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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 factors in congressional debate over the effectiveness of U.S. policy in Afghanistan and in implementing a transition to Afghan security leadership. That transition is to be completed by the end of 2014, a timeframe agreed to by the United States, its international partners, and the Afghan government. While trusting only his closest allies, most of whom are ethnic Pashtuns, Karzai has tried to satisfy leaders of other ethnic and political faction leaders. However, some of these faction leaders oppose Karzai on the grounds that he is too willing to make concessions to insurgent leaders in search of a settlement, and that he has tried to use his office to manipulate Afghan institutions and election results to the advantage of him and his faction. A dispute over the results of the 2010 parliamentary elections paralyzed governance for nearly a year, but appears to have been resolved in August 2011 with Karzai's suspension of a special court that sought to remove the declared winners of nearly a quarter of the seats of the elected lower house of parliament. Karzai also has tried, through direct denials, to quell assertions by his critics that he wants to stay in office beyond the 2014 expiration of his second term, the limits under the constitution.

Afghan governing capacity has increased significantly since the Taliban regime fell in late 2001, but many positions, particularly at the local level, are unfilled. Many governing functions are performed at least informally by unaccountable power brokers. One such power broker was President Karzai's half-brother, Ahmad Wali Karzai, who essentially ran southern Afghanistan on the President's behalf; his assassination on July 12, 2011, left a power vacuum in the south and increased doubts about stability in the context of a U.S. troop drawdown that began in July 2011. Widespread illiteracy and ethnic and factional ties limit the development of a competent bureaucracy, although U.S. and other programs are attempting to address these deficiencies.

On corruption, President Hamid Karzai has accepted 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. Efforts against corruption also run up against an Afghan culture that rewards appointing and letting contracts to relatives and friends. Effects of corruption burst into public view in August 2010 when the large Kabul Bank nearly collapsed due in part to losses on large and apparently improper loans to major shareholders, many of whom are close to Karzai. That issue, too, appeared closer to resolution in August 2011 with the prosecution of several individuals allegedly responsible for the scandal.

Broader issues of human rights often vary depending on the security environment in particular regions, although some trends prevail nationwide. The State Department human rights report for 2010 attributes many of the human rights abuses in Afghanistan to overall lack of security, traditional conservative attitudes that are widely prevalent, and the weakness of government control over outlying localities. Women have made substantial gains in government and the private sector 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, slowing of efforts to curb such practices as child marriages and contributing to 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.

Contents

Overview: Historic Patterns of Afghan Authority and Politics.....	1
Relations Among Ethnicities and Communities.....	2
Lack of Affiliation by Party.....	3
Post-Taliban Transition and Political Landscape.....	4
Establishment of the Afghan Government Structure.....	4
Bonn Agreement.....	4
Permanent Constitution/Presidential System and Powers.....	5
Karzai Elected in First Post-Taliban Presidential Elections in 2004.....	6
National Assembly (Parliament) Formed: Structure and Powers.....	7
Cross-Cutting Ethnic and Political Rivalries.....	8
Karzai's Allies in the National Assembly.....	8
The Opposition: Dr. Abdullah and His Lower House Supporters.....	9
Influence of "Independents".....	11
Karzai Support Significant in the Upper House.....	12
Ethnic and Factional Cooperation in the Security Sector.....	13
Elections in 2009 and 2010 Widen Political Schisms and Produce Institutional	
Paralysis.....	13
2009 Presidential Election.....	14
September 18, 2010, Parliamentary Elections.....	20
Implications for the United States of the Afghan Elections Disputes.....	25
Next Presidential Elections: Karzai Says He Will Yield Power.....	25
The Informal Power Structure: Influence of Regional and	
Factional Leaders/"Warlords".....	26
Afghan Governing Capacity and Performance.....	31
Expanding Central Government Capacity.....	32
The Afghan Civil Service.....	32
The Afghan Budget Process.....	33
Expanding Local Governance.....	34
Provincial Governors and Provincial Councils.....	35
District-Level Governance.....	36
Municipal and Village Level Authority.....	36
U.S. Local Governance Advisory Capacity.....	37
Reforming Afghan Governance: Curbing Corruption.....	37
High Level Corruption, Nepotism, and Cronyism.....	38
Lower-Level Corruption.....	39
Administration Views.....	40
Other Karzai Responses.....	40
Rule of Law Efforts.....	44
Promoting Human Rights.....	45
Media and Freedom of Expression/Social Freedoms.....	47
Harsh Punishments.....	47
Religious Freedom.....	48
Human Trafficking.....	49
Advancement of Women.....	49
Democracy, Human Rights, Governance, and Elections Funding Issues.....	52

Figures

Figure 1. Map of Afghan Ethnicities	55
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Tables

Table 1. Major Pashtun Tribal Confederations	53
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Contacts

Author Contact Information.....	56
Acknowledgments	56

Overview: Historic Patterns of Afghan Authority 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. Many communities are separated by mountains and wide expanses that typically take days to reach by traditional transportation means. The tensions between the central government and the outlying areas has mirrored the struggles between urban, educated "modernizers" and the rural, lesser-educated traditionalists. Successive governments have tended to promote modernity and have met resistance from those primarily in the rural areas who want to preserve their traditions and obey strict Islamic customs. The Taliban government (1996-2001) was one notable exception in that it opposed modernization and represented the views of rural Afghans.

In the provinces, 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. The local power brokers who displaced some of the tribal structures 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, which are widely respected but highly conservative in orientation, remained intact. Some of them 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 often see as wayward but not irreconcilable members of the community) rather than help the government secure their areas.

There are some traditional tribal and community decision-making structures that do not approximate Western-style democracy but yet have some democratic and representative elements. Meetings called *shuras*, or *jirgas* (consultative councils)¹ 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. Under the constitution, decisions of a *loya jirga* supersede decisions made under any other process, including cabinet meetings or even elections. In the post-Taliban period, *loya jirgas* have been convened to endorse Karzai's leadership, to adopt a constitution, and to discuss a long-term defense relationship with the United States. A special *loya jirga*, called a *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. However, the constitution specifies who should be delegates at a *loya jirga*, and in the absence of elected district councils (whose members are mandated to be included), the standing of any *loya jirga* could be subject to question.

¹ *Shura* is the term used by non-Pashtuns to characterize the traditional assembly concept. *Jirga* is the Pashtun term.

At the national level, Afghanistan had few, if any, Western-style democratic institutions prior to the international intervention that took place after the September 11, 2001, attacks on the United States. Under the constitution of 1964, King Zahir Shah was to be a constitutional monarchy, and an elected lower house and appointed upper house were set up. However, the parliament during that era never reached the expectation of becoming a significant check on the King's power or that of President Mohammad Daoud, who took power in a 1973 military coup. Lower house elections were held in 1969, but the parliament was suspended following the April 1978 Communist seizure of 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 Afghan president.

Relations Among Ethnicities and Communities

Even though post-Taliban Afghanistan is modernizing politically and economically, 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. Most 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. As one prominent example, many Pashtuns are said to be increasingly resentful of the Hazara Shiite minority (about 10% of the population) that is advancing economically and politically through education; the Hazaras have historically been looked down upon by the Pashtuns who have tended to employ Hazaras as domestic workers and other lower and lower middle class occupations. 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 rule" 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. On a few occasions, non-Pashtuns have ruled—one recent example was the 1992-1996 presidency of the *mujahedin* government of Burhanuddin Rabbani, a Tajik. (Tajiks are the second most numerous community, composing an estimated 25% of the population. Uzbeks, like the Hazaras, are about 10%.)

Karzai is a Durrani Pashtun. His cabinet and inner advisory circle has come to be progressively dominated by Pashtuns, both Ghilzai and Durrani, but to largely minimize the advisory input of

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

the other communities. However, Karzai is credited by some observers for consulting with other communities, particularly the Tajiks, before issuing decrees or reaching decisions. The Taliban government was and its insurgency is composed almost completely of Pashtuns. However, 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 Afghan ethnicities (see **Figure 1**).

Lack of Affiliation by Party

One major issue that connects post-Taliban and pre-Taliban Afghanistan 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. 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. Some of these *mujahedin* parties remain, such as *Hizb-e-Islam* and *Jamiat Islami*, discussed below. Prior to September 2009, when a new political parties law was adopted, there were 110 registered political parties. However, a September 2009 law required the parties to re-register, and only five completed the process by the time of the September 18, 2010, parliamentary election.

Partly because parties are viewed with suspicion, President Hamid Karzai has not formed his own party, but many of his supporters in the National Assembly (parliament) belong to a moderate faction of the mostly Pashtun *mujahedin*-era party *Hizb-e-Islam* that is committed to working within the political system. The is grouping was reduced somewhat by the results of the September 18, 2010, parliamentary elections. The putative leader of this group is Minister of Economy Abdul Hadi Arghandiwal. The speaker of the *Wolesi Jirga* (lower house of parliament) selected in February 2011, Abdul Raouf Ibrahim, is said to belong to this party, even though he is an ethnic Uzbek (and Hezb-e-Islam is overwhelmingly Pashtun). A militant faction of Hizb-e-Islam is loyal to pro-Taliban insurgent leader Gulbuddin Hikmatyar; it is called Hizb-e-Islam Gulbuddin (HIG).

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. A party that includes many Tajiks is *Jamiat Islami* (Islamic Society), a party that grouped Tajik leaders during the anti-Soviet war, although many Tajik leaders have gravitated to broader groupings discussed later, such as the United Front and the Hope and Change Movement. However, these are not “ethnic” parties per se, in that Article 35 of the Afghan constitution bans parties based on ethnicity or religious sect. Some parties tend to be left wing, such as the National United Party of Afghanistan.

