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# Afghanistan: Politics, Elections, and Government Performance

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## Summary

The capacity, transparency, legitimacy, and cohesiveness of Afghan governance are crucial to Afghan stability as nearly all international forces exit Afghanistan by the end of 2016. The size and capability of the Afghan governing structure has increased significantly since the Taliban regime fell in late 2001, but the government remains rife with corruption and ethnic and political tensions among its major factions are ever present. Its recent elections have been marred by allegations of vast fraud and resulting post-election political crises.

Hamid Karzai, who served as president since late 2001, was constitutionally term-limited and left office when his successor, Ashraf Ghani, was inaugurated on September 29. The inauguration represented a resolution of a presidential election dispute that consumed Afghan and U.S. official attention from April to September. The results of the April 5, 2014, first round of the election required a June 14 runoff between Ghani and Dr. Abdullah Abdullah—increasing tensions between Ghani’s Pashtun community, Afghanistan’s largest group, and the Tajik community with which Abdullah is identified. Amid accusations by Abdullah of widespread fraud in the runoff, Secretary of State John Kerry brokered an agreement for a recount of all 23,000 ballot boxes and formation of a post-election unity government under which Abdullah, the losing candidate, became “Chief Executive Officer” (CEO) of the government. The CEO is to function as a prime minister, pending a subsequent national deliberation over changing the constitution to create a formal prime ministerial post. The resolution of the election dispute paved the way for the long-delayed signing of formal agreements to permit U.S. and NATO deployments in post-2014 international missions to train Afghan forces (Resolute Support Mission) and conduct counterterrorism operations (Operation Freedom Sentinel).

To date, the power-sharing arrangement has nearly paralyzed the Afghan central government. Abdullah’s role in governance has been limited and, until early January 2015, the two were unable to agree to new cabinet appointments despite a constitutional requirement to form a cabinet within 30 days of taking office. The government has been run in the interim by caretaker officials and bureaucrats lacking high-level policy direction. The cabinet choices reportedly represent efforts to balance the need for competent officials with the demands to satisfy both leaders’ key constituencies. Government authority remains constrained not only by the power-sharing arrangement but also by the exertion of influence by the long-standing informal power structure consisting of regional and ethnic leaders. Faction leaders often maintain groups of armed fighters who often exercise arbitrary administration of justice and commit human rights abuses. These constraints could slow Ghani’s efforts to prioritize curbing governmental corruption and promoting women’s rights.

International officials and groups are attempting to help ensure that the significant gains in civil society, women’s rights, and media freedoms achieved since 2001 are preserved. Those gains have come despite the persistence of traditional attitudes and Islamic conservatism in many parts of Afghanistan—attitudes that cause the judicial and political system to tolerate child marriages and imprisonment of women who flee domestic violence. Islamist influence and tradition has also frequently led to persecution of converts from Islam to Christianity, and to curbs on the sale of alcohol and on Western-oriented media programs. Afghan civil society activists, particularly women’s groups, assert that many of these gains are at risk as international forces depart, especially should there be a reconciliation agreement between the government and insurgent leaders. See also CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

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## Overview: Historic Patterns of Afghan Authority and Politics

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

At the national level, Afghanistan had few, if any, Western-style democratic institutions prior to the international intervention that took place after the September 11, 2001, attacks on the United States. Under the constitution of 1964, King Zahir Shah was to be a constitutional monarch, and an elected lower house and appointed upper house were set up. The parliament during that era never succeeded in becoming a significant check on the king's power, although the period from 1964 until the seizure of power by Mohammad Daoud in a 1973 military coup was considered a flowering of Afghan democracy. The last lower house elections during that period were held in 1969. The parliament was suspended outright following the April 1978 Communist seizure of power. The elected institutions and the 2004 adoption of a constitution were part of a post-Taliban transition roadmap established by a United Nations-sponsored agreement of major Afghan factions signed in Bonn, Germany, on December 5, 2001 ("Bonn Agreement"),<sup>1</sup> after the Taliban had fallen. Hamid Karzai was the first directly elected Afghan President.

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

These newly emerging interest groups have still not been able to displace—or even necessarily substantially influence—the informal power structure of ethnic, regional, tribal, clan, village, and district structures that exercise authority at all levels. These structures governed and secured Afghanistan until the late 1970s but were weakened by decades of subsequent war and Taliban rule. Some traditional local authority figures fled or were killed; others were displaced by *mujahedin* commanders, militia leaders, Taliban militants, and others. Local power brokers are widely accused of selectively applying Afghan law and of using their authority to enrich themselves and their supporters. Some local leaders have chosen to accommodate local insurgents rather than help the government secure their areas.

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

## Afghan Ethnicities, Communities, and Their Relationships

Even though many areas of Afghanistan, particularly urban areas, have modernized politically and economically since the fall of the Taliban, patterns of political affiliation by family, clan, tribe, village, ethnicity, region, and comradeship in past battles often supersede relationships based on ideology or views. These traditional patterns have been evident in every post-Taliban Afghan election, although some candidates have sought to advance specific programs and ideas. Particularly in province-based campaigns, such as those for provincial councils, candidates can easily exploit clan and familial relationships.

There have been few incidents of ethnic-based violence since the fall of the Taliban, but clashes sometimes do result from jealousies and historic disputes between the different ethnic communities. All ethnic groups are represented at all levels of the central government and each group has a large measure of control over how government programs are implemented in their geographic regions. Although Afghanistan's President has the power to appoint provincial and district governors, in practice there is an informal understanding not to appoint governors of a different ethnicity than the majority of residents of particular provinces. The Independent Directorate of Local Governance (IDLG), which submits recommendations to the presidency on local appointments, often consults notables of a province on appointments. The major groups are discussed below.

### Pashtuns

Ethnic Pashtuns (pronounced POSH-toons, sometimes referred to as Pathans—pah-TAHNS), as the largest single ethnicity, have historically asserted a “right to rule” Afghanistan. The Pashtuns speak Pashtu (or Pashto), but most in the government also speak Dari, a language akin to Persian. Pashtuns are widely believed to constitute 42%-45% of the population. With few exceptions, it has been a Pashtun holding the top governing position in Afghanistan. The sentiment of the “right to rule” is particularly strong among Pashtuns of the Durrani tribal confederation, which predominates in the south and is a rival to the Ghilzai confederation, which predominates in the east. Former President Karzai is a Durrani Pashtun, and his cabinet and advisory circle has been dominated by other Pashtuns, both Ghilzai and Durrani. His successor, Ashraf Ghani, is from a prominent Ghilzai clan. The Taliban is composed almost completely of Pashtuns—and its leaders are mostly Ghilzai Pashtuns—but the movement has opposed the post-2001 government on the grounds that it has not enforced strict Islamic law and is supported by international forces. A table on major Pashtun clans is provided below (see **Table 1**), as is a map showing the distribution of Afghan ethnicities (see **Figure 1**).

### Tajiks/Northern Alliance

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

should be noted that some Tajik commanders during the anti-Soviet and anti-Taliban wars fought with Pashtun parties including *Hezb-i-Islami*.

Tajiks have ruled Afghanistan on only a few occasions. Rabbani served as president of the *mujahedin* government (1992-1996), and led briefly again during November-December 2001, before Karzai became interim leader. The main political leader of the Northern Alliance is Dr. Abdullah Abdullah, whose mother is Tajik and father is Pashtun. Abdullah, who is about 57 years old, is identified politically as Tajik because he was a top aide to Masoud. Abdullah was dismissed from his foreign minister post by Karzai in a March 2006 cabinet reshuffle. Abdullah heads a private foundation named after Ahmad Shah Masoud. Abdullah emerged as Afghanistan's opposition leader after his unsuccessful run for president in the August 2009 election, propelling him to prominence in the 2014 presidential elections. Since the 2004 adoption of the constitution, he has advocated a parliamentary system in which the National Assembly would select a powerful prime minister as a check on the presidency. He advocates converting his current "Chief Executive Officer" post into a Prime Ministership when such a change is formally taken up in 2016, in accordance with the power-sharing arrangement he reached with Ashraf Ghani in September 2014.

Among other prominent Tajiks, Muhammad Fahim—who died in March 2014 of natural causes—served as First Vice President in Karzai's 2009-2014 term. Karzai's last Defense Minister was Bismillah Khan Mohammedi. Yunus Qanooni was speaker of the lower house of parliament during 2005-2011 and finished out Fahim's term as Vice President in 2014.

Some Tajiks have had sharp disagreements with Dr. Abdullah. Ahmad Zia Masoud (Ahmad Shah Masoud's brother), belongs to an opposition group called the *National Front of Afghanistan* that does not advocate for a prime ministership but rather for "federalism"—a high degree of autonomy for Afghan provinces. The group also argues for appointment of provincial governors by elected provincial councils.

## Hazaras

The Hazara Shiite minority (about 10% of the population) has advanced economically and politically since 2001, largely through pursuit of higher education and through entrepreneurship. The Hazaras have historically been looked down upon by the Pashtuns, who have tended to employ Hazaras as domestic workers and other lower and working class occupations. Observers report that many Hazaras, including Hazara women, are earning degrees or pursuing training in information technology, medical, and other highly skilled professions and that they are becoming dominant in many of these higher paying sectors of the Afghan economy.<sup>2</sup> Hazaras are slightly underrepresented in the ANSF officer corps (about 7%). One major Hazara figure is Mohammad Mohaqiq, who was a prominent *mujahedin* commander during the Soviet occupation. Another is Karim Khalili, who served as second vice president during Karzai's presidency. Other prominent Hazaras include prominent anti-corruption parliamentarian Ramazan Bashardost and the chairwoman of the Afghanistan Independent Human Rights Commission (AIHRC), Sima Simar.

Possible envy of Hazara advancement could have been a factor in the December 6, 2011, bombings of Hazaras in three cities, killing 60, while they were visiting their mosques to

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

celebrate the Shiite holy day of Ashura. Pakistan-based militant group Lashkar-i-Jhangvi—generally allied to the almost purely Pashtun Taliban—claimed responsibility. There are also tensions between the Hazaras and the Tajiks, even though both oppose Pashtun dominance. A clash took place between the two communities on September 9, 2012, when a car in a procession of Tajiks commemorating the September 9, 2001, death of Ahmad Shah Masoud ran over a Hazara bicyclist. The clash was said to reflect lingering Hazara resentment of Masoud’s 1993 offensive against then Hazara rivals during the 1992-1996 period of civil warfare.

## **Uzbeks**

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

## **Other Minorities<sup>3</sup>**

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

## **Post-Taliban Transition and Political Landscape**

U.S. policy has been to help expand the capacity of formal Afghan governing institutions. However, the formal governing structure continues to compete with traditional power structures. During Taliban rule (1996-2001), Afghanistan was run by a small, Qandahar-based group (“Shura”) of Pashtun clerics loyal to Mullah Mohammad Umar, who remained there. No parliament was functioning, and government offices were minimally staffed and lacked modern equipment. There were no formal processes to review Mullah Omar’s decision, for example, to host Osama bin Laden in Afghanistan. The ouster of that government in late 2001 paved the way for the success of a long-stalled U.N. effort to form a broad-based Afghan government.

In the formation of the first post-Taliban transition government, all sides viewed the United Nations as a credible mediator because of its role in ending the Soviet occupation. During the

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



1990s, a succession of U.N. mediators adopted proposals for a government to be selected by a traditional assembly, or *loya jirga*, even though U.N.-mediated cease-fires between warring factions did not hold. Non-U.N. initiatives made little progress, particularly the “Six Plus Two” multilateral contact group that began meeting in 1997 (the United States, Russia, and the six states bordering Afghanistan: Iran, China, Pakistan, Turkmenistan, Uzbekistan, and Tajikistan).

Immediately after the September 11 attacks, former U.N. mediator Lakhdar Brahimi resumed the Afghan mediation efforts he had ended in frustration in October 1999. U.N. Security Council Resolution 1378 (November 14, 2001) called for a “central” role for the United Nations in establishing a transitional administration. In November 2001, after the Taliban government collapsed, the United Nations invited major Afghan factions, most prominently the Northern Alliance and that of the former King—but not the Taliban—to an international conference in Bonn, Germany. There, on December 5, 2001, the factions signed the “Bonn Agreement.”<sup>4</sup> It was endorsed by U.N. Security Council Resolution 1385 (December 6, 2001). The agreement:

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

## Constitution Gives Presidency Broad Powers

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

The constitution set up a presidential system, with an elected president having relatively broad powers and a separately elected National Assembly (parliament). The Tajik-dominated Northern Alliance, which opposed centralized power that would likely favor Pashtuns, failed at this *jirga* to set up a system in which the parliament would select a prime minister to run the government. The faction achieved some limitations on presidential powers through assignment of major authorities to the parliament. The Northern Alliance likely calculated that the post of elected president would usually be won by a member of the more numerous Pashtun community, while the prime minister post would likely go to a Tajik by informal agreement. The election system (a two round election if no majority is achieved in the first round) strongly favors the likelihood the president will be an

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

<sup>5</sup> The last pre-Karzai *loya jirga* that was widely recognized as legitimate was held in 1964 to ratify a constitution. Najibullah convened a *loya jirga* in 1987 to approve pro-Moscow policies, but that gathering was widely viewed by Afghans as illegitimate.

ethnic Pashtun. This forecast appeared to be realized in the 2014 election, in which Dr. Abdullah led after the first round but lost to a Pashtun, Ashraf Ghani, in the runoff.

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

*Ghani-Abdullah Agreement Modifies Presidential Powers.* To implement the September 21, 2014, power-sharing agreement that resolved the presidential election dispute, Ghani agreed to delegate some of his presidential powers to “Chief Executive Officer” (CEO) of the government, Abdullah. Under the agreement, the CEO will share with Ghani the responsibilities of making cabinet appointments, and he will chair ministerial meetings to implement government decisions. The arrangement is analyzed further below.

## Presidential Advisory and Implementing Institutions

### *Presidential Advisors/Chiefs of Staff*

A significant number of advisors work out of the presidential office. The most prominent advisor is the chief of staff. During 2011-2014, that post was held by former Minister of Information and Culture Abdul Karim Kurram, a member of the moderate wing of *Hezb-e-Islami*. He succeeded Mohammad Umar Daudzai, another *Hezb-e-Islami* member, who was subsequently was appointed Afghanistan’s Ambassador to Pakistan and then (August 2013) Interior Minister.

Virtually all of Karzai’s closest advisers were Pashtuns, and Ghani’s closest advisers also are Pashtun. After taking office, Ghani appointed Abdul Salam Rahimi as chief of staff. Rahimi is a former deputy finance minister (deputy to Ghani when he was finance minister), who subsequently became head of one of Afghanistan’s largest media groups, called Saba.

### *National Security Council*

The National Security advisory staff is located in the presidential palace complex. During Karzai’s presidency, this advisory body was heavily populated by ethnic Pashtuns but included some figures from other ethnicities as well. After his September 29, 2014, inauguration, Ghani appointed Mohammad Hanif Atmar, a Pashtun, as national security adviser. The following day, Atmar was tasked to sign the bilateral security agreement (BSA) with the United States on behalf

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

of the Afghan government. The United States required the BSA in order to maintain troops in Afghanistan after 2014. Several Tajiks will likely also receive high-level posts in the organization because of the Ghani-Abdullah power-sharing arrangement.

### ***Office of Administrative Affairs/General Administrative Office***

An administrative unit that has attracted increasing international attention as a center of organized policymaking is the Office of Administrative Affairs (OAA), referred to by some as the General Administrative Office (GAO). Some experts say that the office, headed by a Hazara Shiite named Sadiq Mudabir, is primarily administrative, and without any policy coordination role. However, some Afghan observers say it has increasingly taken on a policymaking role by helping the National Assembly draft laws and advising the president on what legislation to sign or to veto.<sup>7</sup> The office also has purportedly taken on an informal judicial role by assessing the legitimacy of citizen, group, and corporate petitions and forwarding those to the ministries for action.

The office is a holdover from the Communist era and contains many longtime bureaucrats. During the 1990s, it may have had as many as 1,800 personnel, but it was trimmed during the Karzai era to about 700 staff members. The operations of the unit are funded primarily by the United Kingdom, but U.S. military and civilian officials have advised the office as well. In October 2014, President Ghani reduced the staff of the OAA further—and some staff of his presidential office—on the grounds that there was overlap between the two organizations.<sup>8</sup>

## **National Assembly (Parliament) Powers and Performance**

The National Assembly outlined by the constitution consists of a 259 seat all-elected lower house (*Wolesi Jirga*, House of the People, of which 10 seats are elected by Kuchi nomads) and a selected 102 seat upper house (*Meshrano Jirga*, House of Elders). The upper house is selected as follows: one-third, or 34 seats, appointed by the president (for a five-year term); one-third appointed by the elected provincial councils (four-year term); and one-third appointed by elected district councils (for a three-year term). Of the president's appointments, half (17) are mandated to be women.<sup>9</sup>

Because of the difficulty in confirming voter registration rolls and determining district boundaries, formal elections for the 407 district councils have not been held to date. Each district boundary is likely to be contentious because it will inevitably separate tribes and clans. Until there are elected district councils, two-thirds of the Meshrano Jirga are selected by the provincial councils for four-year terms. The lower house is mandated to be at least 28% female (68 women), an average of 2 for each of the 34 provinces.

