



Afghan Independent Human Rights Commission
AIHRC

AIHRC-UNAMA

Joint Verification of Political Rights

Wolesi Jirga and Provincial Council Elections

First Report

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INTRODUCTION

At the request of the Government of the Islamic Transitional State of Afghanistan and with the endorsement of the Berlin Conference, the United Nations Assistance Mission in Afghanistan (UNAMA) and the Afghan Independent Human Rights Commission (AIHRC) are jointly verifying the exercise of political rights throughout the country with a view to ascertaining the situation of political rights in the different provinces of the country; making appropriate recommendations to the authorities; and thereby helping create an environment conducive to free and fair elections.¹

This report presents the trends observed, including the candidate nomination process, which took place from 30 April to 23 May² and maps out the types of violations that constrain the exercise of political rights. It is hoped that it will serve to raise awareness of potential patterns that may emerge as the Wolesi Jirga and Provincial Council election processes move forward. Recommendations for preventative as well as corrective action are provided to the Government, the Joint Electoral Management Body (JEMB) and national and international organizations.

METHODOLOGY

During the reporting period, approximately 75 staff from the eight UNAMA and eleven AIHRC regional offices monitored the environment and actively collected information in order to assess conditions for the exercise of political rights. Verification efforts included formally registering complaints submitted by the population, verifying cases, undertaking field missions to all the provinces to assess the general environment, monitoring the press and collecting information about general perceptions and trends through interviews conducted with local actors, such as government authorities, political parties, prospective candidates, elders, civil society, the media, and the JEMB.

In total 102 incidents were recorded by the Joint Verification Unit. Many of these reports could not be fully verified for a variety of reasons, including incomplete information; lack of witnesses; and an unwillingness by complainants to disclose the full details of the incident reported due to fear of retaliation. There were also a number of reported cases that were found to be irrelevant for the purposes of this report as they were unrelated to the exercise of political rights or were well outside the reporting period. In addition, upon further verification a number of allegations were found to be baseless.

NATIONAL TRENDS

Wolesi Jirga and Provincial Council Candidates

The candidate nomination process started off slowly and gained momentum only a few days before the closing date, resulting in 6,201 candidates. Of this total, 344 and 285

¹ This exercise was launched in 2004 and three public reports were issued in advance of the Presidential Election.

² With the exception of the province of Nangarhar, where nomination was extended to 26 May.

women registered for the Wolesi Jirga and Provincial Council elections, respectively. Seven of the 66 candidates registered for the seats allocated to Kuchis were women. While the number of female nominations is generally positive, it is less than expected given the high participation of women during the presidential elections. This issue is discussed further below.

While detailed information on the candidates was not yet available at the time of the closing of this report, it appears from an initial assessment that approximately 16% of the 6,102 candidates have in the past served as commanders or maintained links with armed groups and approximately 4% of this group could pose a significant threat to their communities in the absence of disarmament. In addition, 212 government officials have nominated themselves. A number of these officials have yet to resign from their positions as required under the Electoral Law.

Public Perceptions of the Electoral Environment

These figures suggest that government officials and people linked to armed groups have not dominated the nomination process. This is also borne out by the fact that, even though verification efforts have confirmed some incidents involving violations of political rights, there is no evidence of a systematic pattern of violations.

Nevertheless, verification teams established that there is a broad perception that intimidation and limitations on political rights are pervasive or will increase. These perceptions appear to be based, for the most part, on personal or collective experiences with local strongmen, and their propensity and ability to influence or intimidate their communities and in particular their opponents. Past factional rivalries and local enmities contribute to these perceptions. In other words, the widespread fears, feelings of mistrust, and acts of self-censorship that have been communicated to the verification teams appear to be based largely on patterns of behavior observed in the past without necessarily being accompanied by current threats or violations.

