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Who Controls the Vote?

Afghanistan's Evolving Elections

EXECUTIVE SUMMARY

Although many internationals believe the upcoming parliamentary vote will be less controversial than last year's election, all indications are that it will be messy, fiercely contested and manipulated at all levels. An analysis of the under-reported 2009 provincial council results provides important clues on what this will look like.

The analysis, first of all, indicates that candidate networks in the insecure areas will probably revert to the same bulk vote tactics that they used in the presidential and provincial council elections. The mass availability of additional voter cards and the risk of disqualification will prompt candidates to seek to secure an exaggerated number of votes. Although many have learnt from the 2009 controversies and will try to make the fraud less detectable, in areas where the contest is fierce and conditions are favourable, the fraud is likely to again be blatant, unsophisticated and widespread.

Second, the analysis demonstrates that in 2009 large-scale, mostly undetected, manipulation took place within the electoral administration and at a relatively late stage – aiming either to neutralise large disqualifications or to bolster the vote of candidates who fell slightly short. It seems unlikely that the 2010 elections will see a mass release of polling centres on the same scale as in 2009, but candidates from all provinces will certainly seek to

again manipulate the final processes – with help from within the electoral administration.

The provincial case studies starkly illustrate that, once fraud has occurred, it is difficult to reconstruct what the real vote would have been. But it has also proven very difficult to prevent fraud, as mitigating measures are widely disregarded and the electoral authorities are faced with a massive loss of control. In 2009 this was caused and exacerbated by several factors, including the continued absence of an adequate voter registry, the mass availability of voter cards not linked to actual voters (the 'ghost voters'), the lack of clarity about which polling centres had opened on election day (the 'ghost polling stations'), and the resulting fluidity of the count.

More specifically, the provincial case studies presented in this paper demonstrate the following:

- The detailed study of Kandahar, Paktika and Ghazni shows that tens of thousands of votes were added to the count after the announcement of the preliminary results. The move was shrouded in confusion and went largely unnoticed at the time. Although mass ballot-stuffing and tally fraud meant that the inclusion or exclusion of a small number of polling centres could potentially sway the vote, the number of changes in the list of winners

was surprisingly limited. This makes one wonder whether the stations were released in an intentional manner.

- Investigations in Nangarhar were forced by the political clamour over the fact that the election had been disproportionately dominated by a single political clan. ECC findings showed indications of fraud and disarray, but not the kind of massive ballot-stuffing that took place in other provinces in the south and east. A large-scale audit aimed to recover the original vote counts, which had been obscured by widespread form and tally fraud, but again resulted in very limited changes.

- In Nooristan in some places (practically) no voting occurred, while in others the vote was massively inflated by ballot-stuffing and other irregularities. The ECC adjudication process invalidated more than half of the provincial council ballots and changed the list of winners. Targeting a different set of polling stations for investigations would however have probably led to an altogether different result.

- The Logar and Badghis results illustrate a pattern, found in other provinces as well (including for instance Ghazni), that shows how conditions for bulk votes through ballot stuffing or tally fraud had been more favourable in certain districts than in others.

- In Parwan and Jowzjan, finally, the preferred mode of manipulation was tally fraud rather than ballot-stuffing. A case in Parwan, investigated by the ECC, confirms what candidates have long claimed: results can be manipulated during or after data entry, despite consistent claims to the contrary. Although the ECC ordered no changes in the Jowzjan results, a mysterious last-minute reshuffle of votes in four polling centres led to a change in the slate of winners.

It is highly likely that, despite recent efforts by the Independent Election Commission (IEC) to regain control, 2010 will again see a collapse of the electoral procedure. This is particularly the case as the 2009 elections will have persuaded many candidates that they need to ensure an excess of votes, in case a proportion is disqualified. How the IEC responds to pressure, and to what extent it will be able to maintain a level of resolve and transparency, will largely determine the quality of the upcoming elections.

The expectation of widespread fraud should not detract observers from flagging specific incidences of gross manipulation or misconduct, whether by the IEC and ECC, or by candidates and their backers. It is the silence, or late and muted reactions, of international observers that have often most confused Afghan voters. The events of the 2009 election, finally, convincingly demonstrate that international observers should preferably follow the electoral process until the very end, as that is when some of the most decisive irregularities take place.

1. INTRODUCTION[1]

One of the main emerging themes of the past electoral cycles in Afghanistan, other than the looming insecurity, has been the controversies surrounding manipulation and fraud. In 2004, local and international concerns focused largely on the possibility of violence and intimidation, by both a growing insurgency and local strongmen. It however became increasingly clear over successive elections that, in reality, one of the most damaging factors for both the outcome and credibility of the vote was the occurrence of widespread irregularities, the failure to be seen to effectively address them, and the suspicion among voters that many of the interferences were centrally orchestrated or sanctioned. The 2009 presidential election was particularly messy and protracted; it overshadowed the provincial council elections, which as a result received relatively little attention in the international media and policy circles.

International donors have since then sought to repair relations with the Afghan government, in particular the president, while seeking to push for reforms that could prevent a repeat of the 2009 embarrassment. This resulted in changes in the leadership of the Independent Electoral Commission (IEC)[2] and an *ad hoc* agreement between the president and the UN SRSG (Special Representative of the Secretary-General) to allow a limited international presence on the Electoral Complaints

[2] The Independent Election Commission is appointed by the president. Initially made up of both Afghans and internationals, it was 'Afghanised' in the run-up to the 2009 elections. The IEC still receives support from international electoral advisers under the UNDP-led ELECT program.

Commission (ECC).[3] Where the ECC seems to lack organisation and resolve – which can be partially, but not fully, attributed to its late establishment – the IEC seems determined to tighten its procedures and, as much as possible, regain control of the electoral process. This does not mean that the level of fraud will decrease – systems are weak, oversight is limited and many actors remain determined to manipulate the process – but it makes the process potentially less of a free for all, and should provide more opportunities to track irregularities once they have taken place.

Some internationals believe that the upcoming parliamentary elections will be less controversial than last year's presidential vote, given that it is a local election. The stakes are not as high, with more than one seat to compete for, and the winners do not need more than 50 per cent of the vote, as in the presidential election; they simply need more votes than their main competitors. This suggests that the blatant and wholesale ballot-stuffing that took place in parts of the country during the presidential elections will not be needed. Analysis of the provincial council results data, however, indicates otherwise and suggests that there will be strong incentives for attempted mass fraud during the upcoming parliamentary elections, particularly in certain areas.

This paper builds on AAN's previous election reporting and is based on the analysis of electoral data, as well as a large number of interviews with politicians, policy makers, officials and analysts – both Afghan and international.[4] The aim of the

paper is to gain greater understanding of the nature of the Afghan election as it is evolving, through a detailed analysis of past results. It does not, in the first place, intend to give an overview of the recent electoral developments, as this has already been done elsewhere.[5] It rather aims to provide detail, texture and nuance to the emerging picture of Afghan elections as hampered by fraud and insecurity. The election results data was reviewed for a large number of provinces and on different levels, including provincial level, district level, and the level of polling centre and polling station, as well as the spread of votes for the main candidates.[6] This provided a wealth of interesting insights in provincial patterns and movements of votes. However, given the scope and space of the report, the discussion has been limited to the most remarkable findings and, in particular, those that are relevant for the conduct of future elections.

The analysis of the paper focuses on the under-reported provincial council vote with a view to understanding how the parliamentary elections scheduled for September 2010 are likely to proceed, in terms of the different types and scales of electoral manipulation, its regional variations and the possible political implications. The fact

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[3] 'Implementation Guidelines for the 2010 Parliamentary Elections', dated 15 April 2010. The ECC, by law, originally consisted of three internationals appointed by the UN and two Afghan members representing the Afghan Independent Human Rights Commission and the Supreme Court. The president introduced a new electoral law in March 2010, bypassing Parliament in a rather controversial move, stipulating that all members of the ECC were to be appointed by him. Protests among donors then led to the agreement that the president would appoint two internationals introduced by the UN and that all decisions would be taken with their consent.

[4] The main basis for the paper is a thorough analysis of the publicly available election data. Additional sources include press releases, observation reports and formal rulings, as well as the main analytical publications on Afghanistan's elections; a limited number of reports with restricted distribution; a large number of key informant interviews with electoral and government officials, candidates, candidate agents, electoral observers, analysts and voters; and personal observations while reporting on the elections of 2004, 2005, 2009 and 2010 – as Political Adviser for the European Union Special Representative and for the Afghanistan Analysts Network (see www.aan-afghanistan.org for relevant publications and blogs). The aim of the data analysis was to track what happened to

the vote, during and after the elections, by identifying trends and remarkable patterns and by comparing them with testimonies by eyewitnesses and other people who were closely involved in the process.

[5] For details on how the elections went see, for instance, OSCE/ODHIR Election Support Team, *Islamic Republic of Afghanistan. Presidential and Provincial Council Elections 2009. Final Report*, Warsaw, 8 December 2009; and Scott Worden, 'Afghanistan: An Election Gone Awry,' *Journal of Democracy* 21 (3), July 2010, 11–25, as well as the AAN election blogs found at http://www.aan-afghanistan.org/index.asp?id=5. For a discussion on the political events surrounding the elections see Haseeb Humayun, *The Re-election of Hamid Karzai*, Institute for the Study of War, Washington, January 2010. For a discussion of the implications of the elections see International Crisis Group (ICG), *Afghanistan: Elections and the Crisis of Governance*, 25 November 2009.

[6] Data was provided on the IEC website. At the provincial level the data included number and percentages of votes per candidate, number and percentages of valid and invalid votes and the total number of counted votes. At the polling station level the provided data included the total number of valid votes and the number of valid votes per candidate; no details were provided on the number or proportion of invalid votes per polling station. The district-level data was aggregated by piecing together polling-station-level data, based on the polling station codes (which could be linked to actual polling stations based on the provincial IEC polling station lists). The data on polling station level is no longer available online. The provincial level data can be found here: http://www.iec.org.af /results/Provincial/FresultsBallotOrder.html.

that manipulation has become an integral part of the Afghan electoral contest raises fundamental questions, such as what can elections realistically be expected to achieve under the current circumstances and whether fraud and insecurity automatically mean that an election should be considered politically irrelevant or harmful.

International observers often seem to oscillate between an optimistic hope that improved anti-fraud measures will result in a much-cleaner election, and a cynical acceptance that an Afghan election will by nature be messy, with little hope of or effort towards greater transparency or accountability (the 'it is unreasonable to expect a Swiss election' line).[7] The underlying argument of this paper is that neither approach is very helpful. A realistic assessment of the challenges, which are quite formidable, should not result in the acceptance of a flawed election in all its forms, particularly as some forms of fraud potentially have more far-reaching consequences than others.

Section two provides a brief background on the 2009 attempts to clean up a very messy vote and discusses how the preoccupation with the presidential election affected the provincial council investigations. Section three describes the indicators of blatant manipulation when studying the election results data. Section four is the heart of the report and describes some of the most vivid examples of the attempts to control and hijack the 2009 provincial vote. Section five identifies the main factors and ambiguities that facilitated the occurrence of such widespread fraud, while section six, finally, extrapolates what this means for the 2010 parliamentary vote and for the future and nature of Afghan elections.

2. THE 2009 ELECTIONS

2.1 Trying to clean up a very messy vote

In the run-up to the 2009 elections, there were strong indications that preparations were made for

significant fraud.[8] However, the scale and blatant nature of the ballot-stuffing that took place on and around polling day took most observers by surprise. It soon became clear that if the Independent Electoral Commission (IEC) implemented its internal quarantining guidelines, a large proportion of the vote would be disqualified, particularly in the south and the east of the country where security and electoral irregularities had been at their worst. So the IEC discarded several – not all – of its guidelines and released large numbers of suspicious vote counts into the preliminary results. Initial investigations by the Electoral Complaints Commission (ECC) in Paktika, Ghazni and Kandahar had, in the meantime, uncovered 'clear and convincing evidence of fraud', particularly in cases where polling stations had reported an unusually high turnout and unusually high majorities for single candidates. The scale and the nature of the uncovered irregularities prompted the ECC to order the IEC to conduct a full audit and recount of all presidential polling stations based on the criteria that had just been discarded.[9] The order affected 3376 polling stations, roughly 15 per cent of the total, and included polling stations in every province. Some provinces had many more suspect polling stations than others. In Badghis, Ghazni Kandahar, Khost, Nooristan, Paktia and Paktika at least 30 per cent of all polling stations that were reported to have opened on polling day fell within the ECC's order.[10]

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[8] See, for instance, AAN's pre-election paper: 'The shortcomings of oversight and the challenges posed by insecurity provide ample opportunity for electoral fraud, in particular through over-registration (including "phantom female voters"), mass proxy voting and cooptation of electoral staff.' Martine van Bijlert, *How to Win an Afghan Election. Perceptions and Practices,* Afghanistan Analysts Network, AAN Thematic Report 02/2009, August 2009, http://www.aan-afghanistan.org/uploads/2009%20AAN-MvB%20Afghan%20Election.pdf.
[9] *Electoral Complaints Commission, ECC Order 2009-09-08.* The order concerned all polling stations with 600 votes or more (as this represented more than 100 per cent of the anticipated turnout) or where 95 per cent or more of the vote had been cast in favour of one candidate (provided that the total number of votes in that station exceeded 100). For background on the ECC order see Martine van Bijlert, 'Which Votes Are to Be Counted – A Crucial Battle', Afghanistan Analysts Network, AAN blog, 8 September 2009, http://www.aan-afghanistan.org/index.asp?id=307; and Martine van Bijlert, 'We Have a Result – Sort Of – and Some Very Frayed Relations' AAN blog, 17 September 2009, http://www.aan-afghanistan.org/index.asp?id=336.
[10] Electoral Complaints Commission (ECC), *Final Report 2009 Presidential and Provincial Council Elections* Kabul, April 2010.

