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Afghanistan: Politics, Elections, and Government Performance

Kenneth Katzman
Specialist in Middle Eastern Affairs

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Summary

The limited capacity and widespread corruption of all levels of Afghan governance are growing factors in debate over the effectiveness of U.S. strategy in Afghanistan, as expressed in an Administration assessment of policy released December 16, 2010. A competent, respected, and effective Afghan government is considered a major prerequisite for a transition to Afghan lead that is to take place by 2014, a timeframe agreed by the United States, its international partners, and the Afghan government. Afghan governing capacity has increased significantly since the Taliban regime fell in late 2001, but many positions, particularly at the local level, are unfilled or the governing function performed by unaccountable power brokers. On corruption, the issue that perhaps most divides the United States from the government of President Hamid Karzai, the Afghan leadership is accepting U.S. help to build emerging anti-corruption institutions, but these same institutions have sometimes caused a Karzai backlash when they have targeted his allies or relatives. Some of the effects of corruption burst into public view in August 2010 when major losses were announced by the large Kabul Bank, in part due to large loans to major shareholders, many of whom are close to Karzai. Some in Congress have sought to link further U.S. aid to clearer progress on the corruption issue.

Purportedly suspicious that U.S. and other donors are trying to undermine his leadership, Karzai has strengthened his bonds to ethnic and political faction leaders who are often involved in illicit economic activity. These alliances, although a consistent feature of Afghan politics long predating the thirty year period of instability there, compound continuing international concerns about Afghan democracy and political transparency. In the August 20, 2009, presidential election, there were widespread charges of fraud, many substantiated by an Electoral Complaints Commission (ECC). The ECC invalidated nearly one-third of President Karzai's votes, although Karzai's main challenger dropped out of a runoff and Karzai was declared the winner. He subsequently faced opposition to many of his cabinet nominees by the elected lower house of parliament, and seven permanent ministerial posts remain unfilled. Many of the flaws that plagued the 2009 election recurred in the parliamentary elections held September 18, 2010. The alleged fraud was purportedly addressed openly by Afghan election bodies, but Karzai and his allies may be seeking to use their institutional powers to annul the results or alter them in their favor. This has provoked a crisis that has caused at least a one-month delay in the seating of a new parliament, beyond the scheduled convention date of January 20, 2011.

Electoral competition aside, there is growing ethnic and political fragmentation over a variety of issues, including the terms of a potential settlement to the conflict in Afghanistan. Some leaders of minority communities fear a dilution of their role in government under any settlement that reintegrates Afghan militants, who are almost all of Pashtun ethnicity, into the government. Women, who have made substantial gains in government and the private sector fear their rights may be abridged under any "deal" that might erode legal protections for women. Women have made substantial gains since the fall of the Taliban but many organizations report substantial backsliding, particularly in areas where the insurgency operates. Traditional attitudes also continue to prevail, with implications such as slowing efforts to curb such practices as child marriages, court judgments against converts from Islam to Christianity, and cleric-driven curbs on the sale of alcohol and Western-oriented programming in the burgeoning Afghan media. See also: CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman; CRS Report R40747, *United Nations Assistance Mission in Afghanistan: Background and Policy Issues*, by Rhoda Margesson; and CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Sun Wyler and Kenneth Katzman.

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Post-Taliban Transition and Political Landscape

In implementing policy to stabilize Afghanistan, a U.S. policy priority has been to increase the capabilities of and extend the authority of Afghanistan's government. The policy is predicated on the belief that weak governance is causing some Afghans to acquiesce to, or even support, Taliban insurgents as providers of security and impartial justice. Since 2007, in line with those Afghan public perceptions, the U.S. and Afghan focus has been on reforming and reducing corruption within the central government, and on expanding local governance. Then-head of the U.N. Assistance Mission Afghanistan (UNAMA) Kai Eide said in a departing news conference on March 4, 2010, that improving governance and political processes are "indispensable" for resolving the conflict in Afghanistan, and that U.S. and partner efforts have focused too much on military approaches. Eide was succeeded by Staffan de Mistura in March 2010; his substantive position on the issue is similar. The need to address continuing deficiencies in Afghan governance is discussed briefly in a December 16, 2010, summary of an Administration review of Afghanistan strategy.¹

Afghan Authority Structures and Politics

Through differing regimes of widely varying ideologies, Afghanistan's governing structure has historically consisted of weak central government unwilling or unable to enforce significant financial or administrative mandates on the 80% of Afghans who live in rural areas. The tribal, clan, village, and district political structures that provided governance and security until the late 1970s were weakened by decades of subsequent war and Taliban rule. Some traditional local authority figures fled or were killed; others were displaced by *mujahedin* commanders, militia leaders, Taliban militants, and others. Traditional elders are widely respected, although highly conservative in orientation. The local power brokers who emerged from the constant warfare are far less popular and are widely accused of selectively applying Afghan law and of using their authority to enrich themselves. Some of the traditional tribal councils that have remained intact continue to exercise their writ rather than accept the authority of the central government or even local government appointees. Still other community authorities prefer to accommodate local insurgent commanders (whom they see as wayward but not irreconcilable members of the community) rather than help the government secure their areas.

At the national level, Afghanistan had virtually no Western-style democratic institutions prior to the international intervention that took place after the September 11, 2001, attacks on the United States. There were parliamentary elections during the reign of King Zahir Shah (the last were in 1969, before his reign was ended in a 1973 military coup), but the parliament during that era was not a significant check on presidential power. The elected institutions and the 2004 adoption of a constitution were part of a post-Taliban transition roadmap established by a United Nations-sponsored agreement of major Afghan factions signed in Bonn, Germany, on December 5, 2001, ("Bonn Agreement"),² after the Taliban had fallen. Karzai is the first directly elected president in Afghan history.

¹ <http://documents.nytimes.com/the-obama-administrations-overview-on-afghanistan-and-pakistan>.

² For text, see <http://www.un.org/News/dh/latest/afghan/afghan-agree.htm>.

Some believe that the elements of Western-style democracy introduced since 2001 are supported by traditional Afghan patterns of decision making that have some democratic and representative elements. Meetings called *shuras*, or *jirgas* (consultative councils)³ often composed of designated notables, are key mechanisms for making authoritative decisions or dispensing justice. Some of these mechanisms are practiced by Taliban members in areas under their control. On the other hand, some see the traditional patterns as competing mechanisms that resist change and modernization, generally minimize the role of women, and do not meet international standards of democratic governance. At the national level, the convening of a *loya jirga*, an assembly consisting of about 1,500 delegates from all over Afghanistan, has been used on several occasions. In the post-Taliban period, *loya jirgas* have been convened to endorse Karzai's leadership, to adopt a constitution, and to back long-term defense relations with the United States. A major *peace jirga* was held on June 2-4, 2010, to review government plans to offer incentives for insurgent fighters to end their armed struggle and rejoin society.

Ethnicity, Tribal, and Personal Relations

Patterns of political affiliation by family, clan, tribe, village, ethnicity, region, and other relationships remain. These patterns have been evident in every Afghan election since the fall of the Taliban. All candidates, including Karzai, have pursued campaign strategies designed primarily to assemble blocs of ethnic and geographic votes, although some have also sought to advance specific new programs and ideas. The traditional patterns have been even more pronounced in province-based campaigns such as those for the provincial councils and the parliament. In these cases, electorates (the eligible voters of a specific province) are small and candidates can easily appeal to clan and familial relationships.

While Afghans continue to follow traditional patterns of affiliation, there has been a sense among Afghans that their country now welcomes members of all political and ethnic groups and factions. There have been very few incidents of ethnic-based violence since the fall of the Taliban, but jealousies over relative economic and political positions of the different ethnic communities have sporadically manifested as clashes or political disputes.

Ethnic Pashtuns (pronounced POSH-toons, sometimes referred to as Pathans—pah-TAHNS), as the largest single ethnicity, have historically asserted a right to rule. Pashtuns are about 42% of the population and, with few exceptions, have governed Afghanistan. The sentiment of the “right to lead” is particularly strong among Pashtuns of the Durrani tribal confederation, which predominates in the south and is a rival to the Ghilzai confederation, which predominates in the east. One recent exception was the 1992-1996 presidency of the *mujahedin* government of Burhanuddin Rabbani, a Tajik. Karzai is a Durrani Pashtun, and his cabinet and inner advisory circle has come to be progressively dominated by Pashtuns and to exclude members of the other communities. The Taliban government was and its insurgency is composed almost completely of Pashtuns, although there have been non-Pashtun rebel factions with given names such as “Tajik Taliban” to denote that they are working against the Karzai government. A table on major Pashtun clans is provided below (see **Table 1**), as is a map showing the distribution of Afghanistan's various ethnicities (see **Figure 1**).

³ *Shura* is the term used by non-Pashtuns to characterize the traditional assembly concept. *Jirga* is the Pashtun term.

The Afghan Government Structure

The 2001 ouster of the Taliban government paved the way for the success of a long-stalled U.N. effort to form a broad-based Afghan government and for the international community to help Afghanistan build legitimate governing institutions. In the formation of the first post-Taliban transition government, the United Nations was viewed as a credible mediator by all sides largely because of its role in ending the Soviet occupation. During the 1990s, a succession of U.N. mediators adopted many of former King Zahir Shah's proposals for a government to be selected by a traditional assembly, or *loya jirga*. However, U.N.-mediated cease-fires between warring factions did not hold. Non-U.N. initiatives made little progress, particularly the "Six Plus Two" multilateral contact group, which began meeting in 1997 (the United States, Russia, and the six states bordering Afghanistan: Iran, China, Pakistan, Turkmenistan, Uzbekistan, and Tajikistan). Other failed efforts included a "Geneva group" (Italy, Germany, Iran, and the United States) formed in 2000; an Organization of Islamic Conference (OIC) contact group; and prominent Afghan exile efforts, including discussion groups launched by Hamid Karzai and his clan, former *mujahedin* commander Abd al-Haq, and Zahir Shah ("Rome process"). The sections below discuss the processes and events that led to the formation of the post-Taliban governing structure of Afghanistan.

Bonn Agreement

Immediately after the September 11 attacks, former U.N. mediator Lakhdar Brahimi was brought back (he had resigned in frustration in October 1999). U.N. Security Council Resolution 1378 (November 14, 2001) called for a "central" role for the United Nations in establishing a transitional administration and inviting member states to send peacekeeping forces to promote stability and aid delivery. After the fall of Kabul in November 2001, the United Nations invited major Afghan factions, most prominently the Northern Alliance and that of the former King—but not the Taliban—to an international conference in Bonn, Germany.

On December 5, 2001, the factions signed the "Bonn Agreement."⁴ It was endorsed by U.N. Security Council Resolution 1385 (December 6, 2001). The agreement was reportedly forged with substantial Iranian diplomatic help because Iran had supported the military efforts of the Northern Alliance faction and had leverage to persuade temporary caretaker Rabbani and the Northern Alliance to cede the top leadership to Hamid Karzai as leader of an interim administration. Other provisions of the agreement:

- authorized an international peace keeping force to maintain security in Kabul, and Northern Alliance forces were directed to withdraw from the capital. Security Council Resolution 1386 (December 20, 2001, and renewed yearly thereafter) gave formal Security Council authorization for the international peacekeeping force (International Security Assistance Force, ISAF);
- referred to the need to cooperate with the international community on counter narcotics, crime, and terrorism; and
- applied the constitution of 1964 until a permanent constitution could be drafted.⁵

⁴ Text of Bonn agreement at <http://www.ag-afghanistan.de/files/petersberg.htm>.

⁵ The last pre-Karzai *loya jirga* that was widely recognized as legitimate was held in 1964 to ratify a constitution. Najibullah convened a *loya jirga* in 1987 to approve pro-Moscow policies, but that gathering was widely viewed by (continued...)

Permanent Constitution

A June 2002 “emergency” *loya jirga* put a representative imprimatur on the transition; it was attended by 1,550 delegates (including about 200 women). Subsequently, a 35-member constitutional commission drafted the constitution, unveiling it in November 2003. It was debated by 502 delegates, selected in U.N-run caucuses, at a “*constitutional loya jirga* (CLJ)” during December 13, 2003–January 4, 2004. The CLJ, chaired by Sibghatullah Mojadeddi (mentioned above) ended with approval of the constitution with only minor changes. It set up a presidential system, with an elected president and a separately elected National Assembly (parliament). The Northern Alliance failed in its effort to set up a prime ministership (in which the elected parliament would select a prime minister and a cabinet), but the faction did achieve some limitation to presidential powers by assigning major authorities to the parliament, such as the power to veto senior official nominees. The constitution made former King Zahir Shah honorary “Father of the Nation,” a title that is not heritable. Zahir Shah died on July 23, 2007.⁶

First Post-Taliban Elections in 2004

Security conditions precluded the holding of the first post-Taliban elections simultaneously. The first election, for president, was held on October 9, 2004, missing a June constitutional deadline. Turnout was about 80%. On November 3, 2004, Karzai was declared winner (55.4% of the vote) over his 17 challengers on the first round, avoiding a runoff. Parliamentary and provincial council elections were intended for April-May 2005 but were delayed until September 18, 2005. Because of the difficulty in confirming voter registration rolls and determining district boundaries, elections for the 364 district councils, each of which will likely have contentious boundaries because they will inevitably separate tribes and clans, have not been held to date.

Formation of an Elected National Assembly (Parliament)

An elected parliament was stood up in Afghanistan as the result of elections held Sept. 18, 2005. That election was based on a “Single Non-Transferable Vote” System; candidates stood as individuals, not part of party list. Parliament consists of a 249 elected lower house (*Wolesi Jirga*, House of the People) and a selected 102 seat upper house (*Meshrano Jirga*, House of Elders). Voting was for one candidate only, although number of representatives varied by province, ranging from 2 (Panjshir Province) to 33 (Kabul Province). Herat has 17; Nangahar, 14; Qandahar, Balkh, and Ghazni, 11 seats each. The body is to be at least 28% female (68 persons), —two per each of the 34 provinces. The upper house is appointed by Karzai (34 seats, half of which are to be women), by the provincial councils (34 seats), and district councils (remaining 34 seats). However, because no district elections have been held, the provincial councils will appoint 68 of the 102 seats on an interim basis. In the 2005-2010 upper house, there have been 23 women in it, above the 17 required by the constitution. A new National Assembly is to begin its term on January 20, 2011, as discussed further below in the sections on recent elections.

(...continued)

Afghans as illegitimate.

⁶ Text of constitution: <http://arabic.cnn.com/afghanistan/ConstitutionAfghanistan.pdf>.

The Presidency and The Power of Parliament

As discussed above, the presidency is a powerful post, which includes command of the armed forces and the power to appoint provincial and district governors, as well to issue decrees that have the force of law until approved or amended by the parliament. The constitution and election system (a two round election if no majority is achieved in the first round) strongly favor the likelihood that an ethnic Pashtun will be president of Afghanistan. The non-Pashtuns did not achieve their aim of establishing a prime ministership (a post presumably to be held by a Tajik or other ethnic minority) that could serve as a counterweight to the elected president.

Karzai also relies heavily for advice from tribal and faction leaders from southern Afghanistan, including Sher Mohammad Akhunzadeh, the former governor of Helmand (until 2005), as well as from well-educated professionals such as his current Foreign Minister Zalmay Rasool. There is a National Security Council that is located in the presidential palace complex and heavily populated by ethnic Pashtuns. As of February 2010, it has been headed by former Foreign Minister Rangin Spanta, a Pashtun who was in the government during the Soviet occupation era and is said to retain leftwing views. Two other trusted NSC officials (both Pashtuns) are first deputy NSC Adviser Ibrahim Spinzada (a Karzai brother-in-law), and Shaida Mohammad Abdali, the second deputy NSC adviser.

Karzai's chief of staff is Mohammad Umar Daudzai, who is considered an Islamic conservative. During the anti-Soviet war, he fought in the Pashtun Islamist faction of Gulbuddin Hikmatyar. Daudzai is said to be a skeptic of Western/U.S. influence over Afghan decision making. On October 23, 2010, the *New York Times* asserted that he has been the presidential office's liaison with Iran for accepting the approximately \$2 million per year in Iranian assistance that is provided as cash. Karzai acknowledged this financial arrangement.

Although they largely concede Pashtun rule, non-Pashtuns want to be and are represented at high levels of the central government. Ethnic minorities have demanded and have achieved a large measure of control over how government programs are implemented in their geographic regions. Although Karzai has the power to appoint provincial and district governors, in practice he has not appointed governors of a different ethnicity than the majority of residents of any particular province, and he or his Independent Directorate of Local Governance (IDLG, which recommends to the presidential palace local appointments) often consults notables of a province on gubernatorial, district, and municipal appointments.

As discussed further in the section below on politics, it is the National Assembly—particularly the 249-seat elected lower house (*Wolesi Jirga*, House of the People)—that has been the key formal institution for non-Pashtuns and political independents to exert influence on Karzai. The lower house—but not the upper house—has the power to question government officials and confirm presidential cabinet appointments. Both houses are required to pass laws.

The process of confirming Karzai's second-term cabinet—in which many of Karzai's nominees were voted down in several nomination rounds during 2010—demonstrates that the Assembly is an increasingly strong institution that is pressing for honest, competent governance. These principles are advocated most stridently, although not exclusively, by the younger, more technocratic independent bloc in the lower house. These independents were key to the lower house vote on March 31, 2010, to reject an election decree that structured the September 18, 2010, National Assembly elections.

Both houses of parliament, whose budgets are controlled by the Ministry of Finance, are staffed by about 275 Afghans, reporting to a “secretariat.” There are 18 oversight committees, a research unit, and a library.

The Security Sector

The security organs are considered an arena where Pashtuns and Tajiks have worked together relatively well. The National Directorate for Security (NDS, the intelligence directorate) was headed by a non-Pashtun (Amrollah Saleh, a Tajik) during 2006-2010, although he was dismissed on June 6, 2010, by Karzai for disagreements over whether and how to engage insurgent leaders in political settlement negotiations. He was replaced by a Pashtun, Rehmat Nabil, who has no previous intelligence experience but is perceived as more consultative than was Saleh. Still, he inherited a service dominated by Tajiks (although some left when Saleh was ousted) and by a mix of personnel that served during the Soviet occupation era (the service was then called Khad), and in the *mujahedin* government of 1992-1996, as well as more recent recruits. During 2002-2007, the Central Intelligence Agency reportedly paid for all of the NDS budget.⁷

Perhaps to restore the tradition of ethnic balance in the security sector of government, the chief of staff of the Afghan National Army, Bismillah Khan (a Tajik), was named interior minister on June 26, 2010. He replaced Mohammad Hanif Atmar, a Pashtun, who was fired the same day and on roughly the same grounds as Saleh. By all accounts, Khan is widely respected, even among Pashtuns. The security ministries tend to have key deputies who are of a different ethnicity than the minister or top official.

