



Support to the Constitution-Making Process in Afghanistan

AFG/03/024



Final Report
2002 - 2004



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Abbreviation Key

AACA	Afghan Assistance Coordination Authority
AAWU	All Afghan Women's Union
ACBAR	Agency Coordinating Body for Afghan Relief
ACSF	Afghan Civil Society Forum
ADA	Afghan Development Association
ADA	Afghan Development Aid
AGHCO	Afghan German Help Coordination Organisation
AHDS	Afghan Health and Development Services
ANA	Afghan National Army
AREA	Agency for Rehabilitation and Energy Conservation in Afghanistan
AWCC	Afghan Wireless Communication Company
AWN	Afghan Women's Network
AWRC	Afghan Women Resource Center
BBC	British Broadcasting Company
CDC	Constitutional Drafting Commission
CCA	Cooperation Center for Afghanistan
CCS	Constitutional Commission Secretariat
CDAP	Comprehensive Disabled Afghanistan Programme
CHA	Coordination of Humanitarian Assistance
CIC	NYU Center for International Cooperation
CLJ	Constitutional Loya Jirga
CoAR	Coordination of Afghan Relief
CPAU	Cooperation for Peace and Unity
CRC	Constitutional Review Commission
DDR	Demobilization, disarmament and Reintegration
DEX	Direct Execution
DHSA	Development & Humanitarian Services for Afghanistan
ECW	Educational Center for Women
ELJ	Emergency Loya Jirga
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit GmbH
HAFO	Helping Afghan Farmers Organization
HAW	Humanitarian Assistance for Women
HFVAO	Hambastagi Foundation Women's Affairs Office
HR	Human Resources
ICT	Information and Communication Technology
IDP	Internally Displaced Persons
IOM	International Organization for Migration
ISAF	International Special Assistance Force
JEMB	Joint Electoral Management Body
KPI	Kabul Polytechnic Institute
MoD	Ministry of Defense
MoHE	Ministry of Higher Education
MoI	Ministry of Interior
MOU	Memorandum of Understanding
NEX	National Execution
NGO	Non Governmental Organization
NOVIB	Oxfam Netherlands
NPO/ RRAA	Norwegian Project Office/Rural Rehabilitation Association for Afghanistan
NRC	Norwegian Refugee Council
OTI	Office of Transition Initiatives
PC	Public Consultation
PE	Public Education
RRSA	Rabia Balkhi Rehabilitation and Skill Building Agency
RTAS	Radio and Television Afghanistan
SDF	Sanayee Development Foundation
SRSR	Special Representative of the Secretary General
SWNHO	Shams Women in Need and Help Organization



United Nations	
UNAMA	United Nations Assistance Mission in Afghanistan
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNIFEM	United Nations Development Fund for Women
UNOPS	United Nations Office for Project Services
USAID	United States Agency for International Development
VIP	Very Important Person
VREP	Voters Registration and Elections Programme
VWO	Voice of Women Organization
WAA	Women's Assistance Association
WADC	Women Activities Development Center
WADP	Women Activity Development Program
WRDC	Watan Rehabilitation and Development Committee



EXECUTIVE SUMMARY

The project “Support to the Development of a new Constitution for Afghanistan” AFG/03/024 (formerly AFG/02/012) aimed at providing the necessary support for the implementation of the Bonn Agreement which envisaged the establishment of a Constitutional Commission, mandated to produce and review a draft constitution, and the convening of a Constitutional Loya Jirga within 18 months of the establishment of the Transitional Authority. The project, which was jointly implemented by UNAMA, UNDP and the Secretariat of the Constitutional Commission as the governmental agency, accordingly focused on supporting the drafting, finalization and adoption of the Constitution for Afghanistan.

The process from drafting to endorsing a new Constitution followed a three-stage process:

- a. The first stage, known as *Tasweed* (Drafting), was carried out by a **Constitutional Drafting Commission**. The Drafting Commission submitted to His Excellency President Hamid Karzai a preliminary Draft Constitution on March 31st, 2003.
- b. The second stage, known as *Tadqiq* (Finalising), was carried out by the **Constitutional Review Commission**, which consisted of **30** members, including members of the Drafting Commission. The Constitutional Review Commission, which had formally been inaugurated on April 26th, 2003, comprised Afghan legal experts, tribal elders, religious scholars, highly-educated individuals with a wide range of experience and specialization in various fields, including economics, social science and international relations, as well as other. Out of the 35 Commission members, seven were women (20 %). The Commission conducted broad public consultations in all 32 provinces and with Afghan refugees in Iran and Pakistan to benefit from the view of the public and to present an accurate picture of the issues at stake in the Constitutional Process. Based on the outcome of the consultations, the Commission deliberated on and refined its initial draft and upon completion presented the **First Draft Constitution** to His Excellency the President of the Islamic Transitional Administration end of October, 2003. The draft was finally made public on November 3rd, 2003.
- c. The final stage, known as *Tasweeb* (Adoption), was carried out by a **Constitutional Loya Jirga** (CLJ), which had convened on December 14th, 2003, to review and adopt the Constitution. The Constitutional Loya Jirga concluded its work and adopted the Constitution on January 4th, 2004. The mechanisms and processes to be used for selecting representatives to the Constitutional Loya Jirga were determined by Presidential Decree dated July 15th, 2003. The CLJ process was accompanied by a nation-wide civic information and education campaign aiming at maximizing public awareness as well as representation.

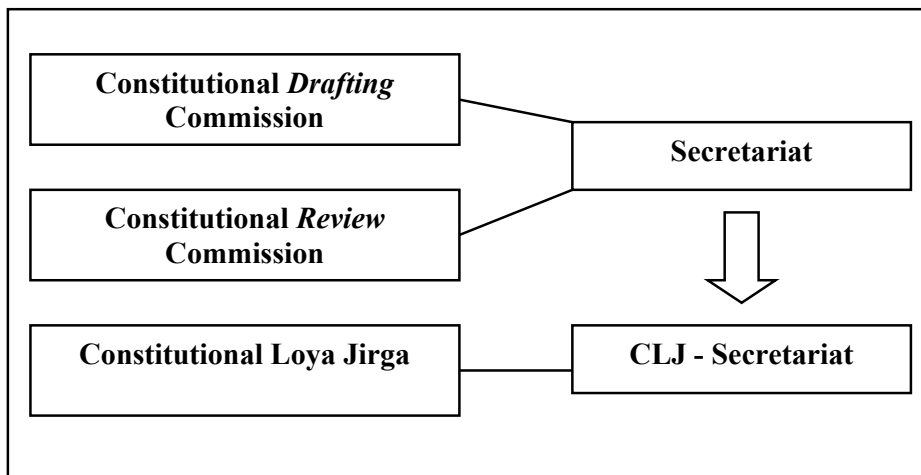


Figure 1

With reference to Figure 1, the Constitutional Drafting Commission and the Constitutional Review Commission were supported by a **Secretariat**, which provided technical, administrative, logistical and financial support services. The Presidential Decree on the Convening of the Constitutional Loya Jirga, dated July 15th, 2003, had together with the Executive Committee entrusted the Secretariat to prepare and implement the required and complementary procedures for the CLJ process. More than 450 staff were employed by the Secretariat at its peak during the preparatory process for the Constitutional Loya Jirga, with regional dependencies in Afghanistan (all regions) as well as offices in Iran and Pakistan. In the aftermath of the CLJ, the Secretariat remained operational until the end of March to conclude its public information/education activities (distribution of the draft, etc.) and to finalize its reports (financial reports, etc).

The project provided the necessary support for the establishment and operation of the Drafting and Review Commissions, its Secretariat and the Constitutional Loya Jirga. The project was funded through a Cost-Sharing Agreement and a Trust Fund Agreement. In total US\$13,122,717 was received from the following donors: Canada, Cyprus, Denmark, Finland, Germany, Japan, Norway, Switzerland, UK, the United States of America and UNDP core funds.¹ Final funding requirements for the whole project were US\$13,107,670.²

To meet the operational challenges, and in recognition of the administrative structures put in place by the Secretariat of the Constitutional Commission, the project modalities were shifted from UNDP Direct Execution (DEX) to National Execution (NEX) on September 2nd, 2003. This allowed the Secretariat to manage its own funds.

¹ It should be noted that the Government of The Netherlands has generously contributed USD 938,568 in support of the constitution-making process, which were transferred in consultation with the donor to the Afghan elections in view of sufficient funding at that time. Moreover, the Republic of Germany has provided €700,000 in addition to her contribution to cover any risk-margin in connection with the Constitutional Loya Jirga (its Conference Management component undertaken by GTZ), which were also transferred in consultation with the donor to the Afghan elections.

² This figure is subject to confirmation upon the formal closure of all accounts in relation to the project in support to the constitution-making process end of 2004.



BACKGROUND OF PROGRAM

Constitutions serve as the fundamental legal basis of any State, outlining its organization, basic rights and obligations, and the distribution of power controlled by a system of checks and balances. A constitutional basis is imperative for democracies to strive and develop, by laying the foundations for sustainable peace and long-term socio-economic development. It provides for the legal framework within which elections can be held and governmental functions exercised.

In the aftermath of decades of conflict, a new constitutional basis for the State of Afghanistan was deemed crucial at the Bonn talks in 2001. This was to serve as the basis on which the State could be built as well as Presidential and Parliamentary elections held. Having recourse to the traditional Grand Council (Loya Jirga), which features prominently in the adoption of previous Constitutions in Afghanistan, the Bonn Agreement provides that “a Constitutional Loya Jirga shall be convened within eighteen months of the establishment of the Transitional Authority, in order to adopt a new constitution for Afghanistan. In order to assist the Constitutional Loya Jirga prepare the proposed Constitution, the Transitional Administration shall, within two months of its commencement and with the assistance of the United Nations, establish a Constitutional Commission.”³

As part of the “assistance of the United Nations”, the nationwide project was designed to support the Constitutional Commission in its task to prepare a draft constitution as well as the process leading up to and including the Constitutional Loya Jirga. It focused on providing necessary financial, technical and administrative support to each of the three stages in the constitution-making process, starting with the establishment of the Constitutional Drafting Commission, which evolved to the Constitutional Review Commission and finally culminated in the Constitutional Loya Jirga. Project activities included the provision of the required institutional and administrative framework for the (Drafting and Review) Commission and its Secretariat to assume its mandate, i.e. the development of recommendations and a draft Constitution, the conduct of a nationwide public consultation campaign, the preparations and conduct of elections for the delegates to the Constitutional Loya Jirga, the preparation and management of the Constitutional Loya Jirga facilities, and the conduct of public information as well as civic education campaigns accompanying the whole process. UNDP Country Office support included fundraising activities (in conjunction with UNAMA), financial management, technical assistance in developing strategies for each stage as well as provision of technical expertise, procurement, negotiations with and contracting of implementing partners/agencies, determination of budget requirements, donor reporting, participation in joint working groups, task forces and steering committees.

