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Afghanistan: Politics, Elections, and Government Performance

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Summary

The capacity, transparency, legitimacy, and cohesiveness of Afghan governance are crucial to Afghan stability as U.S.-led NATO forces exit Afghanistan by 2016. The size and capability of the Afghan governing structure has increased significantly since the Taliban regime fell in late 2001, but the government remains weak and rife with corruption. Hamid Karzai has served as president since late 2001; he is constitutionally term-limited and will leave office after the conclusion of presidential and provincial elections. The first round of took place on April 5, 2014, and the results required a June 14 runoff between Dr. Abdullah Abdullah and former Finance Minister Ashraf Ghani.

The runoff increased ethnic tensions between Pashtuns, Afghanistan's largest group represented by Ghani, and the second largest group the Tajiks, with whom Abdullah is identified. Amid accusations by Abdullah of a fraud-inspired large increase in turnout between the two rounds, preliminary results released July 7 showed Ghani ahead 56% to 44%. With Abdullah's supporters urging him to declare himself the winner and form a government, Secretary of State Kerry visited Afghanistan to broker a July 12 resolution of the dispute. Under the agreement, all 23,000 ballot boxes would be recounted under international supervision, and the winner of the election would agree to appoint the loser as a "chief executive" of government, pending a more permanent constitutional alteration to a prime ministerial system. The recount has proceeded more slowly than expected due to distrust between the two camps and there are differing expectations for the post-election power-sharing agreement. The vote count might not be completed and a new president sworn in until well into September 2014.

Substantial powers are concentrated in the elected presidency through powers of appointment at all levels, but other Afghan institutions are relatively weak and could founder as the United States and its partners reduce their involvement in Afghanistan. An informal power structure consisting of regional and ethnic leaders—some of whom ran in the 2014 elections—has always been at least as significant a factor in governance as the formal power structure. The faction leaders lead or can recruit armed fighters, and several are reviving their militias in the advance of the international drawdown. An increase in the influence of faction leaders is likely to produce an increase in arbitrary administration of justice and in human rights abuses. In addition, there has been scant progress in reducing widespread nepotism and other forms of corruption. The United States has helped establish anti-corruption institutions, but these bodies have faltered from lack of support from senior Afghan leaders who oppose prosecuting political allies.

International observers assert that there have been significant gains in civil society, women's rights, and media freedoms since 2001. Those gains have come despite the persistence of traditional attitudes and Islamic conservatism in many parts of Afghanistan—attitudes that cause the judicial and political system to tolerate child marriages and imprisonment of women who flee domestic violence. Islamist influence and tradition has also frequently led to persecution of converts from Islam to Christianity, and to curbs on the sale of alcohol and on Western-oriented media programs. Afghan civil society activists, particularly women's groups, assert that many of the gains since 2001 are at risk if the Taliban is fully reintegrated into Afghan politics.See also CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

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Overview: Historic Patterns of Afghan Authority and Politics

Afghanistan's governing structure has historically consisted of a weak central government unwilling or unable to enforce significant financial or administrative mandates on all of Afghanistan's diverse ethnic communities or on the 80% of Afghans who live in rural areas. Ethnic and rural communities, many of which are divided by mountains and wide expanses, have often looked to local faction leaders for their governance. At the same time, there has always been a struggle between urban, educated "modernizers" and the rural, lesser-educated traditionalists who adhere to a set of long-standing customs and practices. The Taliban government (1996-2001) opposed modernization, but there has been substantial modernization and urbanization since the Taliban were ousted—changes that might help Afghanistan remain stable after the international involvement in Afghanistan ends.

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 monarch, and an elected lower house and appointed upper house were set up. The parliament during that era never succeeded in becoming a significant check on the king's power, although the period from 1964 until the seizure of power by Mohammad Daoud in a 1973 military coup was considered a flowering of Afghan democracy. The last lower house elections during that period were held in 1969. The parliament was suspended outright 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"),[1] after the Taliban had fallen. Karzai is the first directly elected Afghan President.

Since the fall of the Taliban, there has also been the growth of a civil society, largely made up of educated Afghans, many of whom returned to Afghanistan from exile when the Taliban fell. Organizations and groups addressing various issues, including women's rights, law and justice, media freedoms, economics and business issues, the environment, and others, have proliferated. U.S. and international partner policy has been to try to empower these groups to check government power and to entrench Afghan democracy.

These newly emerging interest groups have still not been able to displace—or even necessarily substantially influence—the informal power structure of ethnic, regional, tribal, clan, village, and district structures that exercise authority at all levels. At the local level, these structures governed and secured Afghanistan until the late 1970s but 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 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 and highly conservative in orientation, remained intact. Some of them continue to exercise their writ rather than accept the authority of the central

[1] For text, see http://www.un.org/News/dh/latest/afghan/afghan-agree.htm.

government or even local government appointees. Still other community authorities prefer to accommodate local insurgents rather than help the government secure their areas.

Afghan Ethnicities, Communities, and Their Relationships

Even though many areas of post-Taliban Afghanistan are modernizing politically and economically, patterns of political affiliation by family, clan, tribe, village, ethnicity, region, and comradeship in past battles often supersede relationships based on ideology or views. These patterns have been evident in every post-Taliban Afghan election. Candidates, including at the national level, often pursue campaign strategies designed primarily to assemble blocs of ethnic and geographic votes, although some candidates have sought to advance specific new programs and ideas. The traditional patterns have been even more pronounced in province-based campaigns such as those for provincial councils and the parliament. In these cases, electorates (voters of a specific province) are small and candidates can easily exploit clan and familial relationships.

While Afghans continue to follow traditional patterns of affiliation, tensions between political and ethnic groups and factions have generally been confined to the legitimate political process. 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. All ethnic groups are represented at all levels of the central government and each group has a large measure of control over how government programs are implemented in their geographic regions. Although Afghanistan's President has the power to appoint provincial and district governors, in practice there is an informal understanding not to appoint governors of a different ethnicity than the majority of residents of particular provinces. The Independent Directorate of Local Governance (IDLG), which submits recommendations to the presidency on local appointments, often consults notables of a province on appointments. The major groups are discussed below.

Pashtuns

Ethnic Pashtuns (pronounced POSH-toons, sometimes referred to as Pathans—pah-TAHNS), as the largest single ethnicity, have historically asserted a "right to rule" Afghanistan. The Pashtuns speak Pashtu (or Pashto), but most in the government also speak Dari, a language akin to Persian. Pashtuns are widely believed to constitute 42% - 45% of the population. With few exceptions, it has been a Pashtun holding the top governing position in 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. Protests erupted in December 2013 when a Pashtun former intelligence official said on a television show that "Pashtuns are the rulers and owners of Afghanistan..."

Karzai is a Durrani Pashtun, and his cabinet and advisory circle has been dominated by other Pashtuns, both Ghilzai and Durrani. A prominent Ghilzai is 2014 presidential election candidate Ashaf Ghani, who won enough votes on April 5 to proceed to a runoff. Karzai has been credited by many observers for including other communities in decision-making. The Taliban is composed almost completely of Pashtuns but the movement has opposed the post-2001 government on the grounds that it has not enforced strict Islamic law and is supported by international forces. 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).

Tajiks/Northern Alliance

Tajiks, who speak Dari, are the second-most numerous and second-most powerful community in Afghanistan. Tajiks are an estimated 25% of the population. During the anti-Soviet war and Taliban period, many Tajik leaders grouped around the prominent *mujahedin* commander Ahmad Shah Masoud and the *Jamiat Islami* (Islamic Society) *mujahedin* political party led by Burhanuddin Rabbani (assassinated September 20, 2011). Masoud was revered because of his success in preventing Soviet occupation forces from conquering the Panjshir Valley. During Taliban rule, Tajik leaders formed the core of a broader, non-Pashtun dominated "Northern Alliance" that is discussed in detail later. Masoud was killed by Al Qaeda supporters two days before the September 11 attacks on the United States, possibly in conjunction with that plot. It should be noted that some Tajik commanders during the anti-Soviet and anti-Taliban wars fought with Pashtun parties including *Hezb-i-Islamii*.

Tajiks have ruled Afghanistan on only a few occasions. Rabbani served as president of the *mujahedin* government (1992-1996), and led briefly again during November-December 2001, before Karzai became interim leader. The main political leader of the Northern Alliance is Dr. Abdullah Abdullah, whose mother is Tajik and father is Pashtun. Dr. Abdullah, who is about 57 years old, is identified politically as Tajik because he was a top aide to Masoud. Abdullah was dismissed from his foreign minister post by Karzai in a March 2006 cabinet reshuffle, but continued to meet and engage with him politically nonetheless. Abdullah heads a private foundation named after Ahmad Shah Masoud. Abdullah emerged as Afghanistan's opposition leader after his unsuccessful run for president in the August 2009 election, propelling him to front-running status in the 2014 presidential elections, as discussed below. As an opposition leader, he has argued that the constitution should be changed to establish a parliamentary system in which the National Assembly would select a powerful prime minister that would serve as a check on the presidency. Abdullah's advocacy of a prime ministerial post could result from the election dispute-resolution agreement brokered by Secretary of State John Kerry on July 12, 2014, as discussed further below. e April 5 first round of the presidential election showed him garnering the most votes (ab out 45%) in the April 5 presidential election, but he failed to exceed 50% and a runoff was required.

Karzai's First Vice President, Muhammad Fahim—who died in March 2014 of natural causes—was a Tajik, as is Defense Minister Bismillah Khan Mohammedi. Another Tajik, Yunus Qanooni, was speaker of the lower house of parliament during 2005-2011 and was made Vice President after Fahim's death.

Some Northern Alliance figures have emerged as competitors of Dr. Abdullah. Some did not join his 10-party "*National Coalition of Afghanistan"* in December 2011. Ahmad Zia Masoud (Ahmad Shah Masoud's brother), for example, belongs to an opposition group called the *National Front of Afghanistan.* It does not advocate a prime ministerial system but instead advocates "federalism"—a high degree of autonomy for Afghan provinces, including appointment of provincial governors by elected provincial councils. The National Front grouping also is more skeptical of a peace agreement with the Taliban than is Dr. Abdullah's faction.

Hazaras

The Hazara Shiite minority (about 10% of the population) has advanced economically and politically since 2001, largely through pursuit of higher education and through entrepreneurship. The Hazaras have historically been looked down upon by the Pashtuns, who have tended to

employ Hazaras as domestic workers and other lower and working class occupations. Observers report that many Hazaras, including Hazara women, are earning degrees or pursuing training in information technology, medical, and other highly skilled professions and that they are becoming dominant in many of these higher paying sectors of the Afghan economy.[2] Hazaras are slightly underrepresented in the ANSF officer corps (about 7%). One major Hazara figure is Mohammad Mohaqiq, who was a prominent *mujahedin* commander during the Soviet occupation. Another is Second Vice President Karim Khalili. Other prominent Hazaras include prominent anti-corruption parliamentarian Ramazan Bashardost and the chairwoman of the Afghanistan Independent Human Rights Commission (AIHRC), Sima Simar.

Possible envy of Hazara advancement could have been a factor in the December 6, 2011, bombings of Hazaras in three cities, killing 60, while they were visiting their mosques to celebrate the Shiite holy day of Ashura. Pakistan-based militant group Lashkar-i-Jhangvi—generally allied to the almost purely Pashtun Taliban—claimed responsibility. There are also tensions between the Hazaras and the Tajiks, even though both oppose Pashtun dominance. A clash took place between the two communities on September 9, 2012, when a car in a procession of Tajiks commemorating the September 9, 2001 death of Ahmad Shah Masoud ran over a Hazara bicyclist. The clash was said to reflect lingering Hazara resentment of Masoud's 1993 offensive against then Hazara rivals during the 1992-1996 period of civil warfare.

Uzbeks

Uzbeks, like the Hazaras, are about 10% of the population. The Uzbek community is Sunni Muslim and speaks a language akin to Turkish. Most Uzbeks speak Dari as well. The most well-known Uzbek leader in Afghanistan is Abdul Rashid Dostam, who was allied with Soviet occupation forces but later defected and helped bring down the Communist regime in Afghanistan in April 1992. Like Dostam, many Uzbeks and adopted the Soviet leftwing and secular ideology, and the community prospered substantially from Soviet infrastructure built during the occupation period. As noted below, the speaker of the lower house of parliament is an ethnic Uzbek.

Other Minorities[3]

There are several other religious and ethnic minorities in Afghanistan, members of which are sometimes discriminated against or targeted for attacks. Northeastern provinces have a substantial population of Isma'ilis, a Shiite Muslim sect often called "Seveners" (believers in the Seventh Imam as the true Imam). They constitute about 5% of the population. Many Ismailis follow the Agha Khan IV (Prince Qarim al-Husseini), who chairs the large Agha Khan Foundation that has invested heavily in Afghanistan. An estimated 350 Sikh families and 30 Hindu families are present as well, concentrated in the area of Jalalabad in Nangarhar Province. The Christian community is estimated at between 500 and 8,000 persons, and the Bahai community, considered heretic by Afghan Muslim clerics, is about 2,000.

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

[3] Some of this information is taken from the State Department International Religious Freedom Report for 2012, released May 20, 2013, http://www.state.gov/j/drl/rls/irf/religiousfreedom/.

The Role of Political Parties

During the era of the Soviet occupation and the 1992-1996 civil war, many of the *mujahedin* (Islamic insurgent fighters) factions were based on ethnicities, and were loyal to major ethnic and factional commanders. The fact that these parties, such as *Jamiat-Islami* and the Uzbek group *Junbush Melli Islami Afghanistan*, were largely funded and armed by outside powers contributed to a popular aversion to formal political parties in post-Taliban Afghanistan. Since 2009, there apparently has been some evolution in these attitudes and parties and electoral coalitions have strengthened. Even though many parties still are relatively homogenous ethnically, they do not advertise themselves as "ethnic" parties per se, because Article 35 of the Afghan constitution bans parties based on ethnicity or religious sect.

President Hamid Karzai never formed a party. However, many of his supporters in the National Assembly (parliament)—and several officials in his office—belong to a moderate faction of *Hizb-e-Islami.* The party, composed almost totally of ethnic Pashtuns, is the only one of the *mujahedin* parties that is formally registered. Committed to working within the political system, it is led by Minister of Economy Abdul Hadi Arghandiwal, whose leadership was reaffirmed at a party conference during October 3-4, 2012. The militant wing of *Hizb-e-Islam* is loyal to pro-Taliban insurgent leader Gulbuddin Hikmatyar; it is called *Hizb-e-Islami Gulbuddin* (HIG). Another mostly Pashtun party is Afghan Millat (Afghan Nation), which was headed until October 2012 by Minister of Commerce Anwar ul-Haq Ahady. He was displaced by its Secretary-General Stana Gul Sherzad at an October 2012, Party Congress.

Since 2004, Dr. Abdullah has formed several parties in succession, although generally composed of other ethnic Tajiks. Some rival Tajiks have formed their own parties, or have joined multi-ethnic parties focused on increasing government accountability. One prominent secular, pan-ethnic party, the Rights and Justice Party, was formed by ex-Interior Minister Mohammad Hanif Atmar and other allies in October 2011; it is discussed further below. Another party, the Coalition for Reform and Development, was formed in early 2012 to try to ensure that the presidential election in 2014 would be fair.

Many hoped that post-Taliban Afghanistan would produce secular, pan-ethnic democratic parties that could rival the larger, *mujahedin*-era parties such as *Hezb-e-Islam*. That process has been halting. From the fall of the Taliban until 2009, 110 political parties were established, but most of these parties were small and were formed by and centered on specific personalities, rather than offering clear ideological platforms. A 2009 law required all parties to re-register by demonstrating their support with 10,000 signatures spanning at least 22 provinces. That limited the number of parties registered before the September 18, 2010, parliamentary election to only five. A July 11, 2012, regulation eased registration rules somewhat by requiring parties to have offices in at least 20 provinces to register, and 56 parties were registered by the end of 2013. However, some assert that the development of idea-based parties has been hindered by the Single, Non-Transferable Vote (SNTV) system that limits the ability of parties to determine those candidates that are elected to parliamentary seats.

Post-Taliban Transition and Political Landscape

U.S. policy since 2001 has been to help expand the capacity of formal Afghan governing institutions, most of which were nearly nonexistent during Taliban rule. However, the formal

governing structure continues to compete, often unsuccessfully, with the traditional power structures discussed above.

Formal Government Structure: Elected but Centralized Leadership

The 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. During Taliban rule (1996-2001), Afghanistan was run by a small, Qandahar-based group ("Shura") of Pashtun clerics loyal to Mullah Mohammad Umar, who remained there. No parliament was functioning, and government offices were minimally staffed and lacked modern equipment. There were no formal processes to review Mullah Omar's decision, for example, to host Osama bin Laden in Afghanistan.

In the formation of the first post-Taliban transition government, all sides viewed the United Nations as a credible mediator because of its role in ending the Soviet occupation. During the 1990s, a succession of U.N. mediators adopted proposals for a government to be selected by a traditional assembly, or *loya jirga,* even though 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 that began meeting in 1997 (the United States, Russia, and the six states bordering Afghanistan: Iran, China, Pakistan, Turkmenistan, Uzbekistan, and Tajikistan).

December 2001 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. After the fall of Taliban rule 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. There, 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:

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

[4] Text of Bonn agreement is 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.

