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**بنیاد انتخابات آزاد و عادلانه افغانستان**

Free & fair Election Foundation  
of Afghanistan

**THE TRANSPARENCY  
OF  
POLITICAL WEALTH**

Author of Report: FEFA

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Title: The Transparency of Political Wealth

Prepared by: Free & fair Election Foundation of Afghanistan (FEFA)

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The report has been prepared on the basis of a series of project activities conducted over two months in early 2008. These activities collected data regarding the legal requirements for disclosure of assets by high-ranking government officials and political parties in Afghanistan, as well as the financial management of electoral campaigns.

Readers who have suggestions or recommendations to strengthen the transparency around the issues discussed in this report can play a role in strengthening institutional practices with regard to financial transparency by sharing their suggestions with FEFA.

**FEFA**  
Mr. Nader Nadery  
Chairman

**Articles 50 and 154 of Afghanistan's Constitution clearly address issues of financial transparency for government officials and establish specific requirements for a fair and nondiscriminatory administration and for public disclosure of the finances and assets of key government officials.**

## **Executive Summary**

Transparency and accountability in the financial affairs of governments, government officials, political parties, and candidates for office are important factors in developing the public trust essential to a functioning democratic government. The Free & Fair Election Foundation of Afghanistan (FEFA) has been working for transparency and accountability in Afghanistan's national processes; in this context, FEFA, with the support of the International Foundation for Election Systems (IFES) undertook a research program to determine the extent and effectiveness of mechanisms to enforce and encourage transparency in Afghanistan's government.

The research is focused on three main aspects of transparency:

- 1) Registration of assets of government officials;
- 2) Financial resources and funding of political parties; and
- 3) Financial resources of political candidates and electoral campaigns.

The project also assessed the legal frameworks for combating corruption and encouraging transparency, including relevant articles of the Constitution, Presidential Decree 1, various laws governing election and political party financing, and the United Nations Convention against Corruption. In the final stage of research, 33 representatives of concerned institutions were interviewed to ascertain awareness of these measures and the extent of compliance with them.

## **Legal Frameworks**

Afghanistan has signed the U.N. Convention against Corruption and has taken some steps toward enforcing transparency and preventing corruption:

- Articles 50 and 154 of Afghanistan's Constitution clearly address issues of financial transparency for government officials and establish specific requirements for a fair and

nondiscriminatory administration and for public disclosure of the finances and assets of key government officials. Article 50 also asserts the right of the people to have free and open access to these disclosures. Article 35 refers to political parties and candidates.

- Article 156 of the Constitution assigns responsibility for the administration of elections to the Independent Election Commission (IEC).
- Presidential Decree 1 provides for the registration of assets by high-ranking government officials, in compliance with constitutional requirements that the government provide such mechanisms.
- The Political Parties Law provides for public disclosure of the assets and funding sources of political parties, specifies a limit for private donations, and prohibits the acceptance of funds from foreign sources.

At the same time, however, a lack of specificity in the law and the failure to assign responsibility for enforcement to designated agencies suggest that the government of Afghanistan is not sufficiently serious regarding its commitment to prevent corruption.

### **Field Interviews**

Interviews with concerned parties support this conclusion. While interviewees holding government positions were aware of the requirement to register their assets and appeared, for the most part, to have done so, confusion on other points was endemic. Even those administering the process frequently did not agree about the processes for registration, mechanisms for monitoring compliance, the degree of public access to the information collected, or even the penalties for noncompliance. Political candidates were unaware of prohibitions against foreign funding or of spending limits for particular campaigns, and party administrators, unaware of their legal responsibility, viewed attempts to collect financial information as governmental interference.

The most notable weakness was the absence of a responsible and transparent mechanism for reviewing the information collected. Even where officials had properly registered assets, concerned groups, including FEFA, could not gain access to this information. There were

similar gaps in the registration and review of information regarding political parties and electoral campaigns. As a result, those required to report were either unaware of their responsibilities under the law or did not know how to fulfill them and citizens could not act on their constitutional right to review this information.

### **Recommendations and Conclusions**

It is perhaps unsurprising, then, that recommendations for strengthening transparency center on clarifying mechanisms of enforcement and providing education programs for the public and for those required to register assets or report finances. Most significant conclusions and recommendations include:

- FEFA believes that Presidential Decree 1 does not meet the requirements of the U.N. Convention against corruption or of Afghanistan's constitution. To fulfill its commitment to the international community and to its own people, the government must pass appropriate, comprehensive laws at the first opportunity. These laws must clearly define who is affected and make specific provisions for administration, monitoring, enforcement, and public disclosure.
- The political parties' law should also be rewritten to be more specific and to include penalties for noncompliance.
- Elections law must specify both candidates' and parties' reporting obligations and make provisions for an overseeing agency to monitor election finances and ensure a transparent election process free from financial corruption.
- An independent agency should be formed to oversee transparency. This agency should have sufficient staff to monitor compliance and the power to enforce the law and impose penalties for noncompliance.
- Finally, the government, under the auspices of the appropriate agency, should undertake a comprehensive public education program designed to inform those affected of their reporting responsibilities, educate the public about the government's efforts to ensure accountability, and make sure that all citizens know about their right to access this information.

Afghanistan's Constitution offers a great opportunity for the government to establish effective and supportive systems to encourage transparency and stifle corruption. A serious effort to stop corruption will win the trust of Afghan citizens and of the international community, ensuring a prosperous, democratic future for the nation.

## **Introduction**

Money has always had a close relationship with politics and administration. This reality can disrupt the public's trust in political and administrative activities; in the past, it has produced persistent doubts that can undermine the government's ability to govern. This issue has not only affected developing countries; the problem crosses national boundaries, jeopardizing the peace and stability of the international community.

Hence, the implementation of policies and procedures that foster transparency and accountability in the financial affairs of governments and political entities is an important factor in developing and strengthening active democratic values and moving towards prosperity. Those communities who are bound to democratic values respect principles of accountability for those who hold political power and financial transparency for the administration as an entity. These nations adhere to practices that show that their government not perpetrating corruption in order to foster public trust and enhance the legitimacy of the government.

This issue has two important dimensions. First, transparency in the execution of the administrative affairs of government institutions and in the disclosure of the properties and assets of government officials is necessary to ensure that public money is not being misused or spent for the personal interests of the public officials who control those funds.

Second, because the political parties are a basic element in the emergence of a strong democratic community with free and fair electoral processes, the funding and financial practices of candidates and political parties are also key concerns.

Hence, the proper implementation of the principles of accountability and the mechanisms of financial transparency in civil and political affairs is the responsibility of every citizen. In

**effort to stop corruption will win the trust of Afghan citizens and of the international community, ensuring a prosperous, democratic future for the nation.**

**transparency in the execution of the administrative affairs of government institutions and in the disclosure of the properties and assets of government officials is necessary to ensure that public money is not being misused or spent for the personal interests of the public officials who control those funds.**

this context, FEFA, an organization that has been committed to the principle of transparency in civil and political affair, from its creation, undertook an investigation on these topics with the support of the International Foundation for Election Systems (IFES) in order to determine the extent of transparency in Afghanistan and identify ways to develop a transparent and accountable administration and strengthen the democratic foundations of Afghanistan's government.

The project was intended to study the government's legal framework and basic strategies for combating corruption and to determine the extent to which these regulations conform to international standards. We also hoped to find out whether these principles have been practically implemented and to what extent the relevant bodies have observed their obligations under these provisions. In this regard, FEFA has focused on the issues surrounding the financing of political parties and candidates, in an attempt to discover how the laws on the transparency of political finance are enforced and clarify how money is spent during electoral campaigns. We believe that the practical aspects of these investigations should be undertaken for evaluation and investigation. The result of these studies is a set of productive recommendations to strengthen the development of a mechanism of transparency and accountability in Afghanistan.

## Legal Frameworks

### Asset Disclosure for Government Officials

The Constitution of Afghanistan addresses these issues in articles 50 and 154. Article 50 requires the state to establish and develop an intact, healthy, and professional administration in the country:

The state shall adopt necessary measures to create a healthy administration and realize reforms in the administrative system of the country. The administration shall perform its duties with complete neutrality and in compliance with the provisions of the laws. The citizens of Afghanistan shall have the right of access to information from state departments in accordance with the provisions of the law. This right shall have no limit except when harming rights of others as well as public security. The citizens of Afghanistan shall be recruited by the state on the basis of ability, without any discrimination, according to the provisions of the law.

Article 50 specifies a number of government obligations with regard to transparency and accountability very clearly. According to article 50, the government must:

1. Create an intact and healthy administration and realize reforms in the administrative system;
2. Perform its duties with complete neutrality and good faith;
3. Accord to the citizens of the country the unlimited right of access to information from state departments, within the bounds of public security and so long as disclosure does not harm the rights of others.
4. Recruit citizens for state employment on the basis of ability, without discrimination on any basis.

