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# External Voting for Afghanistan's 2004 Presidential Election

Extending the franchise beyond national borders is an increasingly common feature of electoral processes, as it is thought to enhance the legitimacy of these processes and the institutions they create and, in the case of refugees, to promote their return. As with the electoral process in its entirety, an external franchise is therefore both a means and a measure of democracy and state building. It was in this context that Afghans displaced by the conflict in Iran and Pakistan were enfranchised in Afghanistan's first transitional election, the 2004 presidential election. This paper documents the inception, organisation and results of the programme established to enable the external franchise.

## 1. POLITICAL, INSTITUTIONAL AND LEGAL FRAMEWORK

In 2004 there were a few million Afghans displaced in neighbouring Iran and Pakistan (1.1 million and 1.4 million, respectively)<sup>1</sup> and comparatively smaller numbers in Tajikistan as well as Australia, Europe and North America. The decision to include

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<sup>1</sup> According to the government of Iran, approximately 1.1 million Afghans above 18 years old were registered as refugees in Iran and were as such deemed eligible to vote. According to the United Nations High Commissioner for Refugees (UNHCR) and the government of Pakistan, 1.45 million Afghans of voting age were residing, mostly in refugee camps, in Pakistan.

those in Iran and Pakistan in the presidential election was made formally on 30 May 2004 by the Joint Electoral Management Body (JEMB) – the electoral administration institution composed of the Interim Afghan Electoral Commission (IAEC) and the UN Mission in Afghanistan (UNAMA) – based on an assessment carried out jointly by the JEMB and UNAMA in the two countries.<sup>2</sup> Limiting the franchise to Iran and Pakistan was determined for reasons of cost effectiveness. This was also consistent with the fact that Afghans in Iran and Pakistan had been included in the Emergency Loya Jirga (June 2002) and the Constitutional Loya Jirga (December 2003) elections.

The decision to go ahead with external voting appears, however, to have had little to do with state building. Discussions about an external voting programme had started in January 2004, and the JEMB made a first favourable decision on 12 April 2004. However, lack of funds,<sup>3</sup> fluid negotiations

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<sup>2</sup> The assessment was carried out in March 2004 in Pakistan and April 2004 in Iran. UNHCR and the UN Development Programme (UNDP) participated in the assessment mission.

<sup>3</sup> It had been estimated that an external voting programme would cost approximately US\$19.1 million (\$15 million for Pakistan alone was initially forecast in the assessment mission report). At that time sufficient funds were not available even for the preparation and conduct of the in-country election. (At the end of June 2004 donors were requested to provide US\$101 million for both in- and out-of-country operations, but

with Pakistan on the scope of the programme and the JEMB and UNAMA's concerns regarding an ever-shrinking timeframe took the programme informally off the table in May. As Interim President Karzai's popularity was ebbing, it was the expectation that the overwhelming majority of Pashtuns among the Afghans in Iran and Pakistan would vote for Karzai;<sup>4</sup> this led Karzai to request on 23 June 2004 that JEMB include Afghans in Iran and Pakistan in the presidential election. The reasons for the decision were reflected in the text of the JEMB decision of 30 May 2004, which states that '[t]he decision to proceed with out-of-country registration and voting is based on political concerns rather than technical considerations.'<sup>5</sup> At the time, the presidential election was scheduled to take place in September 2004, leaving a mere two and a half months for the organisation of the external vote (in the end it took place on 9 October 2004).

As the JEMB was well aware, technical considerations were not to be underestimated: under a restrictive timeframe and uncertain cooperation from the host countries, especially Pakistan, the risk of failure loomed large. For these reasons, JEMB and UNAMA had already decided to sub-contract the process, should it materialise, to an organisation with relevant expertise. The International Foundation for Electoral Systems (IFES) and the International Organization for Migration (IOM) were contacted in April 2004 and requested to submit a proposal for a concept of operations.