On December 5, 2011, there was an international conference on Afghanistan in Bonn, marking the 10th anniversary since the 2001 Bonn Conference. The meeting, in part, evaluated governance progress in Afghanistan since the original convention.

Permanent Constitution Sets Up Presidency With Broad Powers

A June 2002 "emergency" *loya jirga* put a representative imprimatur on the transition; it was attended by 1,550 delegates, of which about 200 were women. Subsequently, a 35-member constitutional commission drafted a constitution, unveiling it in November 2003. It was debated by 502 delegates, selected in U.N.-run caucuses, at a "*constitutional loya jirga* (CLJ)" from December 13, 2003 to January 4, 2004. The CLJ, chaired by prominent Islamic scholar and former interim Afghan leader Sibghatullah Mojadeddi, approved the draft constitution.

The constitution set up a presidential system, with an elected president having relatively broad powers and a separately elected National Assembly (parliament). The Tajik-dominated Northern Alliance, which opposed centralized power that would likely favor Pashtuns, failed in its effort to set up a system in which the elected parliament would select a prime minister who would then run the day-to-day workings of government. The faction did achieve some limitation to presidential powers by assigning major authorities to the parliament, as discussed below. The Northern Alliance likely assumed that the post of elected president would usually be won by a Pashtun while the prime minister post would likely be held by a Tajik as part of a power-sharing agreement. The election system (a two round election if no majority is achieved in the first round) strongly favors the likelihood the president will always be an ethnic Pashtun.

The president serves a five-year term, with a two-term limit (Article 62). There are two vice presidents. The president has broad powers. Under article 64, he has the power to appoint all "high-ranking officials," which has been interpreted by Karzai to include not only cabinet ministers but also members of the Supreme Court, judges, provincial governors and district governors, local security chiefs, and members of supposedly independent commissions such as the Independent Election Commission and the Afghan Independent Human Rights Commission (AIHRC). The latter body was set up by Article 58 to refer cases of human rights violations to "the legal authorities." (See below for more on this commission.) However, these appointments are constitutionally subject to confirmation by the National Assembly. The president also is commander-in-chief of the Afghan armed forces. At the CLJ, the opposition did not achieve the right of elected provincial and district councils to choose their governors—an outcome the opposition continues to seek to reverse. The constitution made former King Zahir Shah honorary "Father of the Nation," a title that was not heritable; he died on July 23, 2007.[6]

The Presidency

The first election for president was held on October 9, 2004. Turnout was about 80%. Karzai won in the first round (55.4% of the vote) over 17 challengers, and was sworn in in December 2004. With the National Assembly not yet established, he ruled by decree during 2005.

Karzai's closest advisers have been Pashtuns, such as chief of staff since 2011 (formerly Minister of Information and Culture) Abdul Karim Kurram. Kurram, like other Karzai advisers, is a

[6] Text of constitution is at http://arabic.cnn.com/afghanistan/ConstitutionAfghanistan.pdf.

member of the moderate wing of *Hezb-e-Islami.* In July 2013, Kurram alleged that the United States is colluding with the Taliban and Pakistan to pressure the Afghan government. Kurram succeeded in that post Mohammad Umar Daudzai, another *Hezb-e-Islami* member and a skeptic of Western/U.S. influence over Afghan decision making.[7] Daudzai subsequently was appointed Afghanistan's Ambassador to Pakistan, and, in late August 2013, became Interior Minister. Another top palace aide is minister-counselor Tajj Ayubi.

Despite surrounding himself with Pashtuns in his inner circle, Karzai has been credited for including ethnic and political factions in high government positions. Ahmad Zia Masoud, brother of slain Northern Alliance supreme military commander Ahmad Shah Masoud, served as First Vice President during Karzai's first elected term. In the 2009 election, Karzai's first vice presidential running mate was the Northern Alliance's primary military commander Marshal Muhammad Fahim, another Tajik. Karim Khalili (a Hazara) ran for another term as Karzai's second Vice President. Fahim died of natural causes on March 9, 2014, and former parliament speaker Yunus Qanooni, another Northern Alliance figure, was confirmed by the National Assembly on March 25, 2014, to serve out Fahim's term.

In an effort to improve the focus and organization of the presidential office, one idea that has periodically floated is to create a new position akin to a "chief administration officer" who can break through administrative bottlenecks. The idea was not implemented. However, one close Karzai confidant, "Senior Minister" Hedayat Amin Arsala, heads government reform efforts.

National Security Council

Some of the advisers Karzai most trusts are well-educated and Westernized officials, mostly Pashtuns, who serve in the National Security Council. The National Security advisory staff is located in the presidential palace complex and heavily populated by ethnic Pashtuns. Karzai is said to rely heavily on French-educated physician Zalmay Rassoul, who was National Security Adviser to Karzai until his appointment in 2010 as Foreign Minister, and who was a major candidate for president in the April 5, 2014, election. Karzai also reportedly relies heavily on current National Security Adviser Rangin Spanta, who served as Foreign Minister during 2006-2010. Both are Pashtuns. Another highly trusted official is first deputy National Security Adviser Ibrahim Spinzada, another Pashtun. However, many NSC officials are from other ethnicities.

Office of Administrative Affairs/General Administrative Office

An administrative unit that has attracted increasing international attention as a center of organized policymaking is the Office of Administrative Affairs (OAA), referred to by some as the General Administrative Office (GAO). Some experts say that the office, headed by a Hazara Shiite named Sadiq Mudabir, is primarily administrative, and without any policy coordination role. However, some Afghan observers say it has increasingly taken on a policymaking role by helping the National Assembly draft laws and advising the president on what legislation to sign or to veto.[8] The office also is purported to be taking on an informal judicial role by assessing the legitimacy

[7] On October 23, 2010, *The New York Times* asserted that Daudzai was 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.

[8] Author conversations with former Karzai National Security Council official. 2012-13.

of citizen, group, and corporate petitions and forwarding those deemed legitimate to the appropriate ministries for action.

The office 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, but U.S. military and civilian officials have advised the office as well.

National Assembly (Parliament) Formation, Powers, and Assertion of Powers

The National Assembly outlined by the constitution consists of a 259 seat all-elected lower house (*Wolesi Jirga*, House of the People, of which ten seats are elected by Kuchi nomads) 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.[9]

Because of the difficulty in confirming voter registration rolls and determining district boundaries, formal elections for the 407 district councils have not been held to date. Each district boundary is likely to be contentious because it will inevitably separate tribes and clans. Until there are elected district councils, two-thirds of the Meshrano Jirga are selected by the provincial councils for four-year terms. The lower house is mandated to be at least 28% female (68 women), an average of two for each of the 34 provinces.

Elections to establish the National Assembly and the provincial councils were held on September 18, 2005. The number of representatives varied by province, ranging from 2 (Panjshir Province) to 33 (Kabul Province). Other examples include Herat, 17; Nangahar, 14; Qandahar, Balkh, and Ghazni, 11 seats each.

Powers of the National Assembly

The National Assembly has become the key formal institution for non-Pashtun ethnic groups and political independents to oppose or influence the president. The Assembly was set up by the constitution as a relatively powerful body that can, to some extent, check the powers of the president, although many observers assert that it has been unable to break presidential authority.

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 (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. The two houses of parliament, whose budgets are controlled by the Ministry of Finance, are staffed by a National Assembly "secretariat" that has about 275 Afghans employees and runs a research unit and a library. There are 18 oversight committees. A USAID program called the Afghanistan

[9] The size of the two bodies is slightly smaller than the size of the same two bodies provided for in the 1964 constitution (214 members in the Wolesi Jirga and 84 members in the Meshrano Jirga, of which one-third were appointed by the King, one-third appointed by the provincial councils, and one-third directly elected.

Parliamentary Assistance Project (APAP) helped build the National Assembly's outreach, communications, and information technology, and advises on legislative reform and budgeting.

The National Assembly has, at times, asserted institutional strength since it was first inaugurated on December 19, 2005. It has been in large part the lower house's technocrats and independents that have consistently pushed to assert authority. One of the Assembly's first tasks was to review, and endorse, amend, or void the presidential decrees issued prior to the formation of the National Assembly. In March 2006, it achieved a vote to require the cabinet to be approved individually, rather than *en bloc*, increasing opposition leverage. However, all but 5 of the first 25 nominees were confirmed. In May 2006, the opposition within the lower house compelled changes to the nine-member Supreme Court, the highest judicial body, including ousting 74-year-old Islamic conservative Fazl Hadi Shinwari as chief justice.

The process of confirming the second-term cabinet—in which many of Karzai's nominees were voted down in several nomination rounds during 2010—reaffirmed the Assembly's institutional strength. The Assembly asserted itself on August 4, 2012, by voting to oust Defense Minister Abdul Rahim Wardak and Interior Minister Bismillah Khan Mohammedi, ostensibly for failing to reduce corruption in their ministries. Karzai abided by the vote, although he subsequently appointed and achieved confirmation of Khan as defense minister. On January 14, 2013, the lower house summoned 11 ministers to explain why they had executed only about 50% of their budgetary authority in 2012. In mid-May 2013, the lower house questioned Finance Minister Omar Zakhilwal for alleging that several parliamentarians were smuggling goods across Afghanistan's borders. After he presented specific information to support his charges, the lower house voted not to impeach him.[10] In July 2013, the lower house voted no-confidence against Interior Minister Ghulam Mujtaba Patang for security lapses around Afghanistan. Karzai at first opposed the move but in late August 2013 relented and appointed Umar Daudzai (see above) as Interior Minister.

Politics of the National Assembly

During his two terms, Karzai has been able to rely on support from a large bloc of supportive Pashtuns in the *Wolesi Jirga.* He had consistent support of about 90 members of the 2006-2010 lower house, and about 70-80 such supporters in the parliament elected in 2010. About half of his supporters are members of *Hizb-e-Islami.* Several other Karzai supporters are followers of Abd-i-Rab Rasul Sayyaf, a prominent Pashtun Islamic conservative *mujahedin* era party leader, [11] and others are members elected from Karzai's home province of Qandahar or from Helmand province. 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 December 2001 assault on Osama bin Laden's purported redoubt at Tora Bora. Karzai was unable to engineer the selection of Sayyaf to become lower house speaker in 2011. Abdul Raouf Ibrahimi, an Uzbek who is perceived as weak, won that post as a compromise candidate.

Karzai has had more substantial support in the 102-seat upper house of the National Assembly, partly because of his bloc of 34 appointments (one-third) to that body. Close allies have consistently chaired the body, including Sibghatullah Mojadeddi, who led it from 2005 until 2010, and the current chair, Fazl Hadi Muslim Yaar. Because it is composed of more elderly,

[10] "Afghanistan's Cycle of Corruption," Thedailybeast.com, May 16, 2013.

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

established, notable Afghans who are traditionalist in their political outlook, the upper house has tended to be more Islamist conservative than the lower house, advocating a legal system that accords with Islamic law, and restrictions on press and Westernized media broadcasts.

Karzai also used his bloc of appointments to the upper house to co-opt potential antagonists or reward his friends. In 2006, he appointed Muhammad Fahim (see above) to the upper body, although he resigned after a few months. 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 2011-2015 parliament. However, the appointments were delayed by the 2010 Assembly election dispute. In February 2011, he reappointed 18 incumbents and appointing 16 new members to the body, including the mandated appointment of 17 women.

Hamid Karzai, President of the Islamic Republic of Afghanistan

Hamid Karzai, born December 24, 1957, was selected to lead Afghanistan at the 2001 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." His presidency has been characterized by deteriorating relations with the outside powers that have preserved Afghan stability and underwritten economic development, but also success in including all ethnic and political factions in governance.

From Karz village in Qandahar Province, Karzai has led the powerful Popolzai tribe of Durrani Pashtuns since 1999, when his father was assassinated, allegedly by Taliban agents, in Quetta, Pakistan. Karzai's grandfather was head of the consultative National Council during King Zahir Shah's reign. He attended university in India and supported the *mujahidin* party of Sibghatullah Mojadeddi during the anti-Soviet war. He was deputy foreign minister in the *mujahidin* government of Rabbani during 1992-1995, but he resigned and supported the Taliban as a Pashtun alternative to Rabbani. He did not serve formally in the 1996-2001 Taliban regime. Karzai broke with the Taliban regime as its excesses unfolded and he forged alliances with 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 but rarely appeared in public. They have two children. After he leaves office, they reportedly will live in a newly-built house located near the current presidential palace, suggesting Karzai hopes for at least an informal future role.

Family Dealings

Controversy has surrounded his siblings for allegedly profiting from Karza'is presidency. 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 being involved 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. After Ahmad Wali's death, Karzai appointed another brother, Shah Wali Karzai, as Popolzai chief. Shah Wali reputedly became involved in business dealings in Qandahar that have run him afoul of another brother, Mahmoud Karzai. Their dispute centered around $50 million impounded by Shah Wali to complete the large upscale housing development in Qandahar called Ayno Maina. The dispute was settled in September 2013 and the complex has been completed. Mahmoud is reportedly under U.S. Justice Department investigation for alleged corruption involving other business interests in Qandahar and Kabul, including auto dealerships, a coal mine, a cement factory, and his borrowings from Kabul Bank (see below). Another brother, Qayyum Karzai, served in parliament during 2005-2008 but resigned in October 2008 for health reasons. He has reportedly been involved in negotiations with Taliban figures on a political settlement and attempted but failed to get President Karzai's support to run for president in 2014. 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 second cousins—Rashid and Rateb Popal. The Popal brothers reorganized the company as Watan Group and this firm is the local partner of China National Petroleum Company on a $3 billion investment, awarded in 2012, to develop oil fields in northern Afghanistan.

U.S.-Karzai Relations

Karzai has periodically lashed out at what he sees as U.S. and international pressure on him to reduce corruption and ensure electoral fairness, as well as what he characterizes as infringements on Afghan sovereignty from U.S.-led combat operations and prisoner detentions. On April 4, 2010, Karzai suggested that Western meddling in Afghanistan was fueling support for the Taliban as a legitimate resistance to foreign occupation. In October 2011, Karzai said that Afghanistan would side with Pakistan in the event of a war between Pakistan and the United States. During the March 2013 visit of Secretary of Defense Hagel, Karzai said that Taliban attacks were helping the United States prolong its military presence in Afghanistan. Some U.S. officials assert that his refusal to sign a negotiated Bilateral Security Agreement that would keep some U.S. forces in Afghanistan after 2014 is jeopardizing that post-2014 mission. Related differences emerged in February 2014 over an Afghan release of 68 detainees the United States identified as major security threats.

Source: Various press reporting and author conversations with Afghan officials. 2002-2014.

The Judiciary and Rule of Law[12]

The Afghan constitution provides for an independent judiciary, led by a nine-member Supreme Court. The members are appointed by the president, subject to confirmation by the lower house of the National Assembly. Of the nine, three judges are appointed to 10-year terms, three are appointed for 7 years, and three are appointed for four years. In May 2006, the National Assembly voted to start the appointment cycle anew. Most recently, two of those whose seats had expired were confirmed by the Wolesi Jirga on December 25, 2013. The chief justice, Abdul Salaam Azimi (whose term expired in August 2010), and three other associates justices with expire terms continue to serve as "acting justices."

As the highest body in the judiciary, the Supreme Court appoints judges at the provincial and district level. In mid-2012, the Supreme Court swore in 181 judges, many of whom were women, leaving only 38 out of Afghanistan's 407 districts lacking an assigned judge. Some female judicial officials, for example, Maria Bashir—chief prosecutor in Herat Province (the only female chief prosecutor in the country)—have been criticized by some groups for enforcing laws that are heavily skewed against women.[13] The judiciary works closely with the Office of the Attorney General, who is the highest ranking law enforcement officer in Afghanistan. The position has been held by Mohammad Ishaq Aloko, a Pasthun, since 2010.

International, including U.S., funding is helping the formal Afghan judicial system expand its capacity and competence. The writ of the judicial system has, by all accounts, expanded significantly since 2001, particularly in the urban areas. 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. USAID's "Rule of Law Stabilization Program" has trained over 700 Afghan judges and expanded the Afghan Supreme Court's training for new judges. Since July 2010, the U.S. Embassy has had a senior official heading a Rule of Law Directorate. NATO missions to support rule of law in Afghanistan, including operating the Justice Center in Parwan, ceased operations in 2013.

Despite the years of international support and assistance, there is broad international agreement that the Afghan judicial system remains weak and its independence is questionable. The Afghan government has completed few of the benchmarks for judicial reform agreed at the July 20, 2010, Kabul conference and the "Tokyo Framework" established at the Tokyo donor's conference of July 8, 2012. Some institutional barriers to the independence of the judiciary will be difficult to overcome. On matters involving interpreting the constitution, the Supreme Court has sparred with a rival institution, a constitutionally mandated "Independent Commission for the Supervision of the Implementation of the Constitution (ICSIC)." The ICSIC consists of seven commissioners appointed by the president, subject to confirmation by the lower house of the National Assembly.

- *Criminal procedure code*. The Tokyo Framework required enactment into law of a criminal procedure code by the end of 2010—one of the 37 laws the Afghans pledged at the Kabul Conference to enact. In January 2014, the Ministry of Justice finalized 220 articles of a draft code—incorporating all criminal laws

[12] Information on the judiciary can be found at http://supremecourt.gov.af/en/page/614/619#baha.