Article 154 of the Constitution obliges high-ranking officers of the government to observe the principles regarding the **public disclosure** of their properties and assets:

**Accord to the citizens of the country the unlimited right of access to information from state departments, within the bounds of public security and so long as disclosure does not harm the rights of others.**

**Article 154 of the Constitution obliges high-ranking officers of the government to observe the principles regarding the public disclosure of their properties and assets**

The wealth of the President, Vice Presidents, Ministers, and members of the Supreme Court, as well as the Attorney General, shall be registered, reviewed, and published prior to and after their term of office by an organ established by law.

This article clearly establishes some basic practices for the disclosure of wealth by senior members of the government:

1. The wealth of specific, high-ranking government officers—the President, Vice Presidents, Ministers, members of the Supreme Court, and the Attorney General—is required to be registered;
2. Their wealth should be registered twice, both prior to beginning service and after service is completed; and
3. The information must be published.

The practical mechanics of registration, including the creation of an agency for collecting, maintaining, and publishing it, are left to be specified by law. This mandate is reflected in legislative Decree number 1, dated September 18, 1383 (December 9, 2004) issued by President Karzai. Quoting article 50 of the constitution and U.N. Resolution # 51/59 of the UN resolution, the decree clearly states that in order to create a healthy and accountable administration, the provisions of these vital documents shall be respected and observed. Specifically, the decree addresses a number of issues and lays out a number of processes and practices for ensuring accountability. The decree:

1. Declares the obligation of government officials to carry out their duties with neutrality and without any discrimination;
2. Requires the recruitment of individuals for government institutions on the basis of their abilities and qualifications alone, without discrimination on any other basis;
3. Mandates disclosure of the assets of high-ranking government officials as specified in article 154 of the constitution. The decree expands on the requirements of the constitution, requiring registration by chiefs of the military forces, police forces, and border police; the chief of national security; ambassadors; chairpersons of independent commissions, provincial governors, and district administrators in addition to those named in arti-

cle 154.

4. Requires government officials to ask the permission of the President for any official trips;
5. Requires government officials to submit any gifts and prizes valued at more than \$200 USD to the government.
6. Orders the Ministry of Justice and the Independent Commission of Administrative Reforms to develop a code of conduct for government officials; and
7. Conveys authority for decision making regarding the provisions of the decree on the President.

### **Conformity with International Standards**

The international community has expressed deep concern about the continuing growth of political and administrative corruption **in many transition and established democracies**. Several international conferences have been convened to discuss these problems and develop solutions. The United Nations and other international organizations, including the European Commission and coalitions of American and African states, have ratified a series of conventions, with member states agreeing to uphold the conventions as their obligation, reflecting the belief that corruption is not contained by national boundaries, but spreads, threatening all the countries in the region. United Nations Resolution number 51/59, passed in 1996, obliges member countries to struggle against corruption and requires registration of the wealth of high-ranking government and public service officials in member nations.

The United Nations has adopted the United Nations Convention against Corruption by its resolution 58/4 of 31 October 2003. The convention describes a number of principles and processes that support the elimination and prevention of administrative as well as political corruption. Afghanistan signed the United Nations Convention against Corruption in February 2004, and was approved by parliament in October 2007. Among its provisions two articles are of particular importance:

#### **Article 8 Codes of conduct for public officials**

5. Each State Party shall endeavour, where appropriate and in accordance with the funda-

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**Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.**

mental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

### **Article 20 Illicit enrichment**

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

When it comes to corruption prevention the Constitution of Afghanistan also takes steps in the right direction. Article 154 defines the positions and ranks of the officials whose wealth and properties shall be registered. The article calls for the dual registration of the assets (once prior to service and once post service) and the public nature of the information and mandates the creation of a body to administer and monitor these provisions. Article 50, although it is mainly focused on the creation of an intact, efficient, and neutral administration, also stresses the need for public accessibility to information regarding government finances and administration. However, Afghanistan's legal framework falls short in some key respects:

1. The Presidential Decree No. 1 does not fully implement the Article 154 of the Constitution.
2. The list of individuals who must disclose their assets given in the Presidential Decree does not include the office of the president, vice presidents, or legislative members.
3. Afghanistan's parliament has yet to draft a comprehensive law to meet the requirements of article 154. According to law, every legislative decree issued by the president before the creation of the parliament must be brought before the parliament and made law. Presidential decree 1 has not yet been passed by the parliament.
4. No arrangements have been made for the creation of a structure to implement the provi-

sions of the constitution and of presidential decree number 1, and to take steps against the violators of these provisions.

5. Presidential decree 1 does not clearly specify that affected individuals should disclose their assets twice, in contradiction of article 154. While article 154 states that "the wealth of the individuals mentioned shall be registered and reviewed twice (prior to service and post service)," the presidential decree requires only that "the individuals specified in the decree shall within two weeks of the enforcement of this decree provide complete information regarding their income, moveable and non-moveable assets, wealth, properties, business activities, loans (personal, spouse, and non-adult child or children) to the president's office as requested on the form." The decree requires officials to provide information only once and makes no provision for an ongoing system of disclosure.

### **Asset Disclosure for Political Parties**

Much less detail is provided by law or by the constitution with regard to the assets of political parties; article 35, which deals with the role of political parties, states only that the organizational and financial resources of the political parties must be transparent. The Political Parties Law, (14 October 2003), reiterates the constitutional requirement that "the funds and expenses of political parties shall be public and transparent" (Article 14), but goes further, providing detailed guidelines for funding sources and disclosure. Article 6 of the law specifies that political parties may not receive funds from any foreign source, and article 15 lists permissible sources of funding, including "membership contributions, donations by legal Afghan citizens up to two million Afghani per year, income from a party's moveable and immovable property, and other donations provided by the members of the political party."

The law also requires that all political organizations and parties register all income in the logbooks of the party and deposit all received funds into the party's bank account. Furthermore, the law specifies that a party's leadership bears financial responsibility for the operations of the party and must maintain signature records at the party's bank and register all party property with the Ministry of Finance. Finally, the law specifies the terms and processes for party registration and for ensuring transparency of funding sources.

**These regulations specify that the candidate is responsible for the financial transactions of his or her campaign and the accuracy of the campaign's financial reports. The regulations require that candidates maintain a separate bank account for the management of campaign incomes and expenses and allow candidates to receive funds from Afghan individuals and organizations.**

### **Electoral Campaign Financing**

Electoral law in Afghanistan is sparse, specifying only that “Making use of funds originating from illegal activities and making use of foreign funds for the purpose of influencing the electoral process” are prohibited. However, the Joint Electoral Management Body has passed electoral campaign regulations during previous elections in Afghanistan. These regulations specify that the candidate is responsible for the financial transactions of his or her campaign and the accuracy of the campaign’s financial reports. The regulations require that candidates maintain a separate bank account for the management of campaign incomes and expenses and allow candidates to receive funds from Afghan individuals and organizations (except for candidates for the Wolesi Jirga, who are bound to receive funds only from individuals who are registered as eligible voters).

Other issues addressed in these provisions include the prohibition of the use of public resources in favor of or against any candidate; requirements for the rating of the value of donations on the basis of the daily rate appointment of an individual to serve as the campaign’s financial focal point; necessity for candidates to be ready for audit of campaign financial records at any time; and limitations on campaign expenditures. The regulations also provide for additional allowances to ensure the safety and security of the candidate of up to 50,000 Afghani for Wolesi Jirga candidates and 25,000 Afghani for provincial council candidates.

## Case Analyses

In order to identify weaknesses in the laws and processes governing financial transparency, it is useful to review the practical aspects and actual implementation of the policies discussed. The discussion of legal requirements and frameworks raises a number of practical questions that should be explored: How many of the officials named in the presidential decree and in the relevant constitutional articles have disclosed their assets according to the requirements outlined? Does the public have access to this information? If not, what has prevented these measures from being fully implemented?

Similar questions arise with regard to political parties and candidates: What degree of transparency and truthfulness is exercised in reporting information about the assets of political parties, candidates, and electoral campaigns? Do any other regulations exist that are complementary to the texts of the electoral law and the political party's law? What is the actual level of accountability regarding financial reporting for candidates and campaigns? By seeking answers to these questions, we can strengthen the mechanisms of transparency and accountability and enhance public trust in the government and confidence in democratic values.

### **Asset Disclosure: Interviews with Relevant Ministries who have responsibility to implement the Presidential Decree**

FEFA prepared a list of key ministries who have some responsibility in overseeing the implementation of this particular Presidential Decree. Key people were identified and interviews requested. Some officials did not respond positively to the request for interview (See Appendix A for list of officials). Questions were focused on how well the officials understood the decree and what their role was in implementing it.