As pointed out above, the composition of the candidate list and the small number of verified incidents shows that such fears have not deterred a large number of candidates from exercising their political rights. These fears could, however, have a significant impact in the coming months as the electoral competition intensifies. It is therefore important that a special effort be mounted by the Government, the electoral authorities and the international forces to create a climate of improved security, in particular by addressing forcefully the cases of violations mentioned in this report and through the disarmament of illegally armed groups.

FREEDOM OF EXPRESSION

Kabul province continues to be the most open in terms of freedom of expression, as exemplified by an active and diverse media which carries reports openly reflecting a variety of political views. However, threats against individual presenters of the privately owned TOLO TV are of concern. Journalists involved in investigative and musical

programmes have been threatened without law enforcement agencies taking any action. Herat has witnessed a significant improved in political expression since the presidential elections. Compared to a year ago, there are numerous media outlets in the province and the quality of Herat Radio and Television has improved. The candidate nomination period was well covered and the state media has cooperated with the JEMB efforts in the distribution of information on the electoral process.

At the same time, in large parts of country the media – particularly radio and television - continue to be seen as largely in the hands of local authorities. Reporting critical of local officials is considered to lead to reprisals against journalists. In Khost, a private magazine had its office shut down after it published a satirical piece on the Governor. While officials claimed that they closed down the publication because it had failed to register, the fact that many other un-registered publications have been allowed to operate suggests that the decision to target this particular publication was linked to its criticism of the Governor.

In Ghazni, the Governor insisted that the Radio Voice of Ghazni People broadcast its program only after its contents were cleared by him. The Governor has agreed to drop these demands following intervention by the verification unit.

Media is limited in remote provinces such as Farah, Bamyan, Badghis and virtually non-existent in outlying districts and villages. Inadequate access to media has already posed challenges to the civic information campaign and is seen as potentially detrimental to the campaigning phase of the electoral process.

Weaknesses in civic education have also served to limit political expression during this phase of the electoral process due to a lack of information about the nomination process. While the JEMB has undertaken a number of measures to extend its reach throughout the country, people from areas that are inaccessible by vehicles or high-risk areas have not received sufficient information about the electoral process. This is a concern that has been cited by verification officers in all eight regions of the country. Concerns have also been expressed about the fact that the civic education process started very late in some areas.

FREEDOM OF PEACEFUL ASSEMBLY

On 11 May violent demonstrations triggered by a Newsweek article on the desecration of the Holy Quran in the Guantanamo detention center resulted in the death of 14 people, the destruction and looting of buildings - including government buildings, the AIHRC office, UN agencies and national and international NGO offices - and the temporary closure of several nomination centers. The direct impact of these incidents on the candidate nomination process was diminished by the JEMB decision to extend the candidate registration process for three days countrywide and for seven days in Nangarhar.

A protest that started on 29 May against a local commander accused of raping a girl in Chahab district, Takhar province, inspired demonstrations against commanders in two neighboring districts, Rustaq and Dasht-e Qala. The demonstrators in Rustaq requested the dismissal of provincial and district authorities, and the disarmament of the most powerful commanders in the district, Piram Qul- who is also a Wolesi Jirga candidate- and his deputy, Subhan Qul. They also asked for deployment of the ANA and police in the province. Inaction on the part of the Governor of Takhar resulted in increased tensions, leading to a violent clash between Piram Qul's militiamen and the demonstrators. Militiamen struck the demonstrators, injuring several. The deployment of the ANA and ISAF support, including patrols by the Kunduz PRT, helped defuse tensions, and allowed a new district manager and police chief to assume office.

A number of interviewees in the North and Northeast region relayed concerns to the verification teams that government officials may prevent political assemblies under the guise of maintaining public order. No such incidents were noted during the reporting period.

FREEDOM OF ASSOCIATION

To date, 72 parties have been registered by the Ministry of Justice. The registration of parties that had previously been barred on ideological grounds is a welcome development.

Only 12% of candidates have recorded affiliation to a political party. However, a significant number of candidates who have registered as independents appear to have links with political parties. Party leaders interviewed have explained that in some cases their members are running as independents. Reluctance to contest the elections as political party candidates may in part be attributed to biases against political parties for the role they are seen to have played in the Afghan civil war during the early and mid nineties.

