



**PRELIMINARY STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE
ELECTION OBSERVATION MISSION
TO AFGHANISTAN'S 2010 LEGISLATIVE (WOLESI JIRGA) ELECTIONS**

Kabul, September 20, 2010

This preliminary statement is offered by the National Democratic Institute's (NDI) election observation mission, which began on August 1, 2010, and consists of 164 Afghan and international observers representing 13 countries. The security situation prevented observers from reaching portions of the country. Nevertheless, NDI operated in 30 of the country's 34 provinces and visited over 700 polling stations on election day. NDI has been present in Afghanistan since 2002 and has worked in support of democratic elections since the fall of the Taliban. This mission was funded by a grant from the United States Agency for International Development (USAID).

Prior to election day, NDI's observers across Afghanistan conducted interviews and consultations with candidates, government officials, the Independent Election Commission (IEC), the Electoral Complaints Commission (ECC), the Media Commission, political party officials, women's groups, human rights organizations, Afghan and international journalists, as well as members of the diplomatic community. In the lead up to polling day, NDI issued periodic [updates](#) covering the unfolding pre-election period. In addition, the mission benefited from its relationships with domestic election monitoring organizations, which deployed thousands of observers on election day.

This mission's purposes are to demonstrate the international community's continuing support for advancing the democratic process in Afghanistan and to provide an impartial assessment of the September 18 polls. NDI conducted its activities in accordance with the laws of Afghanistan and the [Declaration of Principles for International Election Observation](#), of which NDI is a founding endorser.

While election preparations were improved over last year's presidential and provincial council polls, it is too early to fully evaluate the quality of Afghanistan's current elections process. The tabulation of votes has yet to begin, official results have not yet been announced, and election complaints must still be processed and resolved by election authorities. Election-related problems may be revealed during the coming weeks, including serious abuses that may have occurred in insecure and inaccessible areas of the country. NDI observers witnessed a number of serious incidents of election-related violence, including attacks on polling stations and voters, but it is too soon to know what the impact of these events will be on the broader electoral process.

These elections pose especially difficult challenges for characterizing the process and detecting fraud. Because the margins between the contesting candidates will likely be slim, a small number of votes could affect the outcome of the elections for some candidates. Therefore, it will be critical for observers to closely follow the tabulation and complaints process throughout the post-election period. Only after the electoral institutions have completed these activities can a comprehensive evaluation of the electoral process be accomplished. Consequently, NDI is not offering a final assessment at this time and will continue to scrutinize the electoral process in the days and weeks ahead. The Institute may release further statements in the post-election period and will issue a final report after the electoral process is completed. NDI recognizes that it is the Afghan people who will ultimately judge the credibility of these elections.

I. OVERVIEW

Violence suppressed voter turnout in several areas of the country. However, this does not present a complete picture of the electoral process. Afghanistan's 2010 elections also demonstrated that millions of Afghans – as candidates and their agents, voters, domestic election monitors and polling officials – are committed to ensuring that the nation's government reflects the will of the people. Despite a worsening security situation in many parts of the country, and undeterred by the widespread fraud that characterized the 2009 elections, these individuals engaged in the electoral process and showed courage and resolve in moving the nation toward a more democratic future.

Despite a higher number of security incidents, including at least 30 reported deaths, Afghans in many parts of the country turned out to vote, with higher participation in the urban centers of the north, central and east regions, to lower participation in the south and southeast. Security problems led to polling center closures and delays in voting. Polling procedures were conducted relatively smoothly in places that could be observed, although a few stations observed experienced serious procedural problems. Although pre-election concerns of fake voter cards materialized on election day, in many instances, polling officials and security forces reacted quickly to prevent illegal voting and arrest perpetrators. However, it is difficult to judge how many successful uses of fake voter cards could have occurred undetected. Concerns with the quality and consistency of the application of ink on voters' fingers were reported on election day, although its impact on the process is unknown at this point.

Reports of ballot shortages emerged from around the country — though it is unclear at this stage which cases resulted from poorly allocated polling stations and which were indicative of ballot box stuffing. In some cases, the IEC was able to deploy reserve contingency stations to meet voter demand. While security and logistical challenges severely limited observation outside of many provincial centers, access for candidate and party agents and observers at the polling stations was fair, though overcrowding of agents was reported in some areas of Kabul Province. Despite recruitment efforts in the lead up to the elections, the Ministry of Interior was not able to field female searchers, and the IEC did not fulfill female polling staff needs for all centers observed.

As in the 2009 presidential and provincial council polls, the security situation impeded the ability of international and domestic observers, as well as candidate agents, to monitor the election in

many parts of the country – and these areas are the most vulnerable to electoral fraud. It is essential that election officials as well as domestic and international observers closely follow the vote tabulation and the complaints process to identify voting anomalies and other irregularities. This should include but is not limited to: improbably high turnout rates in insecure areas of the country; high turnout at women’s polling stations; suspiciously high numbers of votes cast at a single polling station; and the statistically anomalous distribution of votes among polling stations within a polling center. While these are indirect measures of possible wrongdoing, they should trigger additional scrutiny of particular polling sites.

There is continuing pervasive mistrust of the electoral institutions among a broad range of electoral participants, including candidates, political party leaders and activists, journalists and many Afghan citizens. This stems in large part from the widespread fraud uncovered last year as well as the perception that the work of the country’s electoral institutions, such as the IEC and the ECC, are vulnerable to interference by national and local political figures. This did not prevent Afghans from participating in the current elections in great numbers. However, in the longer term, action is needed to secure the independence of these institutions to prevent the erosion of support for the country’s developing democratic process.

The electoral process remains vulnerable to fraud due in part to the existence of a massive number of false and fraudulently obtained voter identification cards. This problem has plagued the nation since the first post-Taliban elections in 2004. Reform of the voter registration process, or the adoption of a civil registry, remains an urgent necessity.

Election Violence. Violence and the threat of violence shaped every aspect of the elections process. It impeded the ability of candidates to campaign in some areas of the country and affected the campaign techniques that they employed. It hindered the recruitment of polling officials, influenced the placement of polling centers, prevented balloting from taking place in more than a thousand polling centers across the country, and prevented domestic and international observers as well as candidate agents from reaching many polling sites.

