.

reports that some count centre managers disregarded the 10-ballot (and later on 20-ballot) margin of tolerance and accepted much larger margins. Further, no attention at all was paid to cases of deficit of ballots in a ballot box, which could also be the result of attempted fraud.⁵²

EU observers reported that over at least a week after the start of the counting process a number of suspect ballots were introduced in the count, due to the strong public commitment of the JEMB Secretariat to the 4 October initial deadline for the end of the count. These decisions appeared to have been taken on the basis of audit guidelines⁵³ which were confidential to JEMB Secretariat staff and unavailable to candidates and observers. On 29 September, the EU EOM Chief Observer sent a letter to the JEMB and its Secretariat raising concerns about the questionable decisions being made in count centres on the basis of these internal audit guidelines of the JEMB Secretariat. On 30 September, the EU EOM issued a press release noting that the counting process had revealed some worrying cases of fraud (ballot stuffing, proxy voting and possible voter intimidation) and stressing the need for the election administration to handle these issues in a transparent and effective way, in order to safeguard the integrity of the process. The JEMB accepted to publish the audit guidelines on its website on 2 October 2005.

The audit included quarantined ballot boxes from 878 polling stations. 746 polling stations (approximately 2.8% of the total country-wide) were finally excluded by the JEMB from the count⁵⁴, whereas 132 were eventually counted after the audit revealed minor administrative mistakes. In total, 24 out of 34 provinces, were affected by these exclusions, though the extent of the problems varied from a negligible degree to very high proportions. 8 provinces, nearly one-quarter of the total, exceeded the nation-wide average. Paktika stands out as the province with the highest share of excluded polling stations (28.6%), followed by the provinces of Kandahar (8.9%), Nangarhar (4.6%), Helmand (4.1%), Uruzgan (3.6%), Laghman (2.9%), Ghazni (2.9%), and Badghis (2.8%). The Paghman district of Kabul was also marked by an extremely high share of excluded polling stations.⁵⁵ The list of irregularities and fraud in these areas included obvious ballot stuffing (297 polling stations) and discrepancies beyond the 20-ballot margin (182 polling stations), as well as documentation missing from ballot boxes which made them unidentifiable.

These exclusions were welcome, if belated, developments. The EU EOM cannot determine the precise extent of these irregularities and fraud, but they did occur and must have had an impact on the integrity of the election results in the affected provinces. It should be noted that counting was suspended for short periods of time in several provincial count centres, due to protests - largely peaceful - by candidates and their supporters in approximately one-third of the 34 provinces. The JEMB Secretariat admitted that some of the count centre staff, mostly

⁵² Deficits could also imply fraud, done by persons removing ballots of an opponent in order to leave those of a preferred candidate.

⁵³ Guidelines to Audit Officials on Audit Process and Counting in the Counting Centers.

⁵⁴ The majority of 'exclusions' relate to polling stations, i.e. both ballot boxes from a polling station were excluded. A small number of 'exclusions' (74) relate to unidentified ballot boxes, i.e. ballot boxes that could not be attributed to specific polling stations.

⁵⁵ All ballot boxes (120) from the Paghman district of Kabul province were initially quarantined due to indications of large-scale ballot stuffing. Upon audit, 62 were eventually excluded from the count.

in Paktika but also in other areas, had taken part in fraud and fired approximately 50 staff country-wide for having been involved in fraud in favour of certain candidates. Last-minute decisions of the election administration also reinforced public suspicion of the lack of even-handedness, if not outright political interference.⁵⁶

11. Complaints and Appeals

The Electoral Complaints Commission (ECC)

The principal body in charge of complaints adjudication is the ECC. It proved institutionally weak at critical junctures and clearly under-resourced as did the Provincial Election Commissions as first-instance bodies. The lack of legal and institutional clarity further undermined the credibility of what should have been a ‘cornerstone’ in the electoral process.

The legal foundation of the ECC is contained in the Electoral Law.⁵⁷ The body itself is wound up no later than 30 days after final certification of election results. This institution consists of five members, one appointed by the Supreme Court, one by the Afghan Independent Human Rights Commission and three international members appointed by the UN SRSG. Under the Electoral Law⁵⁸, decisions of the ECC are considered to be ‘final’, although it is far from clear what this means as the Supreme Court has a constitutional right to review decisions of lower bodies and this, in principle, must include adjudications of the ECC. The current uncertainty as to which body – the ECC or the Supreme Court - has the final authority in electoral matters needs definitive clarification. The EU EOM is of the view that the Supreme Court holds ultimate jurisdiction by virtue of the provisions of the current Constitution⁵⁹. Inconsistencies between the Electoral Law and the Constitution should be clarified in advance of the next elections.

The Electoral Law⁶⁰ currently allows that one member of the ECC be appointed by the Supreme Court. This right should be withdrawn from the Supreme Court and the Electoral Law amended accordingly. The place should go to a jurist or lawyer who is not a judge. This will give greater confidence to an applicant to the Supreme Court that it will exercise its jurisdiction independently of any connection or involvement of one of its members in a decision of the ECC.

The ECC should not involve itself in accepting and adjudicating complaints concerning candidate certification until final certification decisions have been issued by the JEMB. A

⁵⁶ The ECC’s last-minute decision to exclude polling stations from the Showrawak district of Kandahar, after the end of the count, is a case in point. This move invalidated thousands of already counted votes that were crucial to the victory of the two Berhis brothers of Balochi origin (one of them running for the Wolesi Jirga and the other for Kandahar Provincial Council). The decision of the ECC would probably have been less controversial, had President Karzai not publicly commented on the election of one brother, Haji Mohammad Berhis. The effective removal of the two brothers from the race, after having won their election, could possibly be viewed by some as a political reaction to Haji Mohammad Berhis’ personal criticism of President Karzai.

⁵⁷ Articles 52-55 of the Electoral Law.

⁵⁸ Article 52 (6) of the Electoral Law.

⁵⁹ The Constitution of Afghanistan, Articles 120 and 122.

⁶⁰ Article 52 (1a).

person who asserts that a decision of the JEMB or the IEC to exclude or include a candidate is unlawful, should have a right of appeal against such decision to the ECC. The current practice of the ECC effectively functioning as a tribunal of first and last instance in relation to candidate challenges prior to the JEMB issuing the final candidates' list should cease and the Electoral Law, Art. 52(3)(b) should be repealed.⁶¹

Sanctions and penalties in relation to a standard menu of electoral offences are set out in Electoral Law, Art. 54. In 22 cases, the ECC imposed fines ranging from AFG5,000 to AFG100,000. In addition, nine electoral officials were banned from serving in future election administrations, some of them for as long as 10 years. The EU EOM considers the enforcement of these provisions of the Electoral Law a positive, if not entirely sufficient, step.

One possible effect of Art. 54(1d) should be noted. Even if a person has surmounted all challenges to nomination as candidate, has been certified and has had his/her name printed on the ballot, the ECC can still disqualify him/her. If so, any votes cast for him/her are deemed to be invalid. This is a power that ought to be exercised sparingly and only in respect of the most serious violations of the electoral process. Due regard should be given to the fact that disqualifications post-election but before the final certification may attract the criticism that the will of the voters is being subverted by an unelected body. Nonetheless, where a candidate has committed serious fraud or intimidation for the purpose of being elected, the ECC should have no hesitation in imposing disqualification as the appropriate penalty. In addition, thought should be given to the possibility of deducting votes as a penalty, short of disqualification, and a deterrent against various forms of fraud.

Complaints Adjudication

The ECC received approximately 5,400 complaints in total, some of them at its Kabul headquarters and the majority at the 34 PECs. The complaints were roughly split between those submitted before Election Day and after that; in only 3% of the polling stations observed on Election Day by the EU EOM were written complaints lodged. Of all the complaints submitted to the ECC, 575 were deemed to have a possible impact on results and were investigated as high-priority cases; most of the complaints in this category were about fraud.

The performance of the PECs as first-instance bodies was disappointing. Due to their inability to adjudicate, they referred to the ECC in Kabul a considerable number of all the complaints lodged at provincial level. The weak performance of the PECs was partly due to their unwillingness, understandable to an extent, to adjudicate politically sensitive complaints or to be involved in the process of candidate certification, which would have posed security

⁶¹ The ECC has jurisdiction to consider and adjudicate a range of matters, including: (i) challenges to the list of candidates or to the eligibility or qualifications of a candidate raised during the electoral process; and (ii) complaints relating to electoral offences, including violations of the law in the conduct of the electoral process, provided that the complaint has been received prior to the certification of the results of the election.

threats in certain areas. At the same time, most PECs clearly lacked the necessary human resources to carry out thorough investigations into complaints submitted to them.

12. Announcement of Results

The final certification of results was delayed by problems during the counting process, though this did not affect the announcement of partial results and provisional results. There were many reasons for the delay. Confusion was caused by the time lag between the announcement of results recorded at counting tables, in LO2 result forms and ultimately on the JEMB website. In addition, many of the complaints submitted to the PECs at provincial level were referred to the ECC in Kabul instead of being adjudicated locally. Further, doubtful batches were reviewed at the data entry centre of the JEMB Secretariat in Kabul and audited by international counting personnel. While this was a necessary safeguard, many errors were identified and thus caused an additional delay in publishing results. Where errors were identified, the discrepancies were sent back to the provincial count centres for further checking. This often disclosed one of two things: (i) errors of transcription and arithmetic due to the low educational level of those transcribing the data; or (ii) cases where an extra digit had been added to the figures for the benefit of a given candidate.⁶²

The first provincials election results were certified on 6 October and the last ones on 12 November, instead of 22 October, as initially envisaged. The most problematic provinces causing a delay in the certification of results nation-wide were Kandahar, Nangarhar and Paktika; Kandahar was the last province to be certified by the JEMB.

Make-up of the Wolesi Jirga

It is difficult to offer a firm assessment of the balance of pro-government and opposition forces in the Wolesi Jirga. There will probably be many small and fluid factions, no fixed or clear pro-government or opposition majority and a large number of members whose loyalties remain to be determined or may vary from issue to issue. This make-up in part reflects the low level of political party development in Afghanistan and the limited role which parties were permitted to play in the electoral process.

Ethnically, a little under half of the elected members of the Wolesi Jirga are of Pashtun origin. Just over 20% are Tajiks, just under 15% Hazaras, and perhaps 10% Uzbek and Turkmen. Smaller ethnic groups make up the balance.

Politically, the various mujahiddeen factions appear to be well represented in the new Wolesi Jirga. There are also a number of modernising intellectuals and technocrats, mostly associated with small non-jihadi parties popularly referred to as 'democratic parties'. Women are particularly well represented within this group. The parliament also includes some former Communists and a handful of former Taliban, although several prominent ex-Taliban candidates were soundly defeated at the polls.

⁶² Frequently, this type of fraud would give 100 or 200 illicit votes to a candidate and was done by corrupt count staff bought by the candidate or agents concerned.

IV. RECOMMENDATIONS

The following recommendations in relation to improving the electoral and wider democratic process are offered by the EU EOM for consideration and action by the Afghan authorities and civil society and by the international community:

1. Legal Framework for Elections

- In recognition of the obvious complications of the Single Non-Transferable Vote (SNTV) system for parliamentary and local elections and concerns about its impact on Afghanistan's democratic development and burdens on the election administration, the relevant authorities should give serious and urgent consideration to adopting a more suitable electoral system. If the SNTV system is retained, the IEC should undertake a process of consultation with relevant electoral stakeholders, including international donors, to assess all the political and financial implications.
- Political parties should be fully included in the electoral process and party-affiliated candidates should be given the chance to state their allegiances on the ballot.
- The legal framework for elections will need to be reviewed and amended to:
 - (i) specify the role of the judiciary in the electoral process, especially the status of the Supreme Court *vis-à-vis* the role of the IEC as the authority supervising and implementing elections;
 - (ii) clarify the IEC's responsibility for the election of provincial council representatives to the Meshrano Jirga;
 - (iii) specify the basis on which district council boundaries will be established as well as a formula for seat allocations to each council.
 - (iv) provide for 'special needs voting' by prisoners, military personnel, hospitalised and - possibly - homebound voters;
 - (v) establish rules for the use of state resources and the involvement of public officials in election campaigns, with clearly defined sanctions against the breach of such rules.
- The IAG ground of exclusion from candidacy should be part of a wider disarmament strategy including an array of actors and means, and relevant provisions in the legal framework for elections should be consistently applied by the electoral authorities.
- Regardless of the chosen model, no candidate should be deprived of his or her right to stand for office without due process.
- The possibility of imposing an additional penalty to the range currently available to the ECC should be considered: deduction of votes from candidates. Given that irregularities and fraud can still be expected in future elections, such a penalty could usefully act as a

deterrent short of disqualification. It might be applied in cases of proxy voting, ballot stuffing, intimidation, etc.