The audit however covered only the presidential election and 'only the fraud that was obvious and unsophisticated'.[11] The need to certify results in time for a possible runoff and time lost while seeking wider buy-in, pressured the IEC and ECC (on the advice of UNDP ELECT) to opt for a sampled audit rather than a full one. A statistical sampling method was designed to determine the proportion of fraudulent votes in each category covered by the ECC order.[12] The method saved time, but ensured that the exact details of the extent and nature of the fraud remained opaque.[13] More importantly, the findings of the audit could not be transferred to the provincial council vote.

The impact of the audit, which resulted in the disqualification of around 1.2 million presidential votes, was not the same in all areas. In some provinces only a small proportion of the vote was disqualified while in other provinces, such as Paktika and Nooristan, the vote was practically annulled. In seven provinces more than half of the presidential vote was removed as a result of the audit.[14] Separate investigations by the ECC in response to complaints and reports of irregularities resulted in additional orders to the IEC to invalidate ballots in the presidential vote. In its final report the ECC concludes that 'at least 1,391 polling stations had entirely fraudulent voting, and at least 452 polling centres and 23

entire districts had fraud in at least half of their polling stations'.[15]

Table A.1 in the annex provides an overview of the number of votes removed per province. Note that the figures refer to all votes that were removed between the posting of the preliminary and final results, not only the disqualifications relating to the audit.

Although the audit resulted in the disqualification of around 20 per cent of the total presidential vote, it did not cover the full extent of the fraud. The sampling and review methods enabled an easy detection of ballot-stuffing, but not other irregularities such as form fraud, and the audit is likely to have mainly affected polling stations where bulk ballot-stuffing for a single candidate appeared to have taken place.[16] It probably did not catch the more – although often still not very – subtle irregularities, such as top-up ballot-stuffing or the cases where ballot-stuffing or (mass) proxy-voting took place on behalf of more than one candidate (whether based on local cooperation or competition – there are interviews confirming the prevalence of both). And it did not touch the provincial council election.[17]

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[11] Horacio Boneo, et al., *Mid-Term Evaluation of the Project Enhancing Legal and Electoral Capacity for Tomorrow (ELECT)*, Annex 4. Additional notes on electoral operations, fraud and fraud mitigation, 4 November 2009.

[12] For a detailed explanation of the audit methodology see ECC, *Final Report 2009* (see FN 10). For more on the confusion surrounding the methodology see Martine van Bijlert, 'We Have a New Universe and an Old Problem' AAN blog, 6 October 2009, http://www.aan-afghanistan.org/index.asp?id=363.

[13] Due to the methodology of the audit it was not established that the actual votes that were disqualified based on the audit's findings were fraudulent. The audit merely disqualified a certain proportion of certain categories of votes.

[14] For details of the audit see ECC, *Final Report 2009*, 8–10 (see FN 10) and OSCE/ODHIR *Final Report 2009*, 43–44 (see FN 5). The National Democratic Institute (NDI) website has useful maps depicting, among others, the details and density of polling stations per district affected by the audit. It also provides estimates of a district's population and number of voters (sources unknown). It will come as no surprise that in many of the districts affected by the audit, the estimated number of voters far exceeded the estimated population. See http://afghanistanelectiondata.org/report/election-irregularities-fraudulent-returns#zoom=0&lat=33.9&lon=66.5&layers=district_map_openlayers_1&baseLayers=afghanistan-grey.

[15] ECC, *Final Report 2009*, 9 (see FN 10).

[16] A notable exception was Nooristan, where many polling centres were audited because of improbably high vote totals, but fraudulent votes were cast for more than one presidential candidate (email correspondence with ECC commissioners, August 2010).

[17] This is not to suggest that the actual audit should or could have been extended to the provincial council election. However, ideally, if the audit had focused on identifying fraudulent polling centres rather than determining a proportion of the vote, the findings could have been transferred to the provincial council election. As both votes took place in the same location and were administered by the same staff, it is reasonable to conclude that if the presidential vote was fraudulent, the provincial council vote in the same polling station (provided that the same number of ballots were cast) is likely to have been fraudulent as well, and this would warrant further scrutiny.

Box 1. The example of Paktika – even the remaining presidential vote doesn't look clean

An examination of the final uncertified (pre-audit) presidential results in Paktika shows a large number of polling stations with round numbers and implausible spreads of votes (a few candidates receiving large blocs of votes, often in a single station, with no sprinkling of votes among other candidates), a large number of centres where all votes benefited one candidate, and a fair number of stations where the full 600 votes – or more – had been utilised. [18] The audit removed only the most blatant irregularities, which represented 88.5 per cent of the total vote. The remaining 11.5 per cent still shows evidence of considerable manipulation.

In most districts in Paktika, Karzai's main contender, Dr Abdullah, received either no votes at all or a relatively large number of votes (in some areas more than Karzai, whereas in a few other areas they shared the vote). There were usually no lone dissenting voters. This was largely the case with other candidates as well; they often did well in certain polling centres, or even in single polling stations, and not in others. This suggests either highly organized bloc voting or, more plausibly, the hand of the local IEC administrators, in particular the District Field Coordinators (DFCs) or, alternatively, the capture of polling centres by others who are not IEC staff.

Two examples of implausibly spread votes are given: Table B.1 shows the results for a polling centre where the votes went to a limited number of candidates in some polling stations but not in others. Even a highly organised form of bloc voting in Paktika's tribal society could not give such an orderly result.[19] The example in Table B.2 is somewhat less blatant, given the absence of round numbers and the lack of vote concentrations in single polling stations, but the absence of dissenting or confused voters clearly suggests manipulation.[20]

Table B.1
Example of suspicious voting in a Paktika polling centre (presidential vote)
Polling Centre 704052: Nik Mohammad mosque in Yahyakhel

	Polling Station 01	Polling Station 02	Polling Station 03
Ashraf Ghani	0	0	50
Latif Pedram	105	0	0
Rakety	0	0	265
Bashardost	0	300	55
Karzai	100	0	40
Abdullah	221	0	0
Dr Frozan	0	225	0
All other candidates	0	0	0
Total	**426**	**525**	**410**

Source: Final certified presidential results, IEC 2009

Table B.2
Example of suspicious voting in a Paktika polling centre (presidential vote)
Polling Centre 704063: Ahmad Khan's guesthouse, Piyaway in Yahyakhel

	Polling Station 01	Polling Station 02	Polling Station 03	Polling Station 04	Polling Station 05
Ashraf Ghani	121	92	210	155	195
Bashardost	103	83	95	171	0
Karzai	0	0	0	0	0
Abdullah	99	25	22	0	185
All other candidates	0	0	0	0	0
Total	**323**	**200**	**327**	**326**	**380**

Source: Final certified presidential results, IEC 2009

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[18] The lack of a voters list meant that an unknown number of voters could go to any polling station. Each station was issued with 600 ballots, which allowed for an overage of 60, with 540 being considered the maximum average turnout. However, procedures did allow stations to receive extra ballots from another polling station. OSCE/ODHIR, *Final Report 2009*, 40 (see FN 5).

[19] The provincial council vote in this polling centre shows a similarly implausible pattern, as all but 16 votes were cast for two candidates (Candidates 21 and 23 received respectively 300, 300, 310 and 110, 115, 100 votes).

[20] This polling centre was, for unknown reasons, not included in either the preliminary or the final provincial council count.

2.2 Was the provincial council vote any better?

The aim of the sampled audit in the presidential vote was to arrive at a final figure, in order to determine whether a second round was needed. It was not designed in a way that allowed its findings to be used in the provincial council poll. However, given that the number of votes in the presidential and provincial council elections was roughly the same in most provinces,[21] that both votes took place at the same time and under the same circumstances and were conducted by the same people, it is reasonable to conclude that if a large proportion of the presidential vote was of questionable quality, the provincial council vote would have been the same. This is corroborated by the findings of the ECC and by the analysis done for this paper.

After the investigation into the presidential vote was completed, the ECC continued to examine the more-than 500 so-called 'Priority A' complaints in the provincial council poll (that is, the complaints that, if found valid, could potentially alter the outcome of the election). The ECC issued 34 separate decisions, one for each province, among others ordering the IEC to invalidate ballots where it had found clear and convincing evidence of fraud.[22] This resulted in the exclusion of 722 polling stations, out of a total of almost 24,000 (the exact number of polling stations that were open on election day will never be known). The greatest number of invalidations occurred in Kandahar, Nangarhar, Paktika, Nooristan, Faryab and Paktia (more than 60 polling stations invalidated in each), as can be seen in the overview provided in Table 1.

The ECC additionally barred officials in 42 polling centres from working on future elections for a period of five to ten years, based on evidence that they were complicit in the fraud (it is not clear whether this was followed-up by the IEC and whether the identities of the staff members in question were established at the time). Thirteen provincial council candidates were fined for filing false claims based on altered copies of tally sheets,

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[21] A comparison of the released pre-audit vote counts per province shows that the provinces with the greatest discrepancies between the presidential and provincial council vote were Nimruz (24,411 or 44.3 per cent less votes in the provincial council count than in the presidential), Kabul (77,440 or 14.1 per cent less) and Paktika (19,619 or 9.7 per cent less). In the other provinces the discrepancies are much lower.

[22] Since the invalidation of even a single ballot could potentially remove a provincial council candidate from the winners' list, the ECC adopted a cautious approach.

and one candidate was excluded from the ballot after election day for attempting to bribe an ECC official.

Table 1
Polling centres where polling stations were excluded, based on ECC rulings in the provincial council elections

Province	Number of polling centres
Kandahar	84
Nangarhar	84
Paktika	77
Nooristan	67
Faryab	66
Paktia	65
Herat	42
Laghman	36
Kunar	33
Ghazni	33
Ghor	26
Baghlan	19
Kabul	12
Logar	12
Parwan	11
Kapisa	10
Badghis	10
Takhar	6
Zabul	6
Panjshir	5
Helmand	5
Kunduz	3
Nimruz	3
Badakhshan	2
Daikondi	2
Jowzjan	1
Samangan	1
Sar-e Pol	1
Wardak	0
Bamyan	0
Balkh	0
Farah	0
Khost	0
Uruzgan	0

Source: ECC final report 2009

The ECC acknowledged in its final report that after the protracted audit process in the presidential vote, it did not have the same amount of time or resources left to conduct the provincial council investigations. The results of the investigation varied from province to province, depending on the level of access the ECC had to the ballot boxes (and, it should be added, the determination and initiative of the provincial investigators). The ECC's legal mandate was to end within 30 days of the

certification of the final results, but due to financial and logistical constraints the ECC 'was unable to continue full operations beyond 1 December 2009'.[23] On 30 November the ECC finalised all decisions based on Category A complaints, and started packing up. The IEC posted the last – much delayed – preliminary provincial council results on 6 December 2009 and between 6 and 24 December the IEC started to gradually release the final certified results.[24] The end of the process was mired in confusion, which was compounded by the fact that the IEC website was inaccessible for several days, under what appeared to be suspicious circumstances, before it came back online again.[25]

2.3 Four particularly problematic provinces

The results for four provinces in the provincial council elections – Kandahar, Ghazni, Paktika and Nangarhar – were posted late and surrounded by a lack of clarity. A press statement released by the IEC on 24 December 2009 mentioned that it had done additional investigations and inspections, but no details were provided.[26] Although at least the

Nangarhar investigations took place in the presence of observers, the findings were never made public and there seem to be no written records of the decisions taken or of the procedures followed, other than an electoral observation report of the proceedings.[27]

It had become clear early on that the vote had been particularly problematic in Ghazni, Kandahar and Paktika. This was confirmed in joint investigations by the IEC, the ECC and ELECT (the UN body supporting the electoral process). The IEC initially quarantined a large number of polling stations, but then wavered. The ECC, in response, issued several rulings in September 2009, calling for invalidations, as well as recounts and audits in specific areas. The ECC rulings referred to polling stations in both the presidential and provincial council vote.[28] In hindsight it seems that the rulings resulted in the quarantine of a large number of provincial council polling stations. As pressure mounted on the IEC to release the final results, it was faced with the pending matter of the quarantined stations and the order to conduct audits and recounts in the most complicated provinces. Persistent political pressure and controversy during the vote count caused the IEC to conduct an audit in Nangarhar as well.[29]

[23] ECC, *Final Report 2009* (see FN 10). Some confusion exists over when the IEC certified its final results. The ECC report, incorrectly, suggests it was on 16 December. The IEC claims that it happened on 24 December 2009; see IEC, 'Independent Election Commission Press Release with Reference to the Final Results of Nangarhar Provincial Council Elections' 24 December 2009 (not available on the IEC website). The certified results were posted on the website on 26 December 2009.
[24] By 26 September 2009 all provincial council preliminary results had been announced, except Nangarhar, Paktika, Kandahar and Ghazni. See IEC, 'Independent Election Commission Press Release on Announcement of Preliminary Results of 2009 Provincial Council Election', 26 September 2009 (not available on the IEC website).
[25] The IEC website went down on 21 or 22 December 2009 and came back online on 26 December 2009. The IEC claimed that the host server had prevented access to the site due to unpaid bills. The timing however coincided with a fire in the IEC offices that destroyed at least part of the result archives on the night of 21 December 2009. See Martine van Bijlert, 'Rearranging Elections Outcomes while the IEC Archive Burns', AAN blog, 24 December 2009, http://www.aan-afghani stan.org/index.asp?id=521.
[26] IEC, 'Press Release With Reference to the Final Results of Nangarhar Provincial Council Elections' (24 December 2009): 'the Independent Election Commission, for the purpose of ensuring the accuracy, correctitude and better transparency in the results of the Provincial Councils Elections, has done some sweeping investigations and inspections to discover some of the disarrays and falsifications having taken place and finally

to announce the transparent results based on the legal votes cast by the voters on Election Day indicating their direct determination.' A seperate statement with the same text was issued to announce the final results for Kandahar, Ghazni and Paktika.
[27] Free and Fair Election Foundation for Afghanistan (FEFA), *Observation Report of the Recount of the Votes for the Nangarhar Provincial Council* (Kabul, 16 December 2009), http://fefa.org.af/index.php?option =com_content&view=article&id=84:observation-report-of-the-recount-of-the-votes-for-the-nangarhar-provincial-council--24-oct-2009&catid=38:report.
[28] The ECC ordered the invalidation of 83 polling stations (in eight cases the ruling referred to provincial council votes) – 51 in Kandahar, 27 in Ghazni, five in Paktika – as well as a recount and audit in, among others, all stations in the Kandahar districts of Shorabak, Spin Boldak and Khakrez; and several stations in Qarabagh and Zenakhan district in Ghazni (including all stations with 600 votes or more or 95 per cent of the vote for one candidate). See ECC decisions on Spin Boldak (A-09-00-5129), Shorabak (A-09-00-5004), Qarabagh (A-09-00-5062) and Zenakhan (A-09-00-7371), all dated 7 September 2009; and ECC press releases 'The ECC Orders the Invalidation of Certain Ballots from 27 Polling Stations in Ghazni Province' and 'Results Invalidated from 5 Polling Stations in Paktika', both dated 10 September 2009. See also Democracy International, 'ECC Invalidates Votes from 86 Polling Stations in Ghazni, Paktika and Kandahar', 10 September 2009, http://democracyinternational.com /afghanistan/?p=310.
[29] 'After, continual objections raised by some candidates for the Nangarhar provincial council regarding suspected

Whereas the main fraud in Kandahar, Ghazni and Paktika consisted of massive ballot-stuffing, Nangarhar was mainly characterised by tally and form fraud, skewing the results in favour of the province's most influential political networks.

