



د افغانستان د آزاد او عادلانه ټولټاکنو ټولنيزه موسسه
موسسه اجتماع انتخابات آزاد و عادلانه افغانستان
Free & Fair Election Forum of Afghanistan organization

A charter for the Validity and Integrity of the 2019 Presidential Election

Proposal of the Free and Fair Election Forum of Afghanistan (FFFA) regarding the Charter / Executive instrument for the validity and integrity of the 2019 presidential election.

Declaration of July 20, 2019 as the date for presentation election by the former commission and its postponement to September 28, 2019 by the current commission have once again resulted in violation of the Afghan constitution in regards with the timely holding of the presidential election. This has strictly raised serious questions and doubts on all aspects related to the intention and will of the National Unity Government and the Independent Election Commission (IEC), and legitimacy of work of government after the date mentioned as end of government term in the constitution.

Although there are various reasons and arguments put forward by the National Unity Government or IEC in this regard, which cannot lead to the removal of their legal responsibility and obligation for refraining from timely holding of the presidential election. Even there are concerns about postponement of the election due to negligence or lack of capacity at the election commission, along with other obstacles that could hamper the election process.

Along with that, there are other serious concerns with the electoral stakeholders and electoral tickets competing with the president and chief executive, who are presidential candidates themselves regarding abuse of state owned facilities and Authority for influencing the electoral process.

Given the above issues, the presidential election, has put Afghanistan at the greatest the test, in exercise of democracy and the peaceful transition of political power. Undoubtedly, the successful conduct of the presidential election requires observance of the constitutional provisions, electoral laws and procedures, which should be a model for the performance of the electoral commissions and the government of Afghanistan, which, regrettably, their violations have already been seen and require serious efforts by the authorities in terms of legality.

Additionally, this process should be implemented and managed independently and free of any kind of intervention and political influence by the IEC. On the other hand, it is imperative that candidates shall help to ensure better election results, with the belief and compliance with the principle of fair competition and free of violence and corruption. At the same time, the principles of transparent

and credible elections require the government to provide equal opportunity for competition for all candidates and prevent discriminatory conduct and misuse of governmental authority. Therefore, the government must commit itself to prevent the utilization and provision of state owned and public resources and authority in favor of a particular candidate and to adhere to the principle of equal competition. In addition, the government must ensure that government officials and staff in Kabul and the provinces maintain neutrality in dealing with elections and that they do not carry out any actions in favor of or against any candidate during the election process.

The main concern and expectation of Afghan citizens and civil society is that the bitter experience of the 2014 presidential election is not repeated. Meanwhile, the shortcomings and corrupt full practices that took place in the 2018 Wolesi Jirga shall also be prevented. The repeat of the bitter events of the past two elections will drive the country in crisis and the national and vital process of the election will fail.

The doubt and suspicion that now exists regarding a transparent and free of government intervention elections, can pave the way to opposition of candidates and their supporters with the outcome of the election, and ultimately, the invalidation of the process. The occurrence of such a situation would undermine the political and legal credibility of the elections and the resulting system and will once again undermine the world's view of the Afghan election.

Given the structure of the national unity government, and given the fact that the formation of central and provincial government offices is the result of a joint decision and cooperation between the two entities President's office and the Chief Executive Office, which requires the leadership of the National Unity Government to look at the issues cautiously with the necessary precaution and prioritize the credibility and fairness of elections. This could be considered in the context of neutrality and balances in dealing with candidates who may be affiliated to a part of the leadership of the government. The sensitivity of the subject and its consequences cannot be ignored, so engaging equally and fairly with all competitors can be a solution of some of the problems.

FEFA, as an election observation organization and supporter of election transparency in the country, believes that cooperating with the government and the electoral commissions to successfully conduct the election is part of its existential mission and has always been committed to it. For this reason, this organization urged the leadership of the National Unity Government to formulate and implement a charter to ensure the integrity of the elections. This charter must have the necessary political and executive validation. Accordingly, FEFA proposes future Articles for inclusion in the charter, led by the National Unity Government and presidential candidates:

1. Establishment of a supervisory committee made up of representatives from the presidential candidates to track/monitor the implementation of articles of the charter;

In the first instance, the president shall urgently call for a joint meeting of the presidential candidates in the presence of the members of the two election commissions, the United Nations and the election observation institutions, and discuss and addresses the current

problems raised by the electoral Tickets, in the framework of FEFA's proposed plan. In this regard, it is necessary to regulate a Technical and supervisory Committee composed of high ranking members of each electoral ticket. The committee will work on developing a supervisory and technical plan that will later be approved by electoral tickets' leaders. After approval by the Committee on Election ticket Leadership, it requires the President to sign and enforce it on the basis of a decree. After the issuance of a decree, the supervisory committee should have a joint oversight on its content and, in the event of a violation of the content, adopt their supervisory position about the situation at a joint meeting and submit it to the electoral commissions for the follow up, so that in the light of the law in ,it could be addressed under electoral violations and crimes by the electoral commissions and the necessary steps to be taken in the light of the provisions of the electoral law.

2. Avoidance of government's leadership from official activities that are similar to electoral campaigns:

Given the sensitivities of the country's political elite society, especially in regards with the use of government authority (as well as government facilities and resources), the FEFA suggests that the leadership of the national unity government, must be cautious and precise, in the implementation of various parts of the elections defined in the calendar of 2019 presidential election, in order to respond to these concerns and increase the credibility of the elections. The government's activities are expected to be sufficiently clear and straightforward not to have similarities to the election campaign.

