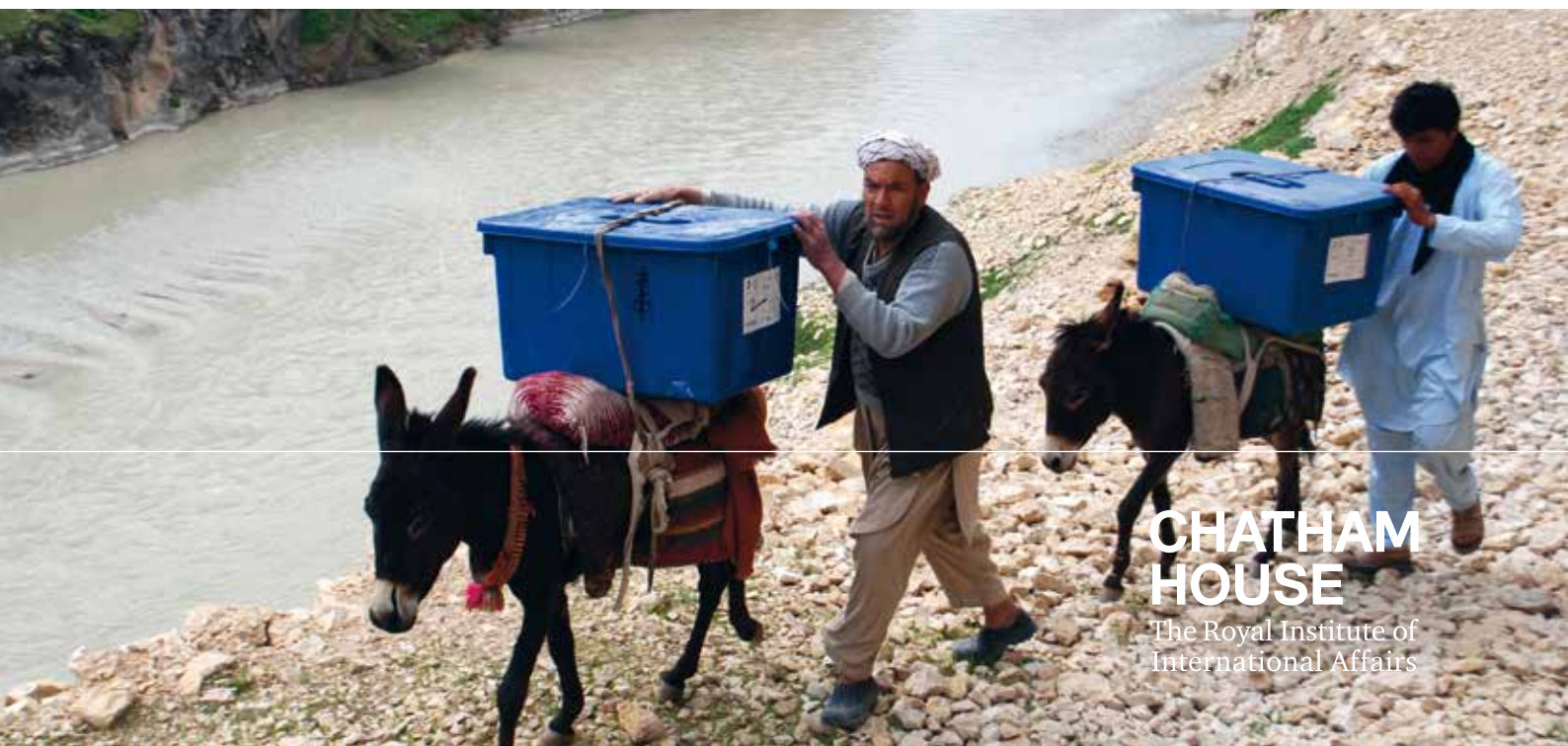


Afghanistan: The 2014 Vote and the Troubled Future of Elections

Summary

- The September 2014 power-sharing agreement between Ashraf Ghani and Abdullah Abdullah only partially resolved the political crisis that followed Afghanistan's disputed presidential elections. The compromise of Ghani's inauguration as president and Abdullah's appointment to the new role of chief executive officer ended a stand-off that had threatened a political collapse, but in-fighting has continued to impede the day-to-day functions of government.
- The post-election crisis, and the extra-constitutional negotiations it generated, highlighted the weakness of the legal framework, which was unable to provide an effective, transparent transfer of power.
- A timely assessment of the flawed 2014 transition is needed if stakeholders are to address the concerns arising from it and prevent further damage to democratic institutions. This is of particular relevance for the management of future votes, including upcoming parliamentary elections.
- The 2014 crisis has created opportunities for reform, in part by disrupting a political system reliant on patronage. Popular dissatisfaction with the status quo could create space for devolution of some powers to local levels. The crisis has also potentially provided the United Nations with a more central role in supporting democratization.
- Obstacles to reform include the timing of parliamentary polls in 2015 and the weakness of the electoral agencies that oversaw the 2014 transition.
- A commitment to transparent elections by the Afghan government, the ruling elite and the international community is imperative. Failure to undertake reform will undermine the notion of democratic elections for the Afghan public.



Introduction

When Ashraf Ghani was inaugurated as president on 29 September 2014, Afghan voters and the international community breathed a collective sigh of relief. His appointment ended a political vacuum that had threatened stability, as a dispute over the results of the second round of the presidential election in June 2014 had prompted a stand-off with his rival, Abdullah Abdullah. The deadlock was broken only after Abdullah accepted a power-sharing deal creating a new post of ‘chief executive officer’ as part of a government of national unity.

The eventual compromise over the candidates’ competing claims to the presidency must be considered preferable to the alternative of continued uncertainty and a lack of functioning government. However, the failure of the election process and the ad hoc nature of the agreement between the candidates underlined the continuing deep flaws in Afghanistan’s political system and political culture.