The ultimate project objective was to support the Transitional Government in the development and adoption of a new Constitution, accompanied by public information and civic education, in order to lay the foundations for democratic structures to evolve and create a culture of “constitutionalism”.

³ Bonn Agreement, Article 2.1.6, available at <http://www.af/resources/research/BonnAgreement.pdf>.



Given the political environment and the importance attached to the whole process leading to the adoption of a new Constitution for Afghanistan, the challenges and risks were substantial:

- Security remained both a challenge as well as a risk throughout the entire process. While all efforts were made to ensure the security of all participants and stakeholders in the process (particularly during the elections for the CLJ delegates and the CLJ itself), it was inevitable that considerable security risks would accompany the process in view of the political uncertainties, particularly with regard to the buy-in of various factions.
- These political uncertainties themselves posed challenges in the design and implementation of the process, as they demanded the greatest degree of flexibility possible to respond to the political necessities. However, it was imperative that the demand for flexibility would not compromise the procedural requirements of both UNDP and the Government counterpart, the Secretariat of the Constitutional Commission.
- The project was embedded within the Bonn framework and thus bound to the tight timeline provided for in the Agreement. The demand to accommodate political developments while adhering to the Bonn schedule posed enormous challenges to the operation's planning and implementation.
- The tight timeline posed considerable challenges to expose the process leading to the adoption of the new Constitution to the public and generate necessary public buy-in. The public consultation campaign preceding the finalization of the Draft Constitution as well as public information and civic education campaigns conducted throughout the process suffered to some extent from the time constraints necessitated by the Bonn Agreement.
- The multitude of stakeholders, actors and implementing partners posed additional challenges to the smooth implementation of the project and required the utilization of coordination mechanisms such as the steering committee and an inter-agency task force.
- The project also faced the challenge of having to secure sufficient funding for the holding of the Constitutional Loya Jirga despite the fact that its duration was indefinite and subject to speculation.



PROJECT OVERVIEW

I. ESTABLISHMENT AND WORK OF THE CONSTITUTIONAL DRAFTING COMMISSION

A nine-member Constitutional Drafting Commission (“CDC”) was appointed by the President of the Transitional Islamic State of Afghanistan on October 5, 2002. His Majesty Mohammed Zahir, former King of Afghanistan and “Father of the Nation” formally inaugurated the CDC on November 03, 2002.

Following its inauguration, the bylaws and the working plan of the CDC was formulated by the newly appointed committee members. The members were then divided into three groups:

- Research Committee;
- Drafting Committee; and
- Writing Committee

To prepare themselves for the challenging task ahead of them, all the CDC members thoroughly studied other constitutional processes, including the past six constitutions of Afghanistan, constitutions of developing countries, post-conflict states and other Muslim countries.

The CDC also consulted with a wide range of actors within Afghan society including legal experts, relevant state institutions, civil society organizations, women’s NGOs, advocacy groups for the disabled, and other relevant individuals and institutions. International experts from throughout the world were also invited to provide input. After an intense period of debate and discussion, the CDC completed its preliminary draft constitution and presented it to the President of the Transitional Islamic State of Afghanistan on March 31, 2003.

II. ESTABLISHMENT OF THE CONSTITUTIONAL REVIEW COMMISSION

The second stage of the constitution-making process commenced with the appointment of a 35-member Constitutional Review Commission (“CRC”) by the President of the Islamic Transitional State of Afghanistan on April 24, 2003. Again, as a sign of respect and national unity, the Father of the Nation formally inaugurated the CRC on April 26, 2003 (Annex 1: List of Commissioners).

The CRC was comprised of Afghan legal experts, tribal elders, religious scholars, highly-educated individuals with a wide range of experience and specialization in various fields, including economics, social science and international relations, as well as other. Seven of the 35 Commission members were women (20 %).



A. RESPONSIBILITIES AND ACTIVITIES OF THE REVIEW COMMISSION

In accordance with the Presidential Decree establishing the Review Commission, its primary responsibility was to consult widely with the people of Afghanistan inside Afghanistan and in the refugee camps in Pakistan and Iran. In light of consultations, reviews, analysis and discussions of all provisions of the preliminary draft prepared by the Constitutional Drafting Commission, suggest necessary amendments, and submit a completed draft by August 30, 2003 for submission to the Constitutional Loya Jirga.

The CRC also had the following responsibilities:

- Conducting further research and consultations with experts on various constitutional issues.
- Developing questionnaires to be used during the public consultation process.
- Assisting the Secretariat in raising public awareness and education of the constitution.
- Conducting public consultation in all 32 provinces of Afghanistan and in refugee camps in Iran and Pakistan where four offices in total were established for the purpose of the consultation meetings.
- Producing the final draft after the views of the Afghan people have been taken into account.

In order to proceed in an efficient manner and to fulfil its responsibilities, the CRC developed working procedures and structured itself into the following bodies:

1. Four Committees, each consisting of eight or nine members, who selected a Chairperson based upon the input of the Chairperson of the Commission and one member as their representative. Each committee was supported by one Rapporteur.
2. An Executive Board, consisting of nine members, comprised of the Chairperson of the CRC, Chairperson of each of the four committees, and one representative elected by the members of each committee.
3. A General Assembly consisting of all 35 members of the CRC.

The preliminary draft was studied and debated separately and independently by all four committees. Changes and recommendations agreed upon in each committee were recorded and noted by the Rapporteurs. The Chairperson of each committee presented its committee's proposed changes in the preliminary draft of the Executive Board for further analysis. The Executive Board discussed each committee's proposed changes and compiled and refined the changes for presentation to the General Assembly. The General Assembly discussed and debated the changes and made final decisions regarding their incorporation into the preliminary draft.

B. PUBLIC EDUCATION AND PUBLIC CONSULTATIONS

Both, public education and public consultation were used to ensure that the people of Afghanistan are involved in the constitution-making process and that the final constitution is based on public support, which is crucial in building respect for it. The



following paragraphs provide a brief overview of the Public Education and Public Consultation campaigns conducted in furtherance of the constitution-making process. Based on its mandate, the CRC conducted public education and public consultation in all 32 provinces of Afghanistan as well as among Afghan refugees in Iran and Pakistan in order to raise awareness about the constitutional process and to gather the views of the public regarding the (preliminary) Draft Constitution (Annex 2: Public Consultation Strategy).

i. Establishment of Regional Offices

To execute planned activities in different regions, provinces and refugee communities in Pakistan and Iran, the Secretariat of the Commission with the assistance of UNAMA Offices opened offices in eight regions in Afghanistan and four cities in Pakistan and Iran i.e. Kabul, Jalalabad, Gardez, Bamyan, Kandahar, Herat, Mazar, Kunduz, Peshawar, Quetta, Tehran, Mashad (Annex 3: Map of Regional Offices). Advance teams were sent to the provinces other than those where Secretariat's regional offices were located. These provincial advance teams were led by a provincial coordinator.

The offices in all regions were inaugurated during remarkable gatherings where local authorities, scholars, ulema, representatives of civil society, social activists, and representatives of NGOs etc. participated.

During Public Education Campaign the regional offices used the materials produced by the central Public Education and Public Consultation Department in their respective regions. Regional offices devised also responsive and attractive programmes to run the Campaign.

The regional offices were comprised of a Regional Coordinator, Deputy Regional Coordinator, Public Education Officer, Admin Officer and auxiliary staff; in addition, provincial teams were set up to safeguard the widest outreach and coverage possible. In order to improve female participation in the process, the amount of US\$400 was allocated to each province to recruit either one female Public Education Officer on a full time basis or recruit more than one on a part time basis. On average there were two women employed in each province on a part time basis.

ii. Workshop (April 21, 2003 – April 25, 2003)

In order to orient regional staff of the Secretariat on the Public Education Campaign and to agree upon a clear strategy and material needed, a workshop was held by the Public Education and Public Consultation Department of the Secretariat in Kabul from April 21, 2003 to April 25, 2003. The workshop was formally inaugurated by the Chairperson of the Commission. The workshop ended with a revised Public Education strategy, plan and layout of the Public Education material.



iii. Public Education Material

Based on the outcomes of the workshop, the Public Education Unit of the CRC then developed the following material for the public education campaign:

1. Curriculum
2. Informative material
3. Posters
4. Guide for PE Educators
5. Taped material

No	Books	Unit	Language	
			Dari	Pushtu
1	Informative Material	7000	4500	2500
2	Basic Material	7000	4500	2500
3	Preliminary Material for Public	57000	30000	27000
4	Posters	80000	50000	30000
5	Calendar with constitution messages	1000	-	-
Total		152000	89000	62000

iv. Public Education Campaign

The public awareness and education campaign preceding the public consultation process was conducted from early May until early June. The Secretariat of the CRC formed a partnership with a consortium of the civil society organizations facilitated by the Afghan Civil Society Foundation to elicit their support in developing educational materials and distributing them through their networks of organization in all provinces. The regional offices organised starting in early May widespread campaigns designed to educate the Afghan public with respect to the constitution. Members of the consortium also held public education workshops in all provinces of the country.

