



Afghanistan: Politics, Elections, and Government Performance

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Summary

The performance and legitimacy of the Afghan government figured prominently in two reviews of U.S. strategy in Afghanistan during 2009 and continues to color U.S. relations with Afghan President Hamid Karzai. In his December 1, 2009, speech on Afghanistan, which followed the second review, President Obama stated that the Afghan government would be judged on performance, and “The days of providing a blank check are over.” The policy statement was based, in part, on criticisms of Karzai’s leadership by U.S. Ambassador to Afghanistan Karl Eikenberry and other U.S. officials. President Obama pressed Karzai on his government’s deficiencies, particularly corruption, during a March 28, 2010, visit to Afghanistan and invited him to visit Washington D.C. on May 12, 2010. The visit may have contributed to two subsequent statements by Karzai accusing the international community of exercising undue pressure on him and on Afghanistan.

The Afghan government’s widespread official corruption, as well as its ineffectiveness, is identified by U.S. officials as feeding the insurgency. At the same time, Karzai’s alliances with key ethnic and political faction leaders have reduced his ability to stock the government with politically neutral and technically competent officers. Despite diminished confidence in Karzai, he went into the August 20, 2009, presidential election as the favorite. Amid widespread charges of fraud, many substantiated by a U.N.-backed Electoral Complaints Commission (ECC), nearly one-third of Karzai’s votes were invalidated, leaving Karzai just short of the 50%+ total needed to avoid a second-round runoff. Asserting that more fraud was likely, Karzai’s main challenger dropped out of the race on November 1, 2009, and Karzai was declared the winner. He has since had difficulty obtaining parliamentary confirmation of a full cabinet, and 10 ministerial posts remain unfilled. Most of the highly regarded economic ministers have been confirmed.

Karzai’s hopes to rebuild international support for his leadership at a major international conference on Afghanistan in Britain on January 28, 2010, were only partly fulfilled. The conference endorsed—and agreed to begin to fund—his proposals to try to persuade insurgent fighters to give up their fight. For his part, Karzai committed to several specific steps to try to weed out official corruption and to ensure that all future elections are free and fair. However, that pledge was undermined, to an extent, in February 2010 when Karzai issued an election decree that would eliminate the three U.N.-appointed positions for international officials on the ECC. The decree would apply to the National Assembly elections now set for September 18, 2010. However, as a further rebuke to his authority and assertion of its powers, the lower house of Afghanistan’s National Assembly voted on March 31, 2010, to reject the decree, although the upper house subsequently upheld the decree.

Because most insurgents are, like Karzai, ethnic Pashtuns, stabilizing Afghanistan requires winning Pashtun political support for the Afghan government, which requires effective local governing structures; the trend to promote local governing bodies has been accelerated by the Obama Administration. This so-called “civilian uplift” effort has doubled the number of U.S. civilian personnel helping build Afghan governing and security institutions and the economy. That number (now about 975) is expected to rise by another 30% during 2010. For more information, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*; and CRS Report R40747, *United Nations Assistance Mission in Afghanistan: Background and Policy Issues*.

Contents

Post-Taliban Transition and Political Landscape	1
Overview of Afghan Politics and Governance	1
Ethnic Affiliations and Relations	2
Politics: Karzai and His Opponents	3
The Opposition and Its Strength	4
Enhancing Government Capacity and Performance	5
U.S.-Karzai Relations.....	6
The Influences of Regional Faction Leaders/"Warlords".....	7
Vice President Muhammad Fahim.....	7
Abdurrashid Dostam	8
Isma'il Khan	8
Helmand Province: Sher Mohammad Akhundzadeh and "Koka"	9
Official Corruption.....	9
Scope of the Problem	10
Other Karzai Responses	11
Expanding Local Governance/U.S. Civilian "Uplift"	13
Provincial Governors and Provincial Councils.....	13
District-Level Governance	14
Community/Village Level	15
U.S. Local Governance Advisory Capacity.....	15
Human Rights Issues.....	15
Religious Freedom.....	16
Human Trafficking.....	17
Advancement of Women	17
Democracy, Governance, and Elections Funding Issues	19
2009 and 2010 Elections	20
2009 Presidential Election.....	21
Election Modalities and Processes.....	21
The Political Contest and Campaign.....	22
The Campaign.....	23
The Election Results and Prospects	25
Post-Election Cabinet.....	28
2010 Parliamentary Elections and Election Law Dispute	29
Election Decree.....	30
Implications for the United States of the Afghan Elections.....	31

Figures

Figure 1. Map of Afghan Ethnicities.....	35
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Tables

Table 1. Afghanistan Political Transition Process.....	32
Table 2. Major Pashtun Tribal Confederations	33

Contacts

Author Contact Information 36
Acknowledgments 36

Post-Taliban Transition and Political Landscape

A U.S. priority, particularly during the first six years after the fall of the Taliban, was to extend the authority of Afghanistan's central government. The policy was predicated on the observation that weak governance was causing some Afghans to acquiesce to, or even support outright, Taliban insurgents as providers of security and impartial justice. Since 2007, the U.S. and Afghan focus has been on reforming and reducing corruption within the central government, and on expanding and strengthening local governance (district and municipal levels). Local governance is considered key to enlisting greater support for the government and opposition to insurgent infiltration. The outgoing head of the U.N. Assistance Mission Afghanistan (UNAMA), Kai Eide, said in a departing news conference on March 4, 2010, that improving governance and political processes are "indispensable" for resolving the conflict in Afghanistan, and that U.S. and partner efforts have, to date, focused too much on military approaches. (Eide has been succeeded by Staffan de Mistura.)

Overview of Afghan Politics and Governance

Afghanistan's governing structure has historically been characterized by a weak central government unwilling or unable to enforce significant financial or administrative mandates on Afghanistan's localities. About 80% of Afghans live in rural areas; there are at least 23,000 villages in Afghanistan. The tribal, clan, village, and district political structures that provided government structure until the late 1970s were severely weakened by over 20 years of subsequent war. Many local authority figures fled or were killed, and were displaced by *mujahedin* commanders, militia leaders, political faction leaders, and others. These local power brokers selectively applied Afghan law, favoring members of their own clique, and have resisted ceding their influence back to traditional leaders or to new central or local governing structures.

At the national level, Afghanistan did not have a tradition of Western-style democracy prior to the international intervention that took place after the September 11, 2001 attacks on the United States. Karzai is the first directly elected president in Afghan history. There were parliamentary elections during the reign of King Zahir Shah (the last were in 1969, before his reign was ended in a 1973 military coup), but the parliament during that era did not have the political authority or role as a check on presidential power that the post-Taliban National Assembly has. 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. The political transition process is depicted in **Table 1**.

Some believe that the elements of Western style democracy introduced since 2001 are supported by traditional Afghan patterns of decision making that have some democratic and representative elements. On the other hand, some see the traditional patterns as competing mechanisms that resist change and modernization, and generally minimize the role of women, and do not meet international standards of democratic governance. At the national level, the *loya jirga*, or traditional Afghan assembly consisting of about 1,000 delegates from all over Afghanistan, has been used to ratify some major decisions in the post-Taliban period (Karzai's leadership, the post-

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

Taliban constitution, and long-term defense relations with the United States). At the local level, *shuras*, or *jirgas* (consultative councils)² composed of local notables, are key mechanisms for making authoritative local decisions or dispensing justice. Afghans turn often to these local mechanisms to adjudicate disputes rather than use the national court system. Some estimates say that 80% of cases are decided in the informal justice system. However, this informal justice system is dominated almost exclusively by males.

Ethnic Affiliations and Relations

Traditional patterns of political affiliation by family, clan, tribe, village, ethnicity, region, and other relationships remain. These patterns were evident in the August 20, 2009 presidential campaign in Afghanistan. Many presidential candidates, Karzai included, pursued campaign strategies designed primarily to assemble blocs of ethnic and geographic votes, rather than advance specific new ideas. These patterns were even more pronounced in campaigns for the provincial councils, which were elected concurrently.

While Afghans continue to follow traditional patterns of affiliation, there has been a sense among Afghans that their country now welcomes members of all political and ethnic groups and factions. Ethnic strife has been limited since the fall of the Taliban, although it often exists beneath the surface and is characterized as political or economic differences.

Ethnic Pashtuns (sometimes referred to as Pathans – pronounced pah-TAHNS), as the largest single ethnicity, believe they have the right to rule; Pashtuns are about 42% of the population and, with few exceptions, have governed Afghanistan. Karzai's government, although not necessarily the security forces, has come to be progressively dominated by Pashtuns. One recent exception was the 1992-1996 presidency of the *mujahedin* government of Burhanuddin Rabbani, a Tajik. The Taliban is composed almost completely of Pashtuns. A table on major Pashtun clans is provided below (see **Table 2**), as is a map showing the distribution of Afghanistan's various ethnicities (see **Figure 1**). However, although they largely concede Pashtun rule, non-Pashtuns have been and want to be well represented at high levels of the central government. Non-Pashtuns also have achieved a large measure of control over how government programs are implemented in their geographic regions.

The security organs are considered an arena where Pashtuns and Tajiks have worked together relatively well. Currently, of the major security ministries and organizations, only the National Directorate for Security (NDS, the Intelligence directorate) is still headed by a non-Pashtun (Amrollah Saleh, a Tajik). Attempting to maintain the fragile consensus among the various ethnicities, the other security ministries (Defense, Interior) tend to have non-Pashtuns in key deputy or subordinate positions. In the Defense Ministry, the chief of staff is a Tajik (Bismillah Khan), who reports to a Pashtun Defense Minister (Abdul Rahim Wardak). Some observers take a different view, asserting that Tajiks continue to control many of the command ranks of the Afghan security institutions, giving Pashtuns only a veneer of control of these organizations. U.S. commanders in Afghanistan say the composition of the security forces has recently been brought more into line with the population, although Pashtuns from the south remain underrepresented.

² Shura is the term used by non-Pashtuns to characterize the traditional assembly concept. Jirga is the Pashtun term.

Politics: Karzai and His Opponents

In post-Taliban Afghanistan, the National Assembly (parliament)—particularly the 249-seat elected lower house (*Wolesi Jirga, House of the People*)—has become the key institution for the non-Pashtun ethnic minorities to exert influence on Karzai. The December 2009-January 2010 process of confirming Karzai’s second term cabinet—in which about two-thirds of Karzai’s nominees were voted down on two occasions—demonstrates that the Assembly is an increasingly strong institution that is pressing for honest, competent governance. These principles are advocated most stridently by the younger, more technocratic independent bloc in the lower house. The lower house again defied Karzai on March 31, 2010, by voting to reject an election decree that would structure the holding of September 18, 2010, National Assembly elections.