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<sup>7</sup> Author conversations with former Karzai National Security Council official. 2012-13.

<sup>8</sup> Azam Ahmed. "New Afghan President Wastes No Time Putting Efficiency Over Ceremony." *New York Times*, October 22, 2014.

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

## Powers of the National Assembly

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

The lower house has the power to vote no-confidence against ministers (Article 92)—based on a proposal by 10% of the lower house membership (25 parliamentarians). Both the upper and lower houses are required to pass laws. Under Article 98 of the constitution, the national budget is taken up by the *Meshrano Jirga* first and then passed to the *Wolesi Jirga* for its consideration. The two houses of parliament, whose budgets are controlled by the Ministry of Finance, are staffed by a National Assembly “secretariat” that has about 275 Afghans employees and runs a research unit and a library. There are 18 oversight committees. A USAID program called the Afghanistan Parliamentary Assistance Project (APAP) helped build the National Assembly’s outreach, communications, and information technology, and advised it on legislative reform and budgeting.

The National Assembly has often asserted institutional strength. One of the Assembly’s first tasks was to review, and endorse, amend, or void the presidential decrees issued prior to the formation of the National Assembly. In March 2006, it achieved a vote to require the cabinet to be approved individually, rather than *en bloc*, increasing opposition leverage. However, all but 5 of the first 25 nominees were confirmed. In May 2006, the opposition within the lower house compelled changes to the nine-member Supreme Court, the highest judicial body, including ousting 74-year-old Islamic conservative Fazl Hadi Shinwari as chief justice.

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

During 2014, despite the presidential election dispute, the National Assembly acted on several pending laws. It adopted a commercial contracts law and a money laundering law. The lower house also passed a value-added-tax law, a mining and minerals law, and an “access to information” law.

## Politics of the National Assembly

During his presidency, Karzai had the consistent support of about 70-90 mostly Pashtun members of the lower house (*Wolesi Jirga*), many of whom are members of *Hizb-e-Islami*. Many of these

<sup>10</sup> “Afghanistan’s Cycle of Corruption,” *TheDailyBeast.com*, May 16, 2013.

Pashtuns are likely to also support Ghani because of ethnicity considerations, although it will be difficult to judge the level of his parliamentary support until after a new body is elected later in 2015. Tajiks in the Assembly are likely to support CEO Abdullah, potentially polarizing the body at times when the two leaders disagree. Some Pashtun parliamentarians follow Abd-i-Rab Rasul Sayyaf, a prominent Pashtun Islamic conservative *mujahedin* era party leader,<sup>11</sup> or were from Karzai's home province of Qandahar or neighboring Helmand province. Abdul Raouf Ibrahim, an Uzbek who was selected lower house speaker in 2011 as a compromise candidate, will likely remain in that post until a new parliament is elected and sworn in.

Any president is likely to have substantial support in the 102-seat upper house of the National Assembly, partly because the president makes one-third of the appointments (34 seats) to that body. Close allies have consistently chaired the body, including Sibghatullah Mojadeddi, who led it from 2005 until 2010, and the current chair, Fazl Hadi Muslim Yar. 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.

During his presidency, Karzai used his bloc of appointments to the upper house to co-opt potential antagonists or reward his friends. In 2006, he appointed Muhammad Fahim (see above) to the upper body, although he resigned after a few months. In 2006, he appointed to the body a key ally, former Helmand Governor Sher Mohammad Akhunzadeh. In February 2011, following the 2010 parliamentary elections, Karzai reappointed 18 incumbents and appointing 16 new members to the body, including the mandated appointment of 17 women. It is not known whether Ghani, as president, will follow Karzai's appointment patterns after the 2015 parliamentary election, or the degree to which Dr. Abdullah will be able to make appointments as well as CEO.

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<sup>11</sup> Sayyaf led the *Ittihad Islami* (Islamic Union) *mujahedin* party during the war against the Soviet occupation.

### Hamid Karzai, Former President of the Islamic Republic of Afghanistan (2001-2014)

Hamid Karzai, born December 24, 1957, was selected to lead Afghanistan at the 2001 Bonn Conference because he was a prominent Pashtun leader who had been involved in Taliban-era political talks among exiled Afghans and was viewed as a compromiser rather than a “strongman.” His presidency was characterized by deteriorating relations with the outside powers that have preserved Afghan stability and underwritten economic development, but also success in including all ethnic and political factions in governance.

From Karz village in Qandahar Province, Karzai has led the powerful Popolzai tribe of Durrani Pashtuns since 1999, when his father was assassinated, allegedly by Taliban agents, in Quetta, Pakistan. Karzai’s grandfather was head of the consultative National Council during King Zahir Shah’s reign. He attended university in India and supported the *mujahidin* party of Sibghatullah Mojadeddi during the anti-Soviet war. He was deputy foreign minister in the *mujahidin* government of Rabbani during 1992-1995, but he resigned and supported the Taliban as a Pashtun alternative to Rabbani. He did not serve formally in the 1996-2001 Taliban regime. Karzai broke with the Taliban regime as its excesses unfolded and he forged alliances with anti-Taliban factions, including the Northern Alliance. Karzai entered Afghanistan after the September 11 attacks to organize Pashtun resistance to the Taliban, supported by U.S. Special Forces. He became central to U.S. efforts after Pashtun commander Abdul Haq entered Afghanistan in October 2001 without U.S. support and was captured and hung by the Taliban. Karzai was slightly injured by an errant U.S. bomb in late 2001.

With heavy protection, Karzai survived several assassination attempts during his presidency, including rocket fire or gunfire at or near his appearances. His wife, Dr. Zenat Karzai, is a gynecologist by profession but rarely appeared in public. They have two children. He has stayed in Kabul since leaving office in a newly built house located near the current presidential palace. He reportedly continues to hold meetings of Afghan notables and will likely continue to play a role as an informal power broker.

#### Family Dealings

Controversy has surrounded his siblings for allegedly profiting from Karzai’s presidency. His half-brother, Ahmad Wali Karzai, was the most powerful political figure in Qandahar Province until his assassination on July 12, 2011. He was key to President Karzai’s information network in Qandahar. Ahmad Wali was widely accused of being involved in or tolerating narcotics trafficking, but reportedly also was a paid informant for the CIA; some of his property has been used by U.S. Special Forces. After Ahmad Wali’s death, Karzai appointed another brother, Shah Wali Karzai, as Popolzai chief. Shah Wali reputedly became involved in business dealings in Qandahar that have run him afoul of another brother, Mahmoud Karzai. Their dispute centered around \$50 million impounded by Shah Wali to complete the large upscale housing development in Qandahar called Ayno Maina. The dispute was settled in September 2013 and the complex has been completed. Mahmoud is reportedly under U.S. Justice Department investigation for alleged corruption involving other business interests in Qandahar and Kabul, including auto dealerships, a coal mine, a cement factory, and his borrowings from Kabul Bank (see below). Another brother, Qayyum Karzai, served in parliament during 2005-2008 but resigned in October 2008 and subsequently became involved in negotiations with Taliban figures on a political settlement. Qayyum failed to get President Karzai’s support to run for president in 2014. Other Karzai relatives have profited extensively from international contracts, including a \$2.2 billion U.S. “Host Nation Trucking” contract. The United States banned contracts to one such firm, Watan Risk Management, as of January 6, 2011; the firm is co-owned by two Karzai second cousins—Rashid and Rateb Popal. The Popal brothers reorganized the company as Watan Group and this firm is the local partner of China National Petroleum Company on a \$3 billion investment, awarded in 2012, to develop oil fields in northern Afghanistan.

#### U.S.-Karzai Relations

Particularly in his last few years in office, Karzai periodically lashed out at what he characterized as infringements on Afghan sovereignty in the form of some nighttime U.S.-led combat operations on private Afghan homes and prisoner detentions. On April 4, 2010, Karzai suggested that Western meddling in Afghanistan was fueling support for the Taliban as a legitimate resistance to foreign occupation. In October 2011, he said that Afghanistan would side with Pakistan in the event of a war between Pakistan and the United States. During a March 2013 visit of Secretary of Defense Hagel, Karzai said that Taliban attacks were helping the United States prolong its military presence in Afghanistan. Some U.S. officials assert that his refusal to sign a negotiated Bilateral Security Agreement that would keep some U.S. forces in Afghanistan after 2014 complicated planning for the post-2014 mission. Related differences emerged in February 2014 over an Afghan release of 68 detainees the United States identified as major security threats.

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

## The Judiciary and Rule of Law<sup>12</sup>

The Afghan constitution provides for an independent judiciary, led by a nine-member Supreme Court. As the highest body in the judiciary, the Supreme Court appoints judges at the provincial and district level. Supreme Court members are appointed by the president, subject to confirmation by the lower house of the National Assembly. Three judges serve for 10-year terms, three are appointed for 7 years, and three serve 4-year terms. Two of those whose seats had expired were confirmed by the Wolesi Jirga on December 25, 2013, but Chief Justice Abdul Salaam Azimi (whose term expired in August 2010) and three other associate justices with expired terms continue to serve as “acting justices.” In 2012, the Supreme Court swore in 181 judges, many of whom were women, leaving only 38 out of Afghanistan’s 400-plus districts lacking an assigned judge.

International donors have helped the formal Afghan judicial system expand its capacity and competence, particularly in urban areas. U.S. funding supports training and mentoring for Afghan justice officials, direct assistance to the Afghan government to expand efforts on judicial security, legal aid and public defense, gender justice and awareness, and expansion of justice in the provinces. USAID’s “Rule of Law Stabilization Program” has trained over 700 Afghan judges and expanded the Afghan Supreme Court’s training for new judges. Since July 2010, the U.S. embassy has had a senior official heading a Rule of Law Directorate. Separate NATO efforts to support rule of law in Afghanistan ceased operations in 2013.

There is broad agreement among outside observers that the Afghan judicial system remains weak and its independence is questionable. Judges and prosecutors are frequent targets of assassination, particularly in insecure areas of Afghanistan. And justice is often subjective, with powerful factions and wealthy individuals often able to obtain the release from jail or non-prosecution of their members and supporters. The Afghan government has completed few of the benchmarks for judicial reform agreed at several major conferences including the July 20, 2010, Kabul conference and the July 2012 conference in Japan that resulted in a “Tokyo Mutual Accountability Framework.” On matters involving interpreting the constitution, the Supreme Court has sparred with a rival institution, a constitutionally mandated “Independent Commission for the Supervision of the Implementation of the Constitution (ICSIC).” The ICSIC consists of seven commissioners appointed by the president, subject to confirmation by the lower house of the National Assembly. Some of the progress and continued difficulties are discussed below:

- *Criminal procedure code.* The Tokyo Framework required enactment into law of a criminal procedure code by the end of 2010—one of the 37 laws the Afghans pledged at the Kabul Conference to enact. In January 2014, the Ministry of Justice finalized 220 articles of a draft code—incorporating all criminal laws enacted since 2001, including those on counter-terrorism, anti-corruption, anti-money laundering, and anti-human trafficking. The National Assembly approved the draft and then President Karzai signed it into law on February 23, 2014.
- *Institutional structures and policies.* The judiciary works closely with the Office of the Attorney General, who is the highest ranking law enforcement officer in Afghanistan. The position has been held by Mohammad Ishaq Aliko, a Pashtun, since 2010. On October 13, 2012, the Wolesi Jirga adopted a law on the structure and authority of the Attorney General’s Office. The Afghan government also has

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

pledged to align strategy toward the informal justice sector with the National Justice Sector Strategy (NJSS).

- *Legal aid.* The Tokyo Framework required improving legal aid services by the end of 2011. A March 7, 2014, U.N. Secretary-General’s report on Afghanistan said the Ministry of Justice had increased to 31 the number of legal aid offices around the country. The offices are staffed by 101 legal aid lawyers.
- *Facilitating return of illegally seized lands.* The Afghan government committed to do so in the Tokyo Framework partly to address the ability of well-connected individuals to appropriated land—either through the legal process or through force—for their homes and projects. USAID provided \$56 million during FY2005-FY2009 to facilitate property registration. An additional \$140 million was provided from FY2010 to FY2014 to inform citizens of land processes and procedures and to establish a legal and regulatory framework for land administration.
- *De-politicizing the judiciary.* The Tokyo Framework committed Afghanistan to present donors with plans to depoliticize the judiciary and assure rule of law—elements of a National Priority Program (NPP). In October 2012, the EU judged that not enough progress had been made, and about \$26 million in EU aid for judiciary reform was withheld.

### *Informal Justice System and Traditional Dispute Mechanisms*

Because of insecurity and lack of trust of the formal justice sector, as many as 80% of cases are decided in the informal justice system—particularly cases involving local property, familial or local disputes, or personal status issues. The informal justice sector consists of local, informal consultative mechanisms (*shuras*, *jirgas*) that often meet at the village level to adjudicate disputes. In the informal sector, traditional practices of dispute resolution to prevail, including the traditional Pashtun code of conduct known as *Pashtunwali*. Some of these customs include traditional forms of apology (“*nanawati*” and “*shamana*”) and compensation for wrongs.<sup>13</sup>

While much of the informal justice system consists of *shuras* and *jirgas*, there is also a history of Islamic courts operating in some provinces. Some of these courts predate the accession of the Taliban in 1996. Some experts believe the informal Islamic court system could provide a stabilizing effect after 2014 by attracting the trust of Afghans and drawing them away from informal justice mechanisms run by Taliban insurgents.<sup>14</sup>

International observers criticize the informal justice sector because it is heavily dominated by males. For example, some disputes, including over debts or other financial obligations, are resolved by families’ offering to make young girls available to marry older men from the family that is the counter-party to the dispute. This practice is known as *baad*.

Some informal justice *shuras* take place in Taliban-controlled territory, and some Afghans may prefer Taliban-run *shuras* when doing so means they will be judged by members of their own

<sup>13</sup> <http://www.khyber.org/articles/2004/JirgaRestorativeJustice.shtml>.

<sup>14</sup> Casey Garret Johnson, “Afghan Islamic Courts: A Pre-Taliban System With Post-2014 Potential?,” *At War*, April 17, 2013.



tribe or tribal confederation. U.S. officials say they do not oppose the widespread use of the informal justice sector as such, but they do oppose it when it is administered by Taliban members because of the Taliban's often extreme interpretations of Islamic law.

One concern has been how deeply the international community should become involved in the informal justice sector. U.S. programs have focused primarily on the formal justice system, but over the past several years there was increasing attention to the informal system because its use is so prevalent. USAID has implemented programs to link the formal and informal justice sector. As part of a program begun in 2011, USAID has assisted local *shuras* (informal justice sector) in four districts to establish a system to transmit their judicial rulings, in writing, to the district government. However, international involvement in the informal justice sector is likely to wane as donor countries reduce their level of effort in Afghanistan. The rule of law issue is discussed in CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Rosen and Kenneth Katzman.

## **The Informal Power Structure: Faction Leaders and Traditional Decisionmaking Mechanisms**

An informal power structure exists outside the formal governing institutions—consisting of locally popular faction leaders with armed militia forces and traditional decisionmaking mechanisms. Some observers refer to such figures as “warlords.” This power structure is increasingly influential as international forces draw down and Afghans seek additional protection from a potential Taliban comeback. During his presidency, Karzai opted to work relatively amicably with the informal power structure, maintaining that confronting faction leaders outright would cause their followers to rebel. Many faction leaders operate in both spheres—holding official governing positions while also exercising informal influence in their home provinces. Engagement of faction leaders has often caused resentment among civil society activists and other Afghan modernizers. A number of faction leaders own or have investments in Afghan security or other firms that have won business from U.S. and other donors and fuel allegations of nepotism and other corruption.

Some question whether Ghani will follow Karzai's policies of engaging faction leaders. However, recognizing the ability of the faction leaders to mobilize not only militias but also voters, Ghani's first vice president is one of the most prominent and controversial faction leaders: Abdul Rashid Dostam.

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

In February 2007, both houses of parliament passed a law (officially titled the National Reconciliation, General Amnesty, and National Stability Law) giving amnesty to faction leaders and others who committed abuses during Afghanistan's past wars. In December 2009, the Afghan government published an amended version of the law—containing a provision giving victims the

right to seek redress for abuses—in the official gazette (a process known as “gazetting”), giving it the force of law.

*Traditional Decisionmaking Processes of the Informal Power Structure: Jirgas and Shuras.* The informal power structure often uses decisionmaking processes that do not approximate Western-style democracy but yet have participatory and representative elements. Meetings convened or attended by designated notables—*shuras* or *jirgas*—are key mechanisms for making or endorsing authoritative decisions or dispensing justice. Some see the traditional patterns of decision making as competing with and detracting from the development of the post-Taliban formal power structure—a structure that, with Western guidance, has generally tried to meet international standards of democratic governance.

At the national level, one traditional mechanism has carried over into the post-Taliban governing structure. The convening of a *loya jirga*, an assembly usually consisting of about 1,500 delegates from all over Afghanistan, has been used on several occasions. The Afghan constitution provides for a *constitutional loya jirga* as the highest decisionmaking body, superseding government decisions and even elections, and the constitution specifies the institutions that must be represented at the *constitutional loya jirga*. If a constitutional jirga cannot be held or is blocked, a traditional *loya jirga* can be convened by the president to discuss major issues, although it cannot render binding decisions. In the post-Taliban period, traditional *loya jirgas* have been convened to endorse Karzai’s leadership, to adopt a constitution, and to discuss a long-term defense relationship with the United States. A special *loya jirga*, called a *peace jirga*, was held on June 2-4, 2010, to review government plans to offer incentives for insurgent fighters to end their armed struggle and rejoin society. Another *loya jirga* was held during November 16-19, 2011, to endorse proposed Afghan government conditions on a Strategic Partnership Agreement between Afghanistan and the United States (which subsequently was signed). Another *loya jirga* in November 2013 approved a Bilateral Security Agreement (BSA) needed for some U.S. troops to stay in Afghanistan after 2014, although that agreement remains unsigned pending inauguration of a new Afghan leader.