The public Education Campaign mainly focused on the importance of constitution in Afghanistan, a brief overview of the constitution in Afghanistan, a brief overview of the current constitution making process, importance of people views in the process and impact of constitution on people's livings. The campaign reached all 32 Afghan provinces and refugee camps in Iran and Pakistan. The commission itself published a constitutional bulletin "Asasi Qanun" which was circulated through the regional offices and the network of NGOs. In total, three bulletins were produced (10,000 copies each).

The Secretariat was supported by the Afghan Civil Society Organizations, training about 1600 people to give messages on the new constitution of Afghanistan to the Afghan people all over the country:

On 10 June 2003, the Afghan Civil Society Forum (ACSF), supported by Swisspeace, launched a separate civic education project in all 32 provinces of Afghanistan, training community leaders from all approximately 354 districts, on the constitution-making process. In 32 provincial trainings, 13 Afghan NGOs (of whom two are Women NGOs) educated community leaders on the constitution-making process, the role of civil society and political participation, encouraging them to provide their views to the Constitution



Commission. An average of four to five community leaders from each district were trained in each of the provinces, culminating in an estimated total of 1600 individuals (real numbers are not available yet). In addition, 12 Women's NGOs trained about 800 women in 15 provinces (a minimum of 50 per province) where outreach to women was expected to be difficult. All individuals trained went on to provide outreach on the constitution-making process within their districts, thus creating a multiplier effect. It is difficult to determine how many in fact reached out to their communities, but it is estimated that each conveyed the messages to a minimum of ten people and a maximum of 100 (in some areas it was reported as much as 500 community members were reached out to).

On 9 July 2003, the ACSF project went into its second phase, with eight regional feed-back meetings (Mazar-i-Sharif, Jalabad, Herat, Kunduz, Bamyan, Gardez, Kandahar, and Kabul) where the community leaders provided their views to members of the Constitution Commission. The entire process was coordinated in close collaboration with the Constitutional Commission and its Secretariat. A final three-day conclusion workshop with representatives from all provinces was held on 29-31 July 2003.

This sub-project was the first systematic attempt at civic education outreach by Afghan civil society actors across all provinces and districts in Afghanistan. It was funded by USAID, NOVIB (Oxfam Netherlands), the German government, the Asia Foundation, the Norwegian Government, and UNIFEM.

NGOs involved in this process were:

- Agency for Rehabilitation and Energy Conservation in Afghanistan (AREA)
- Afghan Development Association (ADA)
- Afghan Development Aid (ADA)
- Afghan Health and Development Services (AHDS)
- Afghan German Help Coordination Organisation (AGHCO)
- Afghan Women's Network (AWN)
- Afghan Women Resource Center (AWRC)
- All Afghan Women's Union (AAWU)
- Coordination of Humanitarian Assistance (CHA)
- Cooperation Center for Afghanistan (CCA)
- Cooperation for Peace and Unity (CPAU)
- Coordination of Afghan Relief (CoAR)
- Development & Humanitarian Services for Afghanistan (DHSA)
- Educational Center for Women (ECW)
- Helping Afghan Farmers Organization (HAFO)
- Hambastagi Foundation Women's Affairs Office (HFWAO)
- Humanitarian Assistance for Women (HAW)
- Norwegian Project Office/Rural Rehabilitation Association for Afghanistan (NPO/RRAA)
- Rabia Balkhi Rehabilitation and Skill Building Agency (RRSA)
- Shams Women in Need and Help Organization (SWNHO)
- Voice of Women Organization (VWO)
- Watan Rehabilitation and Development Committee (WRDC)
- Women's Assistance Association (WAA)
- Women Activity Development Program (WADP)
- Women Activities Development Center (WADC)
- Sanayee Development Foundation (SDF) for the development of the poster and pamphlets



In addition, the Center on International Cooperation of New York University (CIC), in collaboration with UNAMA and the Asia Foundation, commissioned papers by international scholars on a variety of issues relevant to the drafting of the Constitution. These papers were published in a Constitutional Resource Handbook in English, Dari, and Pashtu and distributed to the public.

v. Public Consultations

Following the public education campaign, the CRC conducted public consultations during June and July 2003. The Public Consultation Campaign was launched at a Conference in Kabul on June 7, 2003, on the occasions of which the President of the Transitional Islamic State of Afghanistan and SRSG Lakhdar Brahimi formally inaugurated the Campaign.

To undertake the enormous task of collecting the peoples' views nationwide (as well as in Iran and Pakistan), members of the CRC were divided into ten different groups, of three Commissioners as well as one Rapporteur and designated a specific region of Afghanistan, Iran and Pakistan. The groups were carefully arranged to ensure gender balance, ethnic representation and outreach, and field of expertise. Each group of commissioners met with both the general and at-risk populations in each geographic area they visited. In each region there were different population groups considered to be 'at risk' and measures taken to ensure their inclusion. Additionally, they were seeking out special interest groups who have contributions to be made to the process.

There were two types of meetings – open meetings where any Afghan was allowed to attend and segmented meetings with specific groups of Afghan Society. Open meetings took place before segmented meetings began, mainly to inform people of the arrival of the team of commissioners in the province and announcing a formal kick-off of the process in the given province. Given the danger of domination and manipulation by influential people at the open meetings as well as the need to ensure the participation of influential individuals as well as vulnerable groups who would otherwise be at risk of intimidation and domination by powerful elements in the regions, the focus was more on the segmented meetings.

In general nine groups were been identified with whom consultations were conducted in segmented meetings. However, the specific groups opting for consultations in segmented meetings depended very much on the regional circumstances, in particular the presence of different groups in different regions. The Regional teams, particularly, Regional Coordinators had the responsibility of identifying such groups and facilitating meetings with them. Segmented meetings were balanced, quality and quantity wise. These meetings included tribal elders, ulema, women, members of the Emergency Loya Jirga held in June 2002, professionals, members of civil society and youth (Annex 4: Maps on participation in Public Consultations).

People's views and input were collected through a variety of methods, including written submissions presented to the commissioners or in the regional offices; oral recommendations made to the commissioners at consultation meetings; and questionnaires that were distributed at the consultation meetings. The CRC organized



over 523 meetings which were attended by over 150,000 people and over 17,000 oral inputs were collected. The CRC also distributed over 460,000 questionnaires to individuals and groups and received over 80,000 written responses. Further, the CRC received more than 6000 written memoranda.

1. Collation and Analysis of the Views

All the views gathered from the presenters were sorted, collated and processed by the Commission for possible integration in the Draft Constitution and the report of the Commission. These views and proposals were processed by the Data Center established at the Secretariat's office in Kabul. The Center registered, coded and entered the data into a data entry system. This computerised system provided the commissioners with a method of analysing the results by issue, region and demographic breakdown.

Key public views relayed to the Commission

- The Constitution should have a preamble, and this should reflect principles such as the importance of Islam, peace and unity and national values
- Islam should have special place in the Constitution
- The Hanafi madhhab, or school of law, should have a special status but not to the extent of excluding others
- There must be tolerance, including tolerance of other religions
- Human rights must be protected
- The rights of women must be protected
- The rights of the disabled must be protected
- There must be equal rights for all groups
- Peace, security and disarmament are crucial
- Education is vital, and therefore basic education must be free
- The Government must provide water, health and other services as well
- The people must directly elect the President
- Some said that there should be Prime Minister as well
- The President should be a Muslim
- There should be a Parliament with two houses (though some said one was enough)
- Democratic elections must be held
- An elected Loya Jirga should be convened when important issues are to be decided
- There should be local elected bodies
- There should be mechanisms to ensure the participation of women in government
- There should be mechanisms to ensure the representation of minority ethnic groups
- Leaders must be moral and virtuous
- There must be a mechanism to deal with corruption
- There should be a constitutional enforcement mechanism
- Judges must be well qualified and independent
- The armed forces must reflect the entire nation and be under civilian control



- Pashtu and Dari should be the official languages and other languages must be encouraged and respected. Some said that Uzbeki should be also an official language and others said that Pashtu should be the national language
- Citizens must respect others and their rights and defend the country
- Government must protect the environment.

2. Incorporation of Views into Draft

Finally the data from the public consultation was reviewed by the CRC and deliberated upon for incorporation into the revised Draft. While it was not possible to incorporate all views of the public, as some were contradictory, the CRC incorporated views that held wide and broad support among people throughout the country. The CRC also held consultations with the government to seek their views regarding sensitive political issues. Finally, the CRC held extensive consultations with international and national experts to ensure that the Draft Constitution met the highest level of technical standards. As a culmination of these efforts, the CRC prepared a revised Draft Constitution, which was submitted to the President and the Father of the Nation on 15 October, 2003.

III. THE CONSTITUTIONAL LOYA JIRGA

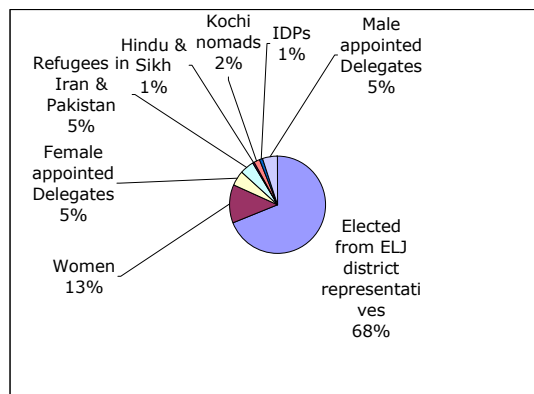
The Bonn Agreement envisioned the facilitation of a Constitutional Loya Jirga (“CLJ”) to be convened for the adoption of a new constitution, similar to Constitutional Loya Jirgas held in the past. The role of the Constitutional Loya Jirga was to review the Draft Constitution, discuss proposed changes and amendments, and finally adopt the new Constitution. The Constitutional Loya Jirga was initially scheduled to be convened in October 2003. However, the need for extensive public information and comprehensive public consultations, which commenced with some delays vis-à-vis the initial “roadmap”, as well as operational challenges that needed to be overcome concerning the necessary processes preceding the convention itself (registration and elections of the CLJ delegates), necessitated the postponement of the CLJ to December 2003.