[13] Graham Bowley, "Afghan Prosecutor Faces Criticism for Her Pursuit of "Moral Crimes," *New York Times*, December 29, 2012.

enacted since 2001, including those on counter-terrorism, anti-corruption, anti-money laundering, and anti-human trafficking. The National Assembly approved the draft and President Karzai signed it into law on February 23, 2014.

- *Institutional Structures and Policies*. On October 13, 2012, the Wolesi Jirga adopted a law on the structure and authority of the Attorney General's Office. The Afghan government also has pledged to align strategy toward the informal justice sector with the National Justice Sector Strategy.
- *Legal aid.* The Tokyo Framework required improving legal aid services by the end of 2011. A March 7, 2014, U.N. Secretary-General's report on Afghanistan said the Ministry of Justice had increased to 31 the number of legal aid offices around the country. The offices are staffed by 101 legal aid lawyers.
- *Facilitating return of illegally seized lands*. The Afghan government committed to do so in the Tokyo Framework partly to address the ability of well-connected individuals to appropriated land—either through the legal process or through force—for their homes and projects. USAID provided $56 million during FY2005-2009 to facilitate property registration. An additional $140 million is being provided from FY2010-FY2014 to inform citizens of land processes and procedures, and to establish a legal and regulatory framework for land administration.
- *De-Politicizing the judiciary*. At the Tokyo conference, Afghanistan committed to present donors with plans to depoliticize the judiciary and assure rule of law—elements of a National Priority Program (NPP). In mid-October 2012, the EU judged that not enough progress had been made, and about $26 million in EU aid for judiciary reform was withheld.

Informal Justice System and Traditional Dispute Mechanisms

Despite the international focus on the formal justice sector, some experts estimate that as many as 80% of cases are decided in the informal justice system. Many Afghans view the formal sector as riddled with corruption and unfairness, and continue to use local, informal mechanisms (*shuras, jirgas*) to adjudicate disputes—particularly with cases involving local property, familial or local disputes, or personal status issues. In the informal sector, Afghans can usually expect traditional practices of dispute resolution to prevail, including the traditional Pashtun code of conduct known as *Pashtunwali.* Some of these customs include traditional forms of apology ("*nanawati*" and "*shamana*") and compensation for wrongs done.[14]

While much of the informal justice system consists of *shuras* and *jirgas*, there is also a history of Islamic courts operating in some provinces. These courts predate the accession of the Taliban, and some reemerged after the international intervention in Afghanistan in 2001. Some experts believe this informal Islamic court system could provide a stabilizing effect after 2014 by attracting the trust of Afghans and drawing them away from informal justice mechanisms run by Taliban insurgents.[15]

[14] http://www.khyber.org/articles/2004/JirgaRestorativeJustice.shtml.

[15] Casey Garret Johnson, "Afghan Islamic Courts: A Pre-Taliban System With Post-2014 Potential?," *At War*, April 17, 2013.

However, the informal justice system is dominated almost exclusively by males. For example, some disputes, including over debts or other financial obligations, 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. 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. officials say they do not oppose the widespread use of the informal justice sector as such, but they do oppose it when it is administered by Taliban members because of the Taliban's often extreme interpretations of Islamic law.

One concern is how deeply the international community should become involved in the informal justice sector. 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.

USAID has implemented programs to link the formal and informal justice sector. As part of a program begun in 2011, USAID has assisted local *shuras* (informal justice sector) 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 CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Rosen and Kenneth Katzman.

The Informal Power Structure: Power Brokers and Faction Leaders

An informal power structure exists outside the formal governing institutions—consisting of locally popular faction leaders with armed militia forces. Some observers refer to such figures as "warlords. This power structure is strengthening in anticipation of the departure of most international forces in 2014, as Afghan constituencies look for protection from a potential Taliban comeback. Karzai has worked with this informal power structure even while heading the formal power structure, maintaining that confronting faction leaders outright would cause their followers to rebel. Some faction leaders, both Northern Alliance figures and Pashtun leaders, operate in both spheres—holding official positions while also exercising informal influence in their home provinces. Recognizing the ability of the faction leaders to mobilize not only militias, but also voters, many of these faction leaders were on slates in the 2014 presidential election process. The United States and its partners have forged working relations with the informal power structure—often causing resentment among civil society activists and other emerging Afghan modernizers. A number of faction leaders own or have investments in Afghan security or other firms that have won business from U.S. and other donors and fuel allegations of nepotism and other corruption.

Some argue that U.S. policy since 2007 has further empowered local faction leaders and even created new factions and militias. Local security initiatives, including the Afghan Local Police Program and the Critical Infrastructure Police, have created new security organs that sometimes operate outside the full control of central security authority. On the other hand, Northern Alliance leaders maintain that the international community's early dismantling of local power structures in favor of a monopoly of central government control over armed force—which often targeted Northern Alliance militias for demobilization—caused the security deterioration in 2006-2011.

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. In December 2009, the

Afghan government published an amended version of the law—containing a provision giving victims the right to seek redress for abuses—in the official gazette (a process known as "gazetting"), giving it the force of law.

Northern Alliance Commanders

As noted above, First Vice President Muhammad Fahim died of natural causes on March 9, 2014. His passing removes from the scene a figure who has served as a significant bridge between Karzai and the Northern Alliance. Fahim, a Tajik from the Panjshir Valley region, became military chief of the Northern Alliance after Ahmad Shah Masoud's death. His choice as vice president in 2009 was criticized by human rights and other groups. During 2002-2007, he reportedly withheld turning over some heavy weapons to U.N. disarmament officials. He allegedly was involved in facilitating narcotics trafficking in northern Afghanistan, according to a *New York Times* story of August 27, 2009. Other allegations suggest he engineered property confiscations and other benefits to feed his and his faction's business interests.

In September 2012, Fahim said that Northern Alliance fighters should reorganize after 2014 if Afghan forces are unable to fend off the Taliban. His passing leaves the Northern Alliance without an obvious figure to command an Alliance militia, should it choose to form one. Some assert that Interior Minister Bismillah Khan could serve that function.

Abdul Rashid Dostam: Uzbek Leader in Northern Afghanistan

Prominent Uzbek leader Abdul Rashid Dostam heads a faction called *Junbush Melli Islami Afghanistan* (National Islamic Movement of Afghanistan), although it is not a registered political party. A former Communist ally of the Soviet occupying forces, Dostam later joined the Northern Alliance against the Taliban. He placed at its disposal his numerous armed partisans from his redoubt in northern Afghanistan (Jowzjan, Faryab, Balkh, and Sar-I-Pol provinces). There, during the Soviet and Taliban years, he was widely accused of human rights abuses of political opponents. He is also known for lack of emphasis on Islam and support for Western-style values, including alcohol consumption and promotion of women, in areas under his influence. To try to reduce his influence in the north, in 2005 Karzai appointed him to the post of chief military adviser—a largely ceremonial post he still holds. Dostam's support for Karzai in the 2009 election was key to Karzai's victory because of Dostam's strong support in the Uzbek community. Dostam also has been a rival figure of Balkh Province Governor Atta Mohammad Noor, who governs a province inhabited by many Uzbeks. In 2011, Dostam joined with Karzai's opposition in the National Front of Afghanistan and Truth and Justice Party, discussed above. He is a vice presidential candidate on the ticket headed by Ashraf Ghani that won enough votes to proceed to a runoff against Dr. Abdullah.

Dostam has had numerous feuds and altercations with other Afghan figures. On February 4, 2008, Afghan police surrounded Dostam's villa in Kabul in response to reports that he attacked an ethnic Turkmen figure who had broken with him. Dostam temporarily went into exile in Turkey in exchange for the dropping of the charges.[16] In June 2012, the Karzai government prosecuted Dostam for allegedly insisting the China National Petroleum Co. (CNPC) hire Dostam loyalists on its oil development project in northern Afghanistan. Dostam and his allies alleged that the

[16] CRS email conversation with a then-National Security aide to President Karzai, December 2008.

prosecution was a Karzai effort to favor Karzai's relatives' firm, Watan Group, which is the partner of CNPC on the project. In mid-June 2013, about 50 of Dostam's armed aides reportedly clashed with those of the deputy leader of *Junbush Melli*, the Karzai-appointed governor of Jowzjan Province, for refusing Dostam's plan to revive an Uzbek militia.

Dostam's reputation is further clouded by his actions during the U.S.-backed war against the Taliban. On July 11, 2009, the *New York Times* reported that allegations that Dostam had caused the death of several hundred Taliban prisoners during the major combat phase of OEF (late 2001) were not investigated by the Bush Administration. President Obama said any allegations of violations of laws of war need to be investigated, responding to assertions that there was no investigation of the *Dasht-e-Laili* massacre because Dostam was a U.S. ally.[17] 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/Mazar-e-Sharif Potentate

Atta Mohammad Noor, another figure generally considered part of the Northern Alliance, has been the governor of Balkh Province, whose capital is the vibrant city of Mazar-e-Sharif, since 2005. He is an ethnic Tajik and former *mujahedin* commander who openly endorsed Dr. Abdullah in the 2009 presidential election. However, Karzai has kept Noor in place because he has kept the province secure, allowing Mazar-e-Sharif to become a major trading hub, and because displacing him could cause ethnic unrest. Mazar-e-Sharif is one of the four cities transitioned to Afghan security leadership in June 2011. It is unique in that 60% of the residents of the city have access to electricity 24 hours per day, a far higher percentage than most other cities in Afghanistan, and higher even than Kabul. His critics say that Noor exemplifies a local potentate, brokering local security and business arrangements that enrich Noor and his allies while ensuring stability and prosperity.[18] 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 land seizures and other abuses primarily against the province's Pashtuns.

Mohammed Mohaqiq: Hazara Stalwart

Another faction leader is Mohammad Mohaqiq, a Hazara leader. During the war against the Soviet Union and then Taliban, Mohaqiq was a commander of Hazara fighters in and around Bamiyan Province, and a major figure in the Hazara Shiite Islamist party Hezb-e-Wahdat (Unity Party). The party was supported by Iran during those periods. Mohaqiq, a member of the lower house of parliament, was the apparent target of an assassination attempt in mid-June 2013. In July 2012, Mohaqiq demanded Karzai fire the head of the Academy of Sciences for publishing a new national almanac that Mohaqiq said overstated the percentage of Pashtuns in Afghanistan at 60%. Karzai fired the Academy head and three others at that institution. Mohaqiq is on Dr. Abdullah's slate in the 2014 presidential election.

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

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

Isma'il Khan: "Emir" of Herat/Western Afghanistan

Another Northern Alliance strongman that Karzai has sought to both engage and weaken is prominent Tajik political leader and former Herat Governor Ismail Khan. Khan played a key role in the March 1979 killing of 50 Soviet advisors in western Afghanistan. Then a captain in the Afghan military, the attack by military personnel loyal to Khan marked the start of the *mujahedin* uprising that triggered the December 1979 Soviet invasion. In 1995, he was captured and imprisoned by the Taliban but escaped. Khan is a religious conservative despite his Tajik ethnicity, and has generally sought to limit women's rights and influence in Herat province.

Often referred to as "Emir" (ruler) of the Herat area, Khan remains influential in western Afghanistan. Khan apparently helped Karzai win Herat Province in the 2009 election and, recognizing Khan's ability to attract votes, Abdi Rab Rasoul Sayyaf put Khan on his ticket for the 2014 presidential elections. During the campaign period, Khan was uninjured in an 2014 attack on his motorcade in Herat. A 2009 bombing there also missed him. Khan has been minister of energy and water since 2006—Karzai appointed him at that time in part to take him away from his political base in the west. Since 2010, Khan also has served on the High Peace Council, the body overseeing reconciliation with Taliban leaders.

U.S. concerns about Khan's continuing role as a faction leader—and a sign of the reemergence of traditional authority forms—were reinforced in November 2012. Anticipating greater Taliban strength after the international forces draw down at the end of 2014, Khan rallied thousands of his followers in the desert outside Herat, calling on them to reactivate their networks to prepare for possible eventual battle with the Taliban. As has Dostam, Khan reportedly has begun enlisting new recruits for a reviving militia force. Karzai's office criticized the gathering and Khan's efforts as contrary to government policy.[19] In November 2010, Afghan television broadcast audio files purporting to show Khan insisting that election officials alter the results of the September 2010 parliamentary elections.[20]

Sher Mohammad Akhunzadeh: Helmand Province Power Broker

One of the most influential Pashtun tribal leaders in southern Afghanistan is Sher Mohammad Akhunzadeh. A close associate of Karzai when they were in exile in Quetta, Pakistan, during Taliban rule, Karzai appointed him governor of Akhunzadeh's home province of Helmand when the Taliban government fell in late 2001. Akhunzadeh controls many loyalists in Helmand who helped international forces secure the province during his governorship of the province. However, his followers reportedly exercised power arbitrarily and engaged in illicit economic activity, contributing to Britain's demand that he be removed as a condition of Britain taking security control of Helmand in 2005. Karzai acceded to the demand, even though he subsequently asserted that Akhundzadeh was more successful against militants in Helmand using his local militiamen than was Britain with its modern force. Akhunzadeh promoted Karzai's reelection in Helmand Province in the 2009 election. Akhunzadeh and his allies apparently won a power struggle with then Helmand governor Ghulab Mangal, who is from eastern Afghanistan, when Karzai replaced Mangal on September 20, 2012, despite widespread praise for Mangal by U.S. officials.

[19] Graham Bowley, "Afghan Warlord's Call to Arms Rattles Officials," *New York Times*, November 13, 2012.

[20] Joshua Partlow, "Audio Files Raise New Questions About Afghan Elections," *Washington Post*, November 11, 2010.

Karzai Family: Qandahar Province Stronghold

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. On July 12, 2011, Karzai's half-brother, Ahmad Wali Karzai, was assassinated. He was chair of the Qandahar provincial council, a post with relatively limited formal power, but he was more powerful than any appointed governor of Qandahar and constituents and interest groups sought his interventions on their behalf. Qandahar governance suffered an additional blow in July 2011 when the appointed mayor of Qandahar city, Ghulam Haider Hamidi, was assassinated.

Following Ahmad Wali's death, Karzai promoted another brother, Shah Wali Karzai, as head of the Popolzai clan. Shah Wali at first lacked the acumen and clout of Ahmad Wali, but reports since mid-2012 say he has become highly influential, while also becoming involved in significant business dealings that continue to cast aspersions on the Karzai family. Also active in the province is another Karzai brother, Qayyum, who has served in the National Assembly and is a candidate to succeed his brother in the April 2014 election. The Karzai clan has consistently overshadowed and marginalized the governors of the province, including the current governor, Tooryalai Wesa, a Canadian-Afghan academic appointed in late 2008.

The Karzai family's influence in the province suffered from a rift between Shah Wali and Karzai's elder brother Mahmoud. The rift was caused, in large part, by a financial dispute over the upscale Mino Aina housing development that Mahmoud established. The dispute was resolved in August 2013, and the project was completed.

Another power center is Qandahar's police chief, Colonel Abdul Razziq. He is perceived as having increasing weight, as well as a reputation for corruption, including siphoning off customs revenues at the key Spin Boldak crossing from Pakistan. He was appointed to his current post in March 2011 after his predecessor was killed in an insurgent attack.

Ghul Agha Shirzai: Eastern Afghanistan/Nangarhar

A key gubernatorial appointment has been Ghul Agha Shirzai in Nangarhar. He is a Pashtun from the powerful Barakzai clan based in Qandahar Province, previously serving as governor and exercising influence in that province. Shirzai had considered running against Karzai in 2009 but then opted not to run as part of a reported "deal" that yielded Shirzai unspecified political and other benefits. He was a candidate for president in the 2014 election, but fared poorly in the April 5, 2014 first round.

In Nangarhar, Shirzai is generally viewed as an interloper. But, much as has Noor in Balkh, Shirzai has exercised relatively effective leadership, particularly in curbing poppy cultivation there. However, 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. U.S. officials say that he has kept some of the funds, and moves substantial funds around in cash rather than the Afghan banking system. He was briefly questioned in July 2012 in Germany about several suitcases of cash he was carrying, but was allowed to proceed. His supporters say he uses much of the funds—deposited in an account called the "Shirzai Fund"—for the benefit of the province, not trusting that funds remitted to Kabul would be spent in the province. Some allege that he has intervened in the

province's judicial process to win freedom for Taliban suspects with whom he might have commercial ties. Shirzai denies the allegations.[21]

Traditional Decisionmaking Processes of the Informal Power Structure: *Jirgas* and *Shuras*

The informal power structure has decision-making bodies and processes that do not approximate Western-style democracy but yet have participatory and representative elements. Meetings called *shuras*, or *jirgas* (consultative councils),[22] often composed of designated notables, are key mechanisms for making or endorsing authoritative decisions or dispensing justice. Some of these mechanisms are practiced by Taliban insurgents in areas under their control or influence. On the other hand, some see the traditional patterns as competing with and detracting from the development of the post-Taliban formal power structure—a structure that, with Western guidance, has generally tried to meet international standards of democratic governance.

At the national level, one traditional mechanism has carried over into the post-Taliban governing structure. The convening of a *loya jirga*, an assembly usually consisting of about 1,500 delegates from all over Afghanistan, has been used on several occasions. The Afghan constitution provides for a *constitutional loya jirga* as the highest decision-making body, superseding government decisions and even elections, and the constitution specifies the institutions that must be represented at the *constitutional loya jirga*. If a constitutional jirga cannot be held or is blocked, a traditional *loya jirga* can be convened by the president to discuss major issues, although it cannot render binding decisions. In the post-Taliban period, traditional *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. Another *loya jirga* was held during November 16-19, 2011, to endorse proposed Afghan government conditions on a Strategic Partnership Agreement between Afghanistan and the United States (which subsequently was signed). Another *loya jirga* in November 2013 approved a Bilateral Security Agreement (BSA) needed for some U.S. troops to stay in Afghanistan after 2014, although Karzai did not subsequently sign the BSA.