- The future electoral framework must contain provisions that compel candidates to produce documentation on their campaign income and expenditures at specified points in the electoral timeframe. Failure to comply should be effectively penalised and, in these cases as well, thought should be given to the merits of a system of vote deduction, or disqualification, for those who do not comply with their obligations.
- The Electoral Law and/or the Law on Provincial Councils should be amended to clarify the procedures for the election of Provincial Council members to the Meshrano Jirga.

2. Voter Registration

- The EU EOM strongly recommends that a census or civil registration be performed, possibly by an international agency, to be combined with a totally new voter registration. This should be an absolute minimum requirement before the conduct of any future election.
- Following a census, the IEC should establish a credible mechanism for the creation of localised voter lists, at polling centre level. Substantial efforts should be made to ensure voters are made aware of the polling centre to which they have been assigned. Consideration should be given to running a pilot programme to ensure the feasibility of the proposed mechanism before it is applied nationally.
- The IEC should establish a credible mechanism for updating the register of voters to include newly eligible voters or previously unregistered eligible voters. The IEC should identify the safeguards by which repeated registration of existing voters will be avoided.
- District, municipal and village boundaries should be established well in advance of voter registration, to ensure this information is properly reflected on a voter's card. Future precinct excerpts of the voter register should contain voters' names (date of birth and ID card number) instead of only the numbers of the voters' cards.
- A more effective procedure for the exhibition of the register of voters should be developed, based on the public display of voter lists for each polling centre at a district level. Efforts should be made to increase awareness amongst electoral stakeholders of their right to challenge the inclusion of names of ineligible voters. Greater steps should be taken to prevent voting by minors.
- Should a negative decision be made on the possibility of carrying out an out-of-country registration, it should be properly announced and potential out-of-country voters should be duly notified of this decision.

3. Election Administration

- The IEC, including its administrative apparatus, should be a permanent body. The method by which members of the IEC are appointed should be revised in order to strengthen confidence in their independence and impartiality. Consideration should be given to whether the appointment of new members ahead of future elections may increase cross-partisan support of the IEC. Its composition should be sufficiently representative and the selection of its members should be legally regulated.
- The IEC should institutionalise the successful practice of party and candidate forums during the electoral cycle, bringing electoral officials, party representatives and candidates together regularly to discuss electoral developments.
- The IEC should establish, by regulation, a clear hierarchical structure for the administration of elections that stipulates the jurisdictional powers of the IEC and its Secretariat, including regional, provincial and district administrators. In order to ensure full accountability, all policy decisions should be taken after full consultation between the IEC and its Secretariat and should be endorsed by a formal decision of the IEC.
- Consideration should be given to the creation of provincial administrative structures of the IEC separate from the provincial branches of the ECC. The appointment of members and staff to such bodies should be based on merit and the satisfaction of publicly known criteria.
- In future electoral cycles, the current rule for majorities in the IEC could complicate decision-making and should be revised to allow for lesser majorities.
- In view of future elections, the IEC should prepare a comprehensive operational plan with achievable and realistic budget estimates. It should also seek verified commitments to funding by donors.
- The Afghan National Consolidated Budget should open budget lines and provide some limited support to the IEC and ECC in 2006. International assistance will be required for some time, on a sliding scale matched to the Afghan authorities increasing capacities and revenues.

4. Voting and Counting Procedures

- Counting centres should continue to operate at provincial level, due to the better possibilities of fraud prevention.
- The training for counting centre staff should be considerably improved. Sufficient time should be envisaged for training programmes and all the areas of the country should be effectively covered.

- Anti-fraud measures must be considerably strengthened at count centre level. Consideration should be given to the establishment of special anti-fraud teams operating in the count centres.
- Greater emphasis could be placed on the importance of securing and accounting for unused ballots on Election Day. All sensitive election materials (unused and spoilt ballots and voters lists) should be accounted for upon receipt of the voting materials.
- There should be a reduction in the tolerance level for ballot discrepancies at reconciliation. In addition, there should be no relaxation of the tolerance levels during the count process.
- Procedures for quarantine of suspect ballot boxes and other sensitive materials should be developed and publicised well in advance of the count to allow greater understanding amongst agents and observers.

5. Complaints and Appeals

- The ECC should not be a standing body but should be constituted for the purpose of adjudicating electoral offences during specific electoral cycles.
- The provision in the Electoral Law that currently allows one member of the ECC to be appointed by the Supreme Court should be repealed. It is recommended that this position be filled by a jurist or lawyer who is not a judge.
- The financial and human resources of the ECC should be considerably increased to enable it to effectively process and adjudicate complaints in a thorough and timely manner.
- The ECC should stand outside the administration of the candidate certification process, which should be conducted by the IEC itself. The ECC should only function as an appellate body in relation to IEC decisions on the eligibility of candidates.
- The ECC's powers to disqualify candidates post-certification, including after Election Day, should be carefully reviewed.
- It is recommended that the adjudication of complaints should be assigned to 'Provincial Complaints Commissions' set up as provincial branches of the ECC, not to be confused with the provincial structures of the IEC.
- The complaints form should be simplified and specific procedures developed to facilitate complaints from people lacking in literacy skills.
- The prosecutorial authorities of Afghanistan should treat electoral offences much more seriously and should devote appropriate resources to investigation and prosecution where needed.

6. Media Sector

- The media and election laws should provide for clearer regulations establishing the role the media should play in the official campaign period to ensure the population has access to debate and information about the candidates.
- A greater amount of technical support should be established for editors and managers of media outlets to assist them in covering the elections;
- The temporary nature of the Electoral Media Commission established for the elections demonstrated clear systemic weaknesses and the authorities should ensure that a permanent independent body be established, possibly with a range of other tasks, to ensure media coverage of elections is fair and balanced;
- A scheme that grants access to the audiovisual media for candidates on an equitable basis should continue to be encouraged and set down in legal measures and developed into a framework with clear guidelines. Efforts should also be made to ensure that candidates whose constituents do not have access to audiovisual media are offered alternatives in the absence of access to radio and television.

7. Participation of Women in the Electoral Process

- Substantial efforts should be made to promote the role of women in political parties and as candidates in the electoral process. Further efforts should be made to improve the participation of women as voters, especially in the regions where the registration and turn-out of women appears to be particularly problematic. More innovative and appropriate actions should be considered in the future, such as conducting public outreach programmes separately for men and women.
- Reserved seats for women should be retained, until women can access the political systems on an equal footing with men. Quotas, at the present level or higher, should be applied to all levels of elected government. However, the provisions of the Electoral Law should be amended to comply more closely with the Constitution. Currently, the Electoral Law contains a provision, which does not clarify whether or not female candidates can gain more than the minimum number of seats reserved for them.
- The IEC should continue to have a 'gender section' that provides information on gender issues and promotes equality of opportunity for male and female voters, candidates, staff, agents and observers. The gender section could also take on a co-ordination role for training, facilitation of meetings for women and promotional work (including in the audio visual media).
- Female candidates should have equal chances to campaign compared to male candidates. One of the measures to be considered should be for the Ministry of Education to allow the use of educational buildings in order to give female candidates some of the few locations where could possibly have their campaign activities.

- The IEC should invest increased resources in female staff at all levels of the IEC.
- The IEC should mandate compulsory photographs on women's voters' cards (in order to reduce the opportunity for men to vote on behalf of women). This should be facilitated by having registration conducted by women in women-only spaces.

8. Domestic Observation

- Support should be provided to civil society groups seeking to promote voter participation in the election, especially domestic non-partisan observer groups. The capacity of domestic observers to monitor throughout the country should be strengthened, with stress to be laid on the quality of their observation.
- Training should be provided to candidate representatives and political party agents, so that their participation enhances non-partisan domestic observation.
- Additional and specialised training should be provided to parties, candidates and agents from difficult areas. This could emphasize platform-based campaigns, multi-ethnic support bases, women in politics, campaigning in difficult environments, the complaints system, the importance of political opposition and acceptance of certified results.

9. Civic Education

- The IEC, with the support of international advisors, should prepare and implement a large-scale public awareness campaign to inform voters effectively on the institutions emerging from elections.
- The IEC should establish special programmes for areas that are rural and/or where institutional reach has traditionally been limited. Elements could include:
 - (i) Earlier and more carefully monitored recruitment;
 - (ii) Longer training for polling and count staff from these areas;
 - (iii) Specially tailored voter education.