### **Faction Leaders: Northern Alliance Commanders**

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

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

## Abdul Rashid Dostam: Uzbek Faction Leader in Northern Afghanistan

Prominent Uzbek figure Abdul Rashid Dostam, who is currently First Vice President, heads a political faction still widely referred to as *Junbush Melli Islami Afghanistan* (National Islamic Movement of Afghanistan) even though it no longer operates formally under that name. A former Communist ally of the Soviet occupying forces, Dostam joined the Northern Alliance against the Taliban, bringing with him numerous armed partisans from his redoubt in northern Afghanistan (Jowzjan, Faryab, Balkh, and Sar-i-Pol provinces). He has been widely accused of human rights abuses of political opponents, but he is also known for lack of emphasis on Islam and support for Western-style values, including alcohol consumption and promotion of women. To try to reduce his influence in the north, in 2005 Karzai appointed him to the post of chief military adviser—a largely ceremonial post.

Dostam's support for Karzai in the 2009 election was key to Karzai's victory because of Dostam's large following, and he apparently attracted many Uzbek votes to Ghani's candidacy as well. Dostam has been a rival figure of Balkh Province Governor Atta Mohammad Noor, who governs a province inhabited by many Uzbeks.

Fueling concerns about Dostam's vice presidency is the fact that he has had numerous feuds and altercations with other Afghan figures. On February 4, 2008, Afghan police surrounded Dostam's villa in Kabul in response to reports that he attacked an ethnic Turkmen figure who had broken with him. Dostam temporarily went into exile in Turkey in exchange for the dropping of the charges.<sup>15</sup> In June 2012, the Karzai government prosecuted Dostam for allegedly insisting the China National Petroleum Co. (CNPC) hire Dostam loyalists on its oil development project in northern Afghanistan. Dostam and his allies alleged that the prosecution was a Karzai effort to favor Karzai's relatives' firm, Watan Group, which is the partner of CNPC on the project. In mid-June 2013, about 50 of Dostam's armed aides reportedly clashed with those of the deputy leader of *Junbush Melli*, the governor of Jowzjan Province, for refusing Dostam's plan to revive an Uzbek militia.

Dostam's reputation is further clouded by alleged past war crimes. On July 11, 2009, the *New York Times* reported that allegations that Dostam had caused the death of several hundred Taliban prisoners during the major combat phase of OEF (late 2001) were not investigated by the Bush Administration. President Obama said any allegations of violations of laws of war need to be investigated, responding to assertions that there was no investigation of the *Dasht-e-Laili* massacre because Dostam was a U.S. ally.<sup>16</sup> Dostam responded to Radio Free Europe/Radio Liberty (which carried the story) that only 200 Taliban prisoners died and primarily because of combat and disease, not intentional actions of his forces.

## Atta Mohammad Noor: Balkh Province/Mazar-e-Sharif Potentate

Atta Mohammad Noor, another ethnic Tajik former mujahedin commander and Northern Alliance figure, has been the governor of Balkh Province since 2005. The capital of that province is the vibrant city of Mazar-e-Sharif, since 2005. Noor openly endorsed Dr. Abdullah in the 2009 presidential election and threatened to unleash his militia followers to help Abdullah seize power

<sup>15</sup> CRS email conversation with a then-National Security aide to President Karzai, December 2008.

<sup>16</sup> This is the name of the area where the Taliban prisoners purportedly died and were buried in a mass grave.

unless the 2014 election was decided in Abdullah's favor. Noor ceased any additional threats after the September 21 signing of the power-sharing agreement between Ghani and Abdullah.

As a governor, Noor has kept Balkh Province secure, allowing Mazar-e-Sharif to become a major trading hub. Mazar-e-Sharif is one of the four cities transitioned to Afghan security leadership in June 2011. About 60% of the residents of the city have access to electricity 24 hours per day, a far higher percentage than most other cities in Afghanistan, and higher even than Kabul. His critics say that Noor exemplifies a local potentate, brokering local security and business arrangements that enrich Noor and his allies while ensuring stability and prosperity.<sup>17</sup> Some reports say that he commands two private militias in the province that, in at least two districts (Chimtal and Charbolak), outnumber official Afghan police, and which prompt complaints of land seizures and other abuses primarily against the province's Pashtuns.

### **Mohammed Mohaqiq: Hazara Stalwart**

Another faction leader is Mohammad Mohaqiq, a Hazara leader. During the war against the Soviet Union and then Taliban, Mohaqiq was a commander of Hazara fighters in and around Bamiyan Province, and a major figure in the Hazara Shiite Islamist party Hezb-e-Wahdat (Unity Party). The party received support from Iran. Mohaqiq, a member of the lower house of parliament, was the apparent target of an assassination attempt in mid-June 2013. In July 2012, at Mohaqiq's behest, Karzai fired the head of the Academy of Sciences for publishing a revised national almanac that Mohaqiq said overstated the percentage of Pashtuns in Afghanistan at 60%. Mohaqiq was on Dr. Abdullah's slate in the 2014 presidential election and strongly echoed Abdullah's accusations that Ghani won the election largely through systematic fraud.

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

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

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

U.S. concerns about Khan's continuing role as a faction leader—and a sign of the reemergence of traditional authority forms—were reinforced in November 2012. Anticipating greater Taliban

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

strength after the international forces draw down at the end of 2014, Khan rallied thousands of his followers in the desert outside Herat, calling on them to reactivate their networks to prepare for possible eventual battle with the Taliban. As has Dostam, Khan reportedly has begun enlisting new recruits for a reviving militia force. Karzai's office criticized the gathering and Khan's efforts as contrary to government policy.<sup>18</sup> In November 2010, Afghan television broadcast audio files purporting to show Khan insisting that election officials alter the results of the September 2010 parliamentary elections.<sup>19</sup>

### **Sher Mohammad Akhunzadeh: Helmand Province Power Broker**

One of the most influential Pashtun tribal leaders in southern Afghanistan is Sher Mohammad Akhunzadeh. A close associate of Karzai when they were in exile in Quetta, Pakistan, during Taliban rule, Karzai appointed him governor of Akhunzadeh's home province of Helmand when the Taliban government fell in late 2001. Akhunzadeh controls many loyalists in Helmand who helped international forces secure the province during his governorship. However, his followers reportedly exercised power arbitrarily and engaged in illicit economic activity, contributing to Britain's demand that he be removed as a condition of Britain taking security control of Helmand in 2005. Karzai reluctantly acceded to the demand. Akhunzadeh promoted Karzai's reelection in Helmand Province in the 2009 election and in 2012 prevailed on Karzai to remove then Helmand governor Ghulab Mangal, who is from eastern Afghanistan, despite widespread U.S. praise for Mangal. Akhunzadeh's relationship with Ghani, if any, is not known precisely.

### **Karzai Family: Qandahar Province Stronghold**

Even though he is no longer president, Karzai and his clan will likely still be influential because of their significant contacts in the clan's home province of Qandahar. The province has about 2 million people, of whom about half live in Qandahar city. The Karzai clan has consistently overshadowed and marginalized the governors of the province, including the current governor, Tooryalai Wesa, a Canadian-Afghan academic appointed in late 2008.

The clan remains influential despite losses. In July 2011, Karzai's half-brother, Ahmad Wali Karzai, was assassinated. He was chair of the Qandahar provincial council, a post with relatively limited formal power, but he was more powerful than any appointed governor of Qandahar and constituents and interest groups sought his interventions on their behalf. Qandahar governance suffered an additional blow in July 2011 when the appointed mayor of Qandahar city, Ghulam Haider Hamidi, was assassinated. Another Karzai relative, Heshmat Karzai, was assassinated at his home in July 2014 by a visitor for unspecified reasons.

Following Ahmad Wali's death, Karzai promoted another brother, Shah Wali Karzai, as head of the Popolzai clan. Shah Wali at first lacked the acumen and clout of Ahmad Wali, but reports since mid-2012 say he has become highly influential, while also becoming involved in significant business dealings that cast aspersions on the Karzai family. Also active is another Karzai brother, Qayyum, who has served in the National Assembly. And, even though he remains in Kabul after leaving office, Hamid Karzai remains highly influential in Qandahar province because of his long term as president and his ability to broker resolutions of many national factional disputes.

<sup>18</sup> Graham Bowley, "Afghan Warlord's Call to Arms Rattles Officials," *New York Times*, November 13, 2012.

<sup>19</sup> Joshua Partlow, "Audio Files Raise New Questions About Afghan Elections," *Washington Post*, November 11, 2010.

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

Another factor in Qandahar is likely to be the resignation of Ghul Agha Shirzai as governor of the eastern province of Nangarhar. He is a Pashtun from the powerful Barakzai clan based in Qandahar Province, and he has returned to the province since resigning in late 2013 to prepare to run for president. He opted not to run against Karzai in the 2009 election, and fared poorly in the April 5, 2014, first round of the most recent presidential election. In Nangarhar, Shirzai was viewed as an interloper, but he exercised relatively effective leadership. However, he was also widely accused of arbitrary action against political or other opponents, and he reportedly did not remit all the customs duties collected at the Khyber Pass/Torkham crossing to the central government. U.S. officials say that he kept some of the funds, and he was briefly questioned in July 2012 in Germany about several suitcases of cash he was carrying, but was allowed to proceed. His supporters say he used much of the funds—deposited in an account called the “Shirzai Fund”—for the benefit of the province, not trusting that funds remitted to Kabul would be spent in the province. Some allege that he intervened in the province's judicial process to win freedom for Taliban suspects with whom he might have commercial ties. Shirzai denies the allegations.<sup>20</sup>

## **Emergent Power Centers: Civil Society and Independent Activists**

The fall of the Taliban and international intervention has enabled the emergence of new centers of influence with the potential to sustain modernization. Civil society activists and “independents” in the National Assembly and other institutions are a growing force in Afghan politics. Civil society activists dominate the Afghan Independent Human Rights Commission (AIHRC) as well as such private activists and watchdog groups as the Afghanistan Women's Network, the Afghan Anti-Corruption Network, Integrity Watch, Equality for Peace and Democracy, “Afghanistan 1400,” and the Afghanistan Analysis and Awareness (“A3”). Activists in these groups are familiar with and have easy access to media outlets. Some own new media outlets, such as the Mohseni family, which owns Moby Media (Tolo Television), Afghanistan's most popular private TV station. Independent newspapers, such as Eight Sobh (8 AM), have been established to advocate for transparent government. The December 5, 2011, Bonn conference was preceded by meetings (December 2-3, 2011, in Bonn) of Afghan civil society activists that were intended to help assess the progress of Afghan governance and highlight the role of civil society in governance. On the other hand, civil society activists continue to struggle against traditional faction leaders—many of whom often use their armed supporters to intimidate civil society activists or media outlets that criticize them.

Among the most outspoken civil society activists in the 2005-2010 parliament, female activist Malalai Joya (Farah Province) was a leading critic of war-era faction leaders. Ms. Fawzia Koofi, at one time a deputy lower house speaker, remains in the Assembly and is an outspoken leader on Afghan women's rights. Others prominent women's activists include Fauzia Gailani, who did not win re-election to parliament in 2010; Shukria Barekzai, chairwoman of the lower house Defense Committee during 2011; and Palwasha Hassan. Ramazan Bashardost, a former Karzai minister,

<sup>20</sup> Nathan Hodge, “U.S. Finds Graft by Favored Afghan Leader,” *Wall Street Journal*, November 3, 2012.

champions parliamentary powers and has highlighted official corruption. He ran for president in the 2009 elections on an anti-corruption platform and drew an unexpectedly large amount of votes. Bashardost was returned to parliament in the September 2010 election. Ahmad Nadery, formerly a deputy chairman of the AIHRC, was fired from that post by Karzai for his criticism of governmental corruption; Nadery went on to found the Free and Fair Election Forum of Afghanistan, a key non-governmental election watchdog organization.

## The Electoral Process and Recent Elections

Elections are widely considered a key harbinger of the durability and extent of Afghanistan's political development and a barometer for measuring the effects of factional, political, ethnic, and sectarian rivalries. The 2009 presidential and provincial elections were the first post-Taliban elections run by the Afghan government through its Afghanistan Independent Electoral Commission (IEC). Both it and the September 2010 National Assembly elections were highly flawed and the international community worked with Afghan leaders to reduce such flaws in the 2014 presidential and provincial election process. The 2014 process was initially deemed less fraud-plagued than in 2009 or 2010, but ethnic and political disputes, as well as accusations of fraud, produced yet another election-related crisis.

Political parties have not developed as a major feature in post-Taliban Afghanistan. During the era of the Soviet occupation and the 1992-1996 civil war, many of the *mujahedin* (Islamic insurgent fighters) parties were based on ethnicities, loyal to major ethnic and factional commanders, and supported by outside powers—factors that have contributed to a popular aversion to formal political parties. Since 2009, the party formation has strengthened somewhat but still not to the point where parties are the main organizing institution for political participation.

Many hoped that post-Taliban Afghanistan would produce secular, pan-ethnic democratic parties. That process has been halting. From the fall of the Taliban until 2009, 110 political parties were established, but most of these parties were small and were formed by and centered on specific personalities or ethnicities, rather than offering clear ideological platforms. Ethnic-based parties do not portray themselves as such because Article 35 of the Afghan constitution bans parties based on ethnicity or religious sect. A 2009 law required all parties to re-register by demonstrating their support with 10,000 signatures spanning at least 22 provinces. That limited the number of parties registered before the September 18, 2010, parliamentary election to only five, and only 31 out of the 2,500 candidates ran as representing a particular political party in that election. A July 11, 2012, regulation eased registration rules somewhat by requiring parties to have offices in at least 20 provinces to register, and 56 parties are registered. Some assert that the development of idea-based parties has been hindered by the Single, Non-Transferable Vote (SNTV) system that limits the ability of parties to determine those candidates that are elected to parliamentary seats.

Karzai never formed a party, nor has Ghani. However, many Karzai aides and supporters were from the moderate faction of *Hizb-e-Islami*. The party, composed almost totally of ethnic Pashtuns, is the only one of the *mujahedin* parties that is formally registered. Committed to working within the political system, it is led by Minister of Economy Abdul Hadi Arghandiwal, whose leadership was reaffirmed at a party conference in October 2012. The militant wing of *Hizb-e-Islam* is loyal to pro-Taliban insurgent leader Gulbuddin Hikmatyar; it is called *Hizb-e-Islami Gulbuddin* (HIG). *Jamiat-Islami* (discussed above), and the Uzbek group *Junbush Melli*

*Islami Afghanistan*, no longer operate formally, although many of their supporters affiliate informally and might continue to use those party names.

Since 2004, Abdullah has distanced himself from *Jamiat Islami* and formed several parties and coalitions in an effort to broaden his appeal beyond the Tajik community. Some of his rivals in the Tajik community have formed separate parties or have joined multi-ethnic parties focused on increasing government accountability. One prominent secular, pan-ethnic party—the Rights and Justice Party—was formed by ex-Interior Minister (now National Security Adviser) Mohammad Hanif Atmar and other allies in October 2011. Another party, the Coalition for Reform and Development, was formed in early 2012 to try to ensure that the 2014 elections would be fair.

Below is brief background on the post-Taliban elections that have been held.

### **2004 Presidential Election**

The first election for president was held on October 9, 2004. Turnout was about 80%. Hamid Karzai won in the first round (55.4% of the vote) over 17 challengers and was sworn in in December 2004. With the National Assembly not yet established, he ruled by decree during 2005. Despite surrounding himself with Pashtuns in his inner circle, Karzai was credited for including ethnic and political factions in high government positions. Ahmad Zia Masoud, brother of slain Northern Alliance supreme military commander Ahmad Shah Masoud, served as first vice president during Karzai's first elected term.

### **2005 Parliamentary Election**

Elections to establish the National Assembly and the provincial councils were held on September 18, 2005. The number of representatives varied by province, ranging from two (Panjshir Province) to 33 (Kabul Province). Other examples include Herat (17 seats), Nangahar (14), Qandahar, Balkh, and Ghazni (11 each). The National Assembly was first inaugurated on December 19, 2005.

### **2009 Presidential Election**

The August 20, 2009, presidential election was plagued by assertions of a lack of credibility of the Independent Election Commission (IEC), whose commissioners were selected by and politically close to Karzai. A separate U.N.-appointed Elections Complaints Commission (ECC), which reviews election complaints and validates candidacies, had somewhat more credibility than the IEC because a 2005 election law provided for three ECC seats to be held by foreign nationals, appointed by the head of U.N. Assistance Mission–Afghanistan (UNAMA).<sup>21</sup>

The IEC set an August 20, 2009, election date—somewhat later than the April 21, 2009, date mandated by Article 61 of the Constitution to allow at least 30 days before Karzai's term expired on May 22, 2009. Registration during added about 4.5 million new voters, bringing the total to about 17 million. However, there were widespread reports of registration fraud, including the selling of registration cards.

