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Mr. Chairman and members of the Subcommittee, on behalf of the National Democratic Institute (NDI), I would like to thank you for the opportunity to testify here today.

For the August 20 presidential and provincial council elections in Afghanistan, NDI fielded an observation mission that mobilized more than 100 international and Afghan observers to observe every aspect of the election process, including the campaign, election day and the post-election period. The security situation in Afghanistan prevented observer groups, including NDI, from operating in some parts of the country—especially portions of the south and southeast regions. Nevertheless, NDI's election day delegation was deployed in 19 of the country's 34 provinces. The delegation's findings were informed by reports from a team of long-term international and national observers, based in regional capitals across Afghanistan, who had been monitoring the electoral process since July 2009.

These elections were the first to be organized and administered primarily by Afghans and Afghan institutions. The final results of the presidential race were expected to be released on September 17; however, allegations of widespread vote fraud have delayed the final vote tally and certification of these results. More than 2,000 complaints have been filed with the Electoral Complaints Commission (ECC), and 751 have been classified as potentially serious enough to influence the outcomes at particular polling sites. If no candidate secures more than 50 percent of the vote, Afghan electoral law requires a run-off between the top two candidates. With partial results released, incumbent President Hamid Karzai has 54% of the vote and a significant lead over his main opponent, Dr. Abdullah Abdullah; however, it remains to be seen whether a run-off will be required.

On September 8, declaring that it had found 'clear and convincing evidence of fraud' in a number of polling stations, the Electoral Complaints Commission ordered the Independent Election Commission (IEC) to conduct an audit and recount of polling stations nationwide that had vote totals equal to or greater than 600, or that had returns with any presidential candidate receiving 95 percent or more of the total valid votes cast, provided that more than 100 votes had been cast at the station. It is estimated that more than 3,000 ballot boxes or nearly 1.3 million ballots would be affected by this audit – and the number of ballots being questioned could affect the vote margin that Karzai has secured. Last week, the two commissions agreed to use a statistical sample instead of inspecting every single affected ballot box – declaring that this approach would save time and permit holding a run-off before the end of year, if required. The commissions ordered that all ballot boxes that are part of the sample be brought to Kabul to help ensure consistency in the audit process and allow the broader participation of candidate agents.

Shortly after the election, NDI released a statement with its observations. I have submitted that statement to the subcommittee; but today I would like to highlight some key findings.

One of our most critical findings was that violence and the threat of violence have shaped many aspects of the electoral process. The problem of election-related violence is not fully in the control

of Afghan government and electoral officials, but it is crucial to the growth and survival of the nation's incipient democratic process that the continuing insurgency be brought to an end. In areas of the country that were least secure, there was a decrease in the number of provincial council candidates seeking office; insecurity also affected the IEC's ability to recruit polling staff in some areas of the country and limited the ability of domestic and international observers to obtain access to the portions of the country that were most at risk of electoral misconduct.

The elections involved serious flaws that must be addressed in order to build greater confidence in the integrity of future elections. A lax registration process led to some individuals registering multiple times and the registration of ineligible voters. As a result, there is widespread agreement that substantially more Afghans are registered to vote than there are eligible voters. This increases the potential for fraud and other types of misconduct, and could erode the Afghan people's confidence in the integrity of the electoral process and in the institutions that emerge from the polls. Other abuses, such as misuse of state resources and proxy voting, were observed in some areas of the country and could adversely affect the credibility of the elections. In addition, the IEC, whose members are appointed by the president without legislative oversight, is viewed by many key participants in the electoral process as less than independent. While the commission performed many of its responsibilities well, its credibility depends not only on its actions but on the public's perception of its impartiality.

Despite the growing numbers of women engaging in the political process, barriers still prevent their full participation. Women candidates and political activists, for instance, were frequently the targets of threats of violence, impeding their ability to campaign freely. The inability of the IEC to recruit sufficient female staff to administer women's polling stations could have deterred women from casting ballots. Women were also most vulnerable to practices such as proxy voting and because photographs were optional and not required on their voting cards, women were also most vulnerable to identity fraud.

Mr. Chairman, the serious problems associated with the election have received much attention; however, there were also positive aspects of the electoral process that could be built upon to help inspire future elections. The campaigns launched by the presidential and provincial council candidates, as well as public opinion polls conducted in the lead-up to the elections, indicated that Afghanistan's political system is more competitive at every level than many have believed. In the lead-up to the presidential elections, major candidates crossed ethnic lines and campaigned in all areas of the country. The candidates often attracted large and enthusiastic crowds; in the nation's less secure regions, campaign activity sometimes took place in the private homes of a candidate's supporters. The elections saw very few clashes involving the supporters of opposing candidates. In addition, public opinion polls conducted in Afghanistan consistently showed that a majority of Afghans would consider voting for a member of another ethnic group.

During the campaign period, there was also a focus on issues and platforms. This type of campaign was absent in 2004 and 2005. The presidential campaign was the nation's first to include national debates that were widely covered by the news media, and were seen or heard over radio and television by millions of Afghans.