It was hoped that post-Taliban Afghanistan would produce a substantial number of secular, democratic parties. Some have formed, such as the Afghanistan Labour and Development Party, the National Solidarity Party of Afghanistan’s Youth, the Republican Party, and the National Congress Party of Afghanistan led by Abdul Latif Pedram. However, some believe that these parties remain 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. As a result, many of the parties that have been formed since the fall of the Taliban have centered around personalities rather than broad idea-driven platforms.

Post-Taliban Transition and Political Landscape

In implementing policy to stabilize Afghanistan—and particularly to prepare Afghanistan’s government and military to take the lead from the international community—a U.S. priority has been to increase the capabilities of and extend the authority of Afghanistan’s government. The policy is predicated on the belief that ineffective and corrupt governance has caused some Afghans to acquiesce to, or even support, Taliban insurgents as providers of security and impartial justice. On the other hand, most Afghans perceive the Taliban as reliant on violence and intimidation and as incapable of or uninterested in providing services; to most Afghans, it is not a realistic alternative to the Afghan government.

To further clarify the distinction between the government’s positive role and the destructive effect of the insurgency, since 2007, 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 has been repeatedly addressed in Administration reviews of Afghanistan strategy.³

Establishment of 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 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

³ <http://documents.nytimes.com/the-obama-administrations-overview-on-afghanistan-and-pakistan>.

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

In December 2011, there will be an international conference on Afghanistan in Bonn, marking the tenth anniversary since the 2001 Bonn Conference. The meeting will, in part, evaluate governance progress in Afghanistan since the original convention.

Permanent Constitution/Presidential System and Powers

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.

The constitution set up a presidential system, with an elected president and a separately elected National Assembly (parliament). The President serves a five year term, with a two term limit (Article 62). There are two vice presidents. 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 president has broad powers under the constitution, including the power to appoint cabinet ministers and members of the Supreme Court (subject to National Assembly confirmation), provincial governors and district governors, as well as local security chiefs. The president is commander-in-chief of the Afghan armed forces. The Tajik-dominated Northern Alliance failed in

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 Afghans as illegitimate.

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, as discussed below. The Northern Alliance argued for a prime ministerial system because that post would presumably be held by a Tajik or other ethnic minority. In an outcome still debated, the opposition did not achieve the right of elected provincial and district councils to choose their governors.

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 It (Article 58) also sets up the Afghanistan Independent Human Rights Commission (AIHRC) to refer cases of human rights violations to “the legal authorities.” (See further below on this commission.)

Karzai Elected in First Post-Taliban Presidential 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.

Karzai’s Leadership Style, His Advisers, and Staff

As president, Karzai is advised by what some observers believe is a narrow spectrum of Pashtuns in the cabinet and in his presidential office. Karzai opponents assert that most of Karzai’s most influential aides are Islamist, former members of the Hizb-e-Islam (Islamic Party) of radical *mujahedin* leader Gulbuddin Hikmatyar, who support the idea of making significant concessions to achieve reconciliation with Pakistan and the Taliban. An example is his former chief of staff, a post that serves as key gatekeeper of access to Karzai. The official, Mohammad Umar Daudzai, was known as an Islamic conservative; during the anti-Soviet war, he fought in the Pashtun Islamist faction of Gulbuddin Hikmatyar and 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; Daudzai was appointed Ambassador to Pakistan in April 2011. He was replaced by former Minister of Information and Culture Abdul Karim Kurram, who is perceived as similar in outlook to Daudzai. Another palace aide is minister-counselor Tajj Ayubi. A top communications aide, Waheed Omar, resigned in August 2011, possibly because of the influence of Hizb-e-Islam supporters on Karzai; he was replaced on an acting basis by Siamak Herawi.

The influences on Karzai in the palace are broader than Islamic conservatives. Karzai relies on the advice of tribal and faction leaders from southern Afghanistan, such as Sher Mohammad Akhunzadeh, the former governor of Helmand (until 2005). He also reportedly trusts well-educated Westernized professionals such as his current Foreign Minister Zalmay Rasool and his

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

National Security adviser Rangin Spanta, a Pashtun who was in the government during the Soviet occupation era, was Foreign Minister during March 2006-February 2010, and is said to retain some leftwing views. The National Security Council, headed by Spanta, is located in the presidential palace complex and heavily populated by ethnic Pashtuns. 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.

An administrative unit that is attracting increasing international attention as a possible center of policymaking is the General Administrative Office, also known as the Cabinet Secretariat. However, some experts say that, particularly under its current head, a Hazara Shiite named Mudabir, it is primarily administrative, and without any policy coordination role. It is a holdover from the Communist era, and contains many longtime bureaucrats. During the 1990s it may have had as many as 1,800 personnel, but has been trimmed during the Karzai era to about 700 staff members. The operations of the unit are funded primarily by the United Kingdom.

Some observers assert that the apparatus around Karzai require improved focus and organization. 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 was not given this role but he has since advised 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, and he is now in charge of managing the transition from the United States and NATO to Afghan lead.

National Assembly (Parliament) Formed: Structure and Powers

A National Assembly was reestablished in post-Taliban Afghanistan as the result of elections held September 18, 2005. That election was based on a “Single Non-Transferable Vote” System; candidates stood as individuals, not part of a party list. Voting was for one candidate only, although the 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.

It is the National Assembly that has been the key formal institution for non-Pashtuns and political independents to express political opposition to and to exert influence on Karzai. The Assembly has been set up by the constitution as a relatively powerful body that can check the powers of the president—an outcome selected as an alternative to a prime ministerial system. It consists of a 249 all-elected lower house (*Wolesi Jirga*, House of the People) and a selected 102 seat upper house (*Meshrano Jirga*, House of Elders). The upper house is selected as follows: one-third, or 34 seats, appointed by the president (for a five-year term); one-third appointed by the elected provincial councils (four-year term), and one-third appointed by elected district councils (for a three-year term). Of the president’s appointments, half (17) are mandated to be women. In the absence of elected district councils, two-thirds of the body is selected by the provincial councils for four year terms. The lower house is mandated to be at least 28% female (68 persons)—an average of two for each of the 34 provinces.

The lower house has the power to vote no-confidence against ministers (Article 92)—based on a proposal by 10% of the lower house membership, or 25 parliamentarians. Both the upper and lower houses are required to pass laws. Under Article 98 of the constitution, the national budget is

taken up by the *Meshrano Jirga* first and then passed to the *Wolesi Jirga* for its consideration. 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.

After the National Assembly was inaugurated on December 19, 2005, it immediately demonstrated institutional strength. In March 2006, it achieved a vote to require 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 within the Assembly 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 before his death in 2011.) The Assembly approved Karzai’s subsequent court choices in July 2006, all of whom are trained in modern jurisprudence.

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 insistently, although not exclusively, by the younger, more technocratic independent bloc in the lower house.

Cross-Cutting Ethnic and Political Rivalries

As discussed above, many intersecting trends—including ethnicity, tribal affiliation, geography, economic interests, and ideologies—determine politics in Afghanistan. Although they largely accept that a Pashtun is most likely to hold the top slot in the Afghan government, non-Pashtuns insist on being 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 particular provinces and districts. The Independent Directorate of Local Governance (IDLG, which recommends to the presidential palace local appointments) often consults notables of a province on local appointments. This section discusses the political landscape in Afghanistan that often explains why certain U.S.-led initiatives either succeed or fail.

Karzai’s Allies in the National Assembly

In addition to his allies in the presidential palace and the government writ large, Karzai has about 60-70 core supporters, mostly but not exclusively Pashtuns, in the *Wolesi Jirga*. Karzai and his aides hoped to but failed to increase the president’s support base in the September 18, 2010, elections, but instead the results caused Karzai’s base to shrink by about 20 deputies as compared to his support in the 2006-2011 lower house. Of his lower house supporters, about half are former members of the conservative Pashtun-based Hizb-e-Islam party (the same party as that headed by insurgent leader Gulbuddin Hikmatyar). Others in Karzai’s camp in the lower house are followers of Abd-i-Rab Rasul Sayyaf, a prominent Pashtun, Islamic conservative *mujahedin* era party

leader.⁷ As a result, Karzai was unable to engineer the selection of Sayyaf to become lower house speaker in 2011, displacing Yunus Qanooni (Tajik). Neither Sayyaf nor Qanooni was able to obtain enough votes to become speaker, instead losing to a compromise candidate, Abdul Raouf Ibrahim, who is perceived as weak, and his selection might be temporary.

Several of Karzai's supporters in parliament are from Qandahar, Karzai's home province, and from Helmand province. For example, one pro-Karzai Pashtun who was reelected in the 2010 elections is 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. On the other hand, the 2010 elections resulted in the loss in parliament of Karzai cousin Jamil Karzai, and Pacha Khan Zadran (Paktia) who, by some accounts, helped Osama bin Laden escape Tora Bora. A key Karzai brother, discussed further below, is Ahmad Wali Karzai (chair of the Qandahar provincial council), who was assassinated on July 12, 2011. .

The Opposition: Dr. Abdullah and His Lower House Supporters

Broadly, the political opposition to Karzai (putting aside Taliban and other insurgents) consists mainly of ethnic minorities (Tajik, Uzbek, and Hazara) who, during the Taliban period (1996-2001), formed an anti-Taliban coalition called the "Northern Alliance." Since the ousting of the Taliban, leaders of these groups have long 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. On the other hand, these factions have differences among themselves that has rendered them relatively ineffective as an opposition to Karzai. Many "opposition" figures have often joined Karzai's government or worked with him on certain issues.

The overall "leader of the opposition" is former Foreign Minister Dr. Abdullah Abdullah, who is about 51 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 his Foreign Minister post by Karzai in a March 2006 cabinet reshuffle and he 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 is not in parliament but he works to promote his agenda through public statements, in direct meetings with Karzai, and through allies in the lower house, as discussed below. 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. He visited Washington, DC, again in April 2011 and held several meetings with the Obama Administration, while using several think-tank appearances to criticize Afghan governance under Karzai.

