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Free & Fair Election Forum of Afghanistan organization

A review of first 100 days of IEC Performance

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Free & Fair Election Forum of Afghanistan (FEFA) made serious attempts to track the implementation of promises made by the new members of electoral commissions on November 21, 2016 to share their performance with people. The findings of this report were shared with IEC and citizens through declarations and attending media programs immediately after they happened but this report discusses the cases in details and presents specific recommendations for each of them.

Election Planning

Lack of a codified strategic plan in IEC is the major problem of IEC and the new members of IEC haven't been able to codify a strategic working plan since they were appointed as members of IEC. Lack of a codified plan in IEC led to postponement of electoral reform, public distrust in electoral commissions and ambiguity in determination of electoral timeline. The following issues indicate that IEC lacks a strategic work plan.

1. Holding of the first conference by members of the Independent Election Commission on November 28, 2016: Chairman of the Independent Election Commission promised in this conference to prepare the voters' list, equipose the polling centers, maintain the transparency of election, keep the impartiality and independence of commission, and make decision about electoral issues in presence of observers/monitors. But he didn't take any measure to fulfill the promises he made.
2. The IEC established 3 committees to fulfill the admin/finance affairs, regional operations and legal affairs on December 3, 2016 but there is no news about the performance of these 3 committees yet.
3. On December 12, 2016, the IEC said they will announce the election date within 3 months but it hasn't announced the election date yet.
4. Holding coordination meeting with civil society organizations about electoral constituencies and voting cards on February 18, 2017. General points were raised in this meeting but at the end of the meeting the IEC promised to hold another meeting and discuss the issue specifically but they never held another meeting and wrote a report on

miniaturization of electoral constituencies and sent to government without sharing its contents with civil society organizations.

5. Keeping silence before government's orders about holding of parliamentary election in 2017. The presidency held a meeting on February 12, 2017 where the members of IEC, CEO of government, UN envoy to Afghanistan and some ambassadors of foreign countries attended. The president ordered members of IEC to hold the parliamentary and district council election in 2017 but the IEC didn't have any reaction in this regard.

Respecting the provisions of laws and procedures

The IEC is obliged to perform its activities based on the provisions of the Constitution and Election Law and observe the procedures made by IEC but the observation findings indicate that the IEC has violated the election law and electoral procedures several times within the past 3 months. Some of the violated cases are follow:

1. Violation of article 22 of the Election Law which is about introduction of 3 qualify candidates for secretariat of IEC to the president.

Based on mentioned article, the IEC introduced 3 candidates of IEC secretariat to the president on December 15, 2016 but whereas the provision of law which emphasizes on agreement of majority of IEC members in selection and introduction of candidates was violated and on the other hand the candidates were not selected through a transparent process, the government urged for introduction 6 other candidates. Then, the IEC obeyed the order of president without considering provision of law and introduced 6 other candidates to the president on March 1, 2016.

2. Violation of the IEC procedure on identification and introduction of 3 candidates of IEC secretariat to the president.

Based on the IEC procedure about identification and introduction of 3 candidates of chief electoral officer of IEC, the IEC had to process identification of qualify candidates of chief electoral officer of IEC in presence of observers and media and the representative of observer organizations must have been members of the identification committee without having the right to vote but the representatives of some limited organizations were invited to only monitor the interview process of shortlisted candidates. Even, the observers were not invited to observe the second interview of shortlisted candidates.

3. Violation of article 35 of the Election Law which is about miniaturization of electoral constituencies or parliamentary and district council elections.

Based on mentioned article, IEC has the authority of miniaturization of electoral constituencies but the IEC delegated the authority of making decision in this regard to government.

4. Violation of paragraph 3 of article 20 of the Election Law.

Based on this paragraph, the IEC must hold open meetings to make decision about electoral timeline, candidates vetting, determination and verification of polling centers, preparation of voters list, determination of electoral constituencies, printing and publication of electoral materials, voting counting and election results announcement. The representatives of civil society organizations, political parties, national and international observers can attend these meetings but the IEC didn't pave the ground for attendance of observers while it was discussing about determination of electoral constituencies.

Coordination with Election Observation Organizations

Based on article 83 of the Election Law, the observers and monitors have the rights of access to information but the IEC didn't have coordination with FEFA and other civil society organizations when it held meetings to discuss determination of electoral constituencies, determination of voters list, verification of polling centers, usage of technology in election, and holding of consultation meetings and didn't share the necessary information about these issues with FEFA and other civil society organizations.

