



GENERAL BACKGROUNDER



From the Bonn Agreement to the 2005 *Wolesi Jirga* and Provincial Council Elections

A. THE BONN AGREEMENT

What is the Bonn Agreement?

On the 5th of December 2001 several Afghan factions met under the auspices of the United Nations, in Bonn Germany, to end the conflict in Afghanistan, promote national reconciliation, and plan a pathway for governing the country. Afghan representatives from the Northern Alliance, the Peshawar Group - representing Afghan refugees in Pakistan, the Rome Delegation - representing former King Mohammed Zahir, and the Cyprus Group - representing a group of exiles in Iran, signed in the presence of the UN Special Representative of the Secretary-General (SRSG) the "Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions", which became known as the "Bonn Agreement". The Bonn Agreement was the first of the series of agreements intended to re-create the State of Afghanistan after years of civil wars and foreign interventions. The aim of the Bonn Agreement was to create a dialogue on a peaceful settlement for the future of Afghanistan and to set up an agenda for the establishment and development of democratic and participatory political institutions.

The Bonn Agreement was endorsed by the United Nations Security Council on 7 December 2001. The Security Council declared its support for the implementation of the Agreement including the establishment of a number of interim institutions.

What were the main provisions of the Bonn Agreement?

The Bonn Agreement initiated a democratic state building process. Since no Afghan government has been recognized by the whole nation since 1979, it was necessary to first establish an Interim Administration during a transition period until a permanent government was elected. The Bonn Agreement facilitated this process through the following steps:

First, the Afghan Interim Authority (AIA) was inaugurated on 22 December 2001. The Interim Authority was made up of 30 members and consisted of an Interim Administration, Supreme Court and the Special Independent Commission. The main objective of the Interim Authority was to administer Afghanistan as the sovereign authority for six months and to convene the Emergency *Loya Jirga*, which would establish the Afghan Transitional Authority. The Transitional Authority would replace the Interim Authority.

Second, pursuant to the AIA's mandate, an Emergency *Loya Jirga* was held in June 2002. A *Loya Jirga* is the highest manifestation of the will of the people of Afghanistan. The role of the Emergency *Loya Jirga* was to establish and confirm legitimacy of the new fully representative government and named Afghanistan's Transitional Authority (ATA). The period between the session of the Emergency *Loya Jirga* and the first session of the directly elected National Assembly is the Transitional Period.

Third, in January 2004, a Constitutional *Loya Jirga* adopted the Constitution of Afghanistan. The draft Constitution was prepared by the Constitutional Commission, was reviewed by the Constitutional Review Commission, and was adopted by 500 delegates of the Constitutional *Loya Jirga*, thereby conferring legitimacy on the new Constitution of Afghanistan. The Constitution establishes Afghanistan as an Islamic Republic, with executive, legislative, and judicial branches of government to provide checks and balances and preserve a balance of power.

Fourth, the Bonn Agreement called for general elections to create a truly democratic and representative government. On 9 October 2004, Presidential elections were held and the ATA was replaced by a government appointed by the newly elected President of Afghanistan. The current Government is

composed of the President and the Council of Ministers. The next step in building a democratic Afghanistan is for a National Assembly and Provincial elections to be held.

The Bonn Agreement also calls for a Judicial Commission to rebuild the justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions; and for the establishment of a Supreme Court.

What is a Constitution?

A Constitution is the supreme law of the land which establishes the rights and obligations of all citizens and upon which all other laws are based. The Constitution of Afghanistan is written in accordance with the principles of Islam and establishes Afghanistan as an Islamic Republic, with executive, legislative, and judicial branches of government. The framework established provides for check and balances, which preserve the balance of power.

B. THE EXECUTIVE BRANCH

The Presidential and Council of Ministers

The Executive, or government, consists of the President and the ministries. The President is the head of the government and appoints the ministers. The President is also Head of the State and Commander-in-Chief of the armed forces.

According to the Constitution, the main duties of the government are to:

- Execute the provisions of the Constitution, the laws enacted by the National Assembly, and decisions made by the courts;
- Prepare the budget, regulate financial order, and protect public wealth;
- Devise and implement policy programs.

