

Freedom in the World 2019

POLITICAL RIGHTS: 13 / 40 (+1)

A. ELECTORAL PROCESS: 3 / 12 (+1)

A1. Was the current head of government or other chief national authority elected through free and fair elections? 1 / 4

Afghanistan's president is directly elected for up to two five-year terms and has the power to appoint ministers, subject to parliamentary approval. In the 2014 presidential election, the two first-round winners—Abdullah Abdullah, a former foreign minister, who received 45 percent of the vote, and Ashraf Ghani, a former finance minister, who took 32 percent—faced off in a final round held that June, with a high reported turnout. After the Independent Election Commission (IEC) published preliminary results showing Ghani leading by more than 10 percentage points, the Abdullah camp alleged voter fraud, claimed victory, and threatened to overthrow the government. The United States brokered an agreement calling for an internationally supervised audit and the formation of a National Unity Government (NUG). Ghani became president, and Abdullah became chief executive, a new post resembling that of a prime minister, which was not supported by the constitution. The final vote tallies for the two candidates were not officially announced, and the NUG's stated goals of overhauling the electoral system and convening a *loya jirga* on constitutional reforms have yet to be accomplished.

A2. Were the current national legislative representatives elected through free and fair elections? 1 / 4 (+1)

In the directly elected lower house of the National Assembly, the 249-seat Wolesi Jirga (House of the People), members stand for five-year terms. In the 102-seat Meshrano Jirga (House of Elders), the upper house, the provincial councils elect two-thirds of the members for three- or four-year terms, and the president appoints the remaining third for five-year terms. The constitution envisages the election of district councils, which would also send members to the Meshrano Jirga, though these have not been established. Ten Wolesi Jirga seats are reserved for the nomadic Kuchi community, including at least three women, and 65 of the chamber's general seats are reserved for women.

Parliamentary elections, originally scheduled for 2014, were postponed amid security concerns, and the president extended the legislature's mandate with an apparently unconstitutional decree until elections were finally held in October 2018. Despite security threats from the Taliban, which threatened to punish people for voting, and poor organization by the IEC, more than four million people voted (approximately half of registered voters). Some poll workers were absent on election day due to fears of violence, and difficulties with the untested biometric identification system contributed to delays in opening polling stations, and long lines. Many people reportedly waited hours to vote, and some left before casting their ballots. The

Taliban followed through on threats to carry out attacks across the country, which, according to the United Nations, killed 56 people and injured 379. The technical challenges and insecurity forced the IEC to add a second day of voting in some regions. In December, the Electoral Complaints Commission (ECC) ruled that all votes cast in Kabul Province were invalid due to widespread fraud, but the IEC subsequently overruled the decision. As a result of the chaos surrounding the election, official results had not been declared by the end of the year.

Score Change: The score improved from 0 to 1 because overdue parliamentary elections were held in October.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4

Elections are administered by the IEC, and disputes are adjudicated by the ECC. The dispute between the IEC and the ECC surrounding the latter body's decision to cancel all votes in Kabul during the 2018 parliamentary elections was the latest development reflecting longstanding dysfunction and weak management of the electoral process, which has often led to delays in holding elections and low turnout. In addition to fraud, the ECC had cited mismanagement by the IEC as among the reasons for its decision. The IEC in turn called the ECC's decision politically motivated before revoking it. Civil society groups complained that the ECC had acted hastily in annulling all votes in the populous region, a decision which, if enforced, would have disenfranchised approximately one million voters. The chaos and delays that surrounded the Kabul voting controversy prompted speculation that the 2019 presidential vote could also be delayed.

In 2016, after delays, a new electoral law was adopted. However, among other shortcomings, it retained the provincial boundaries as parliamentary constituencies, resulting in some excessively large constituencies—such as Kabul—as well as several ethnically polarized constituencies.

B. POLITICAL PLURALISM AND PARTICIPATION: 7 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 2 / 4

Most candidates for elected office run as independents and participate in fluid alliances linked to local and regional patronage networks. Political parties have been free to seek registration since 2005, though they are typically centered on particular ethnic groups or personalities rather than coherent policy platforms.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4

Multiple opposition leaders and parties seek power through elections, but the recurrent problem of fraud and the lack of a stable party system mean they cannot be

certain that their popular support will translate into victory at the polls.

Opposition figures have accused the government of undermining them and promoting rivals. In 2018, President Ghani continued his efforts to remove Atta Mohammed Noor, a prominent member of the opposition Coalition for the Salvation of Afghanistan and leader of the Jamiat-e Islami party, from his position as provincial governor of Balkh Province. Noor accused Ghani of trying to force the removal in order to neutralize him as a potential candidate for the 2019 presidential election. Noor finally agreed to step down in March in exchange for a number of concessions from Ghani.