Emerging Power Centers: Civil Society and Independent Activists

The fall of the Taliban and international intervention has enabled the emergence of an new center of influence with the potential to sustain modernization and progress after the 2014 transition. Civil society activists and "independents" in the National Assembly and other institutions are a growing force in Afghan politics. Civil society activists populate the Afghan Independent Human Rights Commission, as well as such private activists and watchdog groups as the Afghanistan Women's Network, the Afghan Anti-Corruption Network, Integrity Watch, Equality for Peace and Democracy, "Afghanistan 1400," and the Afghanistan Analysis and Awareness ("A3"). Activists in these groups are familiar with and have easy access to media outlets. Some own new media outlets: the Mohseni family that owns Moby Media (Tolo Television) are said to be close to the Karzai administration but have often criticized its performance as well as restrictions on media

[21] Nathan Hodge, "U.S. Finds Graft by Favored Afghan Leader," *Wall Street Journal*, November 3, 2012.

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

content. Independent newspapers, such as Eight Sobh (8 AM), have been established to advocate for transparent government.

However, civil society activists continue to struggle against traditional faction leaders—many of whom use their armed supporters to intimidate opponents. In the 2005-2010 parliament, Malalai Joya (Farah Province) was a leading critic of war-era faction leaders. Ms. Fawzia Koofi, at one time a deputy lower house speaker, remains in the Assembly and is an outspoken leader on Afghan women's rights. Others prominent women's activists include Fauzia Gailani, who did not win re-election to parliament in 2010; Shukria Barekzai, chairwoman of the lower house Defense Committee during 2011; and Palwasha Hassan. Ramazan Bashardost, a former Karzai minister, champions parliamentary powers and has highlighted 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.

Elections in 2009 and 2010 Harmed Confidence in the Electoral Process and Widened Political Schisms

Elections are widely considered a key harbinger of the durability and extent of Afghanistan's political development and a barometer for measuring the effects of factional, political, ethnic, and sectarian rivalries. The 2009 presidential and provincial elections were the first post-Taliban elections run by the Afghan government through its Afghanistan Independent Electoral Commission (IEC). Both it and the September 2010 National Assembly elections were highly flawed and the international community worked with Afghan leaders to reduce such flaws in the presidential and provincial elections held on April 5, 2014, with a runoff on June 14, 2014.

2009 Presidential Election

The August 20, 2009 presidential election was plagued by assertions of a lack of credibility of the Independent Election Commission (IEC), whose commissioners were selected by and politically close to Karzai. A separate U.N.-appointed Elections Complaints Commission (ECC), which reviews election complaints and validates candidacies, had somewhat more credibility than the IEC because a 2005 election law provided for three ECC seats to be held by foreign nationals, appointed by the head of U.N. Assistance Mission–Afghanistan (UNAMA).[23]

The IEC set an August 20, 2009, election date—somewhat later than the April 21, 2009, date mandated by Article 61 of the Constitution to allow at least 30 days before Karzai's term expired on May 22, 2009. Registration during added about 4.5 million new voters, bringing the total to about 17 million. However, there were widespread reports of registration fraud, with some voters registering on behalf of women who do not, by custom, show up without a male escort at registration sites, and others selling registration cards.

A total of 32 candidates entered the race, and 3,200 people competed for 420 provincial council seats nationwide. About 80% of the provincial council candidates ran as independents, and one party, *Hezb-i-Islami,* fielded multiple candidates in several provinces. About 200 women competed for the 124 provincial council seats (30% of the total seats) reserved for women. In

[23] ECC website, http://www.ecc.org.af/en/.

Qandahar and Uruzgan, there were fewer women candidates than reserved seats. In Kabul Province, 524 candidates competed for the 29 seats of the council.

Security was a major issue for all the international actors supporting the Afghan elections process. In the first round, 800 out of 7,000 polling centers were deemed too unsafe to open. 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. The total cost of the Afghan elections in 2009 was about $300 million. Other international donors contributing funds to close the gap left by the U.S. contribution of about $175 million.[24]

Anti-Karzai Pashtuns failed to rally around the one major Pashtun who did run, Ashraf Ghani. The Northern Alliance backed Dr. Abdullah, who ran with a little-known Hazara and a Pashtun as his vice presidential picks. Taliban intimidation and voter apathy suppressed the total turnout to about 5.8 million votes cast, or about a 35% turnout. Twenty-seven Afghans, mostly security forces personnel, were killed on election day. Some observers said that female turnout was low primarily because there were insufficient numbers of female poll workers to make women feel comfortable voting.

Clouding the election substantially were the widespread fraud allegations coming from all sides. The final, uncertified total was released on September 16, 2009, and showed Karzai at 54.6% and Dr. Abdullah at 27.7%. Anti-corruption candidate Ramazan Bashardost, a Hazara, received 9%, and Ashraf Ghani received 3%.

The constitution requires that a runoff, if needed, be held two weeks after the results of the first round are certified. On October 20, 2009, the ECC determined that about 1 million Karzai votes and about 200,000 Abdullah votes were fraudulent and were deducted. The certified results therefore left Karzai short of the 50%+ needed to win outright. Karzai acquiesced to a runoff against Dr. Abdullah, but Abdullah refused to participate on the grounds that problems that plagued the first round were unresolved. On November 2, 2009, the IEC declared Karzai the winner. The Obama Administration accepted the outcome on the grounds that the fraud had been investigated. The provincial council election results were not certified until December 29, 2009. The council members took office in February 2010.

September 18, 2010, Parliamentary Elections

The split over the conduct of the 2009 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 were disputed until July 2011, largely paralyzing the National Assembly. On January 2, 2010, the IEC had initially set National Assembly elections for May 22, 2010, in line with a constitutional requirement for the election to be held well prior to the expiry of the existing Assembly's term. The international community argued that the election should be held later in 2010 because the IEC lacked sufficient staff and funds to hold the election under that timetable. Bowing to these considerations, on January 24, 2010, the IEC announced that the parliamentary elections would be held on September 18, 2010.

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

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 temporarily held back the needed funds in an effort to pressure the IEC to demonstrate that it is correcting the flaws identified in the 2009 election.

In February 2010 Karzai signed an election decree that superseded the 2005 election law and govern the 2010 parliamentary election,[25] even though the constitution requires that any new election law (or decree) not be adopted less than one year prior to the election to which that law will apply. Some of the provisions of the election decree—particularly the proposal to make the ECC an all-Afghan body—alarmed some in the international community. In March 2010, Karzai agreed that there would be two "international seats" on the ECC—at least one of which must concur on all decisions—and dropped his insistence that all five be Afghans. The Wolesi Jirga voted against the election decree but the Meshrano Jirga did not act, thus allowing the decree to stand. Even though the compromise was implemented, the communique of the July 20, 2010, Kabul donors conference included an Afghan government pledge to initiate, within six months, a strategy for long-term electoral reform.

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.

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.[26] A final list of candidates, after all appeals and decisions on the various disqualifications, was issued June 22; it included 2,577 candidates, of which 406 were 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.

On August 24, 2010, the IEC announced that 938 stations considered insecure would not open in order to prevent so-called "ghost polling stations"—stations open but where no voters can go. 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.

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.

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

[26] 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).

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.

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.
- Karzai's number of core supporters in the lower house fell 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 deputies were defeated.
- Some local militia commanders won election, including 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. 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.

The certified results triggered a major political crisis, caused primarily by Pashtun candidates who felt they lost the election due to fraud. On December 28, 2010, at the instruction of the Supreme Court, Karzai issued a decree empowering a special five-member tribunal to review fraud complaints. The IEC and ECC, backed by UNAMA and the international community, asserted the tribunal was not legitimate because the IEC and ECC are the only bodies under Afghan electoral law that have 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, Karzai postponed the inauguration of the new parliament.

Defying Karzai and the special tribunal, about 213 of the certified winners met at the Intercontinental Hotel in Kabul on January 20, 2011 and decided to take their seats on Sunday, January 23, 2011, without Karzai's formal inauguration. Presented with this challenge, Karzai inaugurated the lower house on January 26, 2011, while insisting the special tribunal continue its work. The lower house elected a compromise candidate, Abdul Raouf Ibrahimi, from the Uzbek community, as speaker. The upper house was completed as of February 19, 2011, when Karzai made his 34 appointments.

The crisis became acute on June 23, 2011, when the special tribunal ruled that 62 defeated candidates be reinstated. On August 10, 2011, Karzai decreed that the special court does not have jurisdiction to change election results, and on August 21, 2011, the IEC implemented elements of a compromise by ruling that nine winners had won their seats through fraud and must be removed (fewer than the 17 that UNAMA had urged). The newly declared winners were sworn in on September 4, 2011, and the National Assembly to resumed functioning shortly thereafter.

The exposure of widespread fraud in the 2009 and 2010 elections increased strains between Karzai and the National Assembly. In the confirmation process of his post-2009 election cabinet, National Assembly members objected to many of his nominees as having minimal qualifications or as loyal to faction leaders. Karzai's original list of 24 ministerial nominees (presented

December 19) was generally praised by the United States, but only 7 were confirmed. Another five were confirmed on June 28, 2010, and on March 12, 2012, the Assembly confirmed most of those ministers who were serving in an acting capacity as well as some new nominees.

2014 Presidential and Provincial Elections[27]

U.S. officials and many Afghans have been concerned that the 2009 presidential election fraud would recur in the 2014 presidential elections, which occur as international forces are drawing down. The international community asserted that another fraud-filled election would cloud Afghanistan's ability to govern beyond 2014. The international community generally avoided holding the election to a standard of "free and fair." Deputy Secretary of State William Burns said in Kabul on May 11, 2013, that the election should be "transparent, credible, and inclusive." The April 5, 2014 first round appeared largely free of widespread fraud but the June 14, 2014 runoff has been clouded by allegations by one of the candidates of major, systematic fraud.

USAID is spending about $200 million to support the 2014 election process in Afghanistan, including $95 million to support Afghan institutions directly and promote voter education and election observer groups; $80 million in the form of a donation to U.N. Development Program election support efforts (see below); and about $15 million to support civil society groups.

Timing of the Elections: April 5, 2014

Under the constitution, the presidential elections had to be held 30 to 60 days before the May 22, 2014, expiration of Karzai's final term. On October 31, 2012, the IEC set the election date as April 5, 2014, overruling Northern Alliance assertions that the election should be later to allow for the northern part of the country—where support for non-Pashtun candidates is strong—to thaw after the winter. Provincial elections were due in 2013, but the IEC set these elections concurrent with the presidential elections because of the logistical difficulties and costs involved in holding a separate election. There were also 420 provincial council seats up for election in 2014. The next parliamentary elections are expected to be held in 2015.

Election Process Milestones and Reforms

The July 8, 2012, "Tokyo Mutual Accountability Framework" stipulated that Afghanistan "develop, by early 2013, a comprehensive election timeline through 2015 for electoral preparations and polling dates."[28] Aside from the setting of the election date, the key benchmarks of election preparations and their status were as follows:

- **Election-Related Dates**. The IEC set a timeframe of September 16-October 6, 2013, as the deadline for candidate registration. That time frame was observed.
- **Election Laws**. Two laws to govern the 2014 election—one (IEC Structural Law) to structure the IEC and the Electoral Complaints Commission (ECC) and another one to stipulate election procedures and policies (Electoral Law)—were

[27] For additional information on the upcoming elections and their implications, see International Crisis Group. Afghanistan: The Long, Hard Road to the 2014 Transition. October 8, 2012.

[28] http://www.embassyofafghanistan.org/article/the-tokyo-declaration-partnership-for-self-reliance-in-afghanistan-from-transition-to-transf.

to be adopted within the first quarter of 2013. That deadline was not met.[29] In mid-April 2013, the National Assembly passed draft election laws that included lower house provisions to deprive the president of sole discretion over IEC appointments and provide for two ECC officials to be non-nationals (as was the case for the 2010 parliamentary election). Karzai insisted that the ECC be replaced by an Afghan Supreme Court-run election tribunal and he returned the draft unsigned (a veto). On May 22, 2013, the lower house passed another draft Structural Law setting up an all-Afghan ECC. It and the Electoral Law then passed the upper house. Karzai signed the Structural Law on July 17, 2013 and the Electoral Law on July 20, 2013. The signing satisfied the statement of a July 3, 2013, the Tokyo Mutual Accountability Framework review meeting that the election laws be signed before the National Assembly's July 22, 2013, recess.

- **IEC and ECC Membership and Powers**. On July 17, 2013, acting under the newly signed election laws, Karzai's office announced that the required committee of lawyers, human rights activists, the speakers of the two chambers of the National Assembly, and judicial officials would convene to nominate prospective IEC and ECC appointees. On September 17, 2013, Karzai named the nine IEC commissioners, including former Herat Governor Yusuf Nuristani, an ethnic Tajik, as IEC chairman. He named three women as IEC commissioners. Karzai subsequently named the five ECC members, of which one (Reeda Azimi) is female. The chairman of the ECC is Sattar Saadat, a Pashtun. The ECC also has 102 provincial complaints commissioners, approved in February 2014. The ECC, expanded its staff and capabilities after acquiring official standing by Afghan law, has the power to investigate abuses of power—such as provincial officials' interference in the process—and vet candidates. It removed some provincial council candidates for various violations and prosecuted some local officials. The IEC gets assistance from UNDP under a program called ELECT II (Legal and Electoral Capacity for Tomorrow).
- **Voter Registration, Voter Awareness, and Other Preparations**. In accordance with a January 2013 IEC decision, updating voter registration rolls began on May 26, 2013, and ran until mid-March 2014. The IEC issued new voter registration cards to 3.4 million registrants, close to the 4 million goal. The government had decided in November 2012 to issue 14 million biometric ID cards ("e-taskera") by March 2014 to reduce voter fraud. But, this system was later deemed too difficult and expensive ($115 million) to implement for the 2014 vote. It might apply to the 2015 parliamentary elections. Observers say the government promoted public awareness of the election, including setting up a call center to answer questions; 700,000 calls were made to that center, according to the International Federation of Electoral Systems (IFES) in mid-March 2014.
- **Candidate Requirements**. Presidential candidates were required to gather 100,000 valid voter signatures, and file an $18,000 deposit.
- **Security**. In February 2014, the IEC determined that about 6,800 polling centers (out of 7,170 that were surveyed) could be secured sufficiently to open on election day—far more than those that opened in the 2009 or 2010 elections.

[29] USAID and State Department briefing for congressional staff, March 11, 2013.

- **Observers.** Various international organizations sent observers to the election, but they mostly deployed in Kabul and in provincial capitals and not to the most restive areas. A Taliban attack on the Serena Hotel in Kabul in mid-March 2014 killed one foreign national involved in the election observation process, forcing his and other non-Afghan organizations to reassess their election observer missions. Several other attacks in Kabul, including against IEC offices there, occurred before the election.
- **Efforts to Promote Women**. The election laws passed by the National Assembly in 2013 reduce to 20% from 25% the required percentage of women to be elected to provincial and district councils (when district elections are held). Human rights advocates say they fear that this provision could foreshadow eliminating similar quotas for women in the National Assembly elections. Those who favored the reduction argued that the 25% requirement was unfair because women can win election with very few votes.
- The voter registration process tried to improve female participation in the election. About 30% of newly registering voters were women, a slightly higher percentage than in the previous election cycle and in line with UNAMA goals. A U.N. report of December 6, 2013, (U.N. document A/68/645-S/2013/721) reports that a U.N. trust fund (Law and Order Trust Fund for Afghanistan) approved a Ministry of Interior request to fund the hiring of 13,000 female election security officers—a force intended to support female turnout for the vote. However, 40 out of Afghanistan's 407 districts did not have female election staff because of security concerns. The efforts to encourage female participation and other measures above could potentially satisfy S.Res. 151, adopted July 11, 2013, which urges the Secretary of State to condition some U.S. aid on Afghan implementation of measures to prevent fraud and to encourage women's participation in the electoral process.

In part because of the developments discussed above, many expressed optimism that the election would be more credible than the 2009 or 2010 votes. Afghan civil society was more involved in scrutinizing the handling of the election than in the 2009 or 2010 contests. In October 2012, the "Free and Fair Election Foundation of Afghanistan" domestic observation body held a meeting at which 50 political parties endorsed detailed demands for election reform. Several political parties, such as the National Front, the National Coalition, the Truth and Justice Party, and Hizb-e-Islam, formed a "Cooperation Council of Political Parties and Coalitions of Afghanistan" (CCPPCA) to ensure the fairness of the election. On December 9, 2013, a delegation from the National Democratic Institute expressed "guarded optimism" that the April 2014 elections would not be as marred by fraud as were previous Afghan elections.