The mechanism for establishment and convening of the Loya Jirga was laid out by the President of the Transitional Islamic State of Afghanistan through a decree enacted on July 15, 2003 (Annex 5: Presidential decree on the convening of the CLJ). As provided for by the Presidential decree, 500 delegates would serve in the Constitutional Loya Jirga, 450 of whom would be elected through secret ballot elections and 50 of whom would be appointed by the President.



The decree stipulated the following breakdown for the allocation of seats:

- Three hundred and forty four delegates would be elected by the district representatives who had participated in the first phase of the Emergency Loya Jirga elections;
- Forty-two seats were allocated for the refugees in Pakistan and Iran.
- Sixty-four seats were reserved for women to be elected by women. Two women to be members to the CLJ will be elected per province.
- Nine seats were allocated for the Kuchis (nomads).
- Six seats were allocated to the IDPs in Herat, Helmand and Kandahar provinces
- Three seats were allocated to the Hindu and Sikh minorities.



In implementing the Presidential Decree, the Secretariat developed a two-track election process, including a general election process to determine the 344 delegate seats from among the ELJ district representatives and special category elections to determine the women and minority delegate seats. The processes are described in further detail in the following section.

A. GENERAL ELECTIONS

The General Election process encompassed three stages, spanning from the Preparatory stage that began in mid-July and ending with the holding of elections, which concluded on the 5th of December:

- 1) Preparatory Stage: Public Education and Training
- 2) Verification and Registration Stage
- 3) Election Stage

i. Preparatory Stage (15 July – 15 September)

The preparatory stage primarily focused on identifying the resources and structures needed for the carrying out of the General Elections. During this period, additional staff were hired and a strategic plan was formulated for the election process. To prepare the staff and the public for the upcoming election processes, a training program was held with the Secretariat staff and a public education campaign was carried out throughout Afghanistan and in the Afghan refugee camps in Iran and Pakistan. The public education campaign was conducted as conceived of in the Public Education, Information and Training Strategy. This had been formulated by the Public Education Department of the Secretariat to maximize public information, education and training of the participants within the available time frame. In accordance with this plan, the Secretariat Public Education Department produced relevant public education and training material, including a handbook for the district representatives.



This handbook included information on the registration process and the CLJ Rules and Procedures for Elections.

Finally, the list of ELJ representatives was compiled in a central database system in preparation for the verification and registration stage.

ii. Verification and Registration Stage (15 September – 23 October)

The registration phase focused on finalizing the electorate for the Constitutional Loya Jirga elections. These efforts included:

- Finalizing and verifying the list of district representatives;
- Convening provincial gatherings for the registration of the ELJ district representatives;
- Replacing deceased district representatives through elections;
- Holding elections in districts where ELJ elections had not been held due to security reasons; and
- Initiating the nomination process for CLJ delegate candidates.

The registration stage was accompanied by public education and an orientation for the CLJ representatives on the registration procedures.

Upon receipt of the regional input, the initial list of the district representatives to take part in the CLJ registration and election process was finalized by the Secretariat at central level. The final list was distributed to the regional offices, which conducted the registration and election processes. In order to ensure accuracy, the lists were cross-checked with the support of the regional staff and UNAMA regional offices and the Independent Afghan Human Rights Commission.

Once the list of voters was finalized, the Secretariat staff in each province held provincial registration meetings. The purposes of these meetings were:

1. Registration of voters
2. Initiation of replacement procedures for district representatives who deceased before July 15, 2003
3. Training of district representatives
4. Initiation of nomination and registration procedures for potential candidates to the CLJ
5. Elections

In accordance with the rules and regulations outlined for CLJ elections, district representatives were able to register as voters for the CLJ elections during the provincial registration meetings. Upon registration, they received voter registration cards that allowed them to participate in the election meetings. District representatives interested in becoming a candidate for the CLJ elections were able to file candidature forms with the Secretariat, provided that they satisfied all the necessary requirements.

As provided for in the legal framework, the Secretariat's Regional Offices identified those district representatives that died before July 15, 2003. In order to fill these vacancies, district level nomination processes were conducted. Subsequently, the



replacements were placed on the final provincial level voter roll. They were issued a voter registration card upon their arrival at the CLJ regional election meeting.

Once the voters were identified, a comprehensive training/orientation programme was implemented as specified in the Public Education, Information and Training Strategy in order to train all participants, most importantly the registered district representatives in the relevant procedures and processes (main features of the Drafting and Review processes, Presidential Decrees and Rules of Procedure for CLJ elections/Overview of Legal Framework for CLJ Elections). Training particularly focused on criteria for candidates, voting procedures and the complaint mechanism.

All voters were given an informative package (explaining the concept of Jirga and its historic development, free and fair elections, constitutional making, human rights and democracy) and the Final Draft of the Constitution and Summary of the Public Consultation Report.

As outlined in the legal framework section, district representatives who wished to contest in the CLJ elections to become CLJ delegates needed to substantiate their candidacy with sufficient support, i.e. the necessary number of endorsement votes. The nomination procedures were initiated during the provincial registration meetings and nomination were open until five days before the election meeting.

During the election phase, each registered voter at the regional center had a number of endorsement votes to distribute among the candidates of his electoral unit who declared themselves during the registration stage. The number of endorsement votes was equivalent to a third of the total of seats available for the electoral unit. Nominated candidates needed to mobilize a number of endorsement votes equivalent to ten percent of the number of voters in the electoral unit in which they choose to contest.

As specified in the Presidential Decree of July 15, 2003, the Draft of the Constitution was published together with a summary of the Public Consultation Report that was produced by the Secretariat. This enabled the district representatives running for CLJ elections to familiarize themselves with the Draft and base their candidature on their ideas concerning constitutional issues.

iii. Election of CLJ Delegates through district representatives

General elections were conducted in the eight regional centers including, Kabul, Jalalabad, Gardez, Kunduz, Mazar, Bamyan, Herat and Kandahar. The electorate were required to travel to their respective provinces' regional center and to present the identification card that they were provided with at the provincial registration meeting.

Those choosing to stand as candidates had to gather at least ten percent of endorsement votes from the electorate in their region. They were also required to provide additional information, including a written statement specifying his/her reasons for seeking candidacy. These statements were posted 24 hours in advance of the elections at the election venue in order to allow voters adequate time to review information about the standing candidates.



All candidates were required to give a brief speech about their qualifications as candidates. Once this was completed, secret ballot elections were held. Following this, the ballot boxes were opened in the presence of UN observers. Votes were openly counted in front of the voters. The candidates with the highest number of votes were announced as the winners and provided with CLJ delegate cards.

B. “SPECIAL CATEGORY” ELECTIONS

Special Category Elections were held for minority groups and women. Minority groups included Hindus and Sikhs, Kuchis, IDPs, and Refugees in Iran as well as Pakistan.

The election proceedings for special category groups consisted of the following:

1. Establishment of respective Special Category Group Advisory Committees for the reviewing of national procedures for nomination and election of respective Special Category Group.
2. (Optional) Identification of Special Category Regional Sub-Committees within prescribed geographical zones for the implementation of national procedures and the notification, nomination and election process.
3. Implementation of notification process for election and nomination process for each geographical zone.
4. Identification of representatives within each geographical zone.
5. Public education and orientation of special category populations
6. Nomination electors for prescribed number of delegate seats.
7. Election of delegates.

i. National Advisory Committee

In the first phase, a national advisory committee was established for each group to guide the Constitutional Commission Secretariat in formulating a strategy tailored to the unique needs and circumstances of each special category group. To determine membership for the national advisory committee, the Special Category team held a number of consultations with members of each special category population and identified its respective leadership. The leadership was then asked to recommend people for the national advisory committee. Through this process, six national advisory committees and 36 subcommittees (eight regional women’s committees; one IDP subcommittee; 13 Pakistan refugee subcommittees; and 11 regional Iran refugee subcommittees), each comprised of five to nine members, were established for women, Kuchis, Hindus and Sikhs, IDPs, refugees in Pakistan and in Iran.

Members of the National Advisory Committee served as an advisory body in all aspects of the special category population they were representing. They played a key role in advising on the strategy for the elections and in identifying the electorate. Due to their involvement in the process, they were not allowed to serve as candidates in the elections of the special category they were representing.



The effectiveness of the national advisory committee varied between special category populations. While members of the National Advisory Committee played a critical role in the election processes for women, Hindus and Sikhs and Kuchis, it served a limited function in the election processes for the refugees in Iran, Pakistan, and for IDPs. Lack of adequate time to consult with the leadership of the population and to carry out a consensus building exercise regarding the selection of the advisory members was the main impediment in cases where this process failed to produce results.

Overall, the establishment of the National Advisory Committee was a meaningful exercise and significant in a number of ways. It helped key minority groups come to agreement on a leadership that could represent their interests. It also bolstered confidence in their role in the constitutional process. Finally, the exercise was significant in establishing legitimacy for the process and garnering the support of the leadership of the special category population.

ii. Formulation of Election Strategy

The second stage involved the formation of the election strategy and identification of election zones for each special category population. The Special Category unit met with agencies and government departments with technical expertise on the given special category group (such as UNHCR and NRC for IDPs and refugees and the department of tribal affairs for Kuchis) to obtain concrete information regarding the exact figures of the given special category population and their whereabouts. Through this process, the Secretariat shared technical information with each National Advisory group on where elections should take place for the given special category group and how the delegate seats allocated to the respective category group should be divided within electoral zones. Electoral seats for women were determined by the Presidential decree on elections (two seats per province). In the case of Kuchis, the National Advisory Committee recommended that the country be divided into nine electoral zones. Hindus and Sikhs opted to have phase one elections in seven electoral zones (including Jalalabad, Ghazni, Khost, Kandahar, Helmand, Uruzgan, and Kabul). The allocation of the six IDP delegate seats was based on the estimations provided by UNHCR. Electoral votes were divided as follows: Four electoral seats were allocated to camps in Kandahar, one in Herat and one in Helmand (the Presidential decree on elections did not provide for elections beyond these areas). The 24 seats allocated to refugees in Iran and Pakistan were divided into 13 seats for Pakistan and 11 for Iran. This was in accordance with the refugee figures provided by UNHCR. The Secretariat in Pakistan and Iran, further allocated these seats to 13 and 11 electoral zones, respectively. Further details are provided in the strategy appendix included in this report.

iii. Identification of Electorate

The third phase included the identification of the electorate for each special category population. The national advisory committees played a key role in this process for IDPs, Kuchis and refugees in Iran and Pakistan. For these populations, each national advisory committee was tasked with holding broad consultations with the population of the given voting zone and formulating a list of ten people to be recommended as electors. Once this was completed, the national advisory committee was to assemble,



compile the list of recommended electors and, either through secret ballot voting or consensus, shorten the list to 30-50 members. This list was then to be posted in a public venue and members of the community would be allowed to submit complaints about any proposed candidate. Complaints would then be reviewed by the Secretariat. In the event that a candidate violated or failed to meet the criteria of the CLJ decree, the candidate would be disqualified. Selected members would then be announced as the electors for the given voting zone of the special category population

iv. Elections

In the final phase, the authorized electors were assembled for secret ballot elections. In this process, electors were provided a brief training on the election process and given the opportunity to nominate candidates. Following, the candidates were asked to give a brief presentation to the electors on their biography and their qualifications to serve as CLJ delegates. Secret ballot elections then took place and all the votes in the ballot boxes were then counted in front of the electors. Once this process was completed, the winners were announced.

