



Elections 2014 (39): Has Kerry saved the day?

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The full, 100 per cent audit decided on in the ‘Kerry agreement,’ reached late on 12 July 2014, will start tomorrow. It will be the first step in trying to steer Afghanistan out of its presidential elections crisis. The two candidates, Dr Abdullah and Ashraf Ghani both agreed to abide by the results, with the winner establishing a ‘national unity government’. This term was not defined in the agreement and AAN has already found different interpretations of it – which may store up trouble for later. However, at least for now, there is just an overwhelming sense of relief, not surprising, reports Kate Clark, given that, last week, there had been no workable Afghan solutions left on the table and threats to launch a parallel government (with input from Obaid Ali and Borhan Osman).

Weeks of discussions on the nature of a [more extensive audit](#) of the second round of voting in the Afghan presidential election had led only to continuing deadlock. The two candidates were involved in a bitter dispute, which UNAMA had attempted to mediate, over what should trigger an audit (599 or 595 votes out of a maximum 600 in any one ballot box? etc). They were concerned with how many polling stations and votes would be affected, whether any audit would impact one candidate more than the other and whether it would delay the inauguration of the new president (set for 2 August 2014). Dr Abdullah had already withdrawn his agents from the two electoral commissions in protest at alleged “industrial-scale” fraud, and it was unclear whether a deeper audit would bring him back on board or whether, as Ghani supporters claimed, he would keep escalating his demands to delay facing defeat. The [announcement of preliminary results](#) on 7 July 2014 triggered further crisis with some leading Abdullah supporters voicing their desire to set up a parallel government. Now, all this has been swept away with the



new agreement.

The bones of the deal

In a late night press conference on 12 July 2014, following two days of intensive negotiations, the agreement was [announced](#) by United States Secretary of State, John Kerry, the two candidates, Dr Abdullah Abdullah and Dr Ashraf Ghani, and the Special Representative of the United Nations Secretary General, Jan Kubiš. They outlined how there would be a complete audit of all polling stations and all eight million votes. It will take place in Kabul (not in each of the 34 provincial capitals, as in the original Independent Election Commission (IEC) scenario), with ISAF charged with ensuring ballot boxes are brought, in safety and un-tampered with, from the provinces. Kerry said:

The auditing will be internationally supervised in the manner proposed by the UN Assistance Mission. The candidates' campaigns will each provide joint oversight of the audit in accordance with UNAMA proposals, including access by candidates' agents to the ballot boxes under ISAF and Afghan security force supervision... this audit will be conducted in accordance with the highest international standards.

Kerry also said that President Karzai, with whom he appeared in a [separate press conference](#) later that evening, had agreed to “move” the inauguration date in response to requests by the candidates and UNAMA for a delay. (AAN was told by a senior member of one team that the inauguration might take place around 20-25 August.) However, this was not just a technical deal – on the nature of the audit – but also a deeply political one, as Kerry made clear:

Finally, with respect to national unity, both candidates have agreed to abide by the results of the audit and that the winner of the election will serve as president and will immediately form a government of national unity.

Compromises all round

The various Afghan players have all had to make concessions and even U-turns. Ghani has agreed to a delay in the election timetable, which he had strongly resisted, and to the renewed scrutiny of a ‘victory’, which seemed almost in his grasp. Abdullah, who claimed he had actually won the first round outright and who had boycotted the post-second round count and audit, has agreed to re-engage with the electoral process.

Karzai, starting immediately after the 2009 polls and mainly by ‘Afghanising’ the country’s electoral institutions, has strenuously tried to keep what he has seen as ‘international interference’ out of this election and forge on with the timetable to hand over power to his successor on 2 August. He has had to accept delay in the timetable and face the need for the foreigners to come to sort out the mess after the Afghan process failed. In his press conference with Kerry, he couched his acceptance of UN help as a response to the demands of the candidates and did not actually spell out his consent to delay the inauguration. Nevertheless,



Kerry made it clear he had agreed to this.