On less contentious issues, the executive and the legislature have worked well. During 2008, parliament passed a labor law that brings Afghan labor law more in line with international labor laws, a mines law, a law on economic cooperatives, and a convention on tobacco control. It also confirmed several Karzai nominees, including the final justice to fill out the Supreme Court. In 2009, as discussed further below, the National Assembly approved a Shiite Personal Status Law, both an original version and then a revised version. Both houses of parliament, whose budgets are controlled by the Ministry of Finance, are staffed by about 275 Afghans, reporting to a “secretariat.” There are 18 oversight committees, a research unit, and a library.

This institutional growth has come despite the fact that about one-third of the seats in the lower house are held by personalities and factions prominent in Afghanistan’s recent wars, many of whom are non-Pashtuns from the north and the west.

The factions in the lower house are not strictly organized according to Afghanistan’s 108 registered political parties, and the various non-Pashtun ethnicities are not monolithic in opposition to Karzai. Karzai has not formed his own party, but his core supporters in the *Wolesi Jirga* are about 50 former members of the conservative Pashtun-based Hizb-e-Islam party (the same party as that headed by insurgent leader Gulbuddin Hikmatyar); and supporters of Abd-i-Rab Rasul Sayyaf—a prominent Islamic conservative *mujahedin* party leader.³ Another base of Karzai’s support are figures from Qandahar (Karzai’s home province) and Helmand provinces, including several Karzai clan members. One clan member in the parliament is his cousin Jamil Karzai, and another is relative by marriage Aref Nurzai, who was prominent in Karzai’s 2009 election campaign. Karzai’s elder brother, Qayyum, was in the lower house representing Qandahar until his October 2008 resignation, although Qayyum continues to represent his brother informally domestically and abroad, including at 2008 and 2009 meetings to explore negotiated settlements with Taliban figures. Other pro-Karzai Pashtuns in the parliament are former militia and Taliban leaders, including Hazrat Ali (Nangarhar Province), who led the Afghan component of the failed assault on Osama bin Laden’s purported redoubt at Tora Bora in December 2001; Pacha Khan Zadran (Paktia) who, by some accounts, helped Osama bin Laden escape Tora Bora; and Mullah Abdul Salam (“Mullah Rocketi”), from Zabol. (Salam ran for President in 2009 but garnered only about 0.5%.)

³ Sayyaf led the *Ittihad Islami* (Islamic Union) mujahedin party during the war against the Soviet occupation.

The Opposition and Its Strength

Although the political “opposition” to Karzai is fluid and often joins him on some issues, those who can be considered opposition (putting aside Taliban and other insurgents) are mainly ethnic minorities (Tajik, Uzbek, and Hazara) who were in an alliance against Taliban rule that was called the “Northern Alliance.” Leaders of these groups, and particularly Tajiks, view as a betrayal Karzai’s firing of many of the non-Pashtuns from the cabinet—such as former Foreign Minister Dr. Abdullah Abdullah (Tajik, dismissed from that post by Karzai in 2006, and the main challenger for President in the August 2009 election).

The main ethnic opposition grouping is called the United Front (UF). It was formed in April 2007 by *Wolesi Jirga* Speaker Yunus Qanooni (Karzai’s main challenger in the 2004 presidential election) and former Afghan President Burhanuddin Rabbani (both, like Abdullah, are prominent ethnic Tajik Northern Alliance figures and former associates of the legendary *mujahedin* commander Ahmad Shah Masood). It is broader than the Tajik-dominated Northern Alliance in that it includes some Pashtuns, such as prominent Soviet-occupation era security figures Sayed Muhammad Gulabzoi and Nur ul-Haq Ulumi, who has chaired the defense committee. Both of Karzai’s vice presidents joined the UF when it was formed, although they subsequently continued to serve as vice presidents (one, Ahmad Zia Masoud, is no longer Vice President following the 2009 presidential election). The UF advocates amending the constitution to give more power to parliament and to empower the elected provincial councils (instead of the President) to select governors and mayors. Fearing Pashtun consolidation, the UF has been generally opposed to Karzai’s overtures to Taliban fighters and leaders to end their fight and join the political process—an initiative called “reintegration and reconciliation that is now fully backed by the Obama Administration.

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

Karzai and the UF have often competed for the support of the “independents” in the lower house. Among them are several outspoken women, intellectuals, and business leaders, such as the 39-year-old Malalai Joya (Farah Province), a leading critic of war-era faction leaders. In May 2007 the lower house voted to suspend her for this criticism for the duration of her term. Others in this camp include Ms. Fauzia Gailani (Herat Province); Ms. Shukria Barezai, editor of *Woman Mirror* magazine; and Mr. Ramazan Bashardost, a former Karzai minister who champions parliamentary powers and has established a “complaints tent” near the parliament building to highlight and combat official corruption. (He ran for President in the 2009 elections on an anti-corruption platform.) U.S.-based International Republican Institute (IRI) has helped train the independents; the National Democratic Institute (NDI) has assisted the more established factions.

The Upper House of the National Assembly

Karzai has relatively fewer critics in the 102-seat *Meshrano Jirga* (*House of Elder*, upper house), partly because of his bloc of 34 appointments (one-third of that body). He engineered the appointment of an ally as Speaker: Sibghatullah Mojadeddi, a noted Islamic scholar and former *mujahedin* party leader who headed the post-Communist *mujahedin* government for one month (May 1992).⁴ However, because it is composed of more elderly, established, notable Afghans who are traditionalist in their political outlook, the upper house has tended to be more Islamist conservative than the lower house, advocating a legal system that accords with Islamic law, and restrictions on press and Westernized media broadcasts. As an example of the upper house's greater support for Karzai, it voted on April 3, 2010, to back the election decree that the lower house had rejected on March 31, 2010, meaning that the decree is likely to be considered operable for the parliamentary election in September.

Karzai also has used his bloc of appointments to the upper house to co-opt potential antagonists or reward his friends. He appointed Northern Alliance military leader Muhammad Fahim to the upper body, perhaps to compensate for his removal as Defense Minister, although he resigned after a few months and later joined the UF. (He was Karzai's primary running mate in the 2009 elections and is now a Vice President.) A Karzai ally, former Helmand governor Sher Mohammad Akhunzadeh, was appointed to the body (see below). There is one Hindu, and 23 women; 17 are Karzai appointees and six were selected in their own right.

Enhancing Government Capacity and Performance⁵

Since 2001, U.S. policy has been to help expand Afghan institutions. Since 2007, but with a particular focus of the Obama Administration, U.S. policy has been to also urge Afghan government reform. The anti-corruption and governmental performance aspect of U.S. policy was emphasized in two major Afghanistan policy statements by President Obama—March 27, 2009, and December 1, 2009. Both statements stressed that more needed to be done to promote the legitimacy and effectiveness of the Afghan government at both the Kabul and local levels. The latter statement indicated that “The days of providing a blank check [to the Afghan government] are over.”

Governmental reforms, some of which President Karzai says are being implemented or planned, include instituting merit-based performance criteria, ending the practice of hiring based on kinship and ethnicity rather than qualifications, and weeding out of rampant official corruption. Afghan ministries based in Kabul are growing their staffs and technological capabilities, although they still suffer from a low resource and skill base, and corruption is fed, in part, by the fact that government workers receive very low salaries. Some of these issues are being addressed by Afghanistan's Civil Service Commission that is trying to standardize and institutionalize civil service job descriptions and set pay and performance criteria. FY2011 funds (Economic Support Funds) will be used to continue to support a “civilian technical assistance plan” to provide technical assistance to Afghan ministries and train bureaucrats.

⁴ The mujahedin party he headed during the anti-Soviet war was the Afghan National Liberation Front.

⁵ Some information in this section is from the State Department reports on human rights in Afghanistan for 2009, March 11, 2010; for text, see <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136084.htm> and the International Religious Freedom Report, released October 26, 2009, <http://www.state.gov/g/drl/rls/irf/2009/127362.htm>

One idea that came to the fore in 2009 was a new position to help the Karzai government's administrative abilities. Several potential officials reportedly negotiated with Karzai about playing that role, including one of Karzai's 2009 election challengers, Ashaf Ghani. Karzai did not mention this issue in his second-term inaugural speech on November 19, 2009.⁶ However, observers say Ashraf Ghani has been advising Karzai on government reform and administration after reconciling with him in November 2009 (after the election was settled). Ghani was part of Karzai's advisory team at the January 28, 2010, London conference.

The Administration developed about 45 different metrics to assess progress in building Afghan governance and security, as it was required to do so (by September 23, 2009) under P.L. 111-32, an FY2009 supplemental appropriation.⁷ To date, and under separate authorities such as provisions of supplemental appropriations and foreign aid appropriations, only small amounts of U.S. aid have been made conditional on Afghanistan's performance on such metrics, and no U.S. aid has been permanently withheld.

U.S.-Karzai Relations

The following sections discuss major shortcomings of the Afghan government, and U.S. and international responses to try to address these deficiencies. The U.S. assessments of the purported failings of the Karzai government have caused substantial frictions in U.S.-Karzai relations since the Obama Administration came into office. Administration testimony before Congress following President Obama's December 1, 2009, policy statement restated Administration concerns about the Karzai shortcomings but also noted his late 2009 anti-corruption pledges and some positive accomplishments of his government. Ambassador Eikenberry, who in reported cables to Washington, DC, expressed numerous concerns about Karzai's leadership, also testified in December 2009 that Karzai should receive credit for some of the well-regarded economic sector ministerial appointments he made in 2008 and 2009.

Continuing U.S. concerns prompted President Obama to make anti-corruption efforts a particular focus of his talks with President Karzai in Kabul on March 28, 2010. The meeting in Kabul was said to be productive, if somewhat tense, but Karzai's frustrations at what he sees as U.S. and international pressure on him to reform emerged in his comments on April 1, 2010, and April 4, 2010, both to groups of Afghans. On both occasions, Karzai expressed frustration with what he claims was international meddling in the August 20, 2009 presidential election and, more generally, what he sees as his subordination to the decisions of Afghanistan's international partners. The April 4, 2010, comments were more specifically critical of the United States and suggested that Western meddling in Afghanistan was fueling support for the Taliban as a legitimate resistance to foreign occupation. Still, on April 5, 2010, Gen. Stanley McChrystal, overall commander of international forces in Afghanistan, said Karzai continues to cooperate well with international counter-insurgency actions. President Karzai called Secretary of State Clinton following his April 1, 2010, comments, seeking to "clarify" his comments, but the reportedly productive discussion did not prevent additional sharp comments by Karzai on April 4. White House spokesperson Robert Gibbs said on April 6, 2010, that the May 12, 2010, Karzai visit to

⁶ Text of unofficial translation of Karzai speech provided by the Embassy of the Islamic Republic of Afghanistan in Washington, DC.

⁷ "Evaluating Progress in Afghanistan-Pakistan" Foreign Policy website, http://www.foreignpolicy.com/articles/2009/09/16/evaluating_progress_in_afghanistan_pakistan.

Washington D.C. might be called off if Karzai continues to make similar remarks. The election issues is discussed later.