We note that as part of an ongoing policy to promote exchanges between political parties and to transmit information about the electoral process, the JEMB is engaging regularly with political parties. In addition, the verification unit has been holding public meetings with political parties and community members in twenty-three provinces, representing all regions of the country. The National Democratic Institute (NDI) has also been conducting workshops and convening gatherings with political parties in several provinces.

FREEDOM OF MOVEMENT

Anti-government attacks are the greatest impediment to the freedom of movement in the South. In Uruzgan and Zabul an increase in incidents - including improvised explosive devices, remote controlled mines and an attack on government and private vehicles by armed groups- has been observed. The killing by the Taliban of two de-miners and one child and the serious injury of five de-miners on 1 June in Grishk district, Helmand province, on the Kandahar – Herat road, have also escalated fears about

traveling in the area. There is concern that such activities will serve to constrain movement in these areas and will have an impact on candidates' ability to extend their reach during the campaign period.

People residing in remote areas were disadvantaged in accessing the campaign centers, as evidenced by reports of prospective candidates from remote districts traveling for days to register themselves at the provincial centers. The Qyrgis community in Pamire Kalan of Badakhshan was the most adversely affected. Due to cultural norms limiting women's mobility, this issue posed significant difficulties for prospective female candidates, particularly those residing in more conservative areas.

A number of concerns have also been raised about the role that some local officials might play in limiting the movement of candidates whom they oppose. Thus far, there has been one confirmed incident. The regional representative of the National Solidarity of Youth of Afghanistan party reported that on 29 April one of its members disappeared on the way to the JEMB office in Helmand, where he was intending to submit his candidacy registration documents for the parliamentary elections. The verification unit found that he had been arbitrarily detained in a private jail managed by certain provincial officials in Helmand. On 29 May the individual was released, following the conclusion of the candidate nomination period and escorted out of Lashkargah to Musa Qala district, Helmand under the supervision of the district commissioner of Musa Qala. The district commissioner also happens to be a candidate and is in violation of the provision in the electoral law which requires government officials to resign from their positions before registering as candidates.³

There has been a number of reports of the Coalition Forces and the Afghan National Army arresting people on the basis of false accusations made by political opponents. One report has been verified in this regard. On 29 April, a political party member who was also a prospective candidate was detained by the Coalition Forces and the Afghan National Army in Khaz district, Uruzgan province. Intervention by the verification unit succeeded in the release of the individual two days before the end of the nomination period, allowing him to register as a candidate.

PRINCIPLE OF NON-INTIMIDATION

On 3 June 2005, in Shah Zafar village, Tirin Kot district, Uruzgan province, Taliban entered the residence of Izat Musa Kalim, a 19-year-old JEMB civic educator, and shot him twice, instantly killing him. His cousin was also killed and his father injured. Investigators suspect that the Taliban targeted Kalim because of his work as a civic educator.

In early June, night letters, directed against JEMB staff, were found in various districts of Ghazni. They warned the population that it should not cooperate with the electoral workers. While these incidents have not resulted in violence, they have contributed to a climate of fear.

³ See section on principle of non-partiality for further details regarding the role of government officials.

Haji Mohammed Qalamuddin, former Taliban Minister of Vice and Virtue and a Logar candidate for the *Wolesi Jirga*, submitted complaints about threats and intimidation directed against his candidacy. The verification unit confirmed that a grenade was thrown at his house in Baraki Barak.

The De Afghanistan De Mili Wahdat Wolesi Tahreek (formerly know as National Unity Party) has reported submitting eight different complaints regarding the intimidation of its representatives in Nangarhar. On the night of 15 February, the regional party leader's store was looted. Approximately 2,000 voter registration card copies, money and some documents related to his political activities were stolen. In March an improvised explosive device was detonated in the water well of a party member and on 3 May a member of the party was the target of a death threat. Party representatives have also complained that the police have failed to follow up or carry out a proper investigation.