Strong international pressure was also put on the two electoral commissions to agree to the audit; the IEC had claimed its work was done [last week](#) and both commissions have been carrying on as if Abdullah's boycott did not exist, a particular problem for the IECC, given that its complaints procedure is adversarial; with one side absent, it just took that as a withdrawal of the complaint. The head of the IECC, Abdul Satar Saadat, had been [complaining](#) about the UN's "interference" and calling for the electoral process to be wrapped up according to the law. (1) Appearing at a press conference the day after the agreement (13 July 2014) with Jan Kubiš and the heads of the technical teams of the two campaigns, Daud Sultanzoi (Ghani) and Fazl Ahmad Manawi (Abdullah), he sounded humbler. He said he was happy the impasse had been broken with the "help of the UN and international friends" and promised to deal with the complaints in a serious manner.

IEC chairman Yusef Nuristani, speaking at the same press conference, said they had organized 100 teams which together should be able to audit 1000 polling stations every day. All stations (a little fewer than 23,000), would, he said, be audited in three weeks. They had planned to start the audit today (14 July), but as not all members of the teams were trained, there would be a slight delay. Kubiš said the chief electoral adviser to the UN Secretariat General was in Kabul and would stay for ten days, despite currently observing seventeen elections world-wide.

So the various players in the Afghan election have all finally sought the refuge of compromise under international cover. Some of the details of the deal are now coming out. UNAMA has [published](#) its proposals for the audit – which need to be agreed to by the candidates (see footnote (2) for a transcript). They include an "enhanced" audit checklist, so that IEC staff will look for ballots obviously similarly marked, boxes which have been obviously tampered and observers and party agents which have registered results which "require special scrutiny" (eg significant differences between first and second round tallies). The one aspect of the deal that is still ambiguous is also probably the most crucial: what is meant by a 'national unity government'?

What is a 'national unity government'?

At the press conference on 12 July 2014, Abdullah largely spoke about the audit. On the national unity government, he said only that they had a "framework". Ghani was more expansive, tying it into a speech on the day of his candidature's registration when he promised to turn his back on the "politics of exclusion", but rather form an "inclusive administration". He said:

So the government of national unity will provide the assurance that we will work together. We have agreed on the general framework, and you will have the details in a spirit of mutual trust and cooperation because politics is not a commercial transaction. Its essence is based on building your trust, and we will do our utmost to build mutual trust so mutual trust can be established between every Afghan across this beautiful land, of course.



Although it is widely assumed that a national unity government would involve the inclusion of members of both teams into the next government, obvious questions remain, as to what that would look like: will the winner get to unilaterally appoint members of the losing team or will the losing team have the right to nominate certain people for certain positions or even have a quota? Have the teams agreed on numbers of ministries, governorships and other positions that each would get if the other wins?

AAN has spoken to members of both teams and got very different answers as to what they think will happen. Abdullah spokesman, Fazl Rahman Orya, said the agreement meant, “there would be no loser, as well as no winner” and that both teams would have an active role in the next government. Another Abdullah spokesmen, Abdul Jabbar Shilgari, said:

The agreement is very generic. The details have not been spelled out, but mainly it says that whoever is the winner, supporters of the other party should also be represented in the government and at all levels – whether ministries or independent directorates or governors.

Sardar Muhammad Rahimi (a Muhammad Muhaqqiq supporter who speaks on behalf of the Abdullah team) said, “The power will be divided between the winner and loser 50/50. In fact, it is a kind of coalition government under the name of national unity government.” The most specific details to come from this side were from Muhaqqiq, Abdullah’s second vice presidential candidate, who [told the BBC](#) the winner would become the president, while the loser would be the “chief of the executive council” (*ra’is shura-ye ejra’i*), a position that so far does not exist. He also did not detail what powers the holder of this post would have, but said that, after two years, the constitution would be amended it would be transformed into a prime ministry. Both teams had already said they wanted a constitutional loya jirga to assess the various reforms that might be needed after more than a decade of the current constitution. One of Ghani’s leading team members (speaking off the record) had told AAN that:

In two years, there will be a loya jirga and there are two to three issues which Dr Ghani is also interested in. One is having a prime minister. It would be an executive prime minister, lower-ranking than the president, as we had under the king.

