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# Preparing for Elections in Afghanistan: Prospects and Challenges

## SUMMARY REPORT

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#### Introduction

One of the most striking features of Afghanistan's post-2001 political transition has been the use of electoral processes to choose the occupants of major public offices. A Presidential election was held on 9 October 2004; Parliamentary and Provincial Council elections were held on 18 September 2005; Presidential and Provincial Council elections were held on 20 August 2009; and a second Parliamentary election was held on 18 September 2010. Further elections, for the presidency, the lower house of parliament, and provincial and possibly district councils, are to take place shortly.

On 17–18 March 2012, the Asia Pacific College of Diplomacy at the Australian National University held a workshop on the next phase of elections in Afghanistan, drawing together leading specialists on elections in Afghanistan, and on electoral administration more broadly. Australian participants were joined by colleagues who travelled from Afghanistan, Cambodia, Egypt, Sweden, the United States, and Zimbabwe to take part. The workshop was held with the generous financial support of the Australian Agency for International Development (AusAID).

The context of the workshop was a growing sense that the next phase of elections in Afghanistan is likely to be critical to its long-term prospects for stability. The fraud, malpractice and resulting uncertainty of the 2009 elections contributed to an atmosphere of cynicism regarding electoral democracy in the Afghan community. The next presidential election is due by 2014, and coincides with the crucial point in 'transition' at which Afghan authorities are expected to assume prime responsibility for Afghan security. A further Parliamentary election is due the following year, in 2015. It seemed therefore important to highlight as early as possible the crucial issues related to the electoral process, such as the legal framework, operations and electoral education.

Rather than commissioning academic papers, the workshop fostered a candid discussion of what needs to be addressed, and according to what timelines. In eight sessions over two days, the participants canvassed the topics of the Afghan readiness for 2014 elections, including institutions, integrity mechanisms, legal framework, electoral education, observation, electoral assistance and funding. This report summarises some of the key points that were raised by participants. *It is not, however, an 'agreed' or even 'consensus' report. For this reason, no specific views can or should be attributed to any particular participant.*

That said, a number of points stood out as matters of particular urgency, and deserve to be highlighted at the outset:

**Complexity:** Elections are among the most complex endeavours that can be attempted in peacetime. *Inadequate or rushed preparation is a recipe for irregularities that can then be cited by disappointed parties as a basis for contesting the result. In a contentious environment, this is a danger to avoid at all costs.*

**Election Dates:** *Dates for the next round of elections need to be fixed as soon as possible to enable effective planning.* Election planning is based on time-lines, and putting these in place depends on precise identification of when polling is to occur. Without clarity on this issue, confusion is likely to surround many others.

**Voter registration:** *A decision needs to be made in relation to how voters are to be identified. One possible system involves the use of voter registration cards. Another involves the use of a centralised list. A decision needs to be made whether to use one of these systems, and if so, which one. Once the decision has been made, voter education will be highly influential in the conduct of a credible election. That said, voter registration is not a panacea: a sophisticated and reliable registration system is of little value if polling officials can easily be suborned or intimidated.*

**Security and logistics:** *In an insecure environment, polling staff face a wide range of threats, and*

*the ability of a country's citizens to take part in voting can easily be compromised, casting doubt over a poll's legitimacy. But security forces also have logistical capabilities which may be important for electoral management, such as the supply of helicopters to deliver materials to remote localities. It is important that NATO/ISAF commit as soon as possible to ensuring that these capabilities are available.*

**Fraud:** *Electoral fraud is a form of theft: it steals from ordinary voters their right to change their rulers without bloodshed. It needs to be distinguished from the presence of irregularities, which are not the product of a deliberate attempt to manipulate the system to produce a desired result. It is one thing to treat irregularities as inevitable and to some degree acceptable; it is quite another thing to see fraud in this light.*

**Funding:** *Free and fair elections are expensive to conduct, and because elections are complex processes rather than events on a single day, it is necessary that funds be available to cover key expenses as they arise. Early engagement of stakeholders to address these issues is vital if major problems are to be avoided in 2014.*

**Indigenisation:** *There was a general consensus that Afghans of integrity and courage are integral to upholding the democratic process in Afghanistan. It is important that their achievements be recognised and that their efforts be supported at the highest levels of the international community.*

**Election observation:** *Local observer bodies such as the Free and Fair Election Foundation of Afghanistan (FEFA) are almost totally reliant on international funding, which is plentiful around electoral events and lacking in periods between. This threatens their survival. This problem needs to be urgently addressed.*

**Electoral reform:** *The alteration of a country's electoral system is likely to be a matter of considerable sensitivity, and external promotion of particular changes may be perceived by the political elite as a form of 'punishment'. Nonetheless, there is scope for serious discussion of what constitutes best practice in the area of electoral administration, and civic education has a role to play in ensuring that discussion of different constitutional and electoral options is well-informed.*

## **Session 1: The constitutional and legal framework for Afghan elections**

Afghanistan's 2004 *Constitution*, created following a Constitutional *Loya Jirga* (Great Assembly), is a flawed document from the viewpoint of electoral administration. Its creation was strongly influenced by a limited number of international advisers, and in some ways it was a constitution for President Karzai, rather than a foundation document for the long-term political future of Afghanistan. It is insensitive to the ways in which Afghanistan's harsh winter impacts on the possibility of completing key electoral tasks in a timely fashion. (For example, Article 60 requires that elections for the office of President be held 30 to 60 days before the expiry of the incumbent's term on 22 May; while Article 83 requires that elections for the lower house of Parliament, the Wolesi Jirga, be held 30 to 60 days before the expiry of its term on 22 June.) Constitutional reform is required to improve the electoral process, but this is likely to be very challenging, as the risk exists that attempts to revise the constitution's technical weaknesses in the electoral sphere could be a pretext to open up discussion of deeply-contentious issues such as a national language, centralism versus federalism, or the role of sharia law.