Female candidates, particularly in remote and more conservative areas, have also voiced concerns about their security. In some areas women only registered in the last days of the nomination process to avoid security threats. However, to date there has only been one confirmed case of intimidation targeting women: on 11 May, a female member of the Hizb-e-Wahdat-e-Milli party reported receiving an anonymous death threat after she attended a meeting with female political activists and candidates at the UNAMA office in Jalalabad, Nangrahar province.

Another incident that may have an intimidating effect on candidates, particularly women, is the fatal shooting of Lal Mohammed on 5 April in Washir, Helmand region. Mr. Mohammed, a member of the Afghan Solidarity Party and an employee of the local office of the National Security Directorate (NSD) in Lashkargah, was working closely with the Lashkargah branch of the Department of Women's Affairs (DoWA) in establishing a women's association.

The fact that former and current commanders are standing as candidates for Wolesi Jirga and Provincial Council elections has also generated concerns that they will use their military links to intimidate opposing candidates and the voting populations. The conclusion that the number of confirmed incidents and the composition of the list of candidates have not borne out these fears has already been mentioned in this report (see above). Nevertheless, areas such as Parwan, Nangarhar, Laghman, Nuristan, Takhar, Herat and Badakhshan will require special attention as a number of candidates in these areas are suspected to maintain links with armed groups.

In a few cases, fears that commanders will limit the exercise of political rights have materialized. In Barr village of Mazina town, Rodat District, Nangarhar tribal elders under the command of Haji Rohullah, a former Hezbi'-Islami commander, threatened to extract 25,000 rupees from those who did not vote for him, in addition to burning down their homes. One of the grievances raised by demonstrators in Rustaq district of Takhar, at the end of May, was a lack of security for candidates challenging local commander Piram Qul in the Wolesi Jirga election. Complaints of intimidation of candidates and

voters directed by him and his sub-commanders have been raised with the verification unit at the regional and Kabul level.

In Sari Pul two independent candidates complained against a local commander who had asked them to withdraw their candidacies, presumably in favor of a third candidate. The commander allegedly told one of the independent candidates that the area was too small for more than one candidate and that he should have asked his permission before nominating himself.

Dr. Mohammad Ibrahim Malekzada, former governor of Ghor and a Wolesi Jirga candidate publicly warned local authorities that they would be inciting a new jihad if they attempted to remove his cousin and brother in law from their posts as district chiefs of police of Taywara and Passaband, respectively. Subsequently, protests were carried out against Mr. Malekzada's candidacy in Taiwara, Tulak and Saghar of Ghor province.

During the nomination period other serious incidents took place in the Southeast and South which, while not necessarily intended as acts of intimidation, may intensify fears on the part of candidates and voters. On 11 May, Akhtar Mahmud Tolwalk - a candidate for the Wolesi Jirga and brother of the district administrator of Deh Yak - was killed in an ambush on the way from Ghazni city to Deh Yak district. While police investigations concluded that the brother of the victim was the target of the attack, the incident is likely to be perceived as being connected to the victim's candidacy. The killing of Maulavi Abdullah Fayaz, the chairman of the Ulemas in the South, and the subsequent attack at his memorial service, may have a similar impact.

In areas under the influence of one political party - such as Faryab, parts of Daikundi and Paghman - self-censorship has been reported among candidates and the general population. Verification teams have observed a common understanding that activities undertaken by less influential groups are tolerated to the extent that they do not challenge the main parties. This may emerge as a problem during the elections if activities by minor parties are seen as undermining the interests of the dominant parties.

On a positive note, efforts to disband illegal armed groups have been launched to ensure that those with links to armed forces disarm in order to allow them to take part in the elections, in accordance with the Electoral Law. In areas such as Takhar, Jalalabad and Bamyan commanders have already moved towards complying with this process.