Some observers take a different view, asserting that Tajiks continue to control many of the command ranks of the Afghan security institutions, giving Pashtuns only a veneer of control of these organizations. U.S. commanders in Afghanistan say the composition of the national security forces—primarily the Afghan National Army and Afghan National Police—has recently been brought more into line with the population, although Pashtuns from the south (Durrani) remain underrepresented.

Others believe that ethnic differences may be on the verge of erupting over a key security issue—Karzai’s plan to try to induce both low-level and leading insurgent figures to end their fight and rejoin society (reintegration and reconciliation), perhaps even in prominent posts. Tajik leaders, in particular, as the most prominent group after the Pashtuns, fear that Karzai’s plans will increase the Pashtun predominance in government and lead to marginalization of the Tajiks and other non-Pashtun minorities. They also assert—and ousted NDS chief Saleh has reportedly been giving speeches in Afghanistan and the West making this point extensively—that Karzai is willing to accept undue influence from Pakistan. In part to mollify this ethnic unrest on this issue, in September 2010 Karzai appointed a 70-member broad based High Peace Council that would oversee any negotiations with Taliban leaders. Former President Burhanuddin Rabbani, the most senior Tajik faction leader, was appointed Council chairman on October 10, 2010.

Pakistan supports Afghanistan’s Pashtun community, and purportedly wants some insurgent factions to come into a post-settlement government. The growing rift over the reconciliation issue has alarmed Pakistan’s rival India and, to a lesser extent, Iran, who traditionally support the Tajik,

⁷ Filkins, Dexter, and Mark Mazzetti. “Key Karzai Aide in Graft Inquiry is Linked to C.I.A.” *New York Times*, August 26, 2010.

Uzbek, and Hazara communities and see Afghanistan's Pashtuns as surrogates of Pakistan. (For more information on the topic of reconciliation talks with insurgent leaders, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.)

Politics: Karzai and His Allies and Opponents

As discussed above, many intersecting trends—including ethnicity, tribal affiliation, geography, economic interests, and ideologies—determine politics in Afghanistan. This section discusses the political landscape in Afghanistan that often explains why certain U.S.-led initiatives either succeed or fail.

Lack of Affiliation by Party

One major issue is that there is little overarching glue that holds Afghan factions together. The concept of nation is widely held, but not as strongly as are traditional patterns of affiliation. The major factions in Afghanistan identify only loosely with Afghanistan's 110 registered political parties, which would serve as an alternate organizing principle for Afghan politics. There is a popular aversion to formal "parties" as historically tools of neighboring powers—a perception stemming from the war against the Soviet Union when seven *mujahedin* parties were funded by and considered tools of outside parties. Partly because parties are viewed with suspicion, Karzai has not formed his own party, but many of his supporters in the National Assembly belong to a moderate faction of Hezb-i-Islam that is committed to working within the political system. This grouping was reduced somewhat in the September 2010 parliamentary elections. The putative leader of this group is Minister of Economy Abdul Hadi Arghandiwal. Other large parties that do exist, for example the Junbush Melli of Abdul Rashid Dostam, tend to be identified with specific ethnic (in his case, Uzbeks) or sectarian factions, rather than overarching themes.

Some believe that Afghan political parties are weak because the Single, Non-Transferable Vote (SNTV) system—in which each voter casts a ballot for only one candidate—favors candidates running as independents rather than as members of parties. Moreover, Western-style parties are generally identified by specific ideologies, ideas, or ideals, while most Afghans, as discussed above, retain their traditional affiliations.

Karzai's Allies

Karzai's core supporters in the outgoing *Wolesi Jirga*, which he and his aides hoped to increase in the September 18, 2010, elections, have been about 50 former members of the conservative Pashtun-based Hizb-e-Islam party (the same party as that headed by insurgent leader Gulbuddin Hikmatyar); and supporters of Abd-i-Rab Rasul Sayyaf—a prominent Islamic conservative *mujahedin* era party leader.⁸ These allies were supplemented by about 30-40 other lower house deputies, mostly Pashtuns. Karzai's allies reportedly hoped to win enough additional seats in the September 18 election to enable Sayyaf to become lower house Speaker, displacing Yunus Qanooni (Tajik); see below. However, according to November 24, 2010, final results, if those

⁸ Sayyaf led the *Ittihad Islami* (Islamic Union) *mujahedin* party during the war against the Soviet occupation.

results are followed, there will be about 20 or so fewer pro-Karzai deputies than in the previous Assembly.

A major base of Karzai's support has been from Qandahar, Karzai's home province, and from Helmand provinces. These have included several Karzai clan members, several of whom were not returned to parliament by the September 18 elections (final results of November 24). One pro-Karzai Pashtun in the last parliament was former militia leader Hazrat Ali (Nangarhar Province), who led the Afghan component of the failed assault on Osama bin Laden's purported redoubt at Tora Bora in December 2001. He was re-elected. However, another Karzai backer, Pacha Khan Zadran (Paktia) who, by some accounts, helped Osama bin Laden escape Tora Bora, was not re-elected. Karzai's cousin, Jamil Karzai, was not re-elected either. A key Karzai brother, discussed further below, is Ahmad Wali Karzai, who purportedly worked to try to ensure that pro-Karzai Assembly candidates were elected in Qandahar Province, but it is not clear that this effort succeeded.

Hamid Karzai, President of the Islamic Republic of Afghanistan

Hamid Karzai, born December 24, 1957, was selected to lead Afghanistan at the Bonn Conference because he was a prominent Pashtun leader who had been involved in Taliban-era political talks among exiled Afghans and was viewed as a compromiser rather than a “strongman.” However, some observers consider his compromises as Afghanistan’s leader a sign of weakness and criticize him for indulging members of his clan and other allies with appointments.

From Karz village in Qandahar Province, Karzai has led the powerful Popolzai tribe of Durrani Pashtuns since 1999, when his father was assassinated, allegedly by Taliban agents, in Quetta, Pakistan. Karzai’s grandfather was head of the consultative National Council during King Zahir Shah’s reign. He attended university in India and supported the *mujahidin* party of Sibghatullah Mojadeddi (still a very close ally) during the ant-Soviet war. He was deputy foreign minister in the *mujahidin* government of Rabbani during 1992-1995, but he left the government and supported the Taliban as a Pashtun alternative to Rabbani. He broke with the Taliban as its excesses unfolded and forged alliances with other anti-Taliban factions, including the Northern Alliance. Karzai entered Afghanistan after the September 11 attacks to organize Pashtun resistance to the Taliban, supported by U.S. Special Forces. He became central to U.S. efforts after Pashtun commander Abdul Haq entered Afghanistan in October 2001 without U.S. support and was captured and hung by the Taliban. Karzai was slightly injured by an errant U.S. bomb during major combat of Operation Enduring Freedom (late 2001).

With heavy protection, Karzai has survived several assassination attempts since taking office, including rocket fire or gunfire at or near his appearances. His wife, Dr. Zenat Karzai, is a gynecologist by profession. They have been married about 11 years and have a son, Mirwais, born in 2008. In December 2009, he spoke publicly about personal turmoil among relatives in Karz village that resulted in the death of an 18-year-old relative in October 2009. He has consistently denied allegations by unnamed U.S. and other officials that he is taking mood altering medications.

His half brother, Ahmad Wali Karzai, is the most powerful political figure in Qandahar Province. He is key to President Karzai’s information network in Qandahar. Ahmad Wali has been widely accused of involvement in or tolerating narcotics trafficking, but reportedly also is a paid informant for the CIA; some of his property has been used by U.S. Special Forces. Ahmad Wali was the apparent target of at least two bombings in Qandahar in 2009. Karzai’s other brothers have lived in the United States, including Qayyum Karzai, who won a parliament seat in the September 2005 election but resigned in October 2008 for health reasons. Another brother, Mahmoud Karzai, is reportedly under U.S. Justice Department investigation. He has wide business interests in Qandahar and Kabul, including auto dealerships, a coal mine, apartment houses, and a stake in Kabul Bank, which nearly collapsed in September 2010. Other Karzai relatives have profited extensively from international contracts, including a \$2.2 billion U.S. “Host Nation Trucking” contract. The United States banned contracts to one such firm, Watan Risk Management, as of January 6, 2011; the firm is co-owned by two Karzai cousins Ahmad and Rashid Popal.

U.S.-Karzai Relations

During 2010, Obama Administration criticism of the shortcomings of the Karzai government, particularly its corruption, caused substantial frictions in U.S.-Karzai relations. President Obama made anti-corruption efforts a particular focus of his talks with President Karzai in Kabul on March 28, 2010. Karzai’s frustrations at what he sees as U.S. and international pressure on him to reform emerged in his comments throughout 2010, including on April 1, 2010, and April 4, 2010. In those and other comments, Karzai expressed frustration with what he saw as international meddling in the August 20, 2009, presidential election and, more generally, subordination to the decisions of international donors. The April 4, 2010, comments suggested that Western meddling in Afghanistan was fueling support for the Taliban as a legitimate resistance to foreign occupation⁹ and nearly derailed the May 10-14, 2010, Karzai visit to Washington, DC. That visit was considered productive, including a decision to renew and expand a 2005 “strategic partnership.”¹⁰ At each downturn in the relationship, top Administration officials have sought restore the relationship.¹¹ The latest visitor to reassure him by stressing a long-term U.S. commitment to Afghanistan was Vice President Biden (January 10, 2011). While Karzai is said to be close to Gen. David Petraeus, Karzai’s relations with the late Special Representative for Afghanistan and Pakistan (SRAP) Richard Holbrooke,¹² and with Ambassador Eikenberry, have been widely assessed as severely strained.

⁹ An exact English translation of his April 4 comments, in which he purportedly said that even he might consider joining the Taliban if U.S. pressure on him continues, is not available.

¹⁰ Interview with Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff. CNN, May 30 2010.

¹¹ Dreazen, Yochi, and Sarah Lynch. “U.S. Seeks to Repair Karzai Tie.” *Wall Street Journal*, April 12, 2010.

¹² Ambassador Frank Ruggiero is acting SRAP following the December 13, 2010, death of Holbrooke.

The Opposition: Dr. Abdullah and His Lower House Supporters

Although the political opposition to Karzai is fluid and often joins him on some issues, those who can be considered opposition (putting aside Taliban and other insurgents) are mainly ethnic minorities (Tajik, Uzbek, and Hazara) who were in an anti-Taliban grouping called the “Northern Alliance.” Leaders of these groups, and particularly Tajiks, view as a betrayal Karzai’s firing of many of the non-Pashtuns from the cabinet and, as noted, are increasingly concerned about Karzai’s outreach to Taliban figures and to Pakistan (including his meetings with Pakistan’s military leader and the director of its intelligence service).

The overall “leader of the opposition” is former Foreign Minister Dr. Abdullah Abdullah, who is about 50 years old and whose mother is Tajik and father is Pashtun. His identity as a key aide to the slain Tajik *mujahedin* commander Ahmad Shah Masoud causes him to be identified politically as a Tajik. He was dismissed from that post by Karzai in March 2006 and now heads a private foundation named after Masoud. He emerged as Afghanistan’s opposition leader after his unsuccessful challenge against Karzai for president in the August 2009 election in which widespread fraud was demonstrated. He visited Washington, DC, one week after Karzai’s May 10-14, 2010, visit, criticizing Karzai’s governance at various think tanks and in a meeting with the State Department. Dr. Abdullah subsequently declined to attend the June 2-4, 2010, peace *jirga* in Kabul on the grounds that the 1,600 delegates were not representative of all Afghans, implying that it would be overwhelmingly run and dominated by Pashtuns.

Dr. Abdullah and his allies exert influence not only through meetings with Karzai and political statements, but through their base of support within the National Assembly. The pro-Abdullah bloc in parliament is called the United Front (UF), although some accounts refer to it as the “National Front” or “United National Front.” It was formed in April 2007 by *Wolesi Jirga* Speaker Yunus Qanooni (Karzai’s main challenger in the 2004 presidential election) and former Afghan President Burhanuddin Rabbani (both also prominent ethnic Tajik Northern Alliance figures and former associates of the legendary *mujahedin* commander Ahmad Shah Masoud. Rabbani remains titular head of the *mujahedin* party to which Masoud belonged—*Jamiat Islami*, or Islamic Society).

In late May 2010, Abdullah created a formal, national democratic opposition organization called the “Hope and Change Movement.” Running in the September 18, 2010, elections under that name, Abdullah supporters sought to increase their numbers in the new Assembly from about 50 in the outgoing one. The bloc seeks to hold a commanding position that would enable it to block Karzai initiatives and possibly even obtain passage of its own alternative proposals. If followed, the November 24, 2010, results suggest this objective was not achieved, although Abdullah supporters may now have numbers in the lower house, to be seated January 20, 2011, close to Karzai’s approximately 70 supporters.

Although not aimed at mass appeal as is Dr. Abdullah’s Hope and Change Movement, the United Front is nonetheless broader than the “Northern Alliance” in that the Front includes some Pashtuns. Examples include Soviet-occupation era security figures Sayed Muhammad Gulabzoi and Nur ul-Haq Ulumi, who has chaired the defense committee (but was not re-elected in the September 18, 2010 election, according to certified results). Even before the debate over the terms of any settlement with the Taliban escalated in 2010, the UF advocated amending the constitution to give more power to parliament and to empower the elected provincial councils (instead of the president) to select governors and mayors. Such steps would ensure maximum

autonomy from Kabul for non-Pashtun areas, and serve as a check and balance on Pashtun dominance of the central government.

Even before the formation of the UF, the opposition in the *Wolesi Jirga* first showed its strength in March 2006, following the December 19, 2005, inauguration of parliament, by requiring Karzai's cabinet to be approved individually, rather than *en bloc*, increasing opposition leverage. However, Karzai rallied his support and all but 5 of the 25 nominees were confirmed. In May 2006, the opposition compelled Karzai to change the nine-member Supreme Court, the highest judicial body, including ousting 74-year-old Islamic conservative Fazl Hadi Shinwari as chief justice. The proximate justification for the ouster was Shinwari's age, which was beyond the official retirement age of 65. (Shinwari later went on to head the Ulema Council, Afghanistan's highest religious body.) Parliament approved Karzai's new court choices in July 2006, all of whom are trained in modern jurisprudence.

Growing Influence of "Independents"

Karzai and Abdullah compete for the support of the "independents." Among them are a growing number of outspoken women, intellectuals, and business leaders. Of the independents that were present in parliament, one, the 43-year-old Malalai Joya (Farah Province), was a leading critic of war-era faction leaders. In May 2007 the lower house voted to suspend her for this criticism for the duration of her term. She was not returned to the Assembly following the September 18 elections. Others in this independent camp have included Ms. Fauzia Gailani (Herat Province, not returned to parliament); Ms. Shukria Barekzai, editor of *Woman Mirror* magazine and possible presidential candidate in 2014 (not returned); and Mr. Ramazan Bashardost, a former Karzai minister who champions parliamentary powers and has established a "complaints tent" near the parliament building to highlight and combat official corruption. (He ran for president in the 2009 elections on an anti-corruption platform and drew an unexpectedly large amount of votes.) Bashardost was returned to parliament. U.S.-based International Republican Institute (IRI) has helped train the independents; the National Democratic Institute (NDI) has assisted the more established factions.

Karzai Support Significant in The Upper House

Karzai has relatively fewer critics in the 102-seat *Meshrano Jirga* (House of Elder, upper house), partly because of his bloc of 34 appointments (one-third of that body). He engineered the appointment of an ally as speaker: Sibghatullah Mojadeddi, a noted Islamic scholar and former *mujahedin* party leader (Afghanistan National Liberation Front, ANLF), who headed the post-Communist *mujahedin* government for one month (May 1992). However, because it is composed of more elderly, established, notable Afghans who are traditionalist in their political outlook, the upper house has tended to be more Islamist conservative than the lower house, advocating a legal system that accords with Islamic law, and restrictions on press and Westernized media broadcasts. As an example of the upper house's greater support for Karzai, it voted on April 3, 2010, not to act on the election decree that the lower house had rejected on March 31, 2010, meaning that the decree applied to the September 18 parliamentary election.

Karzai also has used his bloc of appointments to the upper house to co-opt potential antagonists or reward his friends. In 2006, he appointed Northern Alliance military leader Muhammad Fahim to the upper body, perhaps to compensate for his removal as defense minister, although he resigned after a few months and later joined the UF. (He was Karzai's primary running mate in

the 2009 elections and is now a vice president.) Karzai also named a key ally, former Helmand governor Sher Mohammad Akhunzadeh, to the body. There is one Hindu, and 23 women; 17 are Karzai appointees and six were selected in their own right.

A new upper house will be named prior to the January 20, 2010, seating of the new parliament. Karzai reportedly has been holding off naming his 34 choices while the election remains in dispute, as discussed later. It is likely that he will name to the upper house some figures who lost the lower house election and whose defeats are upheld in the ongoing legal proceedings. The provincial councils that were elected in 2009 will appoint a total of 68 members (two per province) for the upper house.

The Influence on Governance of Regional Leaders/"Warlords"

A significant U.S. and international concern is Karzai's willingness to sometimes ally with unelected and well-armed faction leaders. Most of these leaders are from the north and west, where non-Pashtun minorities predominate, but there are some major Pashtun faction leaders that Karzai has become dependent upon as well. The Obama Administration's March and December 2009 and December 2010 strategy review statements did not outline new measures to sideline these strongmen, who are sometimes referred to by experts and others as "warlords." General McChrystal's August 2009 "initial assessment," cited below, indicated that some of these faction leaders—most of whom the United States and its partners regularly deal with and have good working relations with—cause resentment among some sectors of the population and complicate U.S. stabilization strategy. A number of them are alleged to own or have equity in security or other Afghan firms that have won business from various U.S. and other donor agencies and fuel allegations of nepotism and other forms of corruption. On the other hand, some Afghans and outside experts believe that the international community's strategy of dismantling local power structures, particularly in northern Afghanistan, and instead to empower the central government, has caused the security deterioration noted since 2006.

Some assert that the Obama Administration's criticism of Karzai has caused him to become ever more reliant on these factional power brokers. Karzai's position is that confronting faction leaders outright would likely cause their followers—who usually belong to ethnic or regional minorities—to go into armed rebellion. Even before the Obama Administration came into office, Karzai argued that keeping the faction leaders on the government side is needed in order to keep the focus on fighting "unrepentant" Taliban insurgents (who are almost all ethnic Pashtuns).

In February 2007, both houses of parliament passed a law giving amnesty to faction leaders and others who committed abuses during Afghanistan's past wars. Karzai altered the draft to give victims the right to seek justice for any abuses; Karzai did not sign a modified version in May 2007, leaving the status unclear. However, in November 2009, the Afghan government published the law in the official gazette (a process known as "gazetting"), giving it the force of law.

The following sections analyze some of the main faction leaders who often attract criticism and commentary from U.S. and international partners in Afghanistan.

