

Spotlight

How independence of institutions can challenge the capture of the state and ensure sustainable peace in Afghanistan?



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It took the two political camps led by President Ghani and Dr. Abdullah a few long months to strike a political deal to end the stalemate created after the disputed election results. While the deal has raised hopes, it also poses real threats to the state as this settlement between the two elite groups may allow the capture of the state's institutions by corrupt networks to continue unless strong preventative measures are put in place. The question is who will put these measures in place and how they would do it, since the deal was welcomed by most major stakeholders without any reservations.

It is indisputable that ending violence and starting peace negotiations is an urgent priority for the people of Afghanistan and would be unreservedly welcome. It is also evident that [the nondemocratic elites could easily be the biggest beneficiaries of the deal if, as is likely, they manage to get a share of](#)

[the government, reinforce their networks, and formalize their positions of power](#), without doing much to improve the performance of the state. Therefore, it is critical to understand, recognize, and mitigate the risks the settlement poses to a permanent and sustainable peace, to the anti-corruption measures already in place and to the larger state-building agenda in Afghanistan.

It is not only the recent political deal to end the stalemate that poses threats to the state. Any future peace deal that would allow state capture to continue, sustainable peace will be elusive as the country could fall back into an endless cycle of violence due to the threats that the state capture would pose to the rule of law and to the strengthening of good governance that fosters accountability, anti-corruption measures and economic development.

The Supreme Court, the Attorney General's Office, the Anti-Corruption Justice Center, and the professional units of the Ministry of Justice comprise the backbone of the judicial and justice institutions in Afghanistan and are the most important institutions for ensuring citizens access to justice and the proper application of the law. Therefore, they have to remain apolitical and their independence has to be ensured by the political leadership.

The role of oversight and regulatory agencies is critical to ensuring checks and balances among state institutions especially in the absence of a properly functional parliament. Institutions such as the Supreme Audit Office, the Anti-Corruption Commission, the Access to Information Commission, the Ombudsman's Office, De Afghanistan Bank (the Central Bank), and other oversight and regulatory institutions can only function effectively if they are free from political interference and have full independence. Independence of regulatory institutions is of paramount importance, especially in sectors such as service delivery, banking, telecoms, mining, and oil & gas to protect citizens rights, mitigate risks, and provide a level-playing field to private companies. Regulatory capture is as dangerous as capture of the judiciary as this would allow the elite to control access to resources and income opportunities for their own benefit rather than for the well-being of the population.

These institutions can only function properly if they are independent and based on international best practice and standards. They must be independent of political interference and their leadership should be selected through a competitive and apolitical process, their budgetary independence respected, they are adequately resourced, and their internal and external accountability mechanisms are strong enough to ensure that the rule of law and the accountability of state institutions work in the best interests of the public to win the public trust. Corruption can be controlled only when there is proper rule of law and the rule of law can only be ensured if these institutions act in a politically impartial and independent manner. Freeing the rule of law, oversight, and regulatory institutions from the predatory elite could be a first good step to challenge the state capture that Afghanistan has been suffering from for years.

Therefore, all major stakeholders in Afghanistan including international donors and Afghan civil society should demand protection of the independence of the judiciary, the oversight agencies, and regulatory institutions during the peace talks and in forming a new government when this takes place and by respecting international principles and standards stated in United Nations conventions and elsewhere including [the Jakarta Statement](#), the [Lima Declaration](#), [the Venice Principles](#), and [the OECD Best Practice Principles for Regulatory Policy](#). The time is now to show some foresight and take corrective action after many years of failure. Not to do so will mean the rule of law will continue to be undermined, corruption will prevail, inequalities will increase and therefore the risk of a continuation or renewal of the conflict will be very real.

Webinar Report: Building trust through open budgeting and open contracting during the COVID-19 crisis

INTEGRITY WATCH AFGHANISTAN

Building trust through open budgeting and contracting in the times of COVID-19

May 18, 2020 | 12:00PM to 01:30PM

Elham Omar Hotaki
Director General
National Procurement Authority

Abdul Waheed Majrooh
Deputy Minister
Ministry of Public Health

Sayed Ikram Afzali
Executive Director
Integrity Watch Afghanistan

Sayed Masood Hashimi
Senior Advisor to Director General of Budget
Ministry of Finance

Masoude Kerokhi
Member of Parliament

The webinar will be broadcast live on Integrity Watch's facebook page.

Noorullah Elham, Integrity Watch Afghanistan

Public trust and service delivery in various sectors, particularly health, is inextricably connected to each other especially in handling a pandemic such as the COVID-19. In such situations, the issue of budget and emergency procurement becomes extremely significant. The more there is an open approach to contracts and emergency budgeting, the more this will help people gain confidence in the government. To help decrease the trust deficit, on 18th May 2020, Integrity Watch organized a two-hour webinar to facilitate discussions on increasing transparency and accountability in the budget-making and procurement processes related to the Covid-19 virus and also on the lack of people's trust in the government and to explore ways to raise it through open budgeting and contracting.

