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Transparent Election Foundation of Afghanistan

*TEFA's Position Paper concerning the existing electoral circumstances and  
preparations for the upcoming elections*

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28.07.2018

## **Preface:**

In accordance with Afghanistan's constitution, Parliamentary elections are to be held once in every five years so that new representatives could pave their ways to parliament, but after the 2014 Presidential and Provincial Council elections which resulted in severe mistrusts and an immense surge of political challenges, considerations were made on intense electoral reforms by electoral stakeholders and to declare the electoral reforms as a working priority. As per the Afghan constitution, Parliamentary elections should have been held at the beginning of 2015, but due to continuous pretenses for implementing electoral reforms, this particular election has not yet been held for 3 consecutive years now since its determined date, and in addition to it, District Council elections which are to be held once in every 3 years as per the Afghan constitution, has not yet been experienced and was decided for both the mentioned elections to be held simultaneously, though both the concerned elections are of great value in consolidating Afghan democracy.

IEC's newly introduced members after a situational analysis, set July.7<sup>th</sup>.2018 as the date for holding the upcoming Parliamentary and District Council elections, but due to lack of optimal preparations, IEC on March.31<sup>st</sup>.2018 announced the new date for the upcoming elections which is 20<sup>th</sup>.October.2018 followed by the emission of Election calendar on April.22<sup>nd</sup>.2018 showcasing the timeframe of all the electoral phases. By far, IEC has managed to execute activities which encompass announcement of Election Day, Voter Registration, record and address electoral objections and complaints concerning voter registration process, emission of Election calendar, Nomination of candidates to Parliamentary and District Council Elections, assessment of the collected information on candidates' nomination and emission of the preliminary list of candidates and collection of objections and complaints on the preliminary list of candidates, still these activities have not been thoroughly and accurately carried out owing to all the drawbacks and deficiencies in IEC's work which will be enlightened explicitly in the Problem section of the Position Paper.

Transparent Election Foundation of Afghanistan as one of the most prominent electoral oversight bodies in Afghanistan, after an accurate analysis of the ongoing situation, declares its position in

the upcoming parliamentary and district council elections. Taking the given time for the upcoming elections into account, efforts demonstrated by the election stakeholders by far have been dissatisfactory for TEFA and has caused major concerns. TEFA as a technical election observer foundation, deems itself accountable for eradicating issues and challenges through the responsible entities prior to the very day of Election, for avoiding dysfunctions and inadequacies, and providing the election observer foundations with the opportunity to have inclusive, impartial and professional observation from the electoral processes.

## **Moot point**

**Political Climate:** After the 2014 post-election crisis, formation of National unity government based on the political memorandum which could not be thoroughly implemented, Parliament being secluded in national affairs, multiplicity of political parties, enter and outer governmental competition among political teams, and lack of strong Appositions have resulted in lack of adequate considerations on candidacy and election day reforms since the past 3 years making the government less responsive to the general public, and currently, lack of a single and firm political memorandum for the upcoming elections is considered a serious concern. Misfortunately, Government and political parties' policies are not in accordance with the election legal framework and international standards, and that such policies are intended to serve group and personal interests; such policies have not only created concerns on the upcoming 2018 elections, but for many elections to come in the long run.

**Reforms:** Electoral reforms are the only tool for restoring people's trust and confidence in the electoral process and structures, and it has also been the reason for procrastinating elections so long, and by far recommendations provided by Electoral Reforms Commission, Election observer foundations, and political parties are still vague and to a higher extent, these electoral reforms have been relinquished. One of the critical points in National Unity Government's memorandum has been the implementation of key reforms in electoral process, but NUG by modifying the election law in their own favor and replacing members of election commissions, has lessened its responsibilities to not contribute to electoral reforms any further, and IEC which is the second most important entity for bringing electoral reforms has failed to come up with constructive and timed plan for electoral reforms and to develop an agenda for its own inter-organizational reforms.

Lack of implementing timely electoral reforms has resulted in despondency and poor participation of Political parties and citizens in elections, in addition to all the disagreements with the process and election commissions' work. It is noteworthy that the number of minor reforms brought by

election commissions were not consulted with electoral stakeholders, and no accurate notice, which is a major element in trust building, was given in this regard.