Likewise, the IEC had serious problems in sharing information and hasn't been able to share the necessary information with observer organizations, media and citizens. Problems in this regard is as follow:

1. Unawareness of observation organizations, media and citizens from the performance of admin/finance committee, operational committee and legal affairs committee of IEC which were established in December 3, 2016.
2. The government and IEC discussed usage of technology in election in March 2017 but didn't give information about usage of technology to people and donors.
3. Lack of inviting professional election observation organizations in important meetings held by government or IEC about electoral issues.

Decision Making About Electoral Issues and Its Impacts on Trust-Building Process

The reason behind implementation of electoral reform and changing the members of electoral commissions was building public trust on electoral commissions and election process. The members of electoral commissions must make serious attempts to make legal & proper decision and keep impartiality of IEC to rebuild public trust on electoral commissions and election process. However, introduction of 9 candidates of chief electoral officer of IEC and changing of head of Paktika election office to Nangarhar on March 8, 2017 indicate IEC members' inattention to the importance of trust building.

Article 22 of the election law indicate that members of IEC select 3 candidates of secretariat of IEC with majority votes pro but the IEC didn't do so, violated this article and paved the ground for government intervention. Therefore, the president urged for introduction of 6 other candidates

of secretariat of IEC. Similarly, the IEC changed the head of Paktika IEC provincial office (Mr. Zabiullah Wagari) to Nanagarhar IEC provincial office meanwhile everyone remembers the bitter memories of 2014 elections in Paktika where Mr. Wagari was in-charge of IEC office. Changing of Mr. Wagari from Paktika office to Nangarhar office was against the law on civil services and increased doubts on lack of impartiality of IEC members. Similarly, the IEC must have raised and shared the issue of usage of technology in election with others but this issue is raised and followed by government not IEC. Following of usage of technology in election by government violate article 156 of the constitution and is against the principle of independency and impartiality of IEC.

Recommendations:

1. The IEC must develop a codified strategic plan for better implementation of its activities considering the following points:
 - The programs must be planed based on situation of Afghanistan and considering holding a transparent election;
 - Lack of having programs was a problem. The IEC must adopt plans to explain their future programs and make sure the programs will get implemented.
 - The programs must be planned in consultation with election professional organizations to create more coordination between them and prevent government's inattention to electoral issues;
 - More attention must be paid to the timeline of the programs to make the IEC and other election relevant organizations to do their activities more accurately;
2. The IEC must act based on the provisions of the Constitution and Election Law and prevent violation of procedures. Likewise, the new procedures must be made based on following criteria:
 - The procedures must be made in coordination with election organizations;
 - Pave the ground for implementation of laws and prevent creation of problems;
 - The procedures must create transparency in activities of IEC;
3. Based on article 156 of the constitution, IEC is an independent commission. Therefore, the IEC must define the indicators which explain the independency of IEC and help IEC to:
 - Make decisions independently and perform its duties responsibility;
 - Keep the organizational independency of IEC from executive power and enable IEC to set its policies within the framework of law independently;
 - Keeping independency must not impact IEC's accountability to public. The IEC must be an accountable institution to public;
 - The IEC remain independent in budget expenditure and prevent interventions in its affairs;
 - The IEC remain independent in staff employment and structuring and prevent interventions in these affairs;

- Members of IEC must keep their impartiality and prevent politicians and political parties influence in IEC;
4. The IEC must make serious attempts to engage the electoral professional organizations in electoral issues and create coordination between IEC and them to use their capacity. The IEC must pay attention to following issues in this regard:
 - Signature of MoU with election observation organizations to strengthen mutual cooperation;
 - Paving the ground for election observation organizations to observe different working stages of IEC based on the law;
 - Sharing information with election observation organizations and collection their views about betterment of electoral affairs;
 5. The IEC must develop a procedure on employment and changing of its staff and share it with election relevant organizations to consider the following:
 - Transparency in employment process and preventing creation of problems and interference;
 - Considering gender balance based on meritocracy and professionalism;
 6. The media in-charge of IEC must form a professional team to share information with media and citizens on time. The team must have the following the criteria:
 - Having information and awareness from electoral issues;
 - Update the media and civil society information from activities of IEC on time;
 - Having the ability to answer the concerns of stakeholders about electoral issues;
 - Attending media programs;
 - Attending conference and other electoral programs;
 7. At least, the IEC must hold 2 press conferences in a month to put the citizens in picture of its activities. The IEC must:
 - Present news and information of IEC to citizens accurately;
 - The IEC must present the works it done and explain its future programs/plans;
 8. IEC must have the main role in electoral discussion and pave the ground for cooperation of other relevant organizations;
 9. The IEC must present the report of its 1395 (Solar year) activities and share its 1396 (Solar year) programs with public.
 10. Awareness of election professional organizations, media and citizens from the decisions of IEC play an important role in trust-building, transparency of IEC performance and the principle of accountability. Therefore, the IEC must release the decisions it make through its official website.