This procedure was implemented throughout Afghanistan and in Iran and Pakistan (for refugee elections). The outcome was highly effective, resulting in the election of twenty percent of the CLJ delegates. There was only one case in which an election was cancelled and a selection process adopted (Paktika women's elections).

C. APPOINTMENT OF 52 DELEGATES

According to the Presidential Decree on the Convening of the Constitutional Loya Jirga, 50 delegates were to be appointed by the President (Article 2), of whom 25 percent were to be women. Many actors involved in the preparations for the Constitutional Loya Jirga, in particular the National Advisory Committee, were lobbying for the appointment of qualified candidates. Additionally, the disabled community supported by the Comprehensive Disabled Afghanistan Programme (CDAP) successfully lobbied for the appointment of two representatives to take part in the CLJ. President Hamid Karzai finally appointed 52 delegates, resulting in a total number of CLJ delegates of 502.

D. PREPARATION OF THE CLJ SITE AND CONVENTION MANAGEMENT

In parallel to the “political” preparations for the holding of the Constitutional Loya Jirga, such as the election of CLJ delegates, considerable physical and logistical preparations were required for the Convention to take place at the premises of the Kabul Polytechnic.

Early in the preparatory stage, an assessment was undertaken by UNDP - in consultation with the Steering Committee, the Inter-Agency Task Force set up for the constitution-making process and the Secretariat of the Constitutional Commission being the main national authority mandated to organize the CLJ - as to the various components required for the holding of the CLJ and the necessary preparations. Applying the lessons learned in connection with the Emergency Loya Jirga, strong emphasis was given by the SRS/UNAMA and UNDP on obtaining the best value



for money, while safeguarding the operational success of the Convention. It was emphasized that local capacities should be used to whatever extent possible. In return for the use of the Kabul Polytechnic Facilities for the Constitutional Loya Jirga, all required rehabilitation and construction works would be undertaken with the aim of leaving long-term improvements behind.

After consultations with potential service providers, such as GTZ and UNOPS, a decision was made to divide the tasks into the following basic components:

- Conference logistics and management on the one hand; and
- Construction / rehabilitation works and facilities management on the other.

This division essentially followed the distribution of tasks to be undertaken with regard to the main conference area at the Convention site (the “inner compound”) and the necessary preparations as well as management tasks for Convention-related facilities within the premises of the Polytechnic outside of the “inner compound”. A decision was also made to locate the Press Center outside the Polytechnic site to preempt security concerns and facilitate the management of the Press.

i. Conference logistics and management (the “inner compound”)

Based on a proposal generated by GTZ during an assessment mission and briefing sessions with UNDP, UNAMA and UNOPS in Kabul (28 September to 3 October 2003), a contract was entered into between UNDP and GTZ regarding services required for conference logistics and management for the Convention site itself (the “inner circle”), containing the Convention tents within a fenced part of the Polytechnic area. Drawing on the experience collected in a similar contract regarding the organization and management of the Emergency Loya Jirga in 2002, GTZ provided the following services:



- Preparation and installation of conference infrastructure on the conference site (inner compound) at the premises of the Polytechnic;
- Setting up and operation of physical infrastructure and technical conference equipment (inner compound);
- Coordination with UNOPS for the services to be provided outside the inner compound;
- Management of the conference services, including catering for the VIP tent;
- Technical operation of the press center at the Hotel Intercontinental;
- Coordination with Afghan and UN decision-making bodies with regard to all core conference-related organizational, administrative and security aspects.

The Conference infrastructure (at the inner compound) included:

- CLJ Main Assembly Hall, equipped with multimedia, audio and video technology;
- Ten smaller tents: Two entrance tents, two office tents, three break-out tents, two VIP guests tents and one kitchen tent; the break-out tents offered space for



ten committee rooms as well as “overflow” space with audio-visual equipment to broadcast the proceedings;

- All tents were equipped with a heating system (22 heating units);
- Security facilities (Walk-through security archways and metal detectors, screens, sandbag walls, explosive sniffer, etc.);
- Sanitary facilities, water supply and sewage disposal
- Electrical installations (rehabilitation of on-site 250 kVA generators).

In addition, GTZ prepared the necessary (technological) infrastructure for the Press Center located at the Hotel Intercontinental in the proximity of the CLJ site. Details of the services provided with regard to the conference facilities (inner compound) are contained in GTZ’s Final Report (Annex 6: GTZ Final Report). The GTZ project budget for the CLJ totalled €2,937,866, out of which more than €2 million were invested into required works and procurement, such as for conference technology.

ii. Construction / rehabilitations works and facilities management (outside of the “inner compound”)

Even though rehabilitations had been undertaken at the facilities of the Kabul Polytechnic Institute for the holding of the Emergency Loya Jirga in 2002, substantive construction and rehabilitation works were necessary to meet the requirements of the Constitutional Loya Jirga Convention, particularly in view of the expected duration of the CLJ and the weather conditions (December/January). These requirements were mostly related to the registration of delegates, their accommodation and catering. UNDP entered into a Letter of Agreement with UNOPS to undertake the necessary works and provision of services. The UNOPS project budget for the CLJ amounted to



US\$3,183,306, out of which more than US\$ 1.5 million were invested into the rehabilitation of the CLJ premises mostly through local sub-contractors.

In summary, the scope of works with regard to necessary rehabilitations and constructions included the following (see Annex 7: UNOPS Final Report for a detailed account of the UNOPS services provided):

- Rehabilitation of six dormitory buildings;
- Rehabilitation of the dining room / kitchen building;
- Rehabilitation of the Gymnasium building (which was initially intended to house the Press Center, later located to the Hotel Intercontinental);
- Replacement or rehabilitation of sewerage, water distribution, and electrical distribution systems throughout the Kabul Polytechnic Institute;
- Partial rehabilitation of the Mosque;
- Partial rehabilitation of the Laboratory building and establishment of facilities for housing Afghan National Army security personnel;
- Establishment of Child Minding and First Aid / Clinic facilities;
- Rehabilitation and construction of temporary and permanent security management infrastructure around and within the Polytechnic campus;



- Rehabilitation of the campus grounds, including roads, lighting, vegetation and gardens; etc.

Moreover, UNOPS provided the following facilities management services:

- Registration of CLJ delegates, staff and visitors to the CLJ;
- Catering to the CLJ delegates;
- Accommodation management;
- Cleaning of grounds, accommodation and offices;
- Waste management;
- Procurement of Accommodation and Office and associated equipment;
- Child minding;
- Management of medical / clinical facility;
- Laundry for delegates.

In general, the division of labour effectively contributed to the successful preparations and contribution of services required for the holding of the Constitutional Loya Jirga. The aim to provide the operational framework for the Constitutional Loya Jirga to focus on the substantive work in furtherance of a new Constitution was fully achieved. All service providers and entities involved displayed considerable “team spirit” and “team work” in the advancement of a common goal. Simultaneously, local resources were used to the largest extent possible and long-lasting improvements made to the premises of the Kabul Polytechnic Institute.

iii. Security

In order to meet the substantive security requirements to warrant the safety of the CLJ participants as well as to prevent any interference in the CLJ process, a security task group was established by the Asia Foundation under the auspices of UNAMA. The area within and outside the premises of the CLJ Convention were divided into three “security rings”, starting with the inner compound, extending to the larger premises of the Kabul Polytechnic Institute and ending with the outer circle surrounding the area. Security was provided by the Afghan National Army (ANA) and the Kabul Police Forces supported by a group of embedded trainers from ISAF and a security advisor contracted by the Asia Foundation. Tight security controls were placed on entry points for each of the three “security rings”, in particular the KPI entrance area and the entrance to the CLJ Convention facilities (inner compound). Only individuals in possession of corresponding badges and car-passes were allowed to enter the CLJ area. Badges and car-passes were issued upon official request and authorization from the Secretariat of the Constitutional Commission. Walk-through security archways and metal detectors were installed at the entrance of the inner compound. Various security installations were set up, such as screens and sandbag walls particularly around the VIP area. The machines were staffed by ANA personnel and supported by a technical specialist, who provided technical expertise and maintenance of the equipment.



E. CONSTITUTIONAL LOYA JIRGA CONVENTION (14 DECEMBER 2003 – 4 JANUARY 2004)

The Constitutional Loya Jirga convened in Kabul on December 14th, 2003, with the aim of reviewing and adopting a new constitution for Afghanistan. To establish the leadership of the Constitutional Loya Jirga, the Rules and Procedures provided that the delegates would elect among themselves, through secret ballot elections, the Chair, the three deputy chairs and two Rapporteurs (see Annex 8: Rules of



Procedure). This body would serve as the Leadership Bureau. To ensure that the debate and discussion on the constitution would not be monopolized by a few leaders and to provide a space for in-depth discussion of the articles, the Rules of Procedure envisaged the establishment of ten working-groups, which were to produce and submit proposals for amendments to the Reconciliation Committee. The Reconciliation Committee was then tasked with identifying articles that were approved by all working-groups and to reconcile working group views on contentious articles by proposing new language that harmonized the competing views. The recommendations from the Reconciliation Committee were then put forth to the plenary. Further details about this process are provided below.

i. Elections

Elections for the Chair and the remaining bureau members took place on the first and second day of the Constitutional Loya Jirga. The operational procedures for the election process were exactly the same as the regional elections and conducted by the Constitutional Commission election team.