The Influences of Regional Faction Leaders/"Warlords"

A major concern about President Karzai and Afghan governance generally is the continued influence of un-elected, un-appointed, and often well-armed faction leaders on national and local decisions. The Obama Administration's March 27, 2009, and December 1, 2009, strategy statements did not outline new measures to sideline these strongmen, who are sometimes referred to by experts and others as "warlords." General McChrystal, in his August 2009, "initial assessment," cited below, indicated that some of these faction leaders—most of whom the United States and its partners regularly deal with and have good working relations with—cause resentment among some sectors of the population and complicate U.S. stabilization strategy.

Karzai has at times indulged and at other times moved against regional strongmen, but he has been hesitant to confront them outright to the point where their followers go into armed rebellion. Some assert that he was more reliant on them in 2009 than previously in reaction to his perception that the Obama Administration sought to encourage opponents to him in the August 2009 election. Even before the Obama Administration came into office, Karzai argued that the faction leaders have significant followings and that compromises with them are needed to keep the government intact as he focuses on fighting "unrepentant" Taliban insurgents.

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

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

Vice President Muhammad Fahim

Karzai's choice of Muhammad Fahim, a Tajik from the Panjshir Valley region who is military chief of the Northern Alliance/UF faction, as his first vice presidential running mate in the August 2009 elections might have been one manifestation of Karzai's growing reliance on faction leaders. The Fahim choice was criticized by human rights and other groups because of Fahim's long identity as a mujahedin commander/militia faction leader. However, the alliance was viewed as a major political coup for Karzai by splitting off a major figure from the UF bloc. A *New York Times* story of August 27, 2009, said that the Bush Administration continued to deal with Fahim when he was Defense Minister (2001-2004) despite reports that he was involved in facilitating narcotics trafficking in northern Afghanistan. Other allegations suggest he has engineered property confiscations and other benefits to feed his and his faction's business interests. He also has reportedly withheld turning over some heavy weapons to U.N. disarmament officials who have been trying to reduce the influence of local strongmen such as Fahim. U.S. officials have not announced any limitations on dealings with Fahim now that he is vice president.

Abdurrashid Dostam

Some observers cite Karzai's handling of prominent Uzbek leader Abdurrashid Dostam as evidence of political weakness. Dostam commands numerous partisans in his redoubt in northern Afghanistan (Jowzjan and Balkh provinces), where he was widely accused of human rights abuses of political opponents. To try to separate him from his armed followers, in 2005 Karzai appointed him to the post of chief of staff of the armed forces. On February 4, 2008, Afghan police surrounded Dostam's villa in Kabul in response to reports that he attacked an ethnic Turkmen rival, but Karzai did not order his arrest for fear of stirring unrest among Dostam's followers. To try to resolve the issue without stirring unrest, in December 2008 Karzai purportedly reached an agreement with Dostam under which he resigned as chief of staff and went into exile in Turkey in exchange for the dropping of any case against him.⁸

Dostam returned to Afghanistan on August 16, 2009 and subsequently held a large pro-Karzai election rally in his home city of Shebergan. Part of his intent has been to weaken and oust another strong figure in the north, Balkh Province governor Atta Mohammad, who views himself as relatively independent of Kabul's writ. Mohammad is a Tajik but, under a 2005 compromise with Karzai, is in control of a province that is inhabited mostly by Uzbeks—a source of irritation for Dostam and other Uzbek leaders. Mohammad supported Dr. Abdullah in the 2009 presidential race. Dostam's support apparently helped Karzai carry several provinces in the north, including Jowzjan, Sar-i-Pol, and Faryab, although Dr. Abdullah won Balkh and Samangan, according to certified results (see "The Election Results and Prospects" below). Dostam reportedly went back into exile as of October 2009 and was not himself nominated for any cabinet or other major post in the post-election cabinet presentations. At least two members of his "Jombush Melli" organization were nominated for cabinet seats, although they were voted down by the National Assembly because the Assembly insisted on competent officials rather than party loyalists in the new cabinet. Dostam returned to Afghanistan in January 2010 and was restored to his previous, primarily honorary, position of chief of staff of the armed forces.

Dostam's reputation is further clouded by his actions during the U.S.-backed war against the Taliban. On July 11, 2009, the *New York Times* reported that allegations that Dostam had caused the death of several hundred Taliban prisoners during the major combat phase of OEF (late 2001) were not investigated by the Bush Administration. In responding to assertions that there was no investigation of the "*Dasht-e-Laili*" massacre because Dostam was a U.S. ally,⁹ President Obama said any allegations of violations of laws of war need to be investigated. Dostam responded to Radio Free Europe/Radio Liberty (which carried the story) that only 200 Taliban prisoners died and this was due to combat and disease, and not due to intentional actions of forces under his command.

Isma'il Khan

Another strongman that Karzai has sought to simultaneously engage and weaken is prominent Tajik political leader and former Herat governor Ismail Khan. In 2006, Karzai appointed him Minister of Energy and Water, taking him away from his political base in the west. However, Khan remains influential there, and maintaining ties to Khan has won Karzai Khan's election

⁸ CRS e-mail conversation with National Security aide to President Karzai, December 2008.

⁹ This is the name of the area where the Taliban prisoners purportedly died and were buried in a mass grave.

support. Khan apparently was able to deliver potentially decisive Tajik votes in Herat Province that might otherwise have gone to Dr. Abdullah. Afghan certified results showed Karzai winning that province, indicating that the deal with Khan was helpful to Karzai.

Still, Khan is said to have several opponents in Herat, and a bombing there on September 26, 2009, narrowly missed his car, causing Khan to threaten to resign his ministry post. U.S. officials purportedly would prefer that Khan not be in the new cabinet because of his checkered record, even though some U.S. officials credit him with cooperating with the privatization of the power sector of Afghanistan. Karzai renominated Khan in his ministry post on December 19, 2009, causing purported disappointment by parliamentarians and western donor countries who want Khan and other faction leaders weakened. His renomination was voted down by the National Assembly and no new nominee for that post was presented on January 9, 2010. Khan remains as head of the ministry but in an acting capacity.

Helmand Province: Sher Mohammad Akhundzadeh and “Koka”

Karzai’s relationship with another Pashtun strongman, Sher Mohammad Akhundzadeh, demonstrates the dilemmas facing Karzai in governing Afghanistan. Akhundzadeh was a close associate of Karzai when they were in exile in Quetta, Pakistan, during Taliban rule. Karzai appointed him governor of Helmand after the fall of the Taliban, but in 2005, Britain demanded he be removed for his abuses and reputed involvement in drug trafficking, as a condition of Britain taking security control of Helmand. Karzai reportedly wants to reappoint Akhundzadeh, who Karzai believes was more successful against militants in Helmand using his local militiamen than Britain has been with its more than 9,000 troops there. Akhundzadeh said in a November 2009 interview that many of his followers joined the Taliban insurgency after Britain insisted on his ouster. However, Britain and the United States have strongly urged Karzai to keep the existing governor, Ghulab Mangal, who is winning wide praise for his successes establishing effective governance in Helmand (discussed further under “Expanding Local Governance,” below) and for reducing poppy cultivation there. Akhundzadeh attempted to deliver large numbers of votes for Karzai in Helmand, although turnout in that province was very light partly due to Taliban intimidation of voters.

An Akhundzadeh ally, Abdul Wali Khan (nicknamed “Koka”), was similarly removed by British pressure in 2006 as police chief of Musa Qala district of Helmand. However, Koka was reinstated in 2008 when that district was retaken from Taliban control. The Afghan government insisted on his reinstatement and his militia followers subsequently became the core of the 220-person police force in the district.

Official Corruption

In a departure from the previous U.S. Administration, President Obama and his senior aides, including the Special Representative for Afghanistan and Pakistan (SRAP) Ambassador Richard Holbrooke and Ambassador to Afghanistan Karl Eikenberry, have been publicly critical of Karzai’s shortcomings on the corruption issue. U.S. officials apparently believe that the corruption within the Afghan government is contributing to a souring of Western publics on the mission as well as causing some Afghans to embrace Taliban insurgents.

The Obama Administration’s March 2009 and December 2009 strategy announcements highlighted the need to reduce official corruption. The December 1, 2009, strategy announcement

did not specifically make U.S. forces or assistance contingent on progress on this issue. However, the statement's stipulation of July 2011 as the beginning of a "transition" process to Afghan leadership implied that U.S. support is not open-ended or unconditional. In the December 1, 2009, statement, the President said "We expect those [Afghan officials] who are ineffective or corrupt to be held accountable." As noted, pressing Karzai on corruption was a key component of President Obama's brief visit to Afghanistan on March 28, 2010.

Official corruption was identified as a key problem in the August 30, 2009, assessment of the Afghanistan situation by Lieutenant General Stanley McChrystal, overall commander of U.S. and international forces there. Several of the required "metrics" of progress, cited above, involve Afghan progress against corruption. A FY2009 supplemental appropriation (P.L. 111-32) withheld 10% of about \$90 million in State Department counter-narcotics funding subject to a certification that the Afghan government is acting against officials who are corrupt or committing gross human rights violations.

Scope of the Problem

Partly because many Afghans view the central government as "predatory," many Afghans and international donors have lost faith in Karzai's leadership. A U.N. Office of Drugs and Crime report released in January 2010 said 59% of Afghans consider corruption as a bigger concern than the security situation and unemployment. Transparency International, a German organization that assesses governmental corruption worldwide, ranked Afghanistan in 2008 as 176th out of 180 countries ranked in terms of government corruption.

Some observers, such as former Coordinator for Counter-Narcotics and Justice Reform Thomas Schweich, in a July 27, 2008, *New York Times* article, have gone so far as to assert that Karzai, to build political support, deliberately tolerates officials who are allegedly involved in the narcotics trade. The *New York Times* reported allegations (October 5, 2008) that another Karzai brother, Qandahar provincial council chief Ahmad Wali Karzai, has protected narcotics trafficking in the province, although a subsequent piece said he is also a paid informant and helper for CIA and Special Forces operations in the province.¹⁰ Some Afghans explain Ahmad Wali Karzai's activities as an effort to ensure that his constituents in Qandahar have financial means to sustain themselves, even if through narcotics trade, before there are viable alternative sources of livelihood. Still, observers report that President Karzai has repeatedly rebuffed U.S. and other suggestions to try to remove his brother from Qandahar. Another brother, Mahmoud Karzai, has apparently grown wealthy through real estate and auto sales ventures in Qandahar and Kabul, purportedly by fostering the impression he can influence his brother, President Karzai. Mahmoud Karzai held a press conference in Washington, DC, on April 16, 2009, denying allegations of corruption.

Observers who follow the issue say that most of the corruption takes place in the course of performing mundane governmental functions, such as government processing of official documents, in which processing services routinely require bribes in exchange for action.¹¹ In other cases, Afghan security officials are said to sell U.S./internationally provided vehicles, fuel, and equipment to supplement their salaries. In other cases, local police or border officials may

¹⁰ Filkins, Dexter, and Mark Mazetti and James Risen, "Brother of Afghan Leader Is Said to Be on C.I.A. Payroll," *New York Times*, October 28, 2009.