⁷ Sayyaf led the *Ittihad Islami* (Islamic Union) *mujahedin* party during the war against the Soviet occupation.

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. His term expires in 2014 and is constitutionally barred from running again, and he told parliamentarians in August 2014 that he would abide by the constitutional requirement to step down at that time.

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 *mujahdin* party of Sibghatullah Mojadeddi (still a very close ally) during the anti-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 in 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. 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, was the most powerful political figure in Qandahar Province until his assassination on July 12, 2011. He was key to President Karzai’s information network in Qandahar. Ahmad Wali was widely accused of involvement in or tolerating narcotics trafficking, but reportedly also was a paid informant for the CIA; some of his property has been used by U.S. Special Forces. Earlier, 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 – a grand jury reportedly met in February 2011 to consider various charges against him. He has wide business interests in Qandahar and Kabul, including auto dealerships, a coal mine, a cement factory, 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. 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 occupation⁸ and nearly derailed the May 10-14, 2010, Karzai visit to Washington, DC. Another rift emerged in May – June 2011 on the issue of civilian casualties caused by NATO operations. At each downturn in the relationship, top Administration officials have sought restore the relationship.⁹ While Karzai is said to be close to General David Petraeus, Karzai’s relations with then Ambassador Eikenberry, were widely assessed as severely strained. Relations are expected to improve now that Ambassador Ryan Crocker (nominated in April 2011 as Ambassador to Afghanistan and confirmed on June 29, 2011) has arrived.

Source: CRS.

⁸ 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.

⁹ Dreazen, Yochi, and Sarah Lynch. “U.S. Seeks to Repair Karzai Tie.” *Wall Street Journal*, April 12, 2010.

The pro-Abdullah/anti-Karzai bloc in parliament has gone through several iterations. During 2007-2009, the bloc called itself 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 then *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 other former associates of the legendary *mujahedin* commander Ahmad Shah Masood). Rabbani, who served as President during the *mujahedin* government (1992-96), remains titular head of the *mujahedin* party to which Masoud belonged—*Jamiat Islami*, or Islamic Society. However, politically, he has been largely displaced by younger Tajik leaders such as Dr. Abdullah and Qanooni. The United Front included some Pashtuns, such as Soviet-occupation era security figures Sayed Muhammad Gulabzoi and Nur ul-Haq Ulumi (who was not reelected in the September 18, 2010, election).

The United Front bloc underwent changes during 2009-2010 as Abdullah emerged as a national opposition figure, and Rabbani and other Northern Alliance figures reached accommodations with Karzai. 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 and hold a commanding position that would enable them to block Karzai initiatives or achieve passage of its own alternative proposals. The 2010 elections results suggest this objective was not achieved, and the number of Abdullah supporters is roughly the same as it was in the previous Assembly - about 60 supporters. This is also a bloc similar in size to Karzai’s core support base. Still, as noted, Qanooni unsuccessfully sought reelection as lower house speaker in February 2011.

Some Tajik and other figures outside the Assembly are, if not challenging Abdullah for opposition leadership, at least emerging as strong voices. The issue that may be galvanizing them is the concept of a peace agreement with the Taliban. The Tajik and other ethnic minority leaders fear that Karzai’s plans will increase the Pashtun predominance in government and lead to marginalization of the Tajiks and other non-Pashtun minorities. In June 2011, several key Northern Alliance leaders joined with former Vice President Ahmad Zia Masud to announce a new opposition—centered around this issue. Even before this new opposition was formed, Masud, as well as ousted intelligence leader Amrollah Saleh (see below) were increasingly outspoken against a potential conflict settlement that they fear will give Taliban figures or Pakistan enhanced influence. Dr. Abdullah is perceived as sympathetic to this new alliance, but he apparently did not play a key public role in forming it. The view of this grouping against compromise with the Taliban was hardened by the killing in June 2011 of a key Tajik security figure, Gen. Daud Daud, at a bombing in normally quiet Takhar Province.

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. Rabbani, the most senior Tajik faction leader, was appointed Council chairman on October 10, 2010. This Karzai strategy of giving high level appointments to his critics has, to date, proved successful in keeping his opposition divided and off balance.

Influence of “Independents”

Karzai and Abdullah compete for the support of the “independents” in the political elite, both within the National Assembly and other institutions. Among them are a number of outspoken women, intellectuals, and business leaders. Of the independents that were present in the 2005-2010 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 and she did not seek reelection in 2010. 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 in the September 2010 election. U.S.-based International Republican Institute (IRI) has helped train the independents; the National Democratic Institute (NDI) has assisted the more established factions.

Some other leading independents are present in the 2011-2015 lower house. They include Rafiq Shahir from Herat, a well-known civil-society activist; Dr. Saleh Seljuki; and Ahmad Behzad (all from Herat). Other independents reelected include Shakiba Hashemi and Khalid Pashtun, both from Qandahar. Ms. Fawzia Koofi, at one time a deputy lower house speaker, also remains in the Assembly and she continues to represent an outspoken leader on women’s rights and human rights more generally. Dr. Roshanak Wardak was not reelected, but he is expected to remain active publicly.

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). In 2005, 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). Mojadeddi resigned in February 2010 and was replaced by another Karzai ally, then deputy speaker Fazl Hadi Muslim Yaar.

Because it is composed of more elderly, established, notable Afghans who are traditionalist in their political outlook, the *Meshrano Jirga* 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 first vice president.) In 2006, Karzai also named a key ally, former Helmand governor Sher Mohammad Akhunzadeh, to the body.

Karzai was scheduled to make his 34 new upper house appointments (five year terms) prior to the January 26, 2011, seating of the new parliament. However, Karzai delayed naming his choices while the 2010 election remained in dispute. Because two thirds of the body serve four-year terms—and the provincial councils that were elected in 2009 were able to appoint their 68 members of the upper house—the body continued to operate even though Karzai had not submitted his 34 appointments. On January 27, 2011, the body reaffirmed Muslim Yaar as upper

house speaker. On February 19, 2011, Karzai made his 34 selections, reappointing 18 incumbents and appointing 16 new members to the body. In line with the constitution, 17 of Karzai's appointments are women.

Ethnic and Factional Cooperation in the Security Sector

The security organs are considered an arena where Pashtuns, Tajiks, and others, of all factional affiliations, 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. During 2002-2007, the Central Intelligence Agency reportedly paid for all of the NDS budget.¹⁰

Perhaps to preserve 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 been brought broadly into line with the population. However, Pashtuns from the south (Durrani) remain underrepresented, in part because of the fears that insurgents might target their relatives if they join the security forces. Many of the Pashtuns in the security forces are from the Jalalabad area.

Elections in 2009 and 2010 Widen Political Schisms and Produce Institutional Paralysis

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.¹¹ Both it and the September 2010 National Assembly elections were flawed, as discussed below, and widened differences between Karzai and the National Assembly to the point where, as of July 2011, the Assembly was considering impeachment of Karzai under Article 29 of the constitution. However,

¹⁰ Filkins, Dexter, and Mark Mazzetti. "Key Karzai Aide in Graft Inquiry is Linked to C.I.A." *New York Times*, August 26, 2010.

¹¹ Report by the Special Inspector General for Afghanistan Reconstruction (SIGAR), September 9, 2010.

that article states grounds for impeachment as crimes against humanity, national treason, or other crimes that would seem to present a high threshold to Karzai's actual removal from office.

2009 Presidential Election

The 2009 election was plagued, from the start, by assertions of a lack of credibility of the IEC. 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 council¹² were appointed by the Supreme Court and Afghanistan Independent Human Rights Commission, respectively.

Furthermore, as the election process began, there were arguments 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 voters, printing ballots, training staff, advertising the elections, and the dependence on international donor funding, in addition to the security questions.¹³

In response to U.S. 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, and others selling registration cards. 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.

¹² ECC website, <http://www.ecc.org.af/en/>.

¹³ Statement of the Independent Election Commission Secretariat, February 3, 2009, provided to CRS by a Karzai national security aide.

Presidential 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. 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. 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 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,¹⁴ 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. Karzai convinced several prominent Pashtuns not to run, including Ghul Agha Shirzai, a member of the powerful Barakzai clan; and Anwar al-Haq Ahady, the former finance minister and Central Bank governor. Anti-Karzai Pashtuns failed to coalesce around one challenger, such as Former Interior Minister Ali Jalali and former Finance Minister (2002-2004) and Karzai critic Ashraf Ghani. Ghani decided to run 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.

¹⁴ Some of the information in this section obtained in CRS interviews with a Karzai national security aide, December 2008.

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 and Dr. Abdullah his nearest competitor at about 25%. During the campaign, Karzai railed against civilian casualties resulting from U.S./NATO operations and pledged to hold a *loya jirga*, 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 fulfilled that pledge. Still, he was criticized for a campaign that relied on personal ties to ethnic faction leaders rather than a retail campaign based on public appearances. Karzai at first agreed to public debates with rivals, but backed out of a July 23 debate with Abdullah and Ghani (on the private Tolo Television network) on the grounds that the event was limited to only those three. Abdullah and Ghani debated without Karzai. Karzai attended 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 the media, which focuses on his presidential schedule.

Dr. Abdullah stressed his background of mixed ethnicity to appeal to Pashtuns, but he campaigned extensively in his key base in the north and west, which are populated mainly by Tajiks. 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 had spent much time in the United States and Europe and many average Afghans viewed him as out of touch. Ghani tried to make extensive use of the Internet for advertising and fundraising, even though most Afghans do not even have access to electricity, and he was advised by James Carville.¹⁵

A 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.

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

¹⁵ Mulrine, Anna, "Afghan Presidential Candidate Takes a Page From Obama's Playbook," *U.S. News and World Report*, June 25, 2009.

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.¹⁶

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.¹⁷

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 legitimate vote total did not 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

¹⁶ "Afghan Panel to Use Sampling in Recount," *USA Today*, September 22, 2009.