Much discussion has also surrounded the adequacy of Afghanistan's *Electoral Law*, originally promulgated by President Karzai in May 2004, and a range of related legislative instruments. This is currently a topic under active discussion in Kabul. Potential reform could be achieved in three ways: (1) legislatively, through legal modifications and amendment to the documents themselves by the legislature; (2) through interpretation by the courts; and (3) through implementation by the electoral authorities. A complication, however, is that actors in a position to bring about positive change may be either self-interested, or exposed to pressures from other actors with interests to protect.

It is vital to start thinking about the 2014 elections *now*, in order to be able to implement any reforms that are needed. Given constitutional limitations, and the importance of reform being timely and carefully-considered if it is to be achievable and effective, 2012 was identified as the window by which dialogue and consensus-building among Afghan election stakeholders needs to start. This requires putting elections on an agenda which is currently occupied by other

pressing matters such as the insurgency, the peace process, and the draw-down of NATO-ISAF scheduled for 2014. Recognising the current sensitivities of the Afghan government and people in relation to sovereignty, the international community, in particular the United Nations, needs to be careful in deciding how to contribute to such discussions, as it should not be seen as interfering.

Specific areas of potential reform highlighted by the session included: (1) effective legal consequences for those who breach electoral laws; (2) the current Wolesi Jirga electoral system (the Single Non Transferable Vote) and its negative influence on the formation of coherent political groupings and the culture of political participation; (3) voter registration; and (4) incentives for women's participation. A number of these are discussed further in this report. Participants agreed that any considered reforms must be timely, feasible, achievable and acceptable.

The participants recognised the great difficulties of implementing any kind of comprehensive voter registration in Afghanistan, and many had had frustrating hands-on experience during the four elections held in the recent decade in Afghanistan. While many options were discussed, ranging from a comprehensive civil registry to no voter registration at all, there was a strong sense that, prior to the implementation of any reform recommendations, a careful study should be undertaken of what *type* of voter registration would actually be desirable or possible given the time frame, the likely resources available, and the realities of security and access to the full population.

In summary it was broadly agreed the constitution was flawed for electoral purposes, but that necessary reforms would be difficult to realise, due largely to a lack of political will on the part of those who had the capacity actually to implement any such reforms. Inclusive national dialogue on reform among key stakeholders is the most pressing priority for the near future.

## **Session 2: Enhancing Afghan electoral administration: the central organs**

*Credibility, professionalism in administration, logistical capability, indigenisation, and political will* emerged as central themes of the discussion of the effective administration of the electoral process.

The organs with responsibility for elections in

Afghanistan are the Independent Election Commission (*Komision-e mustaqel-e entakhabat*) or IEC, for which provision is made in Article 156 of the 2004 Constitution, and the Electoral Complaints Commission. Electoral credibility requires that electoral management structures be accepted as fair arbiters of elections, that they act impartially, with independence from party influence, and that their work be conducted transparently. Professional administration also impacts on the credibility of the electoral process; a sincere process can be seen as non-credible if badly administered. Participants praised the professionalism and capacity of the Independent Election Commission at the 2010 elections, but also highlighted challenges in the areas of logistics, funding, permanence and protection.

It was recognised that both fraud and electoral irregularities featured in all recent elections in Afghanistan. Participants noted in particular that at the Afghan elections of 2009, there was endemic fraud, ballot stuffing, vote buying, and illicit moving of ballot boxes. In 2010, the IEC attempted to address the problems of 2009 by blacklisting implicated staff, invalidating votes, and shifting district electoral workers away from areas where they were subject to influence. The challenges they faced were many: (1) the general culture of impunity and a lack of consequence for fraudulent behaviour; (2) the fact that transparency, for better or worse, exposes fraud, but also serves to undermine the perception of credibility by so doing; and (3) intimidation, which is most intense at the lowest levels where it is very difficult to control via a centralised administration.

Participants spoke of the importance of mechanisms to ensure accountability, which might include recognition, support and protection for the 'heroes' who demonstrated courage in electoral administration. Officials who demonstrate leadership and integrity in election administration and who display the courage to stand up to political pressure should be recognised and serve as an example. In Afghanistan there are many examples of officials who had the courage to identify fraud and act on it, and in doing so found themselves in a vulnerable position, subject to threats and intimidation. One proposal was the creation of an internationally-recognised framework of rewards for people who defend free and fair processes, such as a heroes list in electoral administration. The importance of protection for such people was a

recurring theme. There is a model in the example of the Human Rights defenders sponsored by former US president Jimmy Carter. One participant noted that there is no Nobel Prize for democracy; no real mechanisms exist to support the likes of Dr Afari-Gyan, the chair of the Electoral Commission of Ghana. There is currently no forum to give recognition to courageous acts in the electoral sphere.

Participants shared international experiences of middle-ranking election officials who stood up to corruption, only later to be found kidnapped and murdered. One participant highlighted the importance of this problem where retention of good electoral staff is concerned, stating that 'medium level professionals need to be retained, but how do we do this if they are afraid?' Participants were sceptical in this regard of the role and intentions of the Special Court that was set up in Afghanistan to appraise the results of the 2010 elections.

Addressing the current endemic culture of impunity is one of the most significant challenges in achieving credible elections in Afghanistan. The legal process against politicians who publicly engage in breaching of law has never been functional or effective. Mechanisms ensuring electoral accountability are critical, but institutional weaknesses are a significant problem in Afghanistan. Many mechanisms were discussed at the workshop, including international sanctions against higher-level perpetrators. For lower level officials, a blacklist mechanism was used in 2010 to exclude 7000 polling staff throughout country suspected of involvement in fraud in 2009.

In Afghanistan a creative approach was initially used in 2004 and 2005 when a Joint Electoral Management Body (JEMB), using a shared sovereignty model incorporating international experience, was employed to overcome problems of distrust and enhance confidence. The idea was to move to an indigenous process once effective mechanisms were in place. In Afghanistan with indigenisation in 2009, local administrators fell under great pressure and true indigenisation is yet to be achieved.

The stability and sequencing of funding were discussed extensively (see also session 8). Afghanistan experienced the deleterious effect on credibility of the international habit of promising money *that did not arrive on time*. Election planning requires certainty and the

availability of resources as they are the basis on which security and logistics are provided. They must be secured in advance and not subject to international promiscuity. *Sustainability* is also important. One participant observed that 'security and election costs have been so high, and yet there is not any discussion of how Afghanistan will take this over. \$80 million this year to the IEC from UNDP, for an interim period, this is huge for a country like Afghanistan'.