Vice President Muhammad Fahim

Karzai's choice of Muhammad Fahim, a Tajik from the Panjshir Valley region who is military chief of the Northern Alliance/UF faction, as his first vice presidential running mate in the August

2009 elections might have been a manifestation of Karzai's growing reliance on faction leaders. Dividing the United Front/ Northern Alliance might have been another. The Fahim choice was criticized by human rights and other groups because of Fahim's long identity as a *mujahedin* commander/militia faction leader. A *New York Times* story of August 27, 2009, said that the Bush Administration continued to deal with Fahim when he was defense minister (2001-2004) despite reports that he was involved in facilitating narcotics trafficking in northern Afghanistan. Other allegations suggest he has engineered property confiscations and other benefits to feed his and his faction's business interests. During 2002-2007, he also reportedly withheld turning over some heavy weapons to U.N. disarmament officials who have been trying to reduce the influence of local strongmen such as Fahim. Obama Administration officials have not announced any limitations on dealings with Fahim now that he is vice president. In August 2010, NDS director Nabil appointed a Fahim relative to a senior NDS position. In August 2010, Fahim underwent treatment in Germany for a heart ailment. As of January 2011, he is performing his duties again.

Fahim's brother, Abdul Hussain Fahim, was a beneficiary of concessionary loans from Kabul Bank, a major bank that has faced major losses due to its lending practices and may need to be recapitalized (see below). Abdul Hussain Fahim is also reportedly partnered with Mahmoud Karzai on coal mining and cement manufacturing ventures.

Abdurrashid Dostam: Uzbeks of Northern Afghanistan—Jowzjan, Faryab, Sar-i-Pol, and Balkh Provinces

Some observers have cited Karzai's handling of prominent Uzbek leader Abdurrashid Dostam as evidence of political weakness. Dostam commands numerous partisans in his redoubt in northern Afghanistan (Jowzjan, Faryab, Balkh, and Sar-I-Pol provinces), where he was, during the Soviet and Taliban years, widely accused of human rights abuses of political opponents. To try to separate him from his armed followers, in 2005 Karzai appointed him to the post of chief of staff of the armed forces. On February 4, 2008, Afghan police surrounded Dostam's villa in Kabul in response to reports that he attacked an ethnic Turkmen rival, but Karzai did not order his arrest for fear of stirring unrest among Dostam's followers. To try to resolve the issue without stirring unrest, in December 2008 Karzai purportedly reached an agreement with Dostam under which he resigned as chief of staff and went into exile in Turkey in exchange for the dropping of any case against him.¹³

Dostam returned to Afghanistan on August 16, 2009, and subsequently held a large pro-Karzai election rally in his home city of Shebergan. Part of his intent in supporting Karzai has been to potentially oust a strong rival figure in the north, Balkh Province governor Atta Mohammad, see below. Mohammad is a Tajik but, under a 2005 compromise with Karzai, is in control of a province that is inhabited by many Uzbeks—a source of irritation for Dostam and other Uzbeks. Dostam's support apparently helped Karzai carry several provinces in the north, including Jowzjan, Sar-i-Pol, and Faryab, although Dr. Abdullah won Balkh and Samangan. Dostam was not nominated to the post-election cabinet, but two members of his "Junbush Melli" (National Front) party were—although they were voted down by the National Assembly because the Assembly insisted on competent officials rather than party loyalists in the new cabinet. Dostam returned to Afghanistan in January 2010 and was restored to his previous, primarily honorary,

¹³ CRS e-mail conversation with a then National Security aide to President Karzai, December 2008.

position of chief of staff of the armed forces. He continues to alternate his time between Afghanistan and Turkey.

Dostam's reputation is further clouded by his actions during the U.S.-backed war against the Taliban. On July 11, 2009, the *New York Times* reported that allegations that Dostam had caused the death of several hundred Taliban prisoners during the major combat phase of OEF (late 2001) were not investigated by the Bush Administration. In responding to assertions that there was no investigation of the "*Dasht-e-Laili*" massacre because Dostam was a U.S. ally,¹⁴ President Obama said any allegations of violations of laws of war need to be investigated. Dostam responded to Radio Free Europe/Radio Liberty (which carried the story) that only 200 Taliban prisoners died and primarily because of combat and disease, not intentional actions of his forces.

Atta Mohammad Noor: Balkh Province

Atta Mohammad Noor, who is about 48 years old, has been the governor of Balkh Province, whose capital is the vibrant city of Mazar-e-Sharif, since 2005. He is an ethnic Tajik and former *mujahedin* commander who openly endorsed Dr. Abdullah in the 2009 presidential election. However, Karzai has kept Noor in place because he has kept the province secure, allowing Mazar-e-Sharif to become a major trading hub, and because displacing him could cause ethnic unrest. Observers say that Noor exemplifies the local potentate, brokering local security and business arrangements that enrich Noor and his allies while ensuring stability and prosperity.¹⁵

Isma'il Khan: Western Afghanistan/Herat

Another strongman that Karzai has sought to simultaneously engage and weaken is prominent Tajik political leader and former Herat governor Ismail Khan. In 2006, Karzai appointed him minister of energy and water, taking him away from his political base in the west. However, Khan remains influential there, and maintaining ties to Khan has won Karzai election support. Khan apparently was able to deliver potentially decisive Tajik votes in Herat Province that might otherwise have gone to Dr. Abdullah. Certified results showed Karzai winning that province, indicating that the deal with Khan was helpful to Karzai.

Still, Khan is said to have several opponents in Herat, and a bombing there on September 26, 2009, narrowly missed his car. U.S. officials purportedly preferred that Khan not be in the cabinet because of his record as a local potentate, although some U.S. officials credit him with cooperating with the privatization of the power sector of Afghanistan. Karzai renominated Khan in his ministry post on December 19, 2009, causing purported disappointment by parliamentarians and western donor countries who want Khan and other faction leaders weakened. His renomination was voted down by the National Assembly and no new nominee for that post was presented on January 9, 2010. Khan remains as head of the ministry but in an acting capacity. Khan is on the High Peace Council that is to oversee negotiations with insurgent leaders. However, new questions about Khan were raised in November 2010 when Afghan television broadcast audio files purporting to contain Khan insisting that election officials alter the results of the September 18, 2010, parliamentary elections.¹⁶

¹⁴ This is the name of the area where the Taliban prisoners purportedly died and were buried in a mass grave.

¹⁵ Gall, Carlotta. "In Afghanistan's North, Ex-Warlord Offers Security." *New York Times*, May 17, 2010.

¹⁶ Partlow, Joshua. "Audio Files Raise New Questions About Afghan Elections." *Washington Post*, November 11, (continued...)

Sher Mohammad Akhundzadeh and "Koka:" Southern Afghanistan/Helmand Province

Karzai's relationship with another Pashtun strongman, Sher Mohammad Akhundzadeh, demonstrates the dilemmas facing Karzai in governing Afghanistan. Akhundzadeh was a close associate of Karzai when they were in exile in Quetta, Pakistan, during Taliban rule. Karzai appointed him governor of Helmand after the fall of the Taliban, but in 2005, Britain demanded he be removed for his abuses and reputed facilitation of drug trafficking, as a condition of Britain taking security control of Helmand. Karzai reportedly wants to reappoint Akhundzadeh, who Karzai believes was more successful against militants in Helmand using his local militiamen than Britain has been with its more than 9,500 troops there. Akhundzadeh said in a November 2009 interview that many of his followers joined the Taliban insurgency after Britain insisted on his ouster. However, Britain and the United States have strongly urged Karzai to keep the existing governor, Ghulab Mangal, who is winning wide praise for his successes establishing effective governance in Helmand (discussed further under "Expanding Local Governance," below) and for reducing poppy cultivation there. Akhundzadeh attempted to deliver large numbers of votes for Karzai in Helmand, although turnout in that province was very light partly due to Taliban intimidation of voters.

An Akhundzadeh ally, Abdul Wali Khan (nicknamed "Koka"), was similarly removed by British pressure in 2006 as police chief of Musa Qala district of Helmand. However, Koka was reinstated in 2008 when that district was retaken from Taliban control. The Afghan government insisted on his reinstatement and his militia followers subsequently became the core of the 220-person police force in the district. Koka is mentioned in a congressional report as accepting payments from security contractors who are working under the Defense Department's "Host National Trucking" contract that secures U.S. equipment convoys. Koka allegedly agrees to secure the convoys in exchange for the payments.¹⁷

Ahmad Wali Karzai: Southern Afghanistan/Qandahar Province

Governing Qandahar, a province of about 2 million, of whom about half live in Qandahar city, is a sensitive issue in Kabul because of President Karzai's active political interest in his home province. Qandahar governance is particularly crucial to an ongoing 2010 U.S. military-led operation to increase security in surrounding districts. In Qandahar, Ahmad Wali Karzai, Karzai's elder brother, is chair of the provincial council. He has always been more powerful than any appointed governor of Qandahar, and President Karzai has frequently rotated the governors of Qandahar to ensure that none of them will impinge on Ahmad Wali's authority. Perceiving him as the key power broker in the province, many constituents and interest groups meet him each day, requesting his interventions on their behalf. Numerous press stories have asserted that he has protected narcotics trafficking in the province, and some press stories say he is also a paid informant and helper for CIA and Special Forces operations in the province.¹⁸ Some Afghans

(...continued)

2010.

¹⁷ House of Representatives. Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform. "Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan." Report of the Majority Staff, June 2010.

¹⁸ Filkins, Dexter, Mark Mazetti and James Risen, "Brother of Afghan Leader Is Said to be on C.I.A. Payroll," *New York Times*, October 28, 2009.

explain Ahmad Wali Karzai's activities as an effort to ensure that his constituents in Qandahar have financial means to sustain themselves, even if through narcotics trade, before there are viable alternative sources of livelihood. On October 11, 2010, President Karzai said (Larry King interview) Ahmad Wali's attorney had shown President Karzai a letter from the U.S. Department of Justice to the effect that no investigation of him was under way. Observers report that President Karzai has repeatedly rebuffed U.S. and other suggestions to try to convince his brother to step down as provincial council chairman for Qandahar, and U.S. officials reportedly had ceased making those suggestions as of August 2010.

Still, U.S. officials say that policy is to try to bolster the clout in Qandahar of the appointed governor, Tooryalai Wesa. The U.S. intent is to empower Wesa to the point where petitioners seek his help on their problems, not that of Ahmad Wali. Karzai appointed Wesa—a Canadian-Afghan academic—in December 2008, perhaps hoping that his ties to Canada would convince Canada to continue its mission in Qandahar beyond 2011. The United States and its partners are trying to assist Wesa with his efforts to equitably distribute development funds and build local governing structures out of the tribal councils he has been holding. U.S. officials reportedly have sought to keep Ahmad Wali from interfering in Wesa's efforts.¹⁹

Ghul Agha Shirzai: Eastern Afghanistan/Nangarhar

A key gubernatorial appointment has been Ghul Agha Shirzai as governor of Nangarhar. He is a Pashtun from Qandahar, and served previously as governor of Qandahar Province, where he reportedly continues to exercise influence in competition with Ahmad Wali Karzai. Shirzai is generally viewed in Nangarhar as an interloper. But, much as has Noor in Balkh, Shirzai has exercised effective leadership, particularly in curbing poppy cultivation there. At the same time, Shirzai is also widely accused of arbitrary action against political or other opponents, and he reportedly does not remit all the customs duties collected at the Khyber Pass/Torkham crossing to the central government. He purportedly uses the funds for the benefit of the province, not trusting that funds remitted to Kabul would be spent in the province. Shirzai had considered running against Karzai in 2009 but then opted not to run as part of a reported "deal" with Karzai that yielded unspecified political and other benefits for Shirzai.

Afghan Governance, Capacity, and Performance²⁰

Since 2001, U.S. policy has been to help expand the capacity of Afghan institutions, which were nearly non-existent during Taliban rule. At the time of the fall of the Taliban in late 2001, Afghan government offices were minimally staffed, and virtually none had computer or other modern equipment, according to observers in Kabul. Since 2007, but with particular focus during the Obama Administration, U.S. policy has been to not only try to expand Afghan governing capacity—at the central and local levels—but to push for its reform and oversight. In two major Afghanistan policy addresses—March 27, 2009, and December 1, 2009—President Obama stressed that more needed to be done to promote the legitimacy and effectiveness of the Afghan

¹⁹ Partlow, Joshua, "U.S. Seeks to Bolster Kandahar Governor, Upend Power Balance," *Washington Post*, April 29, 2010.

²⁰ Some information in this section is from the State Department reports on human rights in Afghanistan for 2009, March 11, 2010; for text, see <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136084.htm> and the International Religious Freedom Report, released October 26, 2009, <http://www.state.gov/g/drl/rls/irf/2009/127362.htm>.

government at both the Kabul and local levels. In the latter statement, he said: “The days of providing a blank check [to the Afghan government] are over.” The December 16, 2010, summary of an Administration review of Afghanistan policy says that the United States is supporting Afghan efforts to “better improve national and sub-national governance, and to build institutions with increased transparency and accountability to reduce corruption—key steps in sustaining the Afghan government.”

Building Central Government Capacity

The international community has attempted to shift authority from traditional leaders and relationships, such as those discussed above, to transparent and effective state institutions. That process is proceeding, although far more slowly and less completely than was expected when the Taliban regime fell. Some question whether the stated U.S. goal—denying a safehaven for international terrorists in Afghanistan—requires substantial institution-building, while others say Afghanistan will revert to a terrorist haven unless effective governance is well established.

In the nearly nine years of extensive international involvement in Afghanistan, Afghan ministries based in Kabul have greatly increasing their staffs and technological capabilities (many ministry offices now have modern computers and communications, for example), although the government still faces a relatively small recruitment pool of workers with sufficient skills. Afghan-led governmental reform and institution-building programs under way, all with U.S. and other donor assistance, include training additional civil servants, instituting merit-based performance criteria, basing hiring on qualifications rather than kinship and ethnicity, and weeding out widespread governmental corruption. Corruption is fed, in part, by the fact that government workers receive very low salaries (about \$200 per month, as compared to the pay of typical contractors in Afghanistan that might pay as much as \$6,500 per month).

Some observers assert that the Afghan government requires not only more staff and transparency, but also improved focus and organization, most notably in the presidential office. One idea that surfaced in 2009, and which some Afghans are again raising to help overcome administrative bottlenecks in the palace, was to prod Karzai to create a new position akin to a “chief administration officer.” Several potential officials reportedly negotiated with Karzai about playing that role, including one of Karzai’s 2009 election challengers, Ashaf Ghani. Ghani has not been given this role but he is advising Karzai on government reform and institution building after reconciling with him in November 2009 (after the election was settled). Ghani was part of Karzai’s advisory team during the January 28, 2010, London conference and the July 20, 2010, Kabul conference that focused on how to improve Afghan governance. Some observers say Ghani might be in line for a “special envoy” role abroad.

The Obama Administration has developed about 45 different metrics to assess progress in building Afghan governance and security, as it was required to do (by September 23, 2009) under P.L. 111-32, an FY2009 supplemental appropriation.²¹ To date, and under separate authorities such as provisions of supplemental appropriations and foreign aid appropriations, only small amounts of U.S. aid have been made conditional on Afghanistan’s performance on such metrics, and no U.S. aid has been permanently withheld.

²¹ “Evaluating Progress in Afghanistan-Pakistan” Foreign Policy website, http://www.foreignpolicy.com/articles/2009/09/16/evaluating_progress_in_afghanistan_pakistan.

The Afghan Civil Service

The low level of Afghan bureaucratic capacity is being addressed in a number of ways, although slowly. There are about 500,000 Afghan government employees, although the majority of them are in the security forces. A large proportion work in the education sector.

The United States and its partners do not have in place a broad program to themselves train Afghan government officials, but instead fund Afghan institutions to conduct such training. Issues of standardizing job descriptions, salaries, bonuses, benefits and the like are being addressed by Afghanistan's Civil Service Commission. According to the April 2010 version of a mandated Defense Department report on Afghanistan,²² the commission has thus far redefined more than 80,000 civil servant job descriptions. The Afghan cabinet is drafting a revised civil service law, according to a U.N. report of December 10, 2010 (U.N. document number: A/65/612-S/2010/630).

Under a program called the Civilian Technical Assistance Plan, the United States is providing technical assistance to Afghan ministries and to the commission. From January 2010 until January 2011, the United States is giving \$85 million to programs run by the commission to support the training and development of Afghan civil servants. One of the commission's subordinate organizations is the Afghan Civil Service Institute, which envisions training over 16,000 additional bureaucrats by the end of 2010, according to USAID.

Many Afghan civil service personnel undergo training in India, building on growing relations between Afghanistan and India. Japan and Singapore also are training Afghan civil servants on good governance, anti-corruption, and civil aviation. Singapore and Germany will, in 2011, jointly provide technical assistance in the field of civil aviation. Some of these programs are conducted in partnership with the German Federal Foreign Office and the Asia Foundation. In order to address the problem of international donors luring away Afghan talent with higher salaries, the July 20, 2010, Kabul conference included a pledge by the Afghan government to reach an understanding with donors, within six months, on a harmonized salary scale for donor-funded salaries of Afghan government personnel.

The Afghan Budget Process

The international efforts to build up the central government are reflected in the Afghan budget process. The Afghan government controls its own funds as well as those of directly supplied donor funds. Donor funds cover 100% of the development budget as well as 35% of the Afghan government operating budget. The budget year follows the solar year, which begins on March 21 of each year, which also corresponds to the Persian New Year ("*Nowruz*").

According to observers, the Afghan budget is a "unitary" system—the budget is allocated to central government ministries and other central government entities. Elected provincial councils, appointed provincial governors, and district governors do not control their own budgets, although they approve the disbursement of funds by the central entities. There are accounting offices, called *mustofiats*, in each of Afghanistan's 34 provinces, that carry out those disbursements. All revenue is collected by central government entities which, according to experts, contributes to the

²² Department of Defense. "Report on Progress Toward Security and Stability in Afghanistan." April 2010. http://www.defense.gov/pubs/pdfs/report_final_secdef_04_26_10.pdf.

widespread observation that local officials sometimes seek to retain or divert locally collected revenues.

Donor Involvement in the Afghan Budget

Because of the paucity of funds taken in by the Afghan government—about \$1.4 billion for 2010—about two thirds of the Afghan government budget is provided by international donors. The United States is the largest donor to Afghanistan. Because of corruption, only about 20% of U.S. aid is channeled through the Afghan government, although a target figure of 50% of total donor funds to be channeled through the government was endorsed at the July 20, 2010, Kabul conference. Currently, the Ministry of Public Health, the Ministry of Communications, the Ministry of Finance, and the World Bank-run Afghan Reconstruction Trust Fund (which the U.S. contributes to for Afghan budget support) qualify to have U.S. funds channeled through them.

The FY2011 Obama Administration aid request expressed the goal that six ministries would qualify for direct funding by the end of 2010. Among those potentially ready, according to criteria laid out by the late SRAP Holbrooke and USAID Director Shah on July 28, 2010, three others are nearly ready to receive direct funding: the Ministry of Education; the Ministry of Agriculture, Irrigation and Livestock, run by the widely praised Minister Asif Rahimi; and the Ministry of Rural Rehabilitation and Development (MRRD), which runs the widely praised National Solidarity Program. That program awards local development grants for specific projects. The MRRD has developed a capability, widely praised by Britain and other observers, to account for large percentages of donated funds to ensure they are not siphoned off by corruption.