Six speakers from various government departments and civil society organizations, who are directly involved in budgeting and procurement issues especially during the Covid-19 virus outbreak, participated in this discussion. Participants included, Sayed Ikram Afzali, Integrity Watch's Executive Director; Abdul Wahid Majrooh, Deputy Minister of Public Health; Elham Omar Hotaki, General Director of the National Procurement Authority (NPA); Masooda Karokhi, Member of Parliament; Sayed Masood Hashimi, Senior Advisor to the Budget Director General at Ministry of Finance; and Ezatullah Adib, Integrity Watch's Head of Research.

Mr. Afzali, Integrity Watch's Executive Director said, "Our surveys show that over 80 percent of the interviewees did not trust the services offered by the government. We live in an environment where false information is being spread and the level of public trust is quite low while we are faced with a dangerous virus to control. The situation could spiral completely out of control if necessary, measures

are not taken to restore public trust. Open budgeting and open contracting could help restore the public trust so the government and the public can fight the pandemic together. The pandemic should not be used as an excuse to allow corruption and misuse of public funds”

Mr. Hotaki, NPA Director General, stated, “From the beginning of this pandemic and when the issue of transfers of money to the provinces was raised, our main emphasis has been on monitoring and how transparency and accountability could be ensured. However, the government departments involved in this process have complained about the slowness of the procurement processes and have stated that with such a process, we cannot properly combat this pandemic. We asked them to propose their solution to make the process easier. We then developed guidelines called “Emergency Procurement Guidelines to Prevent the Outbreak of Coronavirus in the Country” in which, according to the document, they can process a procurement contract in about two days.”

He continued, “The guidelines at the suggestion of relevant government departments was later modified. This resulted in increasing the provinces’ authority in retail purchasing and the processing of contracts. For instance, in the past if contracts were likely to cost between 20 and 100 million Afghanis, crossed this ceiling, then they had to refer them to the NPA. However, now this authority is with the provincial governments and their team. The government’s leadership took this into account and it was sent to the cabinet for their approval where it was also approved there. After that, the NPA did not participate in provincial projects.”

Mr. Majrooh, Deputy Minister of Public Health, insisted, “Transparency must be one of the most important components in fighting the COVID-19 outbreak. The other thing is effectiveness with limited resources, while the whole world is facing such a huge problem and resources are limited, the effectiveness of budget spending should be considered as a key principle.”

Mr. Hashimi, Senior Advisor to the Budget Director General, stated, “After the first case of COVID-19 virus was recorded in Herat Province, the Government of Afghanistan reacted immediately, and set up the Emergency Committee under the chairmanship of the President. The main decision after several meetings in this regard was the transfer of funds to the provinces as soon as possible, so that the resources would be available to them. In this regard, USD 15 million was transferred to the Ministry of Public Health and the provinces, and another 10 million was reserved. Despite the problems faced by the Ministry and the large budget cuts, it tried to respond positively to these needs, and to play its role in fighting the virus.”

MP, Ms. Karokhi, said, “The Afghanistan National Budget has had the lowest annual allocation for health service. The balance is paid by donors and the international community directly to NGOs. In most cases these NGOs belong to senior MoPH officials. The services of these NGOs are by no means sufficient and satisfactory to the people. As a result of huge corruption and nepotism, donors’ money is wasted in different ways by these NGOs.” She asked for ensuring transparency and accountability in the COVID-19 budgeting and expenditure.

Finally, the webinar ended with responses to the questions from the audience. To watch the full discussion which took place in local languages please visit Integrity Watch’s YouTube and Facebook pages, at <https://www.facebook.com/iwaweb.org/videos/288774975622009/?v=288774975622009>, and <https://www.youtube.com/watch?v=RHA5nKqDPIO&t=14s>.

Lack of resources and mismanagement overshadow efforts to fight COVID-19 in Balkh Province



Naseer Aieen and Noorullah Elham, Integrity Watch Afghanistan

As the Covid-19 spreads across Afghanistan, Integrity Watch's provincial office in Balkh expanded its Community Based Monitoring (CBM) work from 10 health facilities to 25 facilities.

Early monitoring data shows that 13 out of 25 health centers in the province are running short of medicines, and some of the drugs distributed by the health department are expiring in about two months.

Poor management has been identified as another major problem. The lack of a regular queuing system for patients and not enforcing social distancing in at least six health centers has increased the risk for the clients to contract the virus.

In addition, 11 health centers are short of basic safety equipment such as masks, gloves, and disinfectants. These materials, some of which have been distributed in some centers, are not provided in sufficient numbers and therefore most of the health personnel have to buy them from their own money or remain at high risk.

In some health centers, mistreatment of the clients has been reported. In addition, some health centers have been reported to collect illegal payments from the clients such as in Dehdadi District's 50-bed hospital where the hospital charges more than 50 Afghanis for vaccinating new born babies.

Local volunteers working closely with Health Shuras (councils) shared the identified issues with the

management of the health centers. They have reported some improvement in health workers' behavior, establishment of a queuing system, and improved hygiene and cleanliness of the health facilities. Integrity Watch is assisting the representatives to report the findings of the monitoring to the Department of Public Health in the province for further improvement. However, the department has not been very responsive as there are no formal mechanisms in place to make the department accountable to the local communities. Integrity Watch plans to take this issue to the national level for a policy change.

CBM-Health is the first initiative of its kind in the province that allows local representatives to monitor health services, enter a dialogue with local health officials, and feed data into the national level advocacy of Integrity Watch to improve delivery and management of health services across the county.