

Written Testimony for the
Subcommittee on the Middle East and South Asia
Gary L. Ackerman (D-NY), Chairman

on

“The Afghan Elections: Who Lost What?”

by

Glenn Cowan
Co-Founder and Principal
Democracy International, Inc.

Mr. Chairman and members of the subcommittee, thank you for inviting me to testify here today. The issues surrounding the Afghan elections are crucial both for the democratic development of that country and for U.S. foreign policy in the region, and I am pleased to be able to share my thoughts and observations on what has happened so far and where the process should go in the future.

The August 20 elections in Afghanistan have yet to produce a credible result. On election day my organization, Democracy International, fielded more than 60 international observers throughout the country, including in the cities of Kabul, Kandahar, Jalalabad and Hirat, and to Provincial Reconstruction Teams in Helmand, Ghazni, Paktika, Zabul, Farah, and Badghis provinces. Initial reports from them and from other observer groups were largely positive. Despite the fact that violence and intimidation kept some voters and observers away from the polls in many areas, in much of the country Afghans were able to cast their votes freely. The voters and polling station officials we observed conducted themselves admirably in the face of threats from the Taliban, and the basic administrative procedures of the election largely worked.

Despite the apparent success of election day, however, we cautioned at the time that the overall legitimacy of the process was far from certain. Afghanistan’s Independent Elec-

tion Commission (IEC) still needed to tabulate and verify ballots. In addition, the Electoral Complaints Commission (ECC), a dispute resolution body with three of five members appointed by the UN, still needed to investigate thousands of complaints. There were pre-election concerns about the ease of ballot manipulation in an election conducted without a voter registry and fears of biased or corrupt local and provincial election officials. The inability of domestic and international observers to access the most daunting and problematic areas of the country compounded these concerns.

The month since election day has done significant damage to the credibility of the elections and the IEC. The ECC received more than 2,000 complaints on and after election day, including hundreds that it believed could have a material effect on the result of the election. The results reporting process managed by the IEC proceeded slowly and fitfully, with the IEC releasing partial results every few days. The commission claimed a need to release geographically diverse vote counts, but in the event this practice was not followed – northern areas were reported considerably before southern areas, leading to the appearance of a late surge by Karzai. The IEC did not report a complete preliminary result for the Presidential race until September 16, 27 days after the election. It did not release Provincial Council results until September 26, more than five weeks after election day, and results from four key provinces – Kandahar, Paktika, Ghazni, and Nangarhar – are still being withheld. The significant delay and manipulation in the release of results has created an environment of suspicion that has substantially damaged trust in the IEC and the overall election process.

These elections were the first managed by an Afghan-led election commission. To date they have not been conducted well. The IEC failed to produce a useable voter registry, issued hundreds of thousands or even millions of duplicate voter ID cards, appointed substantial numbers of local staff members who either assisted in or failed to report significant election day fraud, was opaque in its strategy for release of election returns, and despite repeated assurances failed to screen out potentially fraudulent results through qualitative or quantitative evaluations as the votes were being tallied.

In a questionable decision, the IEC included in its preliminary result as many as 1.4 million votes (out of a total of just under 6 million) from more than 3,000 polling stations deemed suspicious by the ECC, either because those polling stations have more than 95 percent of votes cast for one candidate (with more than 100 total votes cast) or because they have 600 or more total votes cast. These ballots are the subject of an ongoing audit mandated by the ECC.

The lack of clarity and transparency and the inability of the IEC to produce an acceptable set of election results have led to the extraordinary process of using statistical sampling of the suspect polling stations to determine whether a second-round runoff election is required. This week, the ECC and IEC will examine 313 of the 3,063 polling stations affected by the ECC's audit order and will, by an as yet undefined set of criteria, decide if this contest will go to a runoff.

Through this process, the ECC might still purge some number of fraudulent votes from the tally to produce a final certified result that more closely reflects the votes actually cast by Afghans on election day. But political expediency will have prevailed over the basic democratic principle of accurately counting every vote.

Unfortunately, even if this unusual auditing approach results in a runoff election, unless there are drastic improvements to the way these elections were conducted, there is little reason to expect that another contest held in October will be any more legitimate. An election held three or four weeks from now will be run by substantially the same officials who ran the flawed election in August, particularly at the provincial and local levels. It will be held using the same flawed system, under a similar or worse security situation, and likely with fewer observers and candidate agents present.

Democracy International expects to send an international delegation to observe any planned runoff, and we will report on what we find. Our fear is that nothing substantive will have changed and the behavior of those who cheated in August will be repeated. Should this occur, the Afghan people will be aware of it and are unlikely to grant legitimacy to a president chosen by such a flawed process.

Successfully reforming Afghanistan's election system in time for an October runoff is highly unlikely, but there are steps that can be taken to improve the process and potentially forestall a repeat of what happened in August:

- To help restore some measure of confidence in the IEC, President Karzai should replace the current leadership with officials accepted by both candidates in the runoff.
- The ECC should exercise its power to prohibit individuals from working for the IEC for up to 10 years whenever clear and convincing evidence of their complicity in electoral fraud can be found.
- The Afghan government should immediately begin investigation and prosecution of those who manipulated and defrauded the August elections. Unfortunately, at present most Afghan political players, particularly at the local level, do not take penalties for electoral crimes seriously. The threat of criminal investigations with possible prison sentences might forestall such widespread violations of electoral regulations in the second round.
- The ECC should order the IEC to immediately impound any results from the runoff that meet the criteria of its first-round audit order and to exclude these votes from the results until they undergo a comprehensive review.
- Candidates should deliver public messages calling for their supporters to respect the rule of law and comply with electoral regulations. To date, candidates have not spoken strongly enough against manipulation of the vote, contributing to an atmosphere of impunity.

Even if these steps are taken, it is likely that many of the problems seen in the first round will plague any runoff. Given the environment of suspicion created in the first round and the widespread lack of trust in the IEC and the overall election process, it is far from certain that a runoff election will be sufficient to produce the legitimacy desired by the Afghan people and the international community.