3. TRACKING THE FRAUD

When studying the data, several possible indicators of irregularities or implausible vote results are evident. On their own they may not present a clear-cut case of manipulation, but in combination with other indicators it becomes very difficult to believe that certain results are a reflection of an actual vote. For instance, having close-to 100 per cent of the votes cast for one candidate is remarkable but not necessarily evidence of fraud, given the often-collective manner in which communities and constituencies decide to cast their vote. However in combination with other triggers – such as a remarkably high turnout in an insecure area and the absence of invalid votes – the likelihood that all votes were cast by actual people decreases. Other indicators include high incidences of round numbers and implausible spreads of votes.[30]

3.1 Indicators of irregularities

For the purpose of this paper the election result data has been reviewed on different levels: the province, the district, the polling centre and the polling station.[31] An important indicator of manipulation on the provincial level has always been the percentage of invalid votes and female voters (the latter information was however unavailable during the 2009 elections). Implausibly low percentages of invalid votes, particularly in provinces with relatively low levels of education

and in combination with implausibly high percentages of female votes in conservative areas, are clear indicators of a manipulated vote. Table 2 sets out the data – as far as it is available – for the last three elections. Provinces are ranked according to the percentage of invalid votes in the 2009 provincial council elections, from low to high.

The current analysis has used several indicators of possible manipulation: implausibly high numbers of ballots per polling station, particularly when exceeding the maximum number of ballots provided;[32] implausibly large occurrences of round numbers, either per polling station or per candidate; all or almost all votes cast for one or a limited number of candidates, particularly if in combination with no or almost no sprinkling of votes for other candidates; and patterns of 'candidate partnering' (that is, the same candidate combinations, particularly when receiving implausibly high or round numbers of votes). In combination, these are the telltale signs of vote or tally fraud. Some of the more subtle forms of fraud – such as top-up ballot-stuffing, proxy or multiple voting – are difficult to conclusively track by reviewing the results data and require analysis of the electoral materials, as was done in many cases by the ECC. Other irregularities, such as underage voting or voter intimidation, are practically impossible to identify after the fact, whether by a review of the results data or an audit of the ballot boxes.

A review of the ECC findings for polling stations showing the suspicious patterns described above indicated that in most cases the ECC did in fact find 'clear and convincing evidence' of fraud when reviewing the ballot boxes.[33] These findings, as well as the analysis underlying this report, indicate that gross irregularities, such as mass ballot-stuffing, were most prominent in the insecure areas in the south and the east while other forms

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defrauding of the poll results, the Independent Election Commission (IEC) decided to recount the votes'. FEFA, *Observation Report Nangarhar* (see FN 27).

[30] See also Nils Weidman, who has done some interesting statistical work on the Afghan elections by using the 'last digit method', which tracks implausibly high instances of round numbers. http://nils.weidmann.ws/projects/afghanelection.

[31] Data was provided on the IEC website on provincial level (number and percentage of votes per candidate, number and percentage of valid and invalid votes, total number of counted votes) and on polling station level (number of votes per candidate, but no details on valid and invalid votes). The data on polling station level is no longer available online. The provincial-level data can be found here: http://www.iec.org.af/results/Provincial/FresultsBallotOrder.html. District level data had to be aggregated from the polling-station-level data by using the polling station codes.

[32] Each station was issued with 600 ballots (540 being considered the maximum average turnout with an added overage of 60).

[33] Such evidence included more than 100 per cent turnout; large proportions of identical (sometimes unusual) tick marks for the winning candidates; unfolded or not properly folded ballot papers – sometimes the ballots were not removed from the original books; unstamped ballot papers; missing documentation or material, such as result forms or the remaining ballots and ballot stubs; the absence of invalid ballots; discrepancies between the number of ballot papers and the reported results (in some cases no ballots were found at all); manipulation of the result forms; and the use of two different pens in the same polling station for the presidential and provincial council vote. In several cases the ballot boxes could not be located in the warehouse.

of manipulation, such as tally fraud, were more prominent in the more secure areas, particularly in the north. Fraud on a massive scale, however, requires a level of organisation and dominance that not all contenders can muster. This explains the differences between areas with similar circumstance, such as for instance between Kandahar, where the vote was practically hijacked, and Logar, where manipulation was rampant but, in comparison, on a much smaller scale.

Table 2
Invalid votes (and female votes) in the 2009, 2005 and 2004 elections
(from low to high, according to the 2009 provincial council elections)

Province	Total number of votes in 2009	Percentage of invalid votes in 2009 (provincial council elections)*	Percentage of invalid votes and female votes (in brackets) in 2005	Percentage of invalid votes and female votes (in brackets) in 2004
Paktika	197,863	0.3	0.9 (—)**	0.3 (47)
Nooristan	26,520	0.6	0.4 (55)	0.6 (49)
Paktia	207,309	0.7	1.0 (60)	0.4 (49)
Khost	109,457	0.7	1.7 (43)	0.2 (45)
Ghazni	284,266	1.1	2.8 (53)	0.7 (49)
Kapisa	62,714	1.2	2.4 (47)	1.0 (40)
Kunar	111,138	1.3		0.5 (42)
Wardak	67,406	1.5		1.3 (42)
Helmand	125,820	1.6	7.0 (19)	0.8 (49)
Logar	45,981	1.7		1.2 (35)
Farah	90,844	1.8		0.6 (34)
Faryab	216,971	1.8	8.2 (55)	1.5 (52)
Kandahar	272,217	2.0	6.5 (28)	1.2 (22)
Ghor	274,602	2.0		1.4 (37)
Laghman	89,570	2.7		0.9 (34)
Panjshir	40,040	2.9	2.5 (57)	0.5 (44)
Badghis	122,592	3.0	3.4 (43)	1.4 (42)
Daikondi	153,615	3.1		0.8 (53)
Nangarhar	350,098	3.1	5.5 (42)	0.8 (43)
Bamyan	128,493	3.3		1.2 (47)
Badakhshan	241,834	3.7		1.7 (36)
Uruzgan	29,503	4.0	4.1 (17)	0.8 (02)
Baghlan	178,215	4.0		1.9 (36)
Samangan	119,260	4.7		1.1 (43)
Parwan	103,114	4.9		1.8 (35)
Sar-e Pol	126,267	5.1		1.3 (46)
Takhar	251,023	5.1	11.3 (44)	2.8 (45)
Herat	438,342	5.5	9.6 (47)	1.4 (49)
Kunduz	96,076	6.4		2.7 (40)
Balkh	300,475	6.8	5.8 (38)	1.3 (41)
Zabul	16,501	6.9		1.7 (11)
Kabul	468,144	7.3	5.8 (29)	1.5 (??)
Nimruz	29,398	7.5		1.1 (40)
Jowzjan	128,856	9.0		1.7 (46)

*   In the 2009 elections no data was released on the percentage of female votes per province.
**   The percentage of the female vote in Paktika in 2005 was never released, final estimates range from 54 to 57 per cent.
Source: Final JEMB and IEC results 2004, 2005, 2009

4. WHAT HAPPENED TO THE VOTE? PROVINCIAL CASE STUDIES

A detailed discussion of the findings in some of the provinces illustrates the different levels and scales of manipulation. It is assumed that the general patterns of election fraud in Afghanistan are by now widely known,[34] so the discussion will focus on issues that have so far escaped scrutiny, most notably the addition of votes after the announcement of the uncertified final results and the manipulation of the list of winners at the tally centre in Kabul. Such interventions at the final stages of the electoral process are crucial, as they can undo all earlier efforts to either conduct or address fraud. Those who are in a position to manipulate or influence these processes potentially control the final list of winners and losers. This is illustrated in several of the examples below. The analysis also demonstrates how a different or more extensive review of suspicious polling stations would have resulted in different patterns of invalidations and in different slates of winners and losers. This adds a degree of randomness to election outcomes.

4.1 Almost no real vote in Nooristan

The province that was most affected by the ECC investigations was Nooristan, a marginal province with a limited electorate, where ECC rulings led to the removal of more than half the provincial council vote.[35] In most of the removed polling centres, all ballot papers (600 per station), or more, had been used, so that the removal of a single polling centre often involved several thousand votes – with considerable consequences for individual candidates, given the often very limited spread of votes.[36]

The ECC findings read as a description of the variations of fraud: uniform markings for the top candidates (i.e. large numbers of identical tick marks), the absence of invalid votes, material missing, ballots torn off in bunches, ballots never folded, no reconciliation forms, the use of the wrong marker and significant form fraud. In several cases 100 per cent of the vote, equalling several thousand votes, had been cast for one candidate and in some cases the ballots could not be found at all during the investigation. In one (infamous) case additional ballots were improvised on blank papers bearing the IEC ink stamp.

The disqualifications resulted in the removal of three candidates from the list of winners.[37] A closer analysis of the vote reshuffle however shows a certain level of randomness in the final outcome. The disqualification of three additional polling centres, for instance, would have removed almost all votes for the current winner of the elections.[38] Another candidate, who lost over 60 per cent of his vote but still managed to come in third, received the bulk of his remaining vote in two polling stations that look like they would have not passed scrutiny, had they been investigated (each station had exactly 600 votes and almost all votes went to this candidate).[39] The ECC investigations were of course not random; they were based on complaints received and information provided, but it is highly likely that a wider investigation, based on suspicious vote

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implausible results are often concentrated in certain districts.

[37] The candidates lost 7,494 votes (from 8,517 to 1,023), 2,958 (from 4,044 to 1,086) and 814 votes (which was every single vote this female candidate had). The two other female candidates, as a result, managed to win with only 343 and 216 votes respectively.

[38] Candidate 16 came out on top in the final results with 4,204 votes, after having lost 2,602 votes as a result of the ECC decisions. Of these, 2,239 were lost in a single polling centre (Shatoy provincial centre, 1301001). However, 98 per cent of his remaining votes (4,133) came from three other polling centres in the provincial centre (1301005, 1301006 and 1301007), making his victory a vulnerable one – particularly given that all three centres showed suspicious voting patterns. ECC Decision A-09-00-5547 (Nooristan Provincial Council), 25 November 2009. All decisions were publicly available on the ECC website, until they were removed in July 2010.

[39] Candidate 19 went from 6,817 to 2,574 votes, with almost all losses (3,999 out of 4,243 votes) due to the invalidation of two polling centres in Waigal district (code no. 1304030 and 1304038). Of the remaining votes, 84 per cent (2,154 out of 2,574) was received in two polling centres in the provincial capital (code no. 1301002 and 1301007). Both centres show the signs of vote fraud: exactly 600 valid votes in each polling station and almost all votes going to one candidate.

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[34] For a discussion of the various forms of fraud in the 2009 elections see Sandra Khadhouri, *A Review of Suspected Electoral Fraud. 2009 Afghan Presidential and Provincial Council Elections,* April 2010 (unreleased report), but also Scott Worden, 'An Election Gone Awry,' (see FN 5). For an overview of polling day fraud see Martine van Bijlert, *Polling Day Fraud in the Afghan Elections,* Afghanistan Analysts Network, AAN Briefing Paper 03/2009, 3 September 2009.

[35] In all, 34,339 of its 60,707 (valid) votes were removed, which is a decrease of 56.57 per cent.

[36] Removed polling centres with the highest amount of registered votes included Pacham (1305045) with 3,600 votes, 3,593 of which had been divided among two candidates; and Kordar (1305041) with 3,000 votes, 2,781 of which were cast for one candidate. Both are in Wama district. This is a general pattern in other provinces as well: the polling centres with the most

patterns rather than complaints, would have led to a different slate of winners and losers.

What the exact outcome would have been is however not clear at all. An analysis of the 27 polling centres that remained after the rather robust ECC intervention, shows 15 polling centres with (almost) 600 votes in every single polling station and two centres with more votes than issued ballots (714 in one single station and 2,438 in a centre that had four stations), most of them with implausible vote patterns. Three polling centres did not register a single vote and several of the remaining eight centres showed high vote counts of at least 400 per station.[40] The presidential vote showed a similar pattern. This suggests that very few votes in Nooristan were unmanipulated: either (practically) no voting occurred or the vote was massively inflated by ballot-stuffing and other irregularities. This reflects the general security situation in the area, which prohibited voter mobility and facilitated massive manipulation. In such a situation it has become practically impossible to arrive at an election result that can be viewed as the result of how people voted, no matter how thorough the investigation.