V. ANNEXES

1. Seats by Province for Wolesi Jirga and Provincial Council Elections

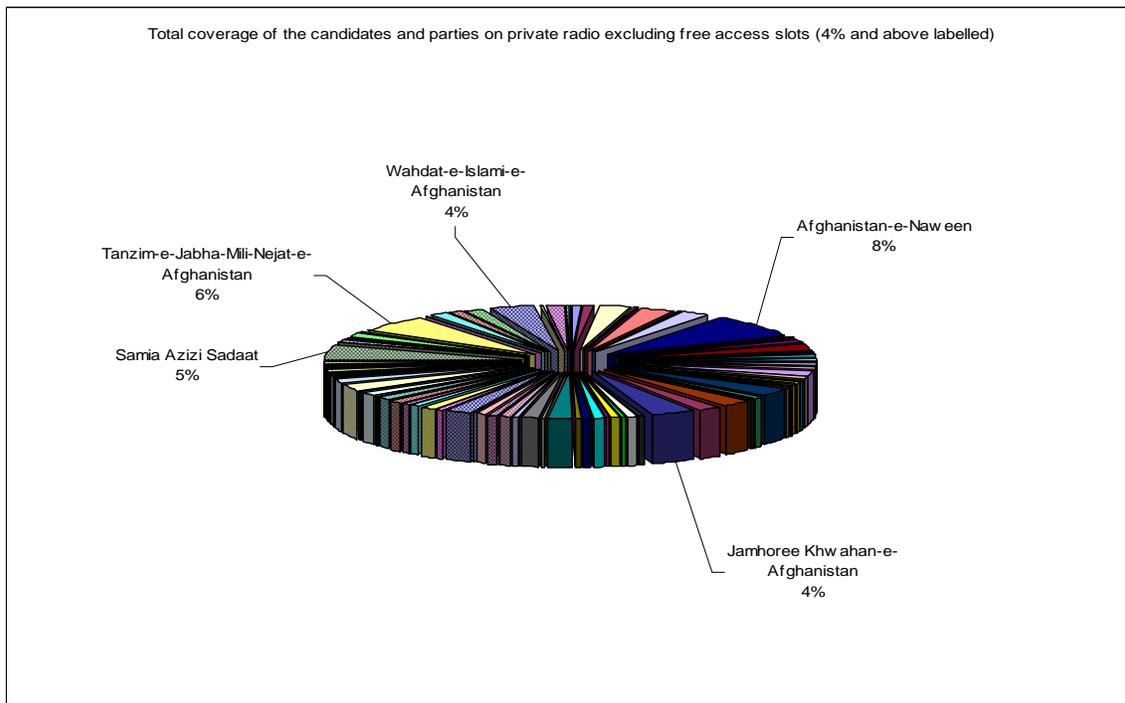
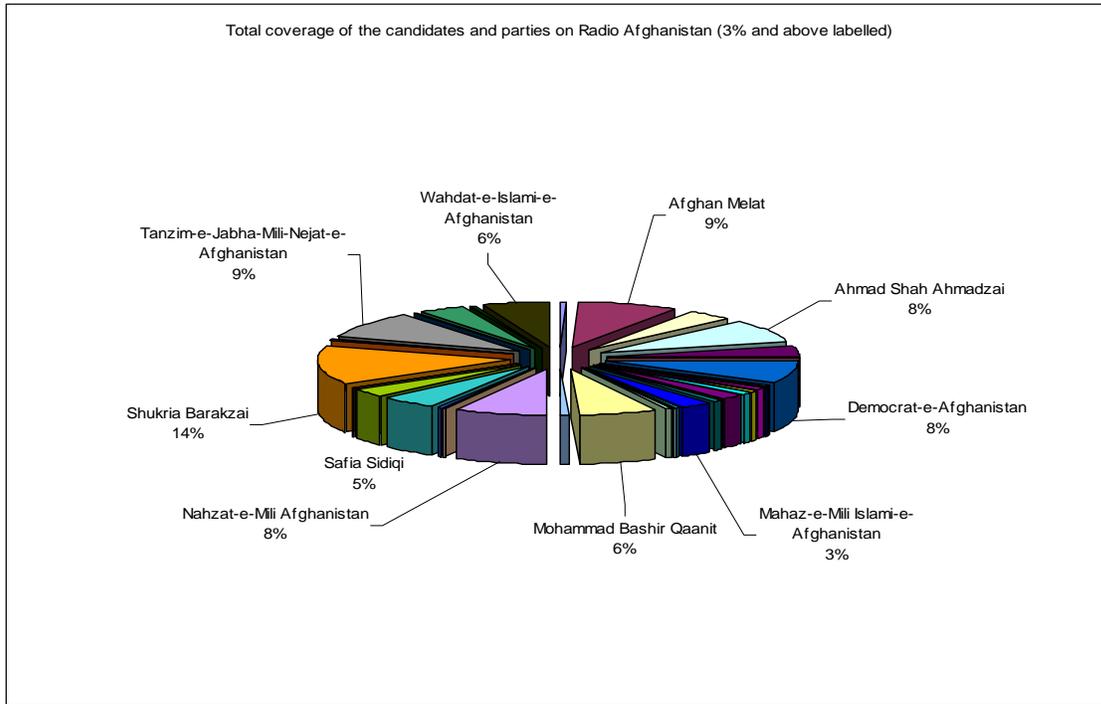
Province	Number of seats in Wolesi Jirga [Statutory minimum number of women's seats]		Number of seats in Provincial Council [Statutory minimum number of women's seats]
Badakhshan	9 [2]		15 [4]
Badghis	4 [1]		9 [3]
Baghlan	8 [2]		15 [4]
Balkh	11[3]		19 [5]
Bamyan	4 [1]		9 [3]
Dai Kundi	4 [1]		9 [3]
Farah	5 [1]		9 [3]
Faryab	9 [3]		15 [4]
Ghazni	11 [3]		19 [5]
Ghor	6 [2]		15 [4]
Helmand	8 [2]		15 [4]
Herat	17 [5]		19 [5]
Jawzjan	5 [1]		9 [3]
Kabul	33 [9]		29 [8]
Kandahar	11 [3]		15 [4]
Kapisa	4 [1]		9 [3]
Khost	5 [1]		9 [3]
Kunar	4 [1]		9 [3]
Kunduz	9 [2]		15 [4]
Laghman	4 [1]		9 [3]
Logar	4 [1]		9 [3]
Nangarhar	14 [4]		19 [5]
Nimroz	2 [1]		9 [3]
Nuristan	2 [1]		9 [3]
Paktia	5 [1]		9 [3]
Paktika	4 [1]		9 [3]
Panjshir	2 [1]		9 [3]
Parwan	6 [2]		15[4]
Samangan	4 [1]		9 [3]
Sar-i-pul	5 [1]		9 [3]
Takhar	9 [2]		15[4]
Uruzgan	3 [1]		9 [3]
Wardak	5 [2]		9 [3]
Zabul	3 [1]		9 [3]
Kuchis	10 [3]		*
TOTALS	249 [68]		420 [124]
Share	100% [27.3%]		100 [29.5%]

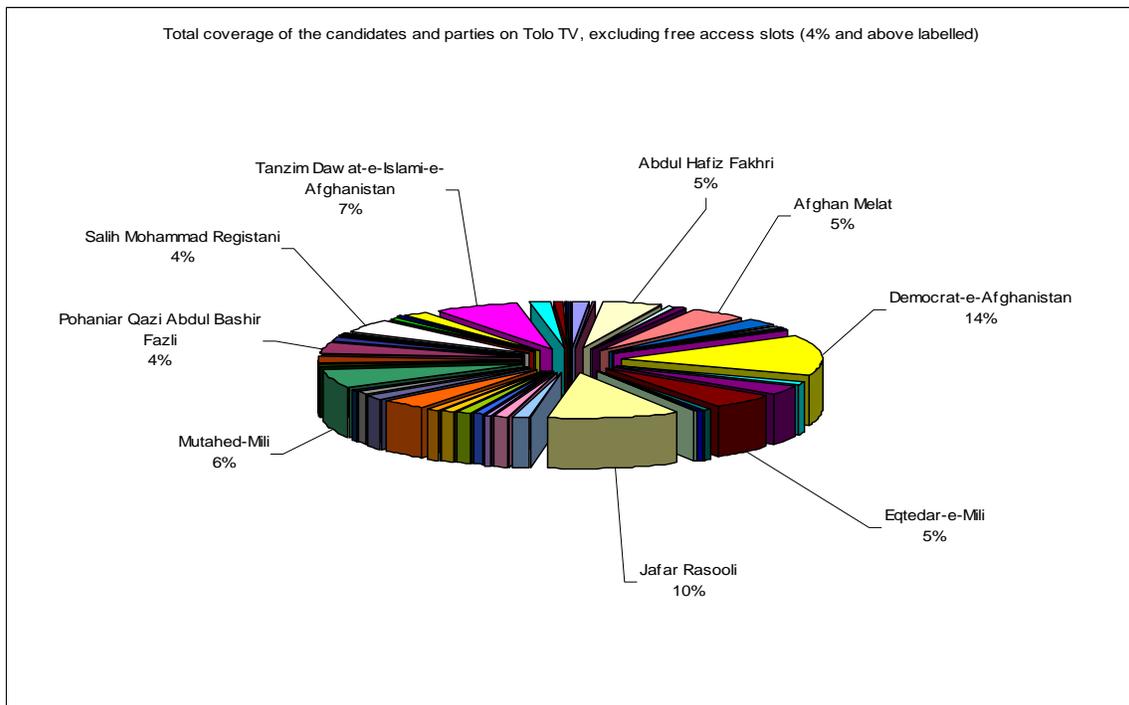
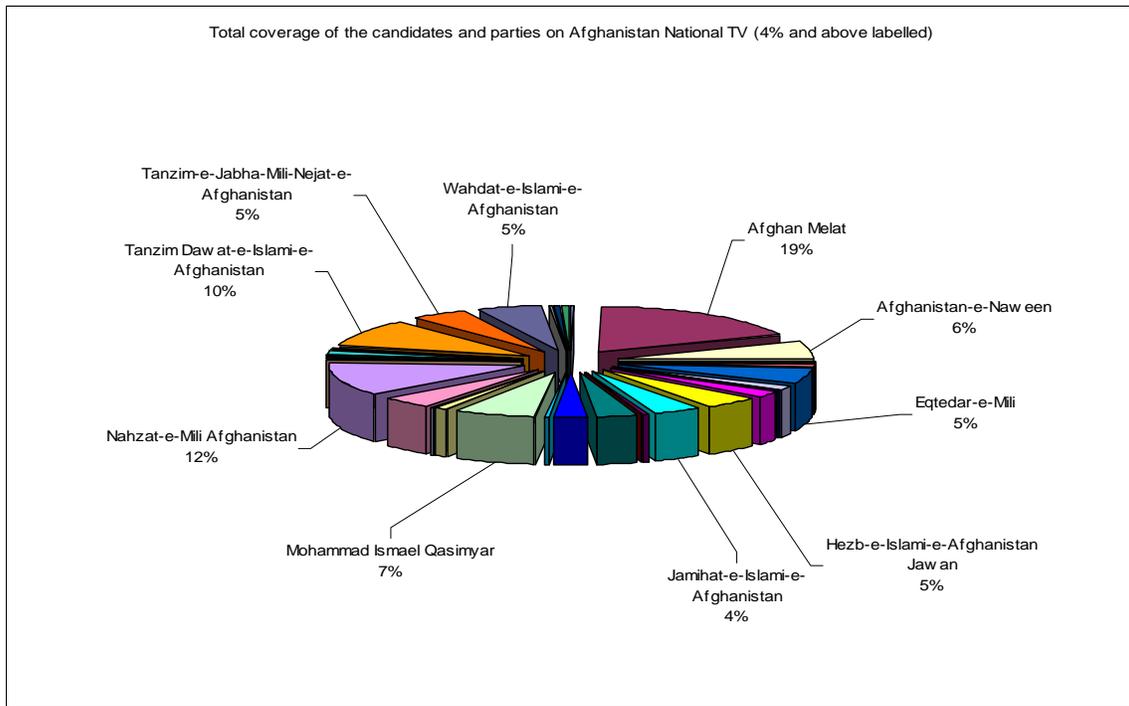
* A nation-wide constituency for the Wolesi Jirga; no Provincial Council seats envisaged.