<sup>21</sup> ECC website, <http://www.ecc.org.af/en/>.



A total of 32 candidates entered the race, and 3,200 people competed for 420 provincial council seats nationwide. About 80% of the provincial council candidates ran as independents, and one party, *Hezb-i-Islami*, fielded multiple candidates in several provinces. About 200 women competed for the 124 provincial council seats (30% of the total seats) reserved for women. In Qandahar and Uruzgan, there were fewer women candidates than reserved seats. In Kabul Province, 524 candidates competed for the 29 seats of the council.

Security was a major issue for all the international actors supporting the Afghan elections process. In the first round, 800 out of 7,000 polling centers were deemed too unsafe to open. The European Union, supported by the Organization for Security and Cooperation in Europe (OSCE) and the International Republican Institute and National Democratic Institute sent observers. The total cost of the Afghan elections in 2009 was about \$300 million, of which the United States contributed about \$175 million and other donors contributed the remainder.<sup>22</sup>

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

Clouding the election substantially were the widespread fraud allegations. The final, uncertified total was released on September 16, 2009, and showed Karzai at 54.6% and Dr. Abdullah at 27.7%. Anti-corruption candidate Ramazan Bashardost, a Hazara, received 9%, and Ashraf Ghani received 3%. In October 2009, the ECC determined that about 1 million Karzai votes and about 200,000 Abdullah votes were fraudulent and were deducted, leaving Karzai short of the 50%+ needed to avoid a runoff. Karzai acquiesced to a runoff against Dr. Abdullah, but Abdullah refused to participate on the grounds that problems that plagued the first round were unresolved. On November 2, 2009, the IEC declared Karzai the winner. The Obama Administration accepted the outcome on the grounds that the fraud had been investigated. The provincial council election results were certified by the end of 2009 and council members took office in February 2010.

In the 2009 election, Karzai's first vice presidential running mate was the Northern Alliance's primary military commander, Marshal Muhammad Fahim, another Tajik. Karim Khalili (a Hazara) ran for another term as Karzai's second vice president. Fahim died of natural causes on March 9, 2014, and former parliament speaker Yunus Qanooni, another Northern Alliance figure, was confirmed by the National Assembly on March 25, 2014, to serve out Fahim's term.

## September 18, 2010, Parliamentary Elections

The split over the conduct of the 2009 presidential elections widened in the run-up to the September 18, 2010, parliamentary elections. Mechanisms to prevent fraud were not fully implemented and the results were disputed until July 2011, largely paralyzing the National Assembly. About \$120 million was budgeted by the IEC for the parliamentary elections, of which at least \$50 million came from donor countries, giving donors leverage over when the election might take place. The remaining \$70 million was funds left over from the 2009 elections. Donors

<sup>22</sup> Report by the Special Inspector General for Afghanistan Reconstruction (SIGAR), September 9, 2010.

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

In February 2010 Karzai signed an election decree that superseded the 2005 election law and govern the 2010 parliamentary election,<sup>23</sup> even though the constitution requires that any new election law (or decree) not be adopted less than one year prior to the election to which that law will apply. Some of the provisions of the election decree—particularly the proposal to make the ECC an all-Afghan body—alarmed some in the international community. In March 2010, Karzai compromised with international critics and allowed the seating of two non-Afghans on the ECC. The Wolesi Jirga voted against the election decree but the Meshrano Jirga did not act, thus allowing the decree to stand.

Among other steps to correct the mistakes of the 2009 election, the Afghan Interior Ministry instituted a national identity card system to curb voter registration fraud. However, observers say that registration fraud still occurred. On April 17, 2010, Karzai appointed a new IEC head, Fazel Ahmed Manawi, a Tajik, who drew praise from many factions for impartiality. The IEC also barred 6,000 poll workers who served in the 2009 election from working the 2010 election.

On June 22, 2010, a final list of candidates was issued after all appeals and decisions on the various disqualifications. It included 2,577 candidates, of which 406 were women. Sixty-two candidates were invalidated by the ECC, mostly because they did not resign their government positions, as required. Voter registration was conducted June 12-August 12. According to the IEC, over 375,000 new voters were registered, and the number of eligible voters was 11.3 million.<sup>24</sup>

On August 24, 2010, the IEC announced that 938 stations considered insecure would not open in order to prevent so-called “ghost polling stations”—stations open but where no voters can go. About 5.6 million votes were cast out of about 17 million eligible voters. Turnout was therefore about 33%; a major issue suppressing turnout was security.

Preliminary results were announced on October 20, 2010, and final, IEC-certified results were delayed until November 24, 2010, due to investigation of fraud complaints. Of the 5.6 million votes cast, the ECC invalidated 1.3 million (about 25%) after investigations of fraud complaints. Causes for invalidation most often included ballot boxes in which all votes were for one candidate.

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

- About 60% of the lower house (148 out of 249) winners were new members.
- Karzai’s number of core supporters in the lower house fell from about 90 to about 70, largely because fewer Pashtuns were elected compared to 2005.
- A date of the inauguration of the new parliament was set for January 20, 2011, at which time, under Afghan law, President Karzai would formally open the session.

<sup>23</sup> Joshua Partlow, “Afghanistan’s Government Seeks More Control Over Elections,” *Washington Post*, February 15, 2010.

<sup>24</sup> The seat allocation per province was the same as it was in the 2005 parliamentary election: 33 seats up for election in Kabul; 17 in Herat province; 14 in Nangarhar; 11 each in Qandahar, Balkh, and Ghazni; 9 in Badakhshan, Konduz, and Faryab; 8 in Helmand; and 2 to 6 in the remaining provinces. Ten are reserved for Kuchis (nomads).

The certified results triggered a major political crisis when several Pashtun candidates asserted that they lost due to fraud. On December 28, 2010, at the instruction of the Supreme Court, Karzai issued a decree empowering a special five-member tribunal to review fraud complaints. The IEC and ECC, backed by UNAMA and the international community, asserted the tribunal was not legitimate because the IEC and ECC are the only bodies under Afghan electoral law that have jurisdiction over election results. Still, to give time for the tribunal to complete its review, Karzai postponed the inauguration of the new parliament. After 213 of the certified winners threatened to inaugurate themselves, Karzai inaugurated the body on January 26, 2011, but he insisted that the tribunal continue its work. The lower house elected a compromise candidate, Abdul Raouf Ibrahimy, from the Uzbek community, as speaker. The upper house was completed as of February 19, 2011, when Karzai made his 34 appointments.

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

The exposure of widespread fraud in the 2009 and 2010 elections increased strains between Karzai and the National Assembly. In the confirmation process of his post-2009 election cabinet, National Assembly members objected to many of his nominees as having minimal qualifications or as loyal to faction leaders. Karzai's original list of 24 ministerial nominees (presented December 19) was generally praised by the United States, but only 7 were confirmed. Another five were confirmed on June 28, 2010, and on March 12, 2012, the Assembly confirmed most of those ministers who were serving in an acting capacity as well as some new nominees.

## **2014 Presidential and Provincial Elections<sup>25</sup>**

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

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

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<sup>25</sup> For additional information on the upcoming elections and their implications, see International Crisis Group. *Afghanistan: The Long, Hard Road to the 2014 Transition*. October 8, 2012.

### *Timing of the Elections: April 5, 2014*

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

### *Election Process Milestones and Reforms*

The July 8, 2012, “Tokyo Mutual Accountability Framework” stipulated that Afghanistan “develop, by early 2013, a comprehensive election timeline through 2015 for electoral preparations and polling dates.”<sup>26</sup> Aside from the setting of the election date, the key benchmarks of election preparations and their status were as follows:

- **Election-Related Dates.** The IEC set a timeframe of September 16-October 6, 2013, as the deadline for candidate registration. That time frame was observed.
- **Election Laws.** Two laws to govern the 2014 election—one (IEC Structural Law) to structure the IEC and the Electoral Complaints Commission (ECC) and another one to stipulate election procedures and policies (Electoral Law)—were to be adopted within the first quarter of 2013. That deadline was not met.<sup>27</sup> In mid-April 2013, the National Assembly passed draft election laws that included lower house provisions to deprive the president of sole discretion over IEC appointments and provide for two ECC officials to be non-nationals (as was the case for the 2010 parliamentary election). Karzai insisted that the ECC be replaced by an Afghan Supreme Court-run election tribunal and he returned the draft unsigned (a veto). On May 22, 2013, the lower house passed another draft Structural Law setting up an all-Afghan ECC. It and the Electoral Law then passed the upper house. Karzai signed the Structural Law on July 17, 2013, and the Electoral Law on July 20, 2013.
- **IEC and ECC Membership and Powers.** Acting under the newly signed election laws, a committee of lawyers, human rights activists, the speakers of the two chambers of the National Assembly, and judicial officials nominated IEC and ECC candidates. On September 17, 2013, Karzai named the nine IEC commissioners, including former Herat Governor Yusuf Nuristani, an ethnic Tajik, as IEC chairman. He named three women as IEC commissioners. Karzai subsequently named the five ECC members, of which one (Reeda Azimi) is female. The chairman of the ECC is Sattar Saadat, a Pashtun. The ECC also had 102 provincial complaints commissioners, approved in February 2014. The ECC, expanded its staff and capabilities after acquiring official standing by Afghan law, has the power to investigate abuses of power—such as provincial officials’

<sup>26</sup> <http://www.embassyofafghanistan.org/article/the-tokyo-declaration-partnership-for-self-reliance-in-afghanistan-from-transition-to-transf>.

<sup>27</sup> USAID and State Department briefing for congressional staff, March 11, 2013.

interference in the process—and vet candidates. It removed some provincial council candidates for various violations and prosecuted some local officials. The IEC gets assistance from UNDP under a program called ELECT II (Legal and Electoral Capacity for Tomorrow).

- **Voter Registration, Voter Awareness, and Other Preparations.** In accordance with a January 2013 IEC decision, voter registration updating ran from late May 2013 until late March 2014. The IEC issued new voter registration cards to 3.4 million registrants, close to the 4 million goal. The government had decided in November 2012 to issue 14 million biometric ID cards (“e-taskera”) by March 2014 to reduce voter fraud. But, this system was later deemed too difficult and expensive (\$115 million) to implement for the 2014 vote. It might apply to the 2015 parliamentary elections. Observers say the government promoted public awareness of the election, including setting up a call center to answer questions; 700,000 calls were made to that center, according to the International Federation of Electoral Systems (IFES) in mid-March 2014.
- **Candidate Requirements.** Presidential candidates were required to gather 100,000 valid voter signatures, and file an \$18,000 deposit.
- **Security.** In February 2014, the IEC determined that about 6,800 polling centers (out of 7,170 that were surveyed) could be secured sufficiently to open on election day—far more than those that opened in the 2009 or 2010 elections.
- **Observers.** About 200 international observers were present on election day. Organizations sent observers to the election, but they mostly deployed in Kabul and in provincial capitals. A Taliban attack on the Serena Hotel in Kabul in mid-March 2014 killed one foreign national involved in the election observation process, forcing his and other non-Afghan organizations to reassess their missions. Several other attacks in Kabul, including against IEC offices, occurred before the election. Afghan domestic observations groups fielded about 12,000 observers.
- **Efforts to Promote Women.** The election laws passed by the National Assembly in 2013 reduce to 20% from 25% the required percentage of women to be elected to provincial and district councils (when district elections are held). Human rights advocates say they fear that this provision could foreshadow eliminating similar quotas for women in the National Assembly elections. Those who favored the reduction argued that the 25% requirement was unfair because women can win election with very few votes.

The voter registration process tried to improve female participation in the election. About 30% of newly registering voters were women, which was in line with UNAMA goals. A Ministry of Interior request to donors to fund the hiring of 13,000 female election security officers was approved in an effort to support female turnout for the vote. However, 40 out of Afghanistan’s 407 districts did not have female election staff because of security concerns. The efforts to encourage female participation and other measures above at least partly satisfied S.Res. 151, adopted July 11, 2013, which urged the Secretary of State to condition some U.S. aid on Afghan implementation of measures to prevent fraud and to encourage women’s participation in the electoral process.

In part because of the developments discussed above, many expressed optimism that the election would be more credible than the 2009 or 2010 votes. The “Free and Fair Election Foundation of Afghanistan,” a domestic body, assembled 50 political parties to endorse demands for election reform and oversee the unfolding election process. Several political parties, such as the National Front, the National Coalition, the Truth and Justice Party, and Hizb-e-Islam, formed a “Cooperation Council of Political Parties and Coalitions of Afghanistan” (CCPPCA) to ensure the fairness of the election. On December 9, 2013, a delegation from the National Democratic Institute expressed “guarded optimism” that the April 2014 elections would not be as marred by fraud as were previous Afghan elections.

### *Candidate Field*

There were several potential frontrunners in the contest. By the close of candidate registration on October 6, 2013, 26 presidential tickets had registered (fewer than the 32 in 2009). In October 2013, the IEC disqualified 16 candidates, including the only woman (Khadija Ghaznawi), on the basis of lack of valid signatures or citizenship issues. After an appeal period, the final candidate list was announced by the IEC on November 20. The Taliban vowed to disrupt the election, but the leader of an allied insurgent group Hezb-e-Islami Gulbuddin (HIG), Gulbuddin Hekmatyar, instructed his members inside Afghanistan to vote. For the 420 provincial council seats, 2,713 candidates were approved to run, including 308 women. The formal campaign period began on February 5, 2014.

The major approved presidential tickets, mostly following the tradition of balancing different ethnicities, include those below. Several purportedly credible opinion polls were published in late December 2013; Afghan polling was sparse in previous elections.<sup>28</sup> Three candidates withdrew before the vote was held, including Karzai’s brother, Qayyum, who reportedly bowed to his brother’s urging not to run, and former Defense Minister Abdul Rahim Wardak. All of the major candidates said they would, if elected, sign the Bilateral Security Accord (BSA) with the United States, required to keep some U.S. troops in Afghanistan after 2014.

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

- *Ashraf Ghani*. Ghani’s reputation for affiliation with global organizations such as the United Nations and the World Bank contributed in the perception in the 2009 election that Ghani is out of touch with average Afghans’ problems. However, Ghani apparently was able to appeal to wide range of Pashtuns in 2014, and running mate Abdul Rashid Dostam apparently delivered a large number of Uzbek votes. The other Ghani running mate was former Justice Minister Sarwar Danish, a Hazara Shiite who studied in Iran and won some Hazara votes.
- *Dr. Abdullah*. Dr. Abdullah campaigned not only in Northern Alliance strongholds but also in Pashtun provinces, stressing there his Pashtun heritage on his father’s side. His supporters, mainly in the north and west, also faced a more permissive security environment to vote in than did Pashtuns. Abdullah’s first vice presidential running mate was *Hizb-e-Islam* member Mohammad Khan (a Pashtun) and his second vice presidential running mate is Mohammad Mohaqiq,

<sup>28</sup> Matthew Rosenberg. “Polling Comes to Afghanistan, Suggesting Limit to Sway of President Karzai.” New York Times, December 28, 2013.

- a Hazara faction leader discussed earlier. Opinion polls consistently showed him to be a front runner.
- *Zalmay Rassoul.* Foreign Minister Rassoul was considered an early front-runner because of his generally close relations with Karzai. However, polls in December 2013 put him behind Ghani and Abdullah, and final first round results tracked with that polling. Rassoul attempted to win Northern Alliance votes by naming Ahmad Zia Masoud, brother of Ahmad Shah Masoud, as first vice presidential candidate. The other Rassoul running mate was Bamiyan governor Habiba Sohrabi, an ethnic Hazara, who appeared to garner female support at campaign rallies. (Two other females were vice-presidential candidates.)
  - *Other candidates.* Among other candidates, Abdi Rab Rasul Sayyaf's candidacy concerned U.S. and international officials because of his past ties to radical Islamist Arab volunteers in the anti-Soviet war who ultimately formed Al Qaeda.<sup>29</sup> As a parliamentarian, Sayyaf has consistently opposed legislation codifying the rights of women or weakening the authority of the Islamic clergy. One of his vice presidential running mates was Ismail Khan, a faction leader discussed above. The ticket polled in the single digits, which tracked with the first round vote count. Other approved candidates included Nangarhar governor Ghul Agha Shirzai; Daoud Sultanzoi, a former Communist and parliamentarian; Karzai adviser Hedayat Amin Arsala; and Qotboddin Helal.

### *Election Days and Controversy*

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

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

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

Prior to the runoff, there were discussions among several candidates about a possible political settlement that might avoid a runoff—which many feared would become a Pashtun vs. Tajik ethnic power struggle. However, no political arrangement was reached and the runoff went forward on June 14. Violence was somewhat more extensive in the runoff than in the first round,

<sup>29</sup> Yaroslav Trofimov, "For President, Karzai Floats Islamist with Bin Ladin Tie," *Wall Street Journal*, August 14, 2013.

and about 50 persons were killed around the country. Turnout was assessed at relatively the same as it was in the first round (about 7 million votes cast). The IEC at first stated that certified results would be ready by July 22, with a swearing in of a new president on August 2.

