

Decree

President of the Islamic Transitional State of Afghanistan on arrangements for holding elections during the transitional period

Dated:
February 18, 2004

Pursuant to Article 159 of the Constitution on holding elections during the transitional period, and until the adoption of an electoral law and the establishment of the independent election commission, the following arrangements are approved.

Article 1.

1. The Joint Electoral Management Body shall, in addition to the authority and functions entrusted to it by Presidential decree No. 40 of *4 Asad 1382*, have overall responsibility for the preparation, organization, conduct and oversight of the elections.

Article 2.

1. The functions of the JEMB include:
 - (i) Adopt regulations and procedures regarding any matter relating to the electoral process.
 - (ii) Supervise the operations of the Electoral Secretariat in the preparations for, and organization and conduct of, the elections;
 - (iii) Register candidates for the elections;
 - (iv) Establish and maintain liaison and cooperation with political parties and independent candidates registered by the Ministry of Justice;
 - (v) Issue regulations on the use of, and access to, mass media and press by political parties and candidates;
 - (vi) Develop and adopt, in consultation with political parties, candidates, media and electoral administrators, codes of conduct to govern election campaigns and elections;
 - (vii) Investigate electoral irregularities;
 - (viii) Hear and decide on complaints and problems relating to the elections;
 - (ix) Refer any matter outside its competence to the appropriate authorities of the Islamic Transitional State of Afghanistan;
 - (x) Invite national and international electoral observers to the elections;
 - (xi) Advise the Islamic Transitional State of Afghanistan on criteria for a free and fair electoral exercise in accordance with the electoral law and international standards;
 - (xii) Certify and announce the results of the elections;
 - (xiii) Facilitate the implementation of election results and/or transfer of power.
2. The functions of the Joint Electoral Management Body shall lapse upon the end of that transitional period, unless provided otherwise by further legislation.

Article 3.

1. An Electoral Secretariat shall be established to support and cooperate with the electoral bodies and exercise functions regarding the voter registration process and the elections.
2. The Electoral Secretariat, under the supervision and direction of the JEMB, and with the advice and support of UNAMA, shall:
 - (i) Implement all decisions of the JEMB and carry out the functions delegated to it;
 - (ii) Service the meetings of the JEMB;
 - (iii) Assume all other functions currently assigned to the secretariat of the IAEC and the secretariat of the JEMB.
3. The Electoral Secretariat shall consist of a Director who is accountable to the JEMB, and such staff the Joint Electoral Management Body may deem necessary. The Director shall be appointed by the President of the Afghanistan Transitional Authority. With the exception of staff appointed by UNAMA, the authority to recruit staff may be delegated to the Director of the Electoral Secretariat, under conditions established by the Joint Electoral Management Body.
4. Upon the advice of the UNAMA Chief Technical Adviser that an Electoral Secretariat Staff member has violated or abused his/her functions, the Joint Electoral Management Body and the Director shall relieve the staff member of his/her duties.
5. The Joint Electoral Management Body may recommend to the President that the Director be removed from his/her function.
6. Following the completion of the functions of the Joint Electoral Management Body under this decree, the Electoral Secretariat shall be placed under the direct authority of the Independent Election Commission, unless otherwise provided for by subsequent legislation.
7. The United Nations staff serving with the Electoral Secretariat shall provide advice, cooperation and support in the implementation of all its functions. The United Nations shall take all necessary measures to observe and verify the implementation of the decisions of the Joint Electoral Management Body.
8. The material assets and funds of the Secretariat of the Constitutional Loya Jirga shall be transferred to the Electoral Secretariat.

Article 4.

Government agencies in the capital, provinces and districts shall cooperate with the Joint Electoral Management Body.

Article 5

1. Unless otherwise specified herein, the provisions of the Presidential decrees establishing, or defining the roles of the Joint Election Management Body and the Interim Electoral Commission shall continue to apply with the exception of the amendments and abrogations codified in this decree.

2. Article 2 of the Presidential decree No. 40 of 4/5/1382 on the Establishment of the Joint Electoral Management Body is hereby amended with the following text:

"The Joint Electoral Management Body shall consist of thirteen members. Eleven members, six being the members of the Interim Afghan Electoral Commission and five being appointed by the UN Special Representative of the Secretary-General for Afghanistan, have the right to vote. The Director of the Electoral Secretariat and UNAMA's Chief Technical Advisor on Electoral Matters are members of the Joint Electoral Management Body without the right to vote."

3. In paragraph 2 of article 9 of the Decree No. 40 of 1/5/1382 establishing the Joint Electoral Management Body the name "Secretariat of the Joint Electoral Management Body" is changed to "Electoral Secretariat".

4. The definition of "Chief Electoral Officer" in paragraph 2 and 4 the Decree No. 86 of 20/8/1382 on Voter Registration is hereby deleted.

5. Paragraph 8 of Decree No. 39 dated 4/5/1382 establishing the Interim Electoral Commission is hereby deleted

6. In paragraph 2 of Decree 86 dated 20/8/1382 on Voter Registration the following text is added:

"The "Secretariat" consists of the Electoral Secretariat which is established by this Decree"

7. Paragraph 3 of Decree No. 86 of 20/8/1382 on Voter Registration is hereby amended to read as follows:

"The Secretariat of the Joint Electoral Management Body, with the advice and support of the United Nations Assistance Mission in Afghanistan (UNAMA), shall be responsible for conducting the voter registration process, under the oversight of the Joint Electoral Management Body, as established by Decree No. 40 of 4/5/1382 (26 July 2003)."

8. In paragraphs 11, 15, and 18 of Decree No. 86 of 20/8/1382 on Voter Registration references to the "Chief Electoral Officer" shall be amended to read "Director of the Electoral Secretariat".

This Decree shall enter into force upon signature and shall be published in the Official Gazette.

Hamid Karzai