External voting outside embassies, as in this case, requires the agreement of the host government in order to take place. Negotiations with Iran and Pakistan had been initiated by UNAMA in June 2004 and a Memorandum of Understanding (MoU) was signed by Afghanistan, Iran and UNAMA on 12 July 2004, according to which only Afghans recognised as refugees by the Iranian state were to be granted the franchise. Negotiations with Pakistan, however, progressed with particular difficulty: Pakistan demanded that the Wolesi Jirga elections take place at the same time as the presidential election and that Afghans in Pakistan

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commitments were not immediately followed by transfers.)

<sup>4</sup> According to the assessment report, the government of Iran's refugee registration figures of 2001–03 indicated that, of the Afghan population in Iran, two-thirds were Tajik or Hazara (35% and 33%, respectively) and 15% Pashtun. According to a UNHCR survey of 2002, the Afghans in Pakistan were 78% Pashto-speaking.

<sup>5</sup> Decision no 17 of the JEMB on out-of-country voting of 30 May 2004, available at [www.iec.org.af/Public\\_html/index.html](http://www.iec.org.af/Public_html/index.html) (accessed on 30 August 2010).

vote in both elections. Pakistan also refused to accept that IOM be entrusted the programme and requested access to the voter data to be collected. Eventually UNAMA muted these claims and a similar MoU was signed on 20 July 2004, specifying that Afghans older than 18 at the time of the election who arrived in Pakistan after 1979 were to be enfranchised. IOM was consequently contracted the following day to organise the Out-of-Country Registration and Voting Program for Afghanistan's 2004 presidential election, with IFES providing the programme's two top managerial positions.<sup>6</sup> IFES was also responsible for starting up the programme, including the definition of the concept of operations, from the end of June to the end of July 2004.

The process was governed by the Constitution of Afghanistan, the Electoral Law and the Voter Registration Decree and was to mirror the in-country process as much as possible. The JEMB was overall responsible for the programme.

## 2. ORGANISATIONAL AND OPERATIONAL FRAMEWORK

In conjunction with the MoU negotiations, IFES and IOM developed the concept of operations. A first version, requiring 120 days to Election Day and including a three-week registration period in Pakistan, became unworkable by the end of June and was adjusted to 90 days. Protracted negotiations with Pakistan and consequent delays in funding imposed a further adjustment approved on 12 August 2004 by the JEMB: a three-day registration period followed by two days for challenges to the voter list in Pakistan, and voting only based on Iran's register of Afghan refugees. Voting was to take place on the same day as in Afghanistan (9 October 2004).

With all agreements in place, headquarters for both countries were established in Islamabad. The location of the programme's facilities was decided based on demographics, with the aim to facilitate as broad access as possible while taking security and logistical aspects into consideration. In Pakistan, the initial plan to cover all refugee camps and the urban areas with sizeable concentrations of Afghans had to be adjusted due to a

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<sup>6</sup> Through the MoU signed between UNAMA and IOM on 21 July 2004, IOM was granted the authority to conduct the programme on behalf of the JEMB and UNAMA. Funding for the programme was guaranteed in the Letter of Agreement signed between UNDP and IOM on 22 July 2004.

combination of security and timeframe-related logistical concerns. This resulted in limiting coverage to the recognised and accessible camps as well as urban areas in Balochistan and the North West Frontier Province (NWFP). Two regional offices were established in Quetta and Peshawar, and the operation was later expanded to cover Islamabad, too. Iran was also considered a regional office, with coverage limited to the provinces of Esfahan, Kerman, Mashhad, Qom, Shiraz, Tehran and Zahedan. A small liaison office was set up in Kabul to facilitate communication with the JEMB/UNAMA.

Nevertheless, despite formal agreements, arduous negotiations continued with both countries as these delayed granting of visas to programme staff for many weeks, further hampering the already dangerously compressed timeframe.<sup>7</sup> Additional hindrances came with the request by Iran to receive names of all local programme employees and by Pakistan to receive voter data. Moreover, Pakistan continued to press for coverage to expand to Karachi and Lahore, which was impossible for both reasons of sheer logistical and some security considerations. By September 2004, cooperation was secured with assistance from UNAMA, and the programme was finally able to operate smoothly.