4.2 Massively adding votes in Kandahar, Paktika and Ghazni

There were four provinces in the 2009 provincial council elections where the process had become so complicated that both the preliminary and final results were posted late and under unclear circumstances. In three of these provinces – Paktika, Kandahar and Ghazni – the IEC was faced with the aftermath of a massive ballot-stuffing exercise in less-secure areas and it was unclear at the time how it dealt with this. An analysis of the results data now gives a fair idea of what happened.

In most other provinces the procedure between the preliminary and final results was relatively straightforward and easy to follow: preliminary results minus the votes that were ordered invalidated by the ECC produced the final tally. This was not the case in these three provinces.

During the presidential vote, Kandahar saw the removal of 71.6 per cent of its total valid vote (181,083 out of 252,866 votes). In the provincial council elections, the ECC ordered the disqualification of 84 polling stations, making Kandahar the province with the highest number of invalidated polling stations (together with Nangarhar). What went largely unnoticed in the confusion at the time was that when the final provincial council results were published, the total number of votes in Kandahar *had gone up*, rather than down.

A comparison of the preliminary and final results by polling station indicated that ECC decisions were implemented: polling stations that were ordered invalidated were indeed excluded from the count, resulting in the removal of tens of thousands of votes. At the same time, however a large number of polling centres that had not been included in the count earlier were added. This had huge consequences. In Kandahar, for instance, 51 polling centres were added, representing an estimated 60,000 votes (probably more).[41] Something similar happened in Paktika and Ghazni. In Paktika a fairly robust complaints adjudication process resulted in the invalidation of 77 polling stations: the final result rose from 192,786 to 197,330 – a smaller increase than in Kandahar (only 4,544 votes) but significant given the enormous amount of disqualifications. A detailed comparison of the results indicated that in Paktika at least 30 polling centres were added to the count.[42] In Ghazni, 20 polling centres were fully removed, based on the ECC ruling, while several others were removed in part. The invalidations were however practically evened out by the addition of 44 polling centres (in full or in part) that had previously not been included. Ghazni's

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[40] Of the remaining 20 polling centres after the combined ECC/IEC audit in the presidential vote, eight showed a maximum vote of 600 per polling station which was fully divided between the three to five leading candidates with (almost) no votes for other candidates. An additional four polling centres showed the same pattern, but with a limited sprinkling of votes for other candidates. Only six polling centres showed a plausible vote pattern (limited or no turnout and a fair sprinkling of votes).

[41] Six polling centres were invalidated in full (one in Zherai, one in Spin Boldak and four in Maruf district). They reported a total of 28,824 votes, while six other polling centres (all in Zherai) were partially invalidated. The number of valid votes in Kandahar however went from 247,040 to 266,744 – which is an increase of almost 20,000 votes. See IEC uncertified and certified results for Kandahar, dated 27 October 2009 and 24 December 2009; and ECC Decision A-09-00-7711 (Kandahar provincial council), 30 November 2009. The 51 newly released polling centres included sixteen from Spin Boldak, eight from Zherai, seven from Khakrez, five from Daman, four from Maruf, three from Kandahar city, two from Shah Wali Kot, two from Arghandab, and one each from Panjwai, Registan, Shorabak, and Arghestan.
[42] IEC uncertified and certified results for Paktika, dated respectively 27 October 2009 and 13 December 2009; ECC decision A-09-00–5046 (Paktika provincial council), 30 November 2009.

final count was only 623 valid votes less than its preliminary one.[43]

The addition of such a large number of votes, by releasing previously uncounted polling centres back into the count, is problematic for several reasons. First, the added polling centres were not open to either public scrutiny or investigation by the ECC, but were immediately included in the final certified results (according to the electoral law, results must be announced preliminarily to make complaints possible). Second, not only was there no clarity with regard to the procedures and criteria involved in the release of these polling stations, the release of the additional votes was never announced or explained.

The IEC press statement announcing the release of the final results for the three provinces only mentioned that 'some sweeping investigations and inspections' had taken place, but did not provide further details.[44] An analysis of the newly included polling stations however indicates that it is unlikely they were subjected to a very rigorous audit. Although in several instances not all polling stations belonging to a particular polling centre were included in the final results (indicating that decisions were made to exclude certain stations), many of the published results show patterns that would not have passed even a superficial screening.[45]

Many of these polling centres reported very large numbers of votes, with implausible spreads. In several cases all votes were cast for one or a

handful of candidates. In Kandahar, in at least ten of the polling centres that had been added (and a few more that had already been included in the original count), the vote totals exceeded 600 per station. In these and other polling stations where the vote total was around 600 – and there were many – the votes tended to be spread among only a few and in neat round numbers. Some cases were extreme. For instance in Panjwai, one polling centre reported vote totals of 813, 885 and 796 in three polling stations – a total of 2,494, where the estimated number of voters (and thus ballots issued) had been only 1,800.[46] Paktika's final count includes 55 polling centres with stations that reported 600 or more votes (105 polling stations reported exactly 600 votes, and 21 polling stations had more than 600 votes – representing a total of over 75,000 votes). In ten of these polling centres, all votes cast went to a single candidate. The most blatant case included a centre where all votes in two polling stations – 839 and 700 votes – went to the candidate who came in second.[47] In Ghazni, in twelve polling centres with a large number of votes (over 1,000), all the votes went to a single candidate – several of these centres reported several thousand votes.

What kind of investigations the IEC implemented was never clear, but the results data suggest that it was neither thorough nor consistent. Also unclear

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[43] Ghazni went from 281,744 to 281,118 votes. IEC uncertified and certified results for Ghazni, dated respectively 27 October 2009 and 16 December 2009. See ECC decision A-09-00–5062 (Ghazni provincial council), 30 November 2009.

[44] IEC press release, 24 December 2009: 'The Independent Election Commission, for the purpose of ensuring the accuracy, correctitude and better transparency in the results of the Provincial Councils Elections, has done some sweeping investigations and inspections to discover some of the disarrays and falsifications having taken place and finally to announce the transparent results based on the legal votes cast by the voters on Election Day indicating their direct determination.'

[45] There is only one polling centre that shows signs of possible recount: Kokran Orphan school in central Kandahar (2801061). Where in the preliminary count six polling stations showed 550, 500, 600, 600, 537 and 550 votes, in the final results only one polling station is included with a total of 685 votes instead of 537 (benefiting two candidates with 95 and 53 extra votes). Although this suggests a possible recount, the pattern indicates that this station should have probably not passed the audit: only six candidates received votes, mostly in round numbers, and the total is well over 600.

[46] This was in Polling Centre 2809195. Other cases included polling centres such as 2809177 and 2809178 in Panjwai, that reported 622, 630, 625 and 600, 836, 600 votes. In Polling Centre 2801016 (Kachabad school in central Kandahar) the eight polling stations reported 33, 169, 195, 362, 106, 648, 600 and 967 votes, suggesting some enthusiastic ballot-stuffing or tally fraud in at least three of the polling stations. Examples of implausible result patterns include Polling Centre 2803096 in Shah Wali Kot where all 2,400 votes (in four polling stations with 600 votes each) went to five candidates, who received 400, 100, 307, 1,344 and 249 votes. In Polling Centre 2812233 in Spin Boldak the 600 votes in the remaining polling station were neatly divided and the two candidates each received 300, while the 2,400 votes in Polling Centre 2803089 in Shah Wali Kot were less evenly divided; two candidates received 1,700 and 700 votes. In Polling Centre 2808159 in Zherai four candidates – and nobody else – benefited from the 2,950 votes, receiving 1,300, 650, 850 and 150 votes, while in Polling Centre 2807145 in Maiwand 1200 votes in two polling stations were divided among five candidates – and nobody else – who received 100, 50, 50, 150, 500, 300 and 50 votes.

[47] This was Polling Centre 709292, where all votes went to Candidate 8. In Polling Centre 711179 the votes in four polling stations (650, 638, 680 and 660) went to three candidates – and nobody else – in a highly implausible pattern (they received 2,328, 277 and 23 votes).

is whether the polling centres were released in a wholesale manner with an occasional, possibly random, removal of individual polling stations, or whether the process was intentionally manipulated, with some polling centres being released and others not, depending on whose votes they contained.

Although massive amounts of votes were removed and added, the number of changes in the list of winners is relatively limited. In both Kandahar and Paktika only one candidate from the preliminary list of winners lost their seat.[48] In Ghazni the reshuffle had more consequences, with three winning candidates being replaced by others (out of a total of eighteen seats). In several cases however the addition of votes practically neutralised the ECC invalidations. In Paktika for instance, Candidate 17 lost 8,145 votes when five polling centres were disqualified. This would have cost him his seat, if it hadn't been for the 10,457 votes that he gained in ten polling centres added from Zarghoon Shahr. In another case a candidate in Paktika was saved by a single newly added polling centre. The centre should have been investigated by the ECC, but wasn't because its results had at the time not been posted. The vote pattern indicates that it would not have passed scrutiny.[49]

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[48] In Kandahar Candidate 38 lost his seat after he went from 11,169 to 7,437 votes. His loss was so great that he was also no longer one of the runners-up (two seats are freed when two provincial council members are voted into the Senate). He was replaced by Candidate 19, whose vote total went from 7,030 to 11,024 votes (almost mirroring the losses of the candidate he replaced) with most of the additional votes coming from eight polling centres. In Kandahar almost all winning candidates received more votes in the final results; Karzai's brother, Ahmad Wali Karzai, who came first, went from 27,147 to 31,749 votes.
In Paktika Candidate 13, who had initially come in third with 18,247 votes, lost 5,630 votes – and his seat in the council – after four polling centres in Yusufkhel district were disqualified. He was replaced by Candidate 26 whose vote count had increased with 5,044 votes. Candidate 16 lost almost all her votes after the disqualification of five polling centres in Yusufkhel district. However, being one of the few female candidates, she still kept her seat on the council, despite the fact that she had only 257 votes left.
[49] Candidate 9 lost almost all his votes – 6,055 out of 6,625 – when three polling centres in Yusufkhel district (703040, 703043 and 703044) were invalidated. He however gained 2,987 votes (in batches of 600, 600, 600, 587 and 600), in Polling Centre 703039 (Baziwani mosque, Yusufkheil) which brought his total back to 3,824. The complaint relating to this centre was dismissed at the time, because the results had not been posted, but it is likely it would have been invalidated.

Because the ECC investigations were guided by the complaints they received, its order in Paktika, as in many other provinces, concerned only a limited number of polling centres in a limited number of districts.[50] The data, however, suggest that a wider investigation would have resulted in additional invalidations. The winner of the Paktika provincial council election, for instance, received the bulk of his 22,295 votes in nine polling centres in Wazakhwah district.[51] The candidate who came in second received over 60 per cent of his vote in nine polling centres in Omanah district.[52] In both cases it seems that if investigations had included these polling centres the outcome of the elections could have been drastically different.

For Ghazni, the analysis of the results for this report included a detailed tracking of the districts and polling centres where winning candidates acquired most of their votes. This was prompted by rumours that the controversy surrounding the final composition of Ghazni's provincial council had been settled through the mediation of local leaders, which in turn suggested manipulation of the vote results to arrive at the agreed outcome. The analysis did not shed light on whether the changes in the council's composition were the result of a random or an intentional process, but it

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[50] The disqualified polling centres included five from Zarghoon Shahr, five from Yusufkhel, four from Urgun, four from Sar Hawza, three from Barmal, and one each from Sharana, Janikhel and Dela. This represents eight out of nineteen districts. The absence of complaints concerning certain districts or polling centres obviously does not necessarily mean that there were no problems or that nobody tried to lodge a complaint. There have been multiple testimonies from different provinces of IEC and ECC staff refusing to provide or receive complaints forms, often claiming that the complaints period had ended.
[51] Candidate 12 reiceived a total of 17,584 votes in nine polling centres in Wazakhwah district. In all nine centres he was (almost) the only candidate receiving votes and the results showed suspicious patterns. All centres had moreover been included in the presidential election audit, with well over 95 per cent of the vote going to one candidate (Karzai). Although it is theoretically possible that it was a strongly pro-Karzai area or that 'the tribes' collectively decided whom to vote for, the almost 100 per cent use of all ballot papers in such a remote district is implausible (particularly given that in the one other polling centre in the area not a single vote was cast). The provincial council vote in these polling stations showed a similar pattern.
[52] Candidate 8 received 13,138 of his 20,789 votes in nine polling centres in Omanah district. In most centres almost all votes cast went to him. He received additional bulk votes, although sometimes in smaller quantities, in other districts, including in one polling centre in Gomal district, where he received the full vote (1,539) with the two stations reporting 839 and 700 votes.

did map where thousands of votes were lost and gained.

Some areas, like Jaghori, saw almost no changes. The two winning candidates from this district, who also received most of their votes there, were not affected as a result.[53] Nawur district had three winning candidates. One saw his results go up considerably (by 3,156 votes, or from 8,848 to 12,004) when polling centres were added – many of these votes showed implausible results patterns.[54] The female candidate who came in first received practically all her votes in Qarabagh district, even though she is not from the area. The votes she lost in the disqualifications were surpassed by the inclusion of three other polling centres (with extremely round numbers) that provided her with an additional 2,900 votes.[55] The two male candidates who lost their seats lost most of their votes in disqualifications in Waghaz and Qarabagh districts. Both had votes concentrated in a very limited number of polling centres, which made their positions vulnerable. One of them lost almost all the votes he had.[56] The two candidates who took their places went from 3,843 to 7,197 and 3,324 to 5,074 votes. The former received the bulk of his vote in Jighatu district, with most of his additional votes coming from three polling centres

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[53] Both candidates received a large proportion of their vote in two single, albeit large, polling centres: Candidate 92 received 5,886, out of his personal total of 9,870, in Polling Centres 615334 and 615339, while Candidate 21 received 5,153 votes, out of a personal total of 7,005, in Centres 615324 and 615327. They received very few votes in most other polling centres in Jaghori, suggesting that they may have carved up the area between them (either through voter mobilisation or vote manipulation).