Generally, Abdullah’s people spoke about what the losing side would get when discussing the national unity government, with one exception: the head of his political team, Mahmud Saikal, was more thoughtful about the implications of a national unity government – what it would mean for democracy, the role of the opposition and the nation. He also spoke about the need for inclusion, in terms of encouraging all those with talents to be part of the government, rather than driving them away – as he said Karzai had done. In this, he said a lot of the same things as Ghani team members.

Ghani spokesman, Mu’in Mrastyal, said the losing side would “introduce its nominees for governmental posts based on capacity, ability, qualification and expertise.” However, they would not have the right to particular posts. “This,” he said, “is the major difference between a coalition government and a national unity government.” A senior Ghani team member, speaking



off the record, said appointments could not be tokenistic, but would have to satisfy both camps. Another differentiated between Ghani's type of inclusive government and the idea of 'national unity' promoted by Karzai whom he said had appointed 'representatives' of *tanzims* or ethnic groups to posts, regardless of their abilities:

With Karzai, a few people had the power of patronage and certain ministries et cetera always went to certain groups. The benefactor benefitted. It meant there was only a very limited pool of people to choose from and it was done in complete disregard to national needs.

Another senior member of the team, again speaking off the record, talked about the philosophy behind the idea of a national unity government:

First, a principle was agreed: the winner does not take all. There will be a winner after the audit. However, he has committed himself to include the other side, to embrace the other side... Secondly, according to democracy, there should be a winner and an opposition. This is natural. With a government of national unity, however, both winner and loser need to cooperate, even though one has lost and the other won. They remain competitors, but need to get together for the sake of national interests – stability, security and so on. The loser will not destabilise the government. He may criticise, but he will not try to destabilise. This is my understanding.

Compare this to Saikal's thoughts:

This country cannot afford to have a political opposition completely isolated from governance. Why? Because... we need whatever talents we have in this country to give it a good push to go through this sensitive transition successfully, in order to make sure the country goes towards democratisation and systematisation and rule of law.

When asked whether they wanted a prime ministry established, he said, yes, it had been part of their campaign. Once, the fraud was dealt with (a pre-requisite, he said, for national unity) and they had the results, the next question would be the position of the runner up.

He has already gone through the democratic process and... brought a considerable percentage of votes. He will not just be another political faction, but a significant political entity, so how do we treat this? Should we have a legitimate political opposition? I personally feel it is important to have a legitimate political opposition – so there is not a monopolisation [of power]. Karzai gave more respect to the armed opposition than the political opposition. He never used the phrase, 'leader of the opposition'. So it will be important to have a leader of opposition. And he could sit down with the president and discuss how to put together a national unity government. Some say forget about the leader of the opposition, but I think it's important. While we're in this phase of history.

Both the senior Ghani team member and Saikal were not clear, then, about the demarcation between 'leader of the opposition' and member of the government. Much is still to be discussed. According to Saikal "the two doctors" would be meeting to further discuss this issue



and he thought a joint task force would also be needed to hammer out the details.

It is clear that the nature of the 'national unity government' was not spelled out in the weekend's talks. Abdullah spokesman Shilgari said this was because "the time was very short with Kerry." The lack of clarity, and the different interpretations of the two teams, and possibly within the teams, looks like one potential crack in this agreement, although the tone from both camps is, for now, one of goodwill. Moreover, both camps are now tied in to this deal.