However, as informal results became known, the potential for a worst case scenario increased—an outcome in which no candidate recognizes the election results and the political system breaks down. With informal results showing him behind, Dr. Abdullah alleged that there was no clear explanation for why turnout—particularly in the eastern provinces, where Ghani’s support is strong—increased substantially in the second round. Ghani’s campaign asserted the increase in turnout in that area was due to successful campaigning and voter turnout operations. Accusing IEC commissioners and election workers of committing systematic fraud to favor of Ghani, Dr. Abdullah released purported taped phone conversations allegedly among IEC and other officials purporting to discuss helping Ghani.<sup>30</sup>

In subsequent days, Abdullah broke off relations with the IEC and called on the U.N. Assistance Mission-Afghanistan (UNAMA) to become directly involved in the vote count. During June 20–July 6, the two candidates’ camps attempted to reach agreement on the scope of a vote audit that might resolve the allegations. On June 21, 2014, Abdullah supporters in several cities demonstrated against the vote count and certification process. The IEC’s release of preliminary results on July 7, which showed Ghani winning with 56.44% to Abdullah’s 43.56%, triggered calls by some Abdullah supporters for him to declare victory and set up a government. Some armed factions supporting Abdullah reportedly began to seize government centers in three provinces, and to threaten to storm such locations in Kabul, including the presidential palace.<sup>31</sup>

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

- a recount of all 23,000 ballot boxes by Afghan election officials, with monitoring from diplomats posted to various embassies in Afghanistan and other officials.
- the winner of the election would ask the losing candidate to become or to name an alternative figure to be “chief executive officer ” (CEO) of the government. The position would evolve, after constitutional amendment, into a prime ministership to ensure that the major communities share power.

The recount process began on July 17 but was interrupted repeatedly over disagreements on criteria to use to invalidate votes and distrust of certain officials involved in the recount. It was completed by the end of August but results were withheld to allow time for the Abdullah and Ghani camps to bridge differences over a post-election power-sharing arrangement. The final count, apparently known to both camps, still reportedly showed Ghani winning by about 800,000 votes.<sup>32</sup> By mid-September 2014, amid continued threats by Dr. Abdullah and his supporters not to recognize a Ghani declared victory, the two camps approached agreement on power-sharing.<sup>33</sup>

<sup>30</sup> Azam Ahmed. “Afghan Candidate Says Phone Recordings Prove a Vote-Rigging Conspiracy.” *New York Times*, June 23, 2014.

<sup>31</sup> Carlotta Gall and Matthew Rosenberg. “Anxious Moments for an Afghanistan on the Brink.” *New York Times*, July 15, 2014.

<sup>32</sup> Pajhwok Afghan News Network. September 16, 2014.

<sup>33</sup> Jason Straziuso. “Democracy? No, Afghans Say, After Vote Count Ends.” Associated Press, September 15, 2014.



On September 21, 2014, the crisis was apparently resolved when Ghani and Abdullah signed the power-sharing agreement. The IEC simultaneously declared Ghani the election winner while acknowledging that the audit did not necessarily resolve all fraud allegations. Ghani was inaugurated President on September 29 and immediately issued a decree appointing Abdullah as “CEO.” The following day, Afghanistan and the United States signed the Bilateral Security Agreement (BSA).<sup>34</sup> The power-sharing agreement provides for:<sup>35</sup>

- Ghani’s delegation of some presidential powers to Abdullah as CEO.
- The CEO is to have powers approximating those of a Prime Minister. The CEO will lead weekly meetings of a “Council of Ministers” (the ministers plus the CEO and deputy CEOs) that will implement the strategic direction given it by the “cabinet” that is led by the President. The cabinet will consist of all ministers plus the President, vice presidents, the CEO, deputy CEOs, and the chief advisor to the president.
- The president and the CEO are to share powers to appoint ministers and other government officials. However, this provision has been difficult to implement because there are too few positions available for both Ghani and Abdullah to reward their most loyal supporters who seek high-level jobs. Disagreements substantially delayed the naming of a new 25-minister cabinet.
- Within two years, a *loya jirga* will convene to consider a constitutional amendment to convert the CEO position to that of a formal Prime Minister. However, to obtain a quorum at the *loya jirga*, district elections will need to be held before that meeting is convened. District representatives are to be delegates to any *loya jirga* that has constitutional standing.

### **Ghani and Abdullah Leadership and New Afghan Cabinet Named**

The partnership between Ghani and Abdullah has apparently been troubled since the pair took office, but it has not collapsed. Ghani has sought to assert the full extent of his constitutional role, and has announced initiatives to curb corruption and hold corrupt individuals accountable, to install officials based on merit, to promote women, and, through several trips to regional countries with a stake in Afghanistan’s future, to explore new ways to settle the conflict with the Taliban insurgency. Since taking office, he has reportedly emphasized punctuality and tightly run meetings of high officials—departing sharply from Karzai’s more free-flowing style. He has also announced various policy initiatives that are discussed in the appropriate sections below.

Dr. Abdullah’s role has, at times since taking office, appeared unclear as he has struggled to define and assert the authorities he has. Some observers say his effectiveness suffers from a relatively weak advisory team, including aides who continue to focus on what Abdullah believes was vast election fraud that deprived him of presidential victories in 2009 and again in 2014.

Ghani indicated that he sought to appoint a cabinet based on merit rather than factional interests. However, he and Abdullah reportedly agreed that they would each take a lead role in making half

<sup>34</sup> Department of State by Senior State Department official, “Background Briefing on Afghanistan.” September 24, 2014.

<sup>35</sup> The text of the power-sharing agreement is at [http://www.tolonews.com/TOLONews\\_photo/National\\_Unity\\_Government\\_agreement.pdf](http://www.tolonews.com/TOLONews_photo/National_Unity_Government_agreement.pdf).

the 25 cabinet post nominations. Doing so complicated the need to balance competence and factional interests, and delayed the nomination process until January 12, 2015, well beyond the constitutionally required 30 day period for such nominations (October 28, 2014). The delay, by all accounts, caused substantial confusion in governance because acting ministers were left in charge after November 2014, and their authority to make decisions was limited. The lower house of the National Assembly has not announced a date to vote on the appointments. Among the key appointments:<sup>36</sup>

- Current Chief of Staff of the Afghanistan National Army, Sher Mohammad Karimi, was nominated Minister of Defense by Ghani, and Nur-ul-Haq Ulumi was named by Abdullah as Interior Minister. Both are Pashtuns—a departure from the practice during the Karzai years of appointing a Pashtun to one of the posts and a Tajik to the other. Both men served in the military structure of the Soviet-backed Communist government of the 1980s. Another Pashtun, Rehmatullah Nabil, was kept on by Ghani as head of Afghan intelligence (National Directorate of Security)—a post not requiring parliamentary confirmation because the NDS is not a formal ministry.
- The nominee for Minister of Borders and Tribal Affairs, Qamaruddin Shinwari, (Ghani nominee) was a deputy minister of Justice during the Taliban regime, suggesting the appointment is intended to ease Pakistani concerns on border security issues.
- The nominated Foreign Minister, Salahuddin Rabbani, a Tajik (Abdullah nominee), was recently the head of the High Peace Council that supervises reconciliation talks with the Taliban. He succeeded his father in that post, Burhanuddin Rabbani, who was political head of the Northern Alliance and nominally Abdullah's superior.
- The nominated Minister of Finance, Jelani Popal (Ghani nominee), was a close Karzai ally during 2007-2011 as head of the Independent Directorate of Local Governance, which is discussed further below.
- The nominee for Minister of Communications and Information Technology, Barna Karimi (Abdullah nominee), is reputedly an ally of Hazara Shiite power broker Mohammad Mohaqiq and has close relations with Iran.
- Three women were nominated, two by Ghani (Minister of Higher Education and Minister of Information and Culture), and one by Abdullah (Minister of Women's Affairs).

Although many of the nominees were widely praised in their past positions, observers assessed the cabinet nominees as a product of compromise and the continued influence of powerful ethnic and political factions. Some assessed the nominees as calling into question Ghani's pledge to make selections based purely on merit and not political considerations.

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<sup>36</sup> Sources include various press reports and author conversations with Kabul and Europe-based Afghan observers. January 2015.

### Ashraf Ghani and Dr. Abdullah

On September 29, 2014, Dr. Ashraf Ghani Ahmedzai was inaugurated as President, and he appointed Dr. Abdullah Abdullah as CEO.

Ashraf Ghani, born in 1949, is from Lowgar Province. He is from a prominent tribe, belonging to the Ghilzai Pashtun tribal confederation, that has supplied many past Afghan leaders, including the last Soviet-installed leader Dr. Najibullah Ahmedzai. Ghani attended university at the American University of Beirut, and received a Ph.D. degree in Cultural Anthropology from Columbia University. He joined the World Bank in 1991, where he helped several various countries manage development and institutional transformation projects. During 2002-2004, he served as Finance Minister in Karzai's first cabinet, and was credited with extensive reforms and institution of the National Solidarity Program of locally driven economic development. He is married to Rula Ghani, and they have two children.

During 2004-2005, he served as chancellor of Kabul University. He subsequently founded the Institute for State Effectiveness, which helps countries undergoing transition build institutions. After 2009, he served as an advisor to Karzai on various initiatives, including institutional reform and relations with the U.S.-led coalition helping secure Afghanistan.

Dr. Abdullah Abdullah, born in 1960 in Kabul, is an eye doctor by training. His mother was an ethnic Tajik and his father was a Pashtun from Qandahar. However, he is widely identified politically as a Tajik because he was a top aide to legendary Tajik *mujahedin* commander and Northern Alliance military leader Ahmad Shah Masoud, who was assassinated by Al Qaeda two days before the September 11 attacks on the United States. During the Northern Alliance's political struggle against the Taliban during 1996-2001, Abdullah served as the Northern Alliance's foreign minister—Masoud's international envoy. He served as Foreign Minister during 2001-2006, a time when the Northern Alliance's influence on Karzai was substantial. Karzai dismissed him in an early 2006 cabinet reshuffle.

As noted above, Abdullah lost the 2009 presidential election to Karzai, despite widespread confirmed allegations of fraud in that vote. He subsequently became chief opposition leader in Afghanistan.

Sources: Various press reporting, author conversations with Afghan figures in Afghanistan and Washington, DC 2001-2014.

## Afghan Governing Capacity and Performance<sup>37</sup>

All assessments indicate that there has been progress in the capacity of Afghan institutions since 2001, particularly in performing such duties as managing national finances and providing services, but that significant deficiencies remain. Many of the shortcomings in governance are attributed to all of the political disputes, governmental corruption, nepotism and favoritism, and the lack of trained or skilled workers. The U.S.-Afghanistan Strategic Partnership Agreement, signed in Afghanistan on May 1, 2012, commits the United States (beyond 2014) to “support the Afghan government in strengthening the capacity, self-reliance, and effectiveness of Afghan institutions and their ability to deliver basic services.”

The Obama Administration has developed about 45 different metrics to assess progress in building Afghan governance and security, as it was required to do (by September 23, 2009) under P.L. 111-32, an FY2009 supplemental appropriation.<sup>38</sup> UNAMA, headed in Kabul by Jan Kubis,

<sup>37</sup> Some information in this section is from the State Department report on human rights in Afghanistan for 2013, February 27, 2014. Recommendations for U.S. policy and U.S. assistance with respect to issues discussed in this section are contained in a Senate Foreign Relations Committee majority staff report: “Afghanistan in Transition: U.S. Civilian Presence and Assistance Post-2014.” S.Prt. 113-29. October 27, 2014.

<sup>38</sup> “Evaluating Progress in Afghanistan-Pakistan” Foreign Policy website, <http://www.foreignpolicy.com/articles/2009/> (continued...)

also evaluates Afghan governance according to numerous metrics. Afghan progress according to these metrics is presented in various reports of the Secretary-General to the U.N. General Assembly. In addition, the Tokyo Framework of Mutual Accountability, cited above, provides aid incentives for Afghanistan (portions of \$16 billion pledged through 2015) if it improves on several measures including<sup>39</sup>

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

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

In part to demonstrate that Afghanistan would uphold those commitments, a presidential administrative reform decree issued July 26, 2012, required virtually every ministry and government body to develop a work plan, complete unfinished tasks, file specified reports, or carry out specified reforms.<sup>40</sup> The final communique of the July 3, 2013, “senior officials” meeting in Kabul to review progress since the July 2012 Tokyo meeting presented mixed findings:<sup>41</sup> it strongly praised government progress on budget transparency, revenue growth, and achieving Millennium Development Goals, including school enrollment and health care access. However, the review noted varying degrees of progress on election reform, anti-corruption, and local governance. It called for substantial improvement on other of the benchmarks, including human rights and accountability for the Kabul Bank scandal (discussed below). The meeting did not result in withholding of any aid. Another meeting to assess progress according to the Tokyo Framework criteria was held in London in December 2014.

## **Expanding Central Government Capacity**

There appears to be a consensus that the capacity of the central government has increased dramatically since 2001, but building capacity at provincial and district levels has proved far more difficult. Afghan ministries have greatly increased their staffs, and most ministry offices in Kabul, and many ministry offices in the provinces, have modern computers and communications. There are about 500,000 Afghan government employees, although the majority of them are in the

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09/16/evaluating\_progress\_in\_afghanistan\_pakistan.

<sup>39</sup> <http://www.embassyofafghanistan.org/article/the-tokyo-declaration-partnership-for-self-reliance-in-afghanistan-from-transition-to-transf>.

<sup>40</sup> Text of the decree “On the Execution of Content of the Historical Speech of June 21, 2012, in the Special Session of the National Assembly. Provided to CRS by the Embassy of Afghanistan in Washington, DC, July 16, 2012.

<sup>41</sup> <http://mfa.gov.af/en/news/co-chairs-statement-tokyo-mutual-accountability-framework-tmaf-senior-officials-meeting-kabul-afghanistan-3-july-2013>.

security forces. A large proportion of the remainder work as teachers. Capacity building programs sponsored by U.S. and other donor assistance includes training additional civil servants and instituting merit-based performance and hiring criteria. U.S. mentors and advisers have served in virtually all of the Afghan ministries, including many serving under contract with USAID. On several occasions, the U.S. funds have sponsored jobs fairs to recruit new civil servants.

Still, the government has had trouble recruiting workers with sufficient skills. And many Afghan government personnel are reluctant to serve in the provincial offices of the central government ministries, particularly those provinces that are restive. Afghanistan has also wrestled with the problem of international donors luring away Afghan talent with higher salaries. The July 20, 2010, Kabul donors conference addressed this issue by calling for a harmonized salary scale for donor-funded salaries of Afghan government personnel. Discussions have been held between the Afghan government and donors on this issue, with minor progress.

### **Merit-Based Recruitment**

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

Since taking office, President Ghani has told his subordinates that he seeks to further increase the use of merit-based recruitment. One of his first acts after taking office was to demand that each ministry submit a list of its employees as well as their qualification for holding their posts.

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

Under a USAID program called the Civilian Technical Assistance Plan (CTAP), the United States provided technical assistance to Afghan ministries and to the IARCSC. From January 2010 until January 2011, USAID, under a February 2010 memorandum of understanding, gave \$85 million to programs run by the commission to support the training and development of Afghan civil servants. One of the commission's subordinate organizations is the Civil Service Training Institute. In 2013, the Institute trained over 5,000 Afghan civil servants in management, computer skills, English language proficiency, and finance and accounting. USAID provided over \$40 million to the CTAP program.

The international community has sponsored a \$350 million five-year program (“Capacity-Building for Results Program”) during 2012-2017 to enhance the Afghan government’s ability to deliver services to its population through key ministries.<sup>42</sup> USAID programs have assisted employees of the state-owned Afghan power company (DABS) to manage Afghanistan’s power grid and bill its customers and trained 250 Ministry of Mines personnel in geology to try to help develop Afghanistan’s extractive industries sector.

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

### The Afghan Budget Process

The international efforts to build up the central government are reflected in the Afghan budget process. At the July 3, 2013, senior officials meeting in Kabul, donors strongly praised the government’s performance in establishing budget transparency. U.S. official reports assess the Afghan government as increasingly able to execute parts of its budget, and say that some ministries—particularly the Ministry of Public Health and the Ministry of Rural Rehabilitation and Development—are able to deliver services relatively effectively.<sup>43</sup> The Afghan government disperses its own funds as well as those directly supplied by donor countries and organizations. As of 2013, the Afghan budget year runs from December 21 to December 20 of each year. It now longer begins on the Persian New Year (*Nowruz*). The 2014 budget was approved January 15, 2014, but Afghan officials say it is nearly \$600 million short because of the economic uncertainty caused by the election dispute. Afghan officials seek donations to fill the shortfall, and say they will adjust the 2015 budget downward to match new economic conditions.

U.S. reports continue to criticize the Afghan budget process for a high degree of centralization. Once a budget is adopted by the full National Assembly (first the upper house and then the lower house, and then signed by Karzai), the funds are allocated to central government ministries and other central government entities. Some of the elected provincial councils, appointed provincial governors, and district governors formulate local budget requirements and help shape the national budget process, but no locality controls its own budget. These local organs do approve the disbursement of funds by the central entities (called *mustofiats*, accounting offices in each of Afghanistan’s 34 provinces).