In July, the Coalition for the Salvation of Afghanistan announced that it was forming the new Grand National Coalition of Afghanistan, which brought together almost all significant opposition parties representing a broad cross section of ethnic groups. Analysts believe the new coalition, which has the support of former president Hamid Karzai, could field a strong competitor in the 2019 presidential election.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

The insurgency waged by the Taliban movement across the country is the main constraint on Afghans' political choices. The Taliban threatened and intimidated voters ahead of the 2018 parliamentary elections to discourage their participation, and carried out a number of attacks, both during the campaign period and on election day, which forced residents to choose between exercising their democratic rights or ensuring their personal safety.

Normal political activity is also hampered by the presence of IS and various militias with links to the government, local power brokers, or foreign states. Government officials and politicians at all levels are regularly targeted for assassination, including Abdul Jabar Qahraman, a member of parliament from Helmand, who was killed in October 2018 when a bomb exploded in his campaign office; the Taliban claimed responsibility for the attack.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4

The constitution recognizes multiple ethnic and linguistic minorities and provides more guarantees of equal status to minorities than historically have been available in Afghanistan. Since 2001, the traditionally marginalized Shiite Muslim minority, which includes most ethnic Hazaras, has enjoyed increased levels of political representation and participation in national institutions. Nevertheless, participation is curtailed for all segments of the population by insecurity, flawed elections, and the dominance of powerful patronage networks. Members of minority groups have limited practical opportunities to organize independently, outside the networks of established leaders.

Women's political participation has been constrained by threats, harassment, and social restrictions on traveling alone and appearing in public. The proportion of

women registered as voters declined from 41 percent in 2010 to 34 percent in 2018. In 2018, over 400 women competed for the 68 parliamentary seats allocated to female representatives.

C. FUNCTIONING OF GOVERNMENT: 3 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 1 / 4

The ability of the president and his cabinet, acting in concert with the legislature, to set and implement state policies is limited by a number of factors. The government remains heavily dependent on military and economic support from the United States and its allies, and it is unable to enforce its laws and decisions in parts of the country controlled by the Taliban and other insurgents.

An October 2018 meeting between newly appointed US Special Envoy Zalmay Khalilzad and Taliban representatives, which reportedly occurred in Qatar without President Ghani's knowledge, raised concerns about the marginalization of the NUG. Ghani had repeatedly asserted that any peace process must be "Afghan-led and Afghan-owned," but the Taliban has refused to negotiate directly with the Afghan government. Ghani expressed concerns that his exclusion from negotiations could further weaken his coalition, already under strain due to insecurity and political opposition, and hinder his ability to govern.

C2. Are safeguards against official corruption strong and effective? 1 / 4

There have been periodic arrests, prosecutions, and dismissals of civilian and military officials accused of corruption, and an Anti-Corruption Justice Centre (ACJC) was established in 2016, bringing together specialized police, prosecutors, and courts to focus on high-level malfeasance. Nevertheless, corruption remains an endemic problem, law enforcement agencies and the judiciary are themselves compromised by graft and political pressure, and the most powerful officials and politicians effectively enjoy impunity. An October 2018 report from the US Special Inspector General for Afghanistan Reconstruction (SIGAR) confirmed that the ACJC was failing to prosecute senior officials accused of corruption.

Afghan commentators report that many senior positions in government can only be obtained through corrupt payments to figures in the relevant ministry and presidential office. Ethnic background and personal or political ties also play an influential role in appointments.

C3. Does the government operate with openness and transparency? 1 / 4

The government has made some progress on fiscal probity and oversight of state spending. For example, the National Procurement Commission, established in 2014 and chaired by the president to guide the National Procurement Authority (NPA), has taken the lead in reforming procurement procedures and attempting to maintain transparency throughout the government. The NPA has centralized supervision of

state contracts and claims to have saved hundreds of millions of dollars in 4,780 approved contracts through the end of 2018, though its lack of independence from the president has raised concerns about impartiality.

The beneficial ownership of mining companies that receive government contracts is often unknown, allowing individuals and entities legally prohibited from winning contracts, such as members of parliament, to participate.

CIVIL LIBERTIES: 14 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 6 / 16

D1. Are there free and independent media? 2 / 4

Afghanistan is home to a vibrant media sector, with multiple outlets in print, radio, and television that collectively carry a wide range of views and are generally uncensored. Media providers include independent and commercial firms, as well as a state broadcaster and outlets tied to specific political interests.

However, journalists face the threat of harassment and attack by IS, the Taliban, and government-related figures attempting to influence how they are covered in the news. The media advocacy organization Nai recorded dozens of incidents of violence and harassment against media workers and journalists in 2018, and the Committee to Protect Journalists (CPJ) said 13 journalists were killed in connection with their work during the year. These included nine journalist killed in April 2018, when a bomb detonated at the site of an earlier suicide bombing in Kabul. IS claimed responsibility for both attacks.