Interview dates: 24 Jan, 10 Feb, 2008

**According to the provisions of the decree, this entity should have been established within the president's office. FEFA's investigation revealed, however, that no specific body with these responsibilities existed at all.**

Table 1. List of individuals interviewed: Implementers

S.No	Position	Organization
1	Deputy Minister (Professional Affairs)	Ministry of Justice
2	Head of Relation Department, Administrative Affairs Office of Government, with Ministry of Justice, and also responsible for keeping of registration forms of various other departments	General Department Administrative Affairs of Government
3	Head of Inspection	Ministry of Justice
4	Head of Solidarity	Administrative Reform Commission
5	Head of Human Resources	Administrative Reform Commission
Total Number : 5		

### Analysis of Interview Data

*Questions regarding regulations and processes for the disclosure of government officials' assets.* FEFA initially endeavored to find the entity responsible for the registration of the assets of the individuals listed in presidential decree 1. According to the provisions of the decree, this entity should have been established within the president's office. FEFA's investigation revealed, however, that no specific body with these responsibilities existed at all. Two individuals in the Directorate of Administrative Affairs of the Council of Ministers, the liaison officer to the Ministry of Health and the head of the directorate's culture department, work to some extent in this area in addition to their other duties. In response to questions about the existence of laws or regulations governing the registration of the assets of, these individuals indicated that the constitution and the presidential decree are the only source documents. The Ministry of Justice confirmed that no such laws or regulations have been approved in this area, and that the Ministry of Justice has no responsibility for enforcement

of these provisions.

Asked about written documentation guiding the implementation of the regulation, the head of the cultural unit said that there is no such document. The director of the commission for supervision of the implementation of the constitution refused to comment on this issue, expressing his belief that this issue was the responsibility of the cultural unit of the respective entity. Interviewees also indicated that the presidential decree was at odds with article 154 of the constitution and no steps had been taken either to ensure compliance with the requirements of article 154 or to reconcile the two requirements.

Regarding the right of the citizens of Afghanistan to have access to the information from the government institutions and administrations within the provisions of the law, interviewees indicated that there was no problem in this area and that citizens have access to this information.

*Questions regarding registration forms.* Asked whether a specific form exists for registering the assets of public officials, interviewees responded positively. However, due to its confidentiality, FEFA investigators were not able to get a sample of the form; as a result, we can offer no assessment of the information provided by it. Interviews also revealed that the two individuals previously named were the only source for distribution and retrieval of the forms. They distribute these forms only to the ministries; the administrative departments of the ministries are responsible for distributing the forms within the ministries and returning the completed forms to the relevant authorities.

Interviewees indicated that, to their understanding, all high-ranking officials are required to disclose assets, but they did not know the exact number of officials named in the presidential decree. They also could not provide to investigators any accurate count either of officials who have registered their assets or of those who have not yet registered. That data had not been collected.

Interviewees did offer some information about specific categories of officials. They claimed that all Ministers and Deputy Ministers have registered, and estimated that approximately

90% of directors at the center and 50% of directors in the provinces have done so, although no documentation exists to support this appraisal. No data was available regarding the rate of registration of advisors to the government. Interviewees did not know whether those officials who should have filed registration forms had been informed of their obligation and told how to complete the forms.

### **Asset Disclosure: Interviews with Respondents**

FEFA prepared a list of key public officials to whom the Presidential Decree applies. A number of high profile interviewees were identified and interviews requested. Some officials did not respond positively to the request for interview (See Appendix A for list of public officials). Questions were focused on how well the officials understood their responsibilities to declare their assets and if they had completed the Declaration of Assets form as required under the Decree. This decree applies to senior high ranking officials of government.

Interview dates: 10-24/02/08

S. No	Position	Related Organization	Date of Hire	Date of Asset Registration	Organization Receiving Forms
1	Head of Solidarity Department	Administrative Reform Commission	2007	2008	Directorate of Administrative Affairs of Government
2	Head of Human Resource	Administrative Reform Commission	2007	2007	Directorate of Administrative Affairs of Government
3	Head of General Crime	Supreme Court	2006	2007	Directorate of Administrative Affairs of Government
4	General Director	Da Afghanistan Bank	2207	2007	Directorate of Administrative Affairs of Government
5	Administrative Deputy	Ministry of Justice	2004	2005	Directorate of Administrative Affairs of Government
6	Governor of Kabul	Ministry of Interior			Directorate of Administrative Affairs of Government
7	Finance & Admin Deputy	Ministry of Women's Affairs	2007	2008	Directorate of Administrative Affairs of Government
8	Head of law Inspection	General Administrative Affairs of Gov-		2007	Directorate of Administrative Affairs of Government

		ernment			
9	Head of Policy	Independent Administrative Reform Commission	2007	2007	Anti-Corruption Department
10	General Director	Investment Support Agency			
11	Political Deputy	Ministry of Foreign Affairs			
12	Head of External Affairs	Wolesi Jirga Secretariat	2007	2007	Directorate of Administrative Affairs of Government
13	Office Manager	Wolesi Jirga Department	2006	2007	Directorate of Administrative Affairs of Government
Total Number: 13					

### **Analysis of Interview Data**

*Questions regarding awareness of the law.* All interviewees were aware of the provisions of presidential decree 1. Interviewees said that they were obliged by the Directorate of Administrative Affairs of the Council of Ministers and by the Directorate of Anti-Administrative Corruption to provide information regarding their assets by completing forms prepared and distributed by the government for that purpose. Interviewees were also asked whether the public has the right to have access to information about the wealth of government officials; interviewees replied that citizens do have that right.

Asked about various activities limited by the presidential decree, interviewees said that they had taken official trips with the permission of the president and that they had also taken unofficial trips, paying for these from their own pockets. (Note that, pursuant to decree number 1019, Afghanistan bank personnel are exempted from this provision.) All of the interviewees said that they had not either given or received gifts valued in excess of \$200 US. Gifts tend to be gifts in kind, valued at around 500 Afghani or less.

*Questions regarding the administration of the law.* Interviewees were asked a series of questions regarding the administration and enforcement of disclosure regulations. Asked what other information should be gathered apart from the form, they responded that a separate

**such reporting is important because it prevents misuse of government power, bribery, and administrative corruption and enhances transparency and public trust.**

office should be created for the purpose of gathering this information and that even incomplete forms should be processed. The Head of the Human Resources Department of the Administrative Reforms Commission had particularly strong feelings about this. Interviewees also felt that responsibility for collecting the information should be given to an institution or body that has the mandate and the power to act seriously as well as the capability of investigating violators. Such violators, interviewees felt, should be brought to justice and punished in accordance with the law.

*Questions regarding effectiveness of the law.* Interviewees felt that the law had a positive effect on public confidence. They explained that such reporting is important because it prevents misuse of government power, bribery, and administrative corruption and enhances transparency and public trust. Interviewees also expressed the opinion that the media can play a considerable role in this regard, suggesting that investigative and analytical reporting and documentary films can attract the attention of the public and enhance public trust by fostering a sense of openness.

### **Electoral Financing: Interviews with Candidates**

FEFA prepared a list of candidates who had contested elections for President, Wolesi Jirga (Lower House of Parliament) and the Provincial Council for interview. (See Appendix A for list of candidates for interview). The purpose of the interview was to find out from the candidates whether they understood the rules and regulations regarding political finance as it applied at that time and if they had complied with the regulations established at that time.

Interview dates: 02-06/03/08

Table 3. List of individuals interviewed: Candidates

No.	Name	Political Party Affiliation	Office Sought	Successful?
1	Ghulam Farooq Nejrabi	Afghanistan Freedom and Independence Party	President	No
2	Sona Nilofar	Independent	Wolesi Jirga	Yes

3	Rahima Jami	Independent	Wolesi Jirga	Yes
4	Abbas Nawyan	Independent	Wolesi Jirga	Yes
5	Khudai Nazar Sarmachar	Independent	Wolesi Jirga	Yes
6	Mohammad Ayub Mehar	Independent	Wolesi Jirga	Yes
7	Dur Mohammad Noori	Independent	Provincial Council	No
Total number of individuals interviewed: 7				

### **Analysis of Interview Data**

*Questions regarding awareness and compliance.* All interviewees were aware of their financial responsibilities during the electoral campaign. However, none had opened a dedicated bank account for their campaigns. Many of the candidates said that during the electoral campaign they themselves had the responsibility to manage the financial affairs of their electoral campaign, while some said that their close relatives had undertaken this responsibility. Although the Joint Electoral Management Body (JEMB) reportedly did not have a specific procedure for preparing and submitting reports on electoral campaign finances, some of the candidates said that they did submit reports.