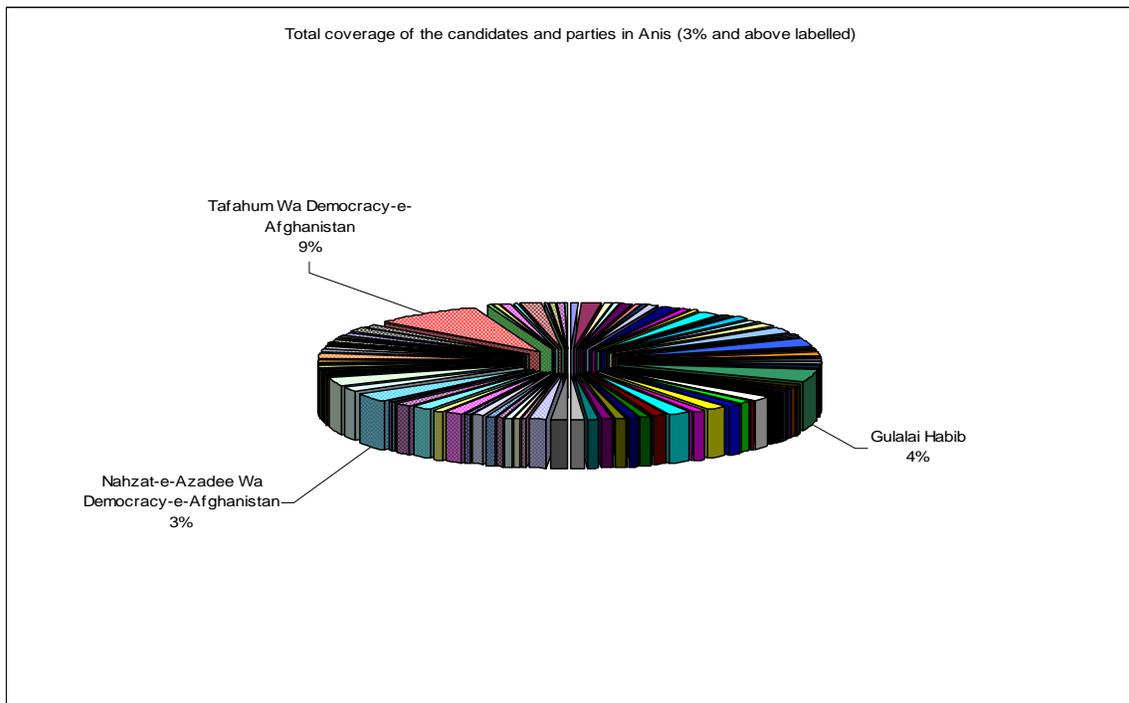
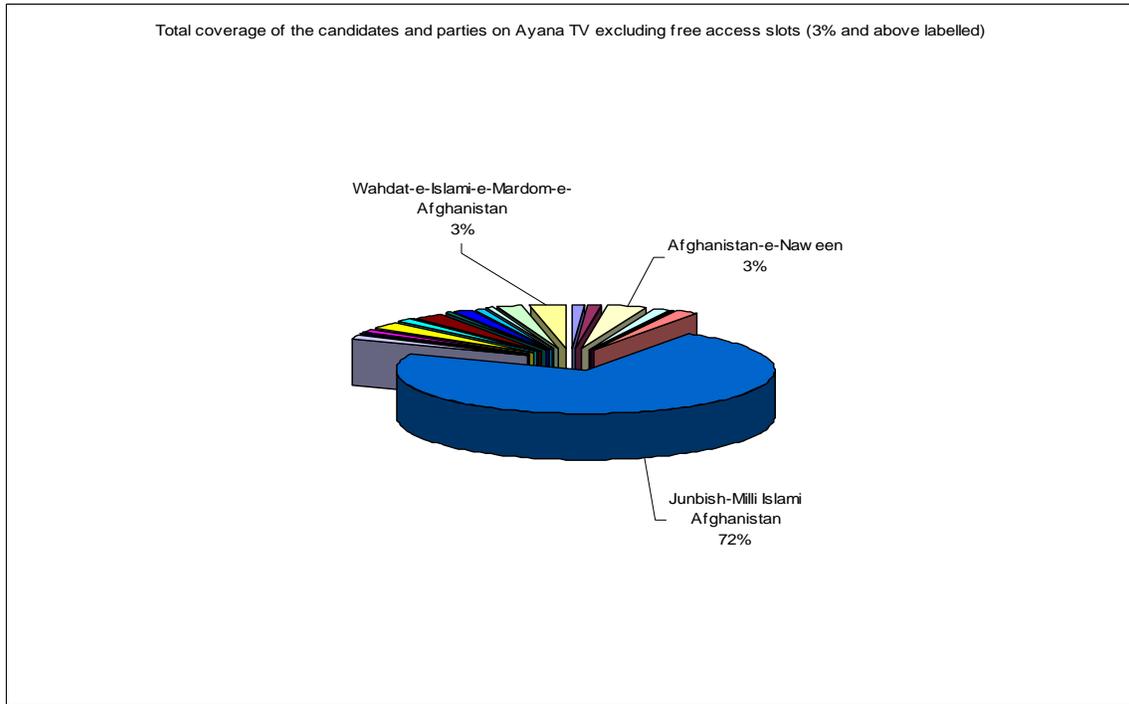
2. Media Monitoring Results

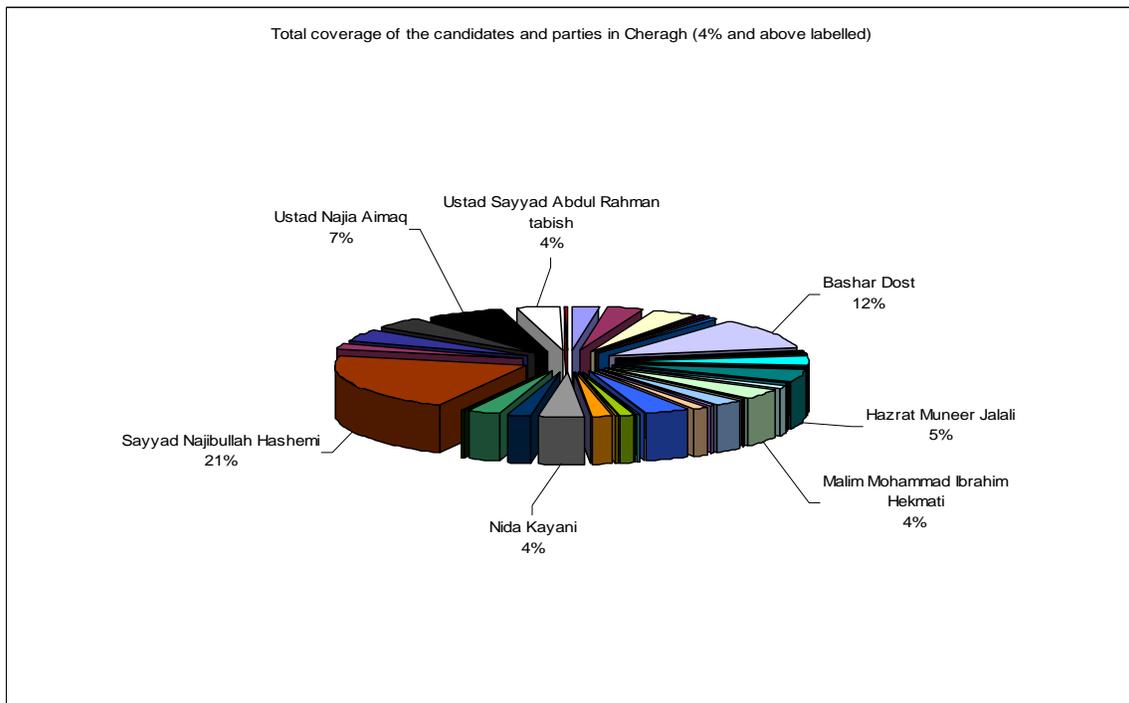
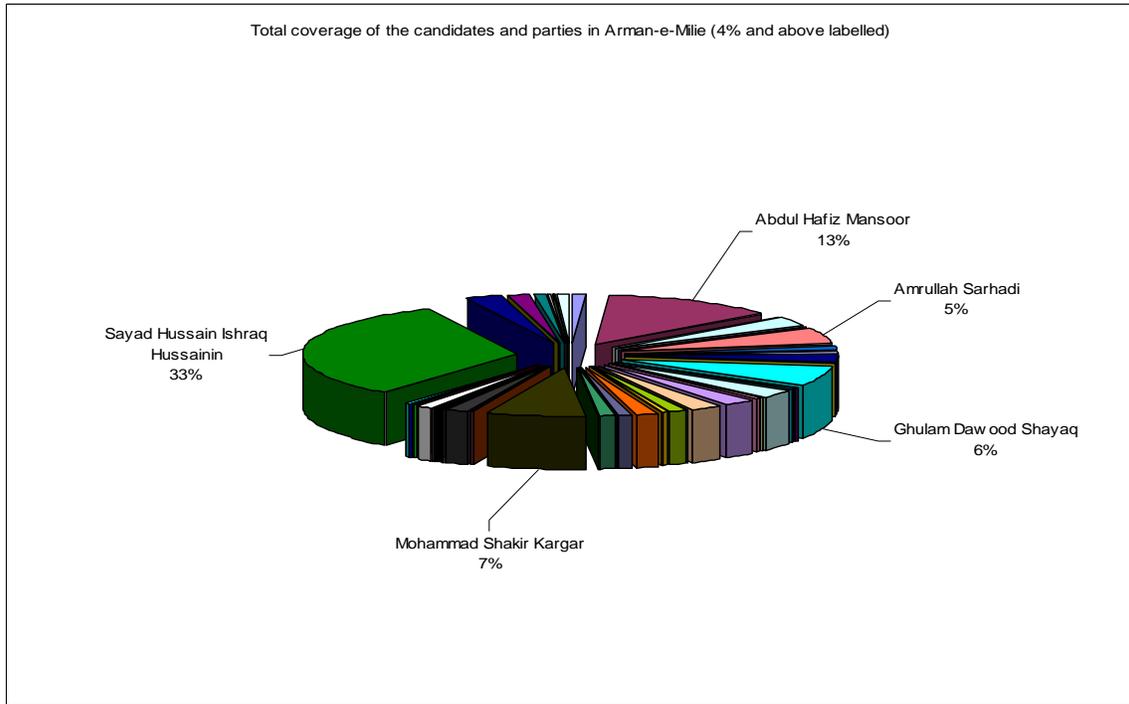
Medium	Media outlet	Ownership	Monitoring period (official campaign period)
Television	Afghanistan National TV	State	1800-2330
	Television Ayana	Private	1800-2330
	Tolo TV	Private	1800-2330
Radio	Radio Afghanistan National Service	State	1800-2330
	Radio Killid FM	Private	0700-0900 & 1800-2330
	Radio Arman FM	Private	0700-0900 & 1800-2330
	BBC	International	0700-0900 & 1800-2330
	Voice of America	International	0700-0900 & 1800-2330
Newspapers			
	Anis	State	Daily*
	Hewad	State	Daily
	Erada	Independent	Daily
	Arman-e-Millie	State	Daily
	Kabul Times	State	Daily
	Cheragh	Private	Daily

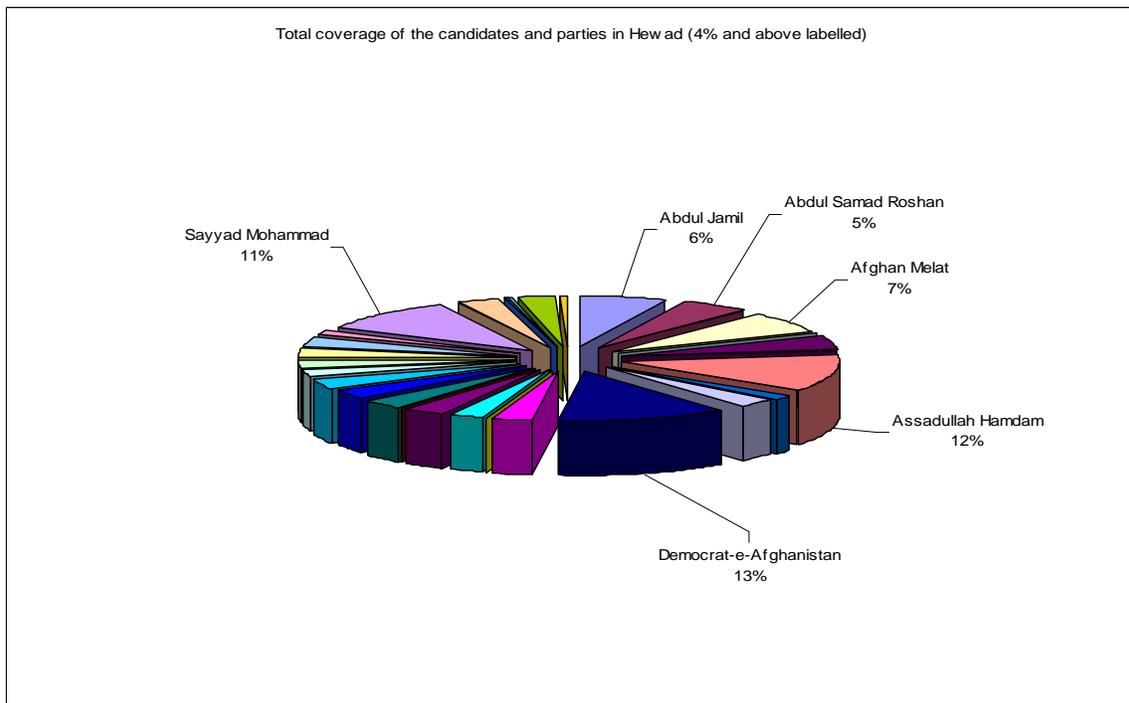
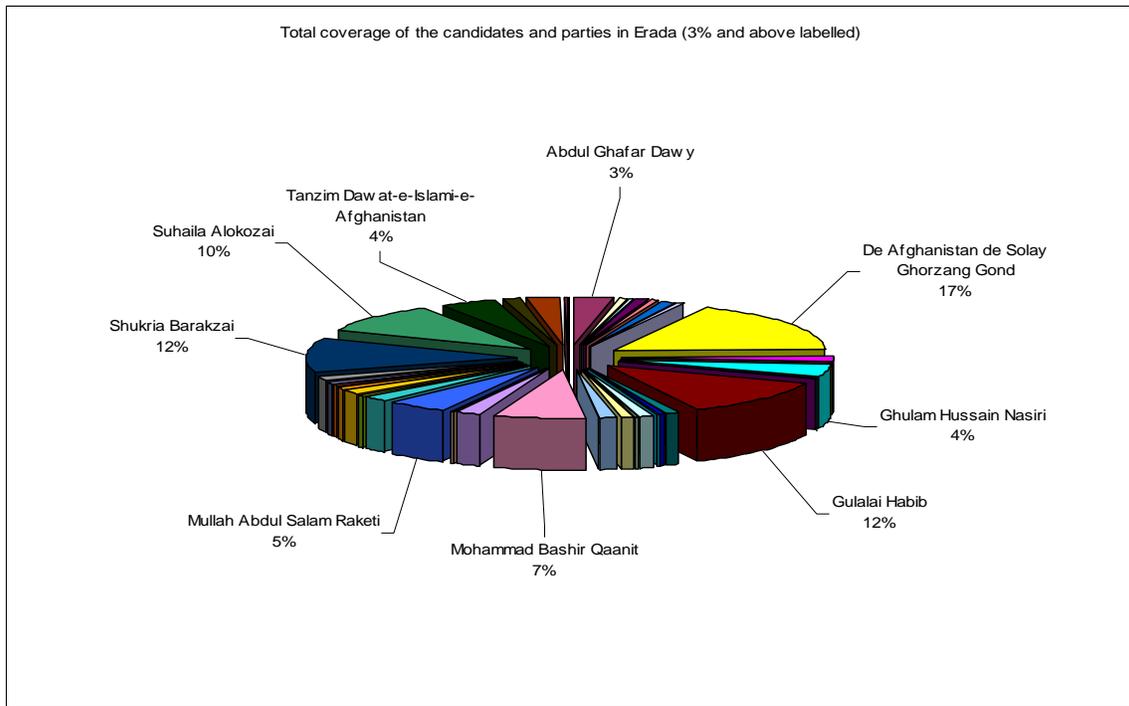
* No newspapers are printed on Fridays