It is in this context that this briefing paper assesses some of the areas in which the 2014 elections went wrong. It examines the factors that contributed to the presidential vote being disputed and that complicated post-election negotiations. It also assesses the opportunities and challenges for the future of elections in Afghanistan and provides recommendations for Afghan and international policy-makers.

The crisis has illustrated that the transition to a new political order following the 2004–14 presidency of Hamid Karzai will be turbulent. Electoral democracy has made significant, yet uneven, advancements in Afghanistan in the past decade. High turnout for the elections – particularly during the first round of voting, in April – was an encouraging sign that surprised many observers. Afghan voters were generally enthusiastic about democratic participation. They were undeterred by threats of violence, poor weather, long queues and two rounds of voting in short succession. However, the process was marred by massive electoral fraud (despite the involvement of UN and other international officials), a lack of transparency in elite political negotiations, and threats of violence.

Not only has the electoral system therefore failed to meet expectations of a timely and transparent transfer of power, it has also raised wider concerns. An immediate problem is

uncertainty about new government structures, personnel and influence in the context of an ill-defined dual leadership system that divides power between the presidency and the chief executive’s office. In the longer term, there is a question mark over the future of democracy in Afghanistan. Will the new government of national unity be able to repair the damage that the 2014 elections have done to the credibility of the political process?

The crisis has illustrated that the transition to a new political order following the 2004–14 presidency of Hamid Karzai will be turbulent.

As this paper will argue, the outlook for democratization and stability is mixed. Scott Smith and Carina Perelli concluded before the vote: ‘Elections are at a minimum a conflict management mechanism.’¹ In Afghanistan’s case, the mechanism broke down in 2014 because it was not robust enough to manage tensions between the two main candidates and their backers. At the same time, the transition to a post-Karzai political order offers an opportunity for a governance system to emerge that is better suited to Afghanistan than the one currently provided for under the constitution. Whether this happens will depend on a number of factors. These include the timely holding of parliamentary elections scheduled for mid-2015, and the addressing of constitutional concerns raised by the 2014 elections. For the international community, there is also an opportunity to recommit to democracy in Afghanistan, particularly as the UN asserts a more influential role.