The main duties of the President are to:

- Supervise the implementation of the Constitution.
- Determine the fundamental policies of the country in accordance with the National Assembly.
- Be the Commander-in-Chief of the Armed Forces of Afghanistan.
- Inaugurate the National Assembly (Shorai Milli) and *Loya Jirga* sessions.
- Appoint ministers, the Attorney General, the President of the Central Bank, the National Security Director, the Supreme Court judge, and justices with the approval of the *Wolesi Jirga*.
- Endorse laws and legislative decrees.

On 9th October 2004, more than 8 million registered Afghans directly elected Hamid Karzai as the President of Afghanistan by an absolute majority. Approximately 4,900 polling centers with 22,000 polling stations were operational in all districts of Afghanistan's 34 provinces. Out-of-country voting took place with 2,800 polling stations in Iran and Pakistan. Counting centers were located in Kabul, Mazar-I-Sharif, Kandahar, Jalalabad, Kunduz, Bamyan, Herat, and Gardez.

C. THE LEGISLATIVE BRANCH

The National Assembly

The Constitution establishes a bicameral National Assembly, consisting of two houses: the *Wolesi Jirga* (House of People) and the *Meshrano Jirga* (House of Elders). The National Assembly is the highest legislative body of Afghanistan and through the electoral process represents the will of the Afghan people. The main role of the National Assembly is to draft and approve laws and to exercise oversight over the executive.

According to the Constitution, the main powers of the National Assembly are:

- Ratification, modification, and abrogation of laws or legislative decrees
- Approval of economic, social, and cultural development plans
- Creation, modification and/or abrogation of administrative units
- Approval of the state's budget.
- Ratification of international treaties and agreements.

The *Wolesi Jirga*

- The *Wolesi Jirga* is the Lower House of the National Assembly. It is an assembly of directly elected provincial representatives.
- Members of the *Wolesi Jirga* are directly elected by the people of Afghanistan through free, fair and general provincial elections by secret ballot.
- The *Wolesi Jirga* elections will take place on 18 September 2005.
- There are 249 seats in the *Wolesi Jirga*. Seat allocations to the *Wolesi Jirga* are proportional to the population of the provinces.
- Afghans, registered to vote in the elections, over the age of 25 years, who have not been convicted by a court, or been deprived of their civil rights, can be nominated as a candidate in the *Wolesi Jirga* elections.
- Female participation in the *Wolesi Jirga* is guaranteed by the Constitution of Afghanistan, which specifies that the number of seats allocated to females must be at least twice the number of existing provinces.
- Members for the *Wolesi Jirga* will be elected for a 5 year term. Before the expiry of their term in office new *Wolesi Jirga* elections will be held.

In order to meet the duties of the National Assembly, the *Wolesi Jirga* has special duties and authorities. The *Wolesi Jirga* may:

- Set up special commissions to inquire about government actions.
- Endorse and enforce a bill not approved by the President, with a two-thirds majority.
- Take decisions on the interpellation of the ministers.
- Take decisions about government development programs and the government's annual budget.
- Approve or reject appointments according to the Constitution.

The *Meshrano Jirga*

- The *Meshrano Jirga* is the Upper House of the National Assembly.
- Members to the *Meshrano Jirga* are indirectly elected or appointed representatives.
- Provincial Council members to the *Meshrano Jirga* will be elected for a period of 4 years.
- Members to the *Meshrano Jirga* must be at least 35 years old.

Provincial Councils

- Provincial Council members in each province will be elected through direct, free, fair and general elections by secret ballot.
- The Provincial Council elections will take place on 18 September 2005 at the same time as the *Wolesi Jirga* elections.
- The number of members to each Provincial Council will be based on the population of the province.
- Registered Afghans over the age of 18 years, who have not been convicted by a court, or been deprived of his or her civil rights, can be nominated as a candidate in the Provincial Council elections.
- Each Provincial Council will elect one of its members to a seat in the *Meshrano Jirga* by an absolute majority.