The Tokyo Mutual Accountability Framework included as one of its benchmarks the establishment of a provincial budgeting process that provides provincial input into the national budget process. The July 3, 2013, senior officials meeting statement indicated that Afghanistan needed to finalize and begin implementing a provincial budgeting policy. A draft provincial budget policy issued in October 2013 built on several pilot programs put in place, including the Provincial Budget Pilot (PBP) program that seeks to improve budgetary planning integration between the national and provincial levels. On February 11, 2014, the Ministry of Finance allocated \$1 million to five provinces under the PBP program. Since taking office, President

<sup>42</sup> <http://www.worldbank.org/projects/P123845/afghanistan-capacity-blding-results-facility?lang=en>.

<sup>43</sup> [http://www.defense.gov/pubs/Section\\_1230\\_Report\\_July\\_2013.pdf](http://www.defense.gov/pubs/Section_1230_Report_July_2013.pdf); [http://www.defense.gov/pubs/October\\_1230\\_Report\\_Master\\_Nov7.pdf](http://www.defense.gov/pubs/October_1230_Report_Master_Nov7.pdf).

Ghani has expressed his support for a decentralized budget process in which provinces will formulate and execute planned budgets.

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

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

## Expanding Local (Subnational) Governance

Since 2007, U.S. and allied policy has increasingly emphasized building local or “subnational” governance. During 2009-2012, the Administration sent about 500 additional U.S. civilian personnel from the State Department, USAID, the Department of Agriculture, and several other agencies to advise Afghan ministries, and provincial and district administrations. That effort raised the number of U.S. civilians in Afghanistan to about 1,330 by August 2011, of which nearly 400 were serving outside Kabul (up from 67 in early 2009). However, the Obama Administration has reduced civilian personnel in Afghanistan by about 20% from those levels as the transition to Afghan security lead was completed in 2014.<sup>44</sup>

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

During his presidency, Karzai frequently complained that donor-run Provincial Reconstruction Teams (PRTs) have prevented the Afghan government from expanding its own responsibilities and capacity at the local level. There are PRTs in about 80% of Afghan provinces, and they have far more funding and capability than the Afghan governor in those provinces. The Tokyo Framework largely endorses those complaints by calling for the PRTs to be transferred to Afghan control. The presidential administrative decree of July 26, 2012, provides for Afghan institutions

<sup>44</sup> Karen DeYoung, “Plans For Big Civilian Force in Postwar Afghanistan to Be Cut,” *Washington Post*, December 6, 2012.

to begin taking over the roles of the PRTs, and, since mid-2012, the United States and partner countries have been closing down PRTs and handing them over to Afghan control.

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

### **The Independent Directorate for Local Governance (IDLG)**

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

To address the difficulty in recruiting staff to work in outlying areas, the July 26, 2012, Karzai administrative reform decree required the IDLG to fill open positions in the provinces within six months, including in the ministry offices in each provincial capital. It also required a review of provincial governors' performance in combating corruption and improving governance.

The IDLG is an implementing partner for the District Delivery Program (DDP), which was created to improve government presence and service delivery at the district level, and has been funded by the United States, Britain, Denmark, and France. The program has been phased out in conjunction with the transition to Afghan leadership at the end of 2014. The IDLG also gets assistance from the U.N. Development Program's (UNDP's) Afghanistan Subnational Governance Program II (ASGP-II). That program provided \$83.6 million to the IDLG from the European Community, Italy, Switzerland, and Britain.

### **Provincial Governors and Provincial Councils**

Many believe that, even more than institutional expansion, the key to effective local governance is the appointment of competent and incorruptible governors in all 34 Afghan provinces. U.N., U.S., and other international studies and reports all point to the beneficial effects (reduction in narcotics trafficking, economic growth, lower violence) of some of the strong Afghan civilian appointments at the provincial level. There were numerous successful governors, such as Mangal, Sherzai, Noor, and others mentioned in this paper, but the successful governors were almost invariably also accused of arbitrary administration of justice and excessive independence of central government authority.

Despite the international and Afghan emphasis on increasing merit-based appointments, about half of the provincial governors continue to be political appointees. In September 2012, Karzai shuffled 10 out of the 34 provincial governors (including Mangal), asserting that those taken out of their positions had fallen short on improving governance or combating corruption. However, many observers suspected the reshuffle was intended to place loyalists in key local positions ahead of the 2014 election. Some of the ousted governors were assigned to different provinces. Other than Helmand, the nine provinces where governors were changed include Wardak, Kabul, Takhar, Faryab, Baghlan, Nimruz, Laghman, Lowgar, and Badghis. Since taking office, President



Ghani has told IDLG officials to set clear benchmarks for provincial governor appointments as part of an effort to expand merit-based appointments and improve the efficiency of provincial governors and mayors.

### ***Provincial Councils***

One problem noted by governance experts is that the role of the elected provincial councils is unclear. In most provinces, the provincial councils do not act as true local legislatures and are weak compared to provincial governors' offices. Legislation to expand the councils' roles has been under consideration by the National Assembly, but most recent versions of a provincial councils law were stripped by the cabinet of provisions to assign to the councils supervisory duties.

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

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

### **District-Level Governance**

U.S. officials say there has been "measured progress" in developing effective district governance. District governors are appointed by the president, at the recommendation of the IDLG, and more than half of all district governors in place have been appointed based on merit, as noted above. Some districts had no formal governance at all until the 2009 U.S. troop surge. Some of the district governors in Helmand Province, including in Nawa and Now Zad districts, returned after the U.S.-led expulsion of Taliban militants.

The difficulty plaguing the expansion of district governance, in addition to security issues, is lack of resources. Many district governors have virtually no staff or vehicles. In about 40 districts, the United States and partner countries have established District Support Teams (DSTs) to assist in district-level governance and service delivery. However, like the PRTs, the DSTs are being turned over to Afghan control as the transition to Afghan control proceeds.

### ***District Councils***

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

## Municipal and Village Level Authority

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

As noted throughout, there has traditionally been village-level governance by councils of tribal elders and other notables. That structure remains, particularly in secure areas, while village councils have been absent or only sporadically active in areas where there is combat. Numerous councils were formed in areas where security was improved by the 2010 U.S. “troop surge.”

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

## Reforming Afghan Governance: Curbing Corruption<sup>45</sup>

The international community has sought not only to expand Afghan governing capacity but to push for its reform, transparency, and oversight. Many Afghans have come to view the central government as “predatory.” Reducing corruption in government constitutes several of the 17 benchmarks of the Tokyo Mutual Accountability Framework which requires Afghanistan, in general, to “enact and enforce the legal framework for fighting corruption.” Since taking office, President Ghani has sought to demonstrate a commitment to combating corruption by reviving the largely stagnant issue of the Kabul Bank scandal, discussed below. He has also demanded that ministries file with the presidential office paperwork on their procurement contracts.

Afghan officials have acknowledged that corruption is a major problem in Afghanistan. However, during Karzai’s presidency, Afghan law enforcement officials frequently refrained from—or were prevented from—prosecuting officials for corruption, particularly those related to or aligned with those in power. Some international officials also questioned Karzai’s attempts to blame Afghan corruption on donor countries’ contracting with firms linked to faction leaders.

On the other hand, some say that U.S. policy on corruption has been inconsistent. Karzai confirmed U.S. press reports in April 2013 saying that the Central Intelligence Agency continues to provide cash payments directly to the Karzai government, through the Afghan National Security Council, for purposes such as compensating faction leaders.<sup>46</sup> Karzai said the payments were relatively small, but U.S. and other experts say the payments circumvent standard controls on U.S. foreign aid and help fuel Afghan corruption. Neither CIA nor other U.S. officials confirmed or denied the reports, when asked by journalists.

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<sup>45</sup> For more information, particularly on Rule of Law programs, see CRS Report R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, by Liana Rosen and Kenneth Katzman.

<sup>46</sup> Matthew Rosenberg, “Karzai’s Office Gets Bags Full of C.I.A. Cash,” *New York Times*, April 29, 2013.

## High Level Corruption, Nepotism, and Cronyism

At the upper levels of government, some observers asserted that Karzai deliberately tolerated officials who are allegedly involved in illicit activity and supports their receipt of lucrative contracts from donor countries, in exchange for their political support. Karzai's brother, Mahmoud, as discussed above, has apparently grown wealthy through various ventures, purportedly by fostering the impression he can influence his brother. Some observers who have served in Afghanistan say that Karzai appointed some provincial governors to "reward them" and that these appointments have gone on to "prey" economically on the populations of that province. Several high officials, despite very low official government salaries, have acquired ornate properties in Kabul in part by appropriating private land in which the ownership was unclear. The Special Inspector General for Afghanistan Reconstruction (SIGAR) reported in May 2013 that \$50 million in stolen U.S. aid funds—which U.S. investigators discovered in an Afghan bank account—was missing because the Afghan government did not implement U.S. requests to freeze the account. The SIGAR issued an audit in January 2014 that asserted there was risk of misuse of U.S. funds because of the Ministry of Public Health's payment of salaries in cash and the possible overpayment for commodities and services by the Ministry of Mines—overpayments that could possibly be used to finance bribes or kickbacks.<sup>47</sup>

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

## Lower-Level Corruption

Observers who follow the issue say that most of the governmental corruption takes place in the course of performing mundane governmental functions, such as government processing of official documents (e.g., passports, drivers' licenses), in which processors demand bribes in exchange for action.<sup>48</sup> Other forms of corruption include Afghan security officials' selling U.S./internationally provided vehicles, fuel, and equipment to supplement their salaries. In other cases, local police or border officials may siphon off customs revenues or demand extra payments to help guard the U.S. or other militaries' equipment shipments. Other examples include security commanders placing "ghost employees" on official payrolls in order to pocket their salaries. Corruption is fed, in part, by the fact that government workers receive very low salaries (about \$200 per month, as compared to the pay of typical contractors in Afghanistan that might pay as much as \$6,500 per month). Many observers say there is a cultural dimension to the corruption—that it is commonly expected by relatives and friends that those Afghans who have achieved government positions will protect those relations with appointments and contracts.

<sup>47</sup> Matthew Rosenberg and Azam Ahmed. "Report Says Afghanistan Can't Be Trusted to Prevent Misuse of U.S. Aid" *New York Times*, January 30, 2014.

<sup>48</sup> Filkins, Dexter, "Bribes Corrode Afghan's Trust in Government," *New York Times*, January 2, 2009; Kevin Seiff, "Greasing the Wheels in Kabul," *Washington Post*, February 18, 2013.

## Administration Views and Policy on Corruption

There has been a consensus within the Obama Administration on the wide scope of the corruption in Afghan government and the deleterious effect the corruption has on government popularity and effectiveness. In 2010, the Administration debated the degree to which to press anti-corruption issues with the Afghan government. In 2011, the Administration reportedly decided to prioritize reducing low-level corruption instead of investigations of high-level Karzai allies.<sup>49</sup> High level investigations not only risked alienating Karzai, but were judged to potentially complicate efforts to obtain the cooperation of Afghans who can help stabilize areas of the country. Some of these Afghans are said to be paid by the CIA for information and other support, and the National Security Council reportedly issued guidance to U.S. agencies to review this issue.<sup>50</sup>

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

- *High Office of Oversight and Anti-Corruption.* In August 2008, after reported Bush Administration prodding, Afghanistan set up the “High Office of Oversight and Anti-Corruption” (commonly referred to as the High Office of Oversight, HOO). It was given the power to identify and refer corruption cases to state prosecutors, and to catalogue the overseas assets of Afghan officials. In March 2010 Karzai, as promised at the January 28, 2010, international meeting on Afghanistan in London, issued a decree giving the HOO power to investigate corruption cases rather than just refer them to other offices. The July 26, 2012, presidential administrative decree, discussed above, directed the HOO to, within six months, assess “private institutions’ and government officials’ suspicious wealth” and report those findings to the president’s office every two months. In early 2013, the HOO established an anti-corruption committee within each ministry to oversee implementation of anti-corruptions policies. USAID provided the HOO \$30 million total during FY2011-FY2013 to build capacity at the central and provincial level. USAID pays for salaries of six HOO senior staff and provides some information technology systems as well.
- *Assets Declarations and Verifications.* As of 2010, Afghan officials at many levels of government are required to declare their assets. The July 20, 2010, Kabul Conference communiqué<sup>51</sup> included an Afghan pledge to verify and

<sup>49</sup> Strobel, Warren and Marisa Taylor, “U.S. Won’t Pursue Karzai Allies in Anti-Corruption Campaign,” *McClatchy Newspapers*, January 6, 2011.

<sup>50</sup> Rajiv Chandrasekaran, “A Subtler Tack to Fight Afghan Corruption,” *Washington Post*, September 13, 2010.

<sup>51</sup> Communiqué text at <http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html>.

publish these declarations annually, beginning in 2010. A SIGAR report of April 30, 2012, said that the government's progress for verification of the declarations "fall[s] short of U.S. expectations." The July 3, 2013, senior officials meeting in Kabul acknowledged that "progress" had been made on the declaration and publication of assets, but that movement was minimal on verifying the declarations. A March 2014 U.N. report said that the HOO had registered the assets of nearly 3,000 government officials during the first three months of 2014 and completed asset verification for 33 of the highest ranking officials including the president, vice presidents, minister, and governors.

- *Independent Joint Anti-Corruption Monitoring and Evaluation Committee* (MEC) to evaluate the government's performance in combating corruption was mandated by the Kabul conference communiqué to be established within three months of the conference (by October 2010). The MEC, supported by UNDP, was inaugurated on May 11, 2011. It was enshrined in a presidential decree and is composed of three presidential nominees and three international nominees. It is headed by Slovenian diplomat Drago Kos, and issues reports every six months.
- *Major Crimes Task Force and Sensitive Investigations Unit*. Since 2008, several additional investigative bodies have been established under Ministry of Interior authority. The most prominent is the Major Crimes Task Force (MCTF) tasked with investigating public corruption, organized crime, and kidnapping. A headquarters for the MCTF was inaugurated on February 25, 2010, and it has been funded and mentored by the FBI, the DEA, the U.S. Marshal Service, Britain's Serious Crimes Organized Crime Agency, the Australian Federal Police, EUPOL (European police training unit in Afghanistan), and the U.S.-led training mission for Afghan forces. The MCTF has 169 investigators, according to U.S. officials.

A related body is the Sensitive Investigations Unit (SIU), run by several dozen Afghan police officers, vetted and trained by the DEA.<sup>52</sup> This body led the arrest in August 2010 of a Karzai NSC aide, Mohammad Zia Salehi, on charges of soliciting a bribe from the New Ansari Money Exchange in exchange for ending a money-laundering investigation of the firm. Karzai acknowledged on August 22, 2010, that he intervened to obtain Salehi's release. In November 2010, the Attorney General's office ended the prosecution.

- *Anti-Corruption Unit and Anti-Corruption Tribunal*. These investigative and prosecution bodies were established by decree in 2009. Eleven judges have been appointed to the tribunal, which is under the jurisdiction of the Supreme Court. It tries cases referred by an Anti-Corruption Unit of the Afghan Attorney General's office. However, of the approximately 2,000 cases investigated by the Anti-Corruption Unit, only 28 officials have been convicted to date. The Department of Justice suspended its training program for the Anti-Corruption Unit in early 2012 because of the unit's "lack of seriousness," according to the SIGAR report of April 30, 2012. One of the laws pledged during the July 20, 2010, Kabul conference would be enacted (by July 20, 2011) included one to legally empower

<sup>52</sup> Ron Nordland and Mark Mazzetti, "Graft Dispute in Afghanistan Is Test for U.S.," *New York Times*, August 24, 2010.

- the Anti-Corruption Tribunal and the Major Crimes Task Force. That has not been enacted by the National Assembly to date.
- *Prosecutions and Investigations of High-Level Officials.* The HOO head Ludin said in July 2013 that his office had sent 190 cases of alleged high level official corruption to the Attorney General’s office over the past two years, but had seen few indictments follow. The Attorney General’s office has investigated at least 20 senior officials, but with virtually no convictions. Those investigated—but not convicted—included Commerce Minister Amin Farhang (for allegedly submitting inflated invoices for reimbursement); former Minister of Mines Mohammad Ibrahim Adel (who reportedly accepted a \$30 million bribe to award a key mining project to a Chinese firm);<sup>53</sup> and former Minister of the Hajj Mohammad Siddiq Chakari (for allegedly accepting bribes to steer Hajj-related travel business to certain foreign tourist agencies). Chakari fled to Britain.
  - *EITI.* Relatedly, Afghanistan has signed up as a candidate to the Extractive Industries Transparency Initiative (EITI) which is intended to ensure that contracting for Afghanistan’s mineral resources is free of corruption. Afghanistan hopes to become fully EITI compliant by April 2012 and the July 3, 2013, senior officials meeting in Kabul commended Afghanistan’s progress toward EITI compliance. The World Bank gave Afghanistan a three-year grant of \$52 million to manage its natural resources effectively.
  - *Salary Levels.* The government has tried to raise salaries, particularly of security forces, in order to reduce their inclination to solicit bribes. In November 2009, the Afghan government announced an increase in police salaries (from \$180 per month to \$240 per month). During his term as Interior Minister, Bismillah Khan attempted to institute transparency and accountability in promotions and assignments. However, the results of these initiatives remain unclear.
  - *Bulk Cash Transfers Out of Afghanistan.* At the July 2010 Kabul conference, the government pledged to adopt regulations and implement within one year policies to govern the bulk transfers of cash outside the country. This was intended to grapple with issues raised by reports, discussed below, of officials taking large amounts of cash out of Afghanistan (an estimated \$4.5 billion taken out in 2011). U.S. officials say that large movements of cash are inevitable in Afghanistan because only about 5% of the population use banks and 90% use informal cash transfers (“hawala” system). The late Ambassador Holbrooke testified on July 28, 2010 (cited earlier), that the Afghan Central Bank has tried to control hawala transfers; 475 hawalas have been licensed, to date, whereas none were licensed as recently as 2009. In August 2010, Afghan and U.S. authorities began installing U.S.-made currency counters at Kabul airport to track how officials had obtained their cash (and ensure it did not come from donor aid funds).<sup>54</sup> On March 19, 2012, Central Bank Governor Noorullah Delawari said the Bank had imposed a \$20,000 per person limit on cash transfers out of the country. However, a report by the SIGAR issued December 11, 2012, found that the provided currency counters at Kabul airport were not being used, nor were procedures to ensure that

<sup>53</sup> Joshua Partlow, “Afghanistan Investigating 5 Current and Former Cabinet Members,” *Washington Post*, November 24, 2009.