[54] In at least two polling centres in Nawur (612258 and 612264), together reporting 2,783 votes for this candidate, all votes went to a limited number of candidates, with no or almost no sprinkling of votes. The two other winning candidates from Nawur didn't seem to lose any votes in the disqualifications and received less additional votes when polling centres were added. Candidate 18 received the bulk of his vote in Nawur and went from 7,446 to 8,587, while Candidate 42 received almost all his in Qarabagh and Nawur and went from 8,316 to 8,751 votes.

[55] She received all votes in Polling Centres 609168 and 109169 (a total of 2,400 in four polling stations of 600) and 500 votes in one station in Polling Centre 609164 (the other 100 votes went to another candidate, while the votes in the other polling station were also divided between two candidates in a batch of 500 and one of 100). It doesn't get much more implausible than this.

[56] Candidate 65 had 6,203 votes in seven polling stations in Waghaz and three in Qarabagh. He lost almost 2,500 votes. Candidate 14 went from 6,066 to 612 votes when he lost five polling centres (two in Waghaz, one in Qarabagh and two in Ajiristan).

that, given the result patterns (implausibly high turnout and almost all votes cast for one candidate), probably should not have been included in the count. The latter won most of his original and additional votes in Andar, his home district.[57]

It is not possible to determine from the data whether the changes in the list of winners, through the addition of thousands of votes, were brought about intentionally or not. However, given the fierceness of the electoral contest, the lengths to which candidates go to come out on top, and the strength of patronage ties, it would be surprising if such a powerful tool had not been used.

The occurrence of mass ballot-stuffing and tally fraud, made possible by insecurity and a high level of local organisation, means that the inclusion or exclusion of a small number of polling centres can easily sway the vote. Although it is unlikely that the 2010 elections will see the repeat of such an unexplained – and unnoticed – mass release of polling centres, the manipulation of the de-quarantining decisions will continue to be an important tool in seeking to determine the final vote results.

4.3 Manipulating the tally forms in Nangarhar

The IEC interventions in Kandahar, Paktika and Ghazni were probably prompted by the necessity to respond to pending ECC audit and recount orders, as well as to pass judgement on a lingering reservoir of quarantined polling centres. The investigations in Nangarhar, by contrast, were forced by the political clamour that ensued when the outcome of the election was disproportionately dominated by a single political clan.

Nangarhar's results show a different pattern than the vote in Ghazni, Kandahar and Paktika, where both the ECC investigations and the analysis underlying this paper found patterns of large-scale and blatant ballot-stuffing. The ECC findings in Nangarhar showed indications of fraud and disarray, including a large number of polling stations with uniform markings for the highest candidate, no (second) folds on the ballot papers, reconciliation form discrepancies, ballot boxes that

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[57] Candidate 35 received 1,087 out of 1,104 votes (98 per cent) in Polling Centre 607108 in batches of 713 and 374; 1,031 out of 1,138 votes (90 per cent) in Polling Centre 607110 and 1,311 out of 1,328 votes (99 per cent) in Polling Centre 607111. Candidate 15 received most of his additional votes (1,130) in Polling Centre 611248. All these polling centres showed implausible vote patterns.

could not be located and missing material.[58] But the large number of candidates (275) and a relatively better security situation seems to have precluded the kind of massive ballot-stuffing that was prevalent in some of the other provinces in the south and east.

When reviewing the final results data, few polling stations can be found in which the number of ballots cast exceeded, or even approached, the maximum of 600 – unlike in Nooristan, Kandahar, Ghazni or Paktika. Votes tended to be spread over a relatively large number of candidates, and the number of polling centres where single candidates received over 1,000 votes where rare – even when there were many polling stations making up a polling centre. Where vote patterns were suspicious, they suggested top-up ballot-stuffing or tally fraud rather than mass stuffing, which corresponds with the findings of the ECC investigations.[59] An example of such a suspicious vote patterns is given in Table 3.

The controversy surrounding the Nangarhar vote however indicated that something was amiss and finally forced the IEC to agree to what has alternately been referred to as a recount or an audit. The investigations took place from 5 to 14 November 2009 in the presence of candidate agents, ECC representatives and FEFA observers. It focused on tally and form fraud, rather than ballot-stuffing. Whereas in the other three provinces the IEC intervention seems to have taken place after the ECC rulings, in Nangarhar the IEC audit was done before the ECC issued its final order.[60]

A report by the largest domestic election observation organisation, FEFA, describes a somewhat unruly process, with disagreements and confusion over the audit methodology.[61] The absence of written guidelines, particularly for what FEFA refers to as 'unpredicted deficiencies', led to protracted (literally hour-long) debates between the IEC staff and those observing the process.[62] The 'unpredicted deficiencies' described by FEFA were however not that unpredictable and included boxes containing no result forms, votes that were counted for the wrong candidate, boxes with wrong district codes and unsealed boxes (leaving them open to potential tampering). During the

Table 3.
Vote pattern in Polling Centre 1017416 (Shegai, Durbaba district)

Candidate	Polling Station 01	Polling Station 02	Polling Station 03	Polling Station 04	Total
50	6	1	17	2	26
58	0	28	0	0	28
125	2	0	10	42	54
171	0	39	35	**175**	249
200	4	36	**384**	**176**	600
262	43	34	7	**114**	198
All other candidates	46	16	7	**0**	69
Total	101	154	460	509	1,224

Note: Suspicious results are in bold.

[58] ECC decision A-09-00-5695 (Nangarhar provincial council), 30 November 2009.
[59] Polling Centre 1104343 in Kott district was one of the few polling centres in Nangarhar with overfull ballot boxes, reporting 269, 561, 542, 698 and 472 votes in five polling stations. The spread of votes suggests top-up ballot-stuffing or tally fraud. Candidate 82, who seems to have been the worst offender, received 920 votes in five polling stations (respectively 88, 107, 155, 414 and 156). There was a complaint against this polling centre (proxy voting), which the ECC was unable to investigate: 'ECC not able to obtain further information; IEC warehouse in disarray after IEC audit'. ECC decision A-09-00-5695 (Nangarhar provincial council), 30 November 2009. The results were included in the final count.

[60] There is at least one case where the audit interfered with the ECC investigations when a ballot box could not be found. (SeeFN 60.) In all other cases the ballot boxes that could not be located were invalidated.
[61] FEFA, *Observation Report Nangarhar* (see FN 27).
[62] The audit was planned to be cursory, based on a sample of three ballots from the bundles with the most votes (after the count at the polling station, the ballots for each candidate were tied in separate bundles; reviewing three votes from the largest bundles provides a check on whether these candidates correspond with the winners on the tally form, as well a spot check of whether the bundle contains votes for other candidates). In case of irregularities the whole bundle would be recounted. The candidates and their agents objected and the process could only proceed after it was agreed that in the case of irregularities they could demand a full recount of the bundles. (Ibid)

audit of 145 boxes, FEFA counted 115 boxes with no results forms. They were apparently subjected to a full recount. New results forms were created, but no copies were provided to the observers, despite repeated requests. Of the remaining 30 boxes, four were missing. In at least thirteen boxes vote discrepancies were uncovered, although the reported cases concerned relatively minor infringements.[63]

The main aim of the Nangarhar audit was to review all 19,003 polling stations in an attempt to return to the original vote counts, after widespread form and tally fraud had been uncovered,. The original tally sheets, if present, were retrieved from the ballot boxes and their results were entered into the database, instead of using the results from the carbon copy that had been sent to Kabul and that in many cases had been tampered with.[64] Most of the earlier complaints to the ECC had focused on allegations of ballot-stuffing and the ECC called for the invalidation of around 90 polling stations based on its findings.[65] The combined IEC and ECC interventions however resulted in very limited change, which is surprising given the level of controversy. Two of the initially successful candidates lost a relatively large number of votes, but only one of them lost his seat.[66] It makes one wonder whether the process was again redirected in favour of those who had orchestrated the initial manipulation.

4.4 Concentrating the fraud in Logar and Badghis

The Logar and Badghis elections illustrate how local fraud can lead to a skewed outcome. The final list in Logar for instance shows a disproportionate number of elected candidates from Azro (five out nine) and Pol-e Alam (three out of nine). The ninth winner was from Charkh, where his son is said to have been the IEC district field coordinator.[67] The Logar results data also showed great extremes. A very large number of polling centres had low or no turnout, in many case less than 50 votes per station. Some centres had higher numbers and showed signs of possible manipulation, but the margins were not outrageous. Then there were a few notable exceptions; they were largely concentrated in the districts of Azro and Charkh.

In Charkh district both the vote and the fraud was dominated by two candidates (14 and 41). The two men gathered thousands of votes in four polling centres and practically nowhere else. Disqualification by the ECC of fourteen ballot boxes in three polling centres resulted in the loss of over 2,000 votes – and the seat in the council – for Candidate 41. Candidate 14 lost 1,396 votes but retained enough to keep his seat and first place (including over 2,500 votes in one polling centre and close to 1,500 in another).[68]

In Azro five polling centres (out of nine) showed implausibly high figures.[69] Five winning candidates received over half of their original votes in single polling centres in this district, including the candidate who came in second and who received

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[63] The reported discrepancies included 8 votes recorded instead of 26; 107 votes recorded, where the candidate in reality had received only 1; and 20 votes counted in favour of the wrong candidate. It is unclear from the report whether these were the only or the most remarkable discrepancies observed or whether they happened to be the only ones that were recorded (which seems the more likely scenario, taking into account the protracted nature of the process). In addition, two boxes were registered under the wrong district code.

[64] Email correspondence with ECC commissioner, August 2010.

[65] Other allegations included tally fraud, multiple voting and proxy voting. ECC decision A-09-00-5695 (see FN 58). All complaints were investigated, but not all complaints were found to be supported by the evidence.

[66] Candidate 73 went from 9,892 to 8,236 votes, but retained his second place. Candidate 192 went from 14th to 77th place after he lost 2,208 out of 3,686 votes. Three of the winning candidates saw their votes go up between the preliminary and final results, even if only slightly: respectively 130, 86 and 68 votes went to Candidates 28, 46 and 128. This could have been a result of the recount.

[67] Author's interviews and UNAMA provincial council profile.

[68] Candidate 14 received 5,987 out of his 6,408 votes (which is 94 per cent) in four polling centres, while Candidate 41 got 2,813 of his 2,972 votes (95 per cent) in three. This concerned Polling Centre 503041 (583 votes for Candidate 14 and 506 for Candidate 4), Polling Centre 503042 (2,750 votes for Candidate 14), Polling Centre 503043 (1,472 votes for Candidate 14 and 1,039 for Candidate 41) and Polling Centre 503044 (1,182 votes for Candidate 14, 1,268 for Candidate 41 and not a single vote for anybody else). There was only one other polling centre in Chak (503045) – this one received a total of 242 votes (90 of which were for Candidate 14). The polling centres that were affected by the disqualifications included 503041 (disqualified in full), and 503043 and 504044 (both disqualified in part – Polling Station 503043, with 700 votes, was however left untouched).

[69] In the presidential elections the ballot-stuffers in these four polling centres apparently rallied around the relatively unknown presidential candidate Mohammad Sarwar Ahmadzai, providing him with over seven thousand votes. IEC, Final Presidential Results (2009).

70 per cent of his vote in a single polling centre.[70] Patterns like these have been found in other provinces as well, indicating that certain districts have more favourable conditions for bulk voting than others. When multiple candidates, sometimes from outside the district, manage to benefit from these conditions and to dominate the vote, it becomes clear that this has not just been a matter of effective community mobilisation and that insecurity and complicit electoral staff have allowed these candidates, or their backers, to hijack the process.

In Badghis the final results showed at least 24 polling stations with more than 600 votes. Some polling centres showed extreme results with totals far exceeding the number of ballots that were supposed to be provided to the centre.[71] In some cases one or more candidates practically monopolised the vote in a certain district, as in Ghormach.[72] In other cases certain districts provided a chance for a large number of candidates to receive the bulk of their votes there. Many of the winning candidates received a significant number of votes in Jawand district.[73]

ECC adjudication in Badghis was limited and only affected four polling centres. One of the initial winners lost so many votes in these centres, that he no longer on the victors' list.[74] The two top candidates had a better spread, but some of the others would have lost their seats, had one or two additional polling centres been disqualified.[75]

4.5 Changing the tally in Parwan

In Parwan, the preferred mode of manipulation – at least the one that was uncovered – seems to have been tally fraud, rather than ballot-stuffing. Several candidates claimed, including in the media, that the vote results for two of the winning candidates had been wrongfully increased.[76] An ECC investigation found that the tally forms in the ballot boxes, in most cases, matched the number of ballots, but that they differed significantly from the number of votes that had been posted on the internet. This is an important finding, as it points to tally fraud taking place during data entry. During both the 2005 and 2009 elections, allegations of tallies being changed during data entry have been consistent, as have multiple testimonies of candidates claiming to have been offered additional votes in exchange for money by tally centre staff. International advisers have however consistently claimed that the double-blind data entry system was practically fool-proof. The ECC findings show that this is not the case.

In total the ECC invalidated 11 polling stations, partially corrected the count in 19 polling stations (while ordering the IEC to correct the remaining results based on the votes in the ballot box) and ordered a recount in one polling station.[77] Three

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[70] Candidate 46 received 2,903 votes out of a personal total of 4,121 in Polling Centre 507076 (Akbar Kheil school in Azro), which reported a total of 4,284 (594, 532, 557, 371, 278, 799, 431 and 722 votes in eight polling stations). Candidates 5 and 40 received respectively 1,311 and 2,094 votes – representing 67.4 per cent and 59.6 per cent of their total vote – in Polling Centre 507075 (Chotra school). Candidates 35 and 45 originally received 1,490 and 1,028 votes in Polling Centre 507079 (Razi Kheil secondary school), providing them with 66.3 per cent and 74.9 per cent of their total vote (one of the ballot boxes was later disqualified, lowering their respective votes in this centre to 1,143 and 881).