¹⁷ See IEC website for final certified tallies, <http://www.iec.org.af/results>.

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 and that there be fewer polling stations—about 5,800, compared to 6,200 previously—to eliminate polling stations where very few votes were expected to be cast.

After a runoff was declared, no major faction leader switched support of either candidate. 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 provincial governors—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 he must face Karzai in a runoff. Still others say the issue could have necessitated resolution by Afghanistan’s Supreme Court.

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 unresolved. 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 calculation 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. 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. 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. However, 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.¹⁸

As noted above, the election for the provincial council members were not certified until December 29, 2009. The council members took office in February 2011.

Post-Election Cabinet

The exposure of widespread fraud in the election appeared to weaken Karzai politically and further alienated him from his opponents in the National Assembly. In the confirmation process of his post-election cabinet, 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. Although then UNAMA head Kai Eide called the vetoing of many nominees a “setback” to Afghan governance, Pentagon Press Secretary Geoff Morrell said

¹⁸ Fidler, Stephen and John W. Miller, “U.S. Allies Await Afghan Review,” *Wall Street Journal*, September 25, 2009.

on January 6, 2010, that the vetoing by parliament reflected a “healthy give and take” among Afghanistan’s branches of government. Another five (out of seven nominees) were confirmed on June 28, 2010, although one was a replacement for the ousted Interior Minister Atmar.

The major developments in the cabinet selection process - and with seven ministries remaining unfilled by permanent appointees as of August 2011 – included the following:

- 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 Zakhiwal, 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. As noted above, there was speculation in April 2011 that Zakhiwal might be replaced.
- 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. Also confirmed that day was Minister of Culture Seyyed Makhdum Raheen, who had been serving as Ambassador to India.
- The clan of former moderate *mujahedin* party leader Pir Gaylani was favored 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, although Ahady was later confirmed to another position, as discussed below.
- Ismail Khan was renominated as Minister of Energy and Water on December 19, 2009, 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, 2010). 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; 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 (see above); 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. Both head those ministries in an acting capacity.

September 18, 2010, Parliamentary Elections

The split over the conduct of the presidential elections widened in the run-up to the September 18, 2010, parliamentary elections. Mechanisms to prevent fraud were not fully implemented and the results continue to be disputed as of July 2011, largely paralyzing the institutional functioning of the Assembly and its role as a check and balance on the Karzai government. As a result, the political structure of Afghanistan has continued to fragment, even as the government assumes greater responsibility in the context of a transition to Afghan security leadership beginning in July 2011. 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-2011.¹⁹ 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.²⁰

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.

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.²¹ 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.

¹⁹ Trofimov, Yaroslav, "West Urges Afghanistan to Delay Election," *Wall Street Journal*, December 11, 2009.

²⁰ Rondeaux, Candace, "Why Afghanistan's September Elections Ought to Be Postponed," *Washington Post*, July 11, 2010.

²¹ Partlow, Joshua, "Afghanistan's Government Seeks More Control Over Elections," *Washington Post*, February 15, 2010.

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 governed 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 to implement a requirement that at least one non-Afghan ECC member concur in decisions.

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.²² 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 406 women. Sixty-two 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.

²² 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).

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 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, resulted in substantial controversy within Afghanistan and led to a political crisis. The certified results were as follows.

- About 60% of the lower house (148 out of 249) winners were new members.
- As noted above, Karzai's number of core supporters was reduced from about 90 to 60-70. This was in part because the number of Pashtuns elected was 94, down from 120 in the outgoing lower house. Several pro-Karzai candidates lost 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; this was a big factor in the reduction of the number of Pashtuns who won election. Several prominent pro-Karzai deputies were defeated, including Jamil Karzai, Pacha Khan Zadran, Mahmud Khan Suleimankhel (Paktika Province), and Muin Mirastyal (Konduz Province).
- The lower house is 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.
- 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 reelected, 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.
- 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.

Special Tribunal, Related Political Crisis, and Possible Resolution

The certified results triggered a major political crisis, caused primarily by Pashtuns who felt they lost the election due to fraud. The issue brought the operations of the National Assembly to a virtual halt, with Karzai ruling by decree, with seven cabinet posts and a few Supreme Court seats remaining unfilled by permanent appointees, and, as discussed above, with certified election winners in the Assembly threatening to impeach him in July 2011.

Immediately after the election results were certified, Karzai took steps 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 seven 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 were 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,” led by defeated Ghazni candidate Daud Sultanzoy.

On December 28, 2010, at the instruction of the Supreme Court, Karzai issued a decree empowering a five-member tribunal to review fraud complaints. This deepened the crisis considerably. Many Afghans, including an independent watchdog group, “Free and Fair Election Foundation,” maintained that the tribunal had no legal authority under the constitution to review the election. The IEC and EC, backed by UNAMA and the international community, insisted that the certified results stand, asserting they are the only bodies under Afghan electoral law that have legitimate jurisdiction over election results. Still, on January 19, 2011, the day before the parliament was to convene, the tribunal leader, 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.

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. This would have rendered unclear the legal status of a self-convened parliament.

During January 20-25, 2011, with the lower house threatening to convene on its own, a compromise was found. Karzai agreed to inaugurate the lower house on January 26, 2011; that event took place. However, the ongoing fraud investigation by the special tribunal remained active, despite insistence by declared winners to terminate it. As noted, after its inauguration, the lower house elected a compromise candidate, Abdul Raouf Ibrahim, as speaker. This fell short of Karzai’s goal of engineering selection of Sayyaf but accomplished his aim of denying Qanooni reselection to that post. The upper house was completed as of February 19, 2011, when Karzai made his 34 appointments.

The special tribunal process continued to investigate and to recount votes in several provinces. The crisis became acute on June 23, 2011, when the special tribunal ruled that 62 defeated candidates be reinstated. The National Assembly—containing the 62 persons who would lose their seats if the tribunal's order were followed—subsequently passed a no-confidence vote against Attorney General Aloko. On August 10, 2011, Karzai appeared to defuse the eight month-long crisis; he issued a decree declaring that special court does not have jurisdiction to change election results, and that such changes are the role of the IEC. Subsequently, on August 21, 2011, the IEC implemented elements of a compromise urged by UNAMA by ruling that 9 winners had won their seats through fraud and must be removed. This decision, with IEC chairman Manawi acknowledged was partly due to politics, removed fewer than the 17 that UNAMA had urged but more than the 5 the IEC reportedly thought would defuse the crisis. The 9 disqualifications seemed to many observers to still be few enough to calm the dispute and allow governance to move forward, but the lower house subsequently voted to refuse any seat alterations at all. Karzai reportedly is negotiating with parliamentary figures to persuade them to accept the IEC decision. Some of the 9 newly declared winners were sworn in on September 4, 2011, and the 9 whose victories were overturned were barred from entering the parliament building.

In the aftermath of the decision, there has been reported discussion in Kabul of selecting a new lower house speaker to replace Ibrahim. There is some talk that he might be replaced by Hajji Zahir, who was the governor of Marjah city of Helmand Province just after the U.S.-led 2010 offensive to oust insurgents from that area, but who reputedly served jail time during his long exile in Germany during the Taliban period.

Implications for the United States of the Afghan Elections Disputes

U.S. officials express clear U.S. neutrality in all Afghan elections. However, U.S. officials remained concerned that the 2009 and 2010 elections, and subsequent political crisis, were complicating the July 2011 start of the transition to Afghan security leadership, which began in seven areas (three provinces and four cities). According to President Obama on June 22, 2011, as part of the transition, 10,000 U.S. troops will leave Afghanistan (of the 99,000 that are there) by the end of 2011, and an additional 23,000 by September 2012. The election fraud and disputes have purportedly affected the perceptions of the Afghan people about the legitimacy of the Afghan government and its ability to take the lead on security by the end of 2014, according to current plans. The August 10, 2011, Karzai decree may serve to alleviate some of these concerns.

Afghans close to Karzai believe that the U.S. posture on the Afghan elections strained relations between the two countries. In the 2009 presidential election, Karzai reportedly believed the United States was hoping strong candidates might emerge to replace him. The United States repeatedly stated its neutrality in all Afghan elections, and 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.

Next Presidential Elections: Karzai Says He Will Yield Power

In part because of fears that any successor might purge Karzai allies from the governing structure, some had alleged that Karzai has been planning to alter the constitution to allow himself to run for a third time, or possibly engineer a *loya jirga* to ask him to stay in office after 2014. At a June 15, 2011, Senate Appropriations Committee hearing, then Secretary of Defense Gates said Karzai had abandoned any such thinking and would leave office in 2014. Some U.S. officials sought to

persuade Karzai to make a more public and definitive declaration to that effect. On August 12, 2011, the palace issued a statement that Karzai had told a group of parliamentarians that he would end his presidency in 2014 as prescribed by the constitution and had begun to search for a potential successor to endorse.

The Informal Power Structure: Influence of Regional and Factional Leaders/"Warlords"

Alongside the formal political structure constituted by post-Taliban elections sits the informal power structure that is centuries old. This informal power structure consists of the influence and informal and often arbitrary governing role of well-funded, locally popular, and sometimes well-armed faction leaders. In some cases, these faction leaders have been elected or appointed through constitutional processes that have been established, but exercise influence beyond those formal roles. Most of these leaders are from the north and west, where non-Pashtun minorities predominate, but there are some major Pashtun faction leaders as well. 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 (officially titled the National Reconciliation, General Amnesty, and National Stability Law) giving amnesty to faction leaders and others who committed abuses during Afghanistan's past wars. Karzai sent back to parliament an altered draft to give victims the right to seek justice for any abuses. Even though the revised draft contained that amendment, Karzai did not sign the final version in May 2007, leaving the status unclear. However, in December 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.

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 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. In January 2011, he began 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). The Fahim brother is also reportedly partnered with Mahmoud Karzai on coal mining and cement manufacturing ventures.