Candidate Field

There were several potential frontrunners in the contest. By the close of candidate registration on October 6, 2013, 26 presidential tickets had registered (fewer than the 32 in 2009). In October 2013, the IEC disqualified 16 candidates, including the only woman (Khadija Ghaznawi), on the basis of lack of valid signatures or citizenship issues. After an appeal period, the final candidate list was announced by the IEC on November 20—restoring one disqualified candidate, Daoud Sultanzoi. The Taliban vowed to disrupt the election, but the leader of an allied insurgent group Hezb-e-Islami Gulbuddin (HIG), Gulbuddin Hekmatyar, instructed his members inside

Afghanistan to vote. For the 420 provincial council seats, 2,713 candidates were approved to run, including 308 women. The formal campaign period began on February 5, 2014.

The major approved presidential tickets, mostly following the tradition of balancing different ethnicities, include those below. Any cabinet ministers who ran had to resign and be replaced by acting ministers. Several purportedly credible opinion polls were published in late December 201; Afghan polling was sparse in previous elections.[30]

Afghan presidential elections require 50%+ in the first round to avoid a runoff to be held two weeks after a certified vote tally from the first round—which is to be issued about a month after the vote, following a complaint evaluation period. Three candidates withdrew before the vote was held, including Karzai's brother, Qayyum, who reportedly bowed to his brother's urging not to run. All of the major candidates said they would, if elected, sign the Bilateral Security Accord (BSA) with the United States, required to keep some U.S. troops in Afghanistan after 2014.

Additional information about the first round candidate field is as follows:

- *Ashraf Ghani*. Ghani's reputation for affiliation with global organizations such as the United Nations and the World Bank contributed in the perception in the 2009 election that Ghani is out of touch with average Afghans' problems. However, Ghani apparently was able to appeal to wide range of Pashtuns in 2014, and running mate Abdul Rashid Dostam apparently delivered a large number of Uzbek votes. The other Ghani running mate is former Justice Minister Sarwar Danish, a Hazara Shiite who studied in Iran and who perhaps won over some Hazara votes.
- *Dr. Abdullah*. Dr. Abdullah campaigned not only in Northern Alliance strongholds but also in Pashtun provinces, stressing there his Pashtun heritage on his father's side. His supporters mainly in the north and west also faced a more permissive security environment to vote in than did Pashtuns. Abdullah's first vice presidential running mate is *Hizb-e-Islam* member Mohammad Khan (a Pashtun) and his second vice presidential running mate is Mohammad Mohaqiq, a Hazara faction leader discussed earlier. Opinion polls consistently showed him to be a front runner.
- *Zalmay Rassoul*. Foreign Minister Rassoul was considered an early front-runner because of his generally close relations with Karzai. However, polls in December 2013 put him behind Ghani and Abdullah, and final first round results tracked with that polling. Rassoul attempted to win Northern Alliance votes by naming Ahmad Zia Masoud, brother of Ahmad Shah Masoud, as first vice presidential candidate. The other Rassoul running mate was Bamiyan governor Habiba Sohrabi, an ethnic Hazara, who appeared to garner female support at campaign rallies. (Two other females were vice-presidential candidates.)
- *Qayyum Karzai*. Despite President Karzai's repeated statements that he did not want his elder brother to run, Qayyum entered the race nonetheless. In early March 2014, Qayyum withdrew and endorsed Rassoul.

[30] Matthew Rosenberg. "Polling Comes to Afghanistan, Suggesting Limit to Sway of President Karzai." New York Times, December 28, 2013.

- *Abdi Rab Rasul Sayyaf*. Sayyaf's candidacy concerned U.S. and international officials because of his past ties to radical Islamist Arab volunteers in the anti-Soviet war who ultimately formed Al Qaeda.[31] As a parliamentarian, Sayyaf has consistently opposed legislation codifying the rights of women or weakening the authority of the Islamic clergy. Afghan women's groups reportedly fear his candidacy more than any of the other contestants. One of his vice presidential running mates was Ismail Khan, a faction leader discussed above. The ticket polled in the single digits, which tracked with the first round vote count.
- *Other candidates*. Other approved candidates were considered by experts as having little chance. They include Nangarhar governor Ghul Agha Shirzai; former; Daoud Sultanzoi, a former Communist and parliamentarian; Karzai adviser Hedayat Amin Arsala; and Qotboddin Helal. Former Defense Minister Abdul Rahim Wardak, withdrew in mid-March 2014, and former King Zahir Shah's grandson Mohammad Nadir Naeem dropped out shortly thereafter.

Election Days and Way Forward

According to IEC officials, turnout in the April 5, 2014 first round was over 7 million—60% turnout. Violence on election day appeared to be lower than anticipated to the point where voters were not deterred and in many cases stood in long lines to vote. Seventeen ANSF were killed in nearly 300 total insurgent attacks, but no voters apparently were killed that day. 1,000 polling centers did not open due to anticipated violence. Some polling centers ran out of ballots because turnout was heavier than expected, although voting hours were extended in order to allow time for extra ballots to be transported to those locations.

After the April 5 first round, there were 870 fraud complaints deemed serious enough to have potentially affected the outcome. However, the complaints were investigated and about 375,000 votes were deducted across the spectrum of candidates—compared to 1.2 million votes deducted in 2009.

On May 15, 2014, the IEC announced certified results. The totals stayed relatively stable from earlier, preliminary results: Dr. Abdullah at 44.9%; Ashraf Ghani at 31.5%; Zalmay Rassoul at 11.5%; Abdi Rab Rasoul Sayyaf at about 5%; Sherzai at about 1.5%; and the remaining four candidates at or below about 1% each. On the basis of the results, the IEC announced that a runoff between Abdullah and Ghani would be held on June 14.

After the April 5 round, there were discussions among several candidates and President Karzai about a possible political settlement that might avoid a runoff – which many feared would become a Pashtun vs. Tajik ethnic power struggle. One defeated Pashtun candidate, Sherzai, endorsed Abdullah on May 3, and Rassoul endorsed Abdullah on May 11. However, Rassoul's main running mate Ahmad Zia Massoud did not endorse Abdullah—even though Ahmad Zia belongs to the Northern Alliance.

No political arrangement was reached and the runoff went forward on June 14. Violence was somewhat more extensive in the runoff than in the first round, and about 50 persons were killed

[31] Yaroslav Trofimov, "For President, Karzai Floats Islamist with Bin Ladin Tie," *Wall Street Journal*, August 14, 2013.

around the country. Total turnout was at first assessed at relatively the same as it was in the first round (about 7 million votes cast). The IEC at first stated that preliminary results would be released July 20 and certified results on July 22, with a swearing in of a new president in early August.

However, as informal results became known to the two candidates, a potential worst case scenario was shaping up in which a losing candidate refuses to recognize the election results. With informal results apparently showing him behind, Dr. Abdullah alleged that there was no clear explanation for why turnout—particularly in the eastern provinces, where Ghani's support is strong—increased substantially in the second round. Ghani's campaign asserted the increase in turnout in that area was due to successful campaigning and voter turnout operations. Dr. Abdullah subsequently accused IEC commissioners and election workers of committing substantial fraud in favor of Ghani—even to the point of releasing taped phone conversations allegedly among IEC and other officials purporting to discuss helping Ghani.[32]

In subsequent days, Abdullah broke off relations with the IEC and called on the U.N. Assistance Mission – Afghanistan (UNAMA) to become directly involved in the vote count. During June 20 – July 6, the two candidates' camps attempted to reach agreement on the scope of a vote audit that might clear up all allegations. On June 21, 2014, Abdullah supporters in several cities demonstrated against the vote count and certification process. To try to calm threats of further unrest by Abdullah supporters and give time to find a negotiated solution, the IEC delayed the release of preliminary results until July 2, and then until July 7. The release of the preliminary results, showing Ghani winning with 56.44% to Abdullah's 43.56%, triggered calls by some Abdullah supporters for him to declare victory and set up a government. Some armed factions supporting Abdullah reportedly began to seize government centers in three provinces, and to threaten to storm governing locations in Kabul, including the presidential palace.[33]

To try to calm the burgeoning unrest, President Obama spoke by phone with Abdullah on July 8 and sent Secretary of State John Kerry to Kabul to broker a resolution. On July 12, Secretary Kerry, Abdullah, and Ghani announced an agreement at a joint press conference providing for:

- a postponement of the planned August 2 inauguration of a new president.
- a full recount of all 23,000 ballot boxes, which are to be brought to Kabul. The recount would be performed by Afghan election officials but with international monitoring from diplomats posted to various embassies in Afghanistan and other officials.
- the winner of the election to ask the loser to name a "chief executive" of the government (potentially including the losing candidate himself). The position would evolve, after constitutional amendment, into a prime ministership to ensure that the major communities share power.

The recount process began on July 17. However, it has been temporarily halted several times over disagreements on criteria to use to invalidate votes and distrust of certain officials involved in the recount. The recount is proceeding far slower than expected and will almost certainly not be

[32] Azam Ahmed. "Afghan Candidate Says Phone Recordings Prove a Vote-Rigging Conspiracy." *New York Times*, June 23, 2014.

[33] Carlotta Gall and Matthew Rosenberg. "Anxious Moments for an Afghanistan on the Brink." *New York Times*, July 15, 2014.

completed within the three weeks (by August 8) first envisioned. And, more far-reaching differences have appeared between the two camps over the Kerry-brokered post-election power sharing arrangement. Ghani supporters appear to view the concord as an informal commitment to organizing a government that is inclusive of all ethnic factions. Dr. Abdullah's camp is insisting that a power-sharing, or unity government, be established as apparently agreed in the discussions with Secretary Kerry. Ghani has said publicly he is committed to the power-sharing agreement.[34]

Afghan Governing Capacity and Performance[35]

All assessments indicate that there has been progress in the capacity of Afghan institutions, particular in performing such duties as managing national finances and providing services, but that significant deficiencies remain. Many of the shortcomings in governance are attributed to all of the political disputes, alleged corruption, nepotism and favoritism, and the lack of trained or skilled workers discussed below—as well as the widespread security issues that continue to plague Afghanistan. The U.S.-Afghanistan Strategic Partnership Agreement, signed in Afghanistan on May 1, 2012, commits the United States (beyond 2014) to "support the Afghan government in strengthening the capacity, self-reliance, and effectiveness of Afghan institutions and their ability to deliver basic services."

Earlier, the Obama Administration 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.[36] UNAMA, headed in Kabul by Jan Kubis, also evaluates Afghan governance according to numerous metrics. Afghan progress according to these metrics is presented in reports of the Secretary-General to the U.N. General Assembly, such as a report released March 5, 2013, (U.N. document number: A/67/778-S/2012/133).

The Tokyo Framework of Mutual Accountability, cited above, provides aid incentives for Afghanistan (portions of $16 billion pledged through 2015) if it improves on several measures including:[37]

- The holding of credible, inclusive, and transparent elections in 2014 and 2015.
- Improved access to justice, and respect for human rights, particularly for women and children.
- Improved integrity of public financial management and the commercial banking sector.
- Improved revenue systems and budget execution, including establishment of a provincial budgeting policy.

[34] Carlotta Gall. "Political Divisions Threaten Kerry-Brokered Agreement in Afghanistan." *New York Times*, July 26, 2014.

[35] Some information in this section is from the State Department report on human rights in Afghanistan for 2013, February 27, 2014.

[36] "Evaluating Progress in Afghanistan-Pakistan" Foreign Policy website, http://www.foreignpolicy.com/articles/2009/09/16/evaluating_progress_in_afghanistan_pakistan.

[37] http://www.embassyofafghanistan.org/article/the-tokyo-declaration-partnership-for-self-reliance-in-afghanistan-from-transition-to-transf.

The incentive structure of the Tokyo Framework is to raise the percentage of donor funds channeled through the Afghanistan Reconstruction Trust Fund (ARTF) as Afghan governance improves. That fund gives money directly to Afghan ministries and thus gives the Afghan government substantial discretion as compared to other donated funds.

In part to demonstrate that Afghanistan would uphold those commitments, the presidential administrative reform decree issued July 26, 2012, required virtually every ministry and government body to develop a work plan, complete unfinished tasks, file specified reports, or carry out specified reforms.[38] The final communique of the July 3, 2013, "senior officials" meeting in Kabul to review progress since the July 2012 Tokyo meeting presented mixed findings:[39] it strongly praised government progress on budget transparency, revenue growth, and achieving Millenium Development Goals, including school enrollment and health care access. However, the review noted varying degrees of progress on election reform, anti-corruption, and local governance. It called for substantial improvement on other of the benchmarks, including human rights and accountability for the Kabul Bank scandal (discussed below). The meeting did not result in withholding of any aid.

Expanding Central Government Capacity

The international community has had mixed success in helping Afghanistan build transparent and effective state institutions. Since 2001, Afghan ministries have greatly increased their staffs, their presence in Afghan provinces, and their technological capabilities. Most ministry offices in Kabul, and many in the provinces, have modern computers and communications. 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 and hiring criteria, 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 those provinces that are restive. U.S. mentors and advisers have served in virtually all the Afghan ministries. Afghanistan has also tried to address the problem of international donors luring away Afghan talent with higher salaries, by pledging at the July 20, 2010, Kabul conference to reach an understanding with donors, within six months, on a harmonized salary scale for donor-funded salaries of Afghan government personnel. Discussions have been held between the Afghan government and donors on this issue, with minor progress.

The Afghan Civil Service/Merit-Based Recruitment

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 of the remainder work as teachers. On several occasions, the United States has funded jobs fairs that have recruited some new civil servants.

[38] Text of the decree "On the Execution of Content of the Historical Speech of June 21, 2012, in the Special Session of the National Assembly. Provided to CRS by the Embassy of Afghanistan in Washington, DC, July 16, 2012.

[39] http://mfa.gov.af/en/news/co-chairs-statement-tokyo-mutual-accountability-framework-tmaf-senior-officials-meeting-kabul-afghanistan-3-july-2013.

To increase the proficiency of government, during late 2010-early 2011, the government instituted 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. After a halting start, this process has been accelerating. The U.N. report of March 7, 2014 states that the 231 district governors (more than half of the 407 total number of district governors) were appointed based on merit-based recruitment, but the number of deputy governors recruited under this system has remained at 32 since January 2013. About half of the 34 provincial governors were appointed based on merit. Merit-based recruitment implements the July 26, 2012, administrative reform decree directing the Independent Directorate of Local Governance, discussed below, to open all deputy provincial governorships to competition within two months.

The key institution that is deciding on merit-based appointments and standardizing job descriptions, salaries, bonuses, and benefits is the Afghan Independent Administrative Reform and Civil Service Commission (IARCSC). The commission redefined more than 80,000 civil servant job descriptions. The Afghan cabinet drafted a revised civil service law to institute merit-based hiring and give the IARCSC a legal underpinning; it was ratified by the National Assembly in late 2011, replacing a September 2005 civil service law.

Under a USAID program called the Civilian Technical Assistance Plan (CTAP), the United States provided technical assistance to Afghan ministries and to the IARCSC. From January 2010 until January 2011, 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 Civil Service Training Institute. In 2013, the Institute trained over 5,000 Afghan civil servants in management, computer skills, English language proficiency, and finance and accounting. USAID has provided about $40 million to the CTAP program, as of 2012.

The international community has sponsored a $350 million five-year program ("Capacity-Building for Results Program") during 2012-2017 to enhance the Afghan government's ability to deliver services to its population through key ministries.[40] USAID programs have assisted employees of the state-owned Afghan power company (DABS) to manage Afghanistan's power grid and bill its customers and trained 250 Ministry of Mines personnel in geology to try to help develop Afghanistan's extractive industries sector.

Many Afghan civil service personnel undergo training in other countries. India has trained many Afghan civil servants building on the cultural ties between the two countries. Japan and Singapore also are training Afghan civil servants on good governance, anti-corruption, and civil aviation. In 2011, Singapore and Germany jointly provided technical assistance to Afghan civil aviation employees. Some of these programs were conducted in partnership with the German Federal Foreign Office and the Asia Foundation.

The Afghan Budget Process

The international efforts to build up the central government are reflected in the Afghan budget process. At the July 3, 2013, senior officials meeting in Kabul, donors strongly praised the government's performance in establishing budget transparency. U.S. official reports assess the Afghan government as increasingly able to execute parts of its budget, and say that some

[40] http://www.worldbank.org/projects/P123845/afghanistan-capacity-blding-results-facility?lang=en.

ministries—particularly the Ministry of Public Health and the Ministry of Rural Rehabilitation and Development—are able to deliver services relatively effectively.[41] The Afghan government disperses its own funds as well as those directly supplied by donor countries and organizations. The Afghan budget year has followed the solar year, which begins on March 21 of each year, which also corresponds to the Persian New Year (*Nowruz*). However, as of the 2013 budget, Afghan budgets run from December 21 to December 20 of each year. The 2013 budget was approved by the National Assembly on January 20, 2013, and the 2014 budget was approved January 15, 2014.

U.S. reports continue to criticize the Afghan budget process for a high degree of centralization. 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. Some of the elected provincial councils, appointed provincial governors, and district governors formulate local budget requirements and help shape the national budget process, but no locality controls its own budget. These local organs do approve the disbursement of funds by the central entities (called *mustofiats*, accounting offices in each of Afghanistan's 34 provinces).

The Tokyo Mutual Accountability Framework included as one of its benchmarks the establishment of a provincial budgeting process that provides provincial input into the national budget process. The July 3, 2013, senior officials meeting statement indicated that Afghanistan needed to finalize and begin implementing a provincial budgeting policy. The U.N. report of December 6, 2013, cited earlier, says that the government circulated a draft provincial budget policy on October 7, 2013. The draft builds on several pilot programs put in place, including the Provincial Budget Pilot (PBP) program that seeks to improve budgetary planning integration between the national and provincial levels. On February 11, 2014, the Ministry of Finance allocated $1 million to five provinces under the PBP program. The outcome of the pilot program will be used to evaluate prospects for the implementation of a more general, decentralized fiscal policy.