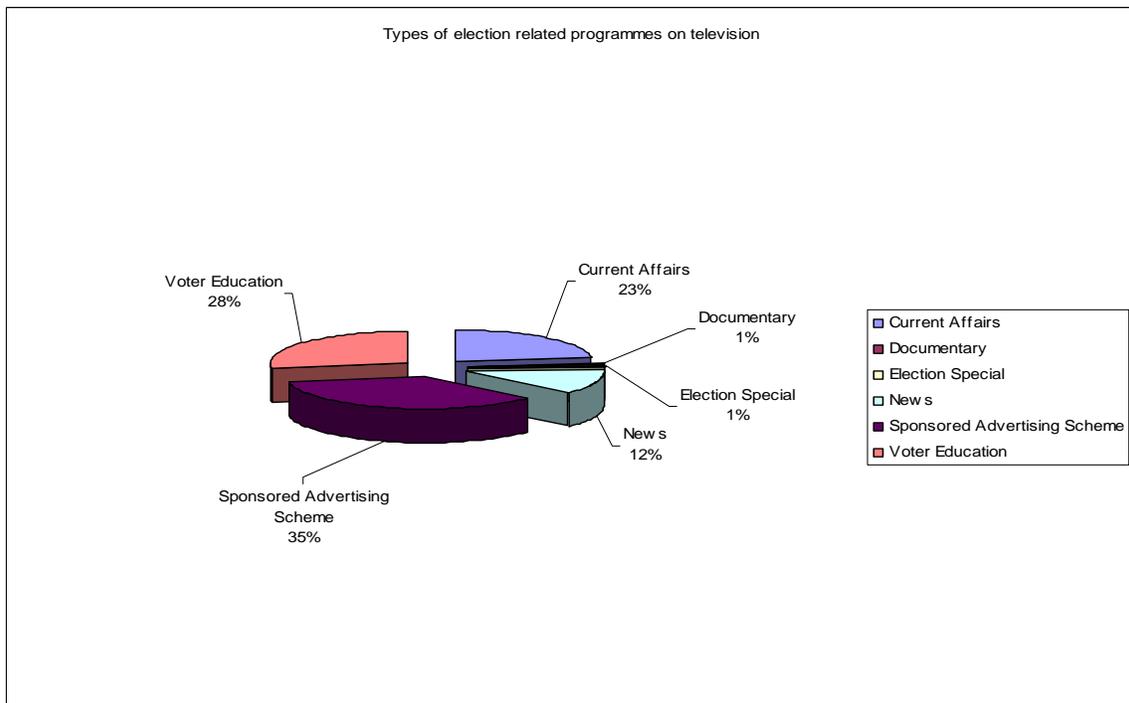
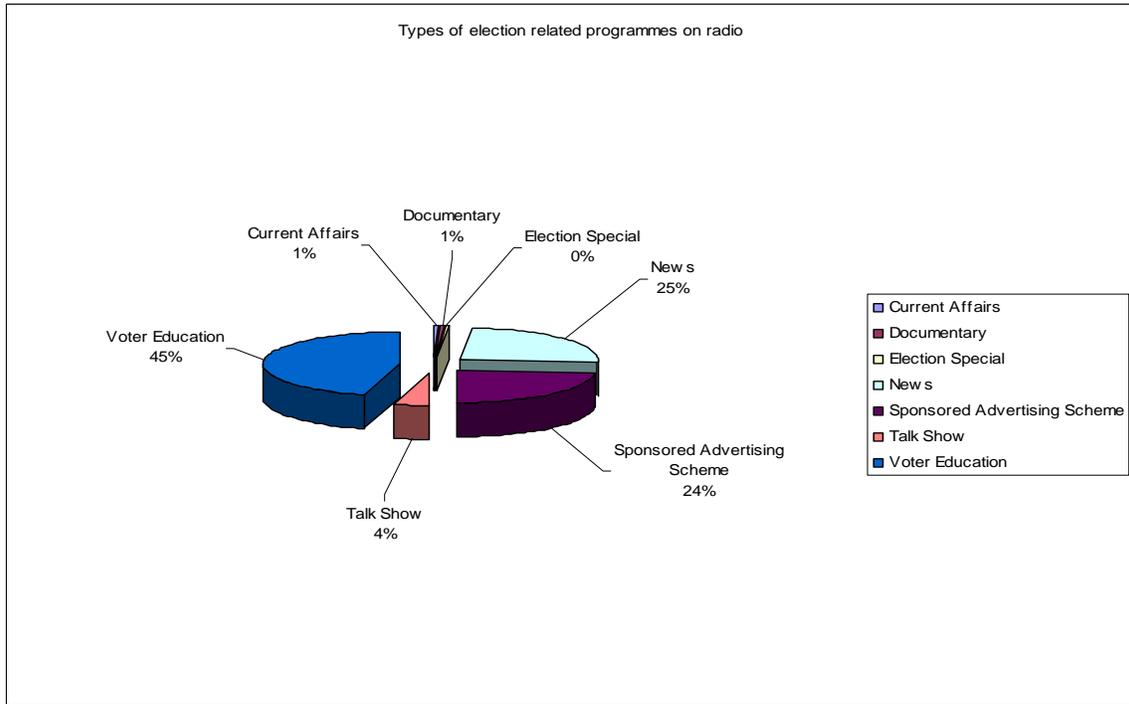