¹¹ Filkins, Dexter, "Bribes Corrode Afghan's Trust in Government," *New York Times*, January 2, 2009.

siphon off customs revenues or demand extra payments to help guard the U.S. or other militaries' equipment shipments.

Other 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 west Kabul since 2002, according to Afghan observers.

Because of the corruption, only about 10% of U.S. aid is channeled through the Afghan government, although Special Representative for Afghanistan and Pakistan Richard Holbrooke said in May 2009 that empowering Afghan governance requires raising that to about 40% (direct support to ministries or Afghan NGOs and firms). Currently, the Ministry of Public Health and the Ministry of Communications qualify to have U.S. funds channeled through them, and the FY2011 Obama Administration aid request expresses the goal that six ministries will qualify for direct funding by the end of 2010. Presumably, direct aid will be extended to the Ministry of Rural Rehabilitation and Development (MRRD), which runs the widely praised National Solidarity Program, which awards local development grants for specific projects. The Ministry has developed a capability, widely praised by Britain and other observers, to account for large percentages of donated funds to ensure they are not siphoned off by corruption.

Other Karzai Responses

Karzai has taken note of the growing U.S. criticism, and has taken several steps and earned some Obama Administration praise, tempered by statements that progress on implementation has been slow. In August 2008 Karzai, with reported Bush Administration prodding, set up the “High Office of Oversight for the Implementation of Anti-Corruption Strategy” (commonly referred to as the High Office of Oversight, HOO) with the power to identify and refer corruption cases to state prosecutors, and to catalogue the overseas assets of Afghan officials. Karzai himself declared his assets on March 27, 2009. In his public appearances during his visit to the United States in May 2009, Karzai repeatedly stressed what he said were efforts by him and his government to remove corrupt officials and combat official corruption.

In October 2008, he replaced the ministers of Interior, of Education, and of Agriculture with officials, particularly the Interior Minister (former Soviet-era official Muhammad Hanif Atmar) believed to be dedicated to reforming their ministries and weeding out official corruption. Finance Minister Omar Zakhiwal was named in December 2008. U.S. embassy officials suggest these cabinet ministers are the best members of what they consider the most effective cabinet Karzai has had since he became leader in 2001, and were heartened that they were reappointed to the cabinet in December 2009 and confirmed by the National Assembly. (The Minister of Rural Rehabilitation and Development, Ehsan Zia, was not reappointed.)

Karzai announced new steps in his November 19, 2009, inaugural address, including the future upgrading of the High Office of Oversight by increasing its scope of authority and resources, and by reforming relevant anti-corruption laws. The United States gave the High Office about \$1 million in assistance during FY2009 and its performance was audited by the Special Inspector General for Afghanistan Reconstruction (SIGAR), in an audit released in December 2009.¹²

¹² <http://www.sigar.mil/reports/pdf/audits/SIGAR20Audit-10-2.pdf>

Secretary of State Clinton, who attended the Karzai inauguration, praised his steps as specific and significant. On March 18, 2010, Karzai issued a decree giving the High Office direct power to investigate corruption cases rather than just refer them to other offices.

In November 2009, Attorney General Mohammad Ishaq Aloko announced that two current ministers were under investigation for corruption, including the Minister of Mines Mohammad Ibrahim Adel, who reportedly accepted a \$30 million bribe to award a key mining project in Lowgar Province (Aynak Copper Mine) to China.¹³ Neither was reappointed to the cabinet named December 19. In April 2010, Afghan authorities said that at least 17 officials of ministerial rank are under investigation for corruption.

As pledged in his inaugural speech, during December 15-17, 2009, Karzai held a conference in Kabul to combat corruption. It debated, among other ideas, requiring deputy ministers and others to declare their assets, not just those at the ministerial level. That requirement has now been imposed. On the other hand, during the conference Karzai defended Kabul mayor Abdul Ahad Sahibi, who was convicted earlier in December of embezzlement. On December 13, 2009, the deputy Kabul mayor (Wahibuddin Sadat) was arrested at Kabul airport for alleged misuse of authority. In November 2009, the Afghan government also has announced an increase in police salaries (from \$180 per month to \$240 per month), in part to attract recruits and reduce their inclination to demand bribes.

Corruption was a major focus of the January 28, 2010, international meeting on Afghanistan in London. The communiqué of the conference announced several additional commitments, including:

- empowering the High Office of Oversight to investigate corruption, in a decree to be issued by the end of February 2010. (This step has been implemented.);
- establishing a legal basis during 2010 for related anti-corruption bodies, including the Major Crimes Task Force and the Anti-Corruption Tribunal. A headquarters for the Major Crimes Task Force – Afghanistan, at which U.S. and international law enforcement agencies mentor their Afghan counterparts in combating corruption, organized crime, and kidnapping, was inaugurated on February 25, 2010.
- enhancing the vetting process for civil service jobs and revising the civil service code;
- preparation of a decree prohibiting close relatives of high officials from serving in customs or revenue collection jobs; and
- inviting experts to participate in an independent evaluation mission to establish clear benchmarks for progress on this issue.

Some of Karzai's anti-corruption steps have been recommended in studies within the State Department, the Afghan government, and the U.N. Office of Drugs and Crime, which is responsible for assisting Afghanistan on counter-narcotics. The Afghan government committed itself to anti-corruption efforts in the so-called "Afghanistan Compact" adopted at an international

¹³ Partlow, Joshua, "Afghanistan Investigating 5 Current and Former Cabinet Members," *Washington Post*, November 24, 2009.

meeting in London on February 1, 2006, and it ratified the U.N. Convention Against Corruption in August 2008.

Expanding Local Governance/U.S. Civilian “Uplift”

U.S. emphasis on local governance since 2007 has enabled U.S. policy to reduce dependence on the Afghan central government, in part to try to circumvent its flaws. The U.S. shift in emphasis complements those of the Afghan government, which asserts that it itself wants to promote local governance as the next stage in Afghanistan’s political and economic development. A key indicator of this Afghan attention to local governance came in August 2007 when Karzai placed the selection process for local leaders (provincial governors and down) in a new Independent Directorate for Local Governance (IDLG)—and out of the Interior Ministry. As noted above, the IDLG is headed by Jelani Popal, a member of Karzai’s Popalzai tribe and a close ally. Some international officials say that Popal packed local agencies with Karzai supporters, where they were able to fraudulently produce votes for Karzai in the August 2009 presidential elections.

Provincial Governors and Provincial Councils

Many believe that the key to effective local governance is the appointment of competent governors. 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. One of the most widely praised gubernatorial appointments has been the March 2008 replacement of the weak and ineffective governor of Helmand with Gulab Mangal, who is from Laghman Province. A U.N. Office of Drugs and Crime (UNODC) praised Mangal in its September 2009 report for taking effective action to convince farmers to grow crops other than poppy. The UNODC report said his efforts account for the 33% reduction of cultivation in Helmand in 2009, as compared with 2008. Mangal has played a key role in convening tribal shuras and educating local leaders on the benefits of the U.S.-led offensive to remove Taliban insurgents from Marjah town and install new authorities there (“Operation Moshtarek,” which began in February 2010.)

Another key appointment has been Ghul Agha Shirzai as governor of Nangarhar. He has been effective in curbing poppy cultivation there, although he reportedly has also not remitted all the customs duties collected at the Khyber Pass/Torkham crossing to the central government.

Governing Qandahar is a sensitive issue in Kabul because of Karzai’s active interest in his home province and his expectations of large numbers of Pashtun votes from the province (as well as from Helmand). Qandahar governance is particularly crucial to an anticipated U.S.-led offensive to clear militants from surrounding districts, announced to begin in earnest in June 2010. In Qandahar, Ahmad Wali Karzai, Karzai’s elder brother, is chair of the provincial council. He has always been more powerful than any appointed governor of Qandahar. Yet, because of his close interest in the province, President Karzai has frequently rotated the governors of Qandahar, putting in place relatively weak officials who will not impinge on Ahmad Wali’s authority. President Karzai appointed General Rahmatullah Raufi to replace Asadullah Khalid after an August 7, 2008, Taliban assault on the Qandahar prison that led to the freeing of several hundred Taliban fighters incarcerated there. Karzai changed that governorship again in December 2008, naming Canadian-Afghan academic Tooryalai Wesa as governor, perhaps hoping that his ties to Canada would assuage Canadian reticence to continuing its mission in Qandahar beyond 2011.

However, Canadian Prime Minister Harper reiterated in March 2010 that Canada would be taking its troops out at that time.

One problem noted by governance experts is that the role of the elected provincial councils is unclear. The elections for the provincial councils in all 34 provinces were held on August 20, 2009, concurrent with the presidential elections. The previous provincial council elections were held concurrent with the parliamentary elections in September 2005. The 2009 election results for the provincial councils were certified on December 29, 2009, although international officials say that there continues to be unrest over some of the results.¹⁴ In most provinces, the provincial councils do not act as true legislatures, and they are considered weak compared to the power and influence of the provincial governors.

Still, the provincial councils play a major role 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 choose two-thirds of the 102-seat *Meshrano Jirga*. The councils elected in 2009 will select their portion of new *Meshrano Jirga* representatives when the upper body is selected again (after the parliamentary elections planned for September 2010).

District-Level Governance

Central government representation in outlying provinces is expanding very slowly and unevenly. Only about half of all district governors (there are 364 districts) have any staff or vehicles. Efforts to expand village local governance have been hampered by corruption and limited availability of skilled Afghans. In some districts of Helmand that had fallen under virtual Taliban control until the July 2009 U.S.-led offensives in the province, there were no district governors in place at all. Some of the district governors, including in Nawa and Now Zad district, have returned in concert with the U.S. expulsion of Taliban militants.

The ISAF campaign plan to retake the Marjah area of Helmand (Operation Moshtarak), which began on February 14, 2010, and succeeded in ousting Taliban control of the town by February 25, 2010, included recruiting, in advance, civilian Afghan officials who would govern the district once military forces had expelled Taliban fighters from it. Haji Zahir, a businessman who was in exile in Germany during Taliban rule, has taken up his position to become the chief executive in Marjah (which is to become its own district). He has held meetings with Marjah residents, one of which included hosting a visit to Marjah by President Karzai (March 7, 2010). Zahir is expected to remain in his post even though press reports in March 2010 assert he had been convicted of domestic violence during his exile in Germany. Zahir denies the story. He has told journalists he is planning to expand his staff to facilitate the “build phase” of the ISAF counter-insurgency plan for the area.

No elections for district councils have been held due to boundary and logistical difficulties. However, in his November 19 inaugural speech, Karzai said the goal of the government is to hold these elections along with the 2010 parliamentary elections. However, subsequently, Afghan officials have said that there will not be district elections in May 2010 when the parliamentary elections are to be held. Karzai also pledged that “mayoral” elections would be held “for the purpose of better city management.”

¹⁴ Comments by Electoral Complaints Commission Chair Grant Kippen at a meeting with CRS experts, January 7, 2010.