Women’s Participation. There are continuing barriers to the rights of women to participate fully in the political process. Although women are participating in record numbers as candidates, polling agents, domestic monitors, and polling officials, they are often the targets of intimidation and violence. The inability of the IEC to recruit women as polling staff in some areas of the country threatens to impede women’s access to the ballot, especially in the least secure areas. Women are also more vulnerable to electoral abuses.

Election Administration. The IEC’s preparations for the *Wolesi Jirga* elections showed substantial improvement over past elections. The IEC, for instance, enacted several fraud mitigation measures, such as: blacklisting approximately 6,000 former polling officials suspected of engaging in fraud in the 2009 elections; rotating provincial and some district polling officials to distance them from local power and patronage networks; eliminating the ability to transfer ballots from one polling station to another; and placing unique serial numbers on ballot packs.

Some remaining administrative issues, nevertheless, need to be addressed. The elimination of polling centers, for instance was justified due to security concerns and the need to guard against electoral misconduct. However, the closing of these centers may have made it difficult or

impossible for some prospective voters to get to polling locations and better planning is needed to help ensure that large numbers of Afghans are not disenfranchised. More generally, there needs to be greater transparency in the selection of locations for polling sites. It is unclear, for instance, what criteria were used to select the placement and number of polling stations throughout the country, and some communities may believe that political considerations affected the placement of some polling centers.

Electoral Complaints. The ECC experienced key challenges in the pre-election period. President Karzai revised the electoral law in February 2010 by presidential decree, which gave him the power to appoint all five national commissioners and 113 provincial commissioners of the ECC. In addition, primary authority for the resolution of electoral complaints was placed at the provincial level. The decentralization of the ECC posed a substantial challenge in recruiting and training provincial level staff and developing new procedures late in the election cycle. It remains to be seen whether relatively under-resourced and inexperienced personnel will be able to resolve the volume of anticipated complaints lodged on and after election day in a timely and impartial manner.

Candidate Vetting. Although several candidates, including some of the most prominent ones, are widely suspected of having ties to militias, very few were disqualified for links to illegally armed groups. The 2010 election law places authority for vetting in the hands of an IEC-led commission that includes representatives from the Afghan national security forces (ANSF). The commission's procedures were unclear, however, and its results were questionable. This approach to vetting diminishes public confidence in the electoral process.

Unfortunately, several of the problems that continue to plague Afghanistan's elections – such as a defective voter registration process, barriers to women's participation, and the need to secure the independence of both the IEC and ECC – have been documented by domestic and international observers since the first elections in 2004 and 2005, but still have not been resolved. Comprehensive electoral reform that engages all of the key participants in the electoral process is critical to strengthening public confidence in the nation's electoral process.

II. RECOMMENDATIONS

NDI and other observation groups made several recommendations in August 2009 that were adopted in the months following that election. For instance, the IEC received funding earlier in the election cycle. Election security planning commenced well in advance of the polls and the IEC undertook a security assessment of all polling center locations in a timely manner. In addition, all candidates were offered the opportunity to participate in a program to help them better understand the election law and the rules and regulations surrounding the campaign (1,709 candidates from across the country participated in this candidate orientation program). However, the high-level review of the electoral process recommended by NDI did not take place. This is unfortunate because electoral reform continues to be a pressing concern. Other important recommendations made by NDI's 2009 delegation also remain in need of urgent action. These include: ensuring the independence of the IEC and ECC; reforming the voter registration process; reviewing the appropriateness of the single non-transferrable voting (SNTV) system; and making greater efforts to recruit women polling and election day security personnel.

The following recommendations are offered in the spirit of international cooperation:

Electoral Oversight

1. The Wolesi Jirga should approve the appointment of IEC commissioners.

Public confidence in the election commission is dependent on the appearance and reality that it acts in an unbiased manner. All seven members of the commission are appointed by the President with no legislative approval or oversight. While the current IEC adopted several significant reforms and acted in a more transparent manner, a statutory check on executive authority in the selection of commissioners is needed to help ensure the commission's independence, impartiality and competence in the years ahead and would be consistent with international best practices. In 2009, the *Wolesi Jirga* passed legislation calling for greater legislative oversight in the selection of commissioners, but the president did not approve the proposed law. An appointment process based on clear criteria for impartiality and competence, and a structure that ensures independent action also should be part of the legal framework.

2. The Wolesi Jirga should secure the independence of the ECC.

As with the IEC, the ECC's credibility depends on its acting independently and transparently. The election law was changed by presidential decree as this election approached to permit the president to appoint all five national and 113 provincial commissioners of the ECC. The revision of the law by presidential decree was rejected by the *Wolesi Jirga*. This use of the president's power, along with a lack of transparency at the provincial level in the handling of complaints, has led to the widespread perception that the ECC is not acting independently of the executive branch. Oversight is needed in the appointment of national and provincial ECC commissioners. This might include legislative approval or, as was done in 2009, appointment by different bodies such as the Afghan Independent Human Rights Commission (AIHRC) and the Supreme Court of ECC commissioners. The appointment process should be based on clear criteria for impartiality and competence, and a structure that ensures independent action also should be part of the legal framework.

3. The Wolesi Jirga should launch a comprehensive review of the electoral process.

In February 2010, the President acted under the emergency provision of Article 79 of the constitution to revise the legal framework for this year's polls. The *Wolesi Jirga* had rejected the decree, but the *Meshrano Jirga*, the upper house of the National Assembly, overruled its objection. Several matters contained in the decree, such as the presidential appointment of all IEC and ECC members remain controversial and are in need of review. The recommendations contained in this statement can also help the *Wolesi Jirga* form a comprehensive electoral reform agenda. The *Wolesi Jirga's* review should be informed by the views of a broad range of electoral participants, including political parties and civil society organizations. International assistance to future elections should be based on an objective analysis of whether electoral reforms are consistent with international standards.

Electoral Conduct

4. *The Afghan government should vigorously prosecute those responsible for election-related violence and electoral misconduct.*

In addition to the insurgents who attempted to disrupt the elections, there were instances in which candidate supporters perpetuated violence and intimidation. These incidents, as well as those involving misconduct – such as attempts to use fraudulently obtained or fake voter identification cards – should be investigated and prosecuted in a timely manner. The Afghan National Police (ANP) and the National Directorate for Security (NDS) have already arrested several persons who attempted or committed election-related crimes. These persons should be vigorously prosecuted to send an unambiguous message that election misconduct will not be tolerated.