District Councils

District Council elections have been postponed and will not be held in 2005.

The 2005 Elections

The *Wolesi Jirga* and Provincial Council elections will both take place on 18 September 2005.

Who can vote in the 2005 *Wolesi Jirga* and Provincial Council elections?

All registered Afghans will be able to vote in the province indicated on their voter registration card for their provincial *Wolesi Jirga* and Provincial Council representatives. Eligible Afghans who do not have a voter registration card, or who reside and will vote in a province other than that noted on their voter registration card, will be able to re-register during an Additions and Corrections Period.

Eligible Afghans will only be able to vote in one province.

Who is overseeing the election process?

The Joint Electoral Management Body (JEMB), which:

- Is an independent body mandated to administer, regulate and oversee the electoral process during the transitional period in Afghanistan.
- Is responsible for establishing policy guidelines, approving procedures, and exercising oversight over the electoral process.
- Was established by Presidential Decree and is the temporary merger of the Independent Election Commission (IEC) and the UNAMA Electoral Component (UEC).
- Exclusively exercises all powers of the IEC until the end of the transitional period.
- Consists of 13 voting members: 9 Afghan members from the IEC, appointed by the President; and 4 international members from the UEC seconded by UNAMA. The Chairman of the IEC chairs the sessions of the JEMB.
- Consists of 1 non-voting member, who is also the Chief Electoral Officer of the JEMB Secretariat.
- Has established the election date and election calendar for the *Wolesi Jirga* and Provincial Council elections.
- Has formed sub-committees to focus on detailed aspects of the electoral operation.
- Advises the President and United Nations on issues related to the electoral process.

The JEMB Secretariat (JEMBS):

- Is the executive arm of the JEMB and is led by the Chief Electoral Officer.
- Is responsible for implementation of the election operation in accordance with the policy framework and procedures defined by the JEMB. The JEMB(S) is also committed to building capacity of Afghans to conduct future elections in Afghanistan.

D. THE JUDICIAL BRANCH

The judicial branch is an independent organ of state. It consists of the Supreme Court (*Stera Mahkama*), High Courts (Appeal Courts) and Primary Courts. The Supreme Court is the highest judicial organ and is comprised of nine members, appointed by the President with the confirmation of the *Wolesi Jirga*. The President also appoints one of its members as Head of the Supreme Court.

THE BONN CALENDAR

5 December 2001:	The Bonn Agreement was signed by representatives of various Afghan factions
7 December 2001:	The United Nations Security Council endorsed the Bonn Agreement
22 December 2001:	The Afghanistan Interim Authority was established to administer Afghanistan and act as the repository of sovereign authority in Afghanistan
22 January 2002:	Special Independent Commission for the Convening of the Emergency <i>Loya Jirga</i>
11-19 June 2002:	The Emergency <i>Loya Jirga</i> was held to decide on a Transitional Administration to lead Afghanistan until a fully representative government could be elected
19 June 2002:	The Afghanistan Transitional Administration replaced the Interim Authority
19 June 2002:	President Karzai was formally sworn in as the Head of the Transitional Authority
5 October 2002:	The Constitutional Drafting Commission was convened to produce a preliminary draft of the constitution
April 2003:	The Constitutional Commission was inaugurated to review and adopt the constitution
10 June – July 2003	Public Consultation Process was conducted to ascertain the aspirations, views and recommendations of the Afghan people before finalization of draft constitution for submission to the Constitutional <i>Loya Jirga</i>
1 December 2003	Registration for the Presidential commences in the eight regional capitals (Phase 1)
14 December 2003	The Constitutional <i>Loya Jirga</i> was convened
4 January 2004	The Constitution of Afghanistan was adopted
December 2003-20 August, 2004	Registration for the Presidential election occurs in provincial capitals and districts across Afghanistan (Phase 2)
9 October 2004	Presidential Election held
15 December 2004	Official Inauguration of President Hamid Karzai
18 September 2005	<i>Wolesi Jirga</i> and Provincial Council elections to be held