Curbing Government Corruption and Promoting Rule of Law²³

Partly because many Afghans view the central government as “predatory,” many Afghans and international donors have lost faith in Karzai’s leadership. A U.N. Office of Drugs and Crime report released in January 2010 said 59% of Afghans consider corruption as a bigger concern than the security situation and unemployment. NATO estimates that about \$2.5 billion in total bribes are paid by Afghans each year. Transparency International, a German organization that assesses governmental corruption worldwide, ranked Afghanistan in 2008 as 176th out of 180 countries ranked in terms of government corruption.

Scope of the Problem

At the upper levels of government, some observers have asserted that Karzai deliberately tolerates officials who are allegedly involved in the narcotics trade and other illicit activity, and supports their receipt of lucrative contracts from donor countries, in exchange for their support. Karzai’s brother, Mahmoud, as discussed above, has apparently grown wealthy through real estate and auto sales ventures in Qandahar and Kabul, purportedly by fostering the impression he can influence his brother. Mahmoud Karzai held a press conference in Washington, DC, on April 16, 2009, denying allegations of corruption and, in mid-2010, he hired attorney Gerald Posner to counter corruption allegations against him by U.S. press articles. In October 2010 it was reported that a Justice Department investigation of Mahmoud Karzai’s dealings (he holds dual U.S.-

²³ For more information, particularly on Rule of Law programs, see: CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Sun Wyler and Kenneth Katzman.

Afghan citizenship) had begun. Mahmoud Karzai subsequently announced that he has determined that he does owe back taxes to the United States and would clear up the arrearage.

Several other high officials, despite very low official government salaries, have acquired ornate properties in west Kabul since 2002, according to Afghan observers. This raises the further question of the inadequacy of and possible corruption within Afghanistan's land titling system. Other observers who have served in Afghanistan say that Karzai has appointed some provincial governors to "reward them" and that these appointments have gone on to "prey" economically on the populations of that province.

Kabul Bank Difficulties

The near-collapse of Kabul Bank is another example of how well-connected Afghans can avoid regulations and other restrictions in order to garner personal profit. Mahmoud Karzai is a major (7+%) shareholder in the large Kabul Bank, which is used to pay Afghan civil servants and police, and he reportedly received large loans from the bank to buy his position in it. Another big shareholder is Abdul Hussain Fahim, mentioned above, the brother of First Vice President Fahim and partner of Mahmoud Karzai on other ventures. The insider relationships were exposed in August and September 2010 when Kabul Bank reported large losses from shareholder investments in Dubai properties, prompting President Karzai to appoint a Central Bank official to run the Kabul Bank. However, the moves did not prevent large numbers of depositors from moving their money out of it. U.S. officials have asserted that no U.S. funds will be used to recapitalize the bank, if that is needed. The Afghan government said on November 27, 2010, that it had injected "far less" than \$500 million into the Bank to keep it solvent and it is still operating, but doubts remain whether it can survive long term.

On January 15, 2011, the office of Afghan Attorney General Ishaq Aloko announced an investigation into what led to the near-collapse of the bank and the principals involved. As of January 2011, major shareholders have not, as directed, repaid most of the loans that the Bank had made to them. The International Monetary Fund (IMF) has demanded, as a continuation of its credit program for the Afghan government, that Kabul Bank and the entire Afghan banking industry undergo an outside audit. The United States has offered to finance and audit of Afghan banks. However, the Finance Ministry said on November 27, 2010, it would hire its own auditor—a move that suggested to some that high Afghan officials seek to avoid sharing with international donors the results of any audits.

Lower-Level Corruption

Aside from the issue of high-level nepotism, observers who follow the issue say that most of the governmental corruption takes place in the course of performing mundane governmental functions, such as government processing of official documents (ex. passports, drivers' licenses), in which processing services routinely require bribes in exchange for action.²⁴ Other forms of corruption include Afghan security officials' selling U.S./internationally provided vehicles, fuel, and equipment to supplement their salaries. In other cases, local police or border officials may siphon off customs revenues or demand extra payments to help guard the U.S. or other militaries'

²⁴ Filkins, Dexter, "Bribes Corrode Afghan's Trust in Government," *New York Times*, January 2, 2009.

equipment shipments. Other examples security commanders' placing "ghost employees" on official payrolls in order to pocket their salaries.

Administration Views

As noted throughout, there is a consensus within the Administration on the wide scope of the corruption in Afghan government and the deleterious effect the corruption has on winning the Afghan population over to the government side. The Administration wrestled throughout 2010 with the degree to which to press an anti-corruption agenda with the Karzai government, but press accounts in January 2011 indicate that a new Administration anti-corruption strategy document prioritizes reducing low-level corruption, and less so on investigations of high-level allies of Karzai.²⁵ The latter investigations have sometimes come into conflict with other U.S. objectives by causing a Karzai backlash. In addition, such investigations may complicate efforts to obtain the cooperation of Afghans who can help stabilize areas of the country. Some of these Afghans are said to be paid by the CIA for information and other support, and the National Security Council reportedly has issued guidance to U.S. agencies to review which Afghans are receiving any direct U.S. funding.²⁶

Yet, U.S. officials believe that an anti-corruption effort must be pursued because corruption is contributing to a souring of Western publics on the mission as well as causing some Afghans to embrace Taliban insurgents. General Petraeus, the top U.S. and NATO commander in Afghanistan, has said he is making anti-corruption a top priority to support his counter-insurgency strategy. A key deputy, Gen. H.R. McMaster, is said to focus on anti-corruption from a U.S. military/counter-insurgency perspective, although some observers assert that he has often sidestepped working with civilian officers at U.S. Embassy Kabul working on that issue. State Dept. officials assert that anti-corruption efforts is more appropriately an issue to be handled by U.S. civilian officials, not the U.S. military. In September 2010, Gen. Petraeus issued guidance throughout the theater for subordinate commanders to review their contracting strategies so as to enhance Afghan capacity and reduce the potential for corruption.

Choosing to emphasize other priorities, the Obama Administration's strategy announcements in 2009 and 2010 did not make U.S. forces or assistance contingent on progress on this issue. However, the December 2009 stipulation of July 2011 as the beginning of a "transition" process to Afghan leadership implied that U.S. support is not open-ended or unconditional. In the December 1, 2009, statement, the President said "We expect those [Afghan officials] who are ineffective or corrupt to be held accountable." As noted, pressing Karzai on corruption reportedly was a key component of President Obama's brief visit to Afghanistan on March 28, 2010. Attorney General Eric Holder visited Afghanistan during June 2010 to discuss anti-corruption efforts with his Afghan counterparts, including Afghan Attorney General Mohammad Ishaq Aloko.

²⁵ Strobel, Warren and Marisa Taylor. "U.S. Won't Pursue Karzai Allies in Anti-Corruption Campaign." McClatchy Newspapers, January 6, 2011.

²⁶ Chandrasekaran, Rajiv. "A Subtler Tack to Fight Afghan Corruption." Washington Post, September 13, 2010.

Karzai Responses

Karzai has taken note of the growing U.S. criticism, and Obama Administration officials have credited him with taking several steps, tempered by congressional and some Administration criticism of slow implementation and allegations that he continues to shield his closest allies from investigation or prosecution. At the January 28, 2010, London conference, the Afghan government committed to 32 different steps to curb corruption; many of them were pledged again at the July 20, 2010, Kabul conference. Only a few of the pledges have been completed outright, others have had their deadlines extended or been modified. The following are measures pledged and the status of implementation, if any:

- *Assets Declarations and Verifications.* During December 15-17, 2009, Karzai held a conference in Kabul to combat corruption. It debated, among other ideas, requiring deputy ministers and others to declare their assets, not just those at the ministerial level. That requirement was imposed. Karzai himself earlier declared his assets on March 27, 2009. On June 26, 2010, Karzai urged anti-corruption officials to monitor the incomes of government officials and their families, including his, to ensure their monies are earned legally. The July 20, 2010, Kabul conference communiqué²⁷ included an Afghan pledge to verify and publish these declarations annually, beginning in 2010. This will presumably be accomplished by a Joint Monitoring and Evaluation Committee, which, according to the Kabul conference communiqué, is to be established within three months of the conference.
- *Establishment of High Office of Oversight.* In August 2008 Karzai, with reported Bush Administration prodding, set up the “High Office of Oversight for the Implementation of Anti-Corruption Strategy” (commonly referred to as the High Office of Oversight, HOO) with the power to identify and refer corruption cases to state prosecutors, and to catalogue the overseas assets of Afghan officials. On March 18, 2010, Karzai, as promised during the January 28, 2010, international meeting on Afghanistan in London, issued a decree giving the High Office direct power to investigate corruption cases rather than just refer them to other offices. The United States gave the High Office about \$1 million in assistance during FY2009 and its performance was audited by the Special Inspector General for Afghanistan Reconstruction (SIGAR), in an audit released in December 2009.²⁸ USAID will provide the HOO \$30 million during FY2011-FY2013 to build capacity at the central and provincial level, according to USAID officials. USAID pays for salaries of 6 HOO senior staff and provides some information technology systems as well.
- *Establishment of Additional Investigative Bodies: Major Crimes Task Force and Sensitive Investigations Unit.* Since 2008, several additional investigative bodies have been established under Ministry of Interior authority. The most prominent is the “Major Crimes Task Force,” tasked with investigating public corruption, organized crime, and kidnapping. A headquarters for the MCTF was inaugurated on February 25, 2010. According to the FBI press release that day, the MTCF is Afghan led, but it is funded and mentored by the FBI, the DEA, the U.S. Marshal

²⁷ Communiqué text at <http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html>.

²⁸ <http://www.sigar.mil/reports/pdf/audits/SIGAR20Audit-10-2.pdf>.

Service, Britain's Serious Crimes Organized Crime Agency, the Australian Federal Police, EUPOL (European police training unit in Afghanistan), and the U.S.-led training mission for Afghan forces. The MCTF currently has 169 investigators working on 36 cases, according to the late SRAP's July 28, 2010, testimony.

A related body is the Sensitive Investigations Unit (SIU), run by several dozen Afghan police officers, vetted and trained by the DEA.²⁹ This body led the arrest in August 2010 of a Karzai NSC aide, Mohammad Zia Salehi, on charges of soliciting a bribe from the large New Ansari money trading firm in exchange for ending a money-laundering investigation of the firm. The middle-of-the-night arrest prompted Karzai, by his own acknowledgment on August 22, 2010, to obtain Salehi's release and to say he would establish a commission to place the MCTF and SIU under more thorough Afghan government control. Following U.S. criticism that Karzai is protecting his aides (Salehi reportedly has been involved in bringing Taliban figures to Afghanistan for conflict settlement talks), Karzai pledged to visiting Senate Foreign Relations Committee Chairman John Kerry on August 20, 2010, that the MCTF and SIU would be allowed to perform their work without political interference. In November 2010, the Attorney General's office said it had ended the prosecution of Salehi.

- *Anti-Corruption Unit," and an "Anti-Corruption Tribunal."* These investigative and prosecutory bodies have been established by decree. Eleven judges have been appointed to the tribunal. The tribunal, under the jurisdiction of the Supreme Court, tries cases referred by an Anti-Corruption Unit of the Afghan Attorney General's office. According to testimony before the House Appropriations Committee (State and Foreign Operations Subcommittee) by Ambassador Richard Holbrooke on July 28, 2010, the Anti-Corruption Tribunal has received 79 cases from the Anti-Corruption Unit and is achieving a conviction rate of 90%. President Obama said on September 10, 2010, that 86 Afghan judges have been indicted in 2010 for corruption, up from 11 four years ago. The July 20, 2010, Kabul conference included a pledge by the Afghan government to establish a statutory basis for the Anti-Corruption Tribunal and the Major Crimes Task Force with laws to be passed by parliament and signed by July 20, 2011. The December 10, 2010 U.N. report, cited earlier, says the Afghan cabinet has drafted new anti-corruption and auditing laws (p.8).
- *Implementation: Prosecutions and Investigations of High-Level Officials.* According to the Afghanistan Attorney General's office on November 9, 2010, there are ongoing investigations of at least 20 senior officials, including two sitting members of the cabinet. The two are believed to be Minister of Mining Sharani, and his father, who is a cabinet-rank adviser to Karzai on religious affairs. Two former ministers under investigation currently are former Commerce Minister Amin Farhang for allegedly submitting inflated invoices for reimbursement, and former Transportation Minister Hamidullah Qadri. There have also been investigations of former Minister of Mines Mohammad Ibrahim Adel, who reportedly accepted a \$30 million bribe to award a key mining project

²⁹ Nordland, Ron and Mark Mazzetti. "Graft Dispute in Afghanistan Is Test for U.S." *New York Times*, August 24, 2010.

in Lowgar Province (Aynak Copper Mine) to China;³⁰ and former Minister of the Hajj Mohammad Siddiq Chakari, under investigation for accepting bribes to steer Hajj-related travel business to certain foreign tourist agencies. Chakari was able to flee Afghanistan to Britain. Karzai publicly criticized the December 2009 embezzlement conviction of then Kabul Mayor Abdul Ahad Sahibi. On December 13, 2009, the deputy Kabul mayor (Wahibuddin Sadat) was arrested at Kabul airport for alleged misuse of authority.

- *Salary Levels.* The government has tried to raise salaries of security forces in order to reduce their inclination to solicit bribes. In November 2009, the Afghan government also has announced an increase in police salaries (from \$180 per month to \$240 per month).
- *Bulk Cash Transfers.* At the July 2010 Kabul conference, the government pledged to adopt regulations and implement within one year policies to govern the bulk transfers of cash outside the country. This is intended to grapple with issues raised by reports, discussed below, of officials taking large amounts of cash out of Afghanistan (an estimated \$3 billion per year taken out). U.S. officials say that large movements of cash are inevitable in Afghanistan because only about 5% of the population use banks and 90% use informal cash transfers (“hawala” system). The late Ambassador Holbrooke testified on July 28, 2010 (cited earlier), that the Afghan Central Bank has begun trying to control hawala transfers; 475 hawalas have been licensed, to date. None were licensed as recently as three years ago. In June 2010, U.S. and Afghan officials announced establishment of a joint task force to monitor the flow of money out of Afghanistan, including monitoring the flow of cash out of Kabul International Airport. On August 21, 2010, it was reported that Afghan and U.S. authorities would implement a plan to install U.S.-made currency counters at Kabul airport to track how officials had obtained their cash (and ensure it did not come from donor aid funds).³¹ Secretary of Homeland Security Janet Napolitano visited Afghanistan January 2, 2011, to discuss a plan to triple the number of Homeland Security personnel devoted to training Afghan customs and border employees to curb bulk transfers and smuggling.
- *Auditing Capabilities.* The U.S. Special Inspector General for Afghanistan Reconstruction (SIGAR) has assessed that the mandate of Afghanistan’s Control and Audit Office is too narrow and lacks the independence needed to serve as an effective watch over the use of Afghan government funds.³² At the Kabul conference, the government pledged to submit to parliament an Audit Law within six months, to strengthen the independence of the Control and Audit Office, and to authorize more auditing by the Ministry of Finance. As noted above, the December 10, 2010 U.N. report says an audit law has been drafted (p.8).
- *Legal Review.* The Kabul conference communiqué commits the government to establish a legal review committee, within six months, to review Afghan laws for compliance with the U.N. Convention Against Corruption. Afghanistan ratified the convention in August 2008.

³⁰ Partlow, Joshua, “Afghanistan Investigating 5 Current and Former Cabinet Members,” *Washington Post*, November 24, 2009.

³¹ Miller, Greg and Joshua Partlow. “Afghans, U.S. Aim to Plug Cash Drain.” *Washington Post*, August 21, 2010.

³² Madhani, Aamer. “U.S. Reviews Afghan Watchdog Authority.” *USA Today*, May 12, 2010.

- *Local Anti-Corruption Bodies.* Some Afghans have taken it upon themselves to oppose corruption at the local level. Volunteer local inspectors, sponsored originally by Integrity Watch Afghanistan, are reported to monitor and report on the quality of donor-funded, contractor implemented construction projects. However, these local “watchdog” groups do not have an official mandate, and therefore their authority and ability to rectify inadequacies are limited.

Moves to Penalize Lack of Progress on Corruption

Several of the required U.S. “metrics” of progress, cited above, involve Afghan progress against corruption. A FY2009 supplemental appropriation (P.L. 111-32) mandated the withholding of 10% of about \$90 million in State Department counter-narcotics funding subject to a certification that the Afghan government is acting against officials who are corrupt or committing gross human rights violations. No U.S. funding for Afghanistan has been withheld because of this or any other legislative certification requirement. In FY2011 legislation in the 111th Congress, in June 2010, the Foreign Operations Subcommittee of the House Appropriations Committee deferred consideration of some of the nearly \$4 billion in civilian aid to Afghanistan requested for FY2011, pending the outcome of a committee investigation of the issue. The subcommittee’s action came amid reports that Afghan leaders are impeding investigations by the Afghan justice system of some politically well-connected Afghans, and following reports that as much as \$3 billion in funds have been allegedly embezzled by Afghan officials over the past several years.³³ In part on the basis of the findings of the House Appropriations Committee investigation, the Senate Appropriations Committee’s FY2011 omnibus appropriation marked up in December 2010 required Administration certifications of progress against corruption as a condition of providing aid to Afghanistan. However, the bill was not enacted.

Rule of Law Efforts

U.S. efforts to curb corruption go hand-in-hand with efforts to promote rule of law. As of July 2010, the U.S. Embassy has an Ambassador rank official, Hans Klemm, as a rule of law coordinator, heading a “Rule of Law Directorate.” However, some observers report that the State Department efforts are being overtaken or displaced by parallel U.S. military efforts, particularly regarding the traditional justice sector. U.S. funding supports training and mentoring for Afghan justice officials, direct assistance to the Afghan government to expand efforts on judicial security, legal aid and public defense, gender justice and awareness, and expansion of justice in the provinces. At the July 20, 2010, Kabul conference, the Afghan government committed to:

- Enact its draft Criminal Procedure Code into law within six months.
- Improve legal aid services within the next 12 months. (The December 10, 2010 U.N. report cited earlier says that the Ministry of Justice has opened legal aid offices in some provinces in recent months.)
- Strengthen judicial capabilities to facilitate the return of illegally seized lands.
- Align strategy toward the informal justice sector (discussed below) with the National Justice Sector Strategy.

³³ Rosenberg, Matthew. “Corruption Suspected in Airlift of Billions in Cash From Kabul.” Wall Street Journal, June 28, 2010.

- Separate from the Kabul conference issues, USAID has provided \$56 million during FY2005-2009 to facilitate property registration. An additional \$140 million is being provided from FY2010-2014 to inform citizens of land processes and procedures, and to establish a legal and regulatory framework for land administration.

