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Preface

The Independent Election Commission of Afghanistan announced the date for the upcoming Wolesi Jirga 2016 elections. In the last week, the head of Independent Election Commission Yousuf Noristani said in a press conference that based on electoral laws, the announcement of Wolesi Jirga must precede a 180 days before elections, therefore they are selecting 24th of Mizan of the New Year for elections, and they are requesting the government and other stakeholders cooperation in this regard.

The Chief Executive of Afghanistan Dr. Abdullah Abdullah has questioned the legitimacy of the current electoral commission and said that the elections should take place under a new Independent Election Commission and Independent Electoral Complaints Commission. Furthermore, the demand for electoral reform is cause for future disagreement. It is expected that the current Election Commission may not be allowed to undertake the task due the debate on its competence and legitimacy issues. Political disagreements have therefore, created yet another dilemma. The leadership issue, electoral reforms and the impending parliamentary elections can further be read upon.

The second portion of the publication offers insight into recently published reports on the mining and security sector. According to one report, many provinces have a number of ghost soldiers who regularly receives stipend from the central government, but in reality they do not exist. On the other hand, SIGAR and independent American organization has also published a report pointing out corruption in the Mining Sector of Afghanistan. to the law ministry as evidently problematic.

Read more detailed analyses and studies on these subjects in this issue of Weekly Analysis, put together by the Editorial Board of the Center for Strategic and Regional Studies.

Wolesi Jirga and District Council Elections: The Issues and Challenges



Independent Election Commission of Afghanistan (IEC) on Monday 28th of Jadi announced Wolesi Jirga and District Council's election dates. According to IEC the elections will be held on 24th of Mizan 1395.

In response to the upcoming Wolesi Jirga Elections, the Chief Executive of the National Unity Government said *"All proceedings shall be conducted under the supervision of the new Election Commission"*.

Besides this, on the one hand the Selection Committee is about to start looking for new electoral commissioners, while on the other hand the Head of the Independent Election Commission states that no entity has the authority to dismiss electoral commissioners.

Herein the questions lies as to what specific challenges and issues face the upcoming elections and at what point the conflict between the Government and the Election Commission would end?

The Issue of Legitimacy

Chief Executive Abdullah Abdullah's spokesman labeled the current Election Commission as 'illegitimate' and before elections it asked for electoral reforms to take place after a decree by the President to the Parliament.

In fact, the formation of a National Unity Government was the first violation of the constitution, as the constitution does not allow for such a settlement. National Unity governments are formed in countries where different parties have been involved war for years and an air of mistrust prevails, but in Afghanistan such a government was formed needlessly and without the consensus of the Parliament or the general populous¹.

Despite the plethora of issues in the previous regime, at least the issue of legitimacy did not exist and elections were held according to set timelines. Currently, despite all other issues, the current system is faced with the challenge of legitimacy i-e Parliament and National Unity Government itself.

While announcing dates for Wolesi Jirga 2016 elections, the Chairman of IEC said that *“According to the law, the Government does not hold the authority to either dismiss us or ask for our resignation. The law has given us the right to continue our jobs for six years”*²

On the basis of the current electoral law, the tenure of the current members of the Election Commission ends after six years, however out of which only three have passed. But the Independent Election Commission said that the Commission for Electoral Reforms and Selection Committee had no legal standing and the announcement of the Election dates are under the mandate of the current Independent Election Commission.

¹ Center for Strategic and Regional Studies, Parliamentary Elections & Legitimacy Crisis, Weekly Analysis (122), see it online:< <http://csrskabul.com/en/blog/parliamentary-elections-legitimacy-crisis/>>

² Section 4 of Article 8 of Independent Election Commission's constitution

Reforming the Electoral System

Based on the National Unity Government Agreement signed between President Ashraf Ghani and Chief Executive Abdullah Abdullah a special commission for the reform of the electoral system would be formed, however despite many delays and complications, the President has formed it by a presidential decree.