5. *The ECC should take steps to ensure that provincial complaints commissions apply uniform procedures and act in a transparent manner.*

Access to information about complaints filed has varied among the Provincial Electoral Complaints Commissions (PECCs). Procedures followed in processing complaints also were inconsistent at the provincial level. Establishing uniform procedures for access to information from the PECCs and permitting citizens to follow the processing of complaints from filing to final disposition on the ECCs website would help enhance the public's confidence in the complaints process.

6. *Female access to polling stations should be improved.*

As in the 2009 elections, there was a shortage of female poll workers and search agents. The shortfall is especially acute in the traditional or least secure areas of the country. The difficulty in recruiting female searchers for the polls is at least partly due to confusion among government agencies over which had the principal responsibility for recruitment. Greater clarity is needed in assigning this responsibility. In addition, more outreach to civil society organizations could help alleviate the deficit in female poll workers and searchers. Further public education on the rights and opportunities for women to participate in Afghanistan's democratic process is also needed.

7. *Greater security for women candidates is needed.*

The Ministry of Interior has the responsibility of providing security for candidates, yet many female candidates complained that although they requested security, none was provided. Women candidates are often subject to threats of violence and greater efforts are needed to ensure their protection.

8. *Candidate vetting must be based on established criteria and independent identification of illegally armed individuals.*

Public confidence in the electoral process in Afghanistan is undermined by the presence of suspected militia leaders on the ballot and the implicit threat they present to voters and opposing candidates. Provisions in the electoral law that bar leaders and members of illegal armed groups have been sporadically enforced, however, due to weaknesses in the judicial system. Future electoral vetting must be predicated on

clearly established criteria and independent identification of illegally armed individuals. Unequal enforcement of vetting provisions in the electoral law reduces the credibility of electoral institutions, and vetting provisions should be abandoned if they cannot be consistently and effectively enforced.

Electoral Planning and Design

9. Alternatives to the Single Non-Transferable Vote (SNTV) system should be reviewed.

The SNTV system, which tends to produce large numbers of independent candidates, has the advantage of being easily understood by voters. It was adopted prior to Afghanistan's first legislative elections in 2005 – a time when memories of the civil war were fresh and political parties were often equated with armed groups. However, the disadvantages of the SNTV system, used to elect *Wolesi Jirga* and provincial council members, have become increasingly clear: candidates can obtain a seat in parliament with a very low number of votes (as was seen in 2005 in Kabul, where the candidate who got the last provincial seat won with 0.6 percent of the vote) and discourages the formal participation of political parties, which could offer voters more distinct policy choices.

10. A national census should be conducted as soon as practicable.

Despite the mandate in the Bonn Agreement for the United Nations to conduct a census of the population, no census has taken place. Accurate population figures are needed to properly allocate seats in legislative assemblies, assist in the planning of development programs and help in electoral preparations. The conducting of a census continues to be impeded by a lack of security in several areas of the country, and by fears that it could exacerbate ethnic tensions. The absence of a census creates unequal access to polling stations for different groups in Afghan society.

11. An accurate voter registry and /or civil registry should be prepared.

Afghanistan has never had an accurate voter list, which is an important means of preventing electoral misconduct. As the 2010 elections approached, it was widely reported that false voter cards were being prepared in Pakistan and Afghanistan. The existence of a massive number of duplicate or false voter cards has plagued past elections and continues to undermine public confidence in the current electoral process. In many countries, voter lists are derived from a more comprehensive civil registry, which provides identity cards to all citizens, not just eligible voters. In Afghanistan both systems face similar logistical and security problems in their implementation. Nevertheless, for the next election, either substantial reform of the voter list or the adoption of a civil registry is required to mitigate electoral fraud and aid in the preparation of the elections. Transparency, inclusiveness and oversight by political contestants and impartial citizen organizations will be required in either case, and safeguards against illicit issuances of identification cards, as well as security measures, will be required.

12. *The ECC should be made into a permanent body.*

The development of the ECC's capacity has been hindered by its not being a permanent entity. Rather, it is established anew as each election cycle commences and its mandate expires two months following the certification of election results. This short life span does not allow sufficient time to recruit and train staff, prepare materials, develop written administrative procedures for the complaints process, and carry out effective public outreach on the work of the commission.

III. ELECTORAL CONTEXT

Legal Framework for Elections

The legal framework that governs Afghanistan's 2010 elections includes the country's 2004 constitution, the electoral law revised by presidential decree in February 2010, the 2009 political parties law, and the ECC's 2010 rules and procedures.

Chapter 1 of Afghanistan's constitution pledges respect for international agreements and treaties, including the Universal Declaration of Human Rights. Article 21 of the Universal Declaration states that "the will of the people shall be the basis of authority of government; this shall be expressed in periodic and genuine elections...." Afghanistan has ratified or signed the major international instruments containing election standards. Chapter 2 of the constitution provides for the protection of fundamental rights and duties essential for the conduct of elections that comply with international standards. These include the rights "to elect and be elected" as well as the rights of free expression, assembly, travel and to form political parties. Article 156 of the constitution establishes an Independent Elections Commission.

Chapter 5 of the constitution provides for the establishment of the National Assembly as the country's highest legislative body. Article 82 specifies that the Assembly will consist of two houses: the House of the People (*Wolesi Jirga*) and the House of Elders (*Meshrano Jirga*). Article 83 stipulates that: the *Wolesi Jirga* shall be elected by the people through direct elections; the term of the *Wolesi Jirga* expires on June 22 of its fifth year in office; and elections for succeeding members would be conducted 30 to 60 days prior to this date.

At the beginning of this year, the IEC maintained that it would adhere to the electoral timeline contained in the Afghan constitution and hold *Wolesi Jirga* elections in May. However, the IEC announced in late January that the elections would be postponed to September due to security issues, logistical challenges and insufficient funding.

Concerns regarding the ability of Afghan institutions to conduct a credible election were heightened following a contentious presidential decree, issued on February 17, 2010 which put into place a new electoral law. Among key changes, the decree grants the president the authority to appoint all five commissioners to the ECC – the body that played a critical role in uncovering widespread electoral fraud in 2009. The *Wolesi Jirga* rejected the decree in a nearly unanimous vote, but the *Meshrano Jirga* overruled the lower chamber, finding that the constitution prohibits parliament from discussing amendments to the election law in the last year of the legislative term. President Karzai appointed two international commissioners to the 2010 ECC – Johann Kriegler, former chairman of the Independent Electoral Commission of South Africa, and Safwat Sidqi, former member of the Independent Electoral Commission for Iraq.