One concern is how deeply the international community should become involved in the informal justice sector. Afghans turn often to local, informal mechanisms (*shuras*, *jirgas*) to adjudicate disputes, particularly those involving local property, familial or local disputes, or personal status issues, rather than use the national court system. Some estimates say that 80% of cases are decided in the informal justice system. In the informal sector, Afghans can usually expect traditional practices of dispute resolution to prevail, including those practiced by Pashtuns. Some of these customs, including traditional forms of apology (“*nanawati*” and “*shamana*”) and compensation for wrongs done, are discussed at <http://www.khyber.org/articles/2004/JirgaRestorativeJustice.shtml>.

However, the informal justice system is dominated almost exclusively by males. For example, some disputes are resolved by families’ offering to make young girls available to marry older men from the family that is the counter-party to the dispute, resulting in numerous forced marriages and child marriages.

Some informal justice *shuras* take place in Taliban-controlled territory, and some Afghans may prefer Taliban-run *shuras* when doing so means they will be judged by members of their own tribe or tribal confederation. The rule of law issue is discussed in substantially greater depth in: CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Sun Wyler and Kenneth Katzman.

Expanding Local Governance

As U.S. concerns about corruption in the central government increased after 2007, U.S. policy has increasingly emphasized building local governance. This accords with U.S. strategy in Afghanistan, which is to build institutions that can govern and secure areas cleared by U.S. and NATO forces, preventing Taliban reinfiltration. The U.S. shift in emphasis complements that of the Afghan government, which asserts that it has itself long sought to promote local governance as the next stage in Afghanistan’s political and economic development.

A key indicator of the Afghan intent came in August 2007 when Karzai placed the selection process for local leaders (provincial governors and down) in a new Independent Directorate for Local Governance (IDLG)—and out of the Interior Ministry. As noted above, the IDLG is headed by Jelani Popal, a member of Karzai’s Popolzai tribe and a close Karzai ally. Some international officials say that Popal packed local agencies with Karzai supporters, where they were able to fraudulently produce votes for Karzai in the August 2009 presidential elections.

On the other hand, the senior civilian U.S. official in southern Afghanistan, Henry Ensher, said on January 13, 2011, that local governance is improving and expanding, particularly in areas secured by the 2010 U.S. “troop surge.” He says that Afghans are forming local councils and building ties to appointed local leaders in these cleared and secured areas.

Provincial Governors and Provincial Councils

Many believe that the key to effective local governance is the appointment of competent governors in all 34 Afghan provinces. U.N., U.S., and other international studies and reports all point to the beneficial effects (reduction in narcotics trafficking, economic growth, lower violence) of some of the strong Afghan civilian appointments at the provincial level. However, many of the governors are considered weak, ineffective, or corrupt. Others, such as Ghul Agha Shirzai and Atta Mohammad Noor, discussed above in the section on faction leaders, are considered effective, but also relatively independent of central authority.

One of the most widely praised gubernatorial appointments has been the March 2008 replacement of a weak and ineffective governor of Helmand with Gulab Mangal, who is from Laghman Province. The U.N. Office of Drugs and Crime (UNODC) praised Mangal in its September 2009 report for taking effective action to convince farmers to grow crops other than poppy. The UNODC report said his efforts account for the 33% reduction of cultivation in Helmand in 2009, as compared with 2008. Mangal has played a key role in convening tribal *shuras* and educating local leaders on the benefits of the U.S.-led offensive to remove Taliban insurgents from Marjah town and install new authorities there. A key Mangal ally, who has reportedly helped bring substantial stability to the Nawa district, is Abdul Manaf. In January 2011, the respect Mangal has earned was partly responsible for a deal under which the Alikozai tribe agreed to work with Afghan and U.S.-led forces to keep Taliban militants out of restive Sangin district of Helmand.

Still, there are widespread concerns about governing capacity at the local level. For example, out of over 200 job slots available for the Qandahar provincial and Qandahar city government, only about 30% are filled. In four key districts around Qandahar city, there are 44 significant jobs, including district governors, but only about 12 officials are routinely present for work.³⁴ As noted above, only a few dozen of the 150 local representative positions of the various ministry positions of the central government in Qandahar are filled. Similar percentages are reported in neighboring Helmand Province, the scene of substantial U.S.-led combat during 2010.

As far as the relationship between local representatives of the central government ministries and district governments, some difficulties have been noted. As noted above, the provincial governors and district governors do not control Afghan government funds; all budgeting and budget administration is done through the central government, either at ministry headquarters or through provincial offices of those ministries. Local officials sometimes disagree on priorities or on implementation mechanisms.

Provincial Councils

One problem noted by governance experts is that the role of the elected provincial councils is unclear. The elections for the provincial councils in all 34 provinces were held on August 20, 2009, concurrent with the presidential elections. The previous provincial council elections were held concurrent with the parliamentary elections in September 2005. The 2009 election results for the provincial councils were certified on December 29, 2009. In most provinces, the provincial councils do not act as true legislatures, and they are considered weak compared to the power and influence of the provincial governors.

³⁴ Partlow, Joshua and Karen DeYoung. "Afghan Government Falters in Kandahar." Washington Post, November 3, 2010.

Still, the provincial councils will play a major role in choosing the upper house of the National Assembly (*Meshrano Jirga*). The next selection process is to occur in late December 2010, after certification of results of the lower house elections. In the absence of district councils (no elections held or scheduled), the provincial councils elected in 2009 will choose two-thirds (68 seats) of the 102-seat *Meshrano Jirga*.

District-Level Governance

District governors are appointed by the president, at the recommendation of the IDLG. In some districts of Helmand that had fallen under virtual Taliban control until the July 2009 U.S.-led offensives in the province, there were no district governors in place at all. Some of the district governors, including in Nawa (mentioned above) and Now Zad district, returned after the U.S.-led expulsion of Taliban militants. The difficulty plaguing the expansion of district governance, in addition to security issues, is lack of resources. Only about half of all district governors (there are 364 districts) have any staff or vehicles.

The ISAF campaign plan to retake the Marjah area of Helmand (Operation Moshtarak), which ended Taliban control of the town, included recruiting, in advance, civilian Afghan officials who would govern the district once military forces had expelled Taliban fighters from it. Haji Zahir, a businessman who was in exile in Germany during Taliban rule, took up his position to become the chief executive in Marjah (which is to become its own district). He held meetings with Marjah residents, one of which included hosting a visit to Marjah by President Karzai (March 7, 2010). He had planned to expand his staff to facilitate the “build phase” of the ISAF counter-insurgency plan for the area. However, the expansion of that staff—and the building of governance in Marjah more generally—has been slow and some officials assigned to the city refused to serve in it for fear of Taliban assassination. As an example of the difficulties in building up local governance, Zahir was replaced in early July 2010, apparently because of his inability to obtain cooperation from Marjah tribal leaders. However, British civilian representatives in Marjah reported in October 2010 that many central government ministries now have personnel in place in Marjah and they live there and are showing up daily. Still, as noted, many slots are unfilled.

District Councils

No elections for district councils have been held due to boundary and logistical difficulties. However, in his November 19, 2009, inaugural speech, Karzai said the goal of the government is to hold these elections along with the 2010 parliamentary elections. However, subsequently, Afghan officials have said that there will not be district elections in September 2010 when the parliamentary elections were to be held.

Municipal and Village Level Authority

As are district governors, mayors of large municipalities are appointed. There are about 42 mayors nationwide, many with deputy mayors. Karzai pledged in his November 2009 inaugural that “mayoral” elections would be held “for the purpose of better city management.” However, no municipal elections have been held and none is scheduled.

As noted throughout, there has traditionally been village-level governance by groups of tribal elders and other notables. That structure remains, particularly in secure areas, while village councils have been absent or only sporadically active in areas where there is combat. As noted

above, U.S. official Ensher said in January 2011 that councils have been formed in areas where security has been established by the 2010 U.S. “troops surge.”

The IDLG, with advice from India and other donors, is also in the process of empowering localities to decide on development priorities by forming Community Development Councils (CDC’s). Thus far, there are about 30,000 CDC’s established, and they are eventually to all be elected.

U.S. Local Governance Advisory Capacity

As a consequence of the March 2009 Obama Administration review, to help build local governing capacity, the Administration recruited about 500 U.S. civilian personnel from the State Department, USAID, the Department of Agriculture, and several other agencies—and many additional civilians from partner countries will join them—to advise Afghan ministries, and provincial and district administrations. That effort raised the number of U.S. civilians in Afghanistan to about 975 by early 2010. Of these, nearly 350 are serving outside Kabul, up from 67 in early 2009. USAID Director Rajiv Shah testified on July 28, 2010, that 55% of USAID’s 420 personnel in Afghanistan are serving outside Kabul. A strategy document released by the office of the late Ambassador Holbrook in January 2010 said that the number of U.S. civilians is slated to grow by another 30% (to about 1,300) in 2010.³⁵ Those numbers are purported to have been achieved.

Although many U.S. civilian officials now work outside Kabul, there are about 1,100 employees at the U.S. Embassy in Kabul, rising to about 1,200 by the end of 2010. To accommodate the swelling ranks, in early November 2010 a \$511 million contract was let to Caddell Construction to expand it, and two contracts of \$20 million each were let to construct U.S. consulates in Herat and Mazar-e-Sharif.

Senior Civilian Representative Program

The Administration also has instituted appointments of “Senior Civilian Representatives” (SCR),³⁶ who are counterparts to the military commanders of each NATO/ISAF regional command (there are currently five of them). Each Senior Civilian Representative is to have 10-30 personnel on their team. For example, Henry Ensher serves in Qandahar as the SCR for Regional Command South; he is based at Qandahar airfield and interacts closely with the military command of the southern sector. Ensher replaced Frank Ruggiero, who, as of December 2010, has replaced the late Ambassador Holbrooke as SRAP on at least a temporary basis. In his former incarnation as SCR for RC-S, Ruggiero testified before the Senate Foreign Relations Committee on May 6, 2010. USAID official Dawn Liberi is SCR for Regional Command East (RC-E), which is U.S.-run. She was mentioned specifically by President Obama in his address to U.S. forces at Bagram Airfield (headquarters of RC-E) on March 28, 2010.

³⁵ For text, see <http://www.state.gov/documents/organization/135728.pdf>.

³⁶ For more information, see the Defense Department report on Afghanistan stability, April 2010, cited earlier. pp. 19-20.

Promoting Human Rights

None of the Obama Administration strategy reviews in 2009 or 2010 specifically changed U.S. policy on Afghanistan's human rights practices. U.S. policy has been to build capacity in human rights institutions in Afghanistan and to promote civil society and political participation. On human rights issues, the overall State Department judgment is that the country's human rights record remains poor, according to the department's report for 2009 (issued March 11, 2010).³⁷ The latest State Department report was similar in tone and substance to that of previous years, citing Afghan security forces and local faction leaders for abuses, including torture of detainees.

One of the institutional human rights developments since the fall of the Taliban has been the establishment of the Afghanistan Independent Human Rights Commission (AIHRC). It is headed by a woman, Sima Simar, a Hazara Shiite from Ghazni Province. It acts as an oversight body but has what some consider to be too cozy relations with Karzai's office and is not as aggressive as some had hoped. The July 20, 2010, Kabul conference communiqué contained a pledge by the Afghan government to begin discussions with the AIHRC, within six months, to stabilize its budgetary status. USAID has given the AIHRC about \$10 million per year since the fall of the Taliban. The previously cited U.N. report of December 10, 2010 says the Afghan cabinet has approved inserting a line item in the annual Afghan budget for the AIHRC (p.8).

Media and Freedom of Expression/Social Freedoms

Afghanistan's conservative traditions have caused some backsliding in recent years on media freedoms, which were hailed during 2002-2008 as a major benefit of the U.S. effort in Afghanistan. A press law was passed in September 2008 that gives some independence to the official media outlet, but also contains a number of content restrictions, and requires that new newspapers and electronic media be licensed by the government. Backed by Islamic conservatives in parliament, such as Sayyaf (referenced above), and Shiite clerics such as Ayatollah Asif Mohseni, Afghanistan's conservative Council of Ulema (Islamic scholars) has been ascendant. With the council's backing, in April 2008 the Ministry of Information and Culture banned five Indian-produced soap operas on the grounds that they are too risqué, although the programs were restored in August 2008 under a compromise that also brought in some Islamic-oriented programs from Turkey. At the same time, according to the State Department there has been a growing number of arrests or intimidation of journalists who criticize the central government or local leaders. Radio Free Europe/Radio Liberty's "Radio Azadi" service for Afghanistan has distributed 20,000 solar powered radios to poor (and usually illiterate) Afghans to improve their access to information.

Ulema Council

Press reports in September 2010 note that the Ulema Council, a network of 3,000 clerics throughout Afghanistan, has increasingly taken conservative positions more generally. Each cleric in the council is paid about \$100 per month and, in return, is expected to promote the government line. However, in August 2010, 350 members of the Council voted to demand that Islamic law (Sharia) be implemented. If the government were inclined to adopt that recommendation, either on its own or as part of a peace agreement with major Taliban leaders, it is likely that doing so

³⁷ Department of State. 2009 Human Rights Report: Afghanistan, March 11, 2010.

would require amending the Afghan constitution, which does not implement Sharia. Some believe the Ulema Council is drifting out of government control in part because of the incapacity of its chairman, former Supreme Court Chief Justice Fazl Hadi Shinwari, who has been in a coma in India for several months. No replacement for him has been named by the government.

In September 2010, some Ulema Council figures organized protests against plans by a Florida pastor to burn Qurans on the anniversary of the September 11 attacks (plans which were abandoned). As another example of the growing power of harder line Islamists, alcohol is increasingly difficult to obtain in restaurants and stores, although it is not banned for sale to non-Muslims. There were reports in April 2010 that Afghan police had raided some restaurants and prevented them from selling alcoholic beverages at all.

Harsh Punishments

In October 2007, Afghanistan resumed enforcing the death penalty after a four-year moratorium, executing 15 criminals. In August 2010, the issue of stoning to death as a punishment arose when Taliban insurgents ordered a young couple who had eloped stoned to death in a Taliban-controlled area of Konduz Province. Although the punishment was not meted out by the government, it was reported that many residents of the couple's village supported the punishment. The stoning also followed one week after the national Council of Ulema issued a statement (August 10, 2010), following a meeting with government religious officials, calling for more application of Shariah punishments (including such punishments as stoning, amputations, and lashings) in order to better prevent crime.

Religious Freedom

The 2010 International Religious Freedom report (released November 17, 2010)³⁸ says that respect for religious freedom deteriorated throughout the reporting period, particularly for Christian groups and individuals. Members of minority religions, including Christians, Sikhs, Hindus, and Baha'i's, often face discrimination; the Supreme Court declared the Baha'i faith to be a form of blasphemy in May 2007. Northeastern provinces have a substantial population of Ismailis, a Shiite Muslim sect often called "Seveners" (believers in the Seventh Imam as the true Imam). Many Ismailis follow the Agha Khan IV (Prince Qarim al-Husseini), who chairs the large Agha Khan Foundation that has invested heavily in Afghanistan.

One major case that drew international criticism was a January 2008 death sentence, imposed in a quick trial, against 23-year-old journalist Sayed Kambaksh for allegedly distributing material critical of Islam. On October 21, 2008, a Kabul appeals court changed his sentence to 20 years in prison, a judgment upheld by another court in March 2009. He was pardoned by Karzai and released on September 7, 2009.

A positive development is that Afghanistan's Shiite minority, mostly from the Hazara tribes of central Afghanistan (Bamiyan and Dai Kundi provinces) can celebrate their holidays openly, a development unknown before the fall of the Taliban. Some Afghan Shiites follow Iran's clerical leaders politically, but Afghan Shiites tend to be less religious and more socially open than their co-religionists in Iran. The Hazaras are also advancing themselves socially and politically through

³⁸ <http://www.state.gov/g/drl/rls/irf/2010/148786.htm>.

education in such fields as information technology.³⁹ The former Minister of Justice, Sarwar Danesh, is a Hazara Shiite, the first of that community to hold that post. He studied in Qom, Iran, a center of Shiite theology. (Danesh was voted down by the parliament for reappointment on January 2, 2010, and again on June 28 when nominated for Minister of Higher Education.) The justice minister who was approved on January 16, 2010, Habibullah Ghalib, is part of Dr. Abdullah's faction, but not a Shiite Muslim. Ghaleb previously (2006) was not approved by the *Wolesi Jirga* for a spot on the Supreme Court. There was unrest among some Shiite leaders in late May 2009 when they learned that the Afghan government had dumped 2,000 Iranian-supplied religious texts into a river when an Afghan official complained that the books insulted the Sunni majority.

Several conversion cases have earned international attention. An Afghan man, Abd al-Rahman, who had converted to Christianity 16 years ago while working for a Christian aid group in Pakistan, was imprisoned and faced a potential death penalty trial for apostasy—his refusal to convert back to Islam. Facing international pressure, Karzai prevailed on Kabul court authorities to release him (March 29, 2006). His release came the same day the House passed H.Res. 736 calling on protections for Afghan converts. In May 2010, the Afghan government suspended the operations of two Christian-affiliated international relief groups claiming the groups were attempting to promote Christianity among Afghans—an assertion denied by the groups (Church World Service and Norwegian Church Aid). Another case arose in May 2010, when an amputee, Said Musa, was imprisoned for converting to Christianity from Islam. The arrest came days after the local Noorin TV station broadcast a show on Afghan Christians engaging in their rituals.

Human Trafficking

Afghanistan was placed in Tier 2: Watch List in the State Department report on human trafficking issued on June 14, 2010 (Trafficking in Persons Report for 2010). The placement was a downgrade from the Tier 2 placement of the 2009 report. The Afghan government is assessed in the report as not complying with minimum standards for eliminating trafficking, but making significant efforts to do so. However, the downgrade was attributed to the fact that the government did not prosecute any human traffickers under a 2008 law. The State Department report says that women from China, some countries in Africa, Iran, and some countries in Central Asia are being trafficked into Afghanistan for sexual exploitation. Other reports say some are brought to work in night clubs purportedly frequented by members of many international NGOs. In an effort to also increase protections for Afghan women, in August 2008 the Interior Ministry announced a crackdown on sexual assault—an effort to publicly air a taboo subject. The United States has spent about \$500,000 to eliminate human trafficking in Afghanistan since FY2001.

Advancement of Women

Freedoms for women have greatly expanded since the fall of the Taliban with their elections to the parliament and their service at many levels of government. Women are performing jobs that were rarely held by women even before the Taliban came to power in 1996, including in the new police force. There are over 200 female judges and 447 female journalists working nationwide. The most senior Afghan woman in the police force was assassinated in Qandahar in September

³⁹ Oppel, Richard Jr. and Abdul Waheed Wafa, "Hazara Minority Hustles to Head of the Class in Afghanistan," *New York Times*, January 4, 2010.

2008. Press reports say Afghan women are increasingly learning how to drive. Under the new government, the wearing of the full body covering called the *burqa* is no longer obligatory, and fewer women are wearing it than was the case a few years ago. In November 2010, the government opened a USAID-funded women-only park in Kabul called “Women’s Garden” where women can go, without male escort, and undertake fitness and job training activities.