A flawed process with everyone to blame

Elections in Afghanistan over the past decade have rarely gone smoothly, and those in 2014 were no exception.² In the lead-up to the polls, politicians and analysts had stressed the likelihood of fraud, corruption and violence.³ While the first round of voting, in April, was relatively uncontroversial, the second round, in June, followed a more familiar script as accusations of ballot-rigging and political manipulation emerged. Voters interviewed by Chatham House researchers wondered whether their votes had actually been counted. They also voiced general

¹ Carina Perelli and Scott Smith, *Anticipating and Responding to Fraud in the 2014 Afghan Elections* (London: Chatham House, February 2014), p. 3.

² For analysis of the 2004, 2005, 2009 and 2010 elections, see Scott Smith, *Afghanistan’s Troubled Transition: Politics, Peacekeeping and the 2004 Presidential Election* (Boulder, Colorado: Lynne Rienner, 2011); and Noah Coburn and Anna Larson, *Derailing Democracy in Afghanistan: Elections in an Unstable Political Landscape* (Columbia, 2014). For an ongoing series of papers on the subject of elections in Afghanistan, see Martine van Bijlert and Kate Clark at the Afghanistan Analysts Network website: www.afghanistan-analysts.org.

³ See, in particular, Perelli and Smith, *Anticipating and Responding to Fraud in the 2014 Afghan Elections*, 2014.

concerns about government corruption and political instability.⁴ Such doubts were subsequently borne out by the breakdown in the electoral process and the stand-off over the choice of president.

The causes of this failure were numerous. First, the electoral system's winner-take-all format encouraged brinksmanship that, it emerged, could only be resolved through extra-constitutional negotiations.⁵ This was not too much of an issue in the first round of the presidential election, when the two leading candidates – Ashraf Ghani and Abdullah Abdullah – outpolled six lesser contenders by large margins. Indeed, UN and other international observers largely praised the work of the Independent Election Commission (IEC) and Electoral Complaints Commission (ECC) during this phase of the vote. But in the deciding round of voting in June, contested only by Ghani and Abdullah, both organizations did too little to prevent fraud and political manipulation. This was despite officials being better trained and technically better equipped than they had been earlier in the process.

Popular confidence in the process was further undermined by a series of very public incidents, such as the resignation of Zia ul-Haq Amarkhel, the head of the IEC Secretariat, on 23 June, shortly after the run-off vote. This was triggered by the Abdullah campaign's release of recordings purporting to implicate Amarkhel in electoral fraud. The veracity of the recordings and allegations was never established, and Amarkhel – who denied wrongdoing – was not prosecuted. But the subsequent politicized efforts to capitalize on the incident highlighted the conditional nature of adherence to electoral rules in Afghanistan.⁶

In the deciding round of voting in June, contested only by Ghani and Abdullah, election bodies did too little to prevent fraud and political manipulation.

Indeed an opportunistic approach to democracy seems to have extended to many aspects of the campaign. At times the two main candidates and their supporters deliberately tried to disrupt the process for political gain. There were threats of withdrawal from the election during the second round of counting, and mutterings about the

potential establishment of a parallel government – in effect suggesting that candidates were prepared to subvert the electoral system if things did not go their way.⁷

The tense climate in which the elections were conducted further contributed to the breakdown of the process. Ethnic rhetoric resurfaced during the second round of voting, and Pashtuns turned out in higher numbers to vote for Ghani. Many of those interviewed by Chatham House for this paper noted their concern at the increase in political and ethnic tensions.