Wolesi Jirga elections are covered in Chapter 5 of the 2010 Electoral Law. Article 19 states that the *Wolesi Jirga* shall have 249 seats, 10 of which are allocated to Kuchis and the remaining assigned to the 34 provinces in proportion to their population. Article 22 describes the assignment of provincial seats, designating the seats in each province to the candidates who receive the greatest number of votes. The allocated seats for women candidates are exempt from this provision. If the elected candidate cannot occupy his or her seat, or for any reason relinquishes his seat during the tenure of office, the seat shall be assigned to the candidate of the same gender (male or female) with the next highest number of votes, provided that at least one year remains to the end of term of the *Wolesi Jirga*. If there is no candidate from the same gender, then regardless of gender, the seat is given to the candidate with the next higher number of votes.

The structure and responsibilities of the IEC are contained in Presidential Decree No. 23 and the Electoral Law. The IEC has seven members who are appointed by the president. The commission develops policy and oversees preparations for the polls. The IEC has a secretariat headed by a chief electoral officer and operates 34 provincial offices.

The electoral system used for legislative elections in Afghanistan is the SNTV system, in which each voter may vote for one candidate in a multi-member constituency. This system is an uncommon one; in addition to Afghanistan, it is used in few other countries such as Jordan, the Pitcairn Islands, and Vanuatu. While the SNTV system has the advantage of providing an opportunity for independent candidates to seek elective office, it also has a number of disadvantages: it results in a very low threshold for election (a candidate could win a seat in Kabul with less than 1 percent of the vote) and discourages the participation of political parties. The SNTV system tends to generate a large number of candidates – as an example, more than 650 ran this year for the 33 seats allocated in the *Wolesi Jirga* to Kabul province. Candidates have difficulty distinguishing themselves from one another, and the voters are often unable to find meaningful distinctions among the candidates. As a result, ethnicity or personal connections frequently determine voter choices.

The 2009 Political Party Law – revising a law enacted in 2003 – provides for the registration of political parties with the Ministry of Justice and requires parties to have a minimum of 10,000 members from at least 22 provinces. The previous law required a minimum of 700 members, and more than 100 parties were registered for the 2009 elections. In the lead up to this year's polls, parties needed to re-register according to the amended requirements. Only five parties, of the nearly 40 that submitted applications to the Ministry of Justice, were able to register in time to be listed with their candidates on the September ballot. NDI's analysis indicated that more than 25 percent of incumbents seeking re-election affiliated with political parties, while less than one in 10 new candidates were formally linked to parties.

Election Administration

Afghanistan's 2004 and 2005 elections were administered by the Joint Electoral Management Body (JEMB), which was staffed by internationals and Afghans, and significantly supported by UN agencies. Since those elections, JEMB was dissolved and the IEC assumed responsibility for election administration. The 2009 polls were the first elections organized primarily under Afghan leadership. This year's polls were planned and implemented by Afghan electoral and governmental institutions.

The IEC consists of seven members appointed by the president. From these members, two of whom are currently women, the president appoints a chairman and deputy chairman. Members and their immediately family members are barred from engaging in political activities. In February 2009, the *Wolesi Jirga* passed a law requiring parliamentary approval of election commissioners, but the president vetoed the legislation.

The 2009 elections were marred by widespread fraud, and the Afghan electoral authorities developed measures to prevent similar misconduct in 2010. The IEC focused on improving balloting procedures and removing staff suspected to have been involved in last year's fraud. The commission blacklisted approximately 6,000 of its 164,000 staff who worked on the 2009 polls. All 34 provincial election officers (PEOs) were re-assigned to posts other than their home provinces to distance them from local power and patronage networks and to help ensure their independence. The IEC maintained a database for its 3,020 district field coordinators that included IDs and photos to enable easier identification should an investigation be warranted for electoral violations. Before polling day, the IEC dismissed 114 district field coordinators and had another 100 relocated to different districts after it was discovered that they had links to candidates.

Anti-counterfeit reproduction measures were used for over 12.5 million ballots printed for this year's election. Individual ballots and ballot packs had unique serial numbers. To enable the tracking of the delivery of election materials, ballot packs and tamper evident-bags were bar-coded. For the election, the IEC planned to operate a call center and an electronic database to monitor polling centers that opened, preventing the later addition of the results from stations that never opened. Indelible ink for the 2010 polls contained the highest concentration of silver nitrate safe for use on human skin.

This year's procedures specified that votes would be recorded both in numbers and words on the results forms, and tamper-evident tape would be applied on all four copies of the results sheets, making it more difficult to alter written information after the count. Forms from each polling center were to be included in one tamper-evident bag, and provincial election staff would record the content of the bags using an online application, enabling staff to observe any changes when the forms reach the IEC national tally center. Incomplete shipment of results from provincial offices or tamper-evident bags containing forms filled incorrectly would be quarantined for further investigation.

The IEC faced substantial challenges in recruiting poll workers in some areas of the country. In some provinces such as Paktika, a lack of qualified applicants due to low literacy levels led the commission to recruit staff from neighboring provinces. To fill these gaps, IEC officials focused their recruitment strategy on college students and recent graduates. On election day, this strategy was particularly apparent in Kabul where many polling stations were staffed by younger personnel.

In the pre-election period, information on the electoral process was disseminated through various means. Public messages were broadcast in Dari and Pashto through 10 national TV stations and over 30 radio stations as well as 80 local radio channels supported by ISAF. The IEC engaged 1,535 voter educators to operate in teams throughout the country and inform voters on election procedures. More than six million posters, leaflets and sample ballots were printed and

distributed. The IEC and a number of ministries, including the Ministry of Haj and Religious Affairs, signed a memorandum of understanding to disseminate key election messages through mullahs during Friday prayers. A similar agreement was signed with the Ministry of Rural Rehabilitation and Development for election messages to be publicized through the local provincial councils.

The final list of polling centers nationwide was released a month before election day. This is a significant improvement from last year, when the list was released so late that some voters were unaware of polling locations 24 hours before election day. To generate the 2010 list, the ANSF, in cooperation with the International Security Assistance Force (ISAF), led an initial threat assessment to determine locations secure enough for voting. The IEC declared that it would not provide election materials to polling centers that were not protected by the Afghan National Army (ANA) and ANP. The final list, issued on August 18, was comprised of 5,897 polling centers and 18,762 polling stations.