Other institutions, such as Human Rights Watch, report backsliding due in part to the lack of security.⁴⁰ According to the State Department human rights report for 2009, numerous abuses, such as denial of educational and employment opportunities, continue primarily because of Afghanistan’s conservative traditions. Many Afghan women are further concerned that the efforts by Karzai and the international community to persuade insurgents to end their fight and rejoin the political process (“reintegration and reconciliation” process) could result in backsliding on women’s rights. Most insurgents are highly conservative Islamists who oppose the advancement of women that has occurred. They are perceived as likely to demand some reversals of that trend if they are allowed, as part of any deal, to control territory, assume high-level government positions, or achieve changes to the Afghan constitution. Karzai has said that these concessions are not envisioned, but skepticism remains, and some Afghan officials close to Karzai do not rule out the possibility of amending the constitution to accommodate some Taliban demands. Women have been a target of attacks by Taliban supporters, including attacks on girls’ schools and athletic facilities.

A major development in post-Taliban Afghanistan was the formation of a Ministry of Women’s Affairs dedicated to improving women’s rights, although numerous accounts say the ministry’s influence is limited. It promotes the involvement of women in business ventures, and it plays a key role in trying to protect women from domestic abuse by running a growing number of women’s shelters across Afghanistan. Husn Banu Ghazanfar remains minister in an acting capacity, having been voted down by the lower house for reappointment.

The Afghan government tried to accommodate Shiite leaders’ demands in 2009 by enacting (passage by the National Assembly and signature by Karzai in March 2009) a “Shiite Personal Status Law,” at the request of Shiite leaders. The law was intended to provide a legal framework for members of the Shiite minority in family law issues. However, the issue turned controversial when international human rights groups and governments—and Afghan women in a demonstration in Kabul—complained about provisions that would appear to sanction marital rape and which would allow males to control the ability of females in their family to go outside the home. President Obama publicly called these provisions “abhorrent.” In early April 2009, taking into account the outcry, Karzai sent the law back to the Justice Ministry for review, saying it would be altered if it were found to conflict with the Afghan constitution. The offending clauses were substantially revised by the Justice Ministry in July 2009, requiring that wives “perform housework,” but also apparently giving the husband the right to deny a wife food if she refuses sex. The revised law was passed by the National Assembly in late July 2009, signed by Karzai, and published in the official gazette on July 27, 2009, although it remains unsatisfactory to many human rights and women’s rights groups.

On August 6, 2009, perhaps in an effort to address some of the criticisms of the Shiite law, Karzai issued, as a decree, the “Elimination of Violence Against Women” law. Minister of Women’s

⁴⁰ “We Have the Promises of the World: Women’s Rights in Afghanistan,” Human Rights Watch, December 2009, http://www.wluml.org/sites/wluml.org/files/hrw_report_2009.pdf.

Affairs Ghazanfar told CRS in October 2009 that the bill was long contemplated and not related to the Shiite status law.⁴¹ However, it is subject to review and passage by the National Assembly, where some Islamic conservatives, such as Sayyaf (cited above) have been blocking final approval. Sayyaf and others reportedly object to the provisions of the law criminalizing child marriages. As noted previously, child marriages and forced marriages remain common.

Women in Key Positions

Despite conservative attitudes, women have moved into prominent positions in all areas of Afghan governance, although with periodic setbacks. Three female ministers were in the 2004-2006 cabinet: former presidential candidate Masooda Jalal (Ministry of Women's Affairs), Sediqa Balkhi (Ministry for Martyrs and the Disabled), and Amina Afzali (Ministry of Youth). Karzai nominated Soraya Sobhrang as minister of women's affairs in the 2006 cabinet, but she was voted down by Islamist conservatives in parliament. He eventually appointed another female, Husn Banu Ghazanfar, as minister. Ghazanfar, who is a Russian-speaking Uzbek from northern Afghanistan, has been the only woman in the cabinet for several years. She was renominated on December 19, 2009, was voted down on January 2, 2010, but remains in an acting capacity. Karzai subsequently named three women in new selections presented on January 9, 2010, including Afzali (to Labor and Social Affairs). Of the three, however, only Afzali was confirmed on January 16, 2009; the other two were opposed by Islamic conservatives. In March 2005, Karzai appointed a former minister of women's affairs, Habiba Sohrabi, as governor of Bamiyan province, inhabited mostly by Hazaras. (She hosted then First Lady Laura Bush in Bamiyan in June 2008.)

The constitution reserves for women at least 17 of the 102 seats in the upper house and about one quarter of the 249 seats in the lower house of parliament. There are 23 serving in the outgoing upper house, 6 more than Karzai's mandated bloc of 17 female appointees. There are 68 women in the outgoing lower house (when the quota was 62), meaning 6 were elected without the quota. About the same number will be in the incoming lower house, after certification of the results on November 24, 2010. (For the September 18, 2010, parliamentary elections, about 400 women ran—about 16% of all candidates.) The target ratio is ensured by reserving an average of two seats per province (34 provinces) for women—the top two female vote getters per province. (Kabul province reserves 9 female seats.) Two women ran for president for the August 20, 2009, election, as discussed below, although each received less than one-half of 1%. Some NGOs and other groups believe that the women elected by the quota system are not viewed as equally legitimate parliamentarians.

About 350 women were delegates to the 1,600-person “*peace jirga*” that was held during June 2-4, 2010, which endorsed an Afghan plan to reintegrate insurgents who want to end their fight. The High Peace Council to oversee the reconciliation process, which met for the first time on October 10, 2010, has eight women out of 68 members.

U.S. and International Posture on Women's Rights

U.S. officials have had some influence in persuading the government to codify women's rights. After the Karzai government took office, the United States and the new Afghan government set

⁴¹ CRS meeting with the Minister of Women's Affairs, October 13, 2009.

up a U.S.-Afghan Women's Council to coordinate the allocation of resources to Afghan women. Some believe that, in recent years, the U.S. government has dropped women's issues as a priority for Afghanistan. Some criticized President Obama's speech on December 1, 2009, for its absence of virtually any mention of women's rights. Promoting women's rights was discussed at the January 28, 2010, London conference but primarily in the context of the reintegration issue.

Specific earmarks for use of U.S. funds for women's and girls' programs in Afghanistan are contained in recent annual appropriations, and these earmarks have grown steadily. The United States provided \$153 million to programs for Afghan women in FY2009, and expects to provide \$175 million for FY2010, in line with these earmarks.⁴² A Senate Appropriations Committee version of FY2011 omnibus appropriations contains several provisions intended to guarantee protections for women and direct continued provisions of aid to programs for women.

According to State Department reports on U.S. aid to women and girls, covering FY2001-2008, and then FY2008-2009, the United States has numerous, multi-faceted projects directly in support of Afghan women, including women's empowerment, maternal and child health and nutrition, funding the Ministry of Women's Affairs, and micro-finance projects. Some programs focus on training female police officers.⁴³ Some donors, particularly those of Canada, have financed specific projects for Afghan women farmers.

The Afghanistan Freedom Support Act of 2002 (AFSA, P.L. 107-327) authorized \$15 million per year (FY2003-FY2006) for the Ministry of Women's Affairs. Those monies are donated to the Ministry from Economic Support Funds (ESF) accounts controlled by USAID. S. 229, the Afghan Women Empowerment Act of 2009, introduced in the 111th Congress, would authorize \$45 million per year in FY2010-FY2012 for grants to Afghan women, for the ministry of Women's Affairs (\$5 million), and for the AIHRC (\$10 million).

Democracy, Governance, and Elections Funding Issues

U.S. funding for democracy, governance, and rule of law programs has grown, in line with the Obama Administration strategy for Afghanistan. During FY2002-FY2008, a total of \$1.8 billion was spent on democracy, governance, rule of law and human rights, and elections support. Of these, by far the largest category was "good governance," which, in large part, are grant awards to provinces that make progress against narcotics.

The following was spent in FY2010 (regular appropriation and FY2010 supplemental request):

\$1.7 billion for all democracy and governance, including

- \$1.15 billion for "good governance;"
- \$411 million for rule of law and human rights (ESF funds controlled by USAID and INCLE funds);
- \$113 million for "civil society" building programs; and

⁴² For prior years, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman, in the section on aid to Afghanistan, year by year.

⁴³ Department of State and U.S. Agency for International Development, "Report on U.S. Government Activities 2008-2009 For Women and Girls in Afghanistan," October 20, 2009.

- \$25 million for political competition and consensus building (elections).

Key Components of FY2011 request:

- \$1.388 billion for all democracy and governance funds, including:
 - \$1.01 billion for “good governance.” This program is used to build the financial and management oversight capability of the central government.
 - \$248 million for rule of law and human rights;
 - \$80 million for civil society building; and
 - \$50 million for political competition and consensus building.

For comprehensive tables on U.S. aid to Afghanistan, by fiscal year and by category and type of aid, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

Recent Elections: 2009 and 2010

Elections are widely considered a key harbinger of the durability and extent of Afghanistan’s political development—and a metric to judge the legitimacy and popularity of the Afghan partner in the U.S. mission. The 2009 presidential and provincial elections were the first post-Taliban elections run by the Afghan government itself in the form of the Afghanistan Independent Electoral Commission. Donors, including the United States, invested almost \$500 million in 2009 to improve the capacity of the Afghan government to conduct the elections.⁴⁴

2009 Presidential Election

For the 2009 election, there were assertions of a lack of credibility of the IEC, because most of its commissioners, including then-Chairman Azizullah Ludin, were selected by and politically close to Karzai. As a check and balance to ensure electoral credibility, there was also a U.N.-appointed Elections Complaints Commission (ECC) that reviewed fraud complaints. Under the 2005 election law, there were three ECC seats for foreign nationals, appointed by the Special Representative of the U.N. Secretary General/head of U.N. Assistance Mission–Afghanistan, UNAMA. The two Afghans on the ECC governing council⁴⁵ were appointed by the Supreme Court and Afghanistan Independent Human Rights Commission, respectively.

Problems with the election began in late 2008 with a dispute over the election date. On February 3, 2009, Afghanistan’s Independent Election Commission (IEC) set August 20, 2009, as the election date (a change from a date mandated by Article 61 of the Constitution as April 21, 2009, in order to allow at least 30 days before Karzai’s term expired on May 22, 2009). The IEC decision on the latter date cited Article 33 of the Constitution as mandating universal accessibility to the voting—and saying that the April 21 date was precluded by difficulties in registering

⁴⁴ Report by the Special Inspector General for Afghanistan Reconstruction (SIGAR). September 9, 2010.

⁴⁵ ECC website, <http://www.ecc.org.af/en/>.

voters, printing ballots, training staff, advertising the elections, and the dependence on international donor funding, in addition to the security questions.⁴⁶

In response to UF insistence that Karzai's presidency ended May 22, and that a caretaker government should run Afghanistan until elections, Karzai issued a February 28, 2009, decree directing the IEC to set the elections in accordance with all provisions of the constitution. The IEC reaffirmed on March 4, 2009, that the election would be held on August 20, 2009. Karzai argued against his stepping down, saying that the Constitution does not provide for any transfer of power other than in case of election or death of a President. The Afghan Supreme Court backed that decision on March 28, 2009, and the Obama Administration publicly backed these rulings.

Election Modalities and Processes

Despite the political dispute between Karzai and his opponents, enthusiasm among the public appeared high in the run-up to the election. Registration, which updated 2005 voter rolls, began in October 2008 and was completed as of the beginning of March 2009. About 4.5 million new voters registered, and about 17 million total Afghans were registered. However, there were widespread reports of registration fraud (possibly half of all new registrants), with some voters registering on behalf of women who do not, by custom, show up at registration sites. U.S. and other election observers found instances of fraudulent registration cards and evidence that cards had been offered for sale. U.S./NATO military operations in some areas, including in Helmand in January 2009, were conducted to secure registration centers; however, some election observers noted that there was insufficient international assistance to the IEC, which ran the election, to ensure an untainted registration process.

Candidates filed to run during April 24-May 8, 2009. A total of 44 registered to run for president, of which three were disqualified for various reasons, leaving a field of 41 (later reduced to 32 after several dropped out).

In the provincial elections, 3,200 persons competed for 420 seats nationwide. Those elections were conducted on the "Single Non-Transferable Vote" (SNTV) system, in which each voter votes for one candidate in a multi-member constituency. That system encourages many candidacies and is considered to discourage the participation of political parties. Although about 80% of the provincial council candidates ran as independents, some of Afghanistan's parties, including Hezb-i-Islam, fielded multiple candidates in several different provinces.

The provincial elections component of the election received little attention, in part because the role of these councils is unclear. Of the seats up for election, about 200 women competed for the 124 seats reserved for women (29%) on the provincial councils, although in two provinces (Qandahar and Uruzgan) there were fewer women candidates than reserved seats. In Kabul Province, 524 candidates competed for the 29 seats of the council.

The European Union, supported by the Organization for Security and Cooperation in Europe (OSCE) sent a few hundred observers, and the International Republican Institute and National Democratic Institute sent observers as well. About 8,000 Afghans assisted the observation missions, according to the U.N. Nations Development Program. Because much of Afghanistan is

⁴⁶ Statement of the Independent Election Commission Secretariat, February 3, 2009, provided to CRS by a Karzai national security aide.

inaccessible by road, ballots were distributed (and were brought for counting) by animals in addition to vehicles and fixed and rotary aircraft.

Security was a major issue for all the international actors supporting the Afghan elections process, amid open Taliban threats against Afghans who vote. In the first round, about 7,000 polling centers were to be established (with each center having multiple polling places, totaling about 29,000), but, of those, about 800 were deemed too unsafe to open, most of them in restive Helmand and Qandahar provinces. A total of about 6,200 polling centers opened on election day.

The total cost of the Afghan elections in 2009 were about \$300 million. Other international donors contributing funds to close the gap left by the U.S. contribution of about \$175 million.

The Political Contest and Campaign

The presidential competition took shape in May 2009. In the election-related political deal-making,⁴⁷ Karzai obtained an agreement from Fahim to run as his first vice presidential running mate. Karzai, Fahim, and incumbent second Vice President Karim Khalili (a Hazara) registered their ticket on May 4, 2009, just before Karzai left to visit the United States for the latest round of three-way strategic talks (U.S.-Pakistan-Afghanistan).

Karzai convinced several prominent Pashtuns not to run. Ghul Agha Shirzai, a member of the powerful Barakzai clan, reportedly reached an arrangement with Karzai the week of the registration period that headed off his candidacy. Anwar al-Haq Ahady, the former finance minister and Central Bank governor, did not run.

Anti-Karzai Pashtuns did not coalesce around one challenger. Former Interior Minister Ali Jalali (who resigned in 2005 over Karzai's compromises with faction leaders), and former Finance Minister (2002-2004) and Karzai critic Ashraf Ghani did not reach agreement to forge a single ticket. In the end, Ghani, the 56-year-old former World Bank official, registered his candidacy, but without Jalali or prominent representation from other ethnicities in his vice presidential slots.

The UF had difficulty forging a united challenge to Karzai. Dr. Abdullah registered to run with UF backing. His running mates were Dr. Cheragh Ali Cheragh, a Hazara who did poorly in the 2004 election, and a little known Pashtun, Homayoun Wasefi. However, the presence of a key Tajik, Fahim, on Karzai's ticket showed the UF to be split.

The Campaign

Karzai went into the election as a clear favorite, but the key question was whether he would win in the first round (more than 50% of the vote). IRI and other pre-election polls showed him with about 45% support. Dr. Abdullah polled about 25% and emerged as the main challenger. The conventional wisdom has always been that the two-round format favors a Pashtun candidate.

Although Karzai's public support was harmed by perceptions of ineffectiveness and corruption, many Afghan voters apparently see many of Afghanistan's problems as beyond Karzai's control. He used some U.S. policy setbacks to bolster his electoral prospects, for example by railing

⁴⁷ Some of the information in this section obtained in CRS interviews with a Karzai national security aide, December 2008.

against civilian casualties resulting from U.S./NATO operations, and by proposing new curbs on international military operations in Afghanistan. Karzai said he would hold a *loya jirga*, if elected, including Taliban figures, to try to reach a settlement with the insurgency. He restated that intent in his November 19, 2009, inaugural speech and has moved on that front, as noted.

Karzai was criticized for a campaign that relied on personal ties to ethnic faction leaders rather than a retail campaign based on public appearances. Karzai agreed to public debates with rivals, although he backed out of a scheduled July 23 debate with Abdullah and Ghani (on the private Tolo Television network) on the grounds that the event was scheduled on short notice and was limited to only those three. Abdullah and Ghani debated without Karzai, generating additional criticism of Karzai. Karzai did attend the next debate (on state-run Radio-Television Afghanistan) on August 16, debating Ghani and Bashardost, but without Abdullah. Karzai was said to benefit from his ready access to media attention, which focuses on his daily schedule as president.

Dr. Abdullah stressed his background of mixed ethnicity (one parent is Pashtun and one is Tajik) to appeal to Pashtuns, but his experience and background has been with other Tajik leaders and he campaigned extensively in the north and west, which are populated mainly by Tajiks. However, he also campaigned in Qandahar, in Pashtun heartland. Both Karzai and Abdullah held large rallies in Kabul and elsewhere.

Ghani polled at about 6% just before the election, according to surveys. Ghani appeared frequently in U.S. and Afghan media broadcasts criticizing Karzai for failing to establish democratic and effective institutions, but he has previously spent much time in the United States and Europe and many average Afghans viewed him as out of touch with day-to-day problems in Afghanistan. Ghani made extensive use of the Internet for advertising and fundraising, and he hired political consultant James Carville to advise his campaign.⁴⁸

Another candidate who polled unexpectedly well was 54-year-old anti-corruption parliamentarian Ramazan Bashardost, an ethnic Hazara. He was polling close to 10% just before the election. He ran a low-budget campaign with low-paid personnel and volunteers, but attracted a lot of media. This suggests that, despite most Hazara ethnic leaders, such as Mohammad Mohaqiq, endorsing Karzai, Bashardost would do well among Hazaras, particularly those who are the most educated. Some believe the Shiite personal status law, discussed above, was an effort by Karzai to win Hazara Shiite votes. According to the preliminary results, Bashardost carried several Hazara provinces, including Ghazni and Dai Kondi, but Mohaqiq's backing apparently helped Karzai carry the Hazara heartland of Bamiyan province. Other significant candidates are shown below.

⁴⁸ Mulrine, Anna, "Afghan Presidential Candidate Takes a Page From Obama's Playbook," *U.S. News and World Report*, June 25, 2009.

Other Candidates

Abd al-Salam Rocketi ("Mullah Rocketi"). A Pashtun, reconciled Taliban figure, member of the lower house of parliament. Was expected to do well if Taliban sympathizers participated, but received less than 1% (preliminary totals), putting him in 9th place out of 32.