The 2014 political crisis was exacerbated by the lack of effective and impartial arbitration mechanisms. A widespread perception that the Karzai regime was partisan meant that no branch of the Afghan government was able to mediate between the candidates. At the same time, many voters remained ambivalent about international involvement – praising the UN for its neutrality but expressing doubts about America's role. Adding to fears of political interference by US officials was the perception among many Afghans, ahead of the second round of voting, that the international community favoured Abdullah.⁸ Intervention by American and UN mediators was none the less tolerated, and ultimately it succeeded to the extent that it averted a potential breakdown in post-election negotiations over the formation of a government. Yet this only further demonstrated to the public the weakness and partiality of all Afghan government actors.

Pragmatism vs process

As noted above, the unifying narrative in these failures was Afghanistan's reliance on an improvisational and transactional approach to managing political competition. This compensated for, but also greatly contributed to, institutional weaknesses. The election process was essentially divided into two parts: the basic, technical mechanisms of ballot counting; and the political negotiations between candidates, and between internal and external actors. Although the technical and political dimensions of elections can sometimes complement each other, in Afghanistan's case the dominance of the latter eroded public faith in the former.

⁴ These interviews were conducted both before and after the first and second rounds of voting, with support from Chatham House. For more on these perspectives, see Anna Larson and Noah Coburn, *Why Vote in 2014? Afghan Views of the Elections* (London: Chatham House, April 2014). The magnitude of the fraud and the rush to finalize the results mean that it will be difficult ever to have a complete reckoning of the extent to which the elections were manipulated. For an illustrative account from the province of Logar, where the number of ballots cast implausibly tripled between the first and second rounds of voting, see Pamela Constable, 'Afghanistan's Logar Province Offers a Window onto Disputed Presidential Vote', *Washington Post*, 9 August 2014.

⁵ Aruni Jayakody, 'Constitutional Implications of a National Unity Government', research blog (Kabul: Afghanistan Research and Evaluation Unit), www.areas.org.af.

⁶ Kate Clark, 'Elections 2014 (33): "Amarkhel Gate" – sheep, tape, resignation', Afghanistan Analysts Network, 24 June 2014, www.afghanistan-analysts.org.

⁷ The most extreme example of this was probably the rumour of a coup organized by allies of Abdullah. Steve Coll, 'Dodging a Coup in Kabul, For Now', *New Yorker*, 17 July 2014.

⁸ See Scott Smith, 'The Afghan Election: Without Votes, Results – and an End', the *Weekly Standard*, 22 September 2014.

Weaknesses in the political process manifested themselves in a number of ways. The IEC released some preliminary numbers, but withheld most vote-count data and failed publicly to address allegations of mass fraud. There were also multiple delays in processing and counting votes, and stated deadlines for each stage of the election were missed. The challenges faced by the electoral bodies were widely reported in the Afghan media and on websites such as YouTube. Candidates thus had more ammunition with which to criticize the process – which not only undermined its legitimacy *per se*, but also increased their incentive to ignore electoral rules in pursuit of a negotiated settlement.

Most glaringly, the power-sharing agreement between Ghani and Abdullah was signed before the election commission had even announced the winner of the run-off vote or clarified the constitutionality of their improvised settlement. To rescue the technical aspect of the election, an audit of the ballot boxes by international observers was supposed to have accompanied the political deal. But while the audit was completed, the IEC never released its results. This lack of transparency was also manifest in the initial delay in releasing the details of the power-sharing agreement. The IEC's complicity in all this suggests how far removed the official electoral institutions had become from their original mandate.

Damaged credibility

The chaos of last year's elections has dealt a blow to Afghanistan's prospects for a stable, democratic future. Repeated calls by parliamentarians and other Afghan leaders for the prosecution of IEC officials suggest the damage to the long-term credibility of the electoral bodies may be irreparable.⁹ More broadly, serious doubts remain over the ability of the new national-unity government to restore confidence in politics. One voter said: 'Most people feel that this entire process has been a slap in the face for democracy in Afghanistan, but the candidates and their representatives are constantly trying to appear in the media as if they are the ones that have rescued the country from its crisis.'

