

30 Oct 2010: 42 days after E-Day

Afghanistan *Wolesi Jirga* Elections, 18 Sept 2010

For the 2010 Afghan *Wolesi Jirga* elections, the National Democratic Institute (NDI) is conducting an observation mission and analyzing the electoral process before, during and after election day. This mission involves more than 160 international analysts and Afghan observers throughout the country. For more information, visit NDI.org and AfghanistanElectionData.org.

ECC not accepting complaints on invalidated votes

The Electoral Complaints Commission (ECC) has set off a debate about the interpretation of Afghanistan's Election Law by announcing that it will not consider complaints regarding ballots that have been excluded by the Independent Election Commission (IEC). The announcement has left candidates and voters with no legal means to pursue allegations of electoral misconduct regarding invalidated votes.

Votes from over 2,500 polling stations have been invalidated by the IEC. Given the narrow margins of victory and defeat among candidates in several provinces, the validity of a small number of votes could ultimately determine the final winners of the 2010 *Wolesi Jirga* elections.

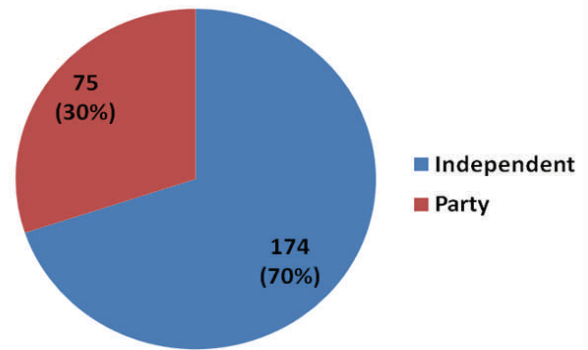
The ECC announcement came on Oct. 21, the day after preliminary results were made public. Through subsequent press releases, the ECC argued that the Election Law allows the ECC only to adjudicate complaints about ballots that have been included in the counting process, which, it said, eliminates from scrutiny those excluded by the IEC.

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Parties win 30 percent of *Wolesi Jirga* seats

Based on the preliminary election results released by the IEC on Oct. 20, NDI noted that 75 potential members of the new *Wolesi Jirga* will be affiliated with a political party. These members represent 17 parties, with the largest parties being *Hezb-e-Jamiat Islami* and *Hezb-e-Junbish Milli Islami*.

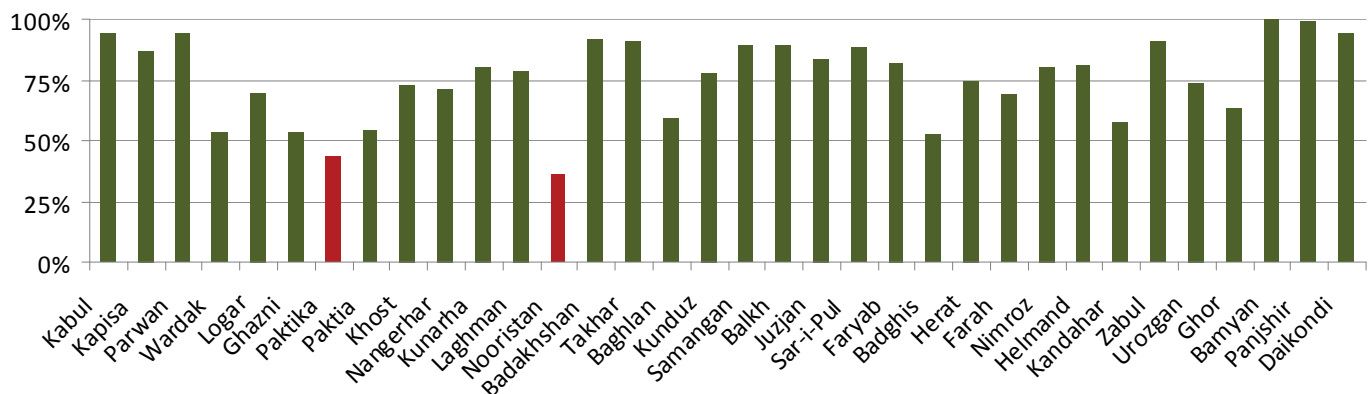
Party Affiliation in WJ 2010



77 percent of planned polling stations report preliminary results

The IEC had planned for 18,371 polling stations for the Sept. 18, 2010 elections. Due to election day security closures, logistical challenges, fraud invalidations and stations with no results forms, only 14,424 stations (or 77 percent of the total) reported results. In two of the 34 provinces — Nouristan and Paktika — less than half of the planned polling stations reported results.

Percent of Planned Polling Stations that Reported Preliminary Returns



ECC not accepting complaints *(continued from p.1)*

The ECC cited Article 57.2, which states that the IEC is able to “include or permanently exclude quarantined ballot boxes from the counting process.” In the pre-election period, NDI and other observer groups noted that Article 57 was among the changes made from the previous election law.

Some observers argue that a mechanism for appeal still exists, since provisions within the current Election Law enable the ECC to adjudicate complaints on breaches of procedure and conduct. Two electoral violations specified by Article 63 of the Law are: 1) violating provisions of the law, regulations and electoral procedures; and 2) violating the code of conduct of candidates and their agents, and that of election officials. For the first type of violation, the allegation and subsequent investigations would need to demonstrate that the IEC did not adhere to procedures governing audits and subsequent invalidations. For the second type of violation, investigations would need to show that an IEC staff member intentionally manipulated audit findings so as to guarantee or avoid polling station invalidation, and therefore did not act in an impartial manner.