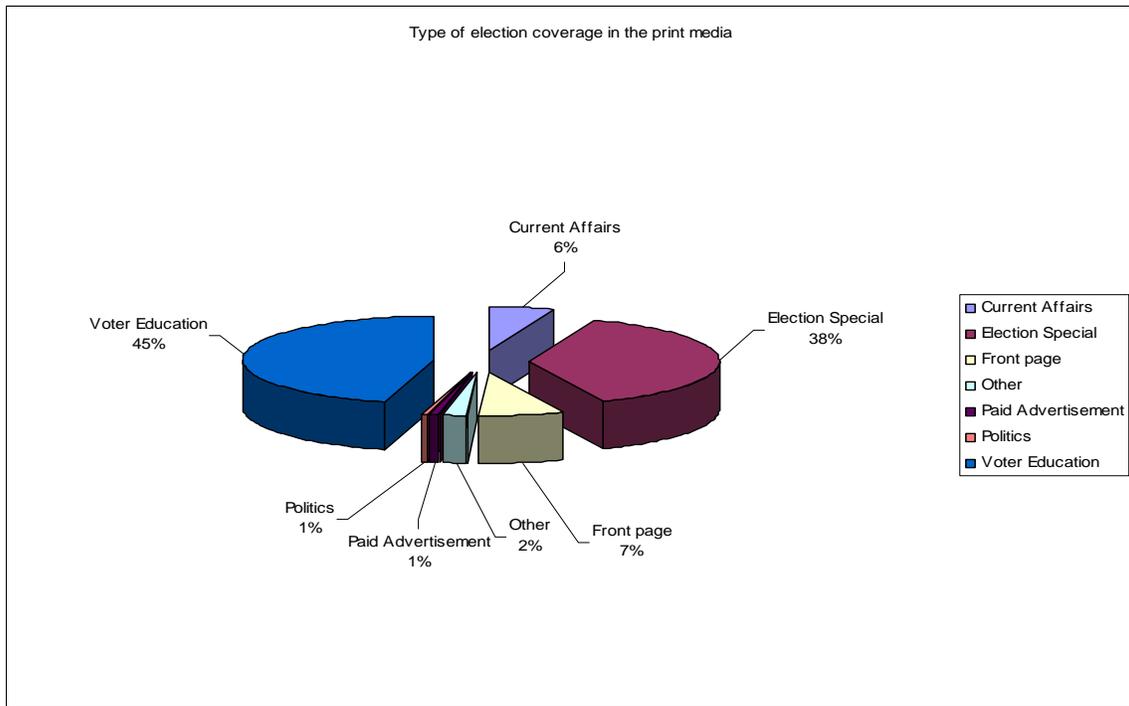




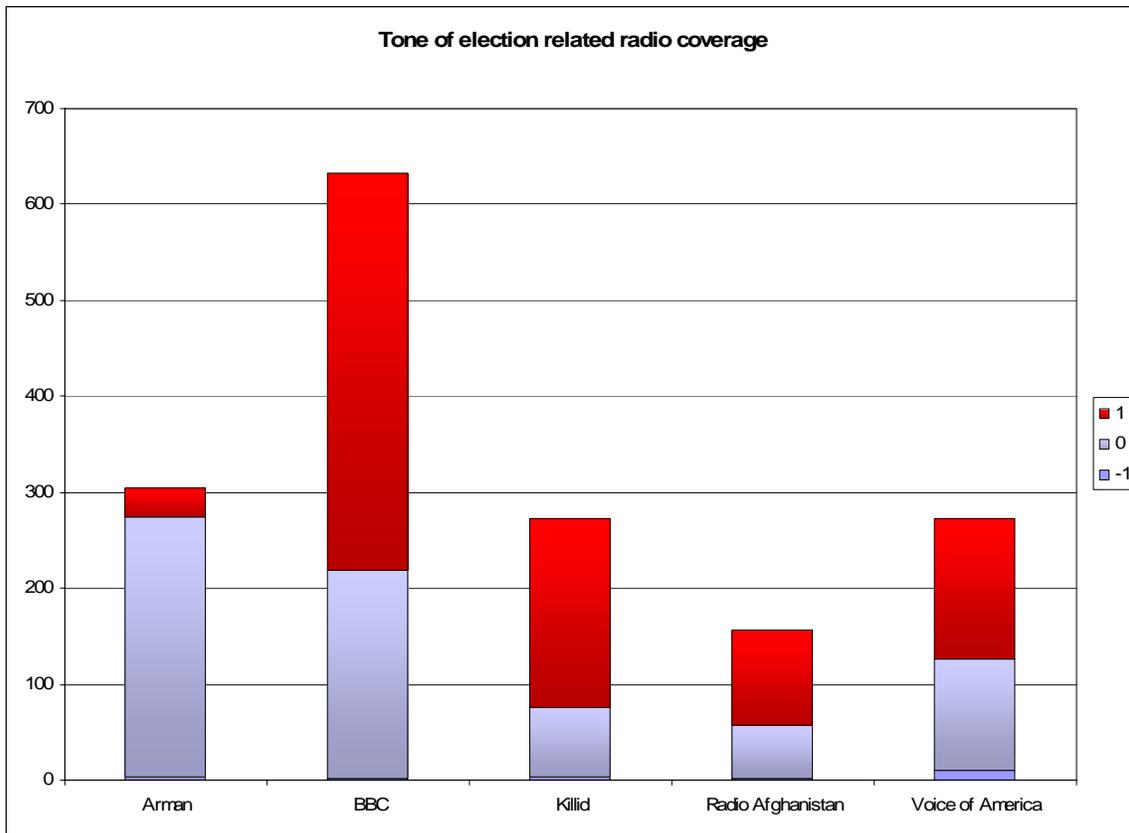


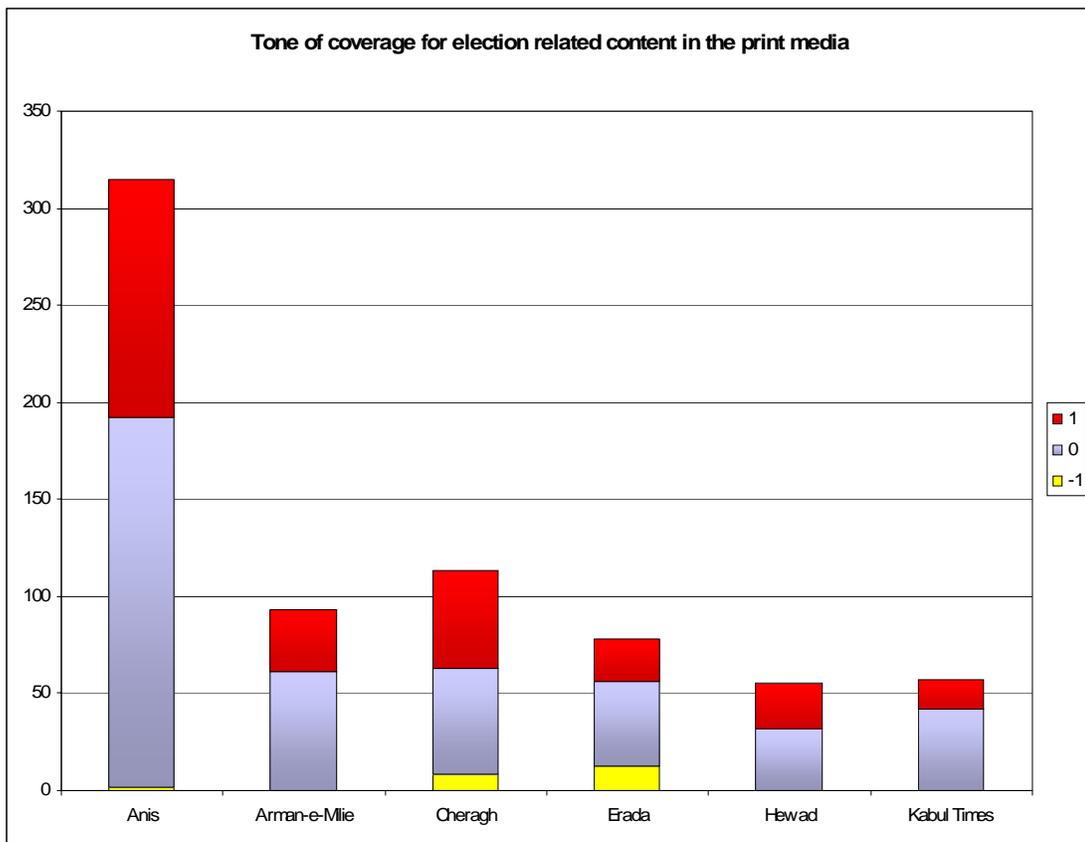
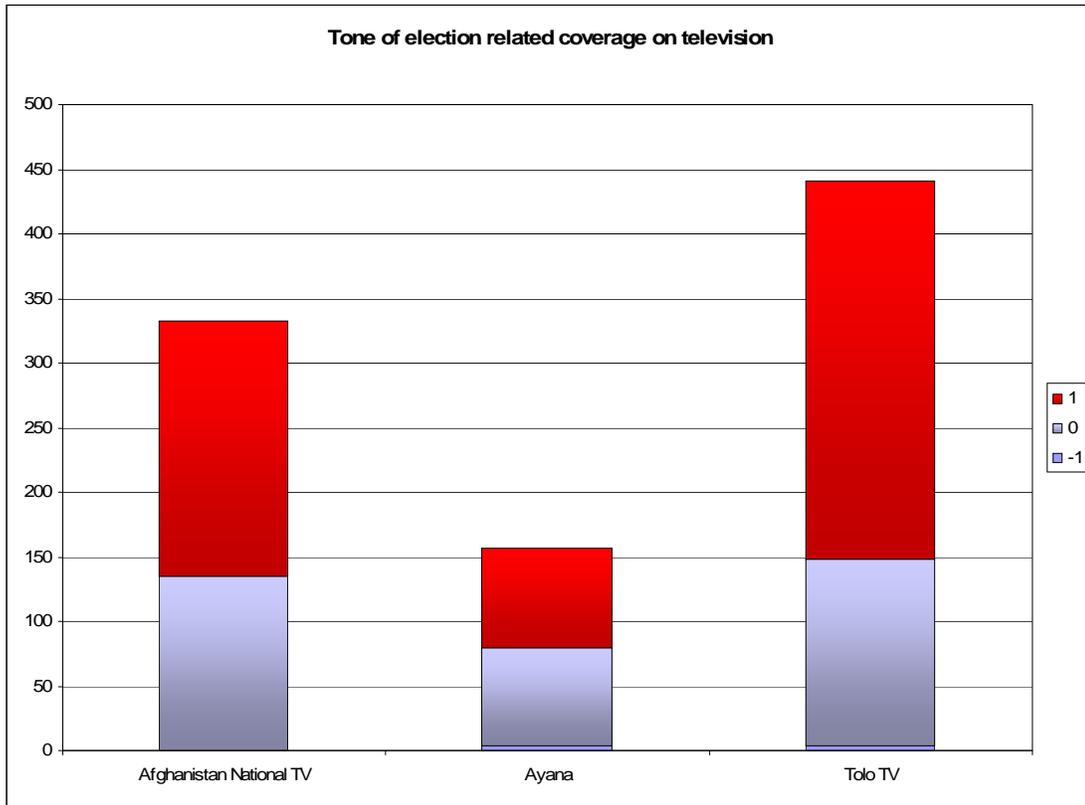






Note: Tone is presented as number of articles or clips the actor is covered in. [-1] is negative, [0] neutral and [1] positive coverage.





3. EU EOM Observation on Election Day

Opening of Polling Stations

Main Indicators	Yes	No	N/O*
Polling Centres/Stations accessible to voters and well signalled?	80.3%	19.7%	0.0%
Intimidation or disruption observed inside or outside the Polling Stations?	0.0%	100.0%	0.0%
Presence of unlawfully armed persons inside or around the Polling Stations?	0.0%	98.7%	1.3%
Campaign posters/material in or within 100 m of the Polling Stations?	18.7%	81.3%	0.0%
Presence of security forces outside the Polling Stations?	93.3%	6.7%	0.0%
Presence of security forces inside the Polling Stations?	21.3%	77.3%	1.3%
Presence of unauthorised persons inside the Polling Stations?	6.7%	88.0%	5.3%
Presence of at least 4 polling officials, including the Chairperson?	96.0%	2.7%	1.3%
Polling Stations opened at 06:00 am?	17.3%	81.4%	1.3%
Any essential electoral material missing?	8.1%	90.5%	1.4%
Presence of candidate agents?	77.0%	18.9%	4.1%
Presence of FEFA domestic observers?	62.7%	34.7%	2.7%
Presence of other domestic observers?	26.7%	69.3%	4.0%
Presence of media representatives?	14.7%	81.3%	4.0%
Number of received Wolesi Jirga election ballots recorded on P02?	71.1%	22.4%	6.6%
Number of received Provincial Council election ballots recorded on P02?	72.0%	22.7%	5.3%
ECC complaint forms available at Polling Stations?	79.2%	11.7%	9.1%

* Not Observed

Polling

Main Indicators	Yes	No	N/O*
Intimidation or disruption observed inside or outside the Polling Stations?	6.3%	91.9%	1.8%
Presence of unlawfully armed persons inside/around the Polling Stations?	2.6%	95.2%	2.2%
Campaign posters/material in or within 100 m of the Polling Stations?	20.4%	78.1%	1.5%
Presence of security forces outside the Polling Stations?	89.7%	9.3%	1.0%
Presence of security forces inside the Polling Stations?	16.2%	82.8%	1.0%
Presence of unauthorised persons inside the Polling Stations?	8.6%	87.3%	4.1%
Presence of at least 4 polling officials, including the Chairperson?	95.4%	4.0%	0.6%
Queue controller checking voter's finger for ink?	72.8%	14.2%	13.0%
Identification officer checking voter registration cards?	88.5%	3.1%	8.4%
Identification officer checking the voter's finger for ink?	87.6%	4.3%	8.1%
Right procedures followed for inking the voter's finger?	86.6%	4.5%	8.9%
Anybody allowed to vote without producing a voter registration card?	5.9%	72.1%	22.0%
Voter cards serial numbers recorded on the list of voters (PO3)?	91.9%	2.6%	5.5%
Ballots stamped at the back before being handed to voters?	87.6%	4.5%	7.9%
Verification that ballots being cast have been stamped on the back?	77.8%	13.4%	8.8%
Verification that voters cast only one ballot for each election?	87.0%	4.6%	8.4%
Polling process open to observers, agents and media representatives?	91.1%	2.1%	6.8%
Were the ballot boxes in use kept at all times in full view?	92.1%	2.0%	5.9%
Did the Polling Station layout allow for the secrecy of vote?	91.9%	6.8%	1.3%
Breaches of the secrecy of vote observed?	23.5%	71.3%	5.2%
Any voters from a different province allowed to vote?	1.6%	44.9%	53.5%
Cases of proxy voting observed?	3.0%	84.0%	13.0%
Presence of observers, agents and media representatives?	72.0%	21.2%	6.8%
Were there any domestic or international observers present?	56.4%	38.1%	5.5%
Any written complaints lodged?	3.3%	85.6%	11.1%

* Not Observed

Closing of Polling Stations

Main Indicators

	Yes	No	N/O*
Intimidation or disruption observed inside or outside the PS?	8.3%	91.7%	0.0%
Presence of unlawfully armed persons inside or around the PC/PS?	0.0%	100.0%	0.0%
Presence of security forces outside the PS?	94.4%	5.6%	0.0%
Presence of security forces inside the PS?	16.7%	83.3%	0.0%
Presence of unauthorised persons inside the PC/PS?	5.5%	90.3%	4.2%
Presence of at least 4 Polling Officials, including the Chairperson?	98.6%	1.4%	0.0%
People who arrived at the polling premises after 16h allowed to vote?	33.3%	29.2%	37.5%
Closing of polling station carried out according to procedures?	69.5%	23.6%	6.9%
Process open to observers, candidate agents and media representatives?	98.6%	0.0%	1.4%
Ballot boxes with ballots cast properly sealed?	97.2%	0.0%	2.8%
Serial numbers of seals correctly written on worksheet P02?	98.6%	0.0%	1.4%
Number of unused/spoiled/discarded ballots recorded on P02?	93.1%	5.5%	1.4%
Observers and agents were allowed to record the number of ballots?	86.1%	2.8%	11.1%
Number of entries on the List of Voters (P03) recorded?	97.2%	1.4%	1.4%
Any written complaint lodged?	6.9%	87.5%	5.6%
Polling material items and sensitive material present and properly packed?	87.5%	8.3%	4.2%
Observers and agents allowed to record the serial numbers of seals?	77.8%	1.4%	20.8%
The serial numbers of the seals properly recorded on P01?	84.7%	4.2%	11.1%
P01 form (based on worksheet P02) properly filled in and signed?	80.5%	2.8%	16.7%
Return Forms and Complaints (if any) secured in Return/Complaints Bag?	68.1%	22.2%	9.7%
Presence of FEFA domestic observers?	50.0%	45.8%	4.2%
Presence of other domestic observers?	32.0%	58.3%	9.7%
Polling materials properly packed and delivered for transportation?	64.2%	11.9%	23.9%
Polling materials delivered to Provincial Count Centre the same day?	37.1%	37.1%	25.8%
Secure and guarded storage provided for polling materials overnight?	44.3%	5.7%	50.0%