This rapid disillusionment is particularly disappointing considering the high turnout for both rounds of the election and the general enthusiasm demonstrated by Afghan voters. One young voter, interviewed after each round of voting, initially emphasized how satisfied he had been with the first round of voting and how proud he had

been in the long queues at his local polling station. After the second round, however, it was clear that the actions of the candidates, the electoral bodies and the international community had undermined his faith in the system.

'I think announcing the result prior to resolution of all complaints and allegations, and before auditing the votes, has further complicated the current political game,' he said. 'Personally, I and many of the young people I know don't care who will be the next president. What I care about is that the president comes to power through a democratic and transparent election. The next government will be the result of systematic fraud and this is not acceptable for people ... If the process is not repaired, no future election will reflect [the] people's decision.'

Opportunities in crisis

Despite the problems outlined above, there remain grounds for optimism that the events of the past few months could provide impetus for reform. First, while the disarray of the electoral process demonstrated tensions among the ruling elite, there are still convergent interests among political leaders, the Afghan population, the international community and even the Taliban.¹⁰ These include a desire to avoid civil war and state collapse, and to preserve the territorial integrity of the country.

Second, the elections have highlighted the failings in a political system based primarily around patronage networks. Although the crisis in 2014 in some ways entrenched the power of these networks, it may also have created opportunities to disrupt them. For example, parliamentary elections scheduled to take place in mid-2015 could widen political enfranchisement by allowing the country's many factions to compete openly under a UN monitoring presence. While there will be political and technical challenges to holding the elections in such a short timeframe, a successful round of parliamentary elections could both help with the decentralization process and restore some of the voters' faith in electoral mechanisms.

Third, the limitations of the centralized presidential system have been made more visible. Concerns about this system have existed ever since its establishment in 2004 and have become more pronounced over the years as disillusionment with the Karzai government has increased. In the run-up to the 2014 elections, candidates debated alternative models of government, particularly those that would decentralize power.¹¹ A shift to a parliamentary system, or some variation

⁹ Karim Amini, 'IEC Officials Busy with Lavish Needs Than Election Management', *Tolo News*, 25 October 2014.

¹⁰ Matt Waldman and Matthew Wright, *Who Wants What: Mapping the Parties' Interests in the Afghanistan Conflict* (London: Chatham House, July 2014).

¹¹ See, for example, Clark Lombardi and Shamshad Pasarlay, 'Might Afghans Amend the 2014 Constitution? Hints from a Televised Presidential Debate', blog of the *International Journal of Constitutional Law and Constitution Making*, 3 April 2014.

thereon, has often been raised as a possibility. The appeal of such a system is its potential to represent diverse regional, tribal and ethnic constituencies. As Thomas Barfield has argued, Afghanistan is best conceived of as a series of regions with Kabul at its centre.¹² A parliamentary system, or at least a system in which parliament had more power, could be conducive to the legal and policy changes that localization or some level of devolution would entail. Localization could also give disenfranchised groups a stake in the political establishment, potentially reducing the incentive for people with grievances to join insurgencies.

Reform will require many elements, but a useful first step could be to end (or dilute) unilateral presidential privilege in the appointment of regional governors. This could decrease some of the antagonism between local communities and the central government, and improve local perceptions of the leadership in Kabul. Similarly, granting greater budgetary authority to local officials could help divest political power and ease regional grievances. Holding district elections would also offer a route to localization of power, but the political and technical hurdles are immense.

Fourth, disillusionment with political corruption and dysfunction may help to mobilize attitudes in support of change. There remains a genuine enthusiasm for democratization, as evidenced by the high turnout in both rounds of voting (even considering the high number of fraudulent ballots). Indeed, rather than universally dampening commitment to elections, the recent crisis may actually have reinforced it in some respects. While Afghans voted for a multitude of reasons, including as a demonstration of patronage ties or for more transactional reasons (such as selling votes), there is recognition of the role elections can play in resolving disputes, transferring power and reforming politics.