On September 1, without consulting the IEC, the Afghan Ministry of Defense declared that additional polling centers should be opened in Badghis, Baghlan, Faryab, Ghazni and Helmand and that additional centers could be announced before election day. IEC officials expressed concern that the ANSF would not be able to secure an increased number of stations, and that adding polling centers would create unnecessary strain at a time when election officials were struggling to recruit, train and deploy enough polling staff. After a meeting on September 4 between President Karzai and IEC leadership, it was announced that the August 18 list was final, although the IEC reserved the right to remove more centers should security conditions deteriorate.

After the IEC announcement of the final list, some candidates challenged the placement of polling centers. For example, Hazara politicians argued that centers would not be opened in certain secure areas to prevent their constituencies from voting. IEC Chairman Fazel Ahmed Manawi stated that centers in secure locations which would not open this year had very few votes last year. In the south and east, candidates and local media argued that polling station closures would reduce voter turnout.

To monitor the elections, the IEC accredited: 355,814 candidate agents; 1,192 political party agents; 304 journalists; 1,250 domestic monitors; and 1,090 international observers. The increased presence of observers and agents serves to enhance the credibility of the electoral process.

Electoral Complaints

The ECC is established under Article 61 of the 2010 Electoral Law. The body is charged with investigating challenges and complaints submitted prior to the certification of election results. The presidential decree removed the right of the Afghan Supreme Court, the Afghanistan Independent Human Rights Commission and the UN Special Representative to the Secretary General to appoint two national and three international commissioners. Instead, it gave the president the power to appoint all five commissioners. Three national and two international commissioners were appointed in April 2010, and the body's regulations – revised from those used in 2009 – emphasize a structure in which Provincial Election Complaints Commission (PECCs) have primary jurisdiction on complaints. As with the five commissioners at the national level, this year's 113

provincial commissioners were appointed by President Karzai.

The ECC can issue warnings, demand corrective action, invalidate ballots or impose a fine of up to 500,000 Afs (approximately \$10,000). The ECC can also order recounts, sanction the removal of candidates, or blacklist violators from employment with any elections commission for up to 10 years. In addition, the ECC can ban a political party or a candidate from running in the future if his or her members or supporters commit electoral violations. The ECC can also refer a case to the relevant Afghan body for further investigation or judicial action.

Under the 2010 Electoral Law, the ECC and PECCs are created 120 days before the election and dissolve two months after the certification of election results. As a temporary body, the ECC has faced difficulties retaining staff and institutional expertise. Many of the current PECC commissioners and their staff are entirely new to the electoral complaints process. In provinces such as Balkh, Farah, Logar, Nimroz, and Parwan, only one staff member from 2009 was retained. Several others are composed completely of new staff.

The PECCs face diverse challenges. In the pre-election period, most PECCs in the south and east received direct threats, and commissioners were apprehensive about retaliation from warlords once the ECC closes. Several provincial commissions across the country experienced resource shortages – the PECC in Balkh had to resort to using public photocopiers to conduct its work, raising concerns about confidentiality. Voters and candidates in Kunduz, an ethnically diverse province, were critical of their PECC being entirely composed of one ethnicity.

On June 19, the ECC released a report on the challenges received on the preliminary candidate list. Since that date, no releases have been made on the number of complaints that PECCs have adjudicated or that remain pending. In the pre-election period, some PECCs readily provided observers with the numbers on complaints received; others were reluctant to publicize any information at all.

The ECC Regulations stipulate that the commission's decisions on complaints shall be published in Dari, Pashto and English and made available to the public through the ECC website. As of today, no decisions had been posted, and the website indicated that decisions would be uploaded 'in due course.'

In the pre-election period, voters and candidate supporters interested in filing complaints conveyed that little guidance was provided by the PECC. Some expressed that this approach was used to intentionally discourage the filing of complaints. Others voiced their frustration in that when complaints were filed, serious cases were shelved while trivial cases were prioritized.

Election Security

As in the 2009 presidential and provincial council polls, the security planned for the September elections involved three protective rings, described as concentric circles around the voting process. The inside ring, closest to the polling stations, was guarded by the ANP. The second ring consisted of the ANA, and the outermost ring comprised of ISAF, which was to provide support and assistance to the Afghan government as needed. Sub-tiers within the ISAF posture were quick reaction forces as well as air surveillance and reconnaissance. In the pre-election

period, ISAF remarked on the advance planning executed this year and the increased cooperation with Afghan security forces.

While the police are widely considered the first line of defense against the insurgency, their professionalization has been a slow and arduous process. In the lead up to the September elections, the European Union Police Mission in Afghanistan (EUPOL) was tasked to conduct a program – similar to one carried out in 2009 – to train 35,000 police personnel at the district level on election procedures, election security and police conduct on election day. This program was implemented in partnership with the Afghan Ministry of Interior and involved senior Afghan police officers as trainers. As the election day approached, EUPOL expressed concerns that program targets could not be met due to the Ministry's lack of responsiveness and poor internal communication structure.

Similar to last year, there were problems with the recruitment of female body searchers for polling stations. After a protracted dispute between the IEC and the Ministry of Interior over which government agency should take the responsibility for female searchers in 2010, the ministry and the Independent Directorate of Local Governance (IDLG) signed a directive on August 25, 2010 instructing provincial governors, possibly in partnership with civic groups, to initiate the recruitment of 10,000 female searchers. Because of the substantial delay in making this decision and implementing a clear operational plan, only 4,750 were recruited by polling day.

In the pre-election period, insurgent groups, including the Taliban, issued warnings across the country that they intended to disrupt the electoral process. In the north, some armed opposition groups (AOGs), including *Hezb-i-Islami Gulbuddin* (HiG), regard elections as illegitimate and warned voters that they would be harmed or killed if they took part in the polls. A group identifying itself as Taliban distributed night letters in parts of the northwestern province of Faryab, warning people to vote only for certain candidates. In Baghlan and Kunduz, some candidates directly appealed to groups identifying themselves as Taliban to reduce attacks within those constituencies.

Some armed opposition groups also issued threats and used violence. In the lead up to polling day, four candidates were killed, several candidate supporters were threatened, and AOGs warned about carrying out attacks on election day. Groups linking themselves to the Taliban also voiced particular opposition to female participation. NDI noted that other such groups were also endorsing candidates in an attempt to influence the outcome of the September polls.