The National Unity Government agreement on the reform of the electoral system reads: *"Immediately after the establishment of the government of national unity, the President will issue a decree to form a special commission for the reform of the electoral system in accordance with Article 7 of the Political Framework. Members of the special commission will be agreed between the President and the CEO. The special commission will report to the CEO on its progress and the Cabinet will review its recommendations and take the necessary steps for their implementation. The objective is to implement electoral reform before the 2015 parliamentary elections."*

The Electoral Reform Commission on 29 December 2015 in a meeting with the President Ashraf Ghani submitted its latest report and declared that their job had been done.

The dates of Wolesi Jirga 2016 election is announced at such a time that the National Unity Government based on the recommendation of Electoral Reform Commission has formed a Selection Committee to recommend new electoral commissioners to President Ghani instead of the current ones.

President Ashraf Ghani issued a decree for the formation of the Election Commission; this decree however was not approved by the Parliament and hence the Wolesi Jirga and District Council 2016 elections would be held under the supervision of the current Independent Election Commission. The President is yet to comment on the dates announced by the current Election Commission however the Chief Executive has remarked that 2016 elections will not be held under the current Election Commission, but only after reforms and the selection of a new Chairman for the Independent Election Commission is done.. The Chief

Executive reasoned that under the National Unity Government agreement, the necessity of forming a new Election Commission was very important.

The President while extending the period of the current Parliament said that the dates of the new elections should be finalized within the month; however the executive office responded that until reforms weren't brought the dates of the elections should not be announced.

The Constitution and Amendments to Electoral Law

Clause 109 of the Constitution states that “Proposals for amending the Electoral Law by Governments in their last year of rule shall not lie under their jurisdiction”. On the basis of the above clause, the Chairman of the Election Commission states that any reforms proposed are against the constitution. In the meanwhile, the current Chairman and Election Commission were accused of rigging during the Presidential Elections. The current constitution does not contain any clause relating to the stepping down of a chairman before his/her six-year tenure. Under Clause 4 Section 6, the constitution states that “the President will select nine out of the twenty seven proposed candidates, amongst which two must be females, for the Commission, who will be appointed for the period of six years.”

The Chairman of the Election Commission states that a proposal for amendments to the Electoral Law had already been sent to the President and he requested the President to implement what was proposed whilst making sure that no interference were allowed or tolerated in the upcoming elections.

Meanwhile, President Ashraf Ghani had already formed an Electoral Reform Commission that had submitted a proposal back to the President. One of the proposals was that the Selection Committee nominate candidates for the Election Commission, the Selection Commission is currently working on this matter. The Election Commission on the other hand announced that based on the commitments of the government, the electoral reform process is not yet completed and essential reforms have not been undertaken to ensure transparency during elections.

A number of political analysts are of the opinion that if the committee selection is divided by half amongst Mr.Ashraf Ghani and Mr.Abdullah Abdullah, the chances of having an impartial commission would be eliminated and incompetent individuals would make it onto the commission.

The reform of the electoral system reached an impasse when the President's orders to the parliament for reforming the electoral system were rejected. Tempers ran high during the roundtable discussion regarding the matter and the bill was voted against.

Here at last: IEC announces Wolesi Jirga election date!

About a month ago speculations regarding the date of elections for the Parliament and District Councils existed. President Ghani on December 29, 2015 in separate meetings with members of the Special Commission on Electoral Reform and Selection Committee said that the government was ready to hold elections for the Parliament and councils of the district in the summer and autumn of the next year. But he said that according to the law, the exact date of election is subject to IEC's discretion. Chief Executive Abdullah Abdullah also took part in this meeting³.

After the President's statement, the Independent Election Commission declared 24th Mizan 1395 as the official date of elections. The announcement faced both positive and negative reactions. Chief Executive Dr. Abdullah Abdullah commenting on the date announcement said that the Electoral Reforms were inevitable.