All revenue is, by law, to be remitted to the Afghan central government. However, local officials sometimes seek to retain or divert locally collected revenues. That diversion has reportedly increased in 2013 as governors of border provinces grow nervous about an economic downturn after 2014; the diversion contributed to a 20% government revenue shortfall (compared to government projections) in 2013.

Many international development experts concur with the Afghan government that only through direct funding will the Afghan government be able to develop the capacity and transparency to govern and deliver services effectively. Although still wary of misuse, the United States has been accommodating that view; nearly 50% of U.S. aid is provided directly—the target level that was endorsed at the July 20, 2010, Kabul conference and the Tokyo Mutual Accountability Framework. The percentages are up from 21% in FY2009. U.S. direct support is based on State Department and USAID assessments of the ability of individual ministries to accurately and transparently administer donated funds. Some SIGAR audit reports suggest that question the State and USAID assessments and assert the potential for misuse of U.S. funds.

[41] http://www.defense.gov/pubs/Section_1230_Report_July_2013.pdf; http://www.defense.gov/pubs/October_1230_Report_Master_Nov7.pdf.

Expanding Local (Subnational) Governance

Since 2007, U.S. and allied policy has increasingly emphasized building local or "subnational" governance. During 2009-2012, the Administration sent about 500 additional U.S. civilian personnel from the State Department, USAID, the Department of Agriculture, and several other agencies to advise Afghan ministries, and provincial and district administrations. That effort raised the number of U.S. civilians in Afghanistan to about 1,330 by August 2011, of which nearly 400 were serving outside Kabul (up from 67 in early 2009). However, the Obama Administration plans to reduce civilian personnel in Afghanistan by about 20% when the transition to Afghan lead is completed in 2014.[42]

U.S. and partner country officials say that Afghan local governance has improved and expanded, particularly in areas considered secure. Afghans have formed local councils, which in turn have built ties to appointed local leaders in secure areas. However, forming these linkages has been slowed by centralized decision making processes; localities have their own governing bodies but the central government ministries in the provincial capitals of each province actually implement national programs. Local officials often disagree with the Kabul ministry representatives on priorities and implementation.

Karzai has long complained that donor-run Provincial Reconstruction Teams (PRTs) have preventing the Afghan government from expanding its own responsibilities and capacity at the local level. There are PRTs in about 80% of Afghan provinces, and they have far more funding and capability than the Afghan governor in those provinces. The Tokyo Framework largely endorses Karzai's complaints by calling for the PRTs to be transferred to Afghan control. Karzai administrative decree of July 26, 2012, provides for Afghan institutions to begin taking over the roles of the PRTs, and, since mid-2012, the United States and partner countries have been closing down PRTs and handing them over to Afghan control.

Some further enhancements to local governance await Afghan parliamentary action. The National Assembly continues to deliberate several laws including a local government law, a municipality law, and a provincial councils law.

The Independent Directorate for Local Governance (IDLG)

In terms of local governance institution-building, a key institution was empowered in August 2007 when Karzai placed the selection process for local leaders (provincial governors and below) in a new Independent Directorate for Local Governance (IDLG)—and out of the Interior Ministry. However, some international officials say that the IDLG has served as an instrument for Karzai to mobilize voters and voter mobilization machinery. It is headed by Abdul Khaliq Farahi, a former diplomat who was kidnapped in Peshawar, Pakistan, and held during 2008-2011 allegedly by militants linked to Al Qaeda.

The IDLG is an implementing partner for the District Delivery Program (DDP), which now operates in at least 32 of the 407 districts of Afghanistan. The program was created to improve government presence and service delivery at the district level, and has been funded by the United States, Britain, Denmark, and France. U.S. funding for the program was suspended in July 2011

[42] Karen DeYoung, "Plans For Big Civilian Force in Postwar Afghanistan to Be Cut," *Washington Post*, December 6, 2012.

pending accountability of expenditures and a request for the IDLG and Ministry of Finance to satisfy several conditions, and has not reactivated to date.[43] The IDLG also gets assistance from the U.N. Development Program's (UNDP's) Afghanistan Subnational Governance Program II (ASGP-II). That program provided $83.6 million to the IDLG from the European Community, Italy, Switzerland, and Britain.

Provincial Governors and Provincial Councils

One issue that has plagued local governance has been the difficulty in recruiting staff. The July 26, 2012, Karzai administrative reform decree required the IDLG to fill open positions in the provinces within six months, including in the ministry offices in each provincial capital. It also requires a review of the performance of provincial governors' performance in combating corruption and improving governance.

Many believe that, even more than institutional expansion, the key to effective provincial governance is the appointment of competent and incorruptible 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. A key example of a successful gubernatorial appointment was the March 2008 appointment of Gulab Mangal as Helmand governor. He drew praise from the United States and the international community for taking actions that reduced poppy cultivation in Helmand. However, he is from Laghman Province (eastern Afghanistan) and was never fully accepted by the local power-brokers of the south, who successfully persuaded Karzai to replace him in September 2012. Other governors, such as Ghul Agha Shirzai and Atta Mohammad Noor (discussed above), are considered effective but have been criticized for exercising excessive independence of central government authority.

Despite the progress on merit-based appointments and the widely noted importance of having competent provincial governors, about half of the provincial governors continue to be political appointees selected mostly for loyalty to the president. On September 20, 2012, Karzai shuffled 10 out of the 34 provincial governors (including Mangal), asserting that those taken out of their positions had fallen short on improving governance or combating corruption. However, many observers suspected the reshuffle was intended to place loyalists in key local positions ahead of the 2014 election. Some of the ousted governors were assigned to different provinces. Other than Helmand, the nine provinces where governors were changed include Wardak, Kabul, Takhar, Faryab, Baghlan, Nimruz, Laghman, Lowgar, and Badghis.

Provincial Councils

One problem noted by governance experts is that the role of the elected provincial councils is unclear. 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. Legislation to expand the councils' roles is under consideration by the National Assembly, but the version of a provincial councils law that is under consideration was stripped by the cabinet of provisions to assign to the councils supervisory duties. The Assembly reportedly might restore the provisions.

[43] DOD report on Afghanistan stability, April 2012, p. 73.

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.

The elections for the provincial councils in all 34 provinces were held on August 20, 2009, concurrent with the presidential elections. The next provincial elections will be held concurrent with the presidential election in April 2014. The first provincial council elections were held concurrent with the parliamentary elections in September 2005.

District-Level Governance

U.S. officials say there has been "measured progress" in developing effective district governance. District governors are appointed by the president, at the recommendation of the IDLG, and more than half of all district governors in place have been appointed based on merit, as noted above. Some districts had no formal governance at all until the 2009 U.S. troop surge. Some of the district governors in Helmand Province, including in Nawa and Now Zad districts, 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. Many district governors have virtually no staff or vehicles. In about 40 districts, the United States and partner countries have established District Support Teams (DSTs) to assist in district-level governance and service delivery. However, like the PRTs, the DSTs are being turned over to Afghan control as the transition to Afghan control proceeds.

District Councils

Another problem in establishing district level governance has been the fact that no elections for district councils have been held due to boundary and logistical difficulties. The government had planned to hold these elections along with the 2010 parliamentary elections, but that was not accomplished and no date for these elections has been set. As a result, there is no one authoritative district-level representative body, but rather a collection of groupings established by donor programs. The Afghan government has agreed in principle to a roadmap leading to a single district level body, but implementation has been slow.

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. It is likely that these await passage of a municipalities law, referenced above.

As noted throughout, there has traditionally been village-level governance by councils 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 numerous councils were formed in areas where security was improved by the 2010 U.S. "troop surge."

The IDLG and the Ministry of Rural Rehabilitation and Development (MRRD), with advice from India and other donors, also are empowering localities to decide on development priorities. The MRRD has formed about 28,000 Community Development Councils (CDCs) nationwide to help suggest priorities, and these bodies are eventually to all be elected.

Reforming Afghan Governance: Curbing Corruption[44]

The Obama Administration has tried not only to expand Afghan governing capacity but to push for its reform, transparency, and oversight. Many Afghans have come to view the central government as "predatory." Reducing corruption in government constitutes several of the 17 benchmarks of the Tokyo Mutual Accountability Framework which requires Afghanistan, in general, to "enact and enforce the legal framework for fighting corruption." Afghan officials have repeatedly consistently acknowledged that corruption is a major problem in Afghanistan.

However, concerns center on the apparent Afghan reluctance to prosecute officials for corruption—particularly those related to or aligned with those in power. Some international officials have also questioned Karzai's repeated placement of blame for Afghan corruption on donors country contracting with firms linked to faction leaders.

On the other hand, some say that U.S. policy on corruption has been inconsistent. Karzai confirmed U.S. press reports in April 2013 saying that the Central Intelligence Agency continues to provide cash payments directly to the Karzai government, through the Afghan National Security Council, for purposes such as compensating faction leaders.[45] Karzai said the payments were relatively small, but U.S. and other experts say the payments circumvent standard controls on U.S. foreign aid and help fuel Afghan corruption. Neither CIA nor other U.S. officials confirmed or denied the reports, when asked by journalists.

High Level Corruption, Nepotism, and Cronyism

At the upper levels of government, some observers have asserted that Karzai has deliberately tolerated officials who are allegedly involved in illicit activity and supports their receipt of lucrative contracts from donor countries, in exchange for their political support. Karzai's brother, Mahmoud, as discussed above, has apparently grown wealthy through various ventures, purportedly by fostering the impression he can influence his brother. Some 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. Several high officials, despite very low official government salaries, have acquired ornate properties in Kabul in part by appropriating private land in which the ownership was unclear. The Special Inspector General for Afghanistan Reconstruction (SIGAR) reported in May 2013 that $50 million in stolen U.S. aid funds—which U.S. investigators discovered in an Afghan bank account—was missing because the Afghan government did not implement U.S. requests to freeze the account. The SIGAR issued an audit in January 2014 that asserted there was risk of misuse of U.S. funds because of the Ministry of Public Health's payment of salaries in cash and

[44] 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 Rosen and Kenneth Katzman.

[45] Matthew Rosenberg, "Karzai's Office Gets Bags Full of C.I.A. Cash," *New York Times*, April 29, 2013.

the possible overpayment for commodities and services by the Ministry of Mines—overpayments that could possibly be used to finance bribes or kickbacks.[46]

On the other hand, accusations of corruption are often used as a political weapon. One former official accused National Security Adviser Spanta of corruption after being fired from an Afghan government position. An Afghan court ruled against the Afghan accuser on September 25, 2012, and fined him $300. Some observers say that the National Assembly's accusations of corruption against Finance Minister Zakhilwal in May 2013 were intended to prompt him to release additional funding to parliamentarians' districts. He was not removed by the Assembly.

Lower-Level Corruption

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 processors demand bribes in exchange for action.[47] Other forms of corruption include Afghan security officials' selling U.S./internationally provided vehicles, fuel, and equipment to supplement their salaries. In other cases, local police or border officials may siphon off customs revenues or demand extra payments to help guard the U.S. or other militaries' equipment shipments. Other examples include 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 commonly expected by relatives and friends that those Afghans who have achieved government positions will protect those relations with appointments and contracts.

Administration Views and Policy on Corruption

There has been a consensus within the Obama Administration on the wide scope of the corruption in Afghan government and the deleterious effect the corruption has on government popularity and effectiveness. In 2010, the Administration debated the degree to which to press anti-corruption issues with the Afghan government. In 2011, the Administration reportedly decided to prioritize reducing low-level corruption instead of investigations of high-level Karzai allies.[48] High level investigations not only risked alienating Karzai, but were judged to potentially 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.[49]

Yet, U.S. and international officials believe that anti-corruption efforts must be pursued because corruption is contributing to a souring of Western publics on the mission as well as causing some

[46] Matthew Rosenberg and Azam Ahmed. "Report Says Afghanistan Can't Be Trusted to Prevent Misuse of U.S. Aid" New York Times, January 30, 2014.

[47] Filkins, Dexter, "Bribes Corrode Afghan's Trust in Government," *New York Times*, January 2, 2009; Kevin Seiff, "Greasing the Wheels in Kabul," *Washington Post,* February 18, 2013.

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

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

Afghans to embrace Taliban insurgents. Obama Administration officials have credited Karzai with allowing the United States and other donors to help develop oversight bodies to curb corruption. At the July 20, 2010, Kabul conference—following onto the January 28, 2010, London conference—the Afghan government finalized a National Anti-Corruption Strategy ("Azimi report") and committed to enacting 37 laws to curb corruption. Very few of these laws have been enacted, although the Afghan cabinet has drafted new anti-corruption and auditing laws and some regulations have been issued by presidential decree. The July 3, 2013, senior officials meeting in Kabul determined that there was only minor progress on the anti-corruption benchmarks of the Tokyo Mutual Accountability Framework. The anti-corruption institutions, and some examples of their efforts, are discussed below.

- *High Office of Oversight and Anti-Corruption.* In August 2008, after reported Bush Administration prodding, Afghanistan set up the "High Office of Oversight and Anti-Corruption" (commonly referred to as the High Office of Oversight, HOO). It was given the power to identify and refer corruption cases to state prosecutors, and to catalogue the overseas assets of Afghan officials. In March 2010 Karzai, as promised at the January 28, 2010, international meeting on Afghanistan in London, issued a decree giving the HOO power to investigate corruption cases rather than just refer them to other offices. The July 26, 2012, presidential administrative decree, discussed above, directed the HOO to, within six months, assess "private institutions' and government officials' suspicious wealth" and report those findings to the president's office every two months. In early 2013, the HOO established an anti-corruption committee within each ministry to oversee implementation of anti-corruptions policies. USAID provided the HOO $30 million total during FY2011-FY2013 to build capacity at the central and provincial level. USAID pays for salaries of six HOO senior staff and provides some information technology systems as well.
- *Assets Declarations and Verifications.* As of 2010, Afghan officials at many levels of government are required to declare their assets. The July 20, 2010, Kabul Conference communiqué[50] included an Afghan pledge to verify and publish these declarations annually, beginning in 2010. A SIGAR report of April 30, 2012, said that the government's progress for verification of the declarations "fall[s] short of U.S. expectations." The July 3, 2013, senior officials meeting in Kabul acknowledged that "progress" had been made on the declaration and publication of assets, but that movement was minimal on verifying the declarations. A March 2014 U.N. report said that the HOO had registered the assets of nearly 3,000 government officials during the first three months of 2014 and completed asset verification for 33 of the highest ranking officials including the president, vice presidents, minister, and governors.
- *Independent Joint Anti-Corruption Monitoring and Evaluation Committee* (MEC) to evaluate the government's performance in combating corruption was mandated by the Kabul conference communiqué to be established within three months of the conference (by October 2010). The MEC, supported by UNDP, was inaugurated on May 11, 2011. It was enshrined in a presidential decree and is composed of three presidential nominees and three international nominees. It is headed by Slovenian diplomat Drago Kos, and issues reports every six months.

[50] Communiqué text at http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html.

- *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 (MCTF) tasked with investigating public corruption, organized crime, and kidnapping. A headquarters for the MCTF was inaugurated on February 25, 2010, and it has been 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 U.S.-led training mission for Afghan forces. The MCTF has 169 investigators, according to U.S. officials.

  A related body is the Sensitive Investigations Unit (SIU), run by several dozen Afghan police officers, vetted and trained by the DEA.[51] 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. Karzai acknowledged on August 22, 2010 that he intervened to obtain Salehi's release. In November 2010, the Attorney General's office ended the prosecution.

- *Anti-Corruption Unit and Anti-Corruption Tribunal.* These investigative and prosecution bodies were established by decree in 2009. Eleven judges have been appointed to the tribunal, which is under the jurisdiction of the Supreme Court. It tries cases referred by an Anti-Corruption Unit of the Afghan Attorney General's office. However, of the approximately 2,000 cases investigated by the Anti-Corruption Unit, only 28 officials have been convicted to date. The Department of Justice suspended its training program for the Anti-Corruption Unit in early 2012 because of the unit's "lack of seriousness," according to the SIGAR report of April 30, 2012. One of the laws pledged during the July 20, 2010, Kabul conference would be enacted (by July 20, 2011) included one to legally empower the Anti-Corruption Tribunal and the Major Crimes Task Force. That has not been enacted by the National Assembly to date.

- *Prosecutions and Investigations of High-Level Officials.* The HOO head Ludin said in July 2013 that his office had sent 190 cases of alleged high level official corruption to the Attorney General's office over the past two years, but had seen few indictments follow. The Attorney General's office has investigated at least 20 senior officials, but with virtually no convictions. Those investigated—but not convicted—included Commerce Minister Amin Farhang (for allegedly submitting inflated invoices for reimbursement); former Minister of Mines Mohammad Ibrahim Adel (who reportedly accepted a $30 million bribe to award a key mining project to a Chinese firm);[52] and former Minister of the Hajj Mohammad Siddiq Chakari (for allegedly accepting bribes to steer Hajj-related travel business to certain foreign tourist agencies). Chakari fled to Britain.

