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Afghanistan

Country:

Afghanistan

Year:

2018

Freedom Status:

Not Free

Political Rights:

5

Civil Liberties:

6

Aggregate Score:

26

Freedom Rating:

5.5

Overview:

Afghanistan's constitution provides for a unitary state, headed by a directly elected president, with significant checks from the parliament and a wide range of rights guaranteed to citizens. However, an insurgency waged by Islamist militants has undermined the writ of the state in much of the rural hinterland. Political rights and civil liberties are curtailed in practice by violence, corruption, and flawed electoral processes.

Ratings Change:

Afghanistan's political rights rating improved from 6 to 5 due to increased opposition political activity ahead of scheduled elections, as well as modest gains in government transparency.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 12 / 40 (+2)

A. ELECTORAL PROCESS: 2 / 12

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 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? 0 / 4

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.

The most recent parliamentary elections, held in 2010, were characterized by widespread fraud. The parliament's term expired in 2015, but elections were postponed amid security concerns and a lack of progress on electoral reforms, and the president extended the legislature's mandate with an apparently unconstitutional decree. In June 2017, the IEC announced that both parliamentary and district council elections would be held in July 2018, but at year's end it remained unclear whether that date could be met.

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 an Election Complaints Commission. After delays, a new electoral law was adopted in 2016, but among other shortcomings, it did not address the issue of redrawing constituency boundaries.

During 2017, flawed attempts by the IEC to introduce new antifraud technology contributed to further delays in the preparations for the overdue parliamentary and district council elections. The president fired the IEC's chairman in November amid growing warnings that the July 2018 election date would have to be pushed back.

B. POLITICAL PLURALISM AND PARTICIPATION: 7 / 16 (+1)

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 (+1)

Multiple opposition leaders and parties have sought power through elections, but the recurrent problem of fraud means they cannot be certain that their popular support will translate into victory at the polls.

Several new opposition political groupings formed or intensified their activities during 2017. For example, senior political figures with links to northern Afghanistan who had grown disaffected toward the NUG announced the Coalition for the Salvation of Afghanistan in June, and former officials from the presidency of Hamid Karzai launched the People's Axis of Afghanistan in July. Although some activities were tolerated, opposition figures accused the government of covertly undermining them and promoting rivals. In December, the government prevented northern leaders including Atta Mohammed Noor from traveling to Kandahar for an opposition gathering, and the president later attempted to dismiss Noor as governor of Balkh Province; as of the end of the year, he had refused to leave office.

Hizb-i-Islami, a political party led by Gulbuddin Hekmatyar that had split into factions years earlier over whether to pursue armed insurgency or political participation, struggled to restore unity in 2017. Hekmatyar had reached a peace deal with the government in 2016 and returned to the country in May, but some factions refused to lay down arms, while others that had long engaged in politics resisted his reassertion of leadership.

Score Change: The score improved from 1 to 2 due to increased opposition political activity ahead of much-delayed parliamentary elections scheduled for 2018.

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 Taliban rebel movement, which has consistently opposed the holding of elections, is active in most of the country and fully controls many areas, especially outside major population centers. 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.

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 lack of security, 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. Women accounted for about 16 percent of the candidates in the 2010 parliamentary elections, and roughly 41 percent of registered voters were women; 69 women were elected to the Wolesi Jirga. While no women candidates ran in the 2014 presidential election, 273 women ran for provincial council seats that year, securing 97 of them.

C. FUNCTIONING OF GOVERNMENT: 3 / 12 (+1)

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. There were also rifts among leading officials in 2017. First Vice President Abdul Rashid Dostum flew to Turkey in May after being implicated in the abduction and torture of a political rival, was reportedly prevented from returning in July, and remained abroad at year's end. Atta Mohammed Noor's refusal to accept his dismissal by the president as governor of Balkh Province also raised questions about the central government's control over regional leaders.

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 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.

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

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, has taken the lead in reforming procurement procedures and attempting to maintain transparency throughout the government. It has centralized supervision of state contracts and claims to have saved hundreds of millions of dollars in more than 2,000 approved contracts to date, though its lack of independence from the president has raised concerns about impartiality.

Achieving transparency in official appointments has proven more challenging. Afghan commentators report that many senior positions 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.

Score Change: The score improved from 0 to 1 due to modest improvements in fiscal transparency and procurement oversight in recent years.

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, intimidation and violence against journalists are increasing, with 167 incidents documented and 21 journalists and media workers killed during 2017, according to the media advocacy organization Nai. Journalists faced the threat of attack from IS and harassment by both the Taliban and government-related figures attempting to influence how they are covered in the news.

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. In November 2017, after a public outcry, the government quickly reversed an apparent attempt to block the social media applications WhatsApp and Telegram.

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 carried out a campaign of deadly attacks on Shiite mosques and cultural centers in 2017.

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. In early June 2017, a large demonstration was held in response to a high-casualty terrorist bombing in Kabul at the end of May, with protesters denouncing the government's failure to ensure security. Government forces responded in some cases with live ammunition, killing several people. The government then prepared a draft law on assembly that would give the authorities new powers to restrict demonstrations. The Afghanistan Independent Human Rights Commission and civil society groups objected to a number of provisions as unconstitutional constraints on freedom of assembly; the draft was not adopted by year's end.

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 associations, and both the legal framework and the national authorities are relatively supportive of civil society groups. Nongovernmental organizations (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 2017, the International Committee of the Red Cross (ICRC) was forced to suspend its operations in parts of northern Afghanistan after a series of attacks on staff and health facilities.

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 December 2016, the former governor of Jowzjan Province, Ahmad Ishchi, accused First Vice President 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 at the end of 2017; seven of his guards were sentenced in absentia to eight years in prison in November. Atta Mohammed Noor, the governor of Balkh Province, was similarly accused of detaining and assaulting a member of the Balkh provincial council in August, but he remained free at year's end. Noor and Dostum were allies who had both clashed with President Ghani, raising suspicions that the government was using the cases to help marginalize them 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

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.

The civil conflict continued to take a heavy toll on civilian life and safety in 2017, as the Taliban and IS carried out high-profile suicide attacks, U.S. and allied forces increased their air strikes, and U.S.-backed Afghan government forces stepped up commando raids. The United Nations documented 3,438 civilian deaths and more than 7,000 injured during the year, roughly matching the levels reported each year since 2014, when many international troops were withdrawn from the country.

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 2017. Opportunities for Afghans to seek refuge abroad have been curtailed in recent years, as the European Union has attempted to reinforce its external border and 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. The Attorney General's Office recorded nearly 1,500 cases of violence against women, mostly involving beatings, in an eight-month period in 2017, arguing that more cases were being reported. However, women's rights activists maintain that only a small proportion of actual incidents are reported because of social acceptance of the practice, and perpetrators are rarely brought to justice.

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. 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.

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