Voter Registration

In its election observation mission last year, NDI highlighted that without an accurate census, election officials and observers lack reliable information on population density and the ethnic and gender composition of the population. In the absence of a census, accurate checks on voter registration and voter participation figures have not been possible.

Voter registration for previous elections resulted in a high number of duplicate voter cards. Following the 2005 polls, electoral and government authorities decided to connect the voter registry to a civil registry to improve the accuracy of the voter list. However, efforts shifted in late 2008 and early 2009 to update only the voter registry with a series of registration drives around the country, resulting in 4.5 million new ID cards. Unfortunately, no effective mechanism

was established to prevent those who were already registered from getting a second ID card. This increases the vulnerability of the electoral process to manipulation and fraud. In the lead up to this year's elections, concerns were fueled by reports of candidates in the south and east regions acquiring fake voter cards printed in Pakistan.

For the 2010 polls, a voter registration drive was conducted from June 12 to August 12. An additional 376,081 citizens were registered, including 52,147 women and 16,920 Kuchis. As NDI pointed out last year, in many areas of the country, the number of ID cards issued exceeded the estimated population, including those who are not even old enough to vote. There were several areas where the number of women registrants appears implausibly high – often greatly exceeding the number of registered men – given the prevailing cultural norms in those regions. Since women's ID cards do not require a photograph, women's cards may be used to cast fraudulent votes on election day. As no measures were put into place before this year's September 18 polls to address these issues, these concerns remained for the 2010 electoral process.

Candidate Vetting

An improved process for vetting political candidates has been recommended repeatedly since the 2004 elections. This year's vetting process, which experienced several challenges, was drawn out over several months. In the pre-election period, candidates complained about the lack of transparency in the process.

The 2010 Electoral Law and an IEC regulation issued in March 2010 established a candidate vetting commission mandated to verify whether a candidate is a leader or member of an illegally armed group. The commission is comprised of representatives from the IEC, the NDS, the Ministry of Interior and the Ministry of Defense. The commission is responsible for presenting to the ECC a list of candidates who are found to be members or leaders of armed groups. Although it is not responsible for investigating a nominated candidate's alleged participation in armed groups, the ECC is responsible for notifying candidates of the challenge and providing the accused with an opportunity to respond. The ECC issues the final ruling on whether to disqualify a candidate.

Earlier this year, the vetting commission presented the ECC with 83 candidates for disqualification. All 83 appealed and produced information refuting the vetting commission's decision. Instead of reviewing the appeals, the vetting commission simply passed this information to the ECC. After the ECC insisted that the appeals be further investigated, the vetting commission then exonerated 78 of the accused candidates and handed the ECC a list of 13 individuals - eight of whom were entirely new - for disqualification.

Candidates as well as domestic and international observers expressed concerns about this process. President Karzai summoned the vetting commission; and shortly thereafter, it provided the ECC with yet another list – this time with 26 individuals to be disqualified. The vetting commission stated that it would be “unreasonable” to allow for an appeals period for these newly-identified candidates; however, the ECC insisted that 48 hours be provided for appeals. On July 7, the ECC announced it had received an official list from the vetting commission with the names of 31 candidates, all of whom were disqualified after failing to submit sufficient

evidence during the appeals period. Candidates struggled to decipher the process by which they were vetted and the methods for appealing verdicts against them. Several felt that they were disqualified not as a result of evidence, but due to politicized decision-making.

The ECC disqualifies candidates principally for two reasons: 1) being a member of, or in control of, an illegally armed group; and 2) failing to resign from a government position within the allocated timeframe. The commission reserves the right to disqualify candidates on other grounds. More than 80 candidates were disqualified before polling day.

The Campaign

For this year's elections, more than 2,500 candidates – including nearly 400 women – ran for the 249 seats of the *Wolesi Jirga*. Nine percent of the candidates were formally affiliated with a political party – the overwhelming majority were independents. Of the incumbents, 194 members or 78 percent sought re-election. Of the 34 provinces, only four have at least two seats left open by retiring parliamentarians, creating a challenging environment for more than 2,300 non-incumbents seeking elected office.

NDI and other observer groups reported on allegations of the abuse of state resources by candidates, campaign staff, and government employees during the campaign period in provinces such as Badakshan, Herat and Nangarhar. This involved the use of local government resources by candidates who were related to representatives of the municipal government. The Free and Fair Elections Foundation of Afghanistan (FEFA) and AIHRC also reported that in Parwan and Paktika, provincial government officials allegedly used government facilities to campaign for specific candidates. In addition, these organizations noted that the IEC and PECCs failed to investigate complaints or sanction candidates for these electoral violations.

Similar to last year's elections, the tone and visibility of campaigning varied greatly across the country. There were openly contested elections in the more secure areas – in large cities such as Kabul, Mazar-i-Sharif and Herat, the campaign period involved the broad use of colored posters as well as candidate spots on radio and TV. Younger candidates, especially in urban areas, utilized a variety of means to reach out to the electorate, including mobile phone messaging, Facebook and Twitter. In the southern part of the country, where the Taliban was actively targeting those participating in the elections, most of the campaigning took place inside private homes. Public campaigning was limited, and candidates solicited support from tribal and religious leaders behind closed doors.

West (Badghis, Farah, Ghor, Herat, Nimroz) Candidates conducted energetic campaigns in provincial capitals but were unable to conduct activities in the outlying districts due to security concerns. In the pre-election period, a candidate and five campaign workers were assassinated outside Herat, causing local leaders to express an interest in having a stronger ISAF presence in the rural areas on election day.

Population density was a key factor in designing campaign approaches: for example, since 25 percent of the province's citizens live in Herat city, many candidates of that province focused their campaigns in the capital. A significant number of candidates were social activists and heads of nongovernmental organizations (NGOs), and utilized their networks to carry out their

campaigns. It was noted that many of this year's candidates from Herat were businessmen funding their own campaigns.