The candidates indicated that they had received in-cash or in-kind donations from individuals and from national non-governmental organizations in accordance with JEMB procedures. They said that the value of in-kind donations was calculated using the market rate, but since they did not have a specific bank account, they did not deposit these donations to any bank account. The largest amount of donations that any one candidate had received was 200,000 Afghani; none of these candidates were offered any type of donations from any political or government entity. Because JEMB provided no specific procedures for reporting or accounting for income, the income of the candidates could not be broken down to legal or illegal sources.

Several interviewees stated that some candidates have spent more than the limits specified in

**some candidates have spent more than the limits specified in the relevant JEMB procedures.**

**the candidates could not provide any further details in this regard. Furthermore, since there was no system in place for the control of the income and expenses of the electoral campaign.**

the relevant JEMB procedures. Those who reported spending more most commonly gave as a reason the unsatisfactory security conditions; a major part of the campaign's funds was spent for hiring security guards; this point was especially emphasized by one of the candidates from the unsettled province of Uruzgan. Some candidates were not aware of the spending limits.

Interviews confirmed that no inspection or investigation of the income or expenses of the candidates interviewed had taken place. Since no inspection was done, the candidates could not provide any further details in this regard. Furthermore, since there was no system in place for the control of the income and expenses of the electoral campaign, no specific complaints were filed in this regard.

Asked whether the media had ever asked them questions regarding their electoral campaign finances, two of the candidates said yes, while five of them said no.

*Questions regarding effectiveness of the law and suggestions for improvement.* In response to a question asking what legal and practical steps could be taken to enhance the level of transparency and accountability in electoral campaign financing, candidates offered a range of suggestions, including public outreach programs; international monitoring of all stages of the electoral process, especially of campaign operations and of the entity responsible for registering campaign finance reports; inspection of campaign finances and investigation of violations; and adoption and enforcement of specific laws and regulations to enhance and support transparency and accountability in the electoral process. Candidates also supported the idea of requiring candidates to register and publish their assets during the nomination process and supported transparency at all stages of the election procedure. Asked whether the law required that the assets of political parties and candidates be registered, the candidates expressed that the electoral law is not enforced.

### **Electoral Finances: Interviews with the Independent Election Commission**

FEFA identified the senior officials at the Independent Election Commission of Afghanistan to explore some of the key issues regarding political financing and the relevant laws and

regulations that may apply for the elections.

Interview dates: 28/02/08

Table 4. List of individuals interviewed: Independent Election Commission

No.	Position	Organization
1	Deputy Chief Electoral Officer	Independent Election Commission
2	Head, Legal Department	Independent Election Commission
Total number of individuals interviewed: 2		

### Analysis of Interview Data

*Questions regarding the legal framework and administration of campaign finance regulations.* JEMB adopted specific regulations for the management and regulation of the financial affairs of candidates for presidential, Wolesi Jirga, and provincial council elections. However, Electoral Commission authorities confirmed that no specific administration or office has been created to oversee campaign finances. In response to questions on this topic, interviewees stated that the legal department of JEMB dealt with such complaints.

Similarly, interviewees affirmed that the Independent Election Commission had no authority to control or inspect the financial affairs of candidates. These matters, they claimed, were the mandate of the Election Complaints Commission and were pursued on the basis of complaints received from the public. They added that such complaints were dealt with at the provincial level by the provincial Election Complaints Commission. They were not sure that any such complaints had been filed. The deputy chief electoral officer expressed a belief that the Independent Election Commission has the mandate of inspection and enforcement of penalties. Asked how rules can be enacted and enforced at the provincial level, the deputy chief electoral officer said that the creation of provincial election complaints commission offices will allow complaints to be handled at the provincial level; the head of the legal de-

**Electoral Commission authorities confirmed that no specific administration or office has been created to oversee campaign finances.**

**problems in enforcing the spending limits to the absence of a strong financial and banking system in Afghanistan and to lack of awareness at the last elections.**

partment said that issues in the provinces would be handled in the same way that they are at the center and that provincial candidates will adhere to the same financial controls and bank account rules as others.

According to the head of the legal department, JEMB could not inspect and investigate candidates' bank accounts because there were no specific procedures in place at that time; the deputy chief electoral officer believed that this inability was due to the unavailability of bank branches and banking systems throughout the country. In fact, studies and investigations conducted during previous elections revealed that candidates did not open specific bank accounts as was required by regulations. The deputy chief electoral officer suggested that this may have been because the bank did not have branches opened and activated throughout the country. On a similar note, interviewees indicated that no method existed to separate legal from illegal campaign income, and so JEMB could not undertake such inspections.

When these authorities were asked how many of the candidates had provided electoral campaign reports to JEMB at the end of the electoral campaign, the deputy chief electoral officer responded in the negative and added that the reason could be that there were no complaints filed.

With regard to the enforcement of campaign spending limits and donation limits, the deputy chief electoral officer indicated that neither the Electoral Complaints Commission nor the Media Commission have the power to address these issues. The deputy chief attributed problems in enforcing the spending limits to the absence of a strong financial and banking system in Afghanistan and to lack of awareness at the last elections. The head of the legal department, however, believed that the problem was a result of the complaints commission having been established very late in the electoral process.

Regarding the question that will there be any difference of the limits of expenditures for the candidates of the political parties and independent candidates, Head of the Legal Department of IEC replied that in the past no such difference was considered as all of the candidates participated as independent candidates, but this time equal expenses rules are adopted, Deputy

Chief Electoral Officer replied that no such difference is deemed necessary.

Regarding the question of whether electoral campaign finance procedures are implemented equally for all political parties, interviewees replied that there was no difference or discrimination and that candidates were dealt as individual persons. For this reason, interviewees felt, authorities were not bound to separate rules or procedures for different parties.

*Questions regarding reporting requirements and procedures.* In response to questions about report formats, interviewees indicated that JEMB had provided forms in annexes to the candidates' nomination procedures. The deputy chief electoral officer said that the question of the obligation of parties to disclose accurate financial information was being considered in the draft of new procedures. The deputy chief electoral officer said candidates are obligated to disclose funding sources.

Interviewees did not believe that the public was allowed a right of access to the financial information that candidates are obliged to provide, stating that this had not been considered in the past, but is a consideration for the future, provided that it is passed by the parliament. Replying to the question of whether candidates' financial reports are made public, interviewees said no.

*Questions regarding lessons learned.* Asked about the lessons learned from the two previous elections in 2004 and 2005, the head of the legal department believes that these were partial experiences for the election management body and that accountability in the political finance and registration of the candidates wealth should be made obligatory, so that the financial affairs of the candidates can be managed in a transparent manner. The deputy chief electoral officer believes that candidates' assets should be registered and published by the IEC. Further, the public should be asked to review these reports and cooperate with the IEC to provide accurate information whenever discrepancies are discovered.

The deputy chief electoral officer stated in regard to the future plans of IEC that registration and publication of candidates' assets will be the first priority of the Commission. In response to the question of how the IEC will be able to implement the rules and regulations, the head

**that the public was allowed a right of access to the financial information that candidates are obliged to provide,**

of the legal department replied that, in accordance with the provisions of the new draft electoral law, all government organizations will be bound to support the Media Commission, Independent Election Commission, Electoral Complaints Commission and the provincial offices of these two Commissions through the electoral process. The deputy chief electoral officer specified that this cooperation would be invoked only if any offences were committed. The authorities agreed that electoral campaign information should be made public.

### **Political Parties' Assets: Interviews with Party Leaders**

FEFA prepared a list of political party leaders to interview about the current political party law and the regulations concerning funding and political finance. (See Appendix A for list of party leaders for interview.

Interview dates: 05-06/03/08

Table 5. List of individuals interviewed: Party Leaders

No.	Name	Party	Position in Party	Date Party Established
1	Ghulam Farooq Nejrabi	Freedom and Independence Party of Afghanistan	Leader	06/03/2003
2	Dur Mohammad Noori	National Solidarity of Afghan Youth Party	Deputy Leader	06/03/2003
Total number of individuals interviewed: 2				

### **Analysis of Interview Data**

*Questions regarding awareness and compliance.* The individuals interviewed were satisfied of having sufficient budget for their parties and believed a budget was necessary for the existence of a party. They were aware of the provisions of the political parties law that required all financial transactions to be directed through a dedicated bank account. In response to question regarding specific procedures to monitor the income and accounts of political

parties, one of the interviewees replied that such procedures were in place; the other answered that no such procedures had been adopted. The political parties' registration office also responded in the negative. .

Both of the individuals interviewed believed that the department of civil society and political parties' registration is responsible for gathering such information. One of the interviewees said that the Ministry of Finance also collects financial information on political parties. They also indicated that, with regard to the financial management of political parties, no facility is available to computerize the parties' financial information. They also believed that political parties are obliged to report information regarding their income and expenses. Both interviewees said they had never received reporting forms from the Ministry of Justice. Asked whether their parties were able to prepare and submit standard reports, both interviewees answered no.