For successful indigenisation of election management, retention of experienced and capable officers and capacity building are critical. Retention of good staff is difficult for key institutions. Due to international involvement, salary levels for election officials are reasonable and many have stayed in their positions, but talented individuals with families to support are easily swayed to competing opportunities including other areas within Afghanistan and abroad. Capacity building needs to account for the general operating environment, as well as education and support for Afghan officials and staff. A former high-level international officer in Afghanistan remarked that he was impressed by the professional capacity of Afghan administrators, and defended the work of the international community in terms of capacity building because he could clearly see the results, confirmed in 2010 when support was able to be diminished with no adverse effects on the electoral administration. In his view, elections were increasingly better administered, with the 2010 election the best administered in Afghan history.

The participants stressed the importance of a credible, transparent process and consultation mechanisms as regards the appointment of election commissioners. A permanent and professional body was recommended as the best model, based on the reasoning that an *ad hoc* or temporary body cannot effectively build and consolidate capacity, and will be unlikely to deliver. Recommended protection measures to ensure the commission's independence and protection from changes in power were secure tenure, with a role for the parliament as well as the executive in making appointments, as well as the ability to employ its own professional staff and the need for stability of that staff.

In summary it was agreed that the culture of impunity and a lack of consequences for malpractice, are most serious concerns for the Afghan electoral process. One way of mitigating the adverse impact of fraud on electoral credibility is the continued support to

the indigenous independent electoral commission, allowing it to be fully autonomous with security of tenure and the ability to hire staff.

### **Session 3: Enhancing Afghan electoral administration: provinces and districts**

Major themes for discussion included *institutional weakness, protection of electoral officials, timeliness of preparation, the drawing of district boundaries, resources, recruitment and training of electoral staff, electoral complaints*, and the *location of vote counting*.

One of the strongest themes and concerns that emerged from the session was the 'bottomless pyramid' nature of the electoral management structures, which were seen as fragile and dependent on too few people at the top, with limited permanence and continuity at the lower levels. Professional confidence and capacity were viewed as strongest at the 'top' of the pyramid (the IEC in Kabul), recognised as sometimes good at the province level, weaker at the District Field Coordinator (DFC) level, and weakest at the polling station level. Participants recommended either a permanent provincial and district structure, or mechanisms to ensure that provincial and district capacity was built and retained for electoral events.

As in the preceding session on central administration, participants expressed great concern for the protection of electoral officials. In Afghan elections, intimidation and pressure is highest at the lower levels, from province to polling station levels. Participants spoke of instances where results were changed because people were told to change them. The method considered in 2010 of moving electoral officers and District Field Coordinators from area to area may be a way of protecting them. The IEC is responsible for protecting electoral integrity, but it is difficult with central measures to control intimidation at the local level. The formation of an Afghan electoral officers association was cited as a positive example of a support mechanism for officials. As one participant put it, 'most election officials have integrity and courage on provincial level and we should build a system of reward for these people.'

In relation to the resourcing of elections, ISAF has made a huge contribution to the logistics of the elections up to now. While expressing reservations and concern about the implications of the draw-down, most

participants felt that with decent planning, movement and lift capacity should be possible to manage with a reduced ISAF presence. A large international presence throughout the country should not be needed in the future, though training and support for indigenous logistics capability may be required, and helicopters are likely to be needed to deliver material to remote areas.

Late decision-making in relation to the location of polling places, and the timing allowed for the printing and distribution of ballot material, as well as integrity issues such as the reliability of indelible ink used to mark voters' fingers and thus prevent multiple voting, were all highlighted as practical problems impacting on the efficient and effective conduct of ballots, and thus on their credibility.

At the polling station level the recruitment and training of the thousands of polling station staff remains the most important priority area for support, as the weakness in skills and capacity at this level weakens electoral quality. Other challenges mentioned regarding the electoral experience at polling station level were the number of candidates/party agents actually attending polling stations. This has positive aspects in terms of engagement and transparency, but has some negative aspects as it can actually impede the smooth processing of voters on polling day. The actual size of ballot papers was also mentioned as an issue: difficulties were created in 2005 by the large size of the ballot papers. One positive trend is that the capacity for communication to the local and polling station levels has improved significantly, via the use of social media, mobile phones and radio broadcasts.

The issue of the location for vote counting is one yet to be fully resolved. On the one hand, vote counting at the polling station level provides transparency and visibility to the local community. On the other, there are capacity and electoral security concerns. Centralised counting lends itself to allegations of manipulation; however in both alternatives there is the potential for claims of fraud or manipulation.

The issue of boundary delimitation, or districting, is one that has not been addressed adequately, and is looming on the horizon for District Council elections as it affects local accountability. As yet, there is no agreed number of districts (*woleswalis*), nor is there agreement on their boundaries. Compounding the administrative challenges of the districting task are the political implications and

outcomes that the administrative decisions will have. The provisions in Articles 138 and 140 of the 2004 Constitution for provincial council and district elections bring a whole new set of challenges, including that of voter registration, recognising that current data are not structured to sort on district level.

Finally, appropriate mechanisms for dispute resolution and managing complaints at the sub-national level are a critical area for focus, given the likelihood that it is here that many tensions will arise. If not taken seriously, complaints and disputes can escalate to the point where they undermine local results or trigger violence.

In summary, the Afghan electoral process at the sub-national level suffers from institutional weakness which adversely impacts upon the delivery of credible elections. It fails to provide adequate protection of electoral officials. The recruitment and training of electoral staff is inadequate, as are the processes for timely decision-making and efficient resource allocation. There is a lack of capacity to address electoral complaints.