<sup>54</sup> Greg Miller and Joshua Partlow, “Afghans, U.S. Aim to Plug Cash Drain,” *Washington Post*, August 21, 2010.

notable Afghan figures were not taking large amounts of cash out of Afghanistan being enforced. Other reports say that Afghans are taking significant amounts of gold out of Afghanistan, possibly to hedge against instability.

- *Customs Revenue Diversion.* As noted above, some governors of border provinces are siphoning off customs duties that are supposed to be remitted to the central government. In December 2012, a commission created by Karzai investigated the issue in 12 provinces and shut down some of these operations. One scheme shut down was a surtax levied illegitimately at the Torkham Gate (Khyber Pass) crossing by the provincial government of Ghul Agha Shirzai (see above on Shirzai above).
- *Auditing Capabilities.* In September 2013, the Afghan National Assembly gave official standing to a Supreme Audit Office, mandating it to undertake audits of government institutions. The parliamentary empowerment met an Afghan pledge, made at the 2010 Kabul conference, to enact an audit law to strengthen the independence of the auditing institutions. The Supreme Audit Office, in conjunction with the ministries of Justice and of Education, and citizen's groups, is implementing a U.N.-funded anti-corruption project called the "Afghanistan Integrity Initiative." The project is intended to strengthen the capacity of the government to reduce corruption.
- *Legal Review.* The Kabul conference communiqué committed the government to establish a legal review committee, within six months, to review Afghan laws for compliance with the U.N. Convention Against Corruption. Afghanistan ratified the convention in August 2008.
- *U.S. Defense Department Efforts.* In 2009, a key U.S. military official, General H.R. McMaster, formed several DOD task forces to focus on anti-corruption (*Shafafiyat*, Task Force Spotlight, and Task Force 2010) from a U.S. military/counter-insurgency perspective. These task forces, in part, reviewed U.S. contracting strategies to enhance Afghan capacity and reduce the potential for corruption. The Shafafiyat task force announced in February 2012 that it had caused the restitution of \$11.1 million, \$25.4 million in fines, and \$3.4 million in seizures from allegedly fraudulent contractors, and led to disbarment or suspension of more than 125 American, Afghan, and international workers for alleged fraud.<sup>55</sup> These task forces have wound down their work in conjunction with the U.S. military drawdown from Afghanistan.
- *Local Anti-Corruption Bodies.* Some Afghans have taken it upon themselves to oppose corruption at the local level. Volunteer local inspectors, sponsored originally by Integrity Watch Afghanistan, are reported to monitor and report on the quality of donor-funded, contractor implemented construction projects. However, these and other "watchdog" groups do not have an official mandate, and therefore their authority and ability to rectify inadequacies are limited.

<sup>55</sup> John Ryan, "Task Force Rooting Out Corruption in Afghanistan," *Army Times*, February 20, 2012.

## Kabul Bank Scandal

The near-collapse of Kabul Bank—the main banking institution that was used to pay Afghan civil servants and police—has been offered as a prime example of the adverse effects of corruption in Afghanistan. The bank nearly collapsed in August 2010 after it reported large losses, primarily from shareholder investments in Dubai properties, prompting a run on the bank and causing Karzai to appoint a Central Bank official to run it. Afghan investigators confirmed that its losses due to questionable loans totaled over \$925 million. President Karzai's elder brother Mahmoud reportedly received large loans from the bank to buy his 7% stake in it. Another big shareholder was Abdul Hussain Fahim, the brother of the late first vice president.

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

The IMF—as a condition of resuming its credit program—insisted the bank be sold. The Central Bank instead agreed to separate the bank's performing from nonperforming assets and then dissolve or restructure the bank.<sup>56</sup> That plan was adopted in April 2011.

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

The Afghan government, through its “Financial Dispute Resolution Commission,” continues to try to recoup the lost funds. Of the estimated \$925 million in losses, only about \$150 million in cash and \$215 million in property (mostly luxury villas in Dubai) and other assets<sup>57</sup> has been recovered. About \$300 million of the losses are judged unrecoverable because of a lack of documentation. The MEC, discussed above, said in its September 28, 2013, report that none of the \$121 million owed to the bank by the Afghan company Gas Group had been recovered. The Tokyo Mutual Accountability Framework required Afghanistan to continue asset recovery and to strengthen banking supervision through the Central Bank (Da Afghanistan Bank).

### *Attempting Accountability*

The political fallout also produced some resolution. On January 15, 2011, the office of Afghan Attorney General Ishaq Aloko announced an investigation into the near-collapse of the bank. The investigating commission briefed reporters on its findings on May 30, 2011, placing much of the

<sup>56</sup> Ernesto Londono, “Afghan Officials Opt to Dissolve Bank Draped in Scandal,” *Washington Post*, March 27, 2011.

<sup>57</sup> Joshua Partlow, “Afghan Bureaucrat Tasked With Recovering Millions in Bad Loans,” *Washington Post*, July 7, 2012. Afghanistan Plans to Sell Scandal-Scarred Kabul Bank in June, *Bloomberg.com*, April 11, 2012; [http://www.defense.gov/pubs/October\\_1230\\_Report\\_Master\\_Nov7.pdf](http://www.defense.gov/pubs/October_1230_Report_Master_Nov7.pdf).



blame on lax controls by the Central Bank and its governor, Abdul Qadir Fitrat. The government commission also largely absolved Mahmoud Karzai of any wrongdoing, and named other key figures, such as Dostam, as taking out \$100,000 in unsecured loans. The following day, Central Bank governor Fitrat disputed the commission's conclusions. Fitrat subsequently fled to the United States and resigned in June 2011.

In a step toward holding principals accountable, on June 30, 2011, the government announced the arrest of two former Kabul Bank executives, Sherkhan Farnood and Khalilullah Frouzi, who allegedly allowed the concessionary loans to the high-level Afghans and their relatives. However, by late 2011, the detentions of the two had been relaxed and they were frequently sighted at various public places in Kabul.<sup>58</sup> On August 1, 2011, the Attorney General's office sent the names of about 15 people allegedly responsible for the scandal to Afghan courts for trial. On April 3, 2012, Karzai ordered a special prosecutor appointed and a special tribunal created to try those involved. On June 2, 2012, 21 people were indicted by the special tribunal, including Farnood, Frouzi, Fitrat, nine other government officials, and nine other bank employees who were allegedly in positions to have known of the fraud. The trial of Farnood, Frouzi, and about 20 others allegedly involved began on November 10, 2012, under a three judge panel. All 21 defendants were found guilty, and Farnood and Frouzi received five-year sentences and financial penalties. The July 3, 2013, senior officials meeting in Kabul stated that "Participants [Afghanistan participated in the meeting] agreed that continued efforts were needed" to hold parties accountable in the Bank scandal.

### ***Conclusions and Fallout***

On November 27, 2012, the *New York Times* reported that the Central Bank's audit of Kabul Bank by Kroll Associates called Kabul Bank a virtual "Ponzi scheme" involving numerous deliberate efforts to deceive the bank's original auditors. Two days later, the Joint Evaluation and Monitoring Committee, discussed above, released an 87-page report detailing how Bank funds were smuggled out of the country surreptitiously and alleging high level Afghan government input in deciding whom to hold accountable.<sup>59</sup>

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

The IMF also has sought a timetable for another bank found by the Central Bank to be vulnerable to collapse, Azizi Bank, to shore up its finances. Another Afghan entity suspected of corruption is the New Ansari Money Exchange, a large money-trading operation. On February 18, 2011, the Treasury Department designated New Ansari, and persons affiliated with it, as major money laundering entities under the "Kingpin Act," banning U.S. transactions with the designees.

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<sup>58</sup> Matthew Rosenberg and Graham Bowley, "Intractable Afghan Graft Hampering U.S. Strategy," *New York Times*, March 8, 2012.

<sup>59</sup> Matthew Rosenberg, "Audit Says Kabul Bank Began as 'Ponzi Scheme,'" *New York Times*, November 17, 2012; Pamela Constable, "Report Cites Interference in Afghan Bank Probe," *Washington Post*, November 29, 2012.

On October 1, President Ghani ordered a review of the Kabul Bank scandal on the grounds that those responsible had not been held accountable.

### **Moves to Penalize Lack of Progress on Corruption**

Several of the required U.S. “metrics” of progress, cited above, involve Afghan progress against corruption. In part because of reports that as much as \$3 billion in funds had been allegedly embezzled by Afghan officials over the past several years,<sup>60</sup> an Administration certification of progress against corruption was included as a condition of providing aid to Afghanistan in the FY2011 continuing appropriations (P.L. 112-10). Aid conditionality based on Afghan performance against corruption, on incorporation of women in the reconciliation process, and on reports on progress on the Kabul Bank scandal was included in the FY2012 Consolidated Appropriation (P.L. 112-74). No U.S. funding for Afghanistan has been permanently withheld because of this or any other legislative certification requirement.

### **Promoting Human Rights and Civil Society<sup>61</sup>**

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

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

One of the institutional human rights developments since the fall of the Taliban has been the establishment of the Afghanistan Independent Human Rights Commission (AIHRC). It is headed by a woman, Sima Simar, a Hazara Shiite from Ghazni Province. It is an oversight body on human rights practices but its members are appointed by the government and some believe it is not independent. As an indication of government interference, in December 2011, Karzai dismissed its deputy chairman Ahmad Nader Nadery for alleging abuses by Karzai allies. Nadery later became head of another civil society watchdog organization, the Free and Fair Election Foundation of Afghanistan, which was highly critical of Karzai and his allies for the 2009 and 2010 election fraud served as a watchdog group for the 2014 elections. In recent years, most of the AIHRC budget of \$7.5 million has been provided by European donors, Canada, Australia, and the United Nations.<sup>62</sup>

In the course of the senior officials meeting in Kabul on July 3, 2013, donors criticized several of Karzai’s 2013 appointments to the AIHRC. Some of the five appointees were reportedly linked to Afghan faction leaders or had not demonstrated a commitment to upholding or enforcing

<sup>60</sup> Rosenberg, Matthew, “Corruption Suspected in Airlift of Billions in Cash From Kabul,” *Wall Street Journal*, June 28, 2010.

<sup>61</sup> Information in this section is primarily from Department of State. Human Rights Report for 2013: Afghanistan, February 27, 2014. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dld=220386#wrapper>.

<sup>62</sup> Rod Nordland, “Critics Question Karzai Choices for Human Rights Panel,” *New York Times*, July 2, 2013.

international standards of human rights.<sup>63</sup> On a visit to Afghanistan in September 2013, U.N. High Commissioner for Human Rights Navinathem Pillay failed to persuade Karzai to replace the controversial AIHRC appointees.

Since 2002, there has been a proliferation of Afghan organizations that demand transparency about human rights deficiencies. Prominent examples of Afghan NGO's that monitor and agitate for improved human rights practices include the Afghanistan Human Rights and Democracy Organization, and the Equality for Peace and Democracy organization.

It is in part the work of these groups that has produced responses by the government. Afghanistan's National Directorate of Security (intelligence directorate but with arrest powers), which has widely been accused of detainee abuse and torture, established in late 2011 a "human rights unit" to investigate abuse allegations and train NDS staff not to conduct such abuses. In 2012, the Human Rights Support Unit of the Ministry of Justice conducted 12 human rights training sessions for NDS and Afghan National Police officers. In June 2012, the Interior Ministry was tasked by the presidential office to report on prison conditions. On June 2, 2012, Karzai ordered disarmed a local security unit whose members were accused of raping an 18-year old woman in Konduz Province. On July 9, 2012, Afghan forces were sent to track down Taliban militants who had executed a woman for adultery in Parwan Province.

### **Religious Influence on Society: National Ulema Council**

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

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

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

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<sup>63</sup> Ron Nordland, "Donors Are Likely to Ask Karzai to Rethink Rights Panel Choices," *New York Times*, July 3, 2013.

As an illustration of Afghanistan's inherent Islamic conservatism, riots broke out in two successive years over what some Afghans perceived as U.S. disrespect of Islam. On April 2, 2011, hundreds of Afghans rioted in the normally quiet (and non-Pashtun) city of Mazar-e-Sharif to protest the burning of a Quran by a Florida pastor a few weeks earlier. The rioters stormed the U.N. compound in the city and killed at least 12 people, including 7 U.N. workers. A more serious eruption occurred in late February 2012 over the mistaken U.S. discarding of Qurans used by detainees at Bagram Airfield. Riots and protests occurred in several cities, including the normally peaceful and pro-U.S. north. The public reaction to the Quran burning was more intense than it was following the March 11, 2012, killing of 16 Afghans allegedly by a U.S. soldier, Robert Bales, who is in U.S. military custody. On September 17, 2012, several hundred Afghans rioted outside a U.S. training facility east of Kabul city to protest a video produced in the United States ("Innocence of Muslims") that mocks the Prophet Muhammad. Afghan police protected the facility from assault from the crowd.

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

## Religious Freedom

The International Religious Freedom report for 2013 did not alter U.S. assessments of religious freedom in Afghanistan from that in previous years' reports. The constitution and government do, to some extent, restrict religious freedom.<sup>64</sup> Members of minority religions, including Christians, Sikhs, Hindus, and Baha'i's, often face discrimination, but members of these communities sometimes serve at high levels. Karzai has had a Hindu as an economic advisor and one member of the Sikh community serves in the Meshrano Jirga. In September 2013, Karzai, by decree, created a special parliamentary seat allocation for a Sikh and a Hindu. There are four Isma'ilis in the National Assembly, elected without a quota. Baha'is fare worse than members of some of the other minorities because the Afghan Supreme Court declared the Baha'i faith to be a form of blasphemy in May 2007. There are no public Christian churches and four synagogues, although the synagogues are not used because there is only one Afghan national who is Jewish. There are three active *gurdwaras* (Sikh places of worship) and five Hindu *mandirs* (temples). Buddhist foreigners are free to worship in Hindu temples.

One major case that drew international criticism was a January 2008 death sentence, imposed in a quick trial, against young journalist Sayed Kambaksh for allegedly distributing material criticizing 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 in September 2009.

The Hazaras and other Afghan Shiites tend to be less religious and more socially open than their co-religionists in Iran. Afghan Shiite leaders appreciated the July 2009 enactment and "gazetting" of a "Shiite Personal Status Law" that gave Afghan Shiites the same degree of recognition as the Sunni majority, and provided a legal framework for Shiite family law issues. Afghan Shiites are able to celebrate their holidays openly and some have held high positions, but some Pashtuns

<sup>64</sup> <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2013&dld=222323#wrapper>.

have become resentful of the open celebrations and some clashes have resulted. The former Minister of Justice, Sarwar Danesh, was the first Hazara Shiite to hold that post. In June 2012, Karzai denounced a book published by the Afghanistan Academy of Science that portrayed Hazaras as un-Islamic. In November 2012, Pashtun students at four universities in Kabul attacked Hazara students who were trying to commemorate the Shiite day of mourning (Ashura), prompting the temporary closing of the universities. The clashes occurred even though Shiite public observance of the holy month of Muharram has progressively expanded.

Afghan Christians can worship in small congregations in private homes, but several conversion cases have earned international attention. An Afghan man, Abd al-Rahman, who had converted to Christianity 16 years ago while working for a Christian aid group in Pakistan, was imprisoned and faced a potential death penalty trial for apostasy—his refusal to convert back to Islam. Facing international pressure, Karzai prevailed on Kabul court authorities to release him (March 29, 2006). His release came the same day the House passed a bill (H.Res. 736) calling on protections for Afghan converts. In May 2010, the Afghan government suspended the operations of two Christian-affiliated international relief groups claiming the groups were attempting to promote Christianity among Afghans, an assertion denied by the groups (Church World Service and Norwegian Church Aid). In May 2010, amputee Said Musa was imprisoned for converting to Christianity from Islam, an offense under Afghan law that leaves it open for Afghan courts to apply a death sentence under Islamic law (Shariah). The arrest came days after the local Noorin TV station broadcast a show on Afghan Christians engaging in their rituals. Following diplomatic engagement by governments and human rights groups, Musa was released on February 24, 2011, and he obtained asylum in Italy.