A rapid expansion in the availability of mobile phones, the internet, and social media has granted many Afghans greater access to diverse views and information. The NUG has publicly supported media freedom and cooperated with initiatives to counter security threats to the media.

Despite these stated commitments to a free press, high-level officials, including President Ghani, frequently question the validity of stories critical of the government and attempt to discredit journalists, undermining trust and confidence in the media.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 1 / 4

While religious freedom has improved since 2001, it is still hampered by violence and discrimination aimed at religious minorities and reformist Muslims. The constitution established Islam as the official religion and guaranteed freedom of worship to other religions. Blasphemy and apostasy by Muslims are considered capital crimes, and non-Muslim proselytizing is strongly discouraged. Conservative social attitudes, intolerance, and the inability or unwillingness of law enforcement officials to defend individual freedoms mean that those perceived as violating religious and social norms are highly vulnerable to abuse.

During 2016 and 2017, the UN documented 51 attacks against places of worship and religious leaders. IS militants continued their campaign of deadly attacks on Shiite

mosques and cultural centers in 2018. In August, IS claimed responsibility for a suicide attack on a Shiite mosque in Gardez that killed at least 48 people. In July, an IS suicide bomber attacked a delegation of Sikh and Hindu leaders in Jalalabad to meet with President Ghani, killing 19, including a Sikh parliamentary candidate.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 1 / 4

Academic freedom is largely tolerated in government-controlled areas. In addition to public schooling, there has been a growth in private education, with new universities enjoying full autonomy from the government, though there are serious shortages of qualified instructors and up-to-date teaching materials. Government security forces and the Taliban have both taken over schools to use as military posts. The expansion of Taliban control in rural areas has left an increasing number of public schools outside of government control. The Taliban operate an education commission in parallel to the official Ministry of Education. Although their practices vary between areas, some schools under Taliban control reportedly allow teachers to continue teaching, but ban certain subjects and replace them with Islamic studies.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 2 / 4

Although private discussion in government-held areas is largely free and unrestrained, discussion of a political nature is more dangerous for Afghans living in contested or Taliban-controlled areas. Government security agencies have increased their ability to monitor the internet, including social media platforms. However, this monitoring has not yet had a perceptible impact on social media use.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 4 / 12

E1. Is there freedom of assembly? 2 / 4

The constitution guarantees the right to peaceful assembly, subject to some restrictions, but it is upheld erratically from region to region. The police sometimes fire live ammunition when attempting to break up demonstrations. Protests are also vulnerable to attacks by IS and the Taliban. In September 2018, a suicide bomber killed 68 demonstrators in Nangarhar Province who were protesting the alleged abuses of a high-ranking security official. No group claimed responsibility for the attack, but IS has an active presence in the region.

In January, the Wolesi Jirga voted to reject a presidential decree that would have given the police broad authority to prevent demonstrations.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 1 / 4

The constitution guarantees the right to form nongovernmental organizations (NGOs), and both the legal framework and the national authorities are relatively supportive of civil society groups. NGOs play an important role in the country,

particularly in urban areas, where thousands of cultural, welfare, and sports associations operate with little interference from authorities. However, NGOs are sometimes hampered by official corruption and bureaucratic reporting requirements, and the threat of violence by armed groups is a major obstacle to their activities. In January 2018, the international NGO Save the Children temporarily suspended its activities after an attack on its office in Jalalabad by a suicide bomber killed four of its staff.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

Despite broad constitutional protections for workers, labor rights are not well defined in law, and no effective enforcement or dispute-resolution mechanisms are currently in place. Unions are largely absent from the informal and agricultural sectors, which account for most Afghan workers.

F. RULE OF LAW: 2 / 16

F1. Is there an independent judiciary? 1 / 4

The judicial system operates haphazardly, and justice in many places is administered on the basis of a mixture of legal codes by inadequately trained judges. Corruption in the judiciary is extensive, with judges and lawyers often subject to threats and bribes from local leaders or armed groups. Informal justice systems, employing variants of both customary law and Sharia (Islamic law), are widely used to arbitrate disputes, especially in rural areas. The Taliban have installed their own judiciary in areas they control, but many Taliban commanders impose arbitrary punishments without reference to this system.

F2. Does due process prevail in civil and criminal matters? 0 / 4

Prosecutions and trials suffer from a number of weaknesses, including lack of proper representation, excessive reliance on uncorroborated witness testimony, lack of reliable forensic evidence, arbitrary decision-making, and failure to publish court decisions. The police force is heavily militarized and primarily focused on its role as a first line of defense against insurgents in administrative centers. There are high levels of corruption and complicity in organized crime among police, particularly near key smuggling routes.