#### **Session 4: Electoral fraud and electoral integrity**

The distinction between an international notion of a *'free and fair' election* and an *acceptable or 'credible' election* in the eyes of the Afghan people is an important one. Similarly, in a related sense the distinction between *electoral 'fraud'* and *electoral 'irregularity'* is also important. The former implies a degree of deliberate manipulation towards a desired end; the latter is almost inevitable given the environment in which elections take place in Afghanistan. The important question here relates to what is an acceptable level of 'irregularity' in the eyes of the Afghan electorate. In this there is a strong link between trust in the electoral process, despite its flaws, and the degree to which a result is accepted. The goal for both the international community and the indigenous Afghan electoral institutions should be a 'credible' election, in the eyes of the Afghan people. Some recognition should be given that 'irregularities' are inevitable. The aim should be to manage this problem within acceptable limitations. Fraud and irregularities in the elections of the last decade risk engendering a strong sense of cynicism among the Afghan voting population in relation not only to the electoral process, but also, by extension, to democracy as a concept for the political future

of Afghanistan. Electoral fraud is a form of theft: it steals from ordinary voters their right to change their rulers without bloodshed.

It was noted that there is not an electoral system anywhere (including Australia) that does not have the effect of advantaging some candidates and disadvantaging others. Electoral laws have political consequences. It was recognised however, that the consequences of losing in some conflictual cases, such as Afghanistan, are more extreme than in our own system. There is therefore a greater incentive to win at all costs, which includes electoral fraud. It was also noted that in places such as Afghanistan, there is a tendency to use electoral laws to solve political problems and that electoral fraud is often the result of political issues. People associated with the President Karzai had a lot to lose if Karzai had lost in 2009, which may explain the incentive to commit fraud to retain the status quo. In 2014 the dynamics are unlikely to be quite the same, since under the Constitution as it presently stands, the incumbent president is not eligible to be a candidate.

Some examples of electoral malpractice included those that resulted from a culture of impunity, in a system which not only does not punish transgressors, but actually rewards them by granting them political power. Such blatant abuse of the system cannot help but have a deleterious effect in the eyes of the Afghan people. It was also stated that security is often misused as an excuse for malpractice, and this in particular was identified as an area upon which the IEC will need to focus. This of course raises questions of institutional weakness noted earlier in this report. Ultimately, technical 'fixes' can offer only limited protections against the activities of determined fraudsters. Elections are human activities, and the weak links in the system tend to be their human components. Fraud prevention is directly linked to both the wider political environment, and to the organisational culture of the electoral administration.

In summary, Afghan elections are characterised by a degree of electoral fraud and irregularity, including political interference. It should be admitted that fraud may not be preventable, but can be mitigated and managed with appropriate techniques. The important threshold in this regard is the credibility of the process in the eyes of the Afghan people.

## **Session 5: Electoral education**

Issues discussed during the session included *the obstacles to conducting electoral education* such as the challenge of message penetration and the realities of cynicism and fatigue in the Afghan population; *roles and responsibilities* in conducting an electoral education campaign; the importance of *effectively designed and targeted* information campaigns; and the *longer-term* civic education needs in Afghanistan.

The most challenging task in the design and conduct of electoral education campaigns in Afghanistan is addressing voter cynicism based on adverse experiences from the 2005, 2009 and 2010 elections. Security, difficult terrain and inadequate voter awareness have made the implementation of electoral democracy difficult in Afghanistan, yet there was general consensus that comments such as 'Afghanistan is not ready for democracy' are at best misleading and possibly insidious. While political elites have not consistently demonstrated the political will to entrench democratic practices, Afghan voters are acutely aware and interested in their political future. Citizens who have a strong desire to have their say may well not vote in large numbers for a variety of reasons. Decreased voter turnout does not in itself evidence a lack of support for democracy or a lack of understanding of the political or constitutional framework as an ideal; rather, it may be a reflection of distaste for corrupt practices observed in previous ballots. As one participant put it, 'one does not need to understand the intricacies of democracy or constitutional law to appreciate it'.

The logistical challenge of information penetration is now easier with more media access and mobile phone usage, but the proliferation of media channels creates the risk of more fragmented messaging. Participants emphasised the importance of 'getting the message right', especially by field testing before broad exposure. The message that 'you are in charge of your own destiny' was one that participants felt in particular needed to be constantly re-enforced as part of a longer-term civic education effort. There was some discussion about the 'one way' nature of terminology such as 'education', and a suggestion that perhaps more appropriate words might be 'engagement' or 'awareness'. There is a need for a more motivational campaign via the use of words like 'engagement' when a campaign is being designed. Two major factors follow from this 'two-way' approach: (1) information flow in



relation to electoral rights via constructive dialogue; and (2) re-engagement of people. People who have been asked their opinion are more likely to engage than those who are 'lectured' to. There is a need for real dialogue.

There is often euphoria connected with first elections, and this was certainly the case in Afghanistan in 2004. There was a heavy focus on electoral education in which messages were tested and local artists were used. In terms of voter education messages, for a first election the priority is to convince people that an election will actually take place. As it turned out, the election saw large queues of peaceful voters at polling places until late in the day. Voter turnout was relatively high (officially 69.2%) and electoral violence was relatively low despite a number of casualties. In 2005 voter turnout decreased significantly from 2004, to 49.4%, though this may have been due primarily to security considerations in some parts of the country, and it declined still further thereafter — to around 31.4% in 2009. One important challenge is to seek to turn this around.

Participants distinguished between 'civic' education and 'electoral' information, with civic education defined as broader than elections, and constant throughout the year rather than just around election time. Civic education should not be confused with voter information. Civic information/education is the task of the society itself. Voter information is the task of electoral staff. Education and awareness initiatives inform voters in three main areas.

The first is general political knowledge. Most people in Afghanistan are well informed politically and have an acute understanding of political power. A practical understanding of political power is often a ticket to survival in post-conflict societies where there is little room for complacency. Most people are well connected to the political scene. A variety of means for transmission of information exist, including posters, short-wave radio, local media (which are also susceptible to use for propaganda purposes) and mobile phones. The general view was that there is little requirement for the international community to invest in this sort of activity. People may have a good concept of the value of democracy, especially as a device for changing the government without bloodshed, even though they may not be fully familiar with the mechanisms and institutions involved.