Getting an understanding of the run-off

The emphasis on the audit, its comprehensiveness and the international support behind it means there should be genuine attempt to clear up actual from fraudulent (or, as many Afghans put it, 'white' from 'black') votes. Bearing in mind that clearing up a messy election after the fact is always difficult, trying to get a sense of what happened on 14 June, with the help of the audit, is important as part of the process of producing a winner with legitimacy.

This has been a difficult election to read. The [minimal auditing](#) of the first round by the IEC, the poor quality of the teams' complaints and the [superficial way](#) the IECC dealt with them, meant the first round results were hurried through. Statistical analysis (for example [here](#), suggests fraud had taken place in favour of both of the candidates who made it through to the run-off, as well as others). Some reporting on the ground, including from AAN (see [here](#), [here](#), and [here](#) looked at voting patterns in different regions and among different constituencies. Generally, however, the picture of what happened in the first round remains murky.

The picture only gets murkier with the second round. The discourse has been dominated by the narratives from the two teams: stronger turnout and genuine higher voting for Ghani, or the IEC, the Palace and the Ghani team faking turnout and inflating voting figures in a rigged election.

Analysis of the preliminary results of the second round point to suspicious voting patterns (see the European Union's Electoral Assessment Team's press release [here](#) and some preliminary analysis [here](#)). The slow drip-drip release of wiretaps by the Abdullah camp further points towards far-reaching collusion between at least some IEC and state officials in Kabul and certain provinces (read transcripts [here](#). They are limited in number, so whether they are the tip showing the existence of an iceberg (as Abdullah has claimed) or point to little beyond themselves (which is bad enough) is not clear. At the same time, however, other evidence pointing to mass ballot stuffing than provided candidate supporters has been limited. Beyond the statistical indications of fraud and the evidence of the wiretaps, stories of those witnessing or carrying out ballot stuffing, or videos that would flesh out the picture have been relatively few. Possibly this points to a more polarised country where there is less local outrage about fraud per se, greater control by the campaign teams in their 'heartland areas', possibly that journalists, observers and analysts have been less alert (or felt intimidated by the polarised climate), or that there was less fraud than the most far-reaching claims point to. Whatever the reason, the various bits of this jigsaw do not yet add up to give a clear picture of what happened on the second E-day.



There has also been relatively little on-the-ground reporting of how the election or the count went in different parts of the country. FEFA has [described](#) fraud from a diverse group of provinces (not particularly siding towards Abdullah or Ghani) and mentions 'powerbrokers' interference', ballot stuffing and proxy voting. It reported stations opening or closing late, of FEFA being denied entry to some stations and a shortage of electoral materials in others. On turnout, it said there were major differences between the first and second rounds:

1: in the runoff voters seemed very clear on whom they would vote for and determined and decided voters significantly sped up the process of voting. 2: FEFA observed that turnout was slightly low in places where more motivated voters were seen in first round of the elections on April 5th while in contrary voters including women showed in much higher numbers on June 14th in places where turnout was lower on April 5th.

All this means that, almost a month after the run off, the picture on fraud, turnout and voting behaviour is still patchy and unsatisfying.

The nature of the deal – technical and political

The audit may give everyone that clearer sense of who actually won on 14 June 2014. It could also, however, be the face-saving means of getting consensus on a winner with the national unity government promise a means of keeping the loser on board. At the very least, it symbolically differentiates this from a purely power-sharing agreement aimed at sweeping differences under the carpet and ignoring what the electorate wanted. Hopefully, it will mean Afghans do end up with the sense that the ballot box determined the transfer of power. However, the agreement also recognises the deeply divisive nature of the election and the need now for good will and compromise. Those may sound like pretty words far removed from the normal cut and thrust of politics, but Afghanistan came to the brink of crisis last week. It is noticeable that few Afghans have criticised the deal (3) and the vitriolic comments seen in social media over the last few weeks have been toned down. Rather, there is a huge sense of relief and finally some hope.