According to the ECC, however, these provisions are not applicable to complaints regarding invalidated ballots. At an Oct. 24

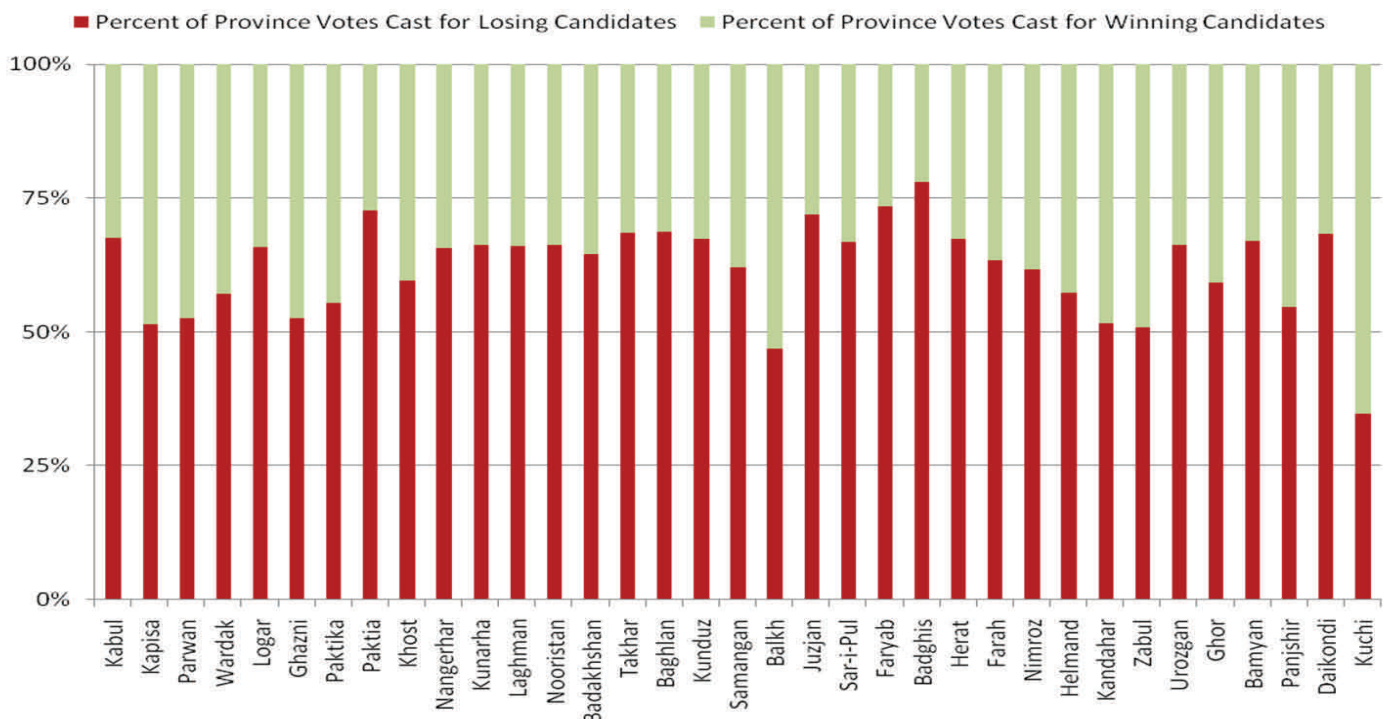
press conference, an ECC commissioner said (translated), “There is an expectation that IEC HQ (headquarters) and PIECs (provincial IEC offices) perform their duties in an impartial and fair manner. If they don’t, the ECC does not have the authority to take them to task.” The comment suggests that results of misconduct cannot be remedied by the ECC; however, as seen this year, provincial ECC offices have sanctioned IEC staff for misconduct in polling centers.

As investigations revealed, some IEC officials were involved in perpetrating the widespread fraud that marred the 2009 elections. There is broad agreement that the IEC has improved this year after initiating much needed reforms. However, the IEC has been asked repeatedly by observers to disclose the criteria used for invalidations and the audit findings of invalidated polling stations; to date, no information on these issues has been made public. Without such information, there is no way for a voter or candidate to establish the grounds by which results from a station were withheld – and this lack of transparency could leave the process open to speculation and suspicion of political manipulation. Furthermore, even if complainants could provide hard evidence of misconduct, their allegations would not be heard by the ECC, the mechanism established to adjudicate electoral complaints.

Only 37 percent of votes were cast for winning candidates

Due to Afghanistan’s single non-transferable vote (SNTV) system and the large number of candidates who ran in this year’s election, nearly two-thirds of all votes were cast for losing candidates. Only Balkh, one of the 34 provinces, and the *Kuchi* constituency had more than 50 percent of votes cast for winning candidates.

Provincial Votes Cast for Winning vs Losing Candidates



NDI, which has worked in Afghanistan since 2002, is a nonprofit, nonpartisan, nongovernmental organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. For the 2010 elections, NDI conducted seminars for over 1,700 candidates, organized training for political parties and more than 240 women candidates, and provided technical assistance to the Free and Fair Elections Foundation of Afghanistan (FEFA), the country’s largest domestic election monitoring organization. NDI also trained over 36,000 candidate agents nationwide to report on election day activities.