Community/Village Level

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

U.S. Local Governance Advisory Capacity

As a consequence of the March 2009 Obama Administration review, to help build local governing capacity, the Administration recruited about 500 U.S. civilian personnel from the State Department, USAID, the Department of Agriculture, and several other agencies—and many additional civilians from partner countries will join them—to advise Afghan ministries, and provincial and district administrations. Senior U.S. officials testified in December 2009 that there will be a total of 975 U.S. civilians in Afghanistan by early 2010. Of these, nearly 400 are serving outside Kabul. A strategy document released by the office of Ambassador Holbrook in January 2010 says that the number of U.S. civilians is slated to grow by another 30% in 2010. Some U.S. civilians have been given senior positions and broad missions; for example, Ambassador Frank Ruggiero is serving in Qandahar as a senior U.S. State Department representative for all of southern Afghanistan. He is based at Qandahar airfield and interacts closely with the military command of the southern sector. USAID official Dawn Liberi is a senior civilian official attached to Regional Command East (RC-E), which is U.S.-run. She was mentioned specifically by President Obama in his address to U.S. forces at Bagram Airfield (headquarters of RC-E) on March 28, 2010.

Human Rights Issues

None of the Obama Administration strategy reviews in 2009 specifically changed U.S. policy on Afghanistan's human rights practices, although this issue could be deemed addressed implicitly by the Administration's December 1, 2009, statement that policy is intended to make the Afghan government more "accountable." On human rights issues, the overall State Department judgment is that the country's human rights record remains poor, according to the Department's report for 2009 (issued March 11, 2010).¹⁵ The latest State Department report was similar in tone and substance to that of previous years, citing Afghan security forces and local faction leaders for abuses, including torture and abuse of detainees. In October 2007, Afghanistan resumed enforcing the death penalty after a four-year moratorium, executing 15 criminals.

Afghanistan's conservative traditions have caused some backsliding in recent years on media freedoms, which were hailed during 2002-2008 as a major benefit of the U.S. effort in Afghanistan. A press law was passed in September 2008 that gives some independence to the official media outlet, but also contains a number of content restrictions, and requires that new newspapers and electronic media be licensed by the government. Backed by Islamic conservatives in parliament, such as Sayyaf (referenced above), and Shiite clerics such as Ayatollah Asif Mohseni, Afghanistan's conservative Council of Ulema (Islamic scholars) has been ascendant. With the Council's backing, in April 2008 the Ministry of Information and Culture banned five Indian-produced soap operas on the grounds that they are too risqué,

¹⁵ Department of State. 2009 Human Rights Report: Afghanistan, March 11, 2010.

although the programs were restored in August 2008 under a compromise that also brought in some Islamic-oriented programs from Turkey. At the same time, according to the State Department there has been a growing number of arrests or intimidation of journalists who criticize the central government or local leaders. As another example of the growing power of Islamists, alcohol is increasingly difficult to obtain in restaurants and stores, although it is not banned.

Religious Freedom

The October 2009 International Religious Freedom report (released October 26, 2009) says the Afghan government took limited steps during the year to increase religious freedom, but that “serious problems remain.” Members of minority religions, including Christians, Sikhs, Hindus, and Baha’i’s, often face discrimination; the Supreme Court declared the Baha’i faith to be a form of blasphemy in May 2007. Northeastern provinces have a substantial population of Islamailis, a Shiite Muslim sect often called “Seveners” (believers in the Seventh Imam as the true Imam). Many Ismailis follow the Agha Khan IV (Prince Qarim al-Husseini), who chairs the large Agha Khan Foundation that has invested heavily in Afghanistan.

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

A positive development is that Afghanistan’s Shiite minority, mostly from the Hazara tribes of central Afghanistan (Bamiyan and Dai Kundi provinces) can celebrate their holidays openly, a development unknown before the fall of the Taliban. Some Afghan Shiites follow Iran’s clerical leaders politically, but Afghan Shiites tend to be less religious and more socially open than their co-religionists in Iran. The Hazaras are also advancing themselves socially and politically through education in such fields as information technology.¹⁶ The former Minister of Justice, Sarwar Danesh, is a Shiite, the first of that sect to hold that post. He studied in Qom, Iran, a center of Shiite theology. (Danesh was voted down by the parliament for reappointment on January 2, 2010.) The minister who was approved on January 16, 2010, Habibullah Ghalib, is part of Dr. Abdullah’s faction, but not a Shiite Muslim. Ghaleb previously (2006) was not approved by the *Wolesi Jirga* for a spot on the Supreme Court. There was unrest among some Shiite leaders in late May 2009 when they learned that the Afghan government had dumped 2,000 Iranian-supplied religious texts into a river when an Afghan official complained that the books insulted the Sunni majority.

A previous religious freedom case earned congressional attention in March 2006. An Afghan man, Abd al-Rahman, who had converted to Christianity 16 years ago while working for a Christian aid group in Pakistan, was imprisoned and faced a potential death penalty trial for apostasy—his refusal to convert back to Islam. Facing international pressure, Karzai prevailed on Kabul court authorities to release him (March 29, 2006). His release came the same day the House passed H.Res. 736 calling on protections for Afghan converts.

¹⁶ Opiel, Richard Jr. and Abdul Waheed Wafa, “Hazara Minority Hustles to Head of the Class in Afghanistan,” *New York Times*, January 4, 2010.

Human Trafficking

Afghanistan was again placed in Tier 2 in the State Department report on human trafficking issued in June 2009 (Trafficking in Persons Report for 2009, released June 15, 2009). The government is assessed as not complying with minimum standards for eliminating trafficking, but making significant efforts to do so. The report says that women (reportedly from China and Central Asia) are being trafficked into Afghanistan for sexual exploitation. Other reports say some are brought to work in night clubs purportedly frequented by members of many international NGOs. In an effort to also increase protections for Afghan women, in August 2008 the Interior Ministry announced a crackdown on sexual assault—an effort to publicly air a taboo subject. The United States has spent about \$500,000 to eliminate human trafficking in Afghanistan since FY2001.

Advancement of Women

Freedoms for women have greatly expanded since the fall of the Taliban with their elections to the parliament, their service at many levels of government. According to the State Department human rights report for 2009, numerous abuses, such as denial of educational and employment opportunities, continue primarily because of Afghanistan's conservative traditions. Other institutions, such as Human Rights Watch, have recently reported backsliding due in part to the lack of security.¹⁷ Many Afghan women are concerned that the efforts by Karzai and the international community to persuade insurgents to end their fight and rejoin the political process could result in backsliding on women's rights. Most insurgents are highly conservative Islamists who oppose the advancement of women that has occurred and might try to demand some reversals of that trend. Women have been a target of attacks by Taliban supporters, including attacks on girls' schools and athletic facilities. On November 12, 2008, suspected Taliban sprayed acid on the faces of several schoolgirls in Qandahar.

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

The Afghan government tried to accommodate Shiite leaders' demands in 2009 by enacting (passage by the National Assembly and signature by Karzai in March 2009) a "Shiite Personal Status Law," at the request of Shiite leaders. The law was intended to provide a legal framework for members of the Shiite minority in family law issues. However, the issue turned controversial when international human rights groups and governments—and Afghan women in a demonstration in Kabul—complained about provisions that would appear to sanction marital rape and which would allow males to control the ability of females in their family to go outside the home. President Obama publicly called these provisions "abhorrent." In early April 2009, taking into account the outcry, Karzai sent the law back to the Justice Ministry for review, saying it would be altered if it were found to conflict with the Afghan constitution. On April 19, 2009, Karzai said on CNN that his government's review of specific provisions of the law, which was long and highly detailed, had been inadequate, and Karzai reiterated during his U.S. visit in May

¹⁷ "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.

2009 that the controversial provisions would be removed. The offending clauses were substantially revised by the Justice Ministry in July 2009, requiring that wives “perform housework,” but also apparently giving the husband the right to deny a wife food if she refuses sex. The revised law was passed by the National Assembly in late July 2009, signed by Karzai, and published in the official gazette on July 27, 2009, although it remains unsatisfactory to many human rights and women’s rights groups.

On August 6, 2009, perhaps in an effort to address some of the criticisms of the Shiite law, Karzai issued, as a decree, the “Elimination of Violence Against Women” law. Minister of Women’s Affairs Ghazanfar told CRS in October 2009 that the bill was long contemplated and not related to the Shiite status law.¹⁸ However, it is subject to review and passage by the National Assembly, where some Islamic conservatives, such as Sayyaf (cited above) are said to be blocking final approval. Sayyaf and others reportedly object to the provisions of the law criminalizing child marriages.

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 (Minister for Martyrs and the Disabled), and Amina Afzali (Minister of Youth). Karzai nominated Soraya Sobhrang as Minister of Women’s Affairs in the 2006 cabinet, but she was voted down by Islamist conservatives in parliament. He eventually appointed another female, Husn Banu Ghazanfar, as Minister. Ghazanfar, who is a Russian-speaking Uzbek from northern Afghanistan, has been the only woman in the cabinet for several years. She was renominated on December 19, 2009, but was voted down on January 2, 2010. Karzai subsequently named three women in new selections presented on January 9, 2010, including Afzali (to Labor and Social Affairs). Of the three, however, only Afzali was confirmed on January 16, 2009; the other two may have been opposed by Islamic conservatives. In March 2005, Karzai appointed a former Minister of Women’s Affairs, Habiba Sohrabi, as governor of Bamiyan province, inhabited mostly by Hazaras. (She hosted then First Lady Laura Bush in Bamiyan in June 2008.) A female, Dr. Sima Samar (Hazara from Ghazni Province), heads the Afghanistan Independent Human Rights Commission (AIHRC).

The constitution reserves for women at least 17 of the 102 seats in the upper house and 62 of the 249 seats in the lower house of parliament. There are 68 women in the lower house, meaning 6 were elected without the quota. There are 23 serving in the upper house, 6 more than Karzai’s mandated bloc of 17 female appointees. Two women ran for President for the August 20, 2009 election, 2009, as discussed below, although preliminary results show each receiving less than one-half of 1%. Some NGOs and other groups believe that the women elected by the quota system are not viewed as equally legitimate parliamentarians.

More generally, women are performing jobs that were rarely held by women even before the Taliban came to power in 1996, including in the new police force. There are over 200 female judges and 447 female journalists working nationwide. The most senior Afghan woman in the police force was assassinated in Qandahar in September 2008. Press reports say Afghan women are increasingly learning how to drive. Under the new government, the wearing of the full body

¹⁸ CRS meeting with the Minister of Women’s Affairs, October 13, 2009.

covering called the *burqa* is no longer obligatory, and fewer women are wearing it than was the case a few years ago.

U.S. and International Posture

U.S. officials have had some influence in persuading the government to codify women's rights. After the Karzai government took office, the United States and the new Afghan government set up a U.S.-Afghan Women's Council to coordinate the allocation of resources to Afghan women. Some believe that, in recent years, the U.S. government has dropped women's issues as a priority for Afghanistan. Some criticized President Obama's speech on December 1, 2009, for its absence of virtually any mention of women's rights. Promoting women's rights was discussed at the January 28, 2010, London conference but primarily in the context of how women might be affected by any "deal" to bring Taliban or other insurgents out from their fight.