Moreover, whether it turns out that the election tended towards the clean or the fraudulent, there is little denying that ethnic mobilisation proved to be one significant factor in the second round of voting (and probably also in the fraud). If for no other reason, it would appear necessary to ensure the losing side has a stake in the next government to minimise the potential for further ethnic polarisation of the country.

Dealing with difficult elections

Afghanistan was lucky to have a *deus ex machine* in the person of John Kerry and that he and Obama were not too busy with other disasters – meltdown in Iraq, war in Gaza, and the approaching deadline on Iran's nuclear capabilities – to personally deal with the crisis here. It was also lucky that the US and UNAMA, unlike in 2009, had worked hard to be neutral (and speak with one voice), vis-à-vis the candidates, while being actively engaged in getting a good



election. It meant there was a certain level of trust when Afghan solutions had all been tried and failed. The US – and the rest of the big and small powers involved in Afghanistan – have lined up in one block to try and reach a solution, so there was both unity and the threat of cutting support to Afghanistan. This was an effective stick: both Abdullah and Ghani recognised this would be a disaster. Unlike in 2009 when it felt like the US had had to browbeat both Karzai and Abdullah into accepting results (Karzai on the need for a run-off and Abdullah on not going ahead with it), both candidates, this time, have appeared happy with the agreement. This deal might, therefore, also have won back both UN and US some of the credibility they lost in the previous election.

However, in the parliamentary elections next year, there will be no ISAF to transport ballot boxes in a neutral fashion and it appears unlikely, at the moment, that in the next presidential elections in 2019, there will still be such an engaged US or UN to help out. The last few weeks have shown up the utter lack of neutral institutions or figures, the [absence of reliable basic data](#) (the population, a voter registry, etc) and the extreme need for a proper reform of the electoral institutions. (It is already too late to work on the electoral law for the 2015 parliamentary ballot as the law cannot be changed in the last year of the parliament's tenure.) The need for reform was evident, as has been reported by almost all involved electoral observer organisations, domestic and international, after the 2004, 2005, 2009 and 2010 elections (see a summary of reform proposals [here](#) and a reiteration, and warning not to miss it, from Afghan civil society perspective [here](#)). The question remains whether there will now be a real impetus from both the political elites and Afghanistan's international backers to get working electoral institutions and close holes in the electoral system in Afghanistan or whether Kerry's intervention will end up having saved 'the day' only and we will see the same crises played out in the future.

(1) AAN's Qayoom Suroush has attended the IECC sessions after the first and second round. At the first open session after the run off, on 6 July 2014 he reported commissioner Reda Azimi, as saying: "If one of the candidates withdraws from the complaint addressing process, it does not mean the IECC has been paralysed. Rather, from today on, if the candidates' representatives do not attend, we take that as a withdrawal from the complaint addressing process; we will continue our sessions with or without them." The head of the IECC, Satar Saadat, took the same line, adding, "We ask the IEC to collect their work from the table of UN which interferes with the election results and from the vice presidents and announce the election result on due day."

(2) *Press Statement:*

UNAMA welcomes return of Reform and Partnership team to electoral process

Kabul 13 July 2014 – The United Nations Assistance Mission in Afghanistan (UNAMA) welcomes the agreement reached by the two Presidential candidates, Dr. Abdullah Abdullah and Dr. Ashraf Ghani, on breaking the electoral impasse which enables the Reform and



Partnership Team to re-enter the country's electoral process.

The agreement – facilitated by the US Secretary of State, John Kerry – involves a complete audit of the results of Afghanistan's Presidential election run-off. Both candidates committed to participating and abiding by the result of this comprehensive audit.

The agreement also includes the formation of a government of national unity upon the declaration of the final results of the Presidential election, which augurs well for the future stability, prosperity and unity of Afghanistan.

UNAMA forwarded the agreed audit framework and procedures, including an audit checklist, to the Independent Election Commission (IEC) and the Independent Election Complaints Commission (IECC).