A number of others welcomed the announcement. Mr. Anwar-ul-Haq Ahadi, the head of the New National Front which is considered as a political opposition party, said that he welcomes election date. Yet he stressed the need for Electoral Reforms. He also stated that along with Parliamentary and District Council elections, the Presidential Elections should also be held swiftly and without any delays⁴.

³ For further information about this news see official website of Afghan Presidential office, see it online:<
<http://president.gov.af/ps/news/56752>

⁴ For further information see Azadi Radio's news, see it online:
<http://da.azadiradio.org/content/article/27496414.html>

Who will conduct elections?

With the announcement of the election dates, opposition to the current commission's management of the previous elections and the supporters of Electoral Reforms came forth. The Chief Executive stated that all operations would be handled by the "new" Election Commission.

The heads of the current Unity Government as per their agreement of power sharing had come to the consensus that Electoral Reforms would be brought about but any such reforms are yet to be seen.

FEFA- Free and Fair Election Foundation of Afghanistan expressed its condemnation of the announcement of election dates by the Independent Election Commission without Electoral Reforms and in the state of confusion between the Government and the donors⁵. It declared the setting of dates as impractical. From the opposition, Protection and Stability Council declared that it would not take part in any elections until reforms took place.

The Challenges ahead of Elections 2016

The Chairman of the Independent Election Commission has said that the assistance from international community, security of polling stations, election workers, and electoral materials, and security agencies and people's cooperation with the commission are essential for holding the upcoming elections. In conclusion, the challenges ahead of elections can be shortlisted as follows:

The Budget for Elections: The annual Budget for the year 1395 except the cost of elections was approved by the Wolesi Jirga. The Afghan government will now need to ask the international community for financial and technical help, doing that whilst the conflict between the Government and the Election Commission persists would be extremely challenging.

⁵ For full statement of FEFA regarding IEC's announcement of Wolesi Jirga elections date, read online at:<
<http://www.fefa.org.af/New-Site/English/index.php/item/62-fefa-s-stance-on-announcement-of-election-date-parliamentary-district-council-by-the-independent-election-commission>>

According to the Commission, the cost of holding Parliamentary and District Council Elections is estimated to be around \$60 million; it is yet unclear as who would pay this amount: the Afghan Government or the International Community?⁶

District Council Elections: It would be difficult to hold District Council Elections as compared to Wolesi Jirga elections because the elections of Wolesi Jirga have been held twice in the past decade while District Council Elections is yet to be held under the framework of the constitution. . In Parliamentary Elections, every Province is considered a constituency whilst in District Council Elections, every district is considered one. Elections have to be held in all 398 districts whereas the Government is yet to establish control on many districts in the country.

Security: One of the biggest challenges ahead of the upcoming Elections is the country's security situation which will have a major impact on this election. The security situation will affect District Council Elections more adversely as there are many districts that are still under the Taliban's control.

According to a study by Long War Journal, out of the 398 districts, 29 are under complete Taliban control whilst Taliban bases exist in 36 others that the Taliban aim at capturing⁷. In these districts, elections are impossible. On the other hand, ISIS is also active in a number of areas and recent findings show their active presence in Eastern Provinces of Afghanistan⁸.

Political Differences: Another challenge prior to elections is the internal political differences of the current Government. These differences may be considered an obstacle for the upcoming elections. In this regard, one circle prior to the announcement of elections requested that the Electoral Reforms should be

⁶ See Mujib Mashal's Article in New York Times:< http://www.nytimes.com/2016/01/19/world/asia/afghan-panel-sets-election-date-drawing-government-criticism.html?partner=rssnyt&emc=rss&_r=0

⁷ Read Long War Journal's study about the fall of districts from this link:< <http://www.longwarjournal.org/archives/2015/10/taliban-controls-or-contests-scores-of-districts-in-afghanistan.php>>