**Election Calendar:** Election Calendar as the only time-guide, has not been thoroughly followed and regarded by election commissions, and has also been violated from security perspective in situations such as Voter registration process, recording and addressing electoral objections and complaints concerning voter registration process, establishing press committee, publishing the preliminary list of candidates, round of electoral objections and complaints and finalizing the list of polling centers. Violation of the Election Calendar has faced IEC and electoral process with many challenges, since most of the electoral phases are interrelated and in most cases prior to accomplishing one activity, the next one cannot be carried out. Delays in predicted activities in Election Calendar can affect and cause delays in the remaining activities.

Delays in emission of the preliminary list of candidates to Parliamentary and District Councils by IEC, has created challenges in collecting and addressing electoral objections and complaints in this very phase for IECC, because lack of on time emission of this list will jeopardize the process of recording and addressing electoral objections and complaints and publishing the finalized list of candidates.

On the other hand, in most cases, disregarding election calendar is deemed as IEC's dysfunctions, whereas in both cases, people's trust and confidence in IEC and electoral process can be adversely affected in short and long terms.

**Violation of Election Law:** Election Law as the work guideline for election commissions, electoral observer foundations and electoral stakeholders, has been numerously violated by IEC, for instance introducing more than 3 individuals for IEC's secretariat to Afghan government, modifying the procedure for Voter registration process for short period of time (use of copy of National ID cards), reducing Ghazni province's constituencies into 3 and intervention of IEC members in IEC's secretariat affairs. Violation of Election Law in addition to intensifying the level of mistrusts towards election commission, has also made it possible for judicial institutions to intervene in elections, which can harm the legitimacy and acceptability of elections.

Afghan government as the main party accountable for implementing law in the country, alongside IEC has also violated the election law as it ousted Chief of IEC and Head of IEC's secretariat without providing any logical justification for their decision, delayed in introducing an individual as Chief of IEC, introducing a new member of IEC, neglecting the proposed list of Selection committee, intervention in IEC's work and pressurizing IEC as a mean for implementing its own plans.

**Electoral stakeholders:** Political parties which are the key players in greater world democracies, unfortunately in Afghanistan are of improper status, and the current electoral system (SNTV) alongside other political, economic and social drawbacks have ruined the opportunities for these parties to further develop. Even though one of the recommendations of Electoral Reforms

Commission was to change the current electoral system of Afghanistan in the long run, but Political parties did not discuss the idea of changing the current electoral system with the Afghan government in a suitable time, but still as it is apparent, in recent periods these political parties have proposed the idea of changing the current electoral system and use of biometric system in voter registration process disregarding such tight deadline for holding the upcoming elections, and they have also added that if their demands are not fulfilled they will surely boycott the upcoming elections. TEFA views political parties' joint positioning efforts as a highly important step, but in current situation such demands which require extensive research, assessment, and adequate time and resource are unfortunately unjust, and they tend to procrastinate IEC's preparations for the upcoming parliamentary and district council elections on October 20<sup>th</sup>. 2018.

Afghan government, as one of the most effective election stakeholders is accountable for ensuring security, providing budget and the opportunity for holding elections. As per TEFA's observation, amidst the last 3 years, Afghan government has certainly not been of a good cooperation to IEC and has not properly fulfilled its responsibilities as it was expected, owing to all the delays which took place due to Government resulting in lack of election holding in the last 3 years. Moreover, Government has also demonstrated dysfunctions in introducing commission's high officials such as members of election commissions and Heads of Secretariat on the expected time, and has also wasted enormous time in accepting and rejecting election commissions' ideas concerning the use of technology or lowering the number of constituencies, which as why many of electoral activities one by one were unnecessarily delayed. The Afghan government is expected to consider the ideas of political parties, CSOs, and Afghan nation as a whole and should then discuss with them whether or not their ideas are acceptable with a highly pleasant attitude. Electoral process is undoubtedly a national process and no single electoral stakeholder can alone be its owner, instead, decisions on different aspects of holding elections should be made based on a general agreement.