This recognition appears to extend even to the Taliban, hostile as it is to the current government and to Western-led democratization. While the Taliban offensive was stronger in the summer of 2014 than in recent fighting seasons, there were no high-profile attacks on the main Afghan cities during voting. The Taliban leadership is believed to have been split over whether to try to disrupt the elections, but the relative lack of violence suggests at least some acknowledgment that elections offer a path towards a form of governance that most Afghans support.

A fifth reason for continued, if qualified, optimism about democratization prospects is that the crisis has moved the UN into a central position in political conversations in Kabul. UN election monitors mobilized on an unprecedented scale for the recount of the second

round of voting last year. Several voters interviewed by Chatham House researchers noted the increased prominence of the UN, and suggested that it would be more effective than the US at mediating between candidates and other interested parties. One Afghan UN official noted that it was ‘very difficult for the two teams [of Ghani and Abdullah] to overcome these challenges without the support and engagement of the United Nations as a reliable and impartial body’. UN monitoring of the forthcoming parliamentary elections this year is therefore likely to be pivotal.

Obstacles to progress

The above positives should not be exaggerated. Serious constitutional, political and technical difficulties loom as obstacles to a more stable, accountable and representative system of government. Afghanistan badly needs structures that deliver constitutionally rigorous political outcomes resistant to manipulation by vested interests. As one former diplomat suggested, ‘Abdullah was able to extract as much from the negotiation process as he possibly could have while still losing the election’. This ought not to be possible in a system backed up by strict adherence to constitutional legality.

The only actors invested in true political reform are Afghan voters, who may be too weak to demand it, and the international community, which needs to reaffirm its commitment to democracy in Afghanistan and to re-evaluate how it attempts to support these goals after the failure of the 2014 polls.

The current system offers no incentives for such change. By concentrating power in a single office, the presidential format encourages the politics of patronage. And by denying a greater role to local politics, it creates space for independent regional strongmen such as Atta Mohammad Noor, the governor of Balkh province, to keep swathes of the country beyond the control of the central government. As a result, the only actors invested in true political reform are Afghan voters, who may be too weak to demand it, and the international community, which needs to reaffirm its commitment to democracy in Afghanistan and to re-evaluate how it attempts to support these goals after the failure of the 2014 polls.

¹² Thomas Barfield, *Afghanistan: A Political and Cultural History* (Princeton, 2010), Chapter One.

This background implies the need for constitutional change, but the necessary cooperation between multiple actors may not be feasible. Ratification of a new constitution would require the convening of a grand council, or Loya Jirga, and past experience suggests difficulties both in establishing a representative body and in that body reaching meaningful compromises.¹³ To some in the international community, it might therefore seem expedient to allow the ruling elite to make unilateral constitutional changes, either bypassing the constitutional Loya Jirga or holding a purely symbolic council that would not represent the full diversity of interests. Such a process would probably be smoother, but it could ultimately do more harm than good to prospects for constitutional democracy.

Even assuming the political elite agrees to work within the system – that is, to seek constitutional change through the established channels – there will remain the challenge of convening a Loya Jirga representative of the Afghan people. Again, the presidential system is partly to blame. Normally the president has substantial influence over who is invited to Loya Jirgas. The new power-sharing arrangement could complicate this process. It is difficult to see Abdullah, the chief executive, accepting the composition of a constitutional council determined by Ghani, the president. Yet the alternative, appeasing Abdullah by allowing him to select additional candidates, would be unconstitutional and would subvert the very structures in place to ensure that Loya Jirgas are representative.¹⁴

All this suggests that efforts to resolve Afghanistan's current difficulties through political negotiations, particularly if not perceived as transparent by most voters, will be counterproductive. As one voter concluded, 'One of the real questions is whether people will be willing to participate in future elections. This question will not be solved now, but people are instead looking at the performance of the new government.' Unfortunately, while it is in the interest of Ghani and Abdullah to reach a working arrangement, it may not be to their advantage to strengthen the electoral system now that they are already in power.