PRINCIPLE OF IMPARTIALITY

Reports of partial conduct by governors, district administrators, police, and commanders have been received throughout the country. According to these reports, local officials are suspected of undertaking a range of activities, from supporting favored candidates to threatening candidates whom they oppose. Most candidates are unwilling to speak openly against specific officials, and only a few specific complaints have been recorded thus far.

The district administrator of Farza in Kabul province called a meeting with the community and announced the names of the candidates he supported. His announcement reportedly discouraged a number of independent candidates.

In Shahr-i-Buzurg, Badakshan province, the district administrator forcibly collected - with the support of armed commanders - registration cards from the villages of Razak, Kateki Payan, Khasar, Kahpetaw, Chahkakhwah and Chawgani. He then convened representatives of the villages and threatened them with a fine of 15,000 Afghanis if they campaigned or voted for any candidate without his authorization.

Prior to his replacement on 9 June, the Takhar Governor repeatedly attempted to interfere in the operations and civic education activities of the JEMB. The former Governor defended himself by claiming that he was responding to an imbalance in JEMB recruitment practices.

In Nangarhar, the Council of Nangarhar Communities (CNC), a non-profit organization created and run by the brother of the Governor in 2003, has organized three different meetings in Surkhroad, Behsud and Chaparhar districts to convince some independent candidates to withdraw, arguing that a smaller pool of candidates would lead to the election of better representatives. Some have pointed out that five members of the Governor's family are contesting the upcoming elections and that the real motive behind these meetings is to diminish competition. There are also concerns that public resources are being utilized to support these candidates. For example, in Mohamandara and Sherzad districts the CNC branch offices have reportedly been used by CNC members to campaign for the Governor's family.

The Governor of Helmand has been cited by a variety of sources as limiting political rights, threatening political rivals and pressuring some candidates to withdraw. Provincial authorities in Kajaki, Musa Qala, Sangin and Nawa districts of Helmand have also been reported to actively support some candidates and intimidate others.

The 9th regiment, belonging to the 9th corps, has been implicated in restricting political activity in Ashterlai district of Daikundi. Sheikh Mobalegh and his sons Baqer and Hamid, who head the 9th regiment, are seen as favoring one candidate and preventing political activity in support of competing candidates. While 131 official members of the 9th regiment were disarmed at the end of May, the verification unit believes that Mobalegh and his sons will continue wielding undue influence, given their hold over the area.

On a positive note, President Karzai has issued an order regulating the activities of government officials during the electoral process. The order forbids all government agencies and public officials and their staff, including ministers, executive personnel, governors, civil servants and security personnel from interfering in the electoral process and undertaking partisan activities.

PRINCIPLE OF NON-DISCRIMINATION

According to JEMB figures, over twelve percent of all candidates for the Wolesi Jirga and nearly nine of candidates for the Provincial Councils, are women. It is also noteworthy that over ten percent of the Kuchi candidates are women. The latter is in stark contrast to the Constitutional Loya Jirga where women were entirely absent from the Kuchi special elections. The fact that women from all provinces have registered as candidates for the Wolesi Jirga elections is significant and serves to illustrate that the participation of women in politics is gaining a degree of acceptance even in conservative areas. However, the registration of women for the Provincial Council elections fall short in a few provinces. In Uruzgan, there are no women candidates. In Zabul, Kunar, Nuristan and Nangahar, their numbers are insufficient to cover all seats allocated for women. The electoral law provides that where there are no female candidates, the seats allocated to them shall remain vacant until the next Wolesi Jirga elections. The failure of the government to issue legislation regarding the profile of provincial councils may have contributed to fewer women contesting the provincial council elections as many of them were under the impression that they would have to move to the provincial centers permanently, if elected.

On the whole, the number of female candidates is less than what could have been expected given the level of participation of women in the Presidential election. Several factors may account for this situation. Foremost among these is the fact that, while women were mobilized and encouraged to register by their communities and families to support candidates in the presidential election, a degree of ambivalence continues to exist in Afghan society regarding women serving as public figures. Women to a large extent internalize these norms and fear bringing dishonor to their families if they expose themselves to public critique by standing as candidates.