When interviewees were asked whether political parties are obliged to disclose the identities of their funding sources, the representative of the National Solidarity of the Afghanistan Youth Party said yes, while the leader of the Freedom and Independence Party of Afghanistan responded in the negative. Neither interviewee believed that parties were required to disclose funding sources before the close of the campaign. Responses to questions about whether parties are obliged to announce third funding parties, such as foundations, NGOs, or businesses, broke along the same lines, with the National Solidarity Afghanistan Youth Party representative believing they were and the Freedom and Independence Party representative saying no. Both interviewees believed that parties are obliged to disclose financial information, and neither believed that political parties are entitled to in-kind funding such as free services or discounts on media services. In regard to the question of whether political parties have permission to have fixed deposit accounts, both interviewees replied positively.

*Questions regarding enforcement.* Interviewees were asked which particular body (IEC, Independent Commission of Anti-Administrative Corruption, Ministry of Justice, or Wolesi Jirga) has the authority to implement the laws relevant to political parties' finances, the Independent Party of Afghanistan expressed no opinion, while the National Solidarity Party representative said that this is the responsibility of the Ministry of Justice. Asked when over-

**a mixed powerful organ made up of representatives from the government and civil society organizations would enhance the level of transparency and accountability in political finance affairs.**

sight of political parties' financial affairs was established within the Ministry of Justice, the representative of the Independence party believed that this was established as part of the political parties' law; the other interviewee had no opinion. Both interviewees believed that the IEC is the body with the authority to enact restrictions on parties in case of a violation of electoral campaign procedures. Asked what sanctions were allowable in case of a violation, interviewees suggested counsel, warning, or negation of candidacy. None of these sanctions have yet been implemented.

The party representatives interviewed were asked whether any political party would volunteer for audit of their financial affairs by an international auditor; they said that their parties were not ready for such an audit. Both interviewees stated that their parties do not have any publications, and that they do not have any outreach source via newspapers, radio, or television.

Asked about potential developments in electoral finance law, interviewees proposed that a mixed powerful organ made up of representatives from the government and civil society organizations would enhance the level of transparency and accountability in political finance affairs.

### **Political Parties' Assets: Interview with the Ministry of Justice**

FEFA sought an interview with the public official in charge of the registration of political parties at the Ministry of Justice.

Interview dates: 19-21/03/08

Table 6. List of individual interviewed: Ministry of Justice

No.	Position	Organization
1	Assistant Director of the Regulatory Department	Ministry of Justice
Total number of individuals interviewed: 1		

## Analysis of Interview Data

*Questions regarding the disclosure and reporting of financial information.* The Ministry of Justice representative said that political parties are obliged to disclose their funding sources, and the maximum donation according to the law is 2 million Afghanis per year from a single person. However, he said, parties are not obliged to reveal complete identification of funding sources; nor are they required to announce third funding parties.

Asked whether any particular office or individual has been appointed to ensure that the political parties and candidates have registered their assets in accordance with the regulations, he identified the regulatory department of political parties as assuming this responsibility. He also indicated that, although the law has not clarified the procedure for monitoring and controlling the assets of political parties, the Ministry of Justice carries out this task through a board of delegates. As there are no specific legal or regulatory provisions for verifying or analyzing the reports, according to the interviewee, no mechanisms exist for this and such checks are not carried out. The interviewee indicated that of 95 active political parties, only 78 have submitted required annual reports. He added that disclosed information is available to the public and the media.

According to the interviewee, the civil society registration office within the Ministry of Justice has created specific forms for political parties to report financial data, but no regulation is drafted or anticipated by the Ministry of Justice to oblige the parties to provide financial reports, nor are any regulations expected that will enforce the provision of electoral campaign financial reports.

He was asked that whether any law or regulation has clarified that all fix deposits shall be managed through a specific bank account, he replied that yes, this issue is clearly stated in the political parties' law.

*Questions regarding the Ministry of Justice's communication with parties.* In response to questions, the interviewee indicated that the Ministry of Justice communicates with parties only during the registration period. According to the interviewee, the Ministry is under no

**parties are not obliged to reveal complete identification of funding sources; nor are they required to announce third funding parties.**

**law or regulation has clarified that all fix deposits shall be managed through a specific bank account.**

legal or regulatory obligation to explain reporting procedures, penalties for failing to report, or any administrative procedures. The Ministry has not prepared any guide or manual regarding electoral finance reporting requirements nor has any training been offered. There are at the moment no plans for such training in the future. The interviewee had no information regarding mechanisms to respond to objections to Ministry decisions with regard to political finance issues.

*Questions regarding penalties for noncompliance.* The interviewee refused to comment on penalties for providing false or illegal information about funding sources or electoral campaign financing because this issue is outside of the jurisdiction of the Ministry of Justice. Asked whether a political party may be suspended and, in the event a violation of political finance law is proved, withdrawn from the list of eligible political parties, he responded that no such regulations exist.

When the interviewee was asked which entity has the legal responsibility to address complaints regarding the assets of political parties, he responded that no such entity exists, but he felt that this responsibility should be given to the Courts. At the same time, he suggested that the regulatory department of political parties should have the authority to inspect submitted documents for compliance with the law. At the moment, the Ministry of Finance bears the responsibility of registering assets of political parties.

## **Recommendations**

Based on the investigations described here, FEFA has formulated a series of recommendations for improving transparency and accountability with regard to political finances. Implementation of these recommendations will undoubtedly promote transparency and accountability in the democratic process and enhance public trust in the political system and in public officials.

### **Recommendations regarding disclosure of assets of government officials**

#### **Legal Frameworks**

Articles 50 and 154 of the constitution of Afghanistan make clear provisions for the registration of assets by government officials. Besides this, United Nations resolution number 51/59, signed in 1996, sets forth detailed conventions for the prevention of corruption. Based on these legal documents, FEFA recommends that the Afghan government draft and ratify an efficient law that enacts as law the provisions of the constitution and guarantee control, implementation, and accountability. Clear mechanisms and procedures should be spelled out for the control of wealth and business transactions of high-ranking government officials.

Even before such laws can be passed, the Afghan government should respect and observe international standards for the prevention of corruption; as it signs all other conventions ratified by the United Nations, it has also signed the conventions against corruption, which oblige signatory states to work to terminate the roots of corruption.

#### **Enforcement Mechanisms**

Although a number of institutions are working in this area in Afghanistan, it became clear in the process of our investigations that the various administrative bodies were not working properly to execute their mandated functions.

**Implementation of these recommendations will undoubtedly promote transparency and accountability in the democratic process and enhance public trust in the political system and in public officials.**

One of the reasons for the improper and incomplete implementation of the provisions of the constitution and presidential decree number 1 is the absence of a powerful and authoritative mechanism for the execution and implementation of these provisions. FEFA recommends that an efficient structure be established to carry out the functions mandated in the law. This body should be required to study, determine, and register the wealth of high-ranking government officials.

### **Training and Communication**

Any enforcement structure must be based on clear, carefully presented information. The staff of the enforcement organ recommended above must be trained in the law of political finance so that they can effectively perform their responsibilities. This organization should have the capacity to conduct similar training programs for other organizations involved in the process.

### **Regulation**

All high-ranking government officials should be obliged to register their assets within the period of time specified in the constitution and in the presidential decree, as well as in any laws that may be passed. These regulations should be made part of the administrative orders of each organization, implemented during the recruitment, transfer, and retirement of officials. Administrations should be required to provide complete reports on such instances, so that they will have accurate information. Penalties should be specified for violations of these regulations.

### **Computerized Record System**

A computerized database would take advantage of current technology to facilitate the maintenance of a list of government officials required to disclose their assets. This will also help authorities to resolve discrepancies and prepare accurate reports for the President or other authorities involved in this area and as stated in the provisions of law.

## **Archives**

Documents and files should be managed and saved in a standard manner in a well-managed archive. Such an archive will protect accessibility of information and help verify that those who are required to register assets have done so.

## **Monitoring and Investigation**

It became clear during the investigation that the accuracy of the information provided by those required to report could not be verified. FEFA recommends that verification mechanisms shall be strengthened, ensuring that assets are fully and accurately disclosed.

## **Right of Access**

Although the public's right of access to this information is affirmed in article 50 of the constitution, some authorities refused to share some information, arguing that documents were confidential. This occurred most notably in the refusal of our request for a blank disclosure form. FEFA recommends that clear regulations be made regarding access to information pursuant to the principles of public access laid out in article 50 of Afghanistan's constitution.

## **Public Education**

In order to strengthen public trust in the process, FEFA recommends that the government undertake a series of public awareness programs. These will enhance the public's sense of transparency and will oblige the authorities to be accountable.