East (Kunar, Laghman, Nangarhar and Nuristan) Candidates and voters reacted strongly to the IEC's elimination of 81 of the 458 polling centers (comprising 291 out of 1,225 stations) in Nangarhar based on security concerns. The IEC's decision affected 14 of the province's 22 districts, but Shirzad (32 eliminated out of 39 stations), Hesarak (41 out of 51 stations), and Khogyani (51 out of 63 stations) were most heavily impacted. Candidates were concerned that scores of voters may be disenfranchised by the reduced number of polling centers, and asked the IEC to provide extra ballots to centers that will be open. NDI's analysis shows that if there is the same turnout, excluding votes removed from fraud audits in Shirzad, Hesarak, and Khogyani as occurred in the 2009 election, there would be more than 1,000 voters per remaining polling station.

South and Southeast (Ghazni, Helmand, Kandahar, Khost, Paktia, Paktika, Uruzgan and Zabul) Despite new anti-fraud measures, candidates, civic groups and local media anticipated irregularities to match or exceed those documented last year. The provinces of Khost, Paktia and Paktika account for more than 3,000 of the approximately 6,000 staff blacklisted nationwide following last year's election. This year, the IEC fired more than 20 of 300 district election staff in the region for having links with candidates.

Security concerns intensified during the campaign. In late July, a bomb blast killed a Khost candidate campaigning at a mosque. In Paktia, night letters appeared warning against participating in elections and threatening to burn shops that display candidate posters.

In Kandahar, insurgent activities affected the ability of candidates to campaign. Last year, candidates could visit 15 of 17 districts in Kandahar, and most campaign activities were conducted in the provincial capital. This year, due to insecurity, a majority of candidates were unable to campaign outside of their homes.

Northeast (Badakshan, Baghlan, Kunduz, Takhar) In the pre-election period, some candidates in Baghlan and Kunduz appealed directly to insurgent groups to refrain from carrying out attacks in certain districts. Candidates expressed concerns that voters would heed warnings from the Taliban who had told people not to take part in the election. NDI staff working in the region and UN officials said it was unclear if candidate appeals were successful.

Violence severely hampered election preparations. Armed groups, including the Taliban, local militias and criminal organizations, were active in provinces such as Baghlan and Kunduz. Candidates and election workers were threatened and kidnapped, including two district field coordinators who promised to resign in return for their release. The vast majority of candidates claimed to run as independents and often denied party connections. In practice, three main political parties – *Jamiat-e-Islami*, *Hezb-i-Islami Afghanistan* and *Junbish-e-Milli* – supported many candidates in the region.

North (Balkh, Faryab, Jowzjan, Samangan, Sar-i-Pul) Candidates and voters were concerned that militias could influence the electoral process and further destabilize the region if commanders were not satisfied with results of the vote. They were also worried that, in the post-election period, disgruntled candidates could use militias to attack government buildings, the IEC

or rival armed groups. On the evening of September 15, AOGs attacked a convoy carrying election materials. Voters blamed such AOGs for the increasing violence in the region, saying that insurgent incidents could discourage candidate agents and domestic monitors from entering certain districts and observing activities on election day.

Central Highlands (Bamiyan, Daykundi) In the pre-election period, candidates, political parties and civil society organizations contested the IEC's removal of 68 polling stations. The IEC met with these stakeholders and explained stations were being shut due to low voter turnout last year. Party representatives also complained that voters were unable to register because the IEC did not deploy mobile voter registration teams in this area. Three main Hazara-based parties - *Hezb-e-Wahdat Milli*, *Hezb-e-Wahdat Islami*, and *Hezb-e-Wahdat Islami Mardom* - have a strong base in Bamiyan. These political parties played a key role in campaigns, facilitating meetings with influential leaders and providing materials.

Capital (Kabul) With more than 650 candidates, Kabul province had more than one-fifth of the country's candidates for this year. These individuals ranged from national figures to representatives of smaller segments of the community, some of whom relocated from less secure provinces. Given the number of candidates, the ballot for Kabul province had to be 12 pages long. Voters and candidates expressed that although Kabul province had the largest seat allocation in *Wolesi Jirga* – 33 seats – many considered very few as genuinely contested. Candidates and domestic observers reported that security in Kabul allowed for campaigning across much of the city. In rural areas, voters were concerned about the low density of election observers and the influence of tribal elders over election administrators.

Women's Participation

While female representation is guaranteed in the *Wolesi Jirga*, women still face significant challenges running for office. Afghanistan's Constitution sets aside 68 seats, just over a quarter of the total, for women, which gives Afghanistan a higher percentage of women in its lower house of parliament than over 100 other countries. Nonetheless, women face a difficult path in campaigning for office. In the lead up to the September polls, several female candidates reported facing interference, intimidation or violence - from both male and female opponents - during the campaign. Incidents ranged from verbal abuse and alleged tearing of campaign posters to physical violence, including from members of their families.

In the south and southeast, most female candidates were unable to campaign in public for fear of attacks. They were confined to proxy campaigning from their homes, making telephone calls to voters, dispatching male relatives to meet with supporters and enlisting the help of tribal leaders. Female candidates reported receiving threatening phone calls and having their posters regularly torn down or defaced with red paint. In Paktika, the Taliban kidnapped a female candidate on the day after she registered her candidacy and held her for six days. After this incident, the candidate declined to file any complaints with the ECC or other bodies.

Despite the danger, a large number of women candidates ran. In Zabul, seven of the 16 registered candidates were female - the highest ratio of any province. A prominent female incumbent in

Kandahar told NDI that threats against female candidates underscored the importance of further integrating women into the political process. NDI observed that most female candidates in 2010 focused on winning votes from both genders.

Based on NDI's analysis, two female candidates in the south were affiliated with political parties, even though all female candidates in the region officially ran as independents on the ballot. Many told NDI that even though elections took place under significant limitations, they still represented an important manifestation of democracy.

IV. ELECTION DAY

Voting Process

Turnout in Afghanistan varied across the country, according to reports by NDI observers. In urban centers in the north and capital regions, Afghans voted in relatively large numbers, while in the northeast, voter presence declined quickly as violence increased throughout election day. Despite a number of security incidents in the east, male polling stations remained busy in urban centers like Jalalabad. In the south and southeast, turnout—especially among women—remained low throughout the day.

In a press conference on the evening of polling day, the IEC announced that 5,355 out of 5,816 planned polling centers opened on election day. According to the IEC, a total of 3,642,444 voters participated on election day including 1,423,875 women and 79,046 Kuchis. NDI noted that in 2005, 6.4 million participated, including 2,752,000 women and 204,000 Kuchis.