Abdurrashid Dostam: Uzbeks of Northern Afghanistan

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.²³

Dostam returned to Afghanistan on August 16, 2009, and subsequently held a large pro-Karzai election rally in his home city of Sheberghan. Part of his intent in supporting Karzai was to potentially oust a strong rival figure in the north, Balkh Province governor Atta Mohammad Noor, see below. Noor 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 in the 2009 election, including Jowzjan, Sar-i-Pol, and Faryab, although Dr. Abdullah won Balkh and Samangan. In January 2010, he was restored to his previous, primarily honorary, position of chief of staff of the armed forces. Although he was not nominated by Karzai to the post-election cabinet, 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's failure to secure posts for his allies could account for his decision to join the new opposition grouping formed in June 2011, discussed above. He continues to alternate his time between Afghanistan and Turkey; he is said to be suffering from health problems.

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

²³ CRS e-mail conversation with a then National Security aide to President Karzai, December 2008.

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,²⁴ 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 51 years old, has been the governor of Balkh Province, whose capital is the vibrant city of Mazar-e-Sharif, since 2005. Mazar-e-Sharif is one of the four cities to be transitioned to Afghan security leadership in June 2011. 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.²⁵ Some reports say that he commands two private militias in the province that, in at least two districts (Chimtal and Charbolak), outnumber official Afghan police, and which prompt complaints of abuses (land seizures) by the province’s Pashtuns.

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. Herat is one of the four cities that was transitioned to Afghan security leadership in July 2011. In 2006, Karzai appointed him minister of energy and water, taking him away from his political base in the west. However, Khan remains influential in the west, and maintaining ties to Khan helped Karzai win 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.²⁶

²⁴ This is the name of the area where the Taliban prisoners purportedly died and were buried in a mass grave.

²⁵ Gall, Carlotta, “In Afghanistan’s North, Ex-Warlord Offers Security.” *New York Times*, May 17, 2010.

²⁶ Partlow, Joshua, “Audio Files Raise New Questions About Afghan Elections.” *Washington Post*, November 11, 2010.

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 has sought 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 has won wide praise for his successes establishing effective governance in Helmand (discussed further under “Expanding Local Governance”) and for reducing poppy cultivation there. The capital of Helmand, Lashkar Gah, is one of the four cities to be transitioned to Afghan security leadership in June 2011 and it is unlikely that Karzai would remove governor Mangal in advance of that major change. 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 U.S. Department of Defense’s (DOD’s) “Host National Trucking” contract that secures U.S. equipment convoys. Koka allegedly agrees to secure the convoys in exchange for the payments.²⁷

Ahmad Wali Karzai: Southern Afghanistan/Qandahar Province and Implications of His July 12, 2011, Assassination

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 ongoing U.S. military-led operations to increase security in surrounding districts, giving the July 12, 2011, assassination of Karzai’s half brother, Ahmad Wali Karzai, crucial significance. The assassin was allegedly a close aide and bodyguard who pulled him aside to talk and then fielded a concealed weapon to shoot him at point blank range. The assassin was killed by other bodyguards.

In Qandahar, Ahmad Wali Karzai, was chair of the provincial council, a post with relatively limited formal power, but he has always been more powerful than any appointed governor of Qandahar. President Karzai has frequently rotated the governors of Qandahar to ensure that none

²⁷ 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.

of them will impinge on Ahmad Wali's authority. Perceiving him as the key power broker in the province, many constituents and interest groups met him each day, requesting his interventions on their behalf. Numerous press stories have asserted that he protected narcotics trafficking in the province, and some press stories say he was also a paid informant and facilitator for CIA and Special Operations Forces in the province.²⁸ Some Afghans explained 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. Observers report that President Karzai has repeatedly rebuffed U.S. and other suggestions to convince his brother to step down as provincial council chairman, and U.S. officials reportedly had ceased making those suggestions as of August 2010. Before his death, some observers say Ahmad Wali had been taking U.S. and other advice and was bringing rivals and various tribes into the decisionmaking process, to the point where many tribal figures had sought to persuade President Karzai to appoint him as governor.

Qandahar, and President Karzai's influence there, suffered an additional blow on July 27, 2011, when the appointed mayor of Qandahar city, Ghulam Haider Hamidi, was assassinated. Hamidi was an Afghan-American accountant by training and, like Ahmad Wali Karzai, received mixed reviews depending on whether the observer benefitted or was harmed by his decisions.

Before Ahmad Wali's assassination, U.S. officials had been trying to bolster the clout of the appointed Qandahar governor, Tooryalai Wesa to the point where petitioners seek his help on their problems. The United States and its partners have sought to do so by funding and supporting Wesa's 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 sought to prevent Ahmad Wali from interfering in that.²⁹ Karzai had 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. If that was partly the intent of Wesa's appointment, it did not succeed. However, Qandahar's recently appointed police chief, Col. Abdul Razziq, is perceived as having substantial weight, as well as a reputation for corruption. He was appointed to that post earlier in 2011 when his predecessor was killed in an insurgent attack.

The death of Ahmad Wali Karzai might serve to empower governor Wesa over the long term. Over the shorter term, however, many observers fear tribal conflict and a struggle to fill the void left by Ahmad Wali, and compounded by the killing of mayor Hamidi. There are fears that the progress achieved in stabilizing Qandahar and other southern provinces since 2009 could now be jeopardized at a time when U.S. forces are beginning to draw down. Although the claims by the Taliban that the assassin was one of their allies are widely doubted, some believe the Taliban could benefit politically from the killing. To try to curb the uncertainty, President Karzai quickly installed another relative, Shah Wali Karzai, as titular head of the Popalzai clan and informal Qandahar power broker. However, observers say Shah Wali lacks the acumen and clout of Ahmad Wali. Some observers say that Karza might, instead of relying on Shah Wali, try to reconstitute Ahmad Wali's strong leadership by appointing Ghul Agha Shirzai as Qandahar governor. Shirzai, currently governor of Nangarhar, is from the powerful Barakzai clan of Qandahar.

²⁸ 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.

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

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 Province, previously serving as governor of that province, where he reportedly continued to exercise influence in competition with Ahmad Wali Karzai. As noted above, Ahmad Wali Karzai's death on July 12, 2011, could prompt Sherzai and his allies to assert themselves in the province. In Nangarhar, Sherzai is generally 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. As noted above, Shirzai had considered running against Karzai in 2009 but then opted not to run as part of a reported "deal" that yielded unspecified political and other benefits for Shirzai.

Afghan Governing Capacity and Performance³⁰

Since 2001, U.S. policy has been to help expand the capacity of Afghan institutions, most of which were nearly non-existent during Taliban rule. No parliament was functioning during that time, and Afghanistan was run by a small, Qandahar based group around Mullah Mohammad Umar, who remained there. Those government offices that were functioning were minimally staffed, and virtually none had 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 and the ability of the government to deliver services—at the central and local levels—but to push for its reform, transparency, 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 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." The President did not raise this issue directly in his June 22, 2011, announcement of a U.S. troop drawdown, but the implication of his speech is that the Afghan government will be expected to assume full responsibility for more of its own functions, not limited to security but including revenue generation, oversight, service delivery, and provision of justice.

³⁰ Some information in this section is from the State Department report 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>.

Expanding Central Government Capacity

The international community has attempted to shift authority in Afghanistan from traditional leaders and relationships, such as those discussed above, to transparent and effective state institutions. That process is proceeding, although with mixed success to date. In the context of the July 2011 start of transition to Afghan leadership, some question whether the stated U.S. goal—denying a safehaven for international terrorists in Afghanistan—requires substantial internationally promoted and funded institution-building, while others say Afghanistan will revert to a terrorist haven unless effective governance is well established.

Afghan ministries have greatly increasing their staffs and technological capabilities (many ministry offices now have modern computers and communications, for example). 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. However, the government still faces a relatively small recruitment pool of workers with sufficient skills and many are reluctant to serve in the provincial offices of the central government ministries, particularly in provinces where there is still substantial violence.

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.³¹ The latest reports submitted under this requirement, released April 5, 2011, says that “During [October 1-December 31, 2010], there was improvement in Afghanistan’s service delivery, institutional capacity, and economic growth.”³² 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.

The Afghan Civil Service

The low level of Afghan bureaucratic capacity is being addressed in a number of ways, but 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. According to the April 2011 version of a mandated DOD report on Afghanistan,³³ the Afghan government continues to make progress building human capital needed to improve governance. During late 2010-early 2011, the government resumed merit-based appointments for senior positions, such as deputy provincial governors and district governors, and converted those positions to civil servants rather than political appointees. It also has instituted new training programs for district and provincial officials that are adding quality to the ranks of public service.

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. A key institution that is deciding on merit based appointments discussed above, standardizing job

³¹ “Evaluating Progress in Afghanistan-Pakistan” Foreign Policy website, http://www.foreignpolicy.com/articles/2009/09/16/evaluating_progress_in_afghanistan_pakistan.

³² <http://www.fas.org/man/eprint/afpak-0311.pdf>.

³³ U.S. Department of Defense. “Report on Progress Toward Security and Stability in Afghanistan.” April 2011. http://www.defense.gov/news/1230_1231Report.pdf. (Hereinafter cited as DOD 1230 report.)

descriptions, salaries, bonuses, and benefits is the Afghan Independent Administrative Reform and Civil Service Commission (IARCSC). 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, 2010.³⁴

Under a USAID 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 USAID, under a February 2010 memorandum of understanding, gave \$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 trained over 16,000 bureaucrats during 2010, according to the DOD 1230 report, and which has instituted an internship program for 1,000 interns in national civil service jobs and 2,000 interns in provincial and district offices.

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. The Afghan budget year follows the solar year, which begins on March 21 of each year, which also corresponds to the Persian New Year ("*Nowruz*"). In early February 2011, the National Assembly adopted a 2011 national budget in-line with its responsibilities.