Hedayat Amin Arsala. A Pashtun, was a vice president during 2001-2004. He was Foreign Minister in the 1992-96 Rabbani-led *mujahedin* government. He is a prominent economist and perceived as close to the former royal family. Finished 30th out of 32.

Abd al Jabbar Sabit. A Pashtun, was fired by Karzai in 2007 for considering a run against Karzai in the election. Finished in 19th place.

Shahnawaz Tanai. A Pashtun. Served as defense minister in the Communist government of Najibullah (which was left in place after the Soviets withdrew in 1989) but led a failed coup against Najibullah in April 1990. Finished an unexpectedly strong sixth place and did well in several Pashtun provinces.

Mirwais Yasini. Another strong Pashtun candidate, was viewed as a dark horse possible winner. 48-year-old deputy speaker of the lower house of parliament, but also without well-known non-Pashtun running mates. Finished fifth.

Frozan Fana and Shahla Ata. The two women candidates in the race. Fana is the wife of the first post-Taliban aviation minister, who was killed during an altercation at Kabul airport in 2002. These two candidates are widely given almost no chance of winning, but attracted substantial media attention as trail-blazers. Fana finished seventh but Ata finished in 14th place.

The Election Results

Taliban intimidation and voter apathy appears to have suppressed the total turnout to about 5.8 million votes cast, or about a 35% turnout, far lower than expected. Twenty-seven Afghans, mostly security forces personnel, were killed in election-day violence. Turnout was said by observers and U.S. and other military personnel based there to have been very low in Helmand Province, despite the fact that Helmand was the focus of a U.S. military-led offensive.

Some observers said that turnout among women nationwide was primarily because there were not sufficient numbers of female poll workers recruited by the IEC to make women feel comfortable enough to vote. In general, however, election observers reported that poll workers were generally attentive and well trained, and the voting process appeared orderly.

In normally secure Kabul, turnout was said to be far lighter than in the 2004 presidential election. Turnout might have been dampened by a suicide bombing on August 15, 2009, outside NATO/ISAF military headquarters and intended to intimidate voters not to participate. In addition, several dozen provincial council candidates, and some workers on the presidential campaigns, were killed in election-related violence. A convoy carrying Fahim (Karzai vice presidential running mate, see below) was bombed, although Fahim was unharmed.

Clouding the election substantially were the widespread fraud allegations coming from all sides. Dr. Abdullah held several news conferences after the election, purporting to show evidence of systematic election fraud by the Karzai camp. Karzai's camp made similar allegations against Abdullah as applied to his presumed strongholds in northern Afghanistan. The ECC, in statements, stated its belief that there was substantial fraud likely committed, and mostly by Karzai supporters. However, the low turnout in the presumed Karzai strongholds in southern Afghanistan led Karzai and many Pashtuns to question the election's fairness as well, on the grounds that Pashtuns were intimidated from voting in greater proportions than were others.

The IEC released vote results slowly. Preliminary results were to be announced by September 3. However, the final, uncertified total was released on September 16, 2009. It showed Karzai at 54.6% and Dr. Abdullah at 27.7%. Bashardost and Ghani received single-digit vote counts (9% and 3% respectively), with trace amounts for the remainder of the field.

Vote Certified/Runoff Mandated

The constitution required that a second-round runoff, if needed, be held two weeks after the results of the first round are certified. Following the release of the vote count, the complaints evaluation period began which, upon completed, would yield a “certified” vote result. On September 8, 2009, the ECC ordered a recount of 10% of polling stations (accounting for as many as 25% total votes) as part of its investigations of fraud. Polling stations were considered “suspect” if: the total number of votes exceeded 600, which was the maximum number allotted to each polling station; or where any candidate received 95% or more of the total valid votes cast at that station (assuming more than 100 votes were cast there). Perhaps reflecting political sensitivities, the recount consisted of a sampling of actual votes.⁴⁹ Throughout the investigation period (September 16-October 20), the ECC said it was not “in a rush” to finish.

On October 20, 2009, the ECC determined, based on its investigation, that about 1 million Karzai votes, and about 200,000 Abdullah votes, were considered fraudulent and were deducted from their totals. The final, certified, results of the first round were as follows: Karzai—49.67% (according to the IEC; with a slightly lower total of about 48% according to the ECC determination); Abdullah—30.59%; Bashardost—10.46%; Ghani—2.94%, Yasini—1.03%, and lower figures for the remaining field.⁵⁰

During October 16-20, 2009, U.S. and international officials, including visiting Senator John Kerry, met repeatedly with Karzai to attempt to persuade him to acknowledge that his vote total did not legitimately exceed the 50%+ threshold to claim a first-round victory. On October 21, 2009, the IEC accepted the ECC findings and Karzai conceded the need for a runoff election. A date was set as November 7, 2009. Abdullah initially accepted.

In an attempt to produce a fair second round, UNAMA, which provided advice and assistance to the IEC, requested that about 200 district-level election commissioners be replaced. In addition, it recommended there be fewer polling stations—about 5,800, compared to 6,200 previously—to eliminate polling stations where very few votes are expected to be cast. Still, there were concerns that some voters may be disenfranchised because snow had set in some locations. Insurgents were expected to resume their campaign to intimidate voters from casting ballots.

After a runoff was declared, no major faction leader switched support of either candidate, making it difficult to envision an Abdullah victory. Prior to the ECC vote certification, Dr. Abdullah told CRS at a meeting in Kabul on October 15, 2009, that he might be willing to negotiate with Karzai on a “Joint Program” of reforms—such as direct election of governors and reduced presidential powers—to avoid a runoff. However, some said the constitution does not provide for a negotiated settlement and that the runoff must proceed. Others said that a deal between the two, in which Abdullah dropped his candidacy, could have led the third-place finisher, Bashardost, to assert that

⁴⁹ “Afghan Panel to Use Sampling in Recount,” *USA Today*, September 22, 2009.

⁵⁰ See IEC website for final certified tallies, <http://www.iec.org.af/results>.

he must face Karzai in a runoff. Still others say the issue could have necessitated resolution by Afghanistan's Supreme Court.

Election Conclusion

The various pre-runoff scenarios were mooted on November 1, 2009, when Dr. Abdullah refused to participate in the runoff on the grounds that the problems that plagued the first round were likely to recur. He asserted that Karzai, in negotiations during October 2009, was refusing to replace the IEC head, Azizullah Ludin, or to fire several cabinet ministers purportedly campaigning for Karzai. Some believe Abdullah pulled out because of his belief that he would not prevail in the second round.

On November 2, 2009, the IEC issued a statement saying that, by consensus, the body had determined that Karzai, being the only candidate remaining in a two-person runoff, should be declared the winner and the second round not held. The Obama Administration accepted the outcome as "within Afghanistan's constitution," on the grounds that the fraud had been investigated. On that basis, the United States, as well as U.N. Secretary General Ban Ki Moon (visiting Kabul), and several governments, congratulated Karzai on the victory. U.S. officials, including Secretary of State Clinton, praised Dr. Abdullah for his relatively moderate speech announcing his pullout, in particular his refusal to call for demonstrations or violence. Dr. Abdullah denied that his pullout was part of any "deal" with Karzai for a role for his supporters in the next government. Amid U.S. and international calls for Karzai to choose his next cabinet based on competence, merit, and dedication to curbing corruption, Karzai was inaugurated on November 19, 2009, with Secretary of State Clinton in attendance.

As noted above, the election for the provincial council members were not certified until December 29, 2009. The council members have taken office.

Because of the widespread fraud, the process did not produce full legitimacy. The marred elections process was a major factor in a September-November 2009 high-level U.S. strategy reevaluation because of the centrality of a credible, legitimate partner Afghan government to U.S. strategy.⁵¹

Fallout for UNAMA

The political fallout for UNAMA was significant. During the complaint period, a dispute between UNAMA head Kai Eide and the American deputy, Ambassador Peter Galbraith, broke out over how vigorously to press for investigation of the fraud. This led to the September 29, 2009, dismissal by Secretary General Ban Ki Moon of Galbraith, who had openly accused UNAMA head Kai Eide of soft-pedaling on the fraud charges and siding with Karzai. Galbraith appealed his dismissal, amid press reports that he had discussed a plan with some U.S. officials to replace Karzai with an interim government, if the second round could not be held until after the winter. In December 2009, Eide announced he would not seek to renew his two year agreement to serve as UNAMA chief. The replacement named at the January 28, 2010, London conference was Staffan

⁵¹ Fidler, Stephen and John W. Miller, "U.S. Allies Await Afghan Review," *Wall Street Journal*, September 25, 2009.

de Mistura, who previously played a similar U.N. role in Iraq. He arrived in Kabul in mid-March 2010.

Post-Election Cabinet

U.S. officials stated they would scrutinize the post-election cabinet for indications that Karzai would professionalize his government and eliminate corruption. Complicating Karzai's efforts to obtain confirmation of a full cabinet was the need to present his choices as technically competent while also maintaining a customary and expected balance of ethnic and political factions. In the parliamentary confirmation process that has unfolded, National Assembly members, particularly the well-educated independents, objected to many of his nominees as "unknowns," as having minimal qualifications, or as loyal to faction leaders who backed Karzai in the 2009 election. Karzai's original list of 24 ministerial nominees (presented December 19) was generally praised by the United States for retaining the highly praised economic team (and most of that team was confirmed). However, overall, only 7 of the first 24 nominees were confirmed (January 2, 2010), and only 7 of the 17 replacement nominees were confirmed (January 16, 2010), after which the Assembly went into winter recess. Another five (out of seven nominees) were confirmed on June 28, 2010, although one was a replacement for the ousted Interior Minister Atmar.

Although then UNAMA head Kai Eide called the vetoing of many nominees a "setback" to Afghan governance, Pentagon Press Secretary Geoff Morrell said on January 6, 2010, that the vetoing by parliament reflected a "healthy give and take" among Afghanistan's branches of government. Outside experts have said the confirmation process—and the later parliamentary review of a 2010 election decree, discussed below—reflects the growing institutional strength of the parliament and the functioning of checks and balances in the Afghan government. Of the major specific developments in the cabinet selection process to date (and with seven ministries remaining unfilled by permanent appointees):

- The main security ministers—Defense Minister Abdal Rahim Wardak and Interior Minister Mohammad Hanif Atmar—were renominated by Karzai and confirmed on January 2, 2010. They work closely with the U.S. military to expand and improve the Afghan national security forces. (Atmar was later dismissed, as discussed below.)
- Three key economic/civilian sector officials who work very closely with USAID and U.S. Embassy Kabul—Finance Minister Omar Zakhwal, Agriculture Minister Mohammad Rahimi, and Education Minister Ghulam Faruq Wardak—were renominated and also were confirmed on January 2. The highly praised Minister of Rural Rehabilitation and Development (Ehsan Zia), who runs the widely praised National Solidarity Program, was not renominated, to the chagrin of U.S. officials. His named replacement (Wais Barmak, a Fahim and Dr. Abdullah ally) was voted down. The second replacement, Jarullah Mansoori, was confirmed on January 16, 2010.
- The U.S.-praised Commerce Minister Wahidollah Sharani was selected to move over to take control of the Mines Ministry from the former minister, who is under investigation for corruption. Sharani was confirmed on January 2, 2010. However, as noted, Sharani is reportedly under investigation for corruption as of November 2010. Also confirmed that day was Minister of Culture Seyyed Makhdom Raheen. He had been serving as Ambassador to India.

- The clan of former moderate *mujahedin* party leader Pir Gaylani were rewarded by Karzai in the December 19 list. Gaylani son-in-law Anwar al Haq Al Ahady (see above) was named as Economy Minister and Hamid Gaylani (Pir Gaylani's son) was named as Minister of Border and Tribal Affairs. However, neither was confirmed and neither was renominated.
- Ismail Khan was renominated as Minister of Energy and Water on December 19, disappointing U.S. officials and many Afghans who see him as a faction leader (Tajik leader/*mujahedin* era commander, Herat Province) with no technical expertise. He was voted down but remains in an acting capacity.
- Karzai initially did not nominate a permanent foreign minister, leaving Spanta in place as a caretaker. However, in the second nomination round, Karzai selected his close ally Zalmay Rassoul, who has been national security adviser since 2004, to the post. Rassoul was confirmed on January 16, 2010. Spanta is head of the National Security Council.
- Minister of Women's Affairs Ghazanfar was renominated to remain the only female minister, but was voted down (January 2). In the cabinet renominations, Karzai named three women—Suraiya Dalil to Public Health, Pelwasha Hassan to Women's Affairs, and Amina Afzali (minister of youth in an earlier Karzai cabinet) to Labor and Social Affairs. Of those, only Afzali was confirmed on January 16, 2010. Ghazanfar and Dalil are heading those ministries in an acting capacity. In the December 16, 2009, list, Karzai proposed a woman to head a new Ministry of Literacy, but parliament did not vote on this nomination because it had not yet acted to approve formation of the ministry.
- Of the other nominees confirmed on January 16, 2010, at least one has previously served in high positions. The Assembly confirmed that day: Zarar Moqbel (who previously was interior minister) as Counternarcotics Minister; Economy Minister Abdul Hadi Arghandiwal, who heads a moderate faction of the Hizb-e-Islam party of pro-Taliban insurgent leader Gulbuddin Hikmatyar (although the faction in the government has broken with Hikmatyar and rejects violence); Yousaf Niazi, minister of Hajj and Waqf (religious endowments) affairs; and Habibullah Ghalib, Minister of Justice.
- The following 10 were voted down on January 16: (1) Palwasha Hassan, nominated to head the Ministry of Women's Affairs; (2) Dalil, Public Health, now acting minister, mentioned above; (3) Muhammad Zubair Waheed, Commerce; (4) Muhammad Elahi, Higher Education; (5) Muhammad Laali, Public Works; (6) Abdul Rahim, who was telecommunications minister in the first Karzai cabinet, as Minister of Refugee Affairs (acting); (7) Arsala Jamal, formerly the governor of Khost Province who was widely praised in that role by Secretary Gates, as Minister of Border and Tribal affairs (and now is acting minister); (8) Abdul Qadus Hamidi, Minister of Communications; (9) Abdur Rahim Oraz, Minister of Transport and Aviation; and (10) Sultan Hussein Hesari, Minister of Urban Development (acting).
- On June 28, 2010, Karzai obtained parliamentary approval for five positions out of seven nominees. Approved were Bismillah Khan as Interior Minister (replacing Atmar, who was fired on June 6); Al Ahady (see above) as Commerce Minister; former Qandahar governor Asadullah Khalid as Minister of Border and Tribal affairs; Hamidi (see above) as Minister of Public Works; and Jamahir

Anwari as Minister of Refugees and Repatriation. Voted down were two Hazara Shiites: Sarwar Danesh as Minister of Higher Education, and former IEC chief Daud Ali Najafi as Minister of Transportation. Their rejection caused Hazara members in the Assembly to demonstrate their disapproval of the vote, and Karzai called for Hazaras to be approved in the future to ensure all-ethnic participation in government.

September 18, 2010, Parliamentary Elections

Some, including the referenced report by the SIGAR, feared that the difficulties that plagued the 2009 presidential election were not adequately addressed to ensure that the September 18, 2010, parliamentary elections were fully free and fair. Many of these fears apparently were realized. A dispute over a new election decree that governed the election, which weakened the international voice on the ECC, is discussed below. The July 20, 2010, Kabul conference final communiqué included an Afghan government pledge to initiate, within six months, a strategy for long-term electoral reform.

Election Timing

On January 2, 2010, the IEC had initially set National Assembly elections for May 22, 2010. The IEC view was that this date was in line with a constitutional requirement for a new election to be held well prior to the expiry of the current Assembly's term. However, U.S., ECC, UNAMA, and officials of donor countries argued that Afghanistan's flawed institutions would not be able to hold free and fair elections under this timetable. Among the difficulties noted were that the IEC lacks sufficient staff, given that some were fired after the 2009 election; that the IEC lacks funds to hold the election under that timetable; that the U.S. military buildup will be consumed with securing still restive areas at election time; and that the ECC's term expired at the end of January 2010. A functioning ECC was needed to evaluate complaints against registered parliamentary candidates because there are provisions in the election law to invalidate the candidacies of those who have previously violated Afghan law or committed human rights abuses.

The international community pressed for a delay of all of these elections until August 2010 or, according to some donors, mid-2011.⁵² Bowing to funding and the wide range of other considerations mentioned, on January 24, 2010, the IEC announced that the parliamentary elections would be postponed until September 18, 2010. Other experts said that the security issues, and the lack of faith in Afghanistan's election institutions, necessitated further postponement.⁵³

About \$120 million was budgeted by the IEC for the parliamentary elections, of which at least \$50 million came from donor countries, giving donors leverage over when the election might take place. The remaining \$70 million was funds left over from the 2009 elections. Donors had held back the needed funds, possibly in an effort to pressure the IEC to demonstrate that it is correcting the flaws identified in the various "after-action" reports on the 2009 election. With the compromises and Karzai announcements below, those funds were released as of April 2010.

⁵² Trofimov, Yaroslav, "West Urges Afghanistan to Delay Election," *Wall Street Journal*, December 11, 2009.

⁵³ Rondeaux, Candace. "Why Afghanistan's September Elections Ought to Be Postponed." *Washington Post*, July 11, 2010.

Election Decree/Reform

With the dispute between the Karzai government and international donors continuing over how to ensure a free and fair election, in February 2010 Karzai signed an election decree that would supersede the 2005 election law and govern the 2010 parliamentary election.⁵⁴ The Afghan government argued that the decree supersedes the constitutional clause that any new election law not be adopted less than one year prior to the election to which that law will apply.

Substantively, some of the provisions of the election decree—particularly the proposal to make the ECC an all-Afghan body—caused alarm in the international community. Another controversial element was the registration requirements of a financial deposit (equivalent of about \$650), and that candidates obtain signatures of at least 1,000 voters. On March 14, 2010, after discussions with outgoing UNAMA head Kai Eide, Karzai reportedly agreed to cede to UNAMA two “international seats” on the ECC, rather than to insist that all five ECC members be Afghans. Still, the majority of the ECC seats were Afghans.

The election decree became an issue for Karzai opponents and others in the National Assembly who seek to assert parliamentary authority. On March 31, the *Wolesi Jirga* voted to reject the election decree. However, on April 3, 2010, the *Meshrano Jirga* decided not to act on the election decree, meaning that it was not rejected by the Assembly as a whole and will likely stand to govern the September 18, 2010, National Assembly elections. Karzai upheld his pledge to implement the March 2010 compromise with then UNAMA head Eide by allowing UNAMA to appoint two ECC members and for decisions to require that at least one non-Afghan ECC member concur.

Among other steps to correct the mistakes of the 2009 election, the Afghan Interior Ministry planned instituted a national identity card system to curb voter registration fraud. However, observers say that registration fraud still occurred. On April 17, 2010, Karzai appointed a new IEC head, Fazel Ahmed Manawi, a Tajik, who drew praise from many factions (including “opposition leader” Dr. Abdullah, who is half Tajik and identifies with that ethnicity) for impartiality. The IEC also barred 6,000 poll workers who served in the 2009 election from working the 2010 election.