⁸ Center for Strategic and Regional Studies, The falls of districts and its impacts on the present situations, Weekly Analysis (127), see it online:< <http://csrskabul.com/pa/blog/%D8%AF-%D9%88%D9%84%D8%B3%D9%88%D8%A7%D9%84%D9%8A%D9%88-%D9%BE%D8%B1%D9%84%D9%87%E2%80%8C-%D9%BE%D8%B3%DB%90-%D8%B3%D9%82%D9%88%D8%B7-%D8%A7%D9%88-%D9%BE%D8%B1-%D8%B1%D9%88%D8%A7%D9%86-%D9%88%D8%B6/>>

brought. While the other circle push for the dismissal of the current electoral commissioners and instead wants new ones. But, the current head of Independent Election Commission refuses to resign. Besides this, some are even asking for Presidential Election dates to be announced before Parliamentary or District Council Elections are held. On the other hand some political circles are trying to change the political regime altogether.

Corruption in Mining and Security Sectors



Last month, the Special Inspector General for Afghanistan's Reconstruction (SIGAR) released a series of reports about the corruption in Afghanistan, one of which is about the corruption in mining sector. According to this report, 488 million US dollars appropriated to the promotion of mining sectors' capacity were wasted. In its another report released on 20th January, 2016, SIGAR revealed that the "employment, profession and stability" group who were working in development projects in Afghanistan for five years, have received 800 million dollar from Pentagon and according to SIGAR they have spent the money in vain.

Meanwhile, Azadi Radio has recently released a research report about ghost police in Afghanistan; according to this report, there are more than three thousands of ghost police forces in Faryab only and besides the monthly expenditure and salaries, the government has also distributed weapons to them⁹.

What is the condition of the corruption in these sectors? What do the released reports say exactly in this regard? And how can it be prevented?

⁹ Read the report of Radio Azadi here: <http://pa.azadiradio.org/content/article/27494131.html>

Corruption in the security sector

Since 2007, the Integrity Watch Afghanistan (IWA) in its surveys, has conducted researches on corruption in the Afghan security sector, which shows that there is wide corruption in this sector; according to the IWA's survey in 2010, most of the people thought that the rate of corruption was high in the ranks of security forces and the Interior Ministry; however, the ministry was ranked as the second most corrupt administration in Afghanistan in 2007, 2012 and 2014. In 2014, almost 15% of the people believed that the police was a corrupt administration and the same percentage of the people have provided bribes to police in the past 12 months (for further information see the following figure)

Figure A: The most corrupt administrations in Afghanistan (2007-2014)

Year	The first corrupt administration	The second corrupt administration	The third corrupt administration	The fourth corrupt administration
2007	Courts 53 %	Interior Ministry 43%	Municipality 39%	Ministry of Finance 24%
2010	Interior Ministry 43%	Ministry of Justice 32%	Directorate of National Security (30%)	Municipality 20%
2012	Courts 29%	Interior Ministry 26%	Ministry of Justice 23 %	Directorate of National Security (17%)
2014	Courts 34%	Interior Ministry 23%	Ministry of Education 20 %	Ministry of Justice 17 %

Source: the surveys of the IWA (2007, 2010, 2012 and 2014)

Corruption in the Mining Sector

The IWA released its research report under the name of the “Plunderers of Hope” about the five Afghan mines whose contracts were given to the various companies by the Ministry of Mines and Petroleum. According to the report, in the process of making contracts, political influence, partiality and relations had an important role. According to the report, the high officials of the Wolesi Jerga (lower house of the parliament), Mishrano Jergan (upper house of the parliament) and high profiled government officials preserve and use most of the mines either for their relatives or some powerful people in order to secure their own interests¹⁰.

SIGAR also released its two other reports about the mine sector of Afghanistan in the past one month. The SIGAR had released its first report regarding the mines on April 2015 and its second report on 11th January, 2016.