According to observers, the Afghan budget is a "unitary" system. Once a budget is adopted by the full National Assembly (first the upper house and then the lower house, and then signed by Karzai), the funds are allocated to central government ministries and other central government entities. Elected provincial councils, appointed provincial governors, and district governors formulate their local budget requirements and therefore shape the national budget process, but the localities do not control their own budgets. They do 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 widespread observation that local officials sometimes seek to retain or divert locally collected revenues. A U.N. report of June 23, 2011, says the government is initiating a pilot program to disburse more funds to the provinces than was the case previously.

³⁴ "The situation in Afghanistan and its implications for international peace and security." Report of the Secretary-General. U.N. document number A/65/612-S/2010/630, December 10, 2010, available at http://unama.unmissions.org/Portals/UNAMA/SG%20Reports/SG%20REPORT_10DEC2010.pdf. (Hereinafter cited as the December 10, 2010, U.N. report.)

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 total Afghan government budget (operating budget and development budget) is provided by international donors. Donor funds cover 45% of the Afghan government operating budget, which is about \$2.2 billion. The United States is the largest donor to Afghanistan. Partly because of corruption, only about 40% of U.S. aid is being channeled through the Afghan government during FY2011, although that is up from 21% in FY2009, according to a June 8, 2011, staff report of the Senate Foreign Relations Committee (“Evaluating U.S. Foreign Assistance to Afghanistan.”). This is close to the target figure of 50% of total donor funds to be channeled through the government was endorsed at the July 20, 2010, Kabul conference. Currently, according to that Foreign Relations Committee staff report, 14 Afghan ministries have received USAID and State Department funds, and these ministries have received over \$300 million in direct U.S. funding as of June 2011.

The fact that a progressively higher percentage of U.S. funds are channeled through the Afghan government might ease tension between the international community and President Karzai. He emphasized this theme in his speech on February 6, 2011, at an international security conference in Munich, Germany,³⁵ in which he said that the previously low level of funding provided directly had stunted the growth of Afghan government capacity. Many international development experts concur that only through direct funding will the Afghan government be able to develop the capacity and eventually the transparency to govern and deliver services effectively.

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 re-infiltration. 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 was headed until early 2011 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. He was replaced by Abdul Khaliq Farahi, a former diplomat who was kidnapped in Peshawar, Pakistan, and held for nearly three years (2008-2011) allegedly by militants linked to Al Qaeda.

On the other hand, senior civilians in southern Afghanistan say that local governance is improving and expanding, particularly in areas secured by the 2010 U.S. “troop surge.” He and other officials say that Afghans are forming local councils and building ties to appointed local leaders in these cleared and secured areas. The April 2011 DOD 1230 report, looks in particular at

³⁵ Statement by President Hamid Karzai at the 47th Munich Security Conference. February 6, 2011.

138 districts that are highly restive, and says that 49% of the population of these districts now live in areas rated as having “emerging” or “full authority”—up from 38% in September 2010.

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. As noted above, progress is being made in implementing a merit-based appointment system for deputy provincial governors and district governors. Provincial governors, however, are still political appointees selected mostly for loyalty to Karzai.

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.

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.³⁶ 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,

³⁶ Partlow, Joshua and Karen DeYoung. “Afghan Government Falters in Kandahar.” *Washington Post*, November 3, 2010.

2009, concurrent with the presidential elections. The previous provincial council elections were held concurrent with the parliamentary elections in September 2005. In most provinces, the provincial councils do not act as true local legislatures and are considered weak compared to the power and influence of the provincial governors.

Perhaps the most significant role the provincial councils play is in choosing the upper house of the National Assembly (*Meshrano Jirga*). In the absence of district councils (no elections held or scheduled), the provincial councils elected in 2009 have chosen two-thirds (68 seats) of the 102-seat body. Karzai appointed the remaining 34 seats in February 2011.

District-Level Governance

District governors are appointed by the president, at the recommendation of the IDLG. As of March 2011, 18 district governors have been appointed through the merit-based appointment system in which qualifications are assessed by the IARCSC (see above). 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 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. A March 9, 2011, U.N. report said that the Afghan government has increased the number of operating district offices by 10, to 179, from January 2009 to March 2011—seemingly representing slow progress.

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). 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. Gen. Petraeus testified during March 15-16, 2011, that on March 1, 2011, Marjah held elections for a village council in which 76% of those eligible voted, suggesting growing stability.

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 would not be district elections in September 2010 when the parliamentary elections were to be held. No date for these elections has been set.

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, a U.S. official in southern Afghanistan Henry Ensher said in January 2011 that councils have been formed in areas where security has been established by the 2010 U.S. “troop 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 and to 1,330 by August 2011. Of these, nearly 400 are serving outside Kabul, up from 67 in early 2009.

Although many U.S. civilian officials now work outside Kabul, there are about 1,200 employees at the U.S. Embassy in Kabul. 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),³⁷ who are counterparts to the military commanders of each NATO/ISAF regional command (there are currently five of them). Each Senior Civilian Representative has 10-30 personnel on his/her team. For example, the SCR for Regional Command South is based at Qandahar airfield and interacts closely with the military command of the southern sector. The SCR for Regional Command East (RC-E) is based at Bagram Airfield.

Reforming Afghan Governance: Curbing Corruption³⁸

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

³⁷ For more information, see U.S. Department of Defense. “Report on Progress Toward Security and Stability in Afghanistan,” April 2011; http://www.defense.gov/news/1230_1231Report.pdf, pp. 19-20.

³⁸ 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.

governmental corruption worldwide, ranked Afghanistan in 2008 as 176th out of 180 countries ranked in terms of government corruption.

High Level Corruption, Nepotism, and Cronyism

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. In October 2010 it was reported that a Justice Department investigation of Mahmoud Karzai's dealings (he holds dual U.S.-Afghan citizenship) had begun, and reported grand jury consideration of charges (racketeering, tax evasion) against him began in mid-February 2011. 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 a prime example of how well-connected Afghans have avoided 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 (\$500 million initially reported, according to the Afghan Central Bank) primarily from shareholder investments in Dubai properties, prompting President Karzai to appoint a Central Bank official to run the Kabul Bank. However, the government moves did not prevent large numbers of depositors from moving their money out of it. With the United States and other donors refusing to recapitalize the bank, the Afghan government said on November 27, 2010, that it had injected "far less" than \$500 million into the Bank to keep it solvent.

The International Monetary Fund (IMF) suspended its credit program for the Afghan government in November 2010 because of the scandal and demanded the entire Afghan banking industry undergo an outside forensic audit and that those responsible be held accountable. That caused the holding up of a \$70 million World Bank/Afghan Reconstruction Fund donation due to be paid June 11, 2011. Other donors suspended their aid because of the IMF suspension. The United States offered to finance an audit of Afghan banks, including Kabul Bank, but 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 the results with international donors. The IMF also wants a timetable for another bank found by the Central Bank to be vulnerable to collapse, Azizi Bank, to shore up its finances.

Amid Afghan confirmation that the questionable loans of the bank total over \$925 million (including interest due), the IMF—as a condition of resuming its credit program—subsequently

pushed for the bank to be sold. Afghan officials initially refused to sell the bank on the grounds that doing so would cause a renewed run on the bank. However, the Central Bank agreed to separate the bank's performing from non-performing assets and then dissolve or restructure the bank.³⁹ A version of the plan, which was subject to approval by an Afghan government committee, was formally approved and announced on April 21, 2011. The section of the bank holding non-performing assets is to focus on recouping the bad loans, which Afghan officials said on May 30, 2011, would likely total about \$575 million (\$925 million in questionable loans minus \$347 million expected to be repaid.) About \$300 million of the losses are said to be untraceable because of a lack of documentation.

The political fallout is continuing, but possible also producing some resolution. 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. The investigating commission briefed reporters on its findings on May 30, 2011, placing much of the blame on lax controls by the Central Bank and its governor, Abdul Qadir Fitrat. The government commission also largely absolved Mahmoud Karzai of any wrongdoing, saying he had paid off his loans, and naming other key figures, such as Dostam, as taking out \$100,000 in unsecured loans. The following day, Central Bank governor Fitrat disputed the commission's conclusions. He had previously told parliament that Mahmoud Karzai owed \$22 million. In part because of his feuding with the beneficiaries of the Kabul Bank lending, Fitrat fled Afghanistan for the United States and announced his resignation on June 27, 2011. Karzai reportedly subsequently barred U.S. advisers from the Central Bank.

Until late June 2011, no one had been prosecuted for the Bank's difficulties. However, on June 30, 2011, the government announced the arrest of two former Kabul Bank executives, Sherkhan Farnood and Khalilullah Frouzi, who allegedly allowed the concessionary loans to the high-level Afghans and their relatives. On August 1, 2011, the Attorney General's office sent the names of about 15 people allegedly responsible for the scandal to Afghan courts for trial. The move, coupled with the start of a forensic audit of the Bank, suggested Afghanistan is moving to meet the IMF conditions for the restart of its credit program.

Another Afghan entity suspected of corruption is the New Ansari Money Exchange, a large money-trading operation. On February 18, 2011, the Treasury Department designated the New Ansari, and persons affiliated with it, as major money laundering entities under the "Kingpin Act," a designation that bans U.S. transactions with the designees. The Treasury Department accused the New Ansari and affiliates of serving as a vehicle for narcotics trafficking organizations.

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 (e.g., passports, drivers' licenses), in which processing services routinely require bribes in exchange for action.⁴⁰ 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

³⁹ Ernesto Londono, "Afghan Officials Opt to Dissolve Bank Draped in Scandal," *Washington Post*, March 27, 2011.

⁴⁰ Filkins, Dexter, "Bribes Corrode Afghan's Trust in Government," *New York Times*, January 2, 2009.

siphon off customs revenues or demand extra payments to help guard the U.S. or other militaries' equipment shipments. Other examples security commanders' placing "ghost employees" on official payrolls in order to pocket their salaries. 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). Many observers say there is a cultural dimension to the corruption – that it is expected that those Afghans who have achieved government positions will reward their relatives and friends with favors, appointments, and contracts.