**Civil Society Organizations:** Fortunately, Election observer foundations managed to sign a Memorandum of Understanding with election commissions for receiving an official accreditation from IEC to observe from different phases of Parliamentary and District Council elections. CSOs have cultivated immense interest in observing elections which is a critical step towards ensuring transparent elections, and in current situation, accurate, professional and impartial observation of CSOs is the single best source of hope for Afghans, because CSOs are the ones that make elections acceptable through their unbiased observation, yet election observer foundations are confronting many challenges in terms of financial resources, lack of optimal access to election information, poor coordination with IEC, media outlets and among themselves, and lack of security support mechanism with the Afghan government.

**Financial Expenditures:** One of the components in ensuring transparency in electoral process is transparency in financial expenditures of election commissions, but till now information on all the financial expenditures of election commissions encompassing procurement of tangible and intangible goods, salaries of capital and provincial employees, transportation cost, IEC provincial offices expenses et all have not been shared with election observer foundation which has caused

suspensions on the transparency of financial expenditure of these commissions. Although serious money has been spent in election commission, yet no prestigious audit firm has audited them which is one of the reasons for lack of people and election stakeholders' trust in election commissions.

## Electoral Phases

**Assessment process of polling centers:** IEC for conducting transparent, inclusive and fair elections must execute each and every electoral phase accurately one by one as scheduled. In accordance with the Election Law, Section one, The commission is obliged to establish polling centers throughout the country in such manner where these polling centers could be reached conveniently, for which IEC initiated the assessment process of polling centers and stations. Initiating this process has been of great value, because in previous elections ghost polling centers and people's inability to conveniently access polling centers were two of the major problems in electoral process, however the electoral process is faced with number of challenges pertaining to insecurities in 32 districts where 1668 polling centers have not been assessed, procurement of tablet computers which did not serve the needs of the process, lack of internet and cellular connections, lack of female employees, discriminated recruitment process, and lack of proper and coherent training sessions for employees and intervention of illegally armed groups in the process for establishing and closing the centers. Howsoever, after balancing the polling centers, in total 450 centers should be added while only 195 centers should be removed.

**Voters' registration process:** IEC, after invalidating the previous voting cards, decided on using national ID cards for voter registration which was a new and previously unexperienced scheme. IEC, after the voter registration process, is committed to developing voters list and to connect each voter with one specific polling center, as the upcoming elections are to be held with voters list for the first time, yet implementing this process entails certain number of challenges encompassing lack of an alternative to the use of national ID cards, lack of accurate measurement of eligible voters, over 18 million stickers to be printed, violation of election calendar and law, violation of election law amidst the registration process, poor public outreach programs, people's despondency towards the upcoming elections, sale of stickers and ID cards, government's intervention in IEC's decision makings and threatening IEC's member to resign, intervention of illegally armed individuals in the electoral process, lack of a transparent system for accumulating the statistic of registered voters, lack of female staff and female voter registration centers being closed in some certain number of provinces, lack of proper coordination between election commission and Population registration department, Population registration department's dysfunction in keeping up with the MoU signed between the mentioned department and IEC, political parties' dysfunctions in mobilizing their supporters, weak observation of political parties from the voter registration process and imposition of registration by governmental entities which cannot be explicitly explained here. Howsoever, even though the established database in IEC cannot distinguish between the real and fake registered voters, still it is expected that by the end of this

process and soon after all the information of voters are entered into IEC's database, list of voters should be developed for connecting them with a specific polling center.

**Candidates' nomination process:** This process has been a greatly important phase for building people's trust towards the upcoming elections which also increased people's interest to ensure their participation in electoral phases. Candidates nomination as per the election calendar started on May.5<sup>th</sup>.2018 with a range of challenges ahead of it such as lack of proper awareness programs for candidates especially for candidates to district councils, lack of a proper procedure for assessing candidates' documents, lack of an assessment team for assessing candidates' documents, gradual emission of the preliminary list of candidates after its defined date, lack of district council candidates, and unspecified level of authorities, responsibilities and privileges for district council candidates.

**Addressing objections concerning the preliminary list of candidates:** The Independent Electoral Complaints Commission after publishing the preliminary list of candidates to parliamentary elections, recorded round about 634 objections, but these objections are being addressed in a situation where IECC has no provincial commissioner in 28 provinces, compelling the commission to address the objections based on a single phased procedure which is in contrast to the actual 2 phased procedure for addressing the electoral objections, which will certainly create problems eventually.