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 in size (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.) According to State Department reports on U.S. aid to women and girls, covering FY2001-2008, and then FY2008-9, the United States has numerous, multi-faceted projects directly in support of Afghan women, including women's empowerment, maternal and child health and nutrition, funding the Ministry of Women's Affairs, and micro-finance projects. Some programs focus on training female police officers.¹⁹ Some donors, particularly those of Canada, have financed specific projects for Afghan women farmers.

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

Democracy, Governance, and Elections Funding Issues

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

The following was spent in FY2009:

- \$881 million for all of democracy and governance, including
 - \$283 million for good governance;

¹⁹ Department of State and U.S. Agency for International Development, "Report on U.S. Government Activities 2008-2009 For Women and Girls in Afghanistan," October 20, 2009.

- \$150 million for National Solidarity Program and direct budget support to Afghan government;
- \$174 million for election support;
- \$50 million for strategic program development; and
- \$212 million for rule of law, funded by both USAID and State Department Bureau of International Narcotics Control and Law Enforcement (INCLE).

Planned for FY2010 (regular appropriation and FY2010 supplemental request):

- \$1.7 billion for all democracy and governance, including
 - \$1.15 billion for “good governance”;
 - \$411 million for rule of law and human rights (ESF funds controlled by USAID and INCLE funds);
 - \$113 million for “civil society” building programs; and
 - \$25 million for political competition and consensus building (elections).

Key Components of FY2011 request:

- \$1.388 billion for all democracy and governance funds, including
 - \$1.01 billion for good governance;
 - \$248 million for rule of law and human rights;
 - \$80 million for civil society building; and
 - \$50 million for political competition and consensus building.

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

2009 and 2010 Elections

As noted throughout, the 2009 presidential and provincial elections were anticipated to be a major step in Afghanistan’s political development. They were the first post-Taliban elections run by the Afghan government itself in the form of the Afghanistan Independent Electoral Commission, headed by Azizullah Ludin. There were assertions of a lack of credibility of the IEC, because most of its commissioners were selected by the Karzai government. As a check and balance to ensure electoral credibility, there was also a U.N.-appointed Elections Complaints Commission (ECC) that reviewed the numerous fraud complaints. Under the 2005 election law, there were three seats for foreign nationals, appointed by the Special Representative of the U.N. Secretary General/head of U.N. Assistance Mission–Afghanistan, UNAMA. The two Afghans on the ECC governing council²⁰ were appointed by the Supreme Court and Afghanistan Independent Human Rights Commission, respectively. Some fear that the difficulties that plagued the 2009

²⁰ ECC website: <http://www.ecc.org.af/en/>.

presidential election have not been adequately addressed to ensure that the September 2010 parliamentary elections are free and fair, and the dispute over a new election decree that will govern that election is discussed below.

2009 Presidential Election

Special Representative Holbrooke said at a public forum on August 12, 2009, that the August 20, 2009 presidential elections were key to legitimizing the Afghan government, no matter who wins. Yet, because of the widespread fraud identified by Afghanistan's U.N.-appointed "Elections Complaints Commission (ECC)" in the first round of the elections, the process did not produce a fully legitimate government. The marred elections process was a major factor in a September-November 2009 high-level U.S. strategy reevaluation because of the centrality of a credible, legitimate partner Afghan government to U.S. strategy.²¹

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

In response to UF threats not to "recognize" Karzai's presidency after May 22, Karzai issued a February 28, 2009, decree directing the IEC to set the elections in accordance with all provisions of the constitution. The IEC reaffirmed on March 4, 2009, that the election would be held on August 20, 2009.

The official decision did not stop the UF from insisting that Karzai step down on May 22 in favor of a caretaker government. Karzai argued that the Constitution does not provide for any transfer of power other than in case of election or death of a President. The Afghan Supreme Court backed that decision on March 28, 2009, and the Obama Administration publicly backed both the IEC and the Supreme Court rulings.

Election Modalities and Processes

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

²¹ Fidler, Stephen and John W. Miller, "U.S. Allies Await Afghan Review," *Wall Street Journal*, September 25, 2009.

²² Statement of the Independent Election Commission Secretariat, February 3, 2009, provided to CRS by a Karzai national security aide.

January 2009, were conducted to secure registration centers; however, some election observers noted that there was insufficient international assistance to the IEC, which ran the election, to ensure an untainted registration process.

With the August 20 date set, candidates filed to run during April 24-May 8, 2009. A total of 44 registered to run for President, of which three were disqualified for various reasons, leaving a field of 41 (later reduced to 32 after several dropped out).

In the provincial elections, 3,200 persons competed for 420 seats nationwide. Those elections were conducted on a “Single Non-Transferable Vote” (SNTV) system, in which each voter votes for one candidate in a multi-member constituency. That system encourages many candidacies and is considered to discourage the participation of political parties. Although about 80% of the provincial council candidates ran as independents, some of Afghanistan’s parties, including Hezb-i-Islam, which is a prominent grouping in the National Assembly, fielded multiple candidates in several different provinces. Still, the provincial elections component of the election received little attention, in part because the role of these councils is unclear. Of the seats up for election, about 200 women competed for the 124 seats reserved for women (29%) on the provincial councils, although in two provinces (Qandahar and Uruzgan) there were fewer women candidates than reserved seats. In Kabul Province, 524 candidates competed for the 29 seats of the council.

The European Union, supported by the Organization for Security and Cooperation in Europe (OSCE) sent a few hundred observers, and the International Republican Institute and National Democratic Institute sent observers as well. About 8,000 Afghans assisted the observation missions, according to the U.N. Nations Development Program. Because much of Afghanistan is inaccessible by road, ballots were distributed (and were brought for counting) by animals in addition to vehicles and fixed and rotary aircraft.

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

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

The Political Contest and Campaign

The presidential competition took shape in May 2009. In the election-related political deal-making,²³ Karzai obtained an agreement from Fahim to run as his first vice presidential running mate. Karzai, Fahim, and incumbent second Vice President Karim Khalili (a Hazara) registered their ticket on May 4, 2009, just before Karzai left to visit the United States for the latest round of three-way strategic talks (U.S.-Pakistan-Afghanistan).

Karzai convinced several prominent Pashtuns not to run. Ghul Agha Shirzai, a member of the powerful Barakzai clan, reportedly reached an arrangement with Karzai the week of the

²³ Some of the information in this section obtained in CRS interviews with a Karzai national security aide, December 2008.

registration period that headed off his candidacy. Anwar al-Haq Ahady, the former Finance Minister and Central Bank governor, did not run. (He did receive a cabinet nomination in the December 19 ministry list but was voted down by the parliament). Nor did Bush Administration U.S. Ambassador to the U.N., Afghan-born Zalmay Khalilzad run.

Anti-Karzai Pashtuns did not succeed in coalescing around one challenger. Former Interior Minister Ali Jalali (who resigned in 2005 over Karzai's compromises with faction leaders), and former Finance Minister (2002-2004) and Karzai critic Ashraf Ghani did not reach agreement to forge a single ticket. In the end, Ghani, the 54-year-old former World Bank official, registered his candidacy, but without Jalali or prominent representation from other ethnicities in his vice presidential slots. (Both have, to some extent, reconciled with Karzai since the election and are said to be discussing with him service as advisors on their key issue issues—Ghani on improving administration and Jalali on security issues. Ghani attended the November 19, 2009, Karzai inauguration.)

As noted above, the UF also failed to forge a united challenge to Karzai. Burhanuddin Rabbani (Afghanistan President during 1992-1996), the elder statesman of the UF bloc, reportedly insisted that an ethnic Tajik (the ethnic core of the UF) head the UF ticket. Former Foreign Minister Dr. Abdullah Abdullah, the 50-year-old former ophthalmologist and foreign envoy of the legendary Tajik *mujahedin* leader Ahmad Shah Masoud, registered to run with UF backing. His running mates were Dr. Cheragh Ali Cheragh, a Hazara who did poorly in the 2004 election, and a little known Pashtun, Homayoun Wasefi. Another problem for the UF was that Ahmad Zia Massoud (a Vice President) did not win support of the bloc to head its ticket. Massoud is the brother of Ahmad Shah Masoud (see above), who was killed purportedly by Al Qaeda two days before the September 11 attacks on the United States.

U.S. Role

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

The Campaign

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

Although Karzai's public support was harmed by perceptions of ineffectiveness and corruption, although many Afghan voters apparently see many of Afghanistan's problems as beyond Karzai's control. He used some U.S. policy setbacks to bolster his electoral prospects, for example by railing against civilian casualties resulting from U.S./NATO operations, and by proposing new curbs on international military operations in Afghanistan. During the campaign, Karzai announced new measures to limit international forces' operations in civilian areas and said he

would hold a *loya jirga*, if elected, including Taliban figures, to try to reach a settlement with the insurgency. He restated that intent in his November 19, 2009, inaugural speech.

Karzai was criticized for a campaign that relied on personal ties to ethnic faction leaders rather than a retail campaign based on public appearances. Karzai agreed to public debates with rivals, although he backed out of a scheduled July 23 debate with Abdullah and Ghani (on the private Tolo Television network) on the grounds that the event was scheduled on short notice and was limited to only those three. Abdullah and Ghani debated without Karzai, generating additional criticism of Karzai. Karzai did attend the next debate (on state-run Radio-Television Afghanistan) on August 16, debating Ghani and Bashardost, but Abdullah did not participate. There was also a radio forum in which all major candidates participated. Karzai was said to benefit from his ready access to media attention, which focuses on his daily schedule as President, including meetings with foreign leaders.

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

Ghani polled at about 6% just before the election, according to surveys. Ghani appeared frequently in U.S. and Afghan media broadcasts criticizing Karzai for failing to establish democratic and effective institutions, but he has previously spent much time in the United States and Europe and many average Afghans view him as a global technocrat who is not necessarily in touch with day-to-day problems in Afghanistan. Ghani made extensive use of the Internet for advertising and fundraising, and he hired political consultant James Carville to advise his campaign.²⁴ He emphasized new programs for women in the August 16 debate.

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

²⁴ Mulrine, Anna, "Afghan Presidential Candidate Takes a Page From Obama's Playbook," *U.S. News and World Report*, June 25, 2009.

Other Candidates

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

Hedayat Amin Arsala. A Pashtun, was a Vice President during 2001-2004. He is a prominent economist and perceived as close to the former royal family. Finished 30th out of 32.

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

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

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

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

The Election Results and Prospects

Taliban intimidation and voter apathy appears to have suppressed the total turnout to about 5.8 million votes cast, or about a 35% turnout, far lower than expected. Twenty seven Afghans, mostly security forces personnel, were killed in election-day violence. Turnout was said by observers and U.S. and other military personnel based there to have been very low in Helmand Province, despite the fact that Helmand was the focus of a U.S. military-led stabilization offensive that began July 2, 2009, with the participation of about 8,000 U.S. Marines.