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 indicated that, henceforth, the Administration would prioritize reducing low-level corruption, and less so on investigations of high-level allies of Karzai.⁴¹ 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 issued guidance to U.S. agencies to review this issue.⁴²

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 outgoing top U.S. and NATO commander in Afghanistan, has said he has made anti-corruption a top priority to support his counter-insurgency strategy. A key deputy, General H.R. McMaster, has formed several DOD task forces to focus on anti-corruption (*Shafafiyat*, Task Force Spotlight, and Task Force 2010) from a U.S. military/counter-insurgency perspective. These task forces, in part, review U.S. contracting strategies so as to enhance Afghan capacity and reduce the potential for corruption. Some observers assert that anti-corruption efforts are more appropriately an issue to be handled by U.S. civilian officials, not the U.S. military.

Other Karzai Responses

Karzai has taken note of the growing U.S. criticism, and Obama Administration officials have credited him with taking several steps, aside from those taken to resolve the Kabul Bank scandal. The credit is 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 July 20, 2010, Kabul conference—following onto the January 28, 2010, London conference—the Afghan government committed to enacting 37 laws to curb corruption. As of March 2011, none of these laws has been enacted, according to the DOD 1230 report, although the December 10, 2010, U.N. report says the Afghan cabinet has drafted new anti-

⁴¹ Strobel, Warren and Marisa Taylor. "U.S. Won't Pursue Karzai Allies in Anti-Corruption Campaign." McClatchy Newspapers, January 6, 2011.

⁴² Chandrasekaran, Rajiv. "A Subtler Takc to Fight Afghan Corruption." *Washington Post*, September 13, 2010.

corruption and auditing laws (p. 8). There has been implementation of some steps by Karzai, using his executive authority (decree).

- *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 communiqué⁴³ included an Afghan pledge to verify and publish these declarations annually, beginning in 2010. As of March 2011, according to the U.N. report of March 9, 2011, 1,995 senior Afghan officials had declared their assets.
- According to the Kabul conference communiqué, a Joint Monitoring and Evaluation Committee to combat corruption was to be established within three months of the conference (by October 2010). According to the June 23, 2011, U.N. report, the Committee was inaugurated on May 11. It was established by decree and is composed of three Karzai nominees and three international nominees.
- *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 2009.⁴⁴ USAID will provide the HOO \$30 million total 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 MCTF is Afghan led, but it is funded and mentored by the FBI, the DEA, the U.S. Marshal Service, Britain’s Serious Crimes Organized Crime Agency, the Australian Federal Police, EUPOL (European police training unit in Afghanistan), and the

⁴³ Communiqué text at <http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html>.

⁴⁴ <http://www.sigar.mil/reports/pdf/audits/SIGAR20Audit-10-2.pdf>.

U.S.-led training mission for Afghan forces. The MCTF 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.⁴⁵ This body led the arrest in August 2010 of a Karzai NSC aide, Mohammad Zia Salehi, on charges of soliciting a bribe from the New Ansari Money Exchange 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 had 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. One of the laws pledged during the July 20, 2010, Kabul conference would be enacted (by July 20, 2011) included a law to empower the Anti-Corruption Tribunal and the Major Crimes Task Force.
- *Implementation: Prosecutions and Investigations of High-Level Officials.* According to the Afghanistan Attorney General's office on November 9, 2010, there were, at that time, ongoing investigations of at least 20 senior officials, including two sitting members of the cabinet. The two were Minister of Mining Sharani, and his father, who is a cabinet-rank adviser to Karzai on religious affairs. Two former ministers under investigation 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 in Lowgar Province (Aynak Copper Mine) to China;⁴⁶ 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

⁴⁵ Nordland, Ron and Mark Mazzetti. "Graft Dispute in Afghanistan Is Test for U.S." *New York Times*, August 24, 2010.

⁴⁶ Partlow, Joshua, "Afghanistan Investigating 5 Current and Former Cabinet Members," *Washington Post*, November 24, 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.

- Relatedly, Afghanistan has signed up as a candidate to the Extractive Industries Transparency Initiative (EITI) which is intended to ensure that contracting for Afghanistan's mineral resources is free of corruption. Afghanistan hopes to become fully EITI compliant by April 2012. The World Bank gave Afghanistan a three year grant of \$52 million to manage its natural resources effectively.
- *Salary Levels.* The government has tried to raise salaries, particularly of security forces, in order to reduce their inclination to solicit bribes. In November 2009, the Afghan government announced an increase in police salaries (from \$180 per month to \$240 per month). The Interior Minister, Bismillah Khan, is credited by DOD with instituting transparency and accountability in promotions and assignments.
- *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).⁴⁷ 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. On the other hand, press reports in mid-2011 said that some Afghan officials are refusing to have their cash counted upon departure from Kabul airport.
- *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.⁴⁸ 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, but it is not

⁴⁷ Miller, Greg and Joshua Partlow. "Afghans, U.S. Aim to Plug Cash Drain." *Washington Post*, August 21, 2010.

⁴⁸ Madhani, Aamer. "U.S. Reviews Afghan Watchdog Authority." *USA Today*, May 12, 2010.

yet enacted, partly because of the election dispute that has delayed most legislative consideration by the National Assembly.

- *Legal Review.* The Kabul conference communiqué committed 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.
- *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 as much as \$3 billion in funds have been allegedly embezzled by Afghan officials over the past several years.⁴⁹ 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. Some of this conditionality was included in the FY2011 continuing appropriations (P.L. 112-10).

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, heading a “Rule of Law Directorate.” 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. This is one of the 37 laws pledged at the Kabul Conference would be enacted. This has not been accomplished, to date.

⁴⁹ Rosenberg, Matthew. “Corruption Suspected in Airlift of Billions in Cash From Kabul.” *Wall Street Journal*, June 28, 2010.

- Improve legal aid services within the next 12 months. The December 10, 2010, U.N. report 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. 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.
- Align strategy toward the informal justice sector (discussed below) with the National Justice Sector Strategy.

Informal Justice and Dispute Resolution

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. This practice is known as *baad*.

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.

U.S. programs have focused primarily on the formal justice system, but there has been increasing attention to the informal system because its use is so prevalent. According to the April 2011 DOD report cited earlier, USAID is implementing a pilot program to assist local *shuras* in four districts to establish a system to transmit their judicial rulings, in writing, to the district government. 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.

Promoting Human Rights⁵⁰

On human rights issues, the overall State Department judgment is that the country’s human rights record remains plagued by numerous human rights problems, according to the department’s

⁵⁰ Information in this section is primarily from Department of State. 2010 Human Rights Report: Afghanistan, April 8, 2011; <http://www.state.gov/g/drl/rls/hrrpt/2010/sca/154477.htm>.

report for 2010 (issued April 8, 2011). However, as do previous years' State Department reports, the report for 2010 attributes these deficiencies to the overall lack of security, loose control over the actions of Afghan security forces, and to the actions of local faction leaders and insurgents.

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.

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 December 10, 2010, U.N. report says the Afghan cabinet has approved inserting a line item in the annual Afghan budget for the AIHRC.

Influence of National Ulema Council

Counterbalancing the influence of post-Taliban modern institutions such as the AIHRC are traditional bodies such as the National Ulema Council. It is a network of 3,000 clerics throughout Afghanistan, has increasingly taken conservative positions more generally, thereby limiting free expression and social freedoms. The Council had been headed by the former Supreme Court Chief Justice Fazl Hadi Shinwari, but he died in India of a brain hemorrhage in February 2011. No replacement for him has been named by the government.

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 would require amending the Afghan constitution, which does not implement Sharia.

Riots over Quran Burning

As an illustration of Afghanistan's Islamic conservatism, on April 2, 2011, hundreds of Afghans rioted in the normally quiet (and non-Pashtun) city of Mazar-e-Sharif to protest the burning of a Quran by a Florida pastor a few weeks earlier. The rioters, who had been instigated by the sermons of three mullahs (Islamic preachers) at the city's signature Blue Mosque, stormed the U.N. compound in the city and killed at least 12 people, including seven U.N. workers. Over the next several days, similar, but less violent, demonstrations, took place in Qandahar and other Afghan cities until sentiment calmed. Earlier, in September 2010, some National Ulema Council figures organized protests against plans by the Florida pastor to burn Qurans, although that burning was not conducted following international and U.S. criticism of the pastor.

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. According to the State Department report, there have been intimidation of journalists who criticize the central government or local leaders, and some news organizations and newspapers have occasionally been closed for incorrect or derogatory reporting on high officials.

Separately, Islamic conservatives (in and outside government, such as Sayyaf and Shiite cleric Ayatollah Asif Mohseni), have sometimes asserted control over media content. 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.

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. In general, the government does not restrict access to the Internet, but it does ban access to pornographic web sites.

Regarding broader social freedoms, as another example of the growing power of the Islamist conservatives, 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.

In early September 2011, press reports asserted that ISAF had suspended prison transfers to some Afghan facilities because of alleged torture by Afghan prison authorities. Afghanistan's Interior Ministry and National Directorate of Security denied the allegations, which included assertions that prisoners were being beaten with rubber hoses or given electric shocks.

Religious Freedom

The 2010 International Religious Freedom report (released November 17, 2010)⁵¹ 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 Islamailis, 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 education in such fields as information technology.⁵² 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, an offense under Afghan law that leaves it open for Afghan courts to apply a death sentence under Islamic law (Shariah). The arrest came days after the local Noorin TV station broadcast a show on Afghan Christians

⁵¹ <http://www.state.gov/g/drl/rls/irf/2010/148786.htm>.