**District Council Elections:** As per TEFA's observation from IEC's technical preparations for holding the upcoming district council elections, it is important to state that IEC is faced with many challenges concerning the district council elections; moreover, TEFA's findings vividly show that IEC will probably not be able to hold the upcoming District Council Elections on 20<sup>th</sup>.October, since the preparations and number of candidates to the concerned elections in most of the districts of Afghanistan are dramatically inadequate.

**Elections in Ghazni:** After numerous discussions regarding Ghazni province and closure of IEC's office in this province, IEC based on an illegal decision divided Ghazni into 3 constituencies, whereas as soon after the decision, many contradictions were made against IEC. Later on IEC developed and announced a separate Election calendar for Ghazni province, so that it could keep up with the phases from which it was left behind as compared to the rest of the provinces and to complete those phases by the very day of Elections, but TEFA's findings show that IEC's elections calendar for Ghazni is not realistic and that IEC is unable to hold elections in Ghazni simultaneous with other provinces.

## **TEFA's recommendations**

TEFA as a national election observer foundation with an accurate situational analysis and considering the complex political, economic, security, and social situations, for improving the current conditions and holding a comparatively more acceptable election, requests the Afghan

government, election commissions, international community and political parties to consider the following recommendations and to fulfill their share in holding transparent and fair elections:

- Elections Calendar which is a general guideline for scheduling electoral phases, should be followed by the involved electoral stakeholders encompassing IEC, IECC, political parties, United Nations, government entities, et all.
- For ensuring transparency and building people's trust in elections, implementation of electoral rules and regulations are mandatory, and election commissions should avoid violating election law, endeavor to execute electoral activities based on the electoral law, and should consult political parties and Civil Society Organizations in developing new procedures and regulations.
- Electoral stakeholders with a thorough understanding of their roles and responsibilities, should keep the sensitivity of the current situation into account and to then propose their recommendations as per the elections law, election timeframe, and election commissions' possibilities in hand, so that their recommendations could not jeopardize the process, but instead provide solution to the existing challenges and drawbacks.
- IEC and IECC should avoid limiting observer foundations' access to electoral information and provide them with all the necessary information for their inclusive observation.
- For ensuring transparency, IEC and IECC should publicize their meetings and decision makings.
- Political parties and politicians should avoid proposing ideas that are problematic for the electoral process, and in case they have any complaint over a process or commission, their claim should be solely based on proof and evidence, otherwise such claims will be considered a mean for sabotaging and jeopardizing the sound conduct of elections, since there is not enough space in election calendar for transitions in the electoral process such as changing the current electoral system, cancelling voters' list, new constituencies, etc.
- Afghan government, international community, and IEC should provide the opportunity for women to ensure their wide participation in Election Campaign and Election Day.
- Due to the existing problems in Afghanistan especially in regards to insecurities, presence of international observer foundations is likely to be extremely poor, leaving the national election observer foundations as the only observer foundations to observe the electoral phases and ensure whether or not it is transparent. International organizations which provide the election commissions with financial and technical assistance should also support election observer foundations in observing the upcoming elections.
- IEC and IECC should develop a mechanism for joint-cooperation.
- Afghan government should disregard baseless promises, and focus on its role and authorities in Afghanistan's elections and to then assist election commissions on timely basis; additionally, it should also introduce the heads of secretariat to IECC, since time is short and operational activities of the election commissions have been disappointing so far.

- Election commission should be audited by a prestigious audit firm and the audit result should be shared with the general public.
- IEC should announce the date for the upcoming presidential elections as soon as feasible and should have prominent plans for holding the mentioned elections in the coming year along with a team to work on the preparations for the concerned elections next year.
- TEFA recommends developing a coordination framework among electoral stakeholders comprising election commissions, international community, election observer foundations, security institutions, political parties and Ministry of Finance, so that the election commission with utmost integrity shares information regarding the preparations for the upcoming parliamentary and district council elections, in order to reach an accord on holding the upcoming elections.