NDI observers reported that polling officials in most stations followed voting procedures, noting no systematic or widespread problems. Voting was conducted in an orderly fashion, with some exceptions where violence and voter crowding was observed. In all but a few isolated incidents, observers said that polling officials were carefully checking the identity of voters.

Some concerns were raised about the quality of station materials. As in the 2009 elections, poll workers across the country experienced problems with punchers intended to perforate used cards. Poll staff used scissors to mark used cards instead, and observers noted that this issue did not disrupt the voting process in a meaningful way.

Correct application of ink became a concern for many participants in the electoral process. In the north, west, and central regions, NDI observers reported ink not reliably staying on voters' fingers. In Kunduz and Jowzjan, NDI observed instances of voters refusing to have their fingers inked, in some cases allegedly for fear of repercussions from insurgents. In other cases, NDI observers noted voters who were able to remove the ink, and NDI received similar reports from domestic observation groups. During election day press announcements, the IEC defended the quality of the ink, insisting that it could not be removed if applied properly after the contents were shaken. It remains unclear how the problems with inking affected the electoral process.

NDI observers from around the country noted incidents of ballot shortages. In Balkh, Samangan, Kabul, Badghis, Kunar, Takhar, Badakhshan, Baghlan, Bamiyan, Nangarhar and Khost, NDI observers reported stations claiming to have exhausted their supply of 600 ballots, often by the

early afternoon. NDI received further reports from the IEC and other sources of several additional incidents in the southeast, east and north of IEC staff requesting additional ballots in early hours. There was at least one confirmed IEC report of voter protests over ballot shortages. Early closures due to ballot shortages led to reported frustration and confusion among many voters. NDI observers noted that in some cases, contingency polling stations were opened to accommodate additional voters. In others locations, such as Nangarhar, voters were told to find another available station, sometimes in nearby districts. At this time, it is difficult to determine whether these ballot shortages were the result of the new restriction on number of ballots per polling station, the reallocation of polling stations from urban areas to rural areas, or ballot box stuffing.

Reports of fake and fraudulently obtained voter cards were received from most areas of the country. The NDS reported confiscating 22,000 cards and making 66 arrests for possession of fake cards on election day. NDI observers in 15 provinces (Balkh, Faryab, Baghlan, Kapisa, Herat, Uruzgan, Kunduz, Kabul, Logar, Bamiyan, Daikundi, Nangarhar, Kunar, Zabul and Kandahar) witnessed voters, many female, who possessed and/or attempted to use fake or invalid voter cards. In all but two cases observed, these people were prevented from voting and were often apprehended by security officials.

Within the final half-hour of voting, the IEC issued a 30-minute extension for polls that opened after 12 noon. In isolated cases, observers reported confusion over the selective postponement, leading to a temporary delay in the closing of stations. Across the country, observers noted that most election officials were generally knowledgeable of the counting procedures. In Kabul, complications of counting votes for over 650 candidates meant the count was not concluded for several hours after closing. In most regions, no major problems were reported – though some noted confusion and isolated cases of discrepancies in the ballot reconciliation in Bamiyan, Kabul and Herat. In approximately 13 percent of counting processes observed by NDI, copies of results forms were not provided to candidate agents or posted publicly.

Nonpartisan observers and candidate agents were present in most stations observed around the country. FEFA deployed the largest number of observers on election day, with nearly 7,000 fielded across Afghanistan. In Kabul province, candidate agents and observers were present in large numbers, leading many station managers to limit the time each observer could spend inside the polling station. NDI reported unreasonable restrictions by IEC officials in less than 1 percent of stations visited.

Violence on Election Day

More election related violence and threats of violence were reported in various regions throughout Afghanistan, affecting the participation of voters, candidate agents and election monitors. The IEC reported 93 direct attacks on polling centers and that 153 centers were closed on election day due to security incidents or concerns. At least 30 civilians, IEC officials and security personnel were killed. Two FEFA observers were kidnapped on election day. NDI staff and observers directly observed incidents including rocket attacks, IED explosions and grenade attacks in or near polling centers, and small arms fire between AOG and security forces. Many of these incidents led to a delay in voting, closures of polling centers and decreased voter turnout.

NDI received reports of violence conducted by supporters of candidates. In the Imam Sahib district of Kunduz, supporters of one candidate allegedly beat a competing candidate at a polling center, then opened fire on a group of voters. In Kandahar, a rocket hit the PECC office. On the eve of September 18, in the same press conference with the IEC, the Ministry of Defense reported that 305 insurgent actions took place on polling day.

Voter intimidation was seen in various forms, including the harassment of election workers by armed groups, armed individuals in polling stations and candidates or their supporters forcefully disrupting polling. This type of intimidation did not appear to be systematic, but incidents were noted to be heaviest in the northeast, east and southeast.

Participation of Women

Similar to last year, observers reported that the turnout of women for this election was notably low in most locations. Due to the lack of staff, several centers across the country did not have female body searchers. A number of Afghan women observers underlined that the presence of males at female polling stations may have deterred women from voting. NDI observers noted that male staff were present in 11 percent of female polling stations observed, with the highest concentration of male staffing in the east, south and southeast.

Electoral Complaints

On the evening of September 18, the ECC stated that it had received a total of 126 officially registered complaints from its provincial offices. The ECC also reported that an additional 300 complaints were lodged in person or by telephone at the PECCs and approximately 1,000 complaints at the national office – however, the ECC stated that only the written complaints would be investigated. NDI observers in the large provinces such as Herat reported that more than 400 (verbal and written) complaints were brought before the PECC. They also noted isolated incidents of voters and candidate agents being refused complaints forms by IEC staff.

V. THE ELECTION MISSION AND ITS WORK

An accurate and complete assessment of any election must take into account all aspects of the process, and no election can be viewed in isolation from the political context in which it takes place. Among the factors that must be considered are: the legal framework for the elections set by the constitution, including electoral and related laws; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political competitors to organize and reach out to citizens in order to win their support; the conduct of the mass media in providing coverage of candidates and issues; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution for their choices; the conduct of the voter registration process; the right to stand for election; the conduct of voting, counting, results tabulation, transmission and announcement of results; the handling of election complaints; and the installation to office of those duly elected. It should also be noted that no electoral framework is perfect, and all electoral and political processes experience challenges.

NDI is grateful for the cooperation it received from voters, election officials, candidates, political party leaders, domestic election observers and civic activists.

VI. CONTACT INFORMATION

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