The prospects for parliamentary elections in 2015 to deliver meaningful political reform are also uncertain. Holding successful elections requires a recommitment to and reform of the same agencies that were so discredited during the presidential polls in 2014. The political timetable is also an obstacle, as electoral laws cannot be altered in the 12 months before a legislative election. Without immediate constitutional changes, paradoxically, the scope for

electoral reform will be limited as the elections will have to go ahead under current laws.

Another challenge is that the new power-sharing arrangement between Ghani and Abdullah calls for a drawing of administrative districts, the holding of district elections, and reform of both key electoral institutions and the voter registry. It is likely to take several years to implement this agenda.

Finally, continued international commitment to supporting political transition in Afghanistan is by no means assured. As the number of foreign troops in the country is drastically reduced, Afghanistan will become less of a strategic priority for the US, the UK and other major donor countries. The UN will need to be prepared for more robust engagement with all the key players in Afghanistan, a situation that – as discussed – offers opportunity but also suggests a difficult road ahead.

Ways ahead

The greatest concern about the future of democracy in Afghanistan is that in the chaos and negotiations around the elections, Afghan voters have lost their voice. As a result, there is a need for all parties involved to:

- Build on the convergent interests of political stakeholders and on the public's desire for a democratic transition through elections;
- Renew the emphasis on electoral processes and procedures, particularly if major governance structures are altered; and
- Emphasize transparency in negotiations between all major Afghan and international political actors, including the primary candidates.

The Afghan government and key Afghan political actors should:

- Reaffirm their support for the constitution and ensure that future negotiations do not circumvent it. While it may be politically expedient for President Ghani and Chief Executive Abdullah to dominate the process, all groups must be represented in negotiations on constitutional amendments. Any constitutional Loya Jirga must be fully representative of Afghan society and should be convened in a timely manner.

¹³ For a more thorough review of constitutional issues, see Ghizaal Haress, 'Did Politics Compromise Afghanistan's Constitution?', *Foreign Policy*, 23 October 2014.

¹⁴ There are further concerns about the composition of any Loya Jirga addressing constitutional changes, since the constitution mandates the inclusion of heads of the district councils. District council members are also supposed to be a part of the Meshrano Jirga, the upper house of Afghanistan's legislature; however, elections for these councils have yet to be held. See the Afghan constitution, <http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf>.

- Strengthen electoral institutions, but also grant them the time and political space to run elections. The 2014 process largely broke down because of political pressure before the IEC and ECC had completed the ballot counting and auditing. The ensuing crisis demonstrated the absence of credible and impartial mechanisms for dealing with electoral fraud or political tensions.
- Continue improving technical processes and training. It is also imperative to ensure the credibility of the electoral institutions by including impartial mediators not beholden to the candidates.
- Ensure that plans for elections to the Wolesi Jirga (the lower house of the national legislature) and, potentially, district councils also go ahead, but with a realistic timetable that takes into account challenges such as reforming the IEC and the drawing of administrative boundaries.
- Bolster and reform the IEC and other bodies responsible for elections.

The international community should:

- Make continued funding for the Afghan government contingent on a democratic transfer of power at all levels, and on a commitment to transparent management of elections.
- Promise a robust international presence in the upcoming parliamentary elections, and begin to look ahead to the 2019 presidential elections.
- Support political changes that decentralize power, so long as these are made in a constitutional manner.
- Focus on the long-term stability that a legitimate, transparent government would create, despite the temptation to quickly formalize relations with the new administration.
- Continue to assist in managing tensions and resolving disputes between Afghan political leaders. As US Secretary of State John Kerry has demonstrated, the international community still has a role to play. As the US continues to withdraw troops, the UN needs to reassert its role as a strong and impartial mediator.

Opportunity in Crisis

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