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

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

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

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

Vote Certified/Runoff Mandated

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

On October 20, 2009, the ECC determined, based on its investigation, that about 1 million Karzai votes, and about 200,000 Abdullah votes, were considered fraudulent and were deducted from their totals. The final, certified, results of the first round were as follows: Karzai—49.67% (according to the IEC; with a slightly lower total of about 48% according to the ECC determination); Abdullah—30.59%; Bashardost—10.46%; Ghani—2.94%, Yasini—1.03%, and lower figures for the remaining field.²⁶

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

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

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

²⁵ “Afghan Panel to Use Sampling in Recount,” *USA Today*, September 22, 2009.

²⁶ See IEC website for final certified tallies: <http://www.iec.org.af/results>.

the third-place finisher, Ramazan Bashardost, to assert that he must face Karzai in a runoff. Still others say the issue could be resolved by Afghanistan's Supreme Court.

If a second round were held and proved equally flawed, it is possible that a *loya jirga* could have been called to determine who would lead Afghanistan for the next five years. As the favorite in a two-man race, Karzai presumably had an interest in avoiding this outcome because a *loya jirga* could conceivably select a new figure as Afghanistan's next President.

Election Conclusion

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

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

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

Fallout for UNAMA

The political fallout for UNAMA continues. During the complaint period, a dispute between UNAMA head Kai Eide and the American deputy, Ambassador Peter Galbraith, broke out over how vigorously to press for investigation of the fraud. This led to the September 29, 2009, dismissal by Secretary General Ban Ki Moon of Galbraith, who had openly accused UNAMA head Kai Eide of soft-pedaling on the fraud charges and siding with Karzai. Galbraith has appealed his dismissal, amid press reports that he had discussed a plan with some U.S. officials to replace Karzai with an interim government, if the second round could not be held until after the winter. In December 2009, Eide announced he would not seek to renew his two year agreement to serve as UNAMA chief. The replacement named at the January 28, 2010, London conference is Staffan de Mistura, who previously played a similar U.N. role in Iraq. He arrived in Kabul in mid-March 2010. In his April 1, 2010, allegations of Western interference in the August 2009 election,

Karzai named Galbraith and EU chief election observer Phillipe Morillon, specifically, as responsible for the interference.

Post-Election Cabinet

U.S. officials stated they would scrutinize the new cabinet for indications that Karzai would professionalize his government and eliminate corruption. Complicating Karzai's efforts to obtain confirmation of a full cabinet was the need to present his choices as technically competent while also maintaining a customary and expected balance of ethnic and political factions. In the parliamentary confirmation process that has unfolded, National Assembly members, particularly the well-educated independents, have objected to many of his nominees as "unknowns," as having minimal qualifications, or as loyal to faction leaders who backed Karzai in the 2009 election. Karzai's original list of 24 ministerial nominees (presented December 19) was generally praised by the United States for retaining the highly praised economic team (and most of that team was confirmed). However, overall, only 7 of the first 24 nominees were confirmed (January 2, 2010), and only 7 of the 17 replacement nominees were confirmed (January 16, 2010), after which the Assembly went into winter recess. This left Karzai with at least 10 vacant cabinet seats as he went into the major international meeting on Afghanistan in Britain on January 28, 2010, although caretakers (many of them the ex-ministers) are in charge in the vacant ministerial posts. Although then UNAMA head Kai Eide called the vetoing of many nominees a "setback" to Afghan governance, Pentagon Press Secretary Geoff Morrell said on January 6, 2010, that the vetoing by parliament reflected a "healthy give and take" among Afghanistan's branches of government. Outside experts have said the confirmation process - and the later parliamentary review of a 2010 election decree, discussed below - reflects the growing institutional strength of the parliament and the functioning of checks and balances in the Afghan government.

Of the major developments in the cabinet selection process to date:

- The main security ministers—Defense Minister Abdal Rahim Wardak and Interior Minister Mohammad Hanif Atmar—were renominated by Karzai and confirmed on January 2. They work closely with the U.S. military to expand and improve the Afghan national security forces.
- Three key economic/civilian sector officials who work very closely with USAID and U.S. Embassy Kabul—Finance Minister Omar Zakhiwal, Agriculture Minister Mohammad Rahimi, and Education Minister Ghulam Faruq Wardak—were renominated and also were confirmed on January 2. The highly praised Minister of Rural Rehabilitation and Development (Ehsan Zia), which runs the widely touted and effective National Solidarity Program, was not renominated, to the chagrin of U.S. officials. His named replacement (Wais Barmak, a Fahim and Dr. Abdullah ally) was voted down. The second replacement, Jarullah Mansoori, was confirmed on January 16.
- The U.S.-praised Commerce Minister Wahidollah Sharani was selected to move over to take control of the Mines Ministry from the former minister, who is under investigation for corruption. Sharani was confirmed on January 2. Also confirmed that day was the Minister of Culture, Seyyed Makhdum Raheen. He had been serving as Ambassador to India.
- The clan of former moderate *mujahedin* party leader Pir Gaylani rose to prominence in the December 19 list. Gaylani son-in-law Anwar al-Haq Al Ahady

(see above) was named as Economy Minister and Hamid Gaylani (Pir Gaylani's son) was named as Minister of Border and Tribal Affairs. However, neither was confirmed and neither was renominated.

- Ismail Khan was renominated as Minister of Energy and Water on December 19, disappointing U.S. officials and many Afghans who see him as a faction leader (Tajik leader/*mujahedin* era commander, Herat Province) with no technical expertise. He was voted down and no new replacement nominee has been submitted by Karzai, likely indicating that Khan will ultimately leave the cabinet.
- Karzai initially did not nominate a permanent Foreign Minister, leaving Spanta in place as a caretaker. However, in the second nomination round, Karzai selected his close ally Zalmay Rassoul, who has been National Security Adviser since 2004, to the post. Rassoul was confirmed on January 16.
- Minister of Women's Affairs Ghazanfar was renominated to remain the only female minister, but was voted down (January 2). In the cabinet renominations, Karzai named three women—Suraiya Dalil to Public Health, Pelwasha Hassan to Women's Affairs, and Amina Afzali (Minister of Youth in an earlier Karzai cabinet) to Labor and Social Affairs. Of those, only Afzali was confirmed on January 16. In the original December 16, 2009, list, Karzai proposed a woman to head a new Ministry of Literacy, but parliament did not vote on this nomination because it had not yet acted to approve formation of the ministry.
- Of the other nominees confirmed on January 16, at least one has previously served in high positions. The Assembly confirmed that day: Zarar Moqbel as Counternarcotics Minister (who previously was Interior Minister); Economy minister Abdul Hadi Arghandiwal, who belongs to the party linked with pro-Taliban insurgent leader Gulbuddin Hikmatyar (although the faction in the parliament and the government has broken with Hikmatyar and rejects violence against the government); Yousaf Niazi, Minister of Hajj and Waqf (Religious Endowments) Affairs; and Habibullah Ghalib, Minister of Justice.
- The following ten were voted down on January 16 and their ministries are headed by caretakers: (1) Palwasha Hassan, nominated to head the Ministry of Women's Affairs; (2) Suraya Dalil, Public Health; (3) Muhammad Zubair Waheed, Minister of Commerce; (4) Muhammad Elahi, Minister of Higher Education; (5) Muhammad Laali, Public Welfare; (6) Abdul Rahim, who was Telecommunications Minister in the first Karzai cabinet, as Minister of Refugee Affairs; (7) Arsala Jamal, formerly the governor of Khost Province who was widely praised in that role by Secretary Gates, as Minister of Border and Tribal Affairs Minister; (8) Abdul Qadus Hamidi, Minister of Telecommunications; (9) Abdur Rahim Oraz, Minister of Transport and Aviation; and (10) Sultan Hussein Hesari, Minister of Urban Development.

2010 Parliamentary Elections and Election Law Dispute

Controversy has enveloped the planned 2010 parliamentary elections. On January 2, 2010, the IEC set National Assembly elections for May 22, 2010. The IEC view was that this date was in line with a constitutional requirement for a new election to be held well prior to the expiry of the current Assembly's term. Planning for a May 22 election, on January 7, 2010, the IEC issued its

roadmap of dates in relation to the election. It called for the launching of a candidate registration during January 16-22, 2010.

U.S., ECC, UNAMA, and officials of donor countries argued that Afghanistan's flawed institutions will not be able to hold free and fair elections under this timetable, maintaining that the problems that plagued the August 2009 election cannot be overcome by then; that the IEC lacks sufficient staff, given that some were fired after the 2009 election; that the IEC lacks funds to hold the election under that timetable; that the U.S. military buildup will be consumed with securing still restive areas at election time; and that the ECC's term expired at the end of January 2010. A functioning ECC is needed to evaluate complaints against registered parliamentary candidates because there are provisions in the election law to invalidate the candidacies of those who have previously violated Afghan law or committed human rights abuses. These international figures pressed for a delay of all of these elections until August 2010 or, according to some donors, mid-2011.²⁷ Bowing to funding and the wide range of other considerations mentioned, on January 24, 2010, the IEC announced that the parliamentary elections would be postponed until September 18, 2010. Among other steps, the Afghan Interior Ministry plans, by that time, to institute a national identity card system to curb voter registration fraud.

About \$120 million is budgeted by the IEC for the parliamentary elections, of which at least \$50 million is needed from donor countries, giving donors leverage over when the election might take place. The remaining \$70 million are funds left over from the 2009 elections. Donors have to date withheld the needed funds, possibly in an effort to pressure the IEC to demonstrate that it is correcting the flaws identified in the various "after-action" reports on the 2009 election.

Election Decree

With the dispute between the Karzai government and international donors continuing over how to ensure a free and fair election, the Afghan government drafted an election decree that would supersede the 2005 election law and govern the 2010 parliamentary election.²⁸ Karzai signed the decree in February 2010 and it is intended to apply. The Afghan government argues that the decree supersedes the constitutional clause that any new election law not be adopted less than one year prior to the election to which that law will apply.

Substantively, some of the provisions of the election decree—particularly the proposal to make the ECC an all-Afghan body—caused some alarm in the international community. Another issue of concern is the reduction in the number of women to the "two per province" target level of the previous law, therefore not allowing for more women who might be elected beyond the target quota. Another controversial element is a requirement of a \$100,000 financial deposit for candidates. On March 14, 2010, after discussions with outgoing UNAMA head Kai Eide, Karzai reportedly agreed to cede to UNAMA two "international seats" on the ECC, rather than to insist that all five ECC members be Afghans. Still, the majority of the ECC seats are to be Afghans, if the election decree holds.

The election decree became an issue for Karzai opponents and others in the National Assembly who seek to assert parliamentary authority. On March 31, the *Wolesi Jirga* voted to reject the

²⁷ Trofimov, Yaroslav, "West Urges Afghanistan to Delay Election," *Wall Street Journal*, December 11, 2009.