[71] Polling Centre 2307159 (Chalonak mosque in Murghab) reported 576 and 810 votes in two stations, whereas the number of estimated voters for the whole centre had been 1,080. Polling Centres 2305100 and 2305106 (Panj Buz village and Qaz village in Jawand) reported respectively 603 and 600 votes and 711 and 711 votes per polling station. In both cases the total estimated number of voters was 960.

[72] Candidate 1 was one of the runner-up candidates and received a seat after two council members were voted into the Senate. He received the bulk of the vote in Ghormach: 2049 votes in Polling Centre 2306134 (Sher Gul Khan village mosque, in batches of 600, 401, 600 and 448 votes); all 600 votes in Polling Centre 2306140 (Pitaw village), which reported a result of 0, 0, 600 and 0 votes in four stations; 1400 votes in Polling Centre 2306142 (Naghara Khan village, 600, 200, and 200 in three polling stations, implausibly divided among candidates 1 and 2); and 833 out of 922 votes in Polling Centre 2306130 (Diwana Karez mosque).

[73] For instance, in Polling Centre 2305107 (Sartawah mosque, Jawand) 1,501 votes out of a total of 1,524

went to Candidate 33, who just made it into the council in the final count.

[74] Candidate 11 went from 7,634 to 4,871 votes when four polling centres in Qades and Jawand districts were disqualified. He had received 1,689, 1,078, 1,376 and 991 votes in these centres.

[75] Candidate 33, for instance, received more than half of his votes (2,689 out of 5,152) in two polling centres in Jawand district, while Candidate 12 received 2,060 out of 5,580 votes in two other polling centres in Jawand. The disqualification of these centres would have probably cost them their seats.

[76] Farid Tanha, *PC Candidates Claim Fraud in Elections* (30 September 2009, Pajhwok News Agency), http://www.pajhwokelections.af/viewstory.php?storyid=745. The claim was specific, indicating that the vote had been increased from 1,200 and 1,000 to 3,471 and 3,813 votes. According to the article this happened after the announcement of the preliminary results, but ECC investigations found that the tally changes had taken place *before* the preliminary results were posted.

[77] ECC decision A-09-00-5201 (Parwan provincial council), 17 November 2009. In the polling stations

candidates were removed from the list of winners as a result of the intervention, including the two candidates who were consistently caught with added votes.[78] The third candidate lost over 1,100 votes when two polling centres were invalidated. It is not possible to ascertain from the data whether the candidates who retained their votes were simply lucky, or whether their votes were really cleaner.[79]

4.6 Fiddling the final results in Jowzjan

The province that was least affected by the presidential audit was Jowzjan, a largely Uzbek province in the north, where only 2 per cent of the vote was invalidated in the presidential audit. This does not mean that there was little or no fraud, but rather that the province had relatively few blatantly suspicious polling stations or that its suspicious stations contained relatively few votes.

The provincial council election was untouched by the ECC complaints adjudication. Of the complaints lodged with the ECC, only one resulted in an order to invalidate votes – and this one was later revoked.[80] The vote patterns showed few of the obvious symptoms of massive fraud: no suspicious discrepancies between the presidential and provincial council voting numbers, a relatively high proportion of invalid votes in both elections, and

few – although there are some – centres with the tell-tale signs of crude ballot-stuffing and tally manipulation (large numbers of votes per polling stations, large numbers of votes for a limited number of candidates, round numbers, no sprinkling of votes).[81]

What was remarkable in Jowzjan, however, was a mysterious reshuffle in the results with no public record of any ECC or IEC decision underlying the change. While only minor changes were found in most candidate vote counts, one winning candidate lost 1,103 votes (from 3,098 to 1,995), which cost him his seat in the council. The candidate replacing him gained 851 votes. A detailed comparison of the preliminary and final results per polling station shows that all changes can be traced to three polling centres.[82] In Polling Centres 2003054 and 2001031 the votes for Candidate 44 – and nobody else – were removed (respectively 704 and 199 votes). Polling Centre 2005075 accounts for all other changes. Several candidates lost or gained a few votes, Candidate 44 lost an additional 200 (he went from 202 to 2), while Candidate 21 was given 915 votes instead of 64. The polling centre went from one to four polling stations, while the number of votes in the original station changed. It is difficult to imagine a procedure that could have led to such changes.[83] The reshuffle rather seems to point to intentional manipulation at the level of the tally centre, aimed at changing the slate of winners and losers.

5. THE COLLAPSE OF THE SYSTEM

The provincial case studies starkly illustrate how difficult it is – once fraud has occurred, particularly if it was on a massive scale – to penalise perpetrators and to reconstruct the real vote. It is easier to address the problem by preventing large-scale irregularities from happening before they occur, than to rectify them after the fact. This has however also not proven easy. The 2009 fraud mitigation measures largely collapsed as they were flaunted on a large scale, and as the process groaned under the weight of political pressure, patronage relations and local entrepreneurship.

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where the ECC (partially) corrected the count, it seemed to have only checked three candidates in every case, leaving the full correction to the IEC. In some polling stations the corrections seem to have been implemented in the preliminary results, while in others they were implemented only in the final results.

[78] This concerned Candidates 45 and 97. For instance in Polling Centre 308145, Polling Station 03, the IEC cancelled 207 votes for Candidate 45 (he went from 507 to 200) and 290 votes for Candidate 97 (he went from 483 to 290 votes). In Polling Centre 302049, Polling Station 01, Candidate 45 went from 399 to 1 vote. In Polling Centre 303054, Candidate 97 went from 511 to 0 votes, while Candidate 45 went from 500 to 2. Both candidates lost their winning positions as a result of the ECC interventions that uncovered and rectified the tally fraud.

[79] The highest vote getter, Candidate 17, received the bulk of his 6,390 votes in Bagram district (a constituency notorious, during the 2003 candidate selection for the Emergency Loya Jirga, for 'strong man' manipulation). Two polling centres from Bagram were included in the ECC ruling, but the corrected tally – which included Candidate 17 – was identical to the tallies in the preliminary results, making it impossible to see what his original tally, before correction, was.

[80] The ECC ruling revoking the invalidation does not give a reason. One possible reason is that the mentioned polling centre (205067) does not exist. The original ruling may have meant to refer to, for instance, Polling Centre 2004067 or 2005076, but this is not clarified.

[81] Most polling centres that did show suspicious vote patterns were concentrated in Darzab district.

[82] The polling centres in question are 2003954 (Sheesha Khana school in Faizabad), 2001031 (Shakrak school in Shiberghan) and 2005075 (Qawinlin school in Mangajak).

[83] The votes in the original station seem to have been spread over Polling Stations 01 and 02 in the second instance, but not in all cases. It is unclear how Candidate 21 received 313, 151, 236 and 215 votes in four stations, where first he received only 64 votes in one.

5.1 Fraud mitigation

An undated fact sheet on the IEC's fraud mitigation measures, distributed before the 2009 elections, exuded optimism and confidence, stating, 'The Independent Electoral Commission of Afghanistan is implementing a number of anti-fraud measures to protect the integrity of the election process and ensure that election results will be accepted as credible by the people of Afghanistan. . . . There are numerous safeguards built into the system to detect and prevent any attempt at fraud. These have been built on international best practice and specific lessons learned from previous Afghan elections.'[84] The document described four principles on which the IEC's safeguards were built: (1) highest quality materials; (2) strict controls on movement and handling of sensitive materials; (3) procedures which discourage fraud and ensure its detection; and (4) maximum transparency – in particular scrutiny of [sic] observers and agents, as well as journalists – to maximize detection of error or malfeasance and increase confidence.

The IEC failed on at least three counts: It lost control of its sensitive materials; its fraud prevention and detection procedures were not stringent enough, but more importantly, staff at all levels failed to follow them; and principles of transparency were constantly violated.[85] Although the loss of control may have been partially intentional, most was caused by the virtual collapse of the system, brought about by the fact that the fraud mitigating measures were simply not (properly) implemented. In the 2009 elections for instance, procedures for the use of tamper-evident bags, designed to protect the result forms as they travelled to Kabul from the polling stations, were often not followed. In many cases results were turned in either outside the required tamper-evident bags or in bags showing clear signs of tampering. There were so many instances of this that no effort was made to investigate the specific reasons and in most cases the sheets were simply entered into the count.[86]

Better-designed measures do help, in that they remove ambiguity, decrease the likelihood of mistakes and increase the amount of effort required to manipulate the vote. The fraud

mitigating measures for the 2010 elections appear to be better designed and more detailed than they were in 2009.[87] But even procedures that are tailor-made and well-communicated continue to be highly vulnerable to collapse under the current circumstances, as IEC staff at all levels is tempted or pressured not to follow them (properly). How the IEC leadership deals with the (partial) collapse of the system will largely determine the quality of the election.

There are a few factors that have particularly facilitated the loss of control and transparency that plagued the 2009 election. These include the continued absence of an adequate voter registry; the mass availability of voter cards not linked to actual voters, many of which were gathered with the express intent to perpetrate fraud;[88] and – particularly in 2009 – the lack of clarity about which polling centres actually opened on election day. This opened the door to ballot-stuffing and other irregularities on a massive and in some cases highly-organised scale, while the insecurity in large parts of the country precluded effective observation.[89] Finally, the lack of transparency within the IEC regarding its quarantining and audit decisions, made it difficult to monitor final changes in the election results, raising suspicions of malpractice and, in some cases, allowing last-minute manipulations.

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[84] *IEC Fact Sheet on Fraud Mitigation and Detection Measures.* Unreferenced and undated; distributed by ELECT, received on 31 July 2009.
[85] There were also some issues with the materials, in particular with the supposedly indelible ink and the hole-punchers, but this was negligible compared to the elections' other problems.
[86] Email communication with ECC commissioner, August 2010.

[87] IEC, 'Anti-Fraud Measures. 2010 Wolesi Jirga Elections' (briefing paper with limited circulation), 21 July 2010.
[88] See for instance International Crisis Group (ICG), *Afghanistan's Election Challenge*, Kabul/Brussels: Crisis Group Asia Report No 171, 24 June 2009; and Michael Semple, 'Why Buy a Voter Registration Card?', a note circulated on the Afghanistan email list managed by Barney Rubin, March 2008.
[89] The ban prohibiting the media from reporting on security incidents during polling – although only sporadically observed – created additional confusion and appeared calculated to help facilitate claims of implausibly high voter turn-outs in insecure areas. (The Afghan Foreign Affairs Ministry issued a statement on 19 August 2009 requesting 'all domestic and international news agencies [to] refrain from broadcasting any incident of violence during the election process from 6 am to 8 pm on 20 August.' According to the Ministry's statement, Afghanistan's National Security Council made the request 'in view of the need to ensure the wide participation of the Afghan people in the upcoming presidential and provincial council elections.' See http://www.freemedia.at/site-services/singleview-master/4512/. That day, 20 August 2009, was later reported to have been the most violent day since the fall of the Taleban. ISAF reported over 400 individual security incidents.

5.2 Who are the voters and where will they vote?

The absence of a credible voter registry, or any other reliable form of a civil registry, coupled with the lack of effective safeguards against multiple registrations, greatly facilitated the occurrence of electoral widespread irregularities. This was the case since the first election in 2004 and very little has been done to rectify it, despite repeated calls after every election to urgently upgrade the voter registry.[90] The problem of over-registration is by now well-known.[91] The first indications surfaced during the voter registration in the run-up to the 2004 elections, when the total number of distributed voter cards (10.5 million) exceeded the total number of voters (estimated at the time at 9.8 million).[92] This was most pronounced in the east and southeast, where in Nooristan, Khost, Paktia and Paktika the registration reached 140 per cent of the number of estimated voters. At the time the over-registration was thought to have been caused by multiple registrations and, to a lesser extent, the registration of minors.[93] During the registration process in the run-up to the 2005 elections an additional 1.7 million voter cards were distributed. There was a noticeable and implausibly high proportion of female registrations, in particular in the conservative Pashtun areas, which was facilitated by the fact that women were, and still are, allowed to register without providing photographs. Paktika became particularly famous during the 2005 elections as the most blatant case of over-registration, adding almost 160,000 voters to the earlier total of 342,000 (which had already represented 140 per

cent of the estimated total voters in the province). Paktika also had an implausibly high rate of female registration: 46.5 per cent in 2004 and probably between 54 and 57 per cent in 2005 (the exact figure was never released).[94]

The 2009 registration update added another 4.4 million to the total. So Afghanistan went into the 2009 elections with 17 million voter cards in circulation and no indication of how many actual voters this represented. The proportions of female registration were even higher than in 2005. In Nooristan, Khost, Logar and Paktia, respectively 71 per cent, 68 per cent, 66 per cent and 62 per cent of the total registrations were 'female voters', while Paktika still registered 50 per cent women. In places like Kandahar, Farah, Ghazni, Kapisa and Panjshir examples of implausibly high proportions of female registrations in selected districts occurred, but it was not widespread enough to bring the provincial total over 50 per cent. Some northern districts also showed signs of female over-registration, but the number of districts and excess votes was much more limited than in the mentioned provinces.[95] In comparison, in Kabul – clearly the most cosmopolitan province in the country – female registration figures never exceeded 34 per cent.[96]

In the aftermath of the 2005 elections, the assumption was that the additional voter cards had been mainly used to 'proxy-vote', meaning that a single individual would show up at the polling centre with several cards and would, with permission from the polling staff, vote on behalf of other 'voters' who may or may not actually exist. What was much less appreciated was that in many cases, certainly in the 2009 elections, cards were gathered in bulk for the purpose of large-scale ballot-stuffing (for every ballot cast a voter card

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[90] Moreover, the subsequent registration exercises have resulted in different sets of databases that cannot be merged, while the introduction of biometric verification (fingerprint recognition software) was employed in such a way that it has done little to address the problem of multiple registration. Boneo, et al., *Mid-Term Evaluation ELECT*, 24–5 and Annex 3, Additional Notes on Registration (see FN 11).