The second relates to 'civics': issues of citizen engagement, values, and confidence in the

political system. There was a general discussion about the role the state should play in this. No firm conclusion was reached in relation to the role the state does, can, or should play in 'civics' education, including electoral education, other than that such programs should be conducted all year, between elections, and not just around election times. Civic education can be part of the broader electoral reform effort and should be ongoing. Yet it is not, partly because of donor fatigue in this area. There is a civic education gap that needs to be met. Civic and voter education will need to focus on institutions and the value of those institutions to the broader community.

The third is voter education, a form of engagement specific to elections, although voter education also serves a purpose as an educative and confidence-building measure in relation to the broad political system. There are three main areas of importance to Afghanistan:

(1) The secrecy of the ballot. This is a key factor in reassuring voters in an environment where anonymity is virtually unknown and where everyone is expected to have a partisan position.

(2) Familiarisation with the system of combining ballots from various places. This can be a reassurance to voters in relation to secrecy, but can also be susceptible to allegations of fraud, manipulation or mismanagement. Thus, a judgment needs to be made balancing these two factors: voters' desire for secrecy versus potential allegations of malpractice.

(3) Awareness of polling station locations. This is important as early voter turnout is crucial for the success of any ballot where violence or disruption is expected. Once sufficient votes have been cast and are secured, any disruption is unlikely to have an impact on the overall ballot result.

As regards roles and responsibilities for electoral education, some participants recommended that the role for the electoral management body perhaps be limited to the voter information role in order to protect its neutrality and impartiality. The participants also pointed out that electoral education was an inappropriate task for the local NGOs such as the Free and Fair Election Foundation of Afghanistan (FEFA) that will monitor and observe the elections. Participants recommended that a strong focus needs to be

on overcoming voter cynicism by building trust in Afghan electoral institutions and their ability to deliver credible elections characterised by neutrality, impartiality and objectivity. It should be recognised that this is a major challenge in a conflicted environment such as Afghanistan. One obvious conclusion is that there needs to be an effective and credible way to deal with electoral malpractice.

Despite the identified challenges to perceptions amongst the Afghan population in relation to electoral behaviour such as fraud and impunity, the fact remains that people who were previously fighting each other are now sitting in Parliament arguing with each other. This is an observable demonstration of policy being discussed and resolved without recourse to violence which, in itself, can be an effective message to voters of the benefits of the system as it is.

Electoral credibility is enhanced by increased participation by women as both candidates and as voters. Proven factors to improve this include increased security, female staff at polling stations, and targeted messaging in electoral education campaigns as well as in a broader civic education effort. This is part of a broader reform process for better human rights observance in Afghanistan where training and literacy can underpin the effort to increase the number of females in the process as well as an increased number of female observers. Female literacy is one area where there has been an observable improvement. One example cited of improvements was that of the difficulty in Uruzgan in 2002 to identify one female who could read and write — a helicopter had to be used to travel to the relatively remote area of Deh Rawood to locate a midwife who was one of the few literate women in Uruzgan Province. The situation has obviously improved, with many more women participating in civil affairs.

Because of the security situation and the regional and domestic dynamics, the stability required for effective democratic reforms to take hold is often lacking, and resources that could be put to good use in this area are often diverted towards the security situation. Certainly, operational imperatives have continuously taken priority over electoral education.

In summary, one of the major obstacles in relation to the conduct of a credible election in Afghanistan is overcoming voter cynicism based on past experiences. This can be addressed in part by a combination of both

civic education and voter education. This distinction is important as civic education should be the role of a properly-supported indigenous organisation independent of the actual election process, while voter education should relate specifically to the election itself, and can provide limited opportunity for international input. Information programs must be well considered and need to be field-tested prior to wider dissemination. This includes heralding the credentials of the electoral management bodies as well as targeted campaigns designed to encourage more women voters. Language used in such campaigns should be 'two-way' with a view to encouraging meaningful dialogue between international and domestic stakeholders. Specific areas of concern are the secrecy of the ballot, the location of vote counting and the location of polling places. Underpinning all of these is the issue of security.

#### **Session 6: Electoral observation: local and international**

The main themes that emerged from the session were *the credibility of the electoral observation actors in Afghanistan*, and *the conditions under which they work*. Issues around security, courage, capacity, roles, and numbers of actors factored into these two themes. Participants recognised the importance of domestic observation for overall credibility of the electoral processes in Afghanistan.

The main domestic observation and monitoring umbrella organisation in Afghanistan is the Free and Fair Election Foundation of Afghanistan (FEFA), which deployed 2000 observers in 2004, and 7500 in 2005, 2009 and 2010, dwarfing any international effort in terms of numbers of people on the ground. The conditions for electoral observation in Afghanistan are challenging, with security and protection of observers the most significant. In 2009 and 2010, FEFA had observers kidnapped and killed by the Taliban, as well as arrested by police. At the headquarters level, the organisation reported intimidatory phone calls from senior government officials. The security situation, and resulting insurance issues, severely hampered international observation efforts as well, preventing observers going to some remote areas. This led one participant to ask 'What is the point of observers if they can't get out to all the polling places?' By 2014 the capacity of international actors as guarantors may be even more severely diminished.

High-quality observation efforts can produce recommendations to support and improve electoral processes. The quality of election observation relies on a wide variety of factors, one of which is their data collection and analysis capacity. Representatives of observer organisations at the workshop testified that serious analysis of data was not easy in the Afghan context. Materials and data were often published by the IEC in ways that would make them hard to analyse and interpret meaningfully, in bulky files, with variations in the order of candidates in documents, and gaps in figures.

One challenge is how to maintain relevance of electoral support organisations such as FEFA between elections. With each election this organisation has grown increasingly professional in its methodology and yet, because of the uneven funding availability, maintaining institutional memory (and thus quality) by retaining competent and professional staff has been difficult. FEFA's funding base relies on international support, and this support has tended to be centred around electoral *events* and lacking between these events, despite international donor recognition that a cycle approach is more effective for the long-term. Funding difficulties are compounded by the quandary for international donors in Afghanistan whereby they profess that domestic observation is necessary, yet they demonstrate reluctance to support it as it may jeopardise the relationships between the donor and the Afghan government.