- *EITI.* Relatedly, Afghanistan has signed up as a candidate to the Extractive Industries Transparency Initiative (EITI) which is intended to ensure that

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

[52] Joshua Partlow, "Afghanistan Investigating 5 Current and Former Cabinet Members," *Washington Post*, November 24, 2009.

contracting for Afghanistan's mineral resources is free of corruption. Afghanistan hopes to become fully EITI compliant by April 2012 and the July 3, 2013, senior officials meeting in Kabul commended Afghanistan's progress toward EITI compliance. 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). During his term as Interior Minister, Bismillah Khan attempted to institute transparency and accountability in promotions and assignments. However, the results of these initiatives remain unclear.
- *Bulk Cash Transfers Out of Afghanistan.* 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 was intended to grapple with issues raised by reports, discussed below, of officials taking large amounts of cash out of Afghanistan (an estimated $4.5 billion taken out in 2011). 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, whereas none were licensed as recently as 2009. In August 2010, Afghan and U.S. authorities began installing 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).[53] On March 19, 2012, Central Bank Governor Noorullah Delawari said the Bank had imposed a $20,000 per person limit on cash transfers out of the country. However, a report by the SIGAR issued December 11, 2012, found that the provided currency counters at Kabul airport were not being used, nor were procedures to ensure that notable Afghan figures were not taking large amounts of cash out of Afghanistan being enforced. Other reports say that Afghans are taking significant amounts of gold out of Afghanistan, possible to hedge against instability after the 2014 transition.
- *Customs Revenue Diversion*. As noted above, some governors of border provinces are siphoning off customs duties that are supposed to be remitted to the central government. In December 2012, a commission created by Karzai investigated the issue in twelve provinces and shut down some of these operations. One scheme shut down was a surtax levied illegitimately at the Torkham Gate (Khyber Pass) crossing by the provincial government of Ghul Agha Shirzai (see above on Shirzai above).
- *Auditing Capabilities*. In September 2013, the Afghan National Assembly gave official standing to a Supreme Audit Office, mandating it to undertake audits of government institutions. The parliamentary empowerment met an Afghan pledge, made at the 2010 Kabul conference, to enact an audit law to strengthen the independence of the auditing institutions. The Supreme Audit Office, in conjunction with the ministries of Justice and of Education, and citizen's groups,

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

is implementing a U.N.-funded anti-corruption project called the "Afghanistan Integrity Initiative." The project is intended to strengthen the capacity of the government to reduce corruption.

- *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.
- *U.S. Defense Department Efforts*. In 2009, a key U.S. military official, General H.R. McMaster, 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 to enhance Afghan capacity and reduce the potential for corruption. The Shafafiyat task force announced in February 2012 that it had caused the restitution of $11.1 million, $25.4 million in fines, and $3.4 million in seizures from allegedly fraudulent contractors, and led to disbarment or suspension of more than 125 American, Afghan, and international workers for alleged fraud.[54] These task forces are winding down their work in conjunction with the U.S. military drawdown from Afghanistan.
- *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 and other "watchdog" groups do not have an official mandate, and therefore their authority and ability to rectify inadequacies are limited.

Kabul Bank Scandal and Continuing 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 was a major (7%+) shareholder in the bank, which was 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 was Abdul Hussain Fahim, the brother of the late First Vice President. The relationships were exposed in August 2010 when Kabul Bank reported large losses primarily from shareholder investments in Dubai properties, prompting Karzai to appoint a Central Bank official to run the Bank. However, large numbers of depositors withdrew their money from it.

In response to the crisis, the United States and other donors refused to recapitalize the bank, but it offered to finance an audit of Afghan banks, including Kabul Bank. The Finance Ministry decided instead in November 2010 to hire its own auditor—a move that suggested to some that high Afghan officials sought to hide the audit results. The International Monetary Fund (IMF) suspended its credit program for the Afghan government in November 2010, demanding that the entire Afghan banking industry undergo an outside forensic audit and that those responsible be held accountable. That held $70 million World Bank/Afghan Reconstruction Fund (ARTF) in donor funds. Other donors followed suit and suspended as much as $1.8 billion in economic aid.

[54] John Ryan, "Task Force Rooting Out Corruption in Afghanistan," *Army Times*, February 20, 2012.

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—insisted the bank be sold. The Central Bank instead agreed to separate the bank's performing from nonperforming assets and then dissolve or restructure the bank.[55] A version of the plan, which was subject to approval by an Afghan government committee, was approved on April 21, 2011.

The "good bank" (part of the bank with deposits and which still functions) was financed by a Central Bank loan of $825 million. It was renamed "New Kabul Bank." The Afghan Finance Ministry is paying back the loan—over eight years—with recovered assets and general government revenues. Since early 2013, the Finance Ministry has sought to sell New Kabul Bank but no qualified bidders have made acceptable offers and it remains state-owned.

The Afghan government, through its "Financial Dispute Resolution Commission," continues to try to recoup the lost funds. Of the estimated $925 million in losses, only about $150 million in cash and $215 million in property (mostly luxury villas in Dubai) and other assets[56] has been recovered. About $300 million of the losses are judged unrecoverable because of a lack of documentation. The MEC, discussed above, said in its September 28, 2013, report that none of the $121 million owed to the bank by the Afghan company Gas Group had been recovered. The Tokyo Mutual Accountability Framework required Afghanistan to continue asset recovery and to strengthen banking supervision though the Central Bank (Da Afghanistan Bank).

Attempting Accountability

The political fallout also produced some resolution. On January 15, 2011, the office of Afghan Attorney General Ishaq Aloko announced an investigation into the near-collapse of the bank. 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, and named 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. In part because of his feuding with figures such as Mahmoud Karzai, Fitrat fled Afghanistan for the United States and announced his resignation on June 27, 2011.

In a step toward holding principals accountable, 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. However, by late 2011, the detentions of the two had been relaxed and they were frequently sighted at various public places in Kabul.[57] 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. On April 3, 2012, Karzai ordered a special prosecutor appointed and a special tribunal created to try those involved. On June 2, 2012, at the urging of Karzai's office, 21 people were indicted by the special tribunal, including Farnood, Frouzi, Fitrat, nine other government officials, and nine other bank

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

[56] Joshua Partlow, "Afghan Bureaucrat Tasked With Recovering Millions in Bad Loans," *Washington Post*, July 7, 2012. Afghanistan Plans to Sell Scandal-Scarred Kabul Bank in June, *Bloomberg.com*, April 11, 2012; http://www.defense.gov/pubs/October_1230_Report_Master_Nov7.pdf.

[57] Matthew Rosenberg and Graham Bowley, "Intractable Afghan Graft Hampering U.S. Strategy," *New York Times*, March 8, 2012.

employees who were allegedly in positions to have known of the fraud while it was occurring. The trial of Farnood, Frouzi, and about 20 others allegedly involved began on November 10, 2012, under the leadership of a three judge panel. All 21 defendants were found guilty, and Farnood and Frouzi received five-year sentences and financial penalties. The Attorney General has appealed the sentences as too light; he wanted them found guilty of the original charges of embezzlement and money laundering rather than fraud; the former charges carry longer jail terms if convicted. In addition, the Attorney General is appealing the sentences of the other 19 defendants who the Attorney General believes were not involved in the misfeasance and should not have been tried. The July 3, 2013, senior officials meeting in Kabul stated that "Participants [Afghanistan participated in the meeting] agreed that continued efforts were needed" to hold parties accountable in the Bank scandal.

Conclusions and Fallout

On November 27, 2012, the *New York Times* reported on the Central Bank's audit of Kabul Bank by Kroll Associates. The Kroll investigation called Kabul Bank a virtual "Ponzi scheme" involving numerous deliberate efforts to deceive the bank's original auditors. Two days later, the Joint Evaluation and Monitoring Committee, discussed above, released its 87-page report on the Bank scandal, detailing how Bank funds were smuggled out of the country surreptitiously and alleging high level Afghan government political interference in handling the scandal and in deciding whom to hold accountable.[58]

The investigations, the recovery of some lost funds, and the forensic audits of the bank suggested Afghanistan was moving to meet the IMF conditions for the restart of its credit program. In November 2011, the IMF resumed its program by approving a $133 million loan to Afghanistan. That move restored the flow of some previously blocked donor funds, including U.S. contributions to the World Bank-run Afghanistan Reconstruction Trust Fund (ARTF).

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. 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 New Ansari, and persons affiliated with it, as major money laundering entities under the "Kingpin Act," banning U.S. transactions with the designees.

Moves to Penalize Lack of Progress on Corruption

Several of the required U.S. "metrics" of progress, cited above, involve Afghan progress against corruption. In part because of reports that as much as $3 billion in funds had been allegedly embezzled by Afghan officials over the past several years,[59] an Administration certification of progress against corruption was included as a condition of providing aid to Afghanistan in the FY2011 continuing appropriations (P.L. 112-10). Aid conditionality based on Afghan performance against corruption, on incorporation of women in the reconciliation process, and on reports on progress on the Kabul Bank scandal was included in the FY2012 Consolidated

[58] Matthew Rosenberg, "Audit Says Kabul Bank Began as "Ponzi Scheme," *New York Times*, November 17, 2012; Pamela Constable, "Report Cites Interference in Afghan Bank Probe," *Washington Post*, November 29, 2012.

[59] Rosenberg, Matthew, "Corruption Suspected in Airlift of Billions in Cash From Kabul," *Wall Street Journal*, June 28, 2010.

Appropriation (P.L. 112-74). No U.S. funding for Afghanistan has been permanently withheld because of this or any other legislative certification requirement.

Promoting Human Rights and Civil Society[60]

Since 2001, U.S. policy has been to build capacity in human rights institutions in Afghanistan and to promote civil society and political participation. As do previous years' State Department human rights reports, the report on Afghanistan for 2013 analyzed numerous human rights deficiencies, attributing most of them to overall lack of security, loose control over the actions of Afghan security forces, pervasive corruption, and cultural attitudes including discrimination against women.

Institution-Building: The Afghanistan Independent Human Rights Commission (AIHRC) and Outside Human Rights Organizations

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 is an oversight body on human rights practices but its members are appointed by the government and some believe it is not independent. As an indication of government interference, in December 2011, Karzai dismissed its deputy chairman Ahmad Nader Nadery for his writings alleging abuses by Karzai allies. Nadery later became head of another civil society watchdog organization, the Free and Fair Election Foundation of Afghanistan, which was highly critical of Karzai and his allies for the 2009 and 2010 election fraud and is serving as a watchdog group for the 2014 elections.

In the course of the senior officials meeting in Kabul on July 3, 2013, donors criticized several of Karzai's 2013 appointments to the AIHRC. Some of the five new appointees reportedly are linked to Afghan faction leaders or have otherwise not demonstrated a commitment to upholding or enforcing international standards of human rights.[61] On a visit to Afghanistan in September 2013, U.N. High Commissioner for Human Rights Navinathem Pillay failed to persuade Karzai to replace the controversial AIHRC appointees. The appointments are likely to become a factor in the five-year accreditations review process by the International Coordinating Committee of National Human Rights Institutions, which began on November 18, 2013.

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. The March 5, 2012, report of the U.N. Secretary-General said the National Assembly has not regularized the AIHRC status within the national budget framework. In recent years, most of the AIHRC budget of $7.5 million is provided by European donors, Canada, Australia, and the United Nations.[62]

[60] Information in this section is primarily from Department of State. Human Rights Report for 2013: Afghanistan, February 27, 2014. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220386#wrapper.

[61] Ron Nordland, "Donors Are Likely to Ask Karzai to Rethink Rights Panel Choices," *New York Times*, July 3, 2013.

[62] Rod Nordland, "Critics Question Karzai Choices for Human Rights Panel," *New York Times*, July 2, 2013.

Since 2002, there has been a proliferation of Afghan organizations that demand transparency about human rights deficiencies. Prominent examples of Afghan NGO's that monitor and agitate for improved human rights practices include the Afghanistan Human Rights and Democracy Organization, and the Equality for Peace and Democracy organization. The December 5, 2011, Bonn Conference was preceded by meetings (December 2-3, 2011, in Bonn) of Afghan civil society activists, intended to help assess the progress of Afghan governance and highlight the role of civil society in governance.

It is in part the work of these groups that has produced responses by the government. Afghanistan's National Directorate of Security (intelligence directorate but with arrest powers), which has widely been accused of detainee abuse and torture, established in late 2011 a "human rights unit" to investigate abuse allegations and train NDS staff not to conduct such abuses. In 2012, the Human Rights Support Unit of the Ministry of Justice conducted twelve human rights training sessions for NDS and Afghan National Policy officers. In June 2012, the Interior Ministry was tasked by the presidential office to report on prison conditions. On June 2, 2012, Karzai ordered disarmed a local security unit whose members were accused of raping an 18-year old woman in Konduz Province. On July 9, 2012, Afghan forces were sent to track down Taliban militants who had executed a woman for adultery in Parwan Province.

Religious Influence on Society: National Ulema Council

Counterbalancing the influence of post-Taliban modern institutions such as the AIHRC are traditional bodies such as the National Ulema Council. The Council consists of the 150 most respected and widely followed clerics throughout Afghanistan, and represents a network of about 3,000 clerics nationwide. It has taken conservative positions on free expression and social freedoms, such as the type of television and other media programs available on private media outlets. Clerics sometimes ban performances by Afghan singers and other performers whose acts the clerics consider inconsistent with conservative Islamic values. On the other hand, some rock bands have been allowed to perform high profile shows since 2011. Because of the power of Islamist conservatives, alcohol is increasingly difficult to obtain in restaurants and stores, although it is not banned for sale to non-Muslims.

In August 2010, 350 clerics linked to the Council voted to demand that Islamic law (Sharia) be implemented (including such punishments as stoning, amputations, and lashings) in order to better prevent crime. The government did not implement the recommendation, which would require amending the Afghan constitution that does not implement Sharia. The Council's March 2, 2012, backing of Sharia interpretations of the rights of women is discussed below in the section on women's rights.

The government (Ministry of Hajj and Religious Affairs) is also involved in regulating religious practices. Of Afghanistan's approximately 125,000 mosques, 6,000 are registered and funded by the government. Clerics in these mosques are paid about $100 per month and, in return, are expected to promote the government line. In April 2012, the Ministry decreed that it would fire government-funded clerics who refuse to heed warnings and preach violence or incitement.

As an illustration of Afghanistan's inherent Islamic conservatism, riots broke out in two successive years over what some Afghans perceived as U.S. disrespect of Islam. 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 stormed the U.N. compound in the city and killed at least 12 people, including 7 U.N workers. A more serious

eruption occurred in late February 2012 over the mistaken U.S. discarding of Qurans used by detainees at Bagram Airfield. Riots and protests occurred in several cities, including the normally peaceful and pro-U.S. north. The public reaction to the Quran burning was more intense than it was following the March 11, 2012, killing of 16 Afghans allegedly by a U.S. soldier, Robert Bales, who is in U.S. military custody. On September 17, 2012, several hundred Afghans rioted outside a U.S. training facility east of Kabul city to protest a video produced in the United States ("Innocence of Muslims") that mocks the Prophet Muhammad. Afghan police protected the facility from assault from the crowd.

These perceived U.S. slights may account for some of the killings of U.S. military personnel by Afghan security forces over the past few years. The so-called "green on blue" attacks have caused tensions between Afghan forces and their U.S. mentors, and prompted U.S. commanders to impose counter-measures that potentially complicate the U.S. effort to accelerate the transition to Afghan security before the end of 2014.

Religious Freedom

The International Religious Freedom report for 2012 (released May 20, 2013) asserts that Afghan law and policy does restrict religious freedom, and that the government's respect for religious freedom did not change during 2012.[63] Members of minority religions, including Christians, Sikhs, Hindus, and Baha'i's, often face discrimination, but members of these communities sometimes serve at high levels. Karzai has had a Hindu as an economic advisor and one member of the Sikh community serves in the Meshrano Jirga. In early September 2013, Karzai, by decree, created a special parliamentary seat allocation for a Sikh and a Hindu. There are four Isma'ilis in the National Assembly, elected without a quota. Baha'is fare worse than members of some of the other minorities because the Afghan Supreme Court declared the Baha'i faith to be a form of blasphemy in May 2007. There are no public Christian churches and four synagogues, although the synagogues are not used because there is only one Afghan national who is Jewish. There are three active *gurdwaras* (Sikh places of worship) and five Hindu *mandirs* (temples). Buddhist foreigners are free to worship in Hindu temples.

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.

The Hazaras and other Afghan Shiites tend to be less religious and more socially open than their co-religionists in Iran. Afghan Shiite leaders appreciated the July 2009 enactment and "gazetting" of a "Shiite Personal Status Law" that gave Afghan Shiites the same degree of recognition as the Sunni majority, and provided a legal framework for Shiite family law issues. Afghan Shiites are able to celebrate their holidays openly and some have held high positions, but some Pashtuns have become resentful of the open celebrations and some clashes have resulted. The former Minister of Justice, Sarwar Danesh, was the first Hazara Shiite to hold that post. In June 2012, Karzai denounced a book published by the Afghanistan Academy of Science that portrayed Hazaras as un-Islamic. In November 2012, Pashtun students at four universities in Kabul attacked Hazara students who were trying to commemorate the Shiite day of mourning (Ashura),

[63] http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208422#wrapper.

prompting the temporary closing of the universities. The clashes occurred even though Shiite public observance of the holy month of Muharram has progressively expanded.

Afghan Christians can worship in small congregations in private homes, but 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 a bill (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). In May 2010, 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 engaging in their rituals. Following diplomatic engagement by governments and human rights groups, Musa was released on February 24, 2011, and he obtained asylum in Italy.