In the aftermath of these elections, there is growing concern over delays in declaring a winner in the presidential race. Some in the international community are looking for a shortcut, such as a power sharing deal between Karzai and Abdullah, or a *loya jirga* (grand council) that could decide who the president will be. Such devices to bring the elections to a conclusion, however, would undermine the integrity of the democratic process itself and the resulting government would have

little legitimacy with the Afghan people. Moreover, to abandon the elective process at this point would be an affront to the Afghans who defied Taliban threats and risked their lives to participate in the electoral process – this election demonstrated that millions of Afghans want to take part directly in the country’s evolving democratic political system.

Some analysts have argued that a second round would be divisive, splitting the country along ethnic lines. There are reasons to believe, however, that the country is not as ethnically divided as it was once thought. Karzai traveled to each region of the country in his efforts to garner support; so too did Abdullah, who, while largely identified with the Tajik-dominated Northern Alliance, actively campaigned in Pashtun areas. As I mentioned earlier, there were few reported clashes between the supporters of the two major candidates – the violence that marred the elections came primarily from the Taliban. Any presidential contenders, moreover, would have to appeal to voters across ethnic lines because no single ethnic group has the votes to determine the winner.

Another major concern with a second round is that it would not likely be any better than the first one. There is hardly any time to prepare for a run-off, and a recurrence of the misconduct that is under investigation is a legitimate concern. However, there are steps that can be taken to address some of the problems that emerged. Among the most important of these is that security could be enhanced to help ensure that voters can safely travel to and from polling stations to cast their ballot, and that candidate agents and non-partisan election observers can safely monitor polling and ballot counting. In selected areas where the Taliban has threatened to retaliate against voters, invisible ink could be used so that those who voted would not be readily identified after they have left the polling station. In addition, the IEC’s media commission could also use all of its powers to enforce the media code of conduct, particularly as it relates to government-controlled media.

It has also been suggested by some analysts that Afghans may not be ready for elections through universal suffrage; Afghanistan’s tribal culture, it is said, is more accustomed to consensual decision-making with little involvement by ordinary people. In fact, the 2001 Bonn Agreement formulated an ambitious agenda for democratic development that received widespread public support. That support continues today. Since the fall of the Taliban, the views of Afghans have been chronicled by pollsters and who have consistently found that an overwhelming majority of Afghans believe that democracy is the best form of government. The attitudes expressed in these polls are reflected in the efforts of Afghans to rebuild their country and participate in the political process. In addition to the millions of voters who cast their ballots on election day, over 400,000 participated in the 2009 elections as candidates, polling officials, domestic election monitors and candidate agents.

Mr. Chairman, with all the attention that has been focused on the presidential race in Afghanistan, I would like to stress that the outcome of the provincial council elections is also at stake in this process. Provincial councils are the only elected bodies at the local level and are a key component of establishing a stable and self-sustaining Afghanistan. Provincial councils are the most direct point of contact between citizens and the government, and the legitimacy of these offices is critical to the credibility of Afghanistan’s governing institutions. For the August race, 3,196 candidates contested 420 provincial council seats, up by 171 candidates from the 2005 elections. However, this increase was primarily noted in the north, northeast and central regions; in the south and southeast, there were fewer candidates on the ballot. Twenty-five percent of the provincial council seats are reserved for women, and 326 female candidates participated in this race, an increase from the 285 women who contested the 2005 polls. In the southern provinces of Kandahar and Uruzgon, however, there were fewer women candidates than reserved seats.

The tone and visibility of provincial council campaigning varied greatly across the country. There were publicly contested elections in the more secure areas. 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 the walls of private homes. NDI observers reported that in less secure areas, there was little public campaigning for the provincial council seats, and candidates solicited support from tribal and religious leaders behind closed doors. Some candidates refused to appear on radio programs, fearing retaliation.

Allegations of electoral fraud and other concerns surrounding the presidential vote tally have also affected the provincial council vote count. In response to complaints received from candidates and polling agents, the ECC has investigated cases among less secure provinces and found indicators of fraud, such as: votes for candidates inserted inside bundles for other candidates; lists of voters with fictitious voter card numbers; and ballot box seal numbers that did not match figures on the official record. More than five weeks after the election, the IEC has just begun to release preliminary results for the provincial council races – and these results may still change based on ECC decisions on electoral complaints that are still under investigation.

NDI's election statement offered 17 recommendations to address issues on electoral oversight and preparation, electoral design and conduct, the role of the media and security. Among these recommendations, NDI suggested ways to increase the staffing of women at polling centers – as mentioned earlier, this was a significant problem during the recent election, and this is something that the IEC should act upon in the event of a runoff. As Afghanistan is scheduled to hold elections next year to choose representatives for the *Wolesi Jirga* or the lower house of the National Assembly, NDI also suggested measures to improve aspects of the process in the lead up to those polls, including: strengthening the independence and impartiality of the election commission; adopting a new media law providing for the independence of government operated media; and enhancing security planning for the elections.

Mr. Chairman, in Afghanistan, security, stability and democratic governance are closely linked. An effective counter-insurgency strategy requires a legitimate government to protect; and the legitimacy of the current government rests on its ability to retain the confidence of Afghans. That can only be achieved if the next government is viewed as reflecting the will of Afghan voters through a credible electoral process. The process that the Afghan people and the international community have supported should be allowed to run its course – even if that means an extensive audit and possibly a second round of elections.

Thank you, Mr. Chairman.