## **Recommendations regarding the assets of political parties**

## **Legal Framework**

Although article 14 of the political parties law clearly indicate allowable sources of political

**FEFA recommends that clear regulations be made regarding access to information pursuant to the principles of public access laid out in article 50 of Afghanistan's constitution.**

**FEFA recommends that all aspects of political finance be thoroughly clarified in electoral law.**

**FEFA recommends that the civil society and political parties functions be separated and a specific department established to focus only on issues relevant to the political parties.**

funding and prohibits funding from any foreign sources, other aspects of political finance remain less clear. FEFA recommends that all aspects of political finance be thoroughly clarified in electoral law.

Provisions should also be included to oblige political parties to provide detailed reports of different stages of activities and of electoral campaign expenses. Electoral laws should define penalties for violators of the provisions, require parties to disclose identities of funding sources, and incorporate regulations to manage, prepare, and review the different stages of political finance. These provisions should be undertaken in accordance with international standards.

### **Administrative Structure**

Currently, political parties are regulated by a body within the structure of the Ministry of Justice called the Directorate of Regulation and Review of the Registration of Civil Society and Political parties. FEFA recommends that the civil society and political parties functions be separated and a specific department established to focus only on issues relevant to the political parties. Besides registering political parties, this department should also have the responsibility to investigate, control, and inspect the funding sources of the political parties.

This department should also provide information to the public, civil society, and the media, as well as coordinating with the Independent Election Commission and other organizations involved in the electoral process.

### **Inspection and Control**

In order to manage the issues relevant to political parties' wealth in a transparent manner, it is necessary to create a powerful mechanism for the control and inspection of the incomes and expenditures of the political parties. This mechanism will enable the government and its citizens to review the incomes of the political institutions and parties in a regular and well-managed manner.

## **Reporting and Accountability**

Political parties must be required to prepare and present periodic financial reports by the enactment of rules and regulations that call for reporting at different stages of activity. Reports should take a predetermined format, so that analysis and review of these reports can be carried out easily.

## **Disclosure of Funding Sources**

Parties are already obliged to disclose funding sources; in addition, they should be required to provide full, clear identification of funding sources. This will help to create a sense of transparency and reduce the gap between public and political entities.

## **Monitoring**

A number of civil society organizations should monitor the process of registration to encourage accountability and ensure compliance. This monitoring will require that civil society have free access to the information reported by the parties. This will encourage political parties to abide by the law and on the other hand will strengthen the accountability mechanism.

## **Public Education**

Public participation in the political process is very important. For this reason, sufficient resources and opportunities must be provided for public access to the relevant information. Media and publications should be allowed to prepare and present to the public a series of programs on an intact, healthy, and positive political process.

## **Training**

Both political parties and enforcement agencies will need training to manage the reporting and accounting process efficiently and transparently. FEFA recommends that training materials and sessions be provided for both administrative authorities of the political parties and

**Public participation in the political process is very important. For this reason, sufficient resources and opportunities must be provided for public access to the relevant information. Media and publications should be allowed to prepare and present to the public a series of programs on an intact, healthy, and positive political process.**

**FEFA believes that the existence of powerful legal provisions in the rules and regulations anticipated will have a discernable impact on implementation. Penalties for violation should be incorporated into the regulations to encourage compliance.**

**The new draft electoral law reportedly does oblige candidates to provide information regarding their assets and finances.**

responsible government personnel to acquaint them with national regulations and international standards.

### **Enforcement**

FEFA believes that the existence of powerful legal provisions in the rules and regulations anticipated will have a discernable impact on implementation. Penalties for violation should be incorporated into the regulations to encourage compliance.

### **Clarification of Responsibility**

Another issue of significant importance will be clarification of the legal authority of the different bodies involved in drafting laws and regulations, as well in practical implementation and enforcement.

### **Mechanism for Complaints**

Another factor that institutionalizes the transparent management of political finances is the existence of a well-managed mechanism for reviewing complaints. Implementation of a defined complaint process will also provide public access to accurate information about the wealth of political parties. The result will be a transparent and accountable administrative system for political entities.

### **Recommendations regarding Electoral Campaign Financing**

#### **Legal Framework**

Although article 53 of the electoral law clearly prohibits the use of funds originating from illegal activities or of foreign funds in the electoral process, the law makes no specific provisions for monitoring or enforcement. The new draft electoral law reportedly does oblige candidates to provide information regarding their assets and finances.

FEFA recommends the new electoral law clarify and specify a number of issues in electoral campaign financing. Provisions should be included to require candidates to register the actual amount of their income, to facilitate transparency and accountability in reporting, and to specify penalties for failing to comply or providing false information. FEFA also recommends that similar issues regarding the participation of political parties in elections should also be addressed in the new laws.

### **Administration**

FEFA recommends that a specific administration be created within the structure of the IEC Secretariat to evaluate, investigate, control and report on candidates' financial affairs. This administration would be able to investigate and inspect candidates' legal and illegal incomes and monitor in-kind donations to electoral campaigns. In addition, this administration should have the responsibility of the registration of all assets and properties of political parties at the time of their nomination for elections.

This agency would prepare a specific procedure for reporting financial information and prepare detailed instructions for complying with these procedures for candidates to follow.

### **Training**

The most important element in the successful accomplishment of a duty is professional knowledge and capabilities in the relevant field of work. For this reason, FEFA recommends that personnel assigned to oversee electoral finance regulations and procedures should be given sufficient training to allow them to carry out their responsibilities in an efficient manner.

### **Bank Account Provisions**

Although regulations requiring campaigns and political parties to maintain dedicated bank accounts have been in place for some time, these regulations have not been implemented. FEFA emphasizes the need to enact this principle at least in those provinces that have well-

**FEFA recommends the new electoral law clarify and specify a number of issues in electoral campaign financing. Provisions should be included to require candidates to register the actual amount of their income, to facilitate transparency and accountability in reporting, and to specify penalties for failing to comply or providing false information. FEFA also recommends that similar issues regarding the participation of political parties in elections should also be addressed in the new laws.**

**Transparent reporting and monitoring foster transparency and accountability. An environment must be created to support neutral and impartial monitoring of electoral financial affairs. Candidates and monitoring agencies must allow public access to this information to strengthen public trust, eliminate any concerns regarding the transparency of electoral finances.**

established banking facilities. In provinces without banking facilities, other methods need to be found to enforce the same kind of accountability.

### **Reporting and Investigation Mechanisms**

FEFA recommends that a mechanism be established for the control, reporting, and inspection of electoral finance reports. This mechanism should be executed in accordance with consistent standards enforced in the same manner at the center and in the provinces.

These mechanisms should offer provisions for monitoring candidates' campaign expenditures as well as income sources. They should also provide a way of ensuring that spending for specific type of elections are observed.

### **Electoral Campaign Monitoring Mechanisms**

Transparent reporting and monitoring foster transparency and accountability. An environment must be created to support neutral and impartial monitoring of electoral financial affairs. Candidates and monitoring agencies must allow public access to this information to strengthen public trust, eliminate any concerns regarding the transparency of electoral finances.

### **Public Awareness**

Broad public outreach programs are necessary to support the principles of free and fair elections laid out by international convention and national regulation. Citizens must understand the monitoring process and be aware of their right to file objections and complaints regarding possible election finance violations, including complaints regarding illegal income sources and other financial affairs.

### **Publication of information for and about candidates**

One element in the mismanagement and lack of implementation of previous versions of

electoral law was the absence of reliable information regarding the requirements and enforcement of the law. The control and management of electoral expenses requires wide dissemination of relevant information in clear, understandable format, including information regarding the public's right of access to candidates' financial information.

On another note, FEFA recommends action to ensure equal accessibility of all candidates to the media to broadcast their agendas. Nongovernmental media should also be required to observe procedures to ensure equal and fair publication of candidates' programs. During the electoral campaign period, these procedures will be equally applicable to government and nongovernment media.

### **Sources and References**

Constitution of the Islamic Republic of Afghanistan. January 3<sup>rd</sup>, 2004.

Presidential Decree Number 1 of the Islamic Republic of Afghanistan, dated 18/9/1383 (8 December 2004) in regard to the executive code of conduct for high-ranking government authorities and officials including executive, legislative, and judicial authorities.

Regulation on Political Parties Participation in the Registration, February 2004.

Islamic Republic of Afghanistan, Electoral Law, 27 April 2005.

Code of Conduct for the Financial Affairs of the Electoral Campaign for Parliamentary Elections of 2005, adopted by JEMB August 2005.

Registration of Political Parties, 18 October 2003.

Regulation on Political Campaign Finances, JEMB 2004

Regulation on Campaign Finances, JEMB 2005

Code of Conduct, United Nations resolution 51/59 adopted on September 12, 1996.

Interviews conducted with implementers of the asset registration program, individuals required to disclose their assets, and previous presidential, parliamentary and provincial council election candidates.

Interviews conducted with Independent Election Commission senior staff, Ministry of Justice staff, and political party leaders.