Media and Freedom of Expression/Social Freedoms

Afghanistan's conservative traditions have caused some backsliding in recent years on media freedoms. Since 2001, numerous television channels, newspapers, and other media forms have been established, giving Afghanistan one of the freest presses in the region. Media has expanded to the point where the government, in 2012, began a process of launching a communications satellite to help with broadcast speed and breadth of dissemination. However, a Mass Media Law adopted in 2009 gave independence to the official media outlets but also contained a number of content restrictions and required that new newspapers and electronic media be licensed by the government. The Ministry of Information and Culture is attempting to draft a new media law to replace it, although some early drafts contained provisions that drew opposition from human rights groups in and outside Afghanistan.

According to the State Department report on human rights for 2012, there continues to be intimidation and sometimes violence against journalists who criticize the central government or powerful local leaders, and some news organizations and newspapers have occasionally been closed for incorrect or derogatory reporting on high officials. In October 2012, the Afghan government threatened to expel the staff of the International Crisis Group because of a report it issued that warned that Afghanistan might slide into civil war if the 2014 presidential elections are not free and fair.

USAID programs have trained investigative journalists to do more reporting on official corruption and other issues. The United States has provided funding and advice to an Afghan Government Media Information Center that the Afghan government uses to communicate with the public. Possibly as part of an effort to transition more tasks to the Afghans, U.S. advisers ended their work there in December 2011.

Separately, Islamic conservatives on the Ulema Council and in the National Assembly, as well as prominent clerics such as Shiite Ayatollah Asif Mohseni, have sometimes asserted control over media content. This has been an attempt to curb the popularity of such networks as Tolo Television. With the Ulema Council's backing, in April 2008 the Ministry of Information and

Culture banned five Indian-produced soap operas on Tolo on the grounds that they are too risqué, although the programs were restored in August 2008 under a compromise that brought in Islamic-oriented programs from Turkey. In June 2011, pressure from the Ulema Council caused Tolo to remove a soap opera called "Forbidden Love." Tolo has also aired programs about official corruption. In April 2013, Karzai reportedly agreed with a call by the Ulema Council to ban programs considered "vulgar, obscene, or un-Islamic."

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 websites.

Harsh Punishments/Torture

The State Department reports widespread examples of torture, rape, and other abuses by officials, security forces, detention center authorities, and police. In September 2011, U.S. and partner transfers of prisoners to some Afghan facilities were suspended 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. Earlier, 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.

A UNAMA report issued January 20, 2013, documented numerous cases of torture and ill treatment for detainees at the hand of Afghan security forces.[64] A U.N. report of December 6, 2013 said that UNAMA visits Afghan-run detention facilities to monitor implementation of presidential decree No. 129 preventing torture and ill-treatment of detainees. UNAMA provided assistance for the redrafting of 173 prison-related operational directives. As of the end of 2013, 114 such revised directives were issued, although there continue to be concerns about new incidents of alleged torture and ill-treatment.

Human Trafficking

For the fourth year in a row, Afghanistan was again placed in Tier 2: Watch List in the State Department Trafficking in Persons Report for 2013, issued on June 19, 2013.[65] However, Afghanistan was again given a waiver for an automatic downgrade to Tier 3 (the downgrade is automatic after a country is "watch-listed" for three consecutive years). The waiver was again based on the government's writing of a plan that, if implemented, would qualify as a significant effort to comply with minimum standards for the elimination of trafficking. The government is assessed in the 2013 report as not complying with minimum standards for eliminating trafficking, and not showing evidence of increasing efforts to satisfactorily address the issue.

[64] http://unama.unmissions.org/LinkClick.aspx?fileticket=VsBL0S5b37o%3d&tabid=12254&language=en-US.

[65] http://www.state.gov/documents/organization/210738.pdf.

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 report added that some members of the Afghan National Security Forces have sexually abused boys as part of the *bacha baazi* practice. Other reports say that many women have resorted to prostitution, despite the risk of social and religious ostracism or punishment, to cope with economic hardship.[66]

Advancement of Women

Women and women's groups are a large component of the burgeoning of civil society in post-Taliban Afghanistan. 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). The Tokyo Mutual Accountability Framework requires Afghanistan to implement the NAPWA and all of its past commitments and laws to strengthen the rights of women and provide services to them.

The major institutional development since 2001 was the formation in 2002 of a Ministry of Women's Affairs dedicated to improving women's rights. It is headed by Husn Banu Ghazanfar. Its primary function is to promote public awareness of relevant laws and regulations concerning women's rights. It plays a key role in trying to protect women from domestic abuse by overseeing the running of as many as 29 women's shelters across Afghanistan. Women's rights groups in Afghanistan expressed outrage over a June 2012 statement by Afghanistan's justice minister that the shelters encourage "immorality and prostitution." 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 were donated to the Ministry from Economic Support Funds (ESF) accounts controlled by USAID. The United States has continued to fund the Ministry since AFSA expired, although with less than $15 million per year.

One of the most prominent civil society groups operating in post-Taliban Afghanistan is the Afghanistan Women's Network. It has at least 3,000 members and its leaders say that 75 nongovernmental organizations work under its auspices. In addition, the AIHRC and outside Afghan human rights groups focus extensively on rights for Afghan women.

Among the most notable accomplishments since 2001, women are performing jobs that were rarely held by women even before the Taliban came to power in 1996. The civil service is 19% female, although that is down from 24% in 2004 and below the 30% target level set in the Tokyo Mutual Accountability Framework. Women serve in the police force and military, and the first Afghan female pilots arrived for training in the United States in July 2011. There are over 150 female judges, up from 50 in 2003, and nearly 500 female journalists working nationwide. Women constitute over one-third of the seats of the nationwide Community Development Councils (CDC's discussed above) and each CDC is required to have two women in their executive bodies.

[66] Azam Ahmed, "An Afghan City's Economic Success Extends to Its Sex Trade," *New York Times*, April 18, 2013.

Women are legally permitted to drive, and press reports say an increasing number of Afghan women, although mainly in Kabul and other main cities, are learning how to drive and exercising that privilege. 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.

Some groups, such as Human Rights Watch, report backsliding on women's rights since 2008,[67] although the State Department human rights report for 2012 says that the situation of women in Afghanistan improved "marginally" during 2012. 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. Along with the assertion of authority of conservative Islamic institutions, on March 2, 2012, the Ulema Council issued a pronouncement saying women should be forced to wear the veil and be forbidden from traveling without a male chaperone. The pronouncement did reiterate support for the rights of women to inherit and own property, and to choose their marital partners. On March 6, 2012, Karzai endorsed the Ulema Council statement.

Among the most widespread abuses reported:

- 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.
- The practice of *baad*, in which women are given away to marry someone from another clan to settle a dispute, remains prevalent.
- There is no law specifically banning sexual harassment, and women are routinely jailed for *zina*—a term meaning adultery, and a crime under the penal code, and that includes running away from home, defying family choice of a spouse, eloping, or fleeing domestic violence. These incarcerations are despite the fact that running away from home is not a crime under the penal code. That code is often relatively lenient towards males—a man convicted of "honor killing" (of a wife who commits adultery) cannot be sentenced to more than two years in prison. One case that received substantial attention in December 2011 involved a woman who was jailed for having a child outside wedlock even though the child was a product of rape.
- Women's rights activists have been assassinated on several occasions. On December 10, 2012, the head of the Women's Affairs Ministry department in Laghman Province was gunned down. Her predecessor in that post was killed by a bomb planted in her car four months earlier. A prominent women's rights activist and author, Sushmita Banerjee, a citizen of India, was abducted by Taliban militants from her home in Paktika province and found killed. Two Taliban suspects were subsequently arrested.

In an effort to prevent these abuses, on August 6, 2009, Karzai issued, as a decree, the "Elimination of Violence Against Women" (EVAW) law that makes many of the practices above unlawful. Partly as a result of the decree, prosecutions of abuses against women are increasingly

[67] "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.

obtaining convictions. A "High Commission for the Elimination of Violence Against Women" has been established to oversee implementation of the EVAW, and provincial offices of the commission have been established in all but two provinces, according to the March 7, 2014 U.N. report. The Ministry of Women's Affairs is working with local authorities in 11 provinces to improve implementation of the decree.

On the other hand, despite the EVAW decree, only a small percentage of reports of violence against women are registered with the judicial system, and about one-third of those proceed to trial.[68] The number of women jailed for "moral crimes" has increased by 50% since 2011. Efforts by the National Assembly to enact the EVAW in December 2010 and in May 2013 failed due to opposition from Islamic conservatives who do not want to limit the ability of male elders to decide family issues. On May 22, 2013, about 200 male Islamist students demonstrated in Kabul demanding repeal of the EVAW decree outright.

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, only Afzali was immediately confirmed; the other two (Minister of Health and Minister of Women's Affairs) were kept on in acting capacities and confirmed in subsequent years. Afghanistan has one female ambassador and Karzai has a female deputy chief of staff, Homaira Ludin-Etemadi. In the December 16, 2009, nomination 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. In March 2005, Karzai appointed a former minister of women's affairs, Habiba Sohrabi, as governor of Bamiyan province, inhabited mostly by Hazaras.

One woman (Masooda Jalal) ran in the 2004 presidential election, and two ran for president in the August 20, 2009, election. In the latter, each received less than one-half of 1%. As noted above, one woman filed to run for president in 2014, but her candidacy was disqualified by the IEC apparently for an insufficient number of nominating signatures. Three women, including Sohrabi, are vice presidential candidates in the April 2014 election.

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 69 women elected in the 2010 parliamentary elections, one more than the quota. (400 women ran for those seats—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.) There are 28 women in the upper house, substantially more than the minimum number. However, some NGOs and other groups believe that the women elected by the quota system are not viewed as equally legitimate parliamentarians.

[68] Alissa Rubin, "Slow Gains in Justice for Afghan Women," *New York Times*, December 12, 2012, http://unama.unmissions.org/LinkClick.aspx?fileticket=Qy9mDiEa5Rw%3d&tabid=12254&language=en-US.

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 9 women out of 70 members, although these women report that their views are not taken into account to any significant extent in the Council. At U.S. and other country urging, a woman was part of the official Afghan delegation to the major international conference on Afghanistan in Bonn on December 5, 2011; she was selected at a meeting of civil society activists in Bonn, a day before the major conference began.

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."[69] 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.[70] For FY2010, assistance for women was provided in the following "pillars" of the U.S. Strategy: health ($87 million); education ($31 million); economy, work, and poverty ($54.6 million); legal protection and human rights ($12 million); and leadership and political participation ($43 million). Total U.S. funding for women's programs for Afghanistan were similar for FY2011, FY2012, and FY2013. Among the funding streams has been U.S. Ambassador small grants to support gender equality (FY2009-FY2012), which was used to help finance over 830,000 microloans to women during 2004-2011 for the establishment of 175,000 small businesses, according to an SRAP report released November 2011. These strategy pillars, and specific programs funded by them, are discussed in annual State Department reports on U.S. aid to women and girls.

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-FY2012, USAID spent about $1.5 billion on democracy, governance, rule of law and human rights, and elections support. For FY2013, the ESF amounts provided for democracy and governance are $578.2 million, including

- $447.2 million for good governance,
- $31.5 million for rule of law and human rights (not including INCLE),
- $64.3 million for political competition and consensus-building, and
- $35.2 million for civil society.

For FY2014, the Administration has requested $1.665 billion in ESF and $475 in INCLE funding for Afghanistan—the broad accounts from which democracy, governance, and rule of law funding—as well as funding for a wide range of other functions—are drawn. For tables on U.S.

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

[70] 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.

aid to Afghanistan, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

Effects of a Settlement with the Taliban

A major U.S. and Afghan initiative—to reach a conflict-ending settlement with the Taliban—is likely to affect all of the issues discussed in this paper were it to be realized. Afghan politics, elections, the performance of the government, and the human rights situation could all be affected significantly by a deal with the Taliban. Many in the international community, including within the Obama Administration, initially withheld endorsement of the concept, asserting reconciliation might result in the incorporation into the Afghan political system of insurgent leaders who retain ties to Al Qaeda and will roll back freedoms. The minority communities in the north, women, intellectuals, and others remain skeptical of reconciliation on similar grounds. Most Taliban insurgents are highly conservative Islamists who oppose the advancement of women and women have been a target of attacks by Taliban supporters, including attacks on girls' schools and athletic facilities. If the Taliban is given major ministry positions, seats in parliament, or even tacit control over territory as part of any deal, the movement would be in position to assert its ideology.

To respond to those fears, Afghan and U.S. officials say that the outcome of a settlement would require the Taliban to drop at least some of its demands that (1) foreign troops leave Afghanistan; (2) a new "Islamic" constitution be adopted; and (3) Islamic law be imposed. This issue is covered in greater depth in CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

Table 1. Major Pashtun Tribal Confederations

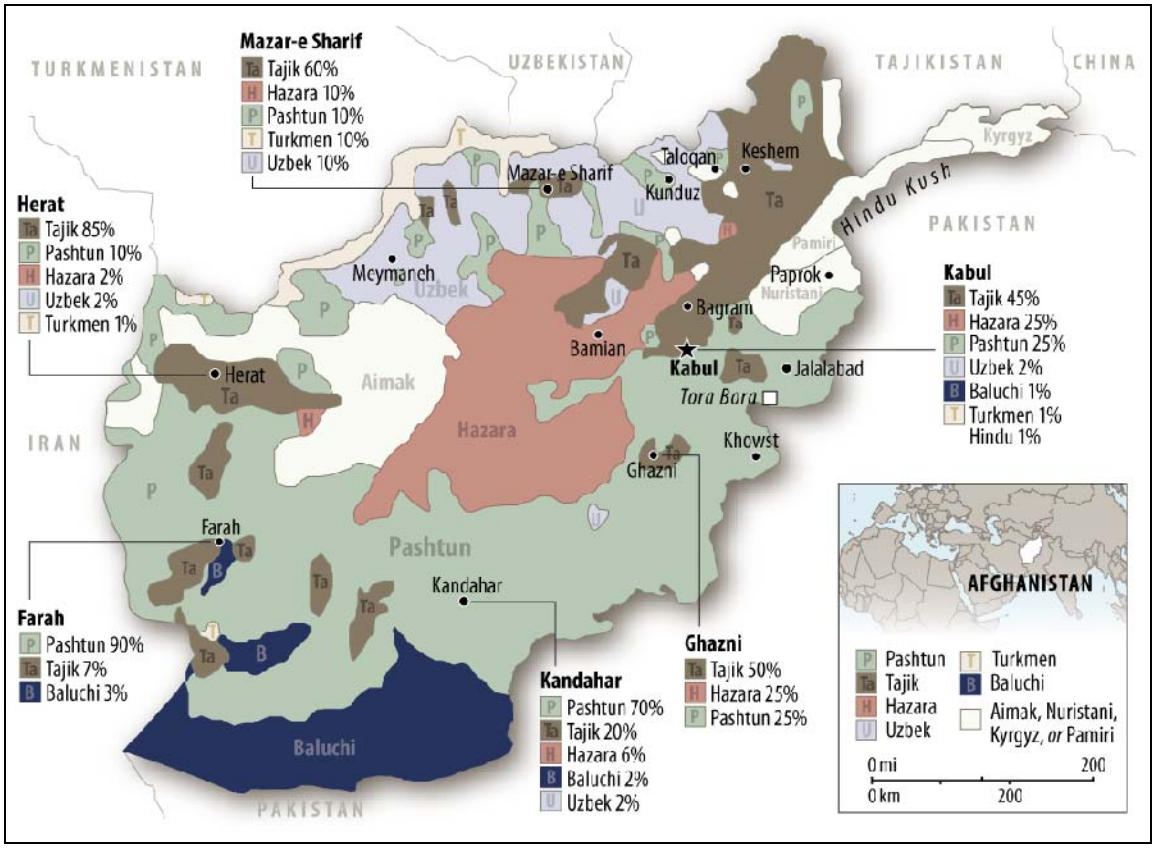
Clan/Tribal Confederations	Location	Example
Durrani	Mainly southern Afghanistan: Qandahar, Helmand, Zabol, Uruzgan, Nimruz	
Popalzai (Zirak branch of Durrani Pashtun)	Qandahar	Hamid Karzai, president of Afghanistan; Jelani Popal, former head of the Independent Directorate of Local Governance; Mullah 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

Clan/Tribal Confederations	Location	Example
Hotak		Mullah Umar, but hails from Uruzgan, which is dominated by Durranis
Taraki		Nur Mohammed Taraki (leader 1978-1979)
Kharoti		Hafizullah Amin (leader September-December1979); Gulbuddin Hekmatyar, founder of Hezb-e-Islami (Gulbuddin), former *mujahedin* party leader now anti-Karzai insurgent.
Zadran	Paktia, Khost	Pacha Khan Zadran; Insurgent leader Jalaluddin Haqqani
Kodai		
Mangal	Paktia, Khost	Ghulab Mangal (Governor of Helmand Province)
Orkazai		
Shinwari	Nangarhar province	Fasl 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		
Terai		
Mohmands	Near Khazan, Peshawar	
Baizai		
Alimzai		
Uthmanzais		
Khawazais		
Wazirs	Mainly in Waziristan	
Darwesh khel		

Clan/Tribal Confederations	Location	Example
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, graphics specialist, Publishing and Editorial Resources Section, 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.

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