The process took place without incident. In the election for the chair, four candidates put themselves forward for the post and 489 out of 502 delegates cast a ballot while 13 abstained. When it became apparent that all the deputy and Rapporteur posts would be filled by men due to the low number of votes obtained by women, the Chair decided to create a fourth deputy post for the women with the highest number of votes and to create an additional two Rapporteur seats for the woman with the second and third highest number of votes.

ii. Working Groups

Following the elections for the Bureau posts, the delegates were divided into ten working groups by members of the Secretariat. The groups were of equal numbers, balanced along regional, ethnic and gender lines. In each working group, a Chair was elected through secret ballot elections or selected through voice call. To correct imbalances in ethnic and gender and social composition, the Bureau decided to appoint deputy chairs and secretaries in each working group. To fill these positions, each group either conducted secret ballot elections or came to a decision through consensus. Two members of the Constitutional Commission were also appointed to sit



in each group and to provide clarification and assistance, when requested by the group, on the revised Draft Constitution. Two members of UNAMA and the Constitutional Commission Secretariat also monitored the working groups and produced notes on the progress made.

As directed by the Bureau, the working groups read through the draft constitution article by article and either voted or simply noted proposed amendments or revisions to each article. The Rapporteur took note of the changes. At the conclusion of this process, the delegates disassembled.

iii. Reconciliation Committee

The Reconciliation Committee, comprised of the chairs, deputy-chairs and secretaries of each working group, was mandated to reconcile the views and proposals put forth by the working groups. To complete this task, the Committee met from 26 - 28 December and reviewed the suggested revisions and amendments recorded by each working group. Discrepancies soon emerged over the views recorded due to the fact that some groups had recorded only the majority view while other groups had recorded all opinions presented. To address this issue, the notes of UNAMA and the Secretariat were presented to the committee. The various reports were then captured in a matrix and used to determine the articles to be accepted in their original form in the Draft Constitution and those that would be revised by the Reconciliation Committee or sent to the general assembly if there was a failure by the Committee to reach agreement. While the Reconciliation Committee built consensus 133 articles there were 15 articles where no agreement was reached and 22 where discussion was needed.

In accordance with the guidelines of the Rules and Procedures, the leadership of the CLJ (Chairman Mujadeddi) attempted to resolve the remaining issues by allowing delegates to submit proposals for amendments provided that they were supported by at least 150 signatures. More than 45 proposals were submitted out of which at least 35 were endorsed by a sufficient number of delegates. These proposals, however, further exacerbated tensions on issues such as national language and national anthem. Efforts to resolve this division by holding elections led to a stalemate between the delegates. This impasse was overcome through the efforts of the Secretariat, the Bureau, the delegates themselves and the support and assistance of UNAMA and the international community. The Constitution was adopted by consensus on January 4th, 2004. The successful conclusion of this historical process signifies a major milestone in the political transition defined by the Bonn Agreement and a critical step towards fortifying the legitimacy of the new Afghan state.

F. ACTIVITIES IN THE AFTERMATH OF THE CONSTITUTIONAL LOYA JIRGA

The Secretariat of the Constitutional Commission remained operational until April 2004 to ensure that all project related tasks were finished, as well as to conduct the necessary follow-up activities in terms of public information and civic education on the newly adopted Constitution. Apart from printing and distributing official copies of the Constitution nationwide, the Secretariat launched a comprehensive public awareness-raising campaign. Furthermore, informational and educational materials on



the Constitutional Loya Jirga were produced (calendars, etc.). Documentation of the Convention itself was properly archived and handed over to the Government.

The assets of the Constitutional Commission procured under this project were handed over to the Secretariat of the Joint Electoral Management Body (JEMB) in support of the UNDP Voters Registration and Elections Programme (VREP). Equipment procured for the CLJ Press Center was transferred to the VREP with an understanding that consultations would take place after the elections concerning the handover of these assets to the Government, in particular Radio and Television Afghanistan.

In addition, the CLJ Conference facilities (the conference tents as well as state-of-the-art conference equipment) were formally handed over to the Ministry of Higher Education on January 10, 2004.

IV. OPERATIONAL STRUCTURE

A. SECRETARIAT OF THE CONSTITUTIONAL COMMISSION(S)

The Constitutional Commission Secretariat (CCS) was established shortly after the inauguration of the Constitutional Drafting Commission in November 2002. The primary responsibility of the CCS was to provide support to all aspects of the Constitutional Commission's work and the Constitutional Loya Jirga process. The responsibilities of the CCS included:

- Managing the finances of the Commission and procuring all necessary resources to ensure smooth operations;
- Establishing the necessary structure and recruiting and hiring requisite staff for the CLJ process
- Administering public education, public consultations and elections

The initial structure provided for the establishment of two main "sections", namely Administration and Finance (each section headed by an officer and the department headed by the director) and a Technical department headed by a technical deputy Director. As the constitutional process evolved, the workload of the Secretariat increased, requiring a revision of the structure and an increase in staff. Accordingly, the Secretariat structure increased to three major departments:

- Technical and Academic department;
- Administrative Department; and
- Public Education and Consultation department.

These departments were further broken down into smaller units, including:

- Administration/HR;
- Logistics;
- ICT;
- Finance;
- Public education;
- Public consultation;



- Reporting;
- Research;
- Translation;
- Press; and
- Elections and special category elections.

Regional offices were also established in the eight regional centers of Afghanistan including: Jalalabad, Gardez, Bamyan, Kandahar, Herat, Mazar, Kunduz and Kabul. Liaison offices were also established in two cities in Iran and Pakistan, respectively. Each office was comprised of a Regional Coordinator, Deputy Coordinator, one male and one female Public Education Officer (or two part-time female public education officers), one administration officer and one auxiliary officer.

In total, the Secretariat staff included 50 professionals and 30 administrative staff in its headquarters and 90 professional and 48 auxiliary staff in its regional offices.

i. Establishment of the Secretariat

In order to provide the Commission with the needed technical and logistical support, a Secretariat was established for the Commission.

1. Staffing and Structure

The Director of the Secretariat, who had been seconded by UNDP, was appointed by President Karzai in November 2002. The initial structure designed by the Director included the establishment of two main “sections”, namely Administration and Finance (each section headed by an officer and the department headed by the director) and a technical department headed by a technical deputy Director.

The process of recruitment commenced in October 2002 and by the beginning of 2003, the core staff had been recruited.⁴ However, given the evolving needs in terms of human resources, to meet the requirements of the management and conduct of nationwide processes accompanying the constitution-making process, the structure of the Secretariat evolved in a dynamic way.

For the sake of transparency in the recruitment process, a standing recruitment committee was formed comprised of UNAMA and UNDP representatives, two commissioners and one person from the Secretariat. The committee has had the responsibility of screening the applications submitted after announcements were made and interviewing the short-listed candidates.

2. Facilities

The initial Secretariat comprised of the following facilities and equipment:

⁴ The initial staff consisted of a Technical and Academic Deputy supporting the Director, administrative staff (one secretary to the Chairman of the Commission, one Liaison Officer, assistants, guards, drivers, etc.) and Administrative Deputy Director (hired in January 2003)



- One building was rented for the Drafting Commission and initial set-up of the Secretariat
- One vehicle was provided by UNAMA to the Commission and four vehicles were rented
- Adequate furniture was procured for staff use – mainly by OTI/USAID
- UNDP has provided US\$ 120,000 to refurbish and set up the office as well as to cover the initial running costs of the office.

ii. Growth of Secretariat

In view of the growing workload in anticipation of the establishment of the Constitutional Review Commission, the Secretariat increased its staff and created new sections in accordance with the mechanism developed for the Review phase.

1. Structure

The Secretariat expanded in early 2003. In addition to Administration and Finance Sections, under the supervision of Administrative Deputy, Logistics and ICT Sections were created. Furthermore, the capacity of the new and old sections was greatly enhanced through recruitment of more staff.

The structure before the Constitutional Loya Jirga comprised the following staff and Departments/Units:

The Secretariat consisted of three major departments:

- Technical and Academic Department (headed by a Deputy Director);
- Administrative Department (headed by a Deputy Director); and
- Public Education (PE) and Public Consultation (PC) Department (headed by the PE & PC Coordinator).

These departments were divided into the following units:

- Administration/HR unit (employs five people) – the unit was led by Administrative/HR Officer.
- Logistics unit (employs four people) – the unit was led by Logistics Officer
- ICT unit (employed an ICT Officer; supported by an ICT assistant)
- Finance unit (employed two Officer; furthermore, there were two consultants working for Finance unit, one from The Asia foundation and one from UNDP)
- Public Education unit (one person was seconded by the Afghan Civil Society Forum as Public Education Officer)
- Public Consultation unit (the unit was headed by a female Public Consultation Officer)
- A ten-member Reporting unit - one Rapporteur was assigned for each committee of the review commission for recording their proceedings and each public consultation team was supported by a Rapporteur.
- Research unit (eight researchers were hired for analysis of public views)
- Data processing unit (employs four data processors and The Asia Foundation had provided a data processing expert to the Secretariat)



- Translation unit for documents to be translated from English to Pashtu and Dari and vice versa (employing two full time and one half time translators). Depending on the workload, external translators were contracted occasionally to meet the demand.
- Press Office led by a Press Officer and supported by a Press and Media Assistant. The Press Office organized press conferences for the Commission, published bi-weekly newsletters regarding the Commission's work, and maintained working relationships with media outlets. This office drafted press releases to ensure that accurate information was provided to the press and public.

Altogether the Secretariat hired 50 professional and 30 auxiliary staff members in its central office and 90 professional and 48 support staff to support the process preceding the Constitutional Loya Jirga in the regional offices.