Dealing with election observer groups can be frustrating and fraught. Navigating this relationship professionally can nevertheless provide benefits to both observers and observed, as timely observer information can be used as a trigger to the making of necessary adjustments by the electoral management body, and as the observer groupings are dependent on electoral management bodies for information ranging from up-to-date details of electoral procedures to polling station locations. In Afghanistan there is tension between FEFA and the IEC on issues such as voter registration and on methodology of investigation and collection of evidence. International observers can also become a distraction for security forces charged with their protection and safety, as well as a drain on scarce transport resources.

Key recommendations emanating from the session were (1) to promote *sustainable* support for domestic observation efforts; and

(2) to support the electoral authorities to liaise professionally with election observation groupings. Early engagement with appropriate organisations with a view to vigilance for any signs of undermining of regulations by authorities, including the government and police, was seen as particularly important.

In summary, electoral observation is difficult in Afghanistan. Observer bodies such as FEFA are almost totally reliant on international funding, which is plentiful around electoral events and lacking in periods between. This threatens their survival. For international observers, insurance costs based in the security situation can often prevent them from attending polling places in remote areas, which is where much of the electoral malpractice actually takes place. These problems need to be urgently addressed.

### **Session 7: International electoral assistance: requirements and time-lines**

There is a strong sentiment in Afghanistan in favour of *sovereign solutions* and scepticism about international actors. Respecting this 'trust deficit', any international electoral assistance should be low-key and discreet ('light footprint'). An appropriate role for international actors is that of the *stable funder for a credible indigenised electoral process*. One role for the foreseeable future is mobilising support for timely funds from appropriate sources that recognise the need for discretionary funding and timely sequencing of disbursement.

In Afghanistan, the international habit of promising money that does not arrive in a timely fashion has had a deleterious effect on credibility. Because election planning depends on availability of funds, one participant cited elections replanned three times as a result of funding not arriving. For the next phase of elections, the focus should be on deliverability of funds. Too little funding tends to squeeze out 'soft spending', including on voter education which as has been discussed earlier is vitally important to overcoming voter cynicism. Too much spending, however, is also problematic.

If the international community is to be involved it must be with a light footprint, that is to say, international assistance needs a much lower profile than it has had on previous occasions. The international community has a tendency to organise elections on a scale that is not replicable by local authorities. One example given was the Democratic Republic of Congo

which, although seen as a 'success', suffers from a legacy of unsustainable dependency following the massive initial investment made. A light footprint approach requires local ownership, sustainable systems, and more focussed intervention. Participants spoke of the value of balancing a symbolic international presence with the legitimacy of locally-led processes. The extensive comparative experience in the room spoke to the truism that locally-designed systems can work, and that this understanding underpins recognising and promoting local ownership.

The sentiment of the session was that appropriate international electoral assistance would take a long-term view of elections throughout the entire electoral cycle. This approach recognises the importance of 'before' and 'after' electoral tasks such as: (1) timely, well-considered and consultative design and planning processes in the period preceding the election; (2) voter registration and electoral education campaigns; (3) evaluation exercises; and (4) dispute resolution following an electoral event. A well-designed assistance programme would place emphasis on capacity-building and targeted technical support in certain areas, such as information and communications technology. A key area of support must be the institutions tasked with electoral justice.

Experienced Afghans have spoken of their frustration with the transient international personnel in Kabul, and of having to start from scratch with 'training' of new international contacts who may be in their positions from anything from a three-month to a yearly basis. Ideally, international organisations working in Afghanistan should maintain stable personnel with good corporate knowledge of Afghanistan and the electoral programs.

In Afghanistan it will be difficult to maintain the level of logistic capacity that we have seen in the past. 'We need to see logistics in a different way', said one participant, and there was a general consensus on the need for a new logistics paradigm for Afghan elections that corresponds with local transportation and communication realities. In the ISAF draw-down, there will be a final wedge that can be influenced, and those responsible for the elections may need to argue for electoral logistical assistance from that last 'wedge' of ISAF engagement. ISAF support has included air support, local transport, enhanced police patrol activity and broadcasting of electoral material.

Another role participants saw as important that the international community, and in particular the United Nations can play, is that of advocate of global norms and standards. This role recognises that a transition is a political process which cannot be supported by technical means alone. The UN 'Good Offices' role was cited as important, while the point was made that peacekeeping may be helpful in the short term for democracy but may have longer term impacts because of effects on the internal power structure. *The significance of the international community speaking with a consistent voice was emphasised by the participants.*

In summary, electoral stakeholder cynicism in Afghanistan is not confined to local issues, but also includes scepticism in relation to the non-delivery of promised funds for electoral purposes. There is a strong sentiment that any international involvement should be kept to a minimum and that a 'light footprint' is desirable for a number of reasons. One significant area of involvement is that of securing adequate, well-sequenced funding for electoral purposes, capacity building, and some specialised technical and advisory support.

#### **Session 8: Funding Afghan elections, and concluding discussion**

It was generally agreed that at present Afghanistan is heavily reliant on international donor funding and *that this will be more difficult to secure after 2014* once NATO-ISAF withdraws. Thus, serious consideration needs to be given to the way in which Afghanistan can fund its own elections after 2014. An approach is required to the Ministry of Finance for both the 2014 and 2015 elections, as well as elections beyond those years. The 2004 Constitution stipulates five-year terms for both the President and the Wolesi Jirga, so 2019 and 2020 are the next key years in this process. This raises the issue of how the Afghan government will raise the necessary funds via taxation, and whether these funds will be appropriately allocated.

Any funding, whether it is sourced from the international donor community, or from within Afghanistan, needs to be reliable, long-term, and properly sequenced. The high cost of adequate security and high-level logistics needs to be accounted for in this process. The spending level will be very difficult to maintain post 2014. International technical assistance may also be problematic after 2014 unless there is significant electoral reform. It is nonetheless clear that any attempt to put a

new system in place will take a considerable amount of time, at the very least several years.