## Media and Freedom of Expression/Social Freedoms

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

According to the State Department reports on human rights, there continue to be intimidation and sometimes violence against journalists who criticize the central government or powerful local leaders, and some news organizations and newspapers have occasionally been closed for incorrect or derogatory reporting on high officials. In October 2012, the Afghan government threatened to expel the staff of the International Crisis Group because of a report it issued that warned that Afghanistan might slide into civil war if the 2014 presidential elections are not free and fair. In August 2014, Karzai expelled *New York Times* journalist Matthew Rosenberg for reporting on alternative scenarios should the presidential election dispute not be resolved. About one week after taking office, President Ghani revoked Rosenberg's exclusion from the country.

USAID programs have trained investigative journalists to do more reporting on official corruption and other issues. The United States has provided funding and advice to an Afghan

Government Media Information Center that the Afghan government uses to communicate with the public. U.S. advisers ended their work there in December 2011.

Separately, Islamic conservatives on the Ulema Council and in the National Assembly, as well as prominent clerics such as Shiite Ayatollah Asif Mohseni, have sometimes asserted control over media content. This has been an attempt to curb the popularity of such networks as Tolo Television. With the Ulema Council's backing, in April 2008 the Ministry of Information and Culture banned five Indian-produced soap operas on Tolo on the grounds that they are too risqué, although the programs were restored in August 2008 under a compromise that brought in Islamic-oriented programs from Turkey. In June 2011, pressure from the Ulema Council caused Tolo to remove a soap opera called "Forbidden Love." Tolo has also aired programs about official corruption. In April 2013, Karzai reportedly agreed with a call by the Ulema Council to ban programs considered "vulgar, obscene, or un-Islamic."

Radio Free Europe/Radio Liberty's "Radio Azadi" service for Afghanistan has distributed 20,000 solar powered radios to poor (and usually illiterate) Afghans to improve their access to information. In general, the government does not restrict access to the Internet, but it does ban access to pornographic websites.

### **Harsh Punishments/Torture**

The State Department and UNAMA reports cite widespread examples of torture, rape, and other abuses by officials, security forces, detention center authorities, and police.<sup>65</sup> In September 2011, U.S. and partner transfers of prisoners to some Afghan facilities were suspended because of alleged torture by Afghan prison authorities. UNAMA visits Afghan-run detention facilities to monitor implementation of presidential decree No. 129 preventing torture and ill-treatment of detainees. UNAMA provided assistance for the redrafting of 173 prison-related operational directives. As of the end of 2013, 114 such revised directives were issued, although there continue to be concerns about new incidents of alleged torture and ill-treatment.

In 2007, Afghanistan resumed enforcing the death penalty after a four-year moratorium. It executed 15 criminals that year. In August 2010, the issue of stoning to death as a punishment arose when Taliban insurgents ordered a young couple who had eloped stoned to death in a Taliban-controlled area of Konduz Province. Although the punishment was not meted out by the government, it was reported that many residents of the couple's village supported the punishment.

On September 27, 2014, two days before leaving office, President Karzai signed an execution order for five men convicted of gang rape, ignoring calls to stay the execution because of concerns over whether they got a fair trial. President Ghani went forward with the execution on October 8, to the condemnation of the United Nations and some European officials. The Ministry of Women's Affairs applauded the execution as "a historic lesson to those who might resort to such crimes."

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<sup>65</sup> United Nations Assistance Mission in Afghanistan, "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," January 2013, at <http://unama.unmissions.org/LinkClick.aspx?fileticket=VsBL0S5b37o%3d&tabid=12254&language=en-US>.

## Human Trafficking

Afghanistan was placed in Tier 2 in the State Department Trafficking in Persons Report for 2014, issued in June 2014<sup>66</sup> That is an improvement from its “Tier 2: Watch List” rating of the four prior years. In 2013, Afghanistan was given a waiver for an automatic downgrade to Tier 3 (the downgrade is automatic after a country is “watch-listed” for three consecutive years). The waiver was based on the government’s writing of a plan that, if implemented, would qualify as a significant effort to comply with minimum standards for the elimination of trafficking. The Afghan government is assessed in the 2014 report as not complying with minimum standards for eliminating trafficking. However, in contrast to prior years, it is assessed as making significant efforts to comply.

The State Department report says that women from China, some countries in Africa, Iran, and some countries in Central Asia are being trafficked into Afghanistan for sexual exploitation, although, according to the report, trafficking within Afghanistan is more prevalent than trafficking across its borders. The report asserts that some families knowingly sell their children for forced prostitution, including for *bacha baazi*, a practice in which wealthy men use groups of young boys for social and sexual entertainment. The report added that some members of the Afghan National Security Forces have sexually abused boys as part of the *bacha baazi* practice. Other reports say that many women have resorted to prostitution, despite the risk of social and religious ostracism or punishment, to cope with economic hardship.<sup>67</sup>

## Advancement of Women

Women and women’s groups are a large component of the burgeoning of civil society in post-Taliban Afghanistan. Freedoms for women have greatly expanded since the fall of the Taliban with their elections to the parliament and their service at many levels of government. The Afghan government pursues a policy of promoting equality for women under its National Action Plan for Women of Afghanistan (NAPWA). The Tokyo Mutual Accountability Framework requires Afghanistan to implement the NAPWA and all of its past commitments and laws to strengthen the rights of women and provide services to them.

President Ghani has signaled his strong support for women’s rights by highlighting in his inaugural speech the support he has received from his wife, Rula Ghani. Some in the audience reportedly gasped at the reference, because Afghan culture considers it taboo to mention wives and female family members in public. Some Afghan conservatives have criticized Ghani because Mrs. Ghani was a Christian whom he met while studying at university in Beirut in the 1970s, and some Afghan clerics allege that there is no public record of her converting to Islam.<sup>68</sup>

The major institutional development since 2001 was the formation in 2002 of a Ministry of Women’s Affairs dedicated to improving women’s rights. Its primary function is to promote public awareness of relevant laws and regulations concerning women’s rights. It plays a key role in trying to protect women from domestic abuse by overseeing the running of as many as 29 women’s shelters across Afghanistan. Women’s rights groups in Afghanistan expressed outrage

<sup>66</sup> <http://www.state.gov/documents/organization/226845.pdf>.

<sup>67</sup> Azam Ahmed, “An Afghan City’s Economic Success Extends to Its Sex Trade,” *New York Times*, April 18, 2013.

<sup>68</sup> Declan Walsh and Rod Nordland. “Jolting Some, Afghan Leader Brings Wife into the Picture.” *New York Times*, October 15, 2014.

over a June 2012 statement by Afghanistan's justice minister that the shelters encourage "immorality and prostitution." The Afghanistan Freedom Support Act of 2002 (AFSA, P.L. 107-327) authorized \$15 million per year (FY2003-FY2006) for the Ministry of Women's Affairs. Those monies were donated to the Ministry from Economic Support Funds (ESF) accounts controlled by USAID. The United States has continued to fund the Ministry since AFSA expired, although with less than \$15 million per year.

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

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

Women are legally permitted to drive, and press reports say an increasing number of Afghan women, although mainly in Kabul and other main cities, are learning how to drive and exercising that privilege. The wearing of the full body covering called the *burqa* is no longer obligatory, and fewer women are wearing it than was the case a few years ago. In November 2010, the government opened a USAID-funded women-only park in Kabul called "Women's Garden" where women can go, without male escort, and undertake fitness and job training activities.

Some groups, such as Human Rights Watch, report backsliding on women's rights since 2008,<sup>69</sup> although the State Department human rights report for 2012 says that the situation of women in Afghanistan improved "marginally" during 2012. Numerous abuses, such as denial of educational and employment opportunities, continue primarily because of Afghanistan's conservative traditions. This is particularly prevalent in rural areas, and less so in larger urban areas. Along with the assertion of authority of conservative Islamic institutions, on March 2, 2012, the Ulema Council issued a pronouncement saying women should be forced to wear the veil and be forbidden from traveling without a male chaperone. The pronouncement did reiterate support for the rights of women to inherit and own property, and to choose their marital partners. On March 6, 2012, Karzai endorsed the Ulema Council statement.

Among the most widespread abuses reported:

- More than 70% of marriages in Afghanistan are forced, despite laws banning the practice, and a majority of brides are younger than the legal marriage age of 16.
- The practice of *baad*, in which women are given away to marry someone from another clan to settle a dispute, remains prevalent.

<sup>69</sup> "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](http://www.wluml.org/sites/wluml.org/files/hrw_report_2009.pdf).



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

In an effort to prevent these abuses, on August 6, 2009, Karzai issued, as a decree, the “Elimination of Violence Against Women” (EVAW) law that makes many of the practices above unlawful. Partly as a result of the decree, prosecutions of abuses against women are increasingly obtaining convictions. A “High Commission for the Elimination of Violence Against Women” has been established to oversee implementation of the EVAW, and provincial offices of the commission have been established in all but two provinces, according to the March 7, 2014, U.N. report. The Ministry of Women’s Affairs is working with local authorities in 11 provinces to improve implementation of the decree.

On the other hand, despite the EVAW decree, only a small percentage of reports of violence against women are registered with the judicial system, and about one-third of those proceed to trial.<sup>70</sup> The number of women jailed for “moral crimes” has increased by 50% since 2011. Efforts by the National Assembly to enact the EVAW in December 2010 and in May 2013 failed due to opposition from Islamic conservatives who do not want to limit the ability of male elders to decide family issues. On May 22, 2013, about 200 male Islamist students demonstrated in Kabul demanding repeal of the EVAW decree outright.

### ***Women in Key Positions***

Despite conservative attitudes, women have moved into prominent positions in all areas of Afghan governance, although with periodic setbacks. As noted above, three women were nominated to cabinet posts in January 2015. This is the same number of women that have served in ministerial posts since 2004. In March 2005, Karzai appointed a former minister of women’s affairs, Habiba Sohrabi, as governor of Bamiyan province, inhabited mostly by Hazaras.

One woman (Masooda Jalal) ran in the 2004 presidential election, and two ran for president in the August 20, 2009, election. In the latter, each received less than one-half of 1%. As noted above,

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<sup>70</sup> Alissa Rubin, “Slow Gains in Justice for Afghan Women,” *New York Times*, December 12, 2012, <http://unama.unmissions.org/LinkClick.aspx?fileticket=Qy9mDiEa5Rw%3d&tabid=12254&language=en-US>.

one woman filed to run for president in 2014, but her candidacy was disqualified by the IEC apparently for an insufficient number of nominating signatures. Three women, including Sohrabi, are vice presidential candidates in the April 2014 election.

In the National Assembly, the constitution reserves for women at least 17 of the 102 seats in the upper house and 68 of the 249 seats in the lower house of parliament. There were 69 women elected in the 2010 parliamentary elections, one more than the quota. (400 women ran for those seats—about 16% of all candidates.) The target ratio is ensured by reserving an average of two seats per province (34 provinces) for women—the top two female vote getters per province. (Kabul province reserves 9 female seats.) There are 28 women in the upper house, substantially more than the minimum number. However, some NGOs and other groups believe that the women elected by the quota system are not viewed as equally legitimate parliamentarians.

About 300 women were delegates to the 1,600-person “*peace jirga*” that was held during June 2-4, 2010, which endorsed an Afghan plan to reintegrate insurgents who want to end their fight. The High Peace Council to oversee the reconciliation process, which met for the first time on October 10, 2010, has 9 women out of 70 members, although these women report that their views are not taken into account to any significant extent in the Council. At U.S. and other country urging, a woman was part of the official Afghan delegation to the major international conference on Afghanistan in Bonn on December 5, 2011; she was selected at a meeting of civil society activists in Bonn, a day before the major conference began.

### ***U.S. and International Posture on Women’s Rights***

U.S. officials say that its policy is to promote women’s rights in Afghanistan rigorously. The Administration has and is following its “Strategy for Assistance to Women in Afghanistan, 2010-2013.”<sup>71</sup> U.S. officials said aid allocations are geared toward that strategy. Specific earmarks for use of U.S. funds for women’s and girls’ programs in Afghanistan are contained in recent annual appropriations, and these earmarks have grown steadily. The United States provided \$159 million to programs for Afghan women in FY2009, slightly more than the \$150 million earmarked, and about \$225 million for FY2010, more than the \$175 earmarked.<sup>72</sup> For FY2010, assistance for women was provided in the following “pillars” of the U.S. Strategy: health (\$87 million); education (\$31 million); economy, work, and poverty (\$54.6 million); legal protection and human rights (\$12 million); and leadership and political participation (\$43 million). Total U.S. funding for women’s programs for Afghanistan were similar for FY2011, FY2012, and FY2013. Among the funding streams has been U.S. Ambassador small grants to support gender equality (FY2009-FY2012), which was used to help finance over 830,000 microloans to women during 2004-2011 for the establishment of 175,000 small businesses, according to an SRAP report released November 2011. These strategy pillars, and specific programs funded by them, are discussed in annual State Department reports on U.S. aid to women and girls.

<sup>71</sup> A draft of this strategy document was provided to CRS by the State Department, April 21, 2011.

<sup>72</sup> For prior years, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman, in the section on aid to Afghanistan, year by year.

## Democracy, Human Rights, Governance, and Elections Funding Issues

U.S. funding for democracy, governance, and rule of law programs has grown, in line with the Obama Administration strategy for Afghanistan. During FY2002-FY2012, USAID spent about \$1.5 billion on democracy, governance, rule of law and human rights, and elections support. For FY2013, the ESF amounts provided for democracy and governance are \$578.2 million, including

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

For FY2014, the Administration has requested \$1.665 billion in ESF and \$475 in INCLE funding for Afghanistan—the broad accounts from which democracy, governance, and rule of law funding—as well as funding for a wide range of other functions—are drawn. For tables on U.S. aid to Afghanistan, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

## Effects of a Settlement with the Taliban

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

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

Table I. Major Pashtun Tribal Confederations

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

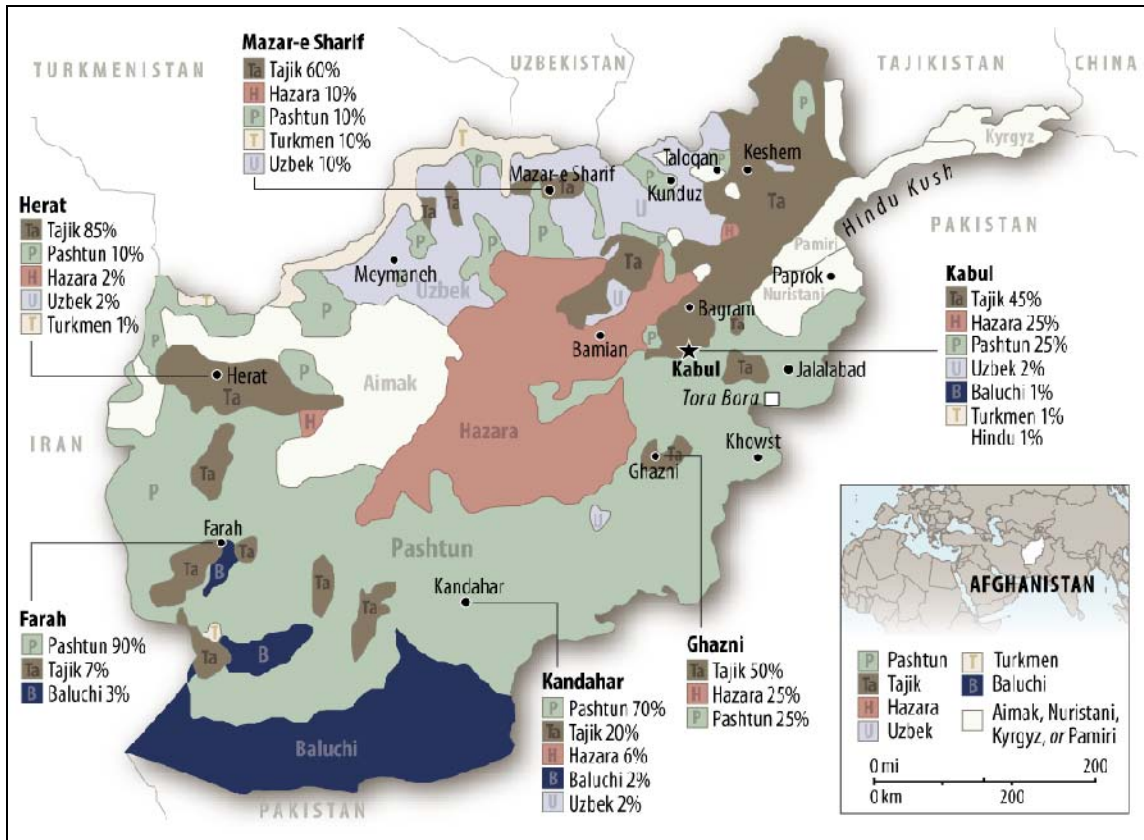
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<b>Clan/Tribal Confederations</b>	<b>Location</b>	<b>Example</b>
		Jawaki
		Adam khel
		Malikdin, etc
<b>Yusufzais</b>	Khursan, Swat, Kabul	
		Akozais
		Malizais
		Loezais
<b>Khattaks</b>	Kohat, Peshawar, Bangash	
		Akorai
		Terai
<b>Mohmands</b>	Near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

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**Source:** This table was prepared by Hussein Hassan, information research specialist, CRS.

Figure I. Map of Afghan Ethnicities



**Source:** 2003, National Geographic Society, <http://www.afghan-network.net/maps/Afghanistan-Map.pdf>. Adapted by Amber Wilhelm, graphics specialist, Publishing and Editorial Resources Section, CRS.

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

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