Most of the TFBSO¹¹ an USAID aids in Afghanistan were for improving the capacity of the Ministry of Mines and relative administrations. The TFBSO made short term policies in this regard in order to achieve results as soon as possible and USAID, then, implemented long term policies in order to improve capacity-building. However, according to the report of SIGAR released on April 2015, there was no coordination between these two administrations, and the Embassy of the United States in Kabul had done very little to establish coordination between the deeds of these two administrations. SIGAR, however, said that the TFBSO could establish such coordination but it did not.

¹⁰ See the report of IWA: <http://iwaweb.org/pa/%D8%AF-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7%D9%86-%D8%B1%D9%88%DA%BC%D8%AA%DB%8C%D8%A7-%DA%85%D8%A7%D8%B1-%D8%AF-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7%D9%86-%DA%A9%D8%A7%D9%86/>

¹¹ The Task Force For Business and Stability Operations (TFBSO) was first established in 2006 by deputy defense secretary of the US, basically the main objective of the administration was to help Iraq in the reconstruction of its economy after the attack of the US on Iraq, the administration started its activities in Afghanistan in 2009, and its main objective here was to encourage private investors and decrease unemployment, the administration stopped its activities on 31th December 2014 and on 31th march 2015 the administration was closed.

According to the SIGAR's report released on January 2016, since 2010, the TFBSO which has to respond to the US Defense Secretary had applied 11 projects in order to develop mines, promote petroleum, expand the access to energy, and improve capacities of stability, mines and geological survey of Afghanistan. According to the report, three projects which cost 54.3 million dollars, had relatively achieved their objectives and three other remaining projects which had cost 39.4 million dollars, had generally achieved their objectives¹².

Why the amount of corruptions is high in these sectors?

Mafia and powerful people: according to the executive officer of IWA, currently, 50 members of the National Assembly misuses the mines; meanwhile irresponsible armed people illegally extract mines¹³.

Poor Monitoring: according to the report of the IWA about the mines in Afghanistan, the Ministry of Mines and Petroleum makes contracts only by the name and then does not supervise it, and as a result causes billions of Afghanis loss to Afghanistan.¹⁴

Improper Management: according to the SIGAR's reports, the US applied 11 projects in the Ministry of Mines most of which have not achieved their objectives that were mentioned above. If the Ministry of Mines had properly managed these projects, corruption would have decreased spontaneously. Meanwhile, the Afghan government has not conducted proper management that is why 1400 mines are currently being extracted illegally in the country, 710 of which are in Kabul¹⁵!

¹² For further information in this regard see SIGAR's report: <https://www.sigar.mil/pdf/audits/SIGAR-16-11-AR.pdf>

¹³ For further information see the radio Azadi's news here:

<http://pa.azadiradio.org/content/article/27491619.html>

¹⁴ See this article in the IWA's webpage: <http://iwaweb.org/pa/%D8%AF-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7%D9%86-%D8%B1%D9%88%DA%BC%D8%AA%DB%8C%D8%A7-%DA%85%D8%A7%D8%B1-%D8%AF-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7%D9%86-%DA%A9%D8%A7%D9%86/>

¹⁵ SIGAR has quoted IWA see in this report: <https://www.sigar.mil/pdf/audits/SIGAR-16-11-AR.pdf>

Recommendation to prevent corruption

The corruption in the Ministry of Mines and Petroleum can be prevented by taking these steps:

- The Ministry of Mines and Petroleum should amend the law of Mines; because there is nothing to prevent corruption in it. However, the Ministry of Mines and Petroleum has showed green light in this regard; but it must seriously pay attention to it.
- In order to avoid Mafia and powerful people in the area, the government's decision about giving the authority of mine's permissions to provincial administrations should be undone.
- The contract process of the mines should be competitive and open, so that everybody know what were the reasons behind getting the contract and losing them.
- All the contracts made by the Ministry of Mine should be published. The Ministry of Mines has published 300 of contracts but still some contracts are not among them, some important parts of some other contracts are deleted and the contracts in which the Department of Defense of the US (TFBSO) is involved are yet to be published.

The End

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Note: Please let us know your feedback and suggestions for the improvement of Weekly analysis.