* Not Observed

4. Counting and EU EOM Observation

Exclusions from the Count (by province)

Province	Excluded Polling Stations	Excluded Ballot Boxes	Total of Exclusions	Total of Polling Stations	Share of Exclusions (%)
Bamyan	3		3	369	0.8
Dai Kundi	10		10	464	2.2
Kabul	80		80	3.111	2.6
Kapisa	2		2	385	0.5
Parwan	2		2	424	0.5
Wardak	3		3	505	0.6
Logar	0		0	376	0
Panjshir	0		0	280	0
Ghazni	36	6	42	1.472	2.9
Paktika	208	49	257	898	28.6
Paktia	4		4	685	0.6
Khost	1		1	616	0.2
Nimroz	1		1	159	0.6
Helmand	41		41	999	4.1
Kandahar	112*	16	111	1.444	8.9
Zabul	2		2	187	1.1
Uruzgan	9		9	250	3.6
Badghis	15		15	528	2.8
Herat	17		17	2.164	0.8
Farah	0		0	460	0
Ghor	0		0	612	0
Samangan	1		1	319	0.3
Balkh	0		0	1.118	0
Jowzjan	0		0	440	0
Sar-i-Pul	9		9	424	2.1
Faryab	0		0	765	0
Badakhshan	11		11	860	1.3
Takhar	0		0	985	0
Baghlan	10		10	925	1.1
Kunduz	0		0	792	0
Nangarhar	90	3	93	2.039	4.6
Kunar	4		4	490	0.8
Laghman	13		13	444	2.9
Nuristan	5		5	259	1.9
TOTAL	672	74	746	26.248	2.8

*Including 17 polling stations additionally excluded by the ECC.

Source: JEMB

Counting

Main Indicators	Yes	No	N/O*
Was intimidation or disruption observed inside or outside the Count Centre?	1.1%	98.9%	0.0%
Were there unlawfully armed persons inside or around the Count Centre?	0.5%	99.5%	0.0%
Presence of security forces outside the Count Centre?	95.5%	4.5%	0.0%
Presence of security forces inside the Count Centre?	25.7%	74.3%	0.0%
Presence of unauthorised persons inside the Count Centre?	13.5%	78.4%	8.1%
Ballot boxes seals intact when taken from storage to reconciliation?	94.6%	2.4%	3.0%
Number of seals corresponded to those reported on accompanying forms?	93.4%	0.9%	5.7%
Number of ballots in ballot boxes checked against record in P01?	84.5%	11.0%	4.5%
Did the result of the reconciliation process equal zero?	75.5%	21.9%	2.7%
Recount in case of any discrepancy (surplus/deficit)?	28.0%	9.5%	62.5%
Ballot boxes with discrepancy beyond the 10-ballot margin quarantined?	11.8%	5.6%	82.6%
Ballot boxes remained quarantined until the discrepancy was audited or solved?	24.4%	6.3%	69.4%
Ballots mixed according to procedures?	95.9%	1.9%	2.1%
Ballots sorted according to procedures?	98.4%	1.0%	0.6%
Ballots counted according to procedures?	97.4%	1.6%	1.0%
Agreement on which ballots were valid and which were invalid?	91.6%	5.8%	2.6%
Count Unit Supervisor resolved disputes over the eligibility of doubtful ballots?	76.2%	1.7%	22.1%
Candidate agents challenged decisions on the eligibility of doubtful ballots?	8.8%	70.4%	20.8%
Agreement on the total votes for each candidate?	90.0%	4.4%	5.5%
Anyone unduly interrupted the counting process?	2.7%	96.5%	0.8%
Results recorded on L02 Results Form and ballots returned to ballot boxes?	92.5%	1.1%	6.4%
Photocopy of the L02 Results Form displayed to observers/agents?	64.8%	17.8%	17.3%
Observers and candidate agents able to copy all data from L02 Results Forms?	90.2%	2.6%	7.1%
Count Centre staff informed observers and agents of what they were doing?	81.0%	16.9%	2.2%
Activities of counting staff visible and clear to all observers and agents?	88.0%	11.8%	0.2%
Any complaints submitted to the Count Centre Manager?	18.7%	78.7%	2.6%
Presence of FEFA domestic observers?	72.9%	25.5%	1.6%
Presence of any other (domestic or international) observers?	45.9%	50.7%	3.5%

* Not Observed

5. Selected Statements and Press Releases Issued by the EU EOM

**Largely peaceful election day
and generally well-administered election process so far,
despite shortcomings and challenges ahead,
mark an important step forward for Afghanistan**

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Kabul, 19 September 2005

The European Union Election Observation Mission (EU EOM), headed by Ms Emma Bonino, Member of the European Parliament, was deployed in July 2005 upon receipt of an invitation issued by the Government of Afghanistan and the Joint Electoral Management Body (JEMB). The EU EOM includes a core team of 13 experts, 60 long-term observers (LTOs) and 24 short-term observers (STOs) deployed across the country. Since the beginning of July, the mission has observed the electoral process in 29 of the 34 provinces of Afghanistan. On election day, the EU EOM was enhanced by the presence of locally recruited STOs from EU embassies and institutions in Afghanistan. It was also joined by a delegation of seven members of the European Parliament, led by Mr José Ignacio Salafranca Sánchez-Neyra which fully shares the findings and conclusions of this preliminary statement. Overall, the mission was able to draw on the findings of a total of 159 observers in nearly 900 polling stations. The mission will remain in country until the end of October to observe counting, tabulation and the complaints adjudication process.

Preliminary Conclusions

The 18 September 2005 elections for the *Wolesi Jirga* (lower house of the new National Assembly) and provincial councils have so far been generally well-administered. Election day was largely peaceful. Millions of Afghan voters and thousands of candidates participated in the electoral process, many of them showing great courage in the face of a challenging security environment. Despite shortcomings that cannot be overlooked, the elections mark a significant step forward for Afghanistan's democratic development. However, important stages of the process, including counting and the tabulation of results, remain to be completed and will be carefully observed by the EUEOM.

Afghanistan is still emerging from decades of war and destruction, which have devastated its economy, infrastructure and human capital. Following the presidential election of October 2004, these elections are a landmark in a transition process designed to put in place a representative government and thereby to help bring peace to Afghanistan after a quarter-century of conflict.

The EU EOM would like to recognise the efforts and commitment demonstrated by the Afghan people, the Joint Electoral Management Body and the 160,000 officials who administered the elections. The EU EOM also commends the important role played by domestic observers in polling stations across the country.

Positive elements observed during the election process so far include:

- The legislative framework can be considered to provide for the conduct of future elections, though shortcomings remain and will need to be addressed;
- So far the JEMB has generally administered the election process well, and with commendable openness to election stakeholders, despite the undoubted complexity of these elections and the logistical and security challenges;

- The large number of candidates from a variety of ethnic, social and political backgrounds offered the electorate a wide choice of political contestants;
- Despite continuing violence in some areas and serious security concerns, the election process has remained firmly on track;
- The Media Commission's free access scheme enabled a significant amount of candidates to access the broadcast media to campaign and female candidates were well represented in the initiative;
- Women registered in large numbers as candidates (10% of the total) and voters (44% of the total) and around a quarter of seats in the Wolesi Jirga and provincial councils are reserved for women;
- Civil society played an important role in the election process through the deployment of large numbers of domestic observers across the country over the election day period.

Shortcomings observed during the process so far include:

- Numerous reports of intimidation as well as the deplorable cases of killing of candidates, clerics, election workers and others;
- Security problems impeded campaigning in parts of the country;
- The election system created significant political and administrative challenges (a large number of candidates, unwieldy ballot papers, etc.);
- Although a voter registration update was carried out, shortcomings from the 2004 registration process remained and a final voters list was not produced;
- Except for the Media Commission's free access scheme, there was a notable absence of election-related coverage in the mass media;
- Civic education efforts did not adequately reach voters in remote areas and in minority enclaves, and women remain generally less well-informed than male voters;
- The Electoral Complaints Commission (ECC) was provided with insufficient resources and investigative capacity, and a number of its decisions were taken late in the election process, creating problems and uncertainty for the election authorities, candidates and voters.

Election day was relatively calm and peaceful and the voting process was assessed as "very good" or "good" in 92.7% of the polling stations visited by EU EOM observers. While many polling stations around the country opened late and the secrecy of vote was not always maintained, polling procedures were generally followed by election officials. In addition to domestic observers, large numbers of candidate agents were also present in polling stations.

The final assessment of these elections will depend, in part, on the completion of counting and tabulation, the complaints and appeals process, and the certification of the results by the JEMB. The EU EOM will remain in country to observe the remaining aspects of the election process, and will publish a final report, containing detailed recommendations to improve the election process, within two months of the completion of the entire process.

Preliminary Findings

Background

From 1979 when the Soviet Union invaded Afghanistan until late 2001 when the Taliban were driven from power, Afghanistan was devastated by conflict. Meeting in Bonn under UN auspices in December 2001, Afghan factions agreed a roadmap designed to put in place a "broad-based, gender-sensitive, multi-ethnic and fully representative government".

Following the adoption of a Constitution in January 2004 and the successful conduct of the presidential election in October 2004, the establishment of a National Assembly will mark the culmination of the political transition process set out in the Bonn Agreement. The National Assembly is to consist of a directly elected lower house (Wolesi Jirga) and an upper house (Meshrano Jirga) which is partly appointed by the President and partly indirectly elected by the provincial councillors. Provincial councils have an important role to play in this architecture since they must elect part of the membership of the Meshrano Jirga.

Legislative framework

Elections in Afghanistan are governed by the Constitution, the Electoral Law, Presidential Decrees, and regulations adopted by the JEMB. Overall, the legislative framework can be considered to provide for the conduct of future elections, though shortcomings remain in a number of areas that will need to be addressed.

The law endeavours to allocate seats proportionally to each province for Wolesi Jirga and provincial council elections on the basis of population size and for this purpose the JEMB depends on the accuracy of population data supplied by the Central Statistics Office. It is evident that a full and systematic population census is overdue and should therefore be conducted as soon as practicable. The possibility of linking such census to the production of a reliable voters register should be seriously considered.

The version of the Single Non-Transferable Vote (SNTV) election system adopted for these elections, while simple in concept, means that all candidates compete against each other as independents. While recognising that there are no international standards for choice of election system, the SNTV system has placed considerable strains on many aspects of electoral administration, including the need to produce huge ballots in several provinces and generally driving up costs in a substantial way. Moreover, under SNTV, the relationship between share of votes received by a party or community and its level of representation in parliament may be very weak. This can produce problems for the legitimacy of institutions produced by the election system. The particular version of SNTV chosen in Afghanistan may hinder the development of political parties and there are also concerns that it may lead to a fragmented parliament. Given these concerns, it would be advisable for the choice of electoral system to be reviewed in advance of future elections.

The Electoral Complaints Commission (ECC) was set up by the Electoral Law. It is composed of three international and two national commissioners - one of whom is a justice of the Supreme Court. The ECC adjudicates complaints and challenges related to the electoral process. Since the Afghan Constitution ostensibly grants jurisdiction to the Supreme Court to review all cases not specifically excluded by the Constitution itself, it follows that it has a role in reviewing decisions of the ECC. The presence of a Supreme Court judge in the ECC is not appropriate and should be reviewed. Generally, the issue of whether the Supreme Court has jurisdiction in relation to electoral matters is of great importance and must be definitively resolved before further elections.