The government's performance is required to be in such a manner that to ensure the people and the candidates that they are only focused on the purpose of implementing the government's normal plans and missions and that they are by no means connected with the future election plans of the leaders of the national unity government. Among the dubious activities, provincial visits by the National Unity Government leaders, meetings with various sections of society and government officials during the electoral calendar worth mentioning. It is suggested that the president and the chief executive reach to an agreement with the other candidates that the meetings with various segments of people must be stopped before the official election campaign period. These instances should be part of the supervisory procedure approved by candidates, so that it should be enforceable at the level of the offices of the candidates and the level of the presidential offices, the chief executive's office and the central and provincial government offices.

3. Avoidance of Appointment - Transfer of Government officials/Personnel in Capital and Provinces:

The leadership of the government should avoid the transfer or change of senior officials at the key positions and the positions which are effective elections in capital and provinces.in the process of presidential elections (with the exception of situations that are conducted through transparent competition or resulting from resignation, dismissal or prosecution of government officials and personal), the transformation of senior officials and posts The key to and effective in central and provincial elections. But any recruitment or competition would be stopped as soon as possible before the formal termination of the campaign. According to FEFA, this is one of the key elements in securing the political

credibility of the election and a sign of the lack of intervention of the leadership of the government and its influence on the electoral process. Its realization will undoubtedly be welcomed by the wider community.

4. Suspension of duty of government officials who intervene in the electoral process:

According to the experiences learned from the previous elections, one of the factors behind the creation of a crisis in the election and the rejection of its outcome is the intervention of a number of civilian and military personnel and representatives of the people in the National Assembly and Provincial Councils in the electoral process. With all due respect, the FEFA asks the leadership of the National Unity Government, to deal with these interventions in a serious and impartial manner. To this end, it is imperative that the leadership of the National Unity Government take into account the reports and suggestions of the mentoring committee of presidential candidate, presidential election, electoral commissions and civil society institutions for the intervention of some government officials or representatives of the national assembly and provincial councils in the electoral process and deal with the problem appropriately. This may include suspension of the duty of the offender and his / her introduction to the Electoral Complaints Commission for the purpose of completing and implementing the legal and judicial process.

5. Clarification of meetings and visits of the leadership of the national unity government with members of the electoral commissions:

During the presidential election process, the sensitivity to the influence of the government on the work of the electoral commissions increases. The leadership of the National Unity Government is expected to provide practical and satisfying responses to these concerns. Part of this clarification relates to meetings of government leaders and their agents with electoral commission members who need caution, clarity and special measures. In the first step, the government should refrain from meeting and solitary visits with the members and leadership of the electoral commissions in order to avoid doubts about the influence of the government on electoral commissions. Secondly, as a matter of fact, the leaders of NUG themselves are presidential candidates, FEFA proposes that official meetings of the government with members and commissions must take place in the presence of other presidential candidates or a representative of the mentoring committee so that, as Political rivals of leaders of the government in the upcoming elections they will be assured of lack of the government's intentions to intervene in the electoral process.

Meanwhile, the electoral commissions should develop and approve a bill on relations with the government and determine which official communication channel will be used to interlink for address issues that require a discussing and a response from the government. This should be stipulated in bill that only official letters has the official and administrative credibility to both parties (commissions and government). At the same time, the representative of the supervisory committee at the meetings, which is among the representatives of the government and the electoral commissions, is also present.

6. Prohibition of private meetings and visits of members - Leaders and staff of election commissions with candidates, political offices or leadership and members of political parties:

Although it is necessary to insert this in the Code of Conduct for both commissions and require members and staff of the electoral commissions to abide by it, FEFA asks the leadership of the National Unity Government to include this issue in the charter approved by the candidates. In addition, the government is required to monitor the movement of members and high-level officials inside and abroad the country in order to ensure that these movements do not cause corruption and do not violate the Commission's neutrality in electoral cases.

7. Respect and compliance with the principle of punishment and reward:

Given the mal-management of IEC and high level of violations and electoral irregularities in the Wolesi Jirga elections, as well as high levels of electoral fraud and violations of electoral procedures by the election commission, FEFA, strictly asks the leadership of the National Unity Government, to implement the principle of punishment and reward in accordance with the provisions of the Election Law over the members and the leadership of the Electoral Commission. This can, to a degree, create an opportunity to restore confidence in the election commission. At the same time, the selection methods and procedures need to be adjusted, which should be amended in the electoral law. FEFA can, in consultation with other stakeholders, propose a credible and effective government-led mechanism.

8. Reporting about implementation of the articles of the charter

The Committee for implementation of the articles of the charter is required to report to civil society, the media, the people of Afghanistan and the international community as soon as possible on the implementation or non-compliance of the charter articles by electoral and electoral bodies.

FEFA believes that if the proposals of this organization are ignored by the leadership of the Afghan government, the political dimension of the election will become even darker and will strengthen the electoral crisis. Serious allegations and accusations against the government from the political currents and other presidential election elements regarding the availability of resources are not fairly to other candidates and the abuse of authority and official posts due to changes in the electoral situation in favor of Candidates who are in official and government positions will raise. It will also make the international community doubtful about the will and commitment of the government to hold elections free of corruption and political inclination meanwhile, the electoral commissions will also be confused and in a shaky state in terms of implementation of the provisions of election law and dealing with serious cases that guarantee the transparency and credibility of the

elections, which is itself lead to failure of the fair election process. All of the aforementioned instances will be accompanied by turmoil and social crisis, which will lead to the failure of the electoral process, and will undoubtedly lead to the nervousness and pessimism of the people towards the nominees with official government positions. So, we will again experience a reconstructive election that is full of conflict. But we believe that the leadership of the national unity government will not pave the way for such an opportunity in which the ignominy of Afghanistan is conceivable.

Free and Fair Election Forum of Afghanistan (FEFA) May 2019

Kabul Afghanistan