⁵² Oppel, Richard Jr. and Abdul Waheed Wafa, "Hazara Minority Hustles to Head of the Class in Afghanistan," *New York Times*, January 4, 2010.

engaging in their rituals. Following diplomatic engagement by governments and human rights groups, Musa was quietly released from prison on February 24, 2011, and reportedly went to Italy where he is seeking asylum.

Human Trafficking

Afghanistan was again placed in Tier 2: Watch List in the State Department report on human trafficking issued on June 27, 2011 (Trafficking in Persons Report for 2011). The placement was the same as it was in the report for 2010 (June 17, 2010) and a downgrade from the Tier 2 placement of the 2009 report. The Afghan government is assessed in the 2011 report as not complying with minimum standards for eliminating trafficking, but making significant efforts to do so. However, the government did not increase its efforts to curb trafficking over the previous year. 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, although, according to the report, trafficking within Afghanistan is more prevalent than trafficking across its borders. The report asserts that some families knowingly sell their children for forced prostitution, including for *bacha baazi*, a practice in which wealthy men use groups of young boys for social and sexual entertainment. 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. The Afghan government pursues a policy of promoting equality for women under its National Action Plan for Women of Afghanistan (NAPWA).

Among the most notable accomplishments, 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 but, in a sign of difficulty in changing attitudes, the most senior Afghan woman in the police force was assassinated in Qandahar in September 2008. The first Afghan female pilots arrived for training in the United States in July 2011. 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.

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 in part because of the relative ineffectiveness of acting minister Husn Banu Ghazanfar. She remains minister in an acting capacity, having been voted down by the lower house for reappointment. 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. However, the Afghan government, in January 2011, launched a plan to regulate the 11 shelters by placing them under government control. This has raised concerns that the government might seek to limit the access to the shelters by some women and in some areas.

Other institutions, such as Human Rights Watch, report backsliding due in part to the lack of security.⁵³ According to the State Department human rights report for 2010, numerous abuses, such as denial of educational and employment opportunities, continue primarily because of Afghanistan's conservative traditions. This is particularly prevalent in rural areas, and less so in larger urban areas. More than 70% of marriages in Afghanistan are forced, despite laws banning the practice, and a majority of brides are younger than the legal marriage age of 16. There is no law specifically banning sexual harassment. Under the penal code, a man convicted of "honor killing" (of a wife who commits adultery) cannot be sentenced to more than two years in prison.

Many Afghan women are 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.

Recent Legal Developments

Some laws passed recently have affected women, both positively and negatively. 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" (EVAW) law. Minister of Women's Affairs Ghazanfar told CRS in October 2009 that the bill was long contemplated and not related to the Shiite status law.⁵⁴ It was enacted by the National Assembly as a law as of December 2010; it had been held up by the Assembly for final passage because some Islamic conservatives, such as Sayyaf (cited above), reportedly object to the provisions of the law

⁵³ "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.

⁵⁴ CRS meeting with the Minister of Women's Affairs, October 13, 2009.

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 named three women to cabinet posts 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.)

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.

In the National Assembly, the constitution reserves for women at least 17 of the 102 seats in the upper house and 68 of the 249 seats in the lower house of parliament. There were 23 serving in the outgoing upper house, 6 more than Karzai's mandated bloc of 17 female appointees. There were 68 women in the previous lower house (when the quota was 62), meaning 6 were elected without the quota. The number elected in the September 18, 2010, election is 69, one more than the quota. (For the election, 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.)

About 300 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 say that its policy is to promote women's rights in Afghanistan rigorously. The Administration has and is following its “Strategy for Assistance to Women in Afghanistan, 2010-2013.”⁵⁵ U.S. officials said aid allocations are geared toward that strategy. 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 \$159 million to programs for Afghan women in FY2009, slightly more than the \$150 million earmarked, and about \$225 million for FY2010, more than the \$175 earmarked.⁵⁶ For FY2010, assistance as provided in the following “pillars” of the U.S. Strategy: health (\$87 million); education (\$31

⁵⁵ A draft of this strategy document was provided to CRS by the State Department, April 21, 2011.

⁵⁶ 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.

million); economy, work, and poverty (\$54.6 million); legal protection and human rights (\$12 million); and leadership and political participation (\$43 million).

These strategy pillars, and specific programs funded by them, are discussed in State Department reports on U.S. aid to women and girls, covering FY2001-FY2008, and then FY2008-FY2009. Some programs focus on training female police officers.⁵⁷ The latest iteration of the report, for FY2009-10, was due September 2010; it has been drafted and is in inter-agency review. Some donors, particularly those of Canada, have financed specific projects for Afghan women farmers. However, an audit issued in July 2010 by the Special Inspector General for Afghanistan Reconstruction found that the State Department and USAID did not provide complete and consistent information about the reported activities in which women and girls were intended beneficiaries.

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, Human Rights, 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-FY2010, a total of about \$3.6 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. Good governance funding accounts for about half that total. Rule of law and human rights funding accounts for about \$935 million for FY2002-2010, of which some funds come from the International Narcotics and Law Enforcement (INCLE) account and the remainder is largely Economic Support Funds.

The following funding for these functions is to be spent in FY2011, as appropriated in P.L. 112-10, the continuing appropriation for FY2011:

- \$1.388 billion for all democracy and human rights-related 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.

The following is requested for FY2012.

⁵⁷ 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.

- \$1.076 billion for overall democracy and human rights-related funding including
 - \$789.1 million for good governance;
 - \$256.6 million for rule of law and human rights (\$227 million of which are INCLE funds);
 - \$17.3 million for political competition and consensus building; and
 - \$13.7 million for civil society.

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.

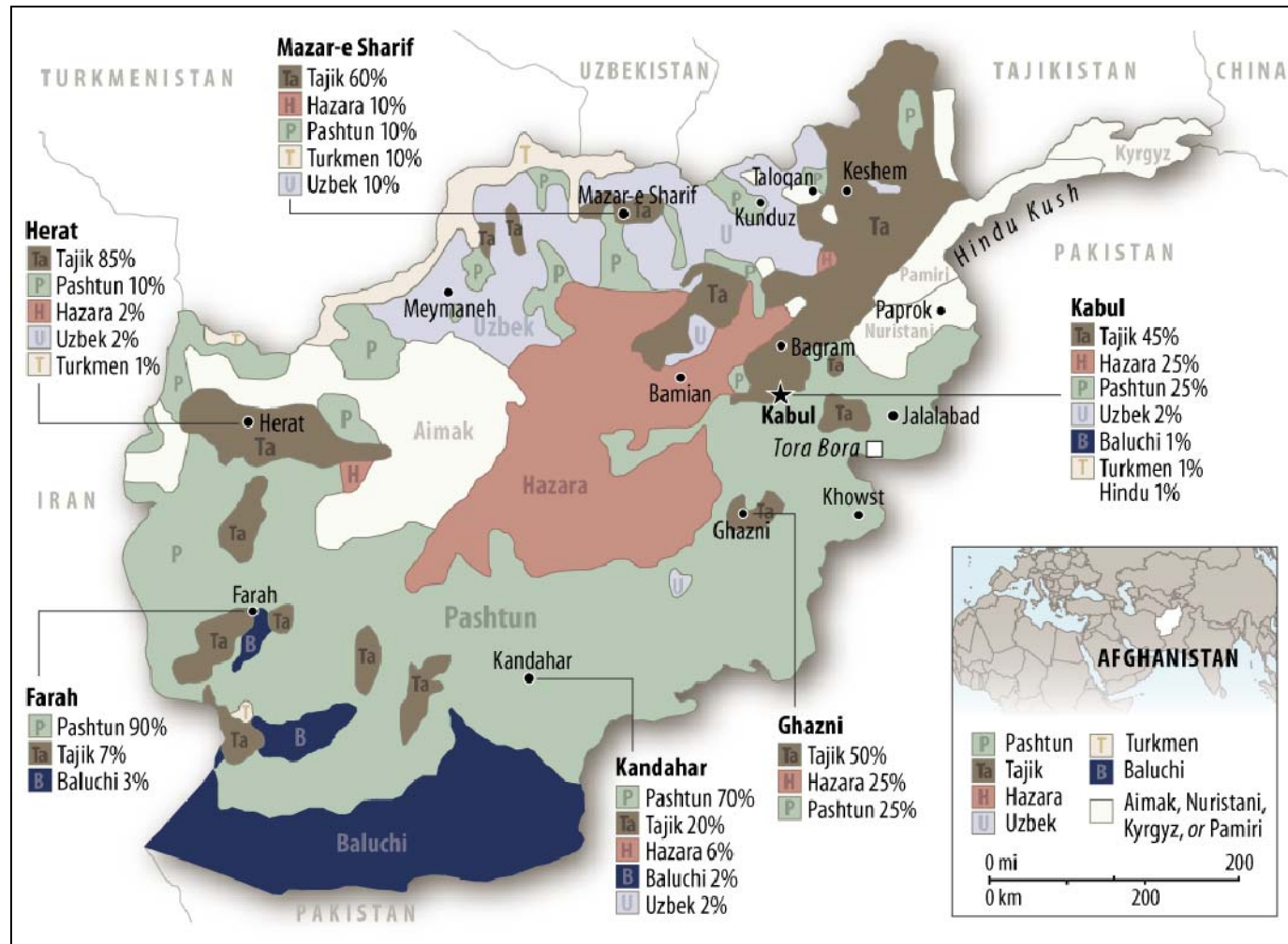
Table I. Major Pashtun Tribal Confederations

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, former 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, Police Chief, 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 Durrani
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		

Clan/Tribal Confederations	Location	Example
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)
Afridis	Tirah, Khyber Pass, Kohat	
Zaka khel		
Jawaki		
Adam khel		
Malikdin, etc		
Yusufzais	Khursan, Swat, Kabul	
Akozais		
Malizais		
Loezais		
Khattaks	Kohat, Peshawar, Bangash	
Akorai		
Teraï		
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.

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.