September also brought further revisions to the concept of operations when it was determined that Iran's refugee roster was unsuitable to serve as voter register. This led to an auspicious change in the eligibility policy: upon negotiations with Iran, voter eligibility was expanded from those with refugee status only to all Afghans legally residing in Iran. Under this last concept of operations it was anticipated that approximately 85 per cent of the Afghans legally in Iran and 50 per cent of all Afghans in Pakistan would be covered.<sup>8</sup>

In Pakistan registration took place between 1 and 4 October 2004 in gender-segregated stations to which successful applicants would return to vote on Election Day. The addition of the fourth day of registration, which reduced the challenge period to one day, constituted the last amendment to the concept of operations.<sup>9</sup> A total of 737,976 Afghans

were finally registered, of which 28 per cent women.<sup>10</sup>

In the absence of identity documents, in-country procedures were followed: eligibility was determined by Afghan registration staff based on identification documents or interviews, and registration slips were issued to successful applicants.<sup>11</sup> In order to prevent multiple registrations, successful applicants' right hand index was dipped in ink (as the left hand was to be inked during voting both in- and out-of-country). Afghans already registered in country were allowed to register again, given the precarious security situation in the border area inside Afghanistan. A major improvement to in-country procedures was the creation of a hand-written voter list for each polling station, a measure meant to prevent fraud as only those found on this list were allowed to vote. While initial concerns that large numbers of Pakistanis would register did not materialise, under-age registration was identified by both observers and programme audits as the main irregularity. In most cases this was caught in verification interviews before the completion of the registration process, but it was acknowledged that in the absence of identity documents it was difficult to always assess eligibility correctly.

Polling took place on 9 October 2004 in both countries, concomitantly with Afghanistan. Overall out-of-country turnout was registered at 846,776 voters – 590,732 in Pakistan (approximately 80 per cent of those registered to vote) and 256,044 in Iran.<sup>12</sup> Female turnout was 29 per cent in Pakistan and 40 per cent in Iran (averaging 32 per cent for both countries). Female turnout in Iran was considered a remarkable achievement given that the ratio of Afghan women to Afghan men in Iran was 40 to 60 per cent.

In Iran a skeleton voter list was created on the Election Day itself, representing a policy

<sup>7</sup> At its extreme, this resulted in field offices in Iran being functional only 30 days before Election Day.

<sup>8</sup> It was impossible to estimate the total number of Afghans in Pakistan who had arrived there after 1979.

<sup>9</sup> The decision to extend registration by one day in order to maximise access was made and communicated on the last day of the initial registration period (3 October). Approximately 24% registered on the last day.

<sup>10</sup> The reported 33% female registration rate inside Afghanistan was rather controversial with allegations of proxy registration disguised as female registration in conservative areas. Given the controversies surrounding female registration inside Afghanistan, the out-of-country ratio could be considered more accurate, indicating a more genuine registration process.

<sup>11</sup> As timeframe restrictions did not allow for photographs to be taken, thumb prints were used instead.

<sup>12</sup> Following the audit undertaken in the count centre in Kabul, 818,189 (valid and invalid) votes were retained for the calculation of results in the election from abroad (577,776 in Pakistan and 240,413 in Iran). This was due to the exclusion from the count of 46 ballot boxes, mostly due to ballot stuffing.

differentiation compared with Pakistan, although this was justified given the availability of documentation in Iran. Unlike in-country, relatively few irregularities were reported by either observers or programme audits, the main of which was voting by Afghans registered inside Afghanistan in one area in Balochistan close to the Afghan border and a few instances of ballot stuffing. In another major improvement to the in-country process, in Pakistan voters' fingers were dipped into indelible ink to prevent multiple voting.<sup>13</sup> Sealed ballot boxes were flown to Kabul for counting.

The process was facilitated by a comprehensive voter information and education campaign and by the large number of Afghans and internationals engaged alongside Iranian and Pakistani staff.<sup>14</sup> The eventual cooperation of the host governments, in particular in the areas of security provision – although against stipends – enabled a relatively smooth operation, ultimately allowing the provision of the franchise altogether.