The UN Mission today attended a meeting of the IEC, led by its Chairman, Dr. Yusuf Nuristani, at which representatives of the Presidential candidates – Fazel Ahmed Manawi on behalf of Dr. Abdullah and Daoud Sultanzoy on behalf of Dr. Ghani – also participated, as did the IECC Chairman, Abdul Sattar Sadaat.

At the meeting, the IEC discussed the necessary steps that will enable the audit process to start without delay.

The audit framework and plan agreed to by the two Presidential candidates consist of the following:

“Both candidates commit to participating in, and abiding by the results of, a comprehensive and credible electoral audit with the following characteristics:

1. This will be a full audit of 100 per cent of ballots (roughly eight million ballots, in 23,000 ballot boxes).
2. The International Security Assistance Force (ISAF) will transport all ballot boxes from the provinces to Kabul, where all ballots will be audited. ISAF and Afghan security forces will secure ballot boxes both in the transit process and in their storage location, most likely an airplane hangar at Kabul International Airport (KAIA) North.
3. Auditing of boxes currently in Kabul will begin within 24 hours. Boxes will be moved expeditiously from provinces to Kabul, and then audited, on a rolling basis.
4. The auditing process will be internationally supervised in a manner proposed by the UN, in consultation with both candidates.
5. The campaigns shall provide joint oversight of, and engagement with, the auditing process in a manner proposed by the UN. Candidate agents will be permitted access to the ballot boxes



under ISAF and Afghan security force supervision.

6. The audits will be conducted in accordance with best international standards, utilizing an IEC checklist supplemented by UN recommendations.

7. Prior to the conclusion of the audit, the IEC will provide a full explanation of the discrepancy between turn-out numbers announced on election day (and subsequently), and those announced as part of the preliminary results on 7 July.

8. A new Chief Executive Officer (CEO) of the IEC will be appointed immediately with the approval of both candidates.

The UN-recommended audit procedures are:

1. The audits will be conducted by the IEC in the full presence of international and domestic observers, candidate agents, the media and UN advisors. Observers and candidate agents may provide comments and ask questions of the IEC audit team based on the audit checklist and may sign the completed checklist. Any disputes or questions not responded to in a satisfactory manner will be referred to the UN for advice, including on international best practices, or for resolution through its good offices. If the issue is not resolved, it will be recorded in the audit sheet for further adjudication by the Commission in its deliberations.

2. The IEC will provide access to the UN advisors, agents of the two campaigns, international and domestic observers, and the media to the entirety of the audit process. As per its legal obligations, the IEC will further open its Commission meetings to review and decide the findings of the audits to candidate agents, observers and the media. The UN will provide advice to the IEC Board of Commissioners throughout this process.

3. The current IEC audit checklist will be used as the basis to conduct the audit. This checklist will be enhanced with the following UN recommendations, aligned with international best practices:

- Ballots which are obviously similarly marked;
- Evidence of tampering with the results sheet and coherence with the number of ballots in the box;
- Comparison of the results sheet copy with that processed in the national tally centre;
- Review of information on the polling station journal and list of voters; and
- Ballot boxes will receive particular attention from international and domestic observers and agents when they register results that, according to best international practices, require special scrutiny (e.g., when there are significant differences between first and second round tallies).

4. The audit will entail 100 per cent of ballots (approximately eight million ballots in 23,000 ballot boxes).

5. The audit of the ballot boxes will take place in Kabul. Ballot boxes from the provinces will be



transported by ISAF with the support of the UN.”

(3) Several senators were quoted [criticising](#) the deal in the 14 July 2014 edition of Mandegar. Head of the Upper House, Fazel Hadi Muslimyar, saying Kerry’s decision had been ignorant (*deqani*, literally a peasant’s type of decision) and the candidates themselves could have solved things for themselves, "but it is a pity that John Kerry should decide between the candidates.” Other senators, however, welcomed the agreement