Preparations and The Vote

Preparations for the September 18 election proceeded without major disruption, according to the IEC. Candidates registered during April 20-May 6, 2010. A list of candidates was circulated on May 13, 2010, including 2,477 candidates for the 249 seats.⁵⁵ These figures included 226 candidates who registered but whose documentation was not totally in order; and appeal restored about 180 of them. On May 30, 2010, in a preliminary ruling, 85 candidates others were disqualified as members of illegal armed groups. However, appeals and negotiations restored all but 36 in this latter category. A final list of candidates, after all appeals and decisions on the various disqualifications, was issued June 22. The final list included 2,577 candidates, including

⁵⁴ Partlow, Joshua, “Afghanistan’s Government Seeks More Control Over Elections,” *Washington Post*, February 15, 2010.

⁵⁵ The seat allocation per province is the same as it was in the 2005 parliamentary election—33 seats up for election in Kabul; 17 in Herat province; 14 in Nangarhar, 11 each in Qandahar, Balkh, and Ghazni; 9 in Badakhshan, Konduz, and Faryab, 8 in Helmand, and 2 to 6 in the remaining provinces. Ten are reserved for Kuchis (nomads).

406 women. Since then, 62 candidates were invalidated by the ECC, mostly because they did not resign their government positions, as required.

Voter registration was conducted June 12-August 12. According to the IEC, over 375,000 new voters were registered, and the number of eligible voters was about 11.3 million. Campaigning began June 23. Many candidates, particularly those who are women, said that security difficulties have prevented them from conducting active campaigning. At least three candidates and 13 candidate supporters were killed by insurgent violence.

On August 24, 2010, the IEC announced that the Afghan security forces say they would only be able to secure 5,897 of the planned 6,835 polling centers. To prevent so-called “ghost polling stations” (stations open but where no voters can go, thus allowing for ballot-stuffing), the 938 stations considered not secure were not opened. The IEC announcement stated that further security evaluation could lead to the closing of still more stations and, on election day, a total of 5,355 centers opened (304 of those slated to open did not, and for 157 centers there was no information available). In part to compensate, the IEC opened extra polling stations in centers in secure areas near to those that were closed.

On election day, about 5.6 million votes were cast out of about 17 million eligible voters. Turnout was therefore about 33%. A major issue suppressing turnout was security. At first, it appeared as though election-day violence was lower than in the 2009 presidential election. However, on September 24, NATO/ISAF announced that there were about 380 total attacks, about 100 more than in 2009. However, voting was generally reported as orderly and the attacks did not derail the election.

Parliamentary Election Outcome

Preliminary results were announced on October 20, 2010, and final, IEC-certified results were to be announced by October 30, 2010, but were delayed until November 24, 2010, due to investigation of fraud complaints. While the information below illustrates that there was substantial fraud, the IEC and ECC have been widely praised by the international community for their handling of the fraud allegations.

Of the 5.6 million votes cast, the ECC invalidated 1.3 million (about 25%) after investigations of fraud complaints. The ECC prioritized complaints filed as follows: 2,142 as possibly affecting the election, 1,056 as unable to affect the result, and 600 where there will be no investigation. Causes for invalidation most often included ballot boxes in which all votes were for one candidate. About 1,100 election workers were questioned by ECC personnel, and 413 candidates were referred by the ECC to the Attorney General for having allegedly committed election fraud.

The results, as certified by the IEC, have resulted in substantial controversy within Afghanistan and have led to a political crisis. The certified results are as follows:

- About 60% of the lower house (148 out of 249) would be composed of new members, meaning that many incumbents did not run or lost their seats.
- The camps of both Karzai as well as those of Dr. Abdullah and the opposition failed to meet their political objectives, although Karzai’s camp would clearly be smaller than it was in the outgoing lower house. Each camp sought to win a commanding bloc of about 100 seats in the lower house. However, the number of Pashtuns elected is 94, down from 120 in the outgoing lower house—a loss of 26

- Pashtuns. Although not all the defeated or elected Pashtuns are allied with Karzai, the President is assessed at having about 70-80 core supporters (out of the 249 in the body), down from about 90 in the previous lower house. Dr. Abdullah might have about 60 core deputies allied to his faction. This apparent result also complicates any effort to pin blame for fraud clearly on one camp or another. It also makes it less likely that Karzai's allies will be able to vote in Sayyaf as next lower house speaker to replace Abdullah ally Qanooni.
- Karzai's allies fared worse than expected because several pro-Karzai candidates losing in Qandahar Province, and because many Pashtuns did not vote, due to security reasons, in mixed Ghazni Province. The low Pashtun turnout in Ghazni caused Hazara candidates to win all 11 seats from the province, instead of 6 Pashtuns and 5 Hazaras in the outgoing lower house. Ghazni was a big factor in the reduction of the number of Pashtuns who won election.
 - The next lower house is to be more diverse politically than the outgoing one, and less predictable in its votes. The Hazara strength has no clear impact because many Hazaras support Karzai, although their increased political strength has caused ethnic tensions with the Pashtuns. Other Hazaras oppose Karzai as a representative of the political strength of the Pashtuns (who have a reputation of repressing or discriminating against the Hazaras). As noted above, prominent Hazara reformist and anti-corruption activist Ramazan Bashardost was re-elected.
 - Although some prominent independents were not certified winners for the new parliament, including some of the women mentioned earlier, as well as Dr. Roshanak Wardak, they are expected to still active publicly. Others were re-elected, including Rafiq Shahir from Herat, a well known civil-society activist, Dr. Saleh Seljuki, AND Ahmad Behzad (all from Herat). Other independents re-elected include Shakiba Hashemi and Khalid Pashtun, both from Qandahar.
 - Some observers note that some local militia commanders won election, adding to or replacing similar figures in past parliaments: the newly elected include Amanullah Guzar (Kabul) who may have been behind May 2006 rioting in Kabul against NGO offices; and Haji Abdul Zahir (Nangarhar), a member of the well-known "Eastern Shura" once headed by the assassinated Hajji Abdul Qadir and one time Kabul governor Hajji Din Mohammad. Other "mujahedin" era figures were re-elected, including Iqbal Safi (Kapisa), Zalmai Mujaddedi (Badakhshan), Fukkuri Beheshti (Bamiyan), and Shahzada Shahed (Kunar).
 - Two ex-Taliban figures, Mullah Salam Rocketi, and Musa Wardak, were defeated, although Wardak was promised by Karzai a seat in the upper house.
 - As noted above in the discussion of Karzai's support base, several key pro-Karzai deputies were defeated, including Pacha Khan Zadran (Paktia) and Jamil Karzai. Other pro-Karzai losers were Mahmud Khan Suleimankhel (Paktika Province) and Muin Mirastyal (Konduz Province).
 - A date of the inauguration of the new parliament was set for January 20, 2011, at which time, under Afghan law, President Karzai would formally open the session. By that time, Karzai was to make his appointments to the new upper house (Meshrano Jirga), and the provincial councils would name their selections to that body as well. The National Assembly, both houses, is inaugurated as a whole.

Political Crisis and Possible Options

The certified results have triggered a major political crisis, caused primarily by Pashtuns who felt they lost the election due to fraud. Seeking to address Pashtun grievances, but with its own interest in increasing the number of Pashtuns elected, in December 2010 the Karzai government (office of the Attorney General) indicted all 7 IEC commissioners as well as the three Afghan members of the ECC. The deputy Attorney General, that same month urged election results to be voided and the Afghan Supreme Court to order a recount. There have been weekly demonstrations against the fraud by about 300 candidates who felt deprived of victory, under a banner called the “Union of Afghan Wolesi Jirga Candidates 2010.” The bloc is led by Daud Sultanzoy, a Pashtun from Ghazni, and a former airline pilot.

On December 28, 2010, at the instruction of the Supreme Court, Karzai issued a decree empowering a five-member tribunal to review fraud complaints. On January 19, 2011, the day before the parliament was to convene, the tribunal, led by Judge Sediqullah Haqiq, announced it would need another month to evaluate the fraud allegations. On that basis, following the recommendation, the Karzai government postponed the inauguration of the new parliament by one month, which would presumably include the naming of the upper house by that time.

The tribunal’s ruling appeared to deepen the crisis. Many Afghans, including an independent watchdog group “Free and Fair Election Foundation,” maintain that the tribunal had no legal authority under the constitution to review the election. The IEC and EC, largely backed by the international community, have insisted that the certified results stand, asserting they are the only bodies under Afghan electoral law that have legitimate jurisdiction over election results. Defying Karzai and the special tribunal, about 213 of the certified winners met at the Intercontinental Hotel in Kabul on January 20, 2011, and reportedly decided to take their seats on Sunday, January 23, 2011, without Karzai’s formal inauguration. Elected deputies at the meeting said they would try to convene at the parliament building but would meet elsewhere, if blocked. They elected an interim Speaker, Hajji Mohammad Sarwar Osmani, from Farah Province. However, some members told journalists that many Pashtuns who attended the meeting—potentially as many as 60 of them present - might not attend the January 23, attempted convention of the body. This would further render unclear the legal status of a self-convened parliament which, at any rate, would lack an appointed upper house.

There are a number of different possibilities, all of which are controversial and could result in unrest among those who perceive themselves as deprived of a parliament seat:

- Some believe that President Karzai, by backing the special tribunal process, seeks primarily to appear to support his Pashtun allies but might ultimately support a decision to seat the new parliament according to the certified results.
- Another outcome could be the complete invalidation of the election and the holding of a new election. In such case, Afghanistan could be without a functioning parliament until a new election is held, and Karzai would rule by decree for that period of time. Others have raised the possibility of calling the outgoing parliament back unless or until new elections are held; it ended its work in September 2010. The position of the international community is discussed above, and donors would be unlikely to want to fund the approximately \$150 million-\$200 million for holding a new election that the donor community believes should not be held.

- Another alternative is to invalidate or recount the results from Ghazni and perhaps other provinces where the results were skewed ethnically. This outcome could enable Karzai and his Pashtun supporters to “save face” in a compromise.
- No matter what is decided, some analysts and observers in Kabul warn of the potential for ethnic violence because inevitably some will perceive themselves as deprived of a parliament seat, and may blame members of other communities for that deprivation. Others maintain that, should the certified results guide the seating of a new parliament, some Pashtuns may join the Taliban insurgency, which is dominated by Pashtuns. These outcomes would have adverse consequences for the U.S.-led stabilization mission, discussed below.

Implications for the United States of the Afghan Elections

U.S. officials express clear U.S. neutrality in all Afghan elections. However, in the 2009 presidential election, Karzai reportedly believed the United States was hoping strong candidates might emerge to replace him. This perception was a function of the strained relations between Karzai and some Obama Administration officials, particularly Ambassadors Holbrooke and Eikenberry. Ambassador Timothy Carney headed the 2009 U.S. election support effort at U.S. Embassy Kabul, tasked to ensure that the United States was even-handed.

The legitimacy of the Afghan partner continues to be a consideration for U.S. policy, as made clear yet again in the December 16, 2010, summary of a U.S. strategy assessment. The review summary did not specifically discuss the political crisis triggered by the September 18, 2010, parliamentary elections, but many U.S. officials believe that a failure to resolve the crisis by seating a legitimate parliament is likely to complicate U.S. planning to begin a transition to Afghan security leadership starting in early 2011. That transition is to include a drawdown of a still unspecified number of U.S. forces in July 2011 and to be completed by the end of 2014. A transition would be adversely affected by a loss of governmental legitimacy caused by an extended period in which Karzai rules by decree, without a parliament seated, or if major unrest erupts in reaction to any decision on who is seated in the new parliament.

Table 1. Major Pashtun Tribal Confederations

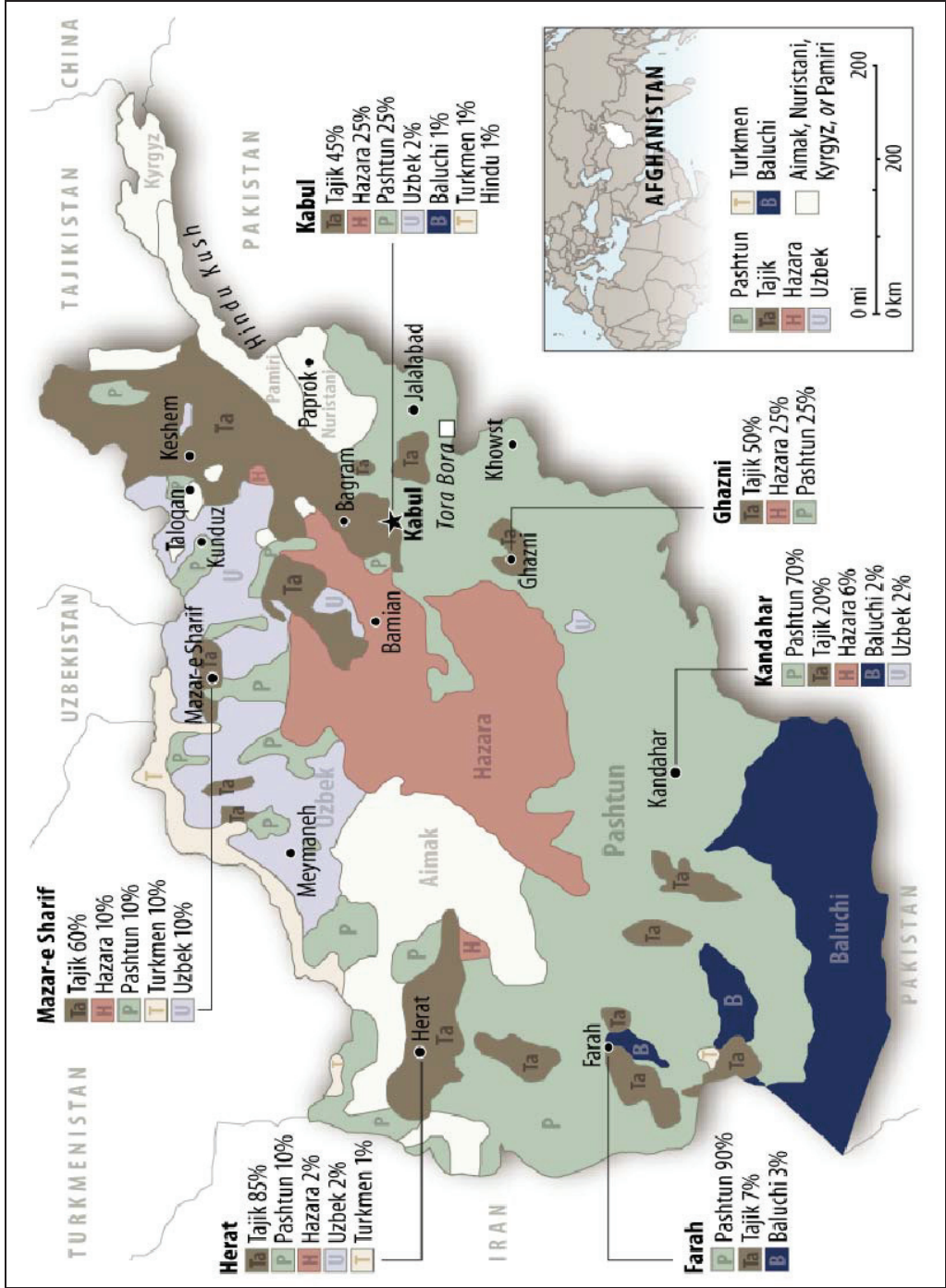
Clan/Tribal Confederations	Location	Example
Durrani	Mainly southern Afghanistan: Qandahar, Helmand, Zabol, Uruzgan, Nimruz	
Popalzai (Zirak branch of Durrani Pashtun)	Qandahar	Hamid Karzai, President of Afghanistan; Jelani Popal, head of the Independent Directorate of Local Governance; Mullah Bradar, the top aide to Mullah Umar, captured in Pakistan in Feb. 2010. Two-thirds of Qandahar's provincial government posts held by Zirak Durrani Pashtuns
Alikozai	Qandahar	Mullah Naqibullah (deceased, former anti-Taliban faction leader in Qandahar)
Barakzai	Qandahar, Helmand	Ghul Agha Shirzai (Governor, Nangarhar Province)
Achakzai	Qandahar, Helmand	Abdul Razziq, Chief of Staff, Border Police, Qandahar Province
Alozai	Helmand (Musa Qala district)	Sher Mohammad Akhunzadeh (former Helmand governor); Hajji Zahir, former governor of Marjah
Noorzai	Qandahar	Noorzai brothers, briefly in charge of Qandahar after the fall of the Taliban in November 2001
Ghilzai	Eastern Afghanistan: Paktia, Paktika, Khost, Nangarhar, Kunar	
Ahmadzai		Mohammed Najibullah (pres. 1986-1992); Ashraf Ghani, Karzai adviser, Finance Minister 2002-2004
Hotak		Mullah Umar, but hails from Uruzgan, which is dominated by Durranis
Taraki		Nur Mohammed Taraki (leader 1978-1979)
Kharoti		Hafizullah Amin (leader September-December 1979); Gulbuddin Hekmatyar, founder of Hezb-e-Islami (Gulbuddin), former <i>mujahedin</i> party leader now anti-Karzai insurgent.
Zadran	Paktia, Khost	Pacha Khan Zadran; Insurgent leader Jalaluddin Haqqani
Kodai		
Mangal	Paktia, Khost	Ghulab Mangal (Governor of Helmand Province)
Orkazai		
Shinwari	Nangarhar province	Faiz Ahmed Shinwari, former Supreme Court Chief Justice
Mandezai		
Sangu Khel		
Sipah		
Wardak (Pashtu-speaking non-Pashtun)	Wardak Province	Abdul Rahim Wardak (Defense Minister)

Clan/Tribal Confederations	Location	Example
Afridis	Tirah, Khyber Pass, Kohat	
	Zaka khel	
	Jawaki	
	Adam khel	
	Malikdin, etc	
Yusufzais	Khursan, Swat, Kabul	
	Akozais	
	Malizais	
	Loezais	
Khattaks	Kohat, Peshawar, Bangash	
	Akorai	
	Terai	
Mohmands	Near Khazan, Peshawar	
	Baizai	
	Alimzai	
	Uthmanzais	
	Khawazais	
Wazirs	Mainly in Waziristan	
	Darwesh khel	
	Bannu	

Source: This table was prepared by Hussein Hassan, Information Research Specialist, CRS.

Note: N/A indicates no example is available.

Figure 1. Map of Afghan Ethnicities



Source: 2003 National Geographic Society, <http://www.afghan-network.net/maps/Afghanistan-Map.pdf>. Adapted by Amber Wilhelm, CRS.

Notes: This map is intended to be illustrative of the approximate demographic distribution by region of Afghanistan. CRS has no way to confirm exact population distributions.

Author Contact Information

Kenneth Katzman
Specialist in Middle Eastern Affairs
kkatzman@crs.loc.gov, 7-7612

Acknowledgments

The table of major Pashtun tribes was prepared by Hussein Hassan, Information Research Specialist, CRS.