### 3. RESULTS

The external vote represented 10.6 per cent of the entire election, with Hamid Karzai as the winning candidate in Iran at 44.4 per cent (a narrow victory over Mohammed Mohaqiq, who won 44 per cent) and in Pakistan at 80.2 per cent.<sup>15</sup>

### 4. COST AND EFFECTIVENESS

The cost of the programme was estimated at US\$26.7 million, including a possible run-off. In the absence of a run-off, the final spending of US\$24,289,322 can be considered over-spending.

<sup>13</sup> Inside Afghanistan in many areas, ink pens were used to mark voters' cuticles and were widely reported to have failed to prevent multiple voting. In Iran some confusion was reported in relation to the use of indelible ink as the bottled ink requested by the programme was replaced with ink pens by the JEMB.

<sup>14</sup> In total, more than 21,000 staff members were recruited. This included 180 international and 250 national core staff; 1,241 community mobilisers; and 11,706 and 8,252 registration/polling officials. The gender and ethnic distribution strived to follow demographic ratios, and 95% of the polling officials were Afghan.

<sup>15</sup> Mohammed Mohaqiq, who came in third overall, maintained his second position in Pakistan, too, winning 8.2% of the votes cast there. Yonous Qanooni, who won the second most votes overall, came in third out-of-country, with 5.6% of the votes in Iran and 3.8% in Pakistan.

Certain cost increases were justified, such as those for sub-contracting logistic services in order to expedite preparatory work and those for seconding international staff to the Kabul-based count centre and to the Complaints and Appeals Unit (an ad-hoc expert panel set up in Kabul to investigate allegations of fraud in country). However, over-spending was also due to expenses that cannot be easily justified, such as excessive transportation expenses and the failure to control over-spending by the logistics contractors.

### 5. CONCLUSIONS

From a purely technical perspective, Afghanistan's 2004 external voting programme can be considered successful on most accounts, especially considering the significant challenges posed by the short timeframe in which it had to be organised and by the deficient cooperation received from the host countries. Granting the franchise to a large number of refugees (10 per cent of the total electorate) in a procedurally fair manner, as externally observed and internally audited, did help maintain on track an in-country election marred by a faulty and unsustainable registration process and rather wide-spread irregularities at the booth. Avoidable over-spending and financial control and accountability shortcomings did not undermine the overall accomplishment.

From the broader perspective of state building, however, the external voting process shows much less favourable results. The goal of state building would have been achieved by a genuine intention to enable those displaced by the conflict into Iran and Pakistan to contribute to the building of their national institutions and enhance their prospects of returning to their country. Nevertheless, the process through which the decision to allow the external franchise was made reveals a less noble scope: that of boosting the chances for the election of the candidate representing the ethnic group that constituted the majority of those displaced in Iran and Pakistan, Hamid Karzai. The external voting process should therefore be judged from the perspective of how it not only failed to enhance the legitimacy of the presidential election but ultimately even compromised it.

## ABOUT THE AUTHOR: CATINCA SLAVU

Catinca Slavu is an independent electoral consultant with 12 years of experience in governance and political processes, with a focus on electoral administration and assistance in transitional, conflict and post-conflict contexts in the Balkans, the Caucasus, the Middle East and South Asia. She has been engaged in managing electoral administration programmes (including the Out-of-Country Program for Afghanistan's 2004 Presidential Election) as well as in designing and providing technical and financial assistance to electoral management bodies and in assessing and evaluating electoral processes.

## ABOUT THIS CHAPTER

This chapter is part of a larger volume called *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan's Decade of Assistance (2001–2011)*, edited by Martine van Bijlert and Sari Kouvo. The volume is a collection of 26 short case studies by analysts and practitioners, each with long histories in the country, who were closely involved in the programmes they describe. The contributions present rare and detailed insights into the complexity of the intervention and, in many cases, the widely shared failure to learn necessary lessons and to adapt to realities as they were encountered.

The chapters and full document can be found on the AAN website ([www.aan-afghanistan.org](http://www.aan-afghanistan.org)) under publications.

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