The present processes of funding lead to last-minute decision-making and brinkmanship on the part of the international donor community. What is required is an acceptable model that can be built into inter-governmental agreements and is reinforced by domestic Afghan legislation. This needs to be understandable by the Afghan population and will require considerable political will. The international donor community often uses very complex mechanisms to secure and mobilise funding. The United Nations, for instance, has budgetary system for both peacekeeping, and Special Political Missions, of which there are fifteen worldwide. Transfer of funds between these areas is problematic and very complex.

Sequencing and delivery of funding is important as effective planning is reliant upon this. Timely funding has not always been achieved in the past, and on occasion effective planning was consequently not possible, which may have had an impact on the conduct of the ballots themselves and thus on voter perceptions of the process. Late planning and last-minute reforms or decisions will increase costs exponentially.

Specifying actual electoral costs in monetary terms is difficult, but Afghan elections have certainly been expensive to run. According to one study of the 2004 election, an estimated \$200 million (not including ISAF or NGO contributions) was spent for just over 8 million

votes. The costing segments are broadly four-fold: (1) the fixed costs of the electoral management body; (2) the variable costs of international staff and material; (3) election-specific costs; and (4) integrity costs, for example security and fuel budgets, and money to move poll-workers.

In 2014, there are likely to be some specific needs that can best be met by remaining NATO-ISAF forces. On the one hand, air support will be the last to leave and is arguably easiest to replace; and light ground movements can be achieved with locally available transport. The problematic sector is transport from Kabul to the regional centres; helicopter support from ISAF may be able to assist with this. Most importantly of all, security must be enhanced — effective police patrolling is essential for this — and funding must be made available for the broadcasting of information and voter education.

In summary, at present electoral funding in Afghanistan is almost totally reliant upon international sources, which are likely to be significantly reduced after 2014. Indigenisation must be given priority consideration, which necessarily involves encouraging an alternative indigenous source of electoral funding. This in turn is dependent upon political will. The intentions of the incumbent President Karzai are vitally important to the success of this process. In the meantime, an approach to NATO-ISAF needs to be made in order to provide logistics support for the upcoming Presidential election.

## Participants

**Mr Zachary Alpern** has worked on civil society engagement with elections in Afghanistan, Yemen and Timor Leste. He first worked in Afghanistan on civic education during the 2004 Presidential election. In 2005, he joined The Asia Foundation's elections program, continuing to work on civic education as well as media development and elections operations. Most recently, he was an observer at the 2010 elections with the National Democratic Institute for International Affairs (NDI) observation mission. Mr Alpern currently works on electoral integrity at International IDEA.

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**Professor Reginald Austin** is Chairperson of the Zimbabwe Human Rights Commission. He was Head of the UN Electoral Certification Team in Timor Leste in 2007, Chief Electoral Adviser to the Joint Electoral Management Body for the 2004 Afghan Presidential Election, Head of the Electoral Division of the UN Observer Mission in South Africa in 1994, and Chief Electoral Officer in the UNTAC Mission in Cambodia in 1992-1993. He has also served as Professor of Public Law and Dean of the Faculty of Law at the University of Zimbabwe; Director of the Legal and Constitutional Division of the Commonwealth Secretariat; and Director of Programmes at International IDEA. In 2007, he was a Visiting Fellow at the Asia-Pacific College of Diplomacy, and a Visiting Professor at the University of Denver.

**Mr David Avery** has worked on elections since 1974, primarily as an Australian Electoral Commission staff member. In 2004, he was UN Chief of Operations for the first Afghan Presidential election. In 2009 he served as Country Director for the USAID-funded Democracy International election observer programme for the Afghan Presidential election and in October 2011 as a special adviser on voter registration for the IEC of Afghanistan. He has been UN Chief Technical Adviser on elections in Pakistan, Suriname, the Republic of Georgia and Iraq, and has provided election support in Sierra Leone, Kosovo, Palestine, East Timor, Cambodia, Fiji and Solomon Islands for various bodies, including through Australian Government-sponsored programmes.

**Mr Andy Campbell** is Senior Partner of Asabiyya Consultants and has extensive experience and knowledge of the Middle East and South Asia as well as the Pacific Islands, with a particular reference to those states in transition. Previously he was Senior Country Director in Afghanistan and Director for Elections for the National Democratic Institute for International Affairs (NDI) in 2010. In 2004, he served as Head of Office Afghan OCV & Investigator, Impartial Panel of Experts, and in 2005 as Regional Elections Coordinator RC South (Kandahar). In 2009, he served as LTO RC-East (Jalalabad) and Chief Analyst for NDI. He holds an MA in Middle Eastern and Central Asian Studies from the Australian National University and is a member of the Australian Civilian Corps and serves as a member of the Council of Experts for Regional Dialogue (Uzbekistan).

**Mr Andrew Ellis** is International IDEA's Director for Asia and the Pacific based in Canberra, having previously served as IDEA's Director of Operations and as Head of Electoral Processes. He was Senior Adviser for NDI in Indonesia from 1999 to 2003, working on constitutional reform, electoral process and decentralisation issues. He is the co-author of the IDEA handbooks *Electoral System Design: The New International IDEA Handbook*, *Electoral Management Design Handbook*, *Direct Democracy*, *Voting from Abroad* and *Electoral Justice*, and has written numerous papers on institutional framework design questions. Other major assignments include acting as Chief Technical Adviser to the Palestinian Election Commission in 1996, and designing the European Commission's electoral assistance programme in Cambodia for the 1998 elections. He is a former Vice Chair and Secretary General of the UK Liberal Party and Chief Executive of the UK Liberal Democrats.

**Professor William Maley** is Professor and Director of the Asia-Pacific College of Diplomacy at the Australian National University. He is author of *Rescuing Afghanistan* (2006) and *The Afghanistan*

Wars (2002, 2009), and co-authored, with Fazel Haq Saikal, *Political Order in Post-Communist Afghanistan* (1992), including a chapter on 'Free and Fair Elections'. He served as an observer at Afghan elections in 2004, 2005 and 2009, as well as at the Cambodian Election of 1993 and the South African election of 1994, and in 1983 worked for the Australian Electoral Office, preparing a report on public funding of political parties.