The structure for the Constitutional Loya Jirga comprised the following staff and Departments/Units:

A CLJ Secretariat was established on the premises of the Kabul Polytechnic Institute in proximity of the offices of Joint Organisation Action Committee, comprising staff from the Asian Foundation, UNOPS and UNDP. The Secretariat was headed by the Director and Convention Manager, Dr. Farooq Wardak, and consisted of four Departments:

- Reporting (Rapporteur),
- Administration,
- Training/Facilitation, and
- Protocol.

These departments comprised the following units:

- Headed by the Chief Rapporteur, one unit was responsible for the compiling of opinions and proposals expressed in the CLJ proceedings for purposes of further deliberations and submission to the Chairperson / Reconciliation Committee, while the archiving unit ensured that the proceedings were properly documented, *i.e.* the files archived etc. Additional staff was hired to enter data electronically and translate documents.
- The Training/Facilitation department was tasked with providing training on the rules and procedures of the CLJ as determined by the Order of the President (Annex 8) and facilitate in the proceedings, particularly the working group sessions. It was headed by the Chief Facilitator and comprised a number of trainers and facilitators.
- The Protocol Department was headed by the Protocol Manager and comprised the following units: Registration, Attendance in-charge, transportation and travel, qaris and announcers.
- The Administration Department headed by the Administration Manager comprised units for monitoring, general services, ICT, and logistics/finance.

2. Facilities



Given the increase in staff necessitated by the growing workload, it was necessary to provide for further facilities in order to safeguard the smooth running of operations and programme activities of the Commission and Secretariat:

- Two more buildings were rented for the central office in Kabul (the total number of buildings for the central office were three). Ten buildings were rented for 11 regional offices of the Commission's Secretariat in Afghanistan, Iran and Pakistan.
- The Secretariat owned seven and rented seven vehicles in the central office. Two vehicles were rented in each regional office and one vehicle rented in each province other than the provinces in which regional offices were located. During the public consultation period, additional vehicles were rented by the regional offices as per their needs.
- In the central office, AWCC mobiles were used by the Commissioners and staff of the Secretariat to the officer level for communication. Also Thuraya sat phones were given to the regional and provincial staff for communication purposes. There were two Thurayas in each regional office and one Thuraya for each provincial coordinator.
- Adequate office equipment was purchased on central and regional level.
- Needed repairing of the buildings rented was carried out.

B. MEDIA AND PUBLIC OUTREACH

The Press Office of the Secretariat, in collaboration with other sections of the Secretariat issued updates and reports in its special bulletin "Asasi Qanoon". The Press office also produced regular press releases, held press conferences and provided print, electronic and radio and television media with up to date information on the process, including the status of the Commission's work and elections.

The Secretariat Headquarters also worked with existing media providers, including Radio and Television Afghanistan (RTAS), BBC Radio Dari and Pashto Services, Radio Azadi, Arman FM and Internews, to develop programming content including: Educational Programs, Roundtable discussions and the BBC radio soap opera, "New Home, New Life." Key messages were also displayed through colourful posters that were distributed throughout the entire country and in the refugee camps in Iran and Pakistan.

During the Constitutional Loya Jirga Convention, the Secretariat Press Office, supported by the UNAMA Office of Communications and Public Information and the Asia Foundation was responsible for the accreditation of all electronic, audio and print media. In addition the Media department oversaw the organization of all CLJ related press briefings.



V. SUPPORTING ACTORS

UNAMA

As stipulated in the Bonn Agreement, The United Nations Assistance Mission in Afghanistan (UNAMA) provided support to all aspects of the Constitutional process in Afghanistan including:

- Advising the Secretariat and regional offices;
- Providing logistic, technical and administrative support to the Secretariat regional offices throughout Afghanistan and in Iran and Pakistan;
- Coordinating donor support; and
- Facilitating public consultations.

UNDP

UNDP provided support in all matters related to budgetary and financial aspects of the CLJ process. This includes the preparation of budgets, budget revisions and disbursement of funds in coordination with the Financial Department of the Secretariat of the Constitutional Commission and providing support in asset-management system. UNDP also provided technical advice, logistical support, and support for procurement of services as well as equipment.

UNHCR

UNHCR provided technical and administrative support in the election processes of IDPs and refugees in Iran/Pakistan.

Ministry of Interior

Per Presidential decree, the Ministry of Interior assumed responsibility for implementing security measures and deploying special units to election sites, as requested by the Constitutional Commission Secretariat.

Global Risk Strategies

Global Risk Strategies provided operational support and assistance in the areas of operational planning, regional site control, security, logistics and transport coordination in the election and convention phase of the Constitutional Loya Jirga.

Civil Society

Civil Society actors, including Afghan Civil Society Forum (ACSF), Afghan Women's Network, ACBAR and a number of NGOs played a critical role in the public education campaign throughout the Constitutional Loya Jirga process.

ISAF

In cooperation with the Ministry of Interior, the International Special Assistance Force (ISAF) helped in securing the election sites, per request from the Secretariat, and the CLJ convention site.

GTZ

GTZ assumed responsibility for all preparations and activities required in the preparation and installation of conference infrastructure technical conference equipment.



UNOPS

UNOPS assisted in rehabilitated efforts at the CLJ site, including the refurbishing of dormitories dining facilities, gymnasium and office facilities. In addition, UNOPS provided catering for 3000 participants per day, and ran the CLJ registration



LESSONS LEARNT

The preparations for the convening of the Constitutional Loya Jirga, including all the (political) processes necessary – such as the development of a Draft Constitution, public consultations, elections for the CLJ delegates, and civic education / public information – have entailed various operational and programmatic challenges some of which had already been experienced with regard to the organization of the Emergency Loya Jirga in 2002. While enhanced efforts had been undertaken in the summer of 2003 to address foreseeable challenges and necessary measures to be taken respectively, many lessons have been learnt, which may prove a valuable resource for future projects concerning similar undertakings.

Naturally, the main challenge consisted in the multitude of stakeholders and actors involved in the process. Operational and programmatic requirements were firmly dependant on political developments, which often required making the impossible, possible, within an extremely short time span. A common platform/forum for sharing and receiving information was vital in preventing misunderstandings and ensuring a clear understanding of the division of labor, *i.e.* roles and responsibilities of every single actor involved.

The issue of division of labor and understanding of the roles and responsibilities of all actors involved emerged in two aspects: international actors vis-à-vis the national counterpart as well as within the group of international actors.

With regards to the former, the main challenge was to ensure that the Afghan institutions vested with the political mandate (and thus bearing ultimate political responsibility for the outcome of the process) remained in the “driving seat” while international actors provided for the “enabling” framework. At times, deadlines and political pressure led to a perception among staff of the main national counterpart, the Secretariat of the Constitutional Commission, that the international actors had abandoned their advisory role and taken the lead while the political responsibility and accountability remained with the “disenfranchised” national body, which could only be corrected through the invocation of consultation mechanisms already in place, such as the Steering Committee and the Inter-Agency Task Force.

Similar difficulties, though on a small scale, emerged within the group of international actors. Particularly at the beginning of the planning and preparatory process, there was a certain uneasiness concerning the mixture of UN actors, donor agencies, bilateral initiatives, and implementing partners. It was imperative at that time, that the UN assumed leadership while allowing some flexibility in adapting to respective needs. The creation of the Inter-Agency Task Force proved fundamental in safeguarding continuous exchange of information and distribution of tasks.

Last but not least, the amicable atmosphere among the various actors who were emphasizing on cooperation towards the achievement of a common goal was imperative for the success of the operation.

In sum, the combination of efforts to establish as well as maintain coordination mechanisms paired with a clear distribution of roles and responsibilities and the



ability to display considerable flexibility in accommodating the needs for the implementation of the project shared by all actors involved was a precondition for the successful outcome.

Another main challenge consisted in the creation of a project framework which would allow for sufficient flexibility to meet the daily operational needs while respecting applicable rules and procedures.

It became increasingly apparent during the preparatory phase for the Constitutional Loya Jirga in the summer of 2003, that the DEX modality bore the potential to compromise national leadership assumed by the Secretariat of the Constitutional Commission in performing the tasks mandated by Presidential Decree. At the same time, the Secretariat of the Constitutional Commission, headed by a Director well familiar with UNDP procedures (being a UNDP employee), swiftly developed substantive management and administrative capacity to meet the operational challenges associated with the political processes. The NEX project modality proved to be the ideal mechanism to enable the Secretariat to assume its tasks while ensuring that UNDP (operational) standards were followed in terms of procurement, recruitment, etc. Significant attention had been paid to assessing the Secretariat's capacity to assume the responsibilities attached to the management of funds. Despite the large amounts of funds advanced under the NEX modality, the Financial Department of the Secretariat diligently monitored expenditures and ensured the adherence to proper procedures as well as submission of required documentation as certified by the audit undertaken by the Control and Audit office.⁵ Training of the Secretariat's staff conducted by key members of the Secretariat nationwide, workshops and regular monitoring and evaluation missions were crucial to warrant that all concerned employees were familiar with the procedures and held accountable against them.

Despite significant measures undertaken to safeguard funds distributed to the regional offices of the Secretariat under the NEX modality, the cash stolen in the Kunduz office on 4th of November 2003 amounting to US\$22,800 amply displayed the risks attached to it. While more than a year has passed since the incident occurred, it has not been possible to fully reconstruct the events which had led to the disappearance of the said amount. Neither local nor the central authorities were able to uncover the identities of persons to be held responsible for the disappearance of the cash from the Secretariat's regional office in Kunduz. The lack of significant UN presence in the regions other than UNAMA certainly hampered the ability to assist the Secretariat in preventing thefts of these kinds. However, compared to similar experiences in the context of Afghanistan, the "loss" incurred as a result of the theft remained fortunately rather minimal.

⁵ TISA – Control and Audit Office, UNDP, Constitution Commission, Audited Financial Statements and CAO Management Letter, 2003.