## **Appendix I: Methodology**

This project engaged an investigative process that began with the study of different national and international principles and norms; interviews were conducted with stakeholder individuals and organizations with the goal of gathering information about three primary issues:

1. The registration of assets by high-ranking officials and the implementation of presidential decree number 1;
2. The disclosure of electoral campaign financing practices and funding sources, especially for presidential and Wolesi Jirga elections; and
3. The registration of the assets and funding sources of political parties.

### **Methods**

We pursued this investigation through the following activities:

- Study of relevant constitutional articles, laws, regulations, and presidential decrees;
- Analysis laws in the context of global standards;
- Study of the practical implementation of these legal instruments through interviews with relevant organizations and individuals;
- Analysis of the practical situations and findings emerging from the interviews;
- Preparation and provision of recommendations; and
- Conduct of joint sessions for the purpose of sharing the results of this study and investigation with concerned entities, including:
  - Civil society organizations
  - Observers and implementers of the laws
  - Ministry of Finance
  - Ministry of Justice
  - Electoral candidates
  - Independent Election Commission

- Political parties
- Educators and intellectuals
- Authorities of the former Election Complaints Commission
- Re-analysis of findings in light of information gathered during joint sessions;
- Preparation of a detailed report of all activities.

### **Strengths**

The project had a number of strengths that facilitated successful completion, in spite of the short time period and the number of tasks to be accomplished:

1. The investigation focused on a specific and important topic, fit to a specific occasion.
2. The project was designed to encourage active participation in civil society in order to resolve issues impeding Afghanistan's development as a democratic society and undermining public trust in government.
3. The report identified concrete shortcomings in the transparency of electoral campaign finances and asset disclosure by political parties.
4. The report provided constructive and efficient recommendations for the development of a healthy, transparent procedure in affairs relevant to political finance.

### **Weaknesses**

A number of factors complicated the project:

1. The period of time for conducting the project was short.
2. Administrative limitations presented resource challenges.
3. A number of authorities refused to be interviewed, reducing the range of information available for analysis.
4. In some cases, individuals were late for interviews, forcing interviews to be cut short and reducing the amount of information available for analysis.

## Appendix II: List of people for interview

No	Organization	Name	Position	Interview date	Accepted
1	Anis News Letter	Ab. Shukoor Nawan	Deputy Director	Jan 22/08	Yes
2	Hiwad News Letter	Tooryalay Zazai	Director	Jan 22/08	Yes
3	Islah Neas Letter	Dr. Shamulhaq Aarianfar	Director	Jan 23/08	Yes
4	Kabul Times	M. Dawod	Deputy Director	Jan 23/08	Yes
5	President Administrative Affairs Office	Ab. Hamid Yousofi	Legislative Director	Jan 24/08	Yes
6	President Administrative Affairs Office	M. Akbar	Cultural Office Member	Jan 24/08	Yes
7	Administrative Reform Commission	M. Anwar Eahamani	Collection Director	Feb 05/08	Yes
8	Ministry of Justice	Haji Ashraf Jaleb	Legislative Director	Feb 05/08	Yes
9	Ministry of Justice	Dr. M. Qasem Hashemzai	Deputy Minister	Feb 07/08	No
10	Ministry of Justice	Ab. Ghyas Ilyasi	Monitoring Director	Feb 10/08	Yes
11	Administrative Reform Commission	Noor. M. Mangal	Director of Policy	Feb 10/08	Yes
12	Administrative Reform Commission	Sayes. M Bashir Moosawi	Chief of Policy	Feb 10/08	Yes
13	Ministry of Finance	Anwarulhaq Ahadi	Minister	Feb 12/08	No
14	Afghanistan Investment Support Agency (AISA)	Omer Zakhilwal	Director	Feb 12/08	No
15	Ministry of Women's Affairs	Husunbanoo Ghzanfar	Minister	Feb 12/08	No
16	Kabul Province	Kabul Province	Governor	Feb 14/08	No
17	Ministry of Foreign Affairs	Dr. Rangeen Dadfar Espanta	Minister	Feb 14/08	No
18	Ministry of Foreign Affairs	M. Kabir Farahi	Deputy Minister	Feb 14/08	No
19	Ministry of Finance	Ab. Razaq Samadi	Deputy Minister	Feb 14/08	Yes
20	Da Afghanistan Bank	Ab.Qadeer Fetrat	President	Feb 14/08	Yes

21	Ministry of Women Affairs	Palwasha Kakar	Deputy Minister	Feb 17/08	Yes
22	Meshrano Jirga	Said Hamid Gilani	Deputy Speaker of Meshrano Jirga	Feb 19/08	Yes
23	Meshrano Jirga	M. Omer Shirzad	Member	Feb 19/08	Yes
24	Wolesi Jirga	Said Reza Hashemi	External Affairs Director	Feb 19/08	Yes
24	Wolesi Jirga	Said Reza Hashemi	External Affairs Director	Feb 19/08	Yes
25	Wolesi Jirga	Aazita Rafhat	Member	Feb 19/08	Yes
26	Wolesi Jirga	Shukria Barakzai	Member	Feb 19/08	Yes
27	President Administrative Affairs Office	Request for interview	No reply	Feb 24/08	No
28	Independent Election Commission	M. Hashem Samim	Head of Legal Department	Feb 28/08	Yes
29	Independent Election Commission	Zekria Barakzai	Deputy Chief Electoral Officer	Feb 28/08	Yes
30	Wolesi Jirga	Rahimullah Ghalib	Office Manager of Mr. Qanooni's Office	Mar 03/08	Yes
31	Payame Mujahed News And previous presidential Candidate	A. Hafiz Mansoor	Director	Mar 06/08	No
32	Aazadi and Istiqlal of Afghanistan Party And previous presidential Candidate	Prof Dr. Ghulam Farooq Nejrabi	Director	Mar 06/08	Yes
33	Ministry of Justice	M. Naser Hafizi	Deputy Director of Solidarity Dept	Mar 11/08	Yes
34	Supreme Court	Bahauddin Baha	Head of General Crime	Feb 21/08	Yes
35	Administrative Reform Commission	Noor Mohammad Mangal	Head of Human Resources	Feb 10/08	Yes

## Appendix III



Islamic Republic of Afghanistan

Ministry of Justice

**Official Gazette**

Decrees

By the President of the Islamic Republic of Afghanistan

Publication Date: 20<sup>th</sup> January 2005 (Serial No # 843)

**In this Edition:**

1. Decree No (1) dated 9 -12-2004 of the President of the Islamic Republic of Afghanistan in regard to the executive regulations for the high ranking senior authorities and other high ranking senior government officials including the Executive, Judicial and the Legislative branches of the government.

Decree of the President of the Islamic Republic of Afghanistan regarding the executive regulations for the high ranking authorities and other senior officials of the Executive, Judicial and the Legislative branches of the government.

**No: (1)**

**Date: 9 -12-2004**

Since truthfulness, honesty, impartiality, neutrality in the execution of the job, transparency and accountability are the highest ethical standards of the employees, Based on the Article 50 of the constitution and the decision No# 51/59 announced on the 12<sup>th</sup> September 1996 by the United Nations General Assembly which is supported by Afghanistan government. The following individuals are requested to give full attention and obey the below mentioned provisions: Members of the cabinet, Chief of justice and the members of the Supreme Court and other judges, Attorney general and the deputies, advisors to the Ministries, Ambassadors, Directors and members of the Independent Commissions ,the deputy Ministers, Commanders of the military and independent departments , Head of the Military forces departments, Heads of the Police, National and boundary security, Provincial governors, District governors and the Directors of the Civil service departments .

**Article 1:**

The high ranking authorities and other senior government officials are responsible to report

regarding the activities of their subordinate staff to the President of the country and the cabinet. So for this reason the recruitment of the individuals to the Ministries and other government departments should take place on the basis of Merit.

**Article 2:**

The members of the cabinet are obliged to respect the principle of the confidentiality of the cabinet decisions , decisions and the issues being discussed in the cabinet shall not be disclosed or if otherwise required by the law or the Presidents discretion.

**Article 3:**

The individuals mentioned in this decree shall obey the principle of impartiality, neutrality and giving priority to the public interests in their functions. They shall neither compromise on the legal and real issues for any interests based on ideology, lateral, Ethnical, Gender, Linguistic, or regional basis nor should use their political or government position for the personal benefits or influence in other government administrations.

**Article 4:**

The individuals mentioned in this decree are obliged that within two weeks of the enforcement of this decree, shall report the complete information on the specified forms regarding their income, mobile and non mobile properties and assets ,business activities, and loans for him/herself , spouse , non adult children to the presidents office.