Election administration

The JEMB consists of nine Afghan election commissioners and four international election commissioners. Its Secretariat is responsible for implementing its decisions and for practical organisation of the elections. The Secretariat is headed by a Chief Electoral Officer who sits as a non-voting member on the JEMB. Following the Presidential elections, a secondary tier of the election administration was established with the creation of Provincial Election Commissions (PECs).

The mission has conducted systematic observation of JEMB meetings and has concluded that debate between members has been open and frank with no evidence of external interference. However, this does not preclude re-examining the basis on which the JEMB is constituted if doing so would increase its public credibility.

In a positive development, the JEMB demonstrated more openness in comparison to the 2004 presidential election. The decisions of the JEMB were promptly published and the body met regularly with stakeholders. This has helped stakeholders follow preparations in the run-up to election day and greatly increased transparency throughout the electoral administration.

In organising the parliamentary and provincial council elections, the JEMB recruited and trained around 160,000 polling staff for 26,250 polling stations across the country. This represents a welcome increase over the corresponding figures for the 2004 presidential election. The production and distribution of election material

according to tight timelines was also a considerable logistical challenge, which was generally addressed successfully.

Voter registration

Like last year's presidential election, the elections for the Wolesi Jirga and provincial councils were not conducted on the basis of an adequate voter list. As for the Presidential election, in order to be able to vote in these elections, a voter had to be in possession of a valid Voter Registration Card. As a result of the Voter Registration Programme which ran from December 2003 to August 2004, nearly 10.6 million registration cards were issued before the Presidential election (59% to men, 41% to women). This year, a voter registration update was carried out for four weeks in June-July, to enable newly eligible voters to register, as well as those who had been unable to register previously or had chosen not to do so, and also to allow voters who have lost their card to obtain a new one. Since voting is meant to take place only in the province marked on the voter registration card, the update was also designed to allow voters to ensure that the correct province was marked on their voter registration cards. As a result of the voter registration update, a further 1.7 million voter registration cards were issued (56% to men, 44% to women).

Accurate voter registration is a fundamental element in the creation of a credible electoral system. In the absence of a national identity document scheme, there are few means of preventing multiple registration and this phenomenon is acknowledged to be widespread. This year's voter registration update could not address, and probably exacerbated, the problems which previously existed in this regard. For similar reasons, few safeguards are available to prevent registration of underage voters though some efforts have been made in this respect.

However, Afghanistan still has no accurate Final Voters List despite two elections. The 2005 update is likely to have led to an increase of multiple registrations. At the same time, difficult access to certain rural areas and Kuchi settlements left a significant number of potential voters out of the registration process. This is a further reason why a census is imperative and it should be integrated with the creation of a reliable voter register.

The continued registration of returnees is a positive development. Special provisions were put in place to ensure that returnees continued to be registered as close as possible to election day. However, the JEMB chose not to address the issue of electoral involvement of large numbers of refugees residing in Iran and Pakistan. Given their participation in the 2004 presidential election, the JEMB's failure to issue an official decision on this important matter is regrettable. While the lack of an initiative for out-of-country registration and voting is understandable for a number of practical reasons, out-of-country voters were not properly informed as to whether or not they would be able to exercise their right to vote.

Candidate registration

Official certification took place on 12 July. While 5,800 were certified, 17 persons were rejected for a variety of reasons. Candidate nomination and registration procedures were in general reasonable, however some concerns arose in relation to the certification and disqualification process.

Under the Electoral Law, membership of illegal armed groups (IAG) is a barrier to being certified as a candidate and may be grounds for disqualification even after certification. The ECC was therefore obliged by law to process challenges made against persons seeking candidacy in relation to this criterion. The ECC, given its lack of investigative capacity, delegated investigation of these matters to the Joint Secretariat of the Commission for Disarmament and Reintegration, a government body, with international involvement, set up for wholly different purposes and which had no legal status within the electoral framework of the elections. While the ECC formally maintained legal control over the process, it is evident that the Joint Secretariat came to be the effective arbiter of who passed or failed the test of IAG membership. During the candidate nomination process, the ECC based on the recommendations of the Joint Secretariat provisionally excluded 208 persons from the list of candidates. By 12 July, again on the recommendations of the Joint Secretariat, the number of those who were finally excluded on IAG grounds had been sharply reduced to 11. Subsequently, 22 more candidates were disqualified at a very late stage on the same grounds. This aspect of the electoral process attracted great controversy and

brought widespread criticism of the ECC. The mission notes that the Joint Secretariat is a body set up for purposes remote from elections and its role in the electoral process should be revisited.

PECs were empowered to act as first-instance bodies for the purposes of complaints adjudication. However, a widespread practice of PECs was simply to refer complaints to the ECC instead of adjudicating themselves. The ECC should function as an appeal body in the strict sense and its place within the electoral framework should be reviewed with a view to achieving meaningful independence and appellate function.

The ECC's powers to disqualify candidates post-certification, though legally founded, has created significant uncertainty for some candidates and electoral administrators and has undermined voters' rights. This power should be reviewed, so as to introduce a "cut-off date" in the election calendar beyond which disqualification may no longer take place. In the current election, the ECC - close to polling day - had both disqualified candidates who had already been certified on 12 July and then in some cases reinstated them. The disqualification in some cases - and reinstatement in others - came so late in the process that the JEMB had no ability to inform the voters in the provinces concerned. The decisions themselves are not open to legal criticism but the ECC must have significantly greater regard to the practicalities of election administration. As a result, many voters who have cast their votes in good faith for candidates they were unaware had been disqualified will have their votes counted as invalid. This is unacceptable.

The combined effect of the Electoral Law and the Code of Conduct signed by candidates means that the ECC has probable authority to disqualify candidates after election day. This power should be closely reviewed.

Campaign

Election campaigning began prior to the official campaigning period and candidates' posters were evident in many areas across the country. Rallies were also held in many parts of Afghanistan, but overall campaigning was localised and mosques and traditional meeting venues such as shuras were key sites for candidates to reach potential voters. The campaign environment varied throughout the country. In certain areas a vibrant and competitive environment emerged and in others the campaigning was far more subdued. In a number of areas there was a widespread feeling of inevitability that tribal affiliations would determine who voters would elect and campaigning was of secondary importance. Security concerns also restricted campaigning in certain parts of the country.

Numerous reports of candidates offering financial inducements to voters and, in some cases, literally buying voter cards for the purposes of committing electoral fraud have been received. All these activities are electoral violations and in some cases, criminal offences. The ECC has authority to investigate such matters without receiving formal complaints and should be given adequate resources to do so.

The mission has solid reasons to believe that government officials, from Provincial Governor to district police chiefs, have involved themselves in political campaigning on behalf of certain candidates. This has ranged from specific endorsement of candidates to covert provision of resources. These acts are a clear breach of the Presidential Order on the Non-Interference of Government Official in Electoral Affairs, which states that offending officials will be subjected to legal sanctions. However, there is no evidence that any sanctions have been applied which is regrettable.

The JEMB placed legal restrictions on campaign expenditures by candidates, as well as limits on contributions given to candidates. These limitations apply for the official campaign period only but it is widely accepted that many candidates began spending significant amounts long before it began. There can be little doubt that campaign expenditures of some candidates have greatly exceeded the statutory limits.

Intimidation

There have been numerous reports of intimidation of candidates, voters and election staff. The EU EOM deplors the death of seven candidates, seven clerics, five election workers and others. However, apart from

outright violence, intimidation has taken various forms, but also one should not ignore the simple fact that the perception and expectation of intimidation are equally damaging as intimidation itself. Fear and suspicion have negatively affected the electoral process in certain parts of the country. State officials, such as chiefs of police, have been observed by the EU EOM directly intervening in the electoral process.

Media

Due to the extraordinary number of independent candidates the reporting of the elections presented a challenge to the media in maintaining balance in their coverage. However, such a challenge was not seriously taken up by a large percentage of the media. In the broadcast and print media there was a notable absence of election related coverage in mainstream programming and news. This was especially pronounced in the public media, with one exception *Anis* newspaper. But it was also evident in the private media.

Access of candidates to the media was therefore limited by the lack of election related coverage and the main vehicle for candidates to access the broadcast media was the sponsored advertising scheme established by the Media Commission that granted free access to radio and television to the candidates for them to broadcast their campaign platforms. Whilst it is to the benefit of the election process that, according to the Media Commission, approximately 53% of candidates took up free slots on radio and television it is regrettable that approximately 47% did not or could not due to technical restrictions.

Despite the low volume of election related coverage with the inclusion of the free access slots over 270 candidates or political parties were covered on television by the three channels monitored by the EUEOM. Similarly 180 candidates or political parties were covered on the three Afghan radio stations monitored by the EUEOM. Print media coverage was also extremely small in terms of volume and the campaigns of the candidates went largely unreported with the exception of the title *Anis* and a small amount of paid-for political advertising. The tone of coverage was almost entirely positive or neutral and there was a notable absence of negative coverage as well as critical analysis of the candidates and parties.

There were clear violations in the media of the 48-hour campaign silence period prior to opening of the polls, such as indirect campaigning of candidates during this period. The Media Commission's activities were generally characterised by lateness in attaining key objectives in its broader mandate. This was evident both in terms of the awareness of the candidates at the start of the official campaign period of the free access scheme, the signature of some of the contracts between the parties to participate in the scheme and knowledge of the media of the Code of Conduct and how to interpret such an instrument. However, the Commissioners and support staff must be praised for their efforts during the official campaign period in correcting some of these deficiencies mainly related to time constraints.

Civic education

Civic education has been sub-contracted by the JEMB to other organisations and groups. Although significant efforts were undertaken under extremely challenging timelines, and there was evidence of some improvement as Election Day approached; overall the civic education programme did not reach sufficient numbers of voters in remote areas and villages, in minority enclaves, and women remain generally less informed than male voters. This was particularly true in the South and Southeast where house confinement of women is widely observed. When civic education did reach voters, it focused primarily on informing voters about polling procedures, whereas it did not adequately address wider issues such as the role and functions of the institutions which are to emerge from these elections.

Participation of women

The Electoral Law, consistent with the Constitution, provides for a minimum of 68 women to be elected to the 249-seat Wolesi Jirga (approximately 27% of the total) and a minimum of 121 women to be elected to the Provincial Councils out of a total seat number of 420 (approximately 28%). The reserved seat system represents

an appropriate method for ensuring the presence of women in public life. 12% of Wolesi Jirga candidates and 8% percent of Provincial Council candidates were women.

During the voter registration update, women accounted for an encouraging 44% of new registrations. However, reports of proxy registration of women in the South and Southeast of the country are of concern.

Regrettably, the provision requiring that only two of the five election officials in each polling station need to be literate was widely disregarded with respect to women by local JEMB staff. This was a particular concern in the case of the Kuchi population.

Election day

Election day was relatively calm and peaceful, without any major incidents. The EU EOM was in a position to observe voting in nearly 900 polling stations in 26 provinces. The voting process was assessed as “very good” or “good” in 92.7% of polling stations visited by EU observers. While many polling stations around the country opened late and maintaining the secrecy of vote was not always achieved, polling procedures were generally followed by election officials. In addition to domestic observers, large numbers of candidate agents were present in polling stations.

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Transparency needed in handling cases of fraud

Press Release: EUEOM/AFGHANISTAN/2005/06

Kabul, 30th September 2005

The EU Election Observation Mission notes that, based on reports of its observers across the country, in certain provinces the counting process has revealed worrying cases of fraud, such as ballot stuffing, proxy voting and possible intimidation of voters intended to influence their choice of candidate.

While these phenomena do not appear to be nation-wide, they are a cause for concern. The EU EOM stresses the need for the election administration to handle these issues in a transparent and effective way, in order to safeguard the integrity of the electoral process.

The EU EOM will stay in country till the very end of the counting and complaints adjudication process and will include all findings in its Final Report.

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