FINANCE

Although the project was formally endorsed on 11 March 2003, UNDP had funded the Commission and its Secretariat since its inception in October 2002. These funds were held against UNDP directly, until funds from Cost-Sharing Agreements with donors were transferred to the project account. It should be noted, that USAID and The Asia Foundation contributed funds for the initial set-up of the Secretariat of the Commission, which were paid outside the framework of the joint programme.

It was agreed among the donor countries, UNAMA and UNDP that financial support would be through a cost-sharing arrangement. While funding for the implementation of the project was generally channelled through the Cost-Sharing modality, funds for one particular component relating to the Constitutional Loya Jirga, namely the Convention Management eventually sub-contracted to GTZ, were provided by the Government of Germany through the UNDP Thematic Trust Fund (TTF, Governance).

The **total value of resources mobilised** in support of the Project, is valued at US\$15,008,602. Out of this sum, €700,000 from the TTF contribution was set aside to cover any risk-margin for the CLJ Convention and as such, was not programmed into the budget. The generous contribution of US\$938,568 by the Government of The Netherlands in support of the constitution-making process was later transferred in consultation with the donor to support the Afghan elections in view of the availability of sufficient funding for the CLJ process at that time. Thus, the total value of resources finally available for expenditure within the project amounted to **US\$13,122,717**.

In addition the Office of Transitional Initiative of USAID supported the secretariat with US\$120,000 mainly for procurement of office supplies. The Asia Foundation provided US\$548,007 to cover part of the Public Education, Public Consultation, activities of the press office and Constitutional Loya Jirga. An additional US\$10,000 was given by The Asia Foundation for part of the initial secretariat costs.



Specific donor contributions for the project consisted of the following:⁶

Donors	Contribution
CANADA	1,190,476
CYPRUS	80,000
DENMARK	1,036,477
FINLAND	19,975
GERMANY ⁷	3,064,500
JAPAN	757,600
NORWAY	408,016
SWITZERLAND	199,960
UK	800,000
UNDP	565,714
USA	5,000,000
Total	13,122,717

All figures are in US\$ equiv. at the time of agreement
All figures are already exclusive of the UNDP c/s fee

In terms of timing, all funds were to be used in 2003. However, the project was extended on a no-cost basis to accommodate the postponement of the holding of the CLJ and to cover all follow-up activities in the aftermath of the CLJ.

The funds were initially managed under the Direct Execution Modality. However, following an assessment of the capacity of the Secretariat and the requirements for the preparations necessary for the holding of the Constitutional Loya Jirga, in particular the CLJ elections nationwide, the modality was changed to National Execution in September 2003, allowing the Secretariat to receive advance payments on the basis of expenditure forecasts and subject to accounting through quarterly reports.

Initially, it had been estimated that in the first full year of the project a total of US\$5.67 million would be needed across all the areas of work mandated to the Commission. This number was, however, increased to US\$13 million in view of the financial requirements for the preparation and running of the Constitutional Loya Jirga (CLJ). The project budget contained three main pillars:

- Establishment of the Drafting Commission (US\$164,900);
- Establishment of the (full) Review Commission (US\$698,720); and
- The Constitutional Loya Jirga held in December 2003 (US\$11,375,730).

Additionally, the project envisaged the establishment of a Secretariat that would support each of the subsequent commissions (US\$392,550). Spread throughout these pillars, US\$3.59 million were allocated for costs associated with the activities of the Commission and its Secretariat, including the Public Consultation Process and the Public Education Campaign.

⁶ USAID support through OTI and TAF, as well as other funds provided to the Constitutional Commission (its Secretariat) outside of the framework of the project are not reflected.

⁷ The risk margin of €700,000 made available in addition to the figure indicated as part of the contribution by the Government of Germany for unforeseen expenditures in relation to the management sub-component of the Constitutional Loya Jirga (risk margin for the GTZ subcontract), was transferred in consultation with the donor to support the Afghan elections in view of sufficient funding for the CLJ process at that time.



The actual expenditures undertaken within the framework of the project are as follows:⁸

Activities	Expenditures 02 – 04 (in US\$)
Personnel/Staff Support	1,846,183
Contracts	6,457,716
Equipment	671,834
Miscellaneous Expenses	2,549,615
Rental & Maintenance Equipment	530,242
Rental & Maintenance-Premises	472,722
Supplies	194,787
Facilities & Administration	384,571
Grand Total	13,107,670

While the NEX modality ensured that the Secretariat of the Constitutional (Review) Commission could implement its mandate with the support of UNDP, it also entailed an enhanced, but inevitable financial risk. In general and as documented by the audit report (see below), the Secretariat was able to fully meet the procedural requirements associated with the NEX modality. However, in one instance US\$22,800 was stolen from the Kunduz regional office of the Secretariat in November 2003. Investigations have not yet been concluded and the writing off will be endorsed upon receipt of the full documentation from the authorities involved.

In April 2004, the Control and Audit Office of Afghanistan audited the project with regard to the combined delivery reports of the Constitutional Commission for the year 2003. The audit opinion found that “except for the omission to write off the stolen cash aggregating to US\$ 22,800 [...], the accompanying reports, in so far as the amounts therein are within the scope of our audit [...], present fairly in all material respects the cash expenditures of the Constitutional Commission during the period from 10 April 2003 to 31 December 2003 in accordance with UNDP accounting requirements.

A final audit on the occasion of the financial closure of the project is being prepared and will be undertaken in early 2005.

⁸ The financial figures provided are projections based on actual expenditures recorded and outstanding obligations, the payment of which has been initiated but not yet recorded at the time of writing. The consolidated figures will be available upon the reconciliation of all project accounts and the closure of the books early 2005.



CONCLUSION

Undoubtedly, the adoption of a new Constitution was a crucial milestone for Afghanistan on its path towards stability and peace. While relatively little time had been available under the Bonn framework, the Constitutional Commission and its Secretariat, supported by the international community, were able to conduct a participatory and consultative constitution-making process, culminating in a Constitutional Loya Jirga which corroborated Afghanistan's firm intention to leave the years of conflict behind and build a peaceful future on a democratic state.

The constitutional process in Afghanistan may also serve as an important precedent for how the international community, in particular the UN, can effectively support national institutions in conducting political processes of such importance. The joint project in support of Afghanistan's constitution-making endeavor was able to provide the Constitutional Commission and its Secretariat with the resources and technical assistance they needed to fulfill their political mandate. In summary, the project contributed towards the following achievements:

1. Drafting of a preliminary Constitution by the **Constitutional Drafting Commission**:
 - The President of the Transitional Islamic State of Afghanistan appointed the nine members of the Commission in October 2002.
 - The Commission presented its recommendations on the content as well as format of the Constitution in March 2003.
2. Deliberation on, refinement and finalization of the first draft Constitution by the **Constitutional Review Commission**:
 - The President appointed the Constitution Review Commission in April 2003. Its 33 members represent the country's diverse regional and ethnic composition and include seven women.
 - The Commission has distributed a total of 484,450 questionnaires and gathered over 100,000 completed questionnaires from citizens.
 - Commission members have attended about 555 public consultation meetings (in all 32 provinces of Afghanistan and among refugee groups in Iran and Pakistan) and provided information to the public. The views expressed by the people were recorded and compiled in the Public Consultation Report, on the basis of which the draft Constitution was prepared.
 - The President released the draft Constitution to the public on November 3, 2003
3. Adoption of the Constitution by the **Constitutional Loya Jirga (CLJ)**:
 - In anticipation of the CLJ Convention, provincial registration meetings were conducted in 32 provinces to register the Emergency Loya Jirga district representatives who formed the electorate for the elections of 344 CLJ delegates in early December.



- The elections for the 106 representatives of the so-called “Special Category Groups” (i.e. women, refugees in Pakistan and Iran, IDPs, Kuchis, Hindus and Sikhs) took place throughout the month of November.
- In preparation of the Constitutional Loya Jirga (CLJ), the Secretariat of the Constitutional Commission, with the support of UNAMA and UNDP, organized and conducted general orientation meetings and sessions for the incoming delegates and special training and orientation for female delegates based on a manual developed by the working group of the Ministry of Women’s Affairs.
- The CLJ Convention site at Kabul Polytechnic Institute was rehabilitated through UNOPS, while GTZ was contracted to manage and operate the CLJ Convention facilities.
- The Convention itself convened on December 14, 2003, and adopted the Constitution by consensus on January 4, 2004.
- UNDP received a medal from the president in recognition of its work in support of the Constitution-making process.
- The President officially proclaimed the Constitution on the 26th of January 2004.

In the aftermath of the CLJ, the Transitional Government is now facing the challenge of bringing life to the adopted Constitution through its implementation. Consultations with the Government and UNAMA have already commenced on potential activities supported by UNDP in furtherance of the implementation of the Constitution. While the Constitutional Commission was dissolved after the CLJ in January, the Secretariat remained operational until its dissolution (and the closure of the project) in April 2004 to conduct post-CLJ follow-up activities, in particular a public information and civic education campaign. Future priorities in support of the implementation of the newly adopted Constitution are to:

- Raise public awareness concerning the Constitution in order to enhance nationwide acceptance and understanding for current and future state-building processes undertaken on the basis of the Constitution, thereby enhancing political stability.
- Build necessary capacity within governmental institutions involved in the implementation of the Constitution in the relevant ministries and judicial institutions.
- Support to (the establishment of) mechanisms for the implementation of the Constitution, such as the Commission, as provided for in the Constitution, for the Supervision of the Implementation of the Constitution.
- Provide necessary technical assistance and expertise to the Government in meeting the constitutional (reform) requirements.



CONTACT INFORMATION

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ANNEX REFERENCE

- Annex 1: List of Commissioners
- Annex 2: Public Consultation Strategy
- Annex 3: Map of Regional Offices
- Annex 4: Maps on Participation in Public Consultations
- Annex 5: Decree of the President of the Islamic Transitional State of Afghanistan on the convening of the Constitutional Loya Jirga (July 15, 2003)
- Annex 6: GTZ Final Report
- Annex 7: UNOPS Final Report
- Annex 8: Order of the President of the Islamic Transitional State of Afghanistan on the Rules of Procedure for the Constitutional Loya Jirga (November 2003)
- Annex 9: Adopted Constitution (Unofficial English Translation)