



ETWA Analytical Viewpoint over IEC's Draft for Small Electoral Constituencies

Under article (35) of the new election law, small electoral constituencies shall be considered for Wolesi Jirga—Lower House elections according to paragraphs three and four of article (83) of the constitution.

This verdict created a clear obligation for the Independent Election Commission (IEC). The body following its formal launch on 22/11/2016 has been tasked by the presidential palace to provide a comprehensive draft about small electoral constituencies and voter's list within three months and deliver the idea with government for feedback.

Recently, the IEC has shared its draft for small electoral constituencies with representatives of political parties and civil society to gain their views and recommendations. This draft encompasses three options.

First, we would like to give a look first flaws and advantages of small electoral constituencies being pointed out by analysts before the analysis of the IEC draft:

1. Comparing to big electoral constituencies, small electoral constituencies provides a better representation and relationship among voters and their representatives. The accountability level of representatives to their voters increased, but the process is revers in big electoral constituencies.
2. In small electoral constituencies, a fair representation of all ethnic groups of a province as enshrined in article 83 of the Constitution comes into realization. But as it decreases chances of victory of ordinary people against local powerful figures, the representation of middle class of the society in elected-organs, which is very significant for young democracy of Afghanistan, is restricted.
3. In small electoral constituencies, candidate's electoral campaigns expenses is reduced, while operational expenditure of the election commission may increase.
4. In small electoral constituencies, observational focus of monitors of candidates and political parties is more, but it has nothing to do with the observational focus of impartial institutions and free media outlets.

ETWA is an independent, non-political, neutral election observation organization. ETWA gave an analysis to the IEC draft for small electoral constituencies in the light of three accepted

criteria such as (Legal Framework, Lessons Learned from Past elections and Existing Objective Situation of the Country) which is as below:

IEC Draft for Small Electoral Constituencies

The election commission draft for small electoral constituencies is consisted of three options, which has come into analysis in the light of (Legal Framework, Lessons Learned from Past elections and Existing Objective Situation of the Country) as follow:

IEC First Option in This Draft:

Under the first option, thirty-one provinces will be divided on electoral constituencies, beginning from one till 24. The remaining three provinces that hold two seats in the Lower House will serve as one electoral constituency each. According to this draft, ten seats are considered for Nomads (Kuchi) tribe, one for Hindu minorities, 65 seats for women and 174 for those, who may partake at single-member constituencies.

While this option is largely in accordance with the criteria of (Legal Framework) article 83 of the constitution, which might be effective in stopping the repeat of the experience of 2010 elections in Ghazni province as per lessons learned from the past. In absence of specification of the necessities of provinces, identical execution of this option contradicts the criteria of (Objective Condition of the Country) and can cause serious and unpredictable problems during elections. The body itself is unsure it will be free of problems.

IEC Second Option in This Draft:

Under the second option, provinces holding from one to five seats in parliament will be divided into one, provinces holding six to ten seats will be divided into two and provinces constituting 11 to 15 seats in parliament will be divided into three electoral constituencies.

As well as provinces having 16 to 20 seats in parliament will be divided into four and those which hold 21 to 25 seats in parliament will be divided into five electoral constituencies.

Advantages: This option provides a uniform approach for shrinking electoral constituencies inside a province on the basis of its seats in Wolesi Jirga. In this case, it denies the need to existence for population statistics of a province in determining small constituencies and creating appropriateness among the number of seats in Wolesi Jirga related to any province and its small constituencies.

According to the second option, small electoral constituencies in a province worth debating not single-member constituencies. In this case, it cannot possess the advantages of single-member constituencies such as ensuring close relations of voters with their representatives and increasing accountability level of representatives.

We can evaluate this option in the light of three criteria (Legal Framework, Lessons Learned from Past elections and Existing Objective Situation of the Country) as below:

This option to some extent meets the criteria of (Legal Framework) and is close comparing to big electoral constituency (Whole Province as a Constituency), in ensuring fair representation as per article 83 of the constitution. According to the criteria of (Lessons learned), it partly fulfills (Experience of Ghazni in 2010 Elections) because Ghazni as per this option holds eleven seats in Wolesi Jirga, which can split Ghazni into three small constituencies, in attempt to protect the rights of Ghazni-based tribes (Pashton, Tajik, Hazara) during elections.

The purpose behind abiding the criteria of (Lessons Learned) does not mean that our preemptive procedures should be only effective for Ghazni province. But there is a need that these procedures should be effective in preventing the repeat of Ghazni problems in other provinces with similar situation and ethnic composition.

The second option, which determines the number of small constituencies based on a province's seats in Wolesi Jirga, clarifies the flaws of this option. Similarly, Kapisa, Takhar, Maidan Wardak and Baghlan, are the provinces, which plunge in similar status like Ghazni, but they hold less seats in the Lower House.

Provinces	Ethnic Composition	Number of Seats in Wolesi Jirga	Number of Constituencies Based on 2nd Option of IEC's Draft
Ghazni	Pashton, Tajik, Hazara	(11) Seats	Three Constituencies
Kapisa	Tajik, Pashton, Pashayee	(4) Seats	One Constituency
Takhar	Uzbek, Tajik, Pashton	(9) Seats	Two Constituencies
Baghlan	Tajik, Pashton, Hazara	(8) Seats	Two Constituencies
Maidan Wardak	Pashton, Hazara, Tajik	(5) Seats	One Constituency

IEC Second Option in This Draft:

Using boundaries of provinces make the third option of the IEC. In this option, other provinces will serve as electoral constituencies as in previous elections. A whole province will be an electoral constituency. Under this option, the whole country will be divided into 36 electoral constituencies. Thirty-four provinces will be an electoral constituency each, while nomads and Hindu minority will be the two others.

The third option comparing to first and second options, is less effective in ensuring fair representation as enshrined in article 83 of the Constitution. Beside this, the third option according to the criteria of (Objective Status of the Country) declines election operational expenses and assists IEC to be early prepare for holding elections.

As well as, it further protects the rights of middle class candidates, who seem vulnerable in case of implementing single-member or small constituencies against local powerful figures. But its main deficiency is those of less focus to the criteria of (Lessons Learned), as in 2010 Ghazni experience showed that using big electoral constituencies in provinces with diverse ethnic composition can deprive some tribes from having a seat in the Wolesi Jirga.

Suggestions:

- a. While the purpose of new election law from small electoral constituencies in parliamentary elections is to ensure fair representation of residents of a province at Lower House, thus, the small constituencies' plan is needed to come into force in those provinces, where fair representation of minorities are unlikely. For this purpose, the commission should specify provinces holding multiple ethnic compositions such as (Ghazni, Kapisa, Baghlan, Takhar, and Maidan Wardak) with regard to its political and security situation and separate other provinces from. In this case, implementation of small electoral constituencies' plan will be denied in other provinces.
- b. If the commission finds that implementation of the plan of small electoral constituencies for next election is problematic or impossible, then it can develop and re-send the amendment draft of election law to government for amendment. In this case, the commission should find alternative ways under the imposition of certain procedures to stop the repeat of experience of 2010 elections in Ghazni and execute it in provinces that seem sensitive in terms of ethnic composition.
- c. Existence of a standard list of voters is very effective. It can help the body in specification of the number of eligible voters in any administrative unit (Province, District, and Municipality District). In absence of a precise statistic of population, it can assist in determining the range of small electoral constituencies. As a result, the IEC should consider the list as a key step toward determining small electoral constituencies.