**Article 5:**

The individuals mentioned in this decree can not receive any presents or gifts which are presented as formalities from any other person or entity other than the official departments they are working for. Any gifts or presents which worth more than 200 US\$, shall be registered in the president office and be submitted to the, THE AFGHANISTAN BANK (CENTRAL BANK) or any other authority specified by the government.

The individuals mentioned in this decree do not have the right to grant presents and or gifts from the official budget which worth more than 200US\$ .

**Article 6:**

Any official trip abroad the country of the individuals mentioned in this decree shall take place with the written approval of the president of the country. The expenses of the official trips will be paid in accordance to the relevant rules and regulations. If required extra expenses will be provided as approved by the President.

**Article 7:**

The individuals mentioned in this decree, during their international official trips shall respect the principle of the National interests and the functional neutrality and shall provide the results and reports of their trip to the relevant authorities.

**Article 8:**

The individuals mentioned in this article are obliged to avoid using of any facilities and resources that were used by them, while they were serving in their ex- positions.

**Article 9:**

The President of the country is the only individual who can make any decision regarding the obedience or breach of the Articles of this decree by any of the individuals mentioned herein.

**Article 10:**

The Independent Commission of the Administrative Reforms and Civil Services in collaboration with the Ministry of Justice within six months of the enforcement of this decree shall provide the draft of the executive regulations for the high ranking authority and other high

ranking government officials including those from the executive, judicial and the Military forces to the President's office.

**Article 11:**

This decree is enforced from the date signed and shall be published in the official gazette.

**Hamed Karzai**

President of the Islamic Republic of Afghanistan.

**Appendix IV:**

**Political Parties Law, 14 October 2003 (Extracts)**

**Chapter three  
Financial matters**

**Article 14**

The funds and expenses of political parties shall be public and transparent.

**Article 15**

(1) Political parties may receive income from the following sources:

- (a) Membership contributions
  - (b) Donations by legal persons up to two million Afghani per year
  - (c) Income from a party's movable and immovable property
  - (d) Subsidies by the government in connection with elections
  - (e) Other contributions by members
- (2) Political parties shall register all its income and deposit it in a bank account.

**Article 16**

(1) The leadership of the political party shall bear financial responsibility during its tenure.

(2) In order to carry out its financial affairs, the leadership of the political party shall appoint one or more authorized representatives and introduce their signatures to the relevant bank.

(3) The movable and immovable property of political parties shall be registered in the office of the party and in the Ministry of Finance through legalized documents.

## **Chapter V**

### **Final Provisions**

#### **Article 24**

Financial and commercial governmental organs, and the responsible officials heading those organs, shall not use their position to favour or to disadvantage any political party.

**Appendix V:**

**JEMB Campaign Finance Regulations**

Joint Electoral Management Body  
Regulation on Campaign Finance

The Joint Electoral Management Body (JEMB), pursuant to Articles 7, 53, 56, and 57 of the Electoral Law, issues the following Regulation on Campaign Finance:

**Article I**

**Campaign Financial Records**

(I) All candidates, beginning on 17 August 2005 and continuing through 30 October 2005, shall keep a comprehensive updated record of their campaign finances, including:

- (a) all campaign related contributions received, whether in cash or in-kind, including property, loans, services or facilities for the use or benefit of the candidate. A Contribution is made at the time the benefit of the Contribution is received by the candidate; and
- (b) all campaign-related expenditures, whether in cash or in-kind, including payments due and expenses incurred for goods and services used for election related purposes.

(2) For the purposes of this Regulation, all non-monetary contributions or expenditures shall be valued at the fair market value at the time the contribution or expenditure was made and shall be recorded as such.

(3) Candidates must include all information requested by the form included in Annex I in their comprehensive record of incomes and expenditures. Candidates are not required to use the form provided in Annex I as long as any alternative format is clear and provides all of the information requested by Annex I.

As adopted by JEMB Decision 2005-48 of August.

(4) Candidates may appoint an individual to manage their campaign finances, but

Candidates are ultimately responsible for the accuracy and completeness of financial reports from their campaign and shall sign the reports issued in respect of their campaign finances.

(5) Candidates shall make their records of contributions and expenditures available for inspection to the JEMB, the JEMBS, the Media Commission (MC) or the Electoral Complaints Commission (ECC) upon request and in a timely manner.

(6) Personal identifying information about all individuals other than the candidate contained in the record of incomes and expenditures shall be kept confidential by the JEMB, the JEMBS, the MC, and the ECC, except as necessary to fairly and transparently dispose of complaints in accordance with each body's Rules of Procedure.

## **Article 2**

### **Campaign Spending Limits**

(1) No candidate for the Wolesi Jirga election may incur more than Afghani 750,000 in expenses for his or her campaign during the period from 17 August to 30 October.

(2) No candidate for the Provincial Council election may incur more than Afghani 375,000 in expenses for his or her campaign during the period from 17 August to 30 October.

(3) The cost of any security provided by the State for the protection of Candidates will not be accounted as campaign expenditure.

## **Article 3**

### **Campaign Contribution Limits**

(1) Candidates may only receive campaign-related contributions (including money, goods, or services) from individuals who are registered to vote in Afghanistan.

(2) For purposes of this regulation, benefits received from the Sponsored Advertising Program administered by the Media Commission and any resources that are derived from foreign non-governmental or governmental organisations providing

non-monetary support on an equitable basis to candidates shall not be considered as contributions.

(3) No person shall give, and no candidate shall receive from any person more than 50,000 Afghani in value of campaign-related contributions (including money, goods, or services) for the Wolesi Jirga election.

As adopted by JEMB Decision 2005-48 of August I

(4) No person shall give, and no candidate shall receive from any person more than 25,000 Afghani in value of campaign related contributions (including money, goods, or services) for the Provincial Council election.

(5) Candidates may not accept income derived from illegal activity, including, but not limited to, drug trafficking or sales.

(6) No Candidate, Party, Candidate or Party Agent, or any person acting on a Candidate's behalf may solicit a campaign contribution from any person in exchange for any promise of present or future benefits for that person, including employment, salary consideration, retention, or promotion.

(7) No government employee or contractor shall be solicited for any type of political contribution by a superior or any other individual with influence over that employee or contractor's status or remuneration, nor shall the making of any political contribution to whatever candidate or campaign or any uncoordinated expenditure be a factor in the retention, promotion, or salary consideration of such employee or contractor.

#### **Article 4**

##### Prohibitions on Uses

Candidates may not make expenditures that:

- (a) Purchase any broadcast media advertisements in contravention of JEMB Decisions 2005-33 and 2005-39; or
- (b) Violate any electoral regulation or any other law of Afghanistan.

#### **Article 5**

Penalties

Failure to comply with this Regulation is an electoral offence punishable by the ECC in accordance with its procedures.

**Article 6**

Entry into force

This Regulation shall enter into force the day of its signature.

As adopted by JEMI3 Decision 2005-48 of August I

## **Appendix VI:**

### **United Nations Convention against Corruption (extracts)**

#### **Preamble**

*The States Parties to this Convention,*

*Concerned* about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

*Concerned also* about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

*Concerned further* about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,

*Convinced* that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

*Convinced also* that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

*Convinced further* that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

*Convinced* that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

*Determined* to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

*Acknowledging* the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights,

*Bearing in mind* that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental or-

ganizations and community-based organizations, if their efforts in this area are to be effective,

*Bearing also in mind* the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption,

*Commending* the work of the Commission on Crime Prevention and Criminal Justice and the United Nations Office on Drugs and Crime in preventing and combating corruption,

*Recalling* the work carried out by other international and regional organizations in this field, including the activities of the African Union, the Council of Europe, the Customs Cooperation Council (also known as the World Customs Organization), the European Union, the League of Arab States, the Organisation for Economic Cooperation and Development and the Organization of American States,

*Taking note with appreciation* of multilateral instruments to prevent and combat corruption, including, inter alia, the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,

1 the Convention on the Fight against Corruption involving Officials of the European Communities or officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997,

2 the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1997,

3 the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,

4 the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999,

5 and the African Union Convention on Preventing and Combating Corruption, adopted by

the Heads of State and Government of the African Union on 12 July 2003, Welcoming the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime.

*Have agreed as follows:*

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1 See E/1996/99.

2 *Official Journal of the European Communities*, C 195, 25 June 1997.

3 See *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

4 Council of Europe, *European Treaty Series*, No. 173.

5 *Ibid*, No. 174.

6 General Assembly resolution 55/25, annex I.

## **Chapter I**

### **General provisions**

#### **Article 1**

##### *Statement of purpose*

The purposes of this Convention are:

- (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- (c) To promote integrity, accountability and proper management of public affairs and public property.

## Article 7

### *Public sector*

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That includes adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

## **Article 8**

### *Codes of conduct for public officials*

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.
4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.
5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.
6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

## **Article 20**

### *Illicit enrichment*

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to es-

establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.