[91] For an extensive discussion see Richard Atwood, 'How to Tackle Fraud in Afghanistan's South East' (unpublished document), July 2009.

[92] The estimate by UNAMA was an extrapolated figure based on various sources, including the 1974 partial census and estimates of demographic changes. Although the results of the Central Statistic Office (CSO) household listing released in 2007 suggest that the original population estimates had been on the conservative side, a total of 10.5 million registered voters is still highly implausible, indicating considerable over-registration.

[93] See European Union Democracy and Election Support Mission (EU DESM), *Final Report on the Presidential Elections*, 2004, 9-10.

[94] The Joint Electoral and Management Board (JEMB) considered the high percentages of women registering in 'the more-traditional areas of the country … a particularly encouraging trend.' JEMB, *Voter Registration Update Period. End-of-Period Report: 25 June-21 July 2005* . The EU Election Observation Mission was however more realistic: 'Women's participation in the elections was marked by a higher share of female voters (44.4 per cent) compared to 2004. Surprisingly, however, the highest increase in the rates of female registrants took place in provinces which happen to be among the most socially conservative areas of Afghanistan, which may be an indicator of considerable proxy registration in these provinces.' European Union Electoral Observer Mission (EU EOM), *Final Report on the Parliamentary and Provincial Council Elections*, 2005, 2.

[95] Personal communication with international analyst, July 2009.

[96] JEMB and IEC registration figures for 2004, 2005 and 2009.

number must be entered onto a list). Multiple testimonies have been given of ballot-stuffers who, once they ran out of voters cards while stuffing the boxes, made up voter card numbers (and were in some cases found out).[97] The gathering of voter cards in bulk is, incidentally, not necessarily a centralised exercise in favour of a certain candidate or interest group. It is a popular practice of local entrepreneurs who, in a fashion similar to the political brokers discussed in AAN's 2009 pre-election report, offer their resources to the highest bidder.[98]

The voter registration exercise in the run-up to the 2010 election, however, was designed to be a more-limited exercise than in previous years, in a deliberate attempt to maintain a greater level of control. This resulted in the distribution of an additional 400,000 voter cards, amid considerable clamour by politicians and community leaders that their constituencies were being disenfranchised.[99] The IEC has based its 2010 operational planning on an estimated 12.5 million eligible voters. With a total of 17.5 million voter cards distributed over the years, an excess of voter cards possibly numbering several million is in circulation. The potential for irregularities and attempted irregularities, whether on a small or a large scale, presents an immense strain on the IEC's fraud-mitigating measures. The incentive to use these cards – to manipulate electoral outcomes, outsmart rivals, wield influence or simply make money – are huge, as are the pressures and temptations that IEC staff is faced with, often in very faraway places.

5.3 Where are the polling centres?

Where earlier elections had their share of ambiguity, the 2009 elections were the most extreme in that there was a total lack of clarity on which polling centres had physically opened on

election day and which had not. There was as a result no information available, during the count and complaints process, on which polling stations were quarantined, excluded or annulled.[100]

The worsening security situation in 2009 and the fact that the final list of polling centres remained fluid up to, and even after, polling day resulted in a total loss of control over where the ballot boxes went and what happened to them once they were released, particularly in less-secure areas. In the run-up to the elections the IEC requested the national security organisations (Ministry of the Interior, Ministry of Defence and National Directorate of Security) to help finalise the list of planned polling centres by indicating which centres they would be able to secure. The failure by the security agencies to provide this information in time meant that the IEC was recruiting staff and sending out electoral material, without knowing whether the polling stations in question could or would actually open (or how this would be decided and communicated). Whether intentional or accidental, this provided enormous scope for manipulation and ambiguity.[101] During polling, the

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[97] Author's interviews with relatives of IEC staff who were involved in ballot-stuffing – sometimes under duress, August-September 2009.

[98] 'The term political broker is used to describe any person who acts (or seeks to act or is seen to act) as an intermediary representing a certain constituency or vote bank, which they claim or are believed to control. Such constituencies can be a tribe or sub-tribe in a certain area, a political party or mujahedin network, a village, but also a trade union, a women's council or a group of students.' See van Bijlert, *How to Win an Afghan Election*, 13 (FN 8). In this case the 'constituency' is represented by a bag or trunk full of voter cards.

[99] See Fabrizio Foschini, 'An Update on Voter Registration' Afghanistan Analysts Network, AAN blog, 15 August 2010, http://www.aan-afghanistan.org /index.asp?id=984.

[100] See also the OSCE/ODIHR Election Support Team, *Final Report 2009*, 46 (FN 5): 'while the IEC stated that there were 23,960 polling stations certified as open, the OSCE/ODIHR EST analysis of the IEC website found results for only 21,004 stations (i.e. 2,956 polling station results were missing). Of those published, 1,081 polling station results were without data. In total it seems that 4,037 polling stations results were missing, leaving results for only 19,923 stations. . . . The IEC initially stated that 26,162 polling stations opened on election day in 6,289 polling centres, but upon confirmation of the final results, the IEC declared that only 23,960 polling stations were certified as open in 6,167 centres. The reasons for this difference of 2,202 polling stations have also not been explained.'

[101] See OSCE/ODHIR Election Support Team, *Final Report 2009*, 37 (FN 5): 'The delays in 2009 in reaching agreement with security agencies on which polling centres would open resulted in confusion, a lack of accountability and transparency, and a loss of ballot control by the IEC in many parts of the country. This opened opportunities for fraud, brought allegations of ghost polling stations, and damaged public confidence in the process.' UNDP ELECT blamed poor planning and procrastination by security forces and IEC senior management, while suggesting possible deliberate attempts to facilitate fraud: 'The delay appeared to be caused by sheer procrastination or indecision on the side of security forces. Moreover, it became apparent during polling centre planning for a possible runoff that IEC senior management could have been complicit in delaying the finalisation of the polling centre locations' (UNDP ELECT, *Annual Progress Report 2009*, 9) and 'The security forces indicated they could secure all locations and had to be pushed for a more realistic assessment – either they did not want to admit for political reasons,

lack of a final list provided the opportunity, particularly in insecure areas, for so-called 'ghost polling centres' (centres that never opened) to return results (and usually in very large numbers). In some cases the ballot boxes never left the provincial or district centre, while in other instances they were transported elsewhere, after which they returned full.[102]

In the run-up to the 2010 elections the IEC seemed intent to not lose control in the same way again. It did not delegate the decisions on which stations would open and pushed the security agencies for an early release of their list of 'unsecurable' stations. The final list of polling centres – although still subject to additional last-minute closures – was finalised and publicly released a month before the elections.[103] The transparency and clarity provided by the publication of the list was an important step towards greater control by the IEC, observer organisations and the general public. It made it more difficult for gross irregularities to take place and to go undetected in a haze of ambiguity, but it will not prevent irregularities from taking place at all.

This is particularly the case given that the IEC is treading a fine line between, on the one hand, limiting the number of badly monitored ballot boxes by decreasing the number of planned polling stations in insecure areas and, on the other hand, safeguarding voter enfranchisement, as well as a balanced spread of polling centres. The two are only partially compatible, which means that the IEC will probably keep certain polling centres open for reasons of balance in areas where the security situation suggests they should be closed. Additionally, powerful candidates and their backers will exert considerable pressure to maintain and increase the number of polling stations in their constituencies.

5.4 Which boxes are quarantined (and which ones will be released)?

Decisions surrounding the quarantining and de-quarantining of ballot boxes (the process by which votes are removed from or released back into the count) are crucial in upholding the integrity of any

election. Manipulation here can undo all other fraud prevention and mitigation measures, while a lack of transparency can feed perceptions of illegitimate last-minute interventions.[104] In Afghanistan the quarantining process has been highly problematic in every single election.

During the 2004 and 2005 elections, votes were gathered and centrally counted (respectively at the regional and provincial level). Quarantining decisions were made locally by the electoral staff, based on visual indications of fraud, such as improperly folded or neatly stacked ballots and discrepancies between the number of ballots on the forms and in the boxes. Quarantining practices were not very robust. While no clear quarantining guidelines were formulated for the 2004 elections, during the 2005 elections the guidelines were regularly ignored and at some point altered in order to decrease the proportion of quarantined polling stations.[105]

During the 2009 election the count took place at the polling station and was done by the polling

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that they were not in control of significant parts of the country, or were directly complicit in lining up the process for fraud. . . . Security forces insisted on polling centres opening that could not be secured and where fraud eventuated' (UNDP ELECT response to Mid-Term Evaluation Report, November-December 2009, 11).

[102] For more details see van Bijlert, *Polling Day Fraud* (FN 34).

[103] The lists can be found online here: http://www.iec.org.af/eng/content.php?id=4&cnid=53.

[104] See also van Bijlert, *How to Win an Afghan Election*, 23 (FN 8): 'Transparency with regard to the decisions to quarantine or release results will be key to battle the perception of undue interference and manipulation. . . . What needs to be avoided at all costs is a repeat of the 2005 experience where, in the absence of clear guidelines and proper checks, the processes of containing and releasing suspicious votes was vulnerable to arbitrary decisions and manipulation.'

[105] In 2005 there were clearly defined 'levels of tolerance' for the quarantining of ballot boxes (a discrepancy of 10 between ballots cast and voters recorded) which had been absent during the 2004 elections, but these were increased (to 20) by the JEMB, once it became clear how many polling stations would be affected. Additionally, observers recorded the regular release of 'suspect' boxes back into the count without proper audit. The JEMB finally audited 878 polling stations, out of which 746 were excluded (approximately 2.8% of the country-wide total). In eight provinces the number of exclusions exceeded the nation-wide average: Paktika (28.6%), Kandahar (8.9%), Nangarhar (4.6%), Helmand (4.1%), Uruzgan (3.6%), Laghman (2.9%), Ghazni (2.9%) and Badghis (2.8%). In Kabul a whole district – Paghman – was quarantined due to strong indications of large-scale ballot-stuffing, although in the end only 62 of the 120 polling stations were excluded. Irregularities included obvious ballot-stuffing (297 polling stations) discrepancies beyond the 20-ballot margin (182 polling stations), and missing documentation which made the ballot boxes unidentifiable. EU EOM, *Final Report* 2005, 30-1 (see FN 94). There is no (complete) data available on the number of quarantined polling stations per province in 2009, but it is clear from the ECC rulings and IEC audits that the areas that were problematic in the past, were again in 2009. The pattern can be expected to be repeated in the upcoming vote of 2010.

staff themselves, which meant that all quarantining decisions were made in Kabul after the initial count, based on the findings during the tally process. The IEC had pre-identified triggers, which were not publicly available, indicating suspicious vote results. During the count several of these triggers were dropped when it appeared – as in the 2005 elections – that the number of polling stations hitting the trigger thresholds was higher than anticipated. New benchmarks identified only the most extreme cases (polling stations where more than 1,000 ballots were cast, polling centres where more ballots were used than had been issued and polling centres where results were reported despite never having opened).[106] In total 646 quarantined boxes were referred to the ECC; the boxes were not included in the preliminary count and in the end most of them were ordered invalidated.[107]

The lack of clarity on the number of open polling stations meant that the count became highly fluid.[108] This created a reservoir of polling stations

of ambiguous status that could be included and excluded from the counting process, with no transparency on what was happening and why, and that – once released – had the potential to undo the ECC rulings and sway the previously announced preliminary results. This happened on a very large scale in Kandahar, Ghazni and Paktika, although the general lack of transparency and level of confusion allowed this to go almost unnoticed. It is yet unclear what happened in the other provinces.[109]

The IEC has not released any information in the run-up to the 2010 elections on how it intends to deal with the quarantining and de-quarantining processes or how it plans to document and communicate its decisions. However, its determination to maintain control over the list of planned polling stations and the increased transparency and timeliness with which this information has been publicly shared, sets the stage for possible greater transparency and clarity with regard to the status of all polling stations.

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[106] Initially the results of these polling stations were annulled by the IEC, but the decision was reversed on 8 September and the polling stations were quarantined instead and referred to the ECC for further investigation. See OSCE/ODHIR Election Support Team, *Final Report 2009*, 40, 42 (see FN 5) and 'IEC Press Release on Announcement of Presidential Election Partial Results' (8 September 2009). The IEC argued that because the electoral law does not explicitly provide the commission with powers of annulment, it should defer such decisions to the ECC – a position which most electoral experts agree is technically not correct.

[107] The 646 polling stations included 57 with more 1,000 votes, 41 with more ballots cast in that polling centre than had been issued to the centre, 51 that reported results despite not having opened on polling day, and 497 that had been quarantined by the IEC. The ECC ruled that in total 18 polling stations could be released into the count. See 'ECC Order Regarding IEC Quarantined Ballot Boxes' (18 October 2009). It was never made explicit whether the IEC decision included only presidential votes or also provincial council ones, but later ECC communications suggest that no provincial council ballot boxes had been included.