There is an entrenched culture of impunity for the country's political and military power brokers. In 2016, the former governor of Jowzjan Province, Ahmad Ishchi, accused First Vice President Abdul Rashid Dostum of ordering his arbitrary detention and sexual assault. During the subsequent investigation, Dostum was reportedly placed under house arrest but later left the country and remained abroad until July 2018. Upon his return, the charges against Dostum reportedly remained active, but authorities had not moved to prosecute him at year's end, and he was allowed to remain in office. Dostum had previously clashed with President Ghani, raising suspicions that the government was using the case to marginalize him politically, even if it lacked the will or power to uphold the law.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4

Despite peace talks between the US government and the Taliban, the militant group steadfastly refused to negotiate with the Afghan government through the end of 2018. The civil conflict continued to take a heavy toll on civilian life and safety in 2018, as the Taliban and IS carried out high-profile suicide attacks. The United Nations documented 3,804 civilian deaths and 7,189 injuries in 2018, a marked increase in casualties from 2017. Afghan security forces have also endured significant losses in the conflict; according to the government, as of November, more than 28,000 security personnel had been killed since 2015. The US further escalated its combat activities during the year, increasing air strikes, but President Donald Trump announced in December that the US military would withdraw 7,000 troops from Afghanistan in 2019.

The torture of detainees by Afghan police, military, and intelligence services reportedly remains common. Government-aligned strongmen and powerful figures within the security forces operate illegal detention centers. In 2018, President Ghani claimed to be cracking down on militia commanders who have perpetrated widespread abuses. In July, however, videos emerged of security personnel, deployed to arrest a Faryab military commander accused of rights violations, apparently abusing the commander's bodyguards, stoking outrage and leading to condemnation by human rights groups. At the end of the year, no charges had been filed against any of the perpetrators.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

Despite some legal protections, religious and ethnic minorities remain subject to harassment and discrimination, including in employment and education. Ethnic-based patronage practices affect different groups' access to jobs depending on the local context. The population of non-Muslim minorities such as Hindus and Sikhs has shrunk to a tiny fraction of its former size due to emigration in recent decades. Women face severe disadvantages in the justice system, access to employment, and other matters, with harmful societal norms often overriding legal guarantees.

There is no legal protection for LGBT (lesbian, gay, bisexual, and transgender) people, who face societal disapproval and abuse by police. Same-sex sexual activity is considered illegal under the penal code and Sharia.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 2 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 0 / 4

The constitution grants Afghans freedom of movement, residence, and travel abroad. These freedoms are severely circumscribed in practice by the ongoing civil conflict, which continued to cause mass displacement and render travel unsafe in much of the country in 2018. According to the Office of the UN High Commissioner for Refugees (UNHCR), more than 343,000 people were displaced by conflict in 2018.

Opportunities for Afghans to seek refuge abroad have been curtailed in recent years, as the European Union (EU) has attempted to reinforce its external border and member states have increased deportations of failed asylum seekers, while Iran and Pakistan have compelled hundreds of thousands of refugees to return home.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or non-state actors? 1 / 4

Citizens are formally free to own property, buy and sell land, and establish businesses. However, economic freedoms are constrained by patronage, corruption, and the dominant economic role of a narrow, politically connected elite. Over the past decade the most profitable activities available to Afghans have been government and defense contracting, narcotics trafficking, and property and minerals development. Investors in all of these sectors have depended on connections to those in power, and land theft backed by the threat of force is a serious problem. A combination of harassment, extortion, and arbitrary taxation make for a highly unfavorable business climate for any investor hoping to operate within the law.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 0 / 4

Domestic violence against women remains pervasive. In 2017, the Ministry of Public Health estimated that 51 percent of women experience domestic violence in their lifetimes. However, women's rights activists maintain that only a small proportion of actual incidents are reported. According to a May 2018 report published by the United Nations, many cases of violence against women are dealt with by traditional mediation, rather than through the criminal justice system; this largely enables impunity for perpetrators.

Women's choices regarding marriage and divorce remain restricted by custom and discriminatory laws. The forced marriage of young girls to older men or widows to their husbands' male relations is a problem, and many girls continue to be married before the legal age of 16. The courts and the detention system have been used to enforce social control of women, for example by jailing those who defy their families' wishes regarding marriage.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1 / 4

The constitution bans forced labor and gives all citizens the right to work. However, debt bondage remains a problem, as does child labor, which is particularly prevalent in the carpet industry. Most human trafficking victims in Afghanistan are children trafficked internally to work in various industries, become domestic servants, settle debts, or be subjected to sexual exploitation. Children are also vulnerable to recruitment by armed militant groups, and to a lesser extent by government security forces.