**Mr Adrian Morrice** is a consultant on electoral administration. His first UN peace operation experience was as strategic planner in UN Force Headquarters Somalia (UNOSOM II) in 1993, and he returned to the field in 1997 assisting Liberia's electoral authorities to organise post-conflict elections (UNMIL). Since then he has worked in various post-conflict and crisis transitions, largely in Africa and Asia. They include working in UN peacekeeping operations and political missions, in INGOs, and with UNDP Country Offices in non-Mission settings, providing support to national electoral processes, and other peacebuilding work. From mid-2008 to September 2011 he was in the Policy Planning Unit, Policy and Mediation Division of the UN Headquarters Department of Political Affairs, where he worked on UN peace and security and peacebuilding policy issues. He currently resides in Cambodia, and is completing a lessons-learned research project for DPA, DPKO and UNDP on integrated electoral assistance in UN Mission settings. He is a graduate of the University of New South Wales and the London School of Economics and Political Science.

**Mr Ahmad Nader Nadery** is acting Commissioner of the Afghan Independent Human Rights Commission (AIHRC). He chairs the Free and Fair Election Foundation of Afghanistan and also is chairman of the board of the Open Society Foundation–Afghanistan. Mr Nadery represented Afghan Peace activists at the UN peace talks for Afghanistan in the Bonn Conference in 2001. Prior to his appointment at the AIHRC he served as the country director of the Washington-based organisation Global Rights. He also served as the Spokesperson for the Emergency Loya Jirga (Grand Assembly) that instituted the Transitional Administration in 2002. He has written extensively on politics, human rights, women's rights and democracy in Afghanistan. He is a member of Board of Editors of the International Journal on Transitional Justice and appears regularly on the BBC, and in the *New York Times*, *Washington Post* and other international media as a commentator. Mr Nadery as an adjunct professor teaches constitutional law at the American University of Afghanistan. He is also serving as a member of the Global Agenda Council on Fragile State, an initiative of World Economic Forum. Mr Nadery was recognized as an 'Asian Hero' by *Time* Magazine and named by the World Economic Forum as one of its Young Global Leaders in 2008. He studied law and political science at Kabul University and earned his Masters in International Relations from George Washington University.

**Ms Joanna Nathan** has been working in Afghanistan since 2003, starting with a media development project on the Constitutional Loya Jirga for the Institute for War and Peace Reporting. As the Senior Analyst for the International Crisis Group she wrote papers on the 2005 and 2009 elections. In late 2010 she joined UNAMA where she now heads the Electoral Support Unit. A New Zealand national, she holds a Master of Public Policy degree from the Woodrow Wilson School of Public and International Affairs at Princeton University.

**Mr Ric Smith** is Australia's Special Envoy for Afghanistan and Pakistan. A career diplomat, he served as Australian Ambassador to the People's Republic of China from February 1996 to February 2000, and from January 2001 to October 2002, he served as Australian Ambassador to the Republic of Indonesia. He was recalled to Canberra to take up duty as Secretary of the Department of Defence in November 2002, and occupied this position until his retirement on 1 December 2006. He has also been a Distinguished Fellow at the Rajaratnam School for International Studies at the Nanyang Technological University in Singapore, and the Australian Scholar at the Woodrow Wilson International Center for Scholars in Washington DC.

**Mr Scott Smith** is an adjunct professor at Columbia University, and works in the Afghanistan Program at the United States Institute of Peace in Washington DC. Between 1998 and 2011 he was a political affairs officer with the United Nations. For much of this time, he worked on Afghanistan, including as Team Leader for Afghanistan for the Department of Peacekeeping Affairs (2007-2008), and Special Assistant to the Special Representative of the Secretary-General to Afghanistan (2009-2010). He is the author of *Afghanistan's Troubled Transition: Peacekeeping, Politics, and the 2004 Presidential Election* (2011).

**Mr Julian Type** has been the Tasmanian Electoral Commissioner since August 2010. He holds a Bachelor of Arts degree from the University of New England where he majored in Economic History

and edited *Neucleus*. He has worked in electoral administration for almost 30 years, mostly domestically, but has also worked internationally for AusAID, the United Nations and the International Foundation for Electoral Systems in Cambodia, Indonesia, Timor Leste, Afghanistan, Nepal, Kenya and Tunisia. He has just enough French and Indonesian to express the opinion that it would be inadvisable to overtake into the path of an oncoming truck, and has had occasion to wish that his Dari had been up to the task.

**Dr Carlos Valenzuela** has worked for the UN in the area of electoral administration and electoral assistance for 18 years. Dr Valenzuela holds a Masters of Linguistics (University of Wisconsin), Masters of Economics (Paris I, Pantheon-Sorbonne), and a PhD in Economic and Social Sciences (Paris I, Pantheon-Sorbonne). His experience in the UN electoral field has been both for peacekeeping operations and UNDP, and since 1997 he has been either chief electoral officer or chief technical assistant in UN missions, as well as special electoral advisor. Missions include: Cambodia (1992-1993), South Africa (1994), Mozambique (1994-1995), Haiti (1995-1996), Liberia (1996-1997), Western Sahara (1997-1998), Central African Republic (1998-1999), East Timor (1999, 2000-2002), Mexico (2000), Palestine (2002-2003), Iraq (2003-2005), Sierra Leone (2006-2007), Democratic Republic of Congo (2008-2009), Afghanistan (2010-2011). He was international commissioner in the Iraqi Independent Electoral Commission for the first post-Saddam elections in Iraq. He has also served in a number of needs assessment and evaluation missions, including Mali, Honduras, Romania, Nepal, Indonesia and Yemen. He sits in various committees of international electoral organisations and is part of the advisory board of the International Foundation for Elections Systems (IFES), as well as designing and taking part in IFES programs in Afghanistan and Mexico. He was an original member of the committee that designed and launched the BRIDGE initiative, in partnership with the Australian Electoral Commission and International IDEA. He has worked for regional associations of electoral authorities, including Eastern Europe, Southern Africa and Latin America. Dr Valenzuela was born in 1956 in Colombia.

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