[108] The issue was flagged early on by Democracy International in the presidential vote: 'Also of concern is the diminishing number of polling stations being reported by the IEC. Since August 31, the IEC has held three press conferences to release preliminary results. Over that period, the total number of polling stations has decreased by 2,443. It is unclear what this number represents. While it may simply represent the IEC's discovery of polling stations that did not in fact open on Election Day, it could also include polling stations where the IEC has annulled results or polling stations which the IEC is conducting investigations of, in which case the number of total polling stations may actually increase at the end of the investigative process. An explanation

from the IEC which addresses this ambiguity would be welcome.' See Democracy International, 'Focus Shifting to ECC Ordered Audit' (9 September 2009), http://democracyinternational.com/afghanistan/?cat=75. The IEC has recently posted two documents on its website, dated 21 January 2010, listing 412 polling stations as quarantined by the IEC and disqualified by the ECC, and 147 polling stations as disqualified as a result of ECC decisions on complaints. The documents however do not provide further details and they do not specify whether disqualifications took place in the presidential or provincial council vote. The documents can be found here: http://www.iec.org.af/results/pdf/presidential_reports/20091021_PollingStations_QuarintinedAndDisqualified.pdf and http://www.iec.org.af/results/pdf/presidential_reports/20091021_PollingStations_Disqualified_ByECCBasedOnComplaints.pdf.

[109] Table A.2 provides an overview of the discrepancies between the preliminary and certified results per provinces (counting only the valid votes). Note that in six provinces, the certified results are higher than the uncertified results, although in several cases only slightly. In three of the six provinces where the ECC did not order any invalidation of polling stations (Balkh, Bamyan, Farah, Khost, Uruzgan and Wardak) the vote still changed between the announcement of the final preliminary and the final certified results. Balkh's valid vote total increased by 31, which is negligible but unexplained. Bamyan's valid vote total increased by 1,390 votes; 1,016 of the additional votes are attributable to a recount in one polling centre ordered by the ECC, but it is unclear where the remaining 374 votes came from. The valid vote in Wardak increased by 1,755 votes, with no ECC ruling underlying the change – although it did not seem to have changed the slate of winners.

6. WHO CONTROLS THE VOTE?

6.1 The uphill task of upholding procedures

It has proven practically impossible for the electoral authorities and their advisers to uphold procedures that are designed to track and address fraud, when faced with a virtual collapse of the system. In the 2009 election, the IEC leadership caved in, under strong pressure from the executive, when it started receiving many more unacceptable results than it was prepared to disqualify or acknowledge. It found common cause, at least initially, with international donors, who wished to keep up appearances of a 'credible, secure and inclusive' vote – until that could no longer be maintained. In the wrangling that ensued, the IEC implemented some of the ECC rulings, but at the same time allowed new manipulations to take place inside its own electoral administration.

The new IEC leadership has since tried to regain its hold over the main electoral processes. The measures it has taken are sound. It has sought to insert clarity and realism with regard to which polling centres are scheduled to open and which are not; it has improved and tightened its fraud-mitigating measures; and it has sought to limit the number of additional voter cards released into circulation (although it could do little about the 17 million that had already been distributed). It is however trying to regain control in the face of widespread preparations by candidates and their backers, as well as local IEC staff, to again participate in the whole range of electoral irregularities. It is also doing so in the context of powerful actors and networks, who have invested heavily in the candidates of their choice and who are not planning to accept defeat. And it is doing so in the context of a severely deteriorating security situation and the prospect of widespread manipulated violence by candidates who wish to capture the vote or to undermine their rivals' chances.

Elections in Afghanistan have thus firmly become a competition over who controls the process. The IEC, despite the improvements, still plays an ambiguous role, being both an actor and a subject – part protector, part perpetrator, part collaborator, part victim. The 2009 provincial case studies illustrate how the competition has played out at different levels, with last-minute manipulations taking place at the heart of the electoral administration. The main question therefore is not how well the IEC leadership has prepared itself or how articulate it is in stating its intentions, but rather how it will perform under the many forms of pressure it is under. It will be particularly important to see how the IEC leadership reacts to any (partial) loss of control, which will certainly take place despite all best efforts, and whether its reactions will be robust, transparent and consistent. It remains to be seen to what extent the IEC is able – and willing – to hold together its own apparatus and, if it does manage to retain a level of effective control, whether it will use it to interfere in the process.

An ECC, differently composed to the current one, managed to largely withstand the pressures during the 2009 vote and uphold its procedures – at least at the central level. The invalidation of fraudulent votes and the sanctioning of electoral staff involved in misconduct was an important step towards greater accountability. It was however insufficient to restore general confidence in the process. A lack of understanding among candidates and voters on how decisions were taken meant that the ECC's actions were often viewed as having been partial and individually targeted, rather than based on rules guiding the adjudication of complaints, that were the same for everyone. The fact that complaints were unevenly spread (in some districts there were almost none, despite widespread irregularities) and of varying quality, meant that the ECC rulings often resulted in somewhat random outcomes – as demonstrated in several of the provincial case studies. This however does not cancel out the fact that the determination of the ECC at the central level to fulfil its legal mandate in the face of political pressure, provided an important precedent.

There are indications that the new ECC leadership does not want to play the high-profile role in the upcoming votes, that it did in the 2009 elections. This position is exacerbated by the ECC's changed structure, which delegates greater authority to the provincial level. The new structure will alleviate the workload at the centre, but risks resulting in a loss of control similar to that which the IEC suffered, with local staff simply not implementing the agreed procedures. The new structure may also undermine the ECC's track record for transparency, as it allows most decisions to be dealt with at the local level, by local representatives, and probably without being publicised.

The complaints process, complemented by ECC-initiated investigations, is potentially an important tool in ensuring that the electoral process does not simply become a competition in manipulation. However, considerable scope for improvement exists, in particular with regard to the quality (but also the veracity) of the complaints. A more

effective mobilisation of local observers and candidate agents to gather usable data during the count could facilitate the monitoring of vote results as they are posted on the internet and, if necessary, the submission of well-researched complaints. Candidates should however also understand that manipulation of the complaints process, by submitting fabricated data, can be uncovered and penalised – as happened in many cases after the 2009 vote. Observer organizations and election-support missions may want to consider actively tracking individual complaints as they pass up the chain within the ECC and on to the IEC for implementation, particularly if they are submitted at the provincial level.

6.2 The role of observers and what to watch for

International observation during the 2010 elections will again be limited, which adds to the strain on the over-stretched domestic observer organisations. The main multilateral delegations have opted for the 'election support' variant rather than the regular election-observation mission, mainly so they can avoid making public statements about the quality of the elections. This more limited role, coupled with the expectation that fraud will take place, should however not detract observers from flagging specific incidences of gross manipulation or misconduct, whether conducted by the IEC and ECC, or by candidates and their backers, and whether initiated from inside or outside government. It is the silence, or late and muted reactions, of international observers that has often most confused Afghan voters. Domestic observer organisations also expect to be backed up by their international counterparts when speaking out against irregularities and abuses.

The current report, together with various other analyses, illustrates that a wealth of information is publicly available, as the election results are posted on the internet, and that it is worth investing human resources in conducting detailed reviews of result patterns and trends, as well as more sophisticated statistical analysis (which of course does not replace the need for interviews with those directly involved). Variables to watch out for – particularly in combination – include implausible proportions of round numbers, implausibly high turnout, remarkably low proportions of invalid votes, high proportions of female votes in conservative or insecure areas, and the absence of a normal sprinkling of votes, including (almost) all votes going to single or very few candidates.

Processes to watch include the distribution of polling centres and the number of ballots allocated (as this determines the maximum number of votes that can be won in a certain area); the level of controversy and confusion surrounding which polling stations have opened and which are reporting results; quarantining and audit criteria, as well as any changes to the results data; the extent to which decisions and interventions are transparently communicated; and the complaints process, including the extent to which the provincial electoral offices are considered credible. An important focus for political analysis in the 2010 election on how the various government-linked (and other) networks do indeed try to orchestrate the victory of handpicked candidates and, more importantly, to what extent they will succeed.

Finally, the events of the 2009 election have convincingly demonstrated that it is crucial for observer and election-support missions to follow the electoral process until the very last stages (and beyond). Some of the most decisive irregularities take place at the end, when the struggle for control reaches its climax, and are often only traceable after the final data has been released.

6.3 How bad will it be?

All candidates and most voters are aware of the growing role of fraud in Afghanistan's elections. Despite the ECC's best efforts, the uneven invalidations and the release of quarantined ballot boxes in 2009 meant that most of the candidates who won seemed to have done so through some form of manipulation, as was illustrated in the provincial council results data. Many of this year's candidates will have been persuaded that this is the real competition they need to enter.

Fraud is likely to be widespread and messy. Even though a parliamentary contest does not require a candidate to win with a large margin, the mass availability of additional voter cards that can easily be used by rivals, and the risk of losing large numbers of votes through disqualification, will probably prompt many candidates to try to secure an exaggerated number of votes. Many of them, having learnt from the 2009 controversies and audits, will try to ensure that the fraud is less blatant and less easily detectable. This may make the process look more controlled and less flawed, but it will not fundamentally change the way many voters view the elections – as a competition between strongmen and manipulators. In areas where the contest is fierce and where supporters have engaged in mass ballot-stuffing before, the fraud is likely to again be blatant, unsophisticated and widespread. There will, on the other hand, also be some real voting, particularly in the more secure areas of the county, with some candidates

getting elected into Parliament on the strength of their reputation and local backing.

Indications are strong that the president's entourage has been mobilising influential powerbrokers and government officials, in an attempt to arrive at a more pliable parliament. It is by no means certain that they will be able to monopolise the vote, as many of the other serious candidates are equally preparing to hijack the local elections – whether through fraud, violence or more benign forms of mobilisation. Moreover, many of the government-linked personalities will probably be working in opposition to each other. The use of government offices and attempts to pressure the electoral administration to interfere on behalf of certain candidates, however, will continue to seriously undermine the credibility of the vote and the people who win it.

Annex. Additional tables

Table A.1
Votes removed in the presidential election per province

Provinces	Valid votes in the preliminary results	Number of votes removed*	Percentage of the preliminary valid votes removed
Paktika	212,405	187,961	88.5
Nooristan	64,593	53,291	82.5
Kandahar	252,866	181,083	71.6
Paktia	229,660	153,974	67.0
Khost	116,261	73,204	63.0
Helmand	134,804	69,318	51.4
Farah	90,334	46,201	51.2
Ghazni	291,956	135,655	46.5
Badghis	126,348	56,265	44.6
Nimruz	53,812	22,195	41.3
Kunar	117,319	40,986	34.9
Wardak	66,998	22,808	34.1
Laghman	103,865	31,945	30.8
Kapisa	64,670	18,228	28.2
Ghor	279,611	77,347	27.7
Logar	51,909	13,987	26.9
Uruzgan	32,080	8,434	26.3
Zabul	15,700	3,887	24.8
Kabul	527,685	100,614	19.1
Baghlan	175,993	33,525	19.0
Herat	435,803	73,835	16.9
Faryab	221,793	37,242	16.8
Samangan	113,462	16,249	14.3
Nangarhar	369,456	50,888	13.8
Sar-e Pol	119,219	13,009	10.9
Panjshir	44,850	4,750	10.6
Daikondi	148,915	15,200	10.2
Balkh	297,557	20,333	6.8
Bamyan	125,208	8,186	6.5
Kunduz	93,334	5,967	6.4
Badakhshan	232,485	14,388	6.2
Parwan	102,775	5,787	5.6
Takhar	233,363	4,808	2.1
Jowzjan	115,669	2,342	2.0

* This figure was calculated by determining the discrepancy between the preliminary and final presidential results per province.

Source: www.iec.org.af (calculated by using the uncertified and certified presidential results per province)

Table A.2
Discrepancies between the uncertified and certified provincial council results per province

Province	Uncertified result (valid votes only)	Certified result (valid votes only)	Discrepancy	Discrepancy (as percentage of the uncertified result)
Kandahar	247,040	266,744	19,704	+7.98
Wardak	64,640	66,395	1,755	+2.72
Zabul	14,997	15,363	366	+2.44
Paktika	192,786	197,330	4,544	+2.36
Bamyan	122,872	124,262	1,390	+1.13
Balkh	280,072	280,103	31	+0.01
Nooristan	60,707	26,368	-34,339	56.57
Laghman	103,262	87,342	-15,920	15.41
Faryab	227,816	205,452	-22,364	9.82
Logar	49,656	45,201	-4,455	8.96
Kapisa	67,644	61,600	-6,044	8.94
Paktia	225,965	205,901	-20,064	8.88
Kunduz	98,594	89,979	-8,615	8.74
Panjshir	42,213	38,895	-3,318	7.86
Nimroz	29,401	27,192	-2,209	7.51
Parwan	105,352	98,049	-7,303	6.93
Nangarhar	361,343	339,293	-22,050	6.10
Kunarha	115,417	109,673	-5,744	4.98
Samangan	119,372	113,647	-5,725	4.79
Ghor	279,403	269,038	-10,365	3.71
Baghlan	177,570	171,174	-6,396	3.60
Badghis	123,158	118,912	-4,246	3.45
Takhar	242,072	234,235	-7,837	3.24
Helmand	126,541	123,842	-2,699	2.13
Herat	425,853	414,322	-11,531	2.71
Daikondi	150,171	148,777	-1,394	0.93
Kabul	437,498	433,953	-3,545	0.81
Badakhshan	234,122	232,978	-1,144	0.49
Ghazni	281,741	281,118	-623	0.22
Jowzjan	117,442	117,240	-202	0.17
Sar-e Pol	119,968	119,805	-163	0.15
Farah	89,253	89,253	0	0
Khost	108,751	108,751	0	0
Uruzgan	28,326	28,326	0	0

Source: IEC final uncertified and final certified results in the 2009 provincial council elections

ABOUT THE AFGHANISTAN ANALYSTS NETWORK (AAN)

The Afghanistan Analysts Network (AAN) is a non-profit, independent policy research organisation. It aims to bring together the knowledge and experience of a large number of experts to inform policy and increase the understanding of Afghan realities.

The institutional structure of AAN includes a core team (currently consisting of three senior analysts) and a network of regular contributors with expertise in the fields of Afghan politics, governance, rule of law and security. AAN will publish regular in-depth thematic reports, policy briefings and comments.

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