Moreover, the fact that women have limited access to money and resources restricted the ability of female candidates - particularly independents - to raise the 4,000 Afghanis required for registration. On the other hand, some female candidates linked to powerful elements - including political parties, government authorities and commanders - have received financial and political support from their affiliates.

Women also cite limited access to information about the nomination criteria and the election, as well as mobility restrictions, as factors contributing to low female participation in the candidacy process. Despite the fact that the JEMB civic education efforts geared towards women were positive in urban centers, women in some remote areas have received very little information regarding the electoral process. It is therefore unsurprising that the largest percentage of registered female candidates came from provincial centers, particularly Kabul province, where there are greater public outreach activities and where the environment is more conducive for women's participation.

RECOMMENDATIONS

Security

- The Disbandment of Illegal Armed Groups (DIAG) program, and in particular the voluntary disarmament of candidates assessed to have linked with armed groups, should be implemented in all areas where commanders and armed groups are seen to be active, so that the intimidation capacity of official and unofficial actors is diminished. Special attention must be given to the provinces of Parwan, Nangarhar, Laghman, Nuristan, Takhar, Herat and Badakhshan where there are a relatively greater number of individuals linked with armed groups.
- Security concerns were successfully overcome during the presidential election. One key factor was close coordination and cooperation between national and international security forces. This success should be built upon by the Ministries of Defense and Ministry of Interior and by the international security forces through the effective use of existing coordination mechanisms to ensure that adequate preventative and responsive capacity is in place to address potential security threats.
- Special training should be provided for the Afghan National Police to ensure that the security needs of candidates are properly addressed.
- A clear information strategy is needed regarding the Election Complaints Commission and the Provincial Electoral Commissions to ensure that the population makes use of mechanisms at the local and the Kabul level to register complaints and to make certain that allegations regarding electoral violations are dealt with systematically and efficiently. The powers of the Electoral Complaints Commission to consider cases on its own initiative and to impose sanctions against those candidates who are implicated in threatening intimidating or attacking the dignity of voters, candidates or journalists should be given particular attention.
- The JEMB should accelerate the establishment of the Provincial Electoral Commission (PEC) and should ensure that PEC are well established and have the necessary resources to perform their duties. The ECC should ensure that PECs have sufficient support to perform their duties relating to electoral complaints.

Non-Partiality

- Considering that interference by local officials features as a key concern throughout the country, the Government should give broad publicity to the recently passed “Order on the Conduct of Government Officials During the Electoral Process” and ensure that those found violating this order are sanctioned in a timely manner .

Women's Political Rights

- The Ministry of Women's Affairs (MoWA) should be supported in devising a strategy to promote women's participation in the upcoming elections. Its provincial offices can serve as an effective avenue to reach out to women in remote areas. The JEMB, and national and international organizations, particularly women's organizations, should be asked to provide support to this initiative.
- The Ministry of Woman's Affairs, the Ministry of Interior and the Ministry of Justice should work together towards developing a coherent approach to address the security concerns of female candidates.

Legislation

- The Government should promptly review and adopt appropriate legislation defining the functions and authority of Provincial Councils, so as to pave the way for a meaningful debate between candidates and voters on how to exercise best the Provincial Council's powers.

Advocacy

- As in the Presidential Election, respected national figures, religious leaders, artists and other influential personalities should be invited to broadcast far and wide their support for the electoral process; their condemnation of any attempted official or unofficial interference with the right of people to express themselves and vote their conscience; their encouragement to candidates and political parties to educate the voters on their proposals for the country's future while refraining from verbal abuse and physical violence; and their encouragement to the women and men of Afghanistan to assert, free of fear, their right to participate in the electoral process in the knowledge that the National Assembly and the Provincial Councils will play a critical role in the building of a free, peaceful and prosperous Afghanistan.