²⁸ Partlow, Joshua, "Afghanistan's Government Seeks More Control Over Elections," *Washington Post*, February 15, 2010.

election decree, leaving its status unclear. However, on April 3, 2010, the *Meshrano Jirga* voted to support the election decree. Because both houses did not reject the decree, it appears likely that it will stand as the governing document for the September 18, 2010, National Assembly elections.

Implications for the United States of the Afghan Elections

The legitimacy of the Afghan partner of the United States was a major factor in the Administration's consideration of the McChrystal initial assessment of August 2009,²⁹ which recommended pursuing a classic counterinsurgency strategy to protect the Afghan population. If there is no legitimate Afghan partner available, then some might argue that McChrystal's recommended strategy might not succeed because U.S. forces are not authorized or able, in and of themselves, to reform the Afghan government. President Obama's December 1, 2009, policy statement did not explicitly endorse a classic counterinsurgency strategy, instead emphasizing transition to Afghan security leadership. However, in congressional testimony in the two weeks after the speech, Administration officials, including General McChrystal, clarified that the U.S. military and civilian agencies would conduct a unified effort needed for classic counterinsurgency. Subsequent reports said this strategy, aided by the infusion of 30,000 new U.S. troops and at least 9,000 non U.S. partner forces, would be pursued in about 80 of the most restive districts (of the 364 total Afghan districts). Administration officials clarified that any July 2011 deadline to begin transitioning to Afghan security leadership would be subject to evaluation of conditions that would be determined in a December 2010 review.

The legitimacy of the Karzai government may come under further scrutiny if the ECC is not viewed as credible, and if the same IEC officials who ran the August 2009 elections are in place for the September 18, 2010, parliamentary elections. If the parliamentary elections are clouded by perceptions of unfairness, international support for the counter-insurgency mission in Afghanistan might erode further.

²⁹ Commander NATO International Security Assistance Force, Afghanistan, and U.S. Forces, Afghanistan. "Commander's Initial Assessment," August 30, 2009, available at http://media.washingtonpost.com/wp-srv/politics/documents/Assessment_Redacted_092109.pdf?.

Table I. Afghanistan Political Transition Process

Interim Administration	Formed by Bonn Agreement. Headed by Hamid Karzai, an ethnic Pashtun, but key security positions dominated by mostly minority “Northern Alliance.” Karzai reaffirmed as leader by June 2002 “emergency loya jirga.” (A jirga is a traditional Afghan assembly).
Constitution	Approved by January 2004 “Constitutional Loya Jirga” (CLJ). Set up strong presidency, a rebuke to Northern Alliance that wanted prime ministership to balance presidential power, but gave parliament significant powers to compensate. Gives men and women equal rights under the law, allows for political parties as long as they are not “un-Islamic”; allows for court rulings according to Hanafi (Sunni) Islam (Chapter 7, Article 15). Set out electoral roadmap for simultaneous (if possible) presidential, provincial, and district elections by June 2004. Named ex-King Zahir Shah to non-hereditary position of “Father of the Nation;” he died July 23, 2007.
Presidential Election	Elections for President and two vice presidents, for 5-year term, held Oct. 9, 2004. Turnout was 80% of 10.5 million registered. Karzai and running mates (Ahmad Zia Masud, a Tajik and brother of legendary mujahedin commander Ahmad Shah Masud, who was assassinated by Al Qaeda two days before the Sept. 11 attacks, and Karim Khalili, a Hazara) elected with 55% against 16 opponents. Second highest vote getter, Northern Alliance figure (and Education Minister) Yunus Qanooni (16%). One female ran, got about 1%. Hazara leader Mohammad Mohaqiq got 11.7%; and Dostam won 10%. Funded with \$90 million in international aid, including \$40 million from U.S. (FY2004 supplemental, P.L. 108-106).
First Parliamentary Elections	Elections held Sept. 18, 2005, on “Single Non-Transferable Vote” System; candidates stood as individuals, not part of party list. Parliament consists of a 249 elected lower house (Wolesi Jirga, House of the People) and a selected 102 seat upper house (Meshrano Jirga, House of Elders). Voting was for one candidate only, although number of representatives varied by province, ranging from 2 (Panjshir Province) to 33 (Kabul Province). Herat has 17; Nangahar, 14; Qandahar, Balkh, and Ghazni, 11 seats each. The body is 28% female (68 persons), in line with the legal minimum of 68 women - two per each of the 34 provinces. Upper house appointed by Karzai (34 seats, half of which are to be women), by the provincial councils (34 seats), and district councils (remaining 34 seats). There are 23 women in it, above the 17 required by the constitution. Because district elections (400 district councils) were not held, provincial councils selected 68 on interim basis. 2,815 candidates for Wolesi Jirga, including 347 women. Turnout was 57% (6.8 million voters) of 12.5 million registered. Funded by \$160 million in international aid, including \$45 million from U.S. (FY2005 supplemental appropriation, P.L. 109-13).
First Provincial Elections/ District Elections	Provincial elections held Sept. 18, 2005, simultaneous with parliamentary elections. Exact powers vague, but now taking lead in deciding local reconstruction Provincial council sizes range from 9 to the 29 seats on the Kabul provincial council. Total seats are 420, of which 121 held by women. 13,185 candidates, including 279 women. Some criticize the provincial election system as disproportionately weighted toward large districts within each province. District elections not held due to complexity and potential tensions of drawing district boundaries.
Second Presidential and Provincial Elections	Presidential and provincial elections were held Aug. 20, 2009, but required a runoff because no candidate received over 50% in certified results issued October 20. Second round not held because challenger, Dr. Abdullah, pulled out of a second-round runoff vote. Election costs about \$300 million.
Parliamentary Elections	Originally set for May 22, 2010, now postponed until September 18, 2010.

Table 2. Major Pashtun Tribal Confederations

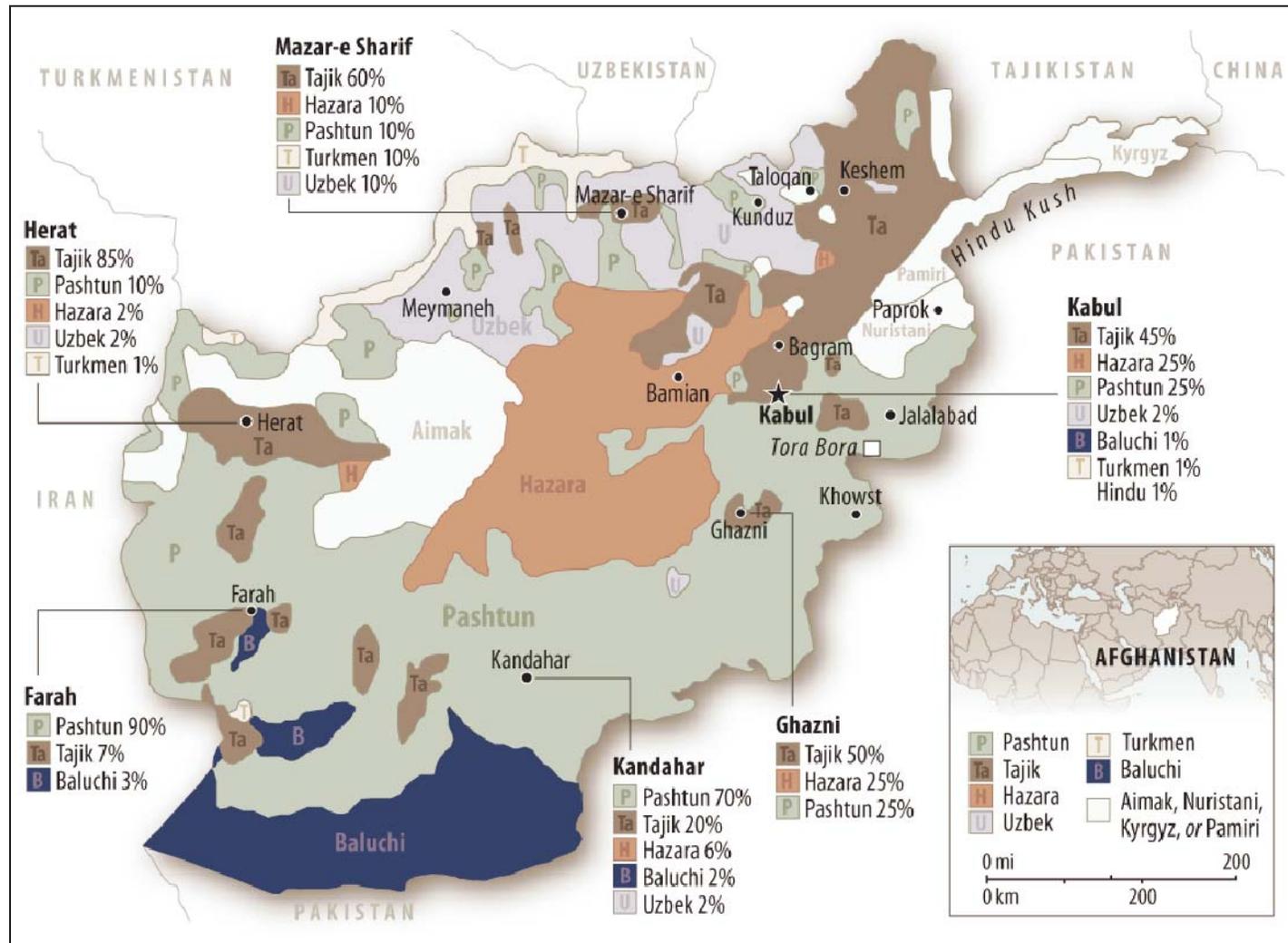
Clan/Tribal Confederations	Location	Example
Durrani	Mainly southern Afghanistan: Qandahar, Helmand, Zabol, Uruzgan, Nimruz	
Popalzai	Qandahar	Hamid Karzai, President of Afghanistan; Jelani Popal, head of the Independent Directorate of Local Governance; Mullah Bradar, the top aide to Mullah Umar, captured in Pakistan in Feb. 2010.
Alikozai	Qandahar	N/A
Barakzai	Qandahar, Helmand	Ghul Agha Shirzai (Governor, Nangarhar Province)
Achakzai	Qandahar, Helmand	Abdul Razziq, Chief of Staff, Border Police, Qandahar Province
Alozai	Helmand (Musa Qala district)	Sher Mohammad Akhunzadeh (former Helmand governor); Hajji Zahir, governor of Marjah town
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, Finance Minister 2002-2004
Hotak		Mullah Umar, but hails from Uruzgan, which is dominated by Durranis
Taraki		Nur Mohammed Taraki (leader 1978-1979)
Kharoti		Hafizullah Amin (leader September - December 1979); Gulbuddin Hekmatyar, founder of Hezb-e-Islami (Gulbuddin), former 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		

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

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

Note: N/A indicates no example is available.

Figure I. Map of Afghan Ethnicities



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

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

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Acknowledgments

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