



# Afghanistan: Government Formation and Performance

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## Summary

The central government's limited writ and widespread official corruption are helping sustain a Taliban insurgency, and have fed pessimism about the Afghanistan stabilization effort. However, ethnic disputes remain confined largely to political debate and competition, enabling President Hamid Karzai to focus on working with U.S. and international donors on how to build Afghan institutions, and on his bid for re-election in presidential elections slated for August 20, 2009. Karzai faces substantial loss of public confidence, but his opponents—divided by ethnicity and personal ambition—were unable to form a strong electoral coalition as the presidential election registration process closed on May 8, 2009.

At the same time, over the past year U.S. officials have been shifting away from reliance on building the central government and toward promoting local governing bodies and security initiatives. That trend is to accelerate, according to the Obama Administration's review of U.S. strategy, the results of which were announced on March 27, 2009. The core of the new strategy is a so-called "civilian surge" that envisions over 430 additional U.S. civilian personnel to deploy to Afghanistan to help build its governing and security institution, and increase economic development efforts. The Administration also says it will develop "metrics" by which to judge the performance and legitimacy of the Afghan government, including its efforts to curb official corruption, although the Administration and many in Congress appear reluctant to tie any U.S. funds or other activities to Afghanistan's performance on such metrics. The review did not emphasize building democracy in Afghanistan, although that goal appears implicit within its recommendations.

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

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## Post-Taliban Political Transition and Political Landscape

In addition to supporting Afghanistan's holding of democratic elections and urging adherence to international standards of human rights, U.S. policy has been to extend the authority and also encourage the reform of Afghanistan's central government. The policy has been predicated on the observation that weak and corrupt governance is causing some Afghans to acquiesce to, or even support outright, Taliban insurgents as providers of security and impartial justice. The United States provides about 30,000 forces to a 62,000 troop NATO-led coalition there; another 10,000 U.S. troops continue the original post-September 11 counter-terrorism mission in Afghanistan. An additional 21,000 U.S. forces will go to Afghanistan during 2009, as announced in the context of the March 27, 2009 presentation of the Obama Administration strategy review on Afghanistan and Pakistan.

Although democracy promotion, per se, was not a major feature of the Obama Administration strategy review, Afghanistan has taken significant steps toward democracy since the fall of the Taliban in November 2001. Karzai's is the first fully elected government in Afghan history, although there were parliamentary elections during the reign of King Zahir Shah (the last were in 1969, before his reign was ended in a 1973 military coup). Presidential, parliamentary, and provincial elections, and 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. The political transition process is depicted in the table below.

However, elections have not produced harmony among Afghanistan's many communities. Since its formation in late 2001, Karzai's government has come to be progressively dominated by ethnic Pashtuns, who are about 42% of the population and traditionally have governed Afghanistan. A table on major Pashtun clans is provided below, as is a map showing the distribution of Afghanistan's various ethnicities.

Of the major security ministries and organizations, only the National Directorate for Security (NDS, the Intelligence directorate) is still headed by a non-Pashtun (Amrollah Saleh, a Tajik). Adhering to a tacit consensus, the other security ministries (Defense, Interior) tend to have non-Pashtuns in key deputy or subordinate positions. One prominent example is the defense ministry, in which the chief of staff is a Tajik (Bismillah Khan), who reports to a Pashtun Defense Minister (Abdul Rahim Wardak).

Some believe that assisting the transition to democracy are traditional Afghan patterns of authority and decisionmaking, which in many cases have democratic and representative elements. Some of these processes, such as the *loya jirga*, or traditional Afghan assembly consisting of about 1,000 delegates from all over Afghanistan, have been used in the post-Taliban period. Others note that, at the local level, *shuras*, or consultative councils composed of local notables, are key mechanisms for making authoritative local decisions. Often, Afghans turn to local *shuras* to adjudicate disputes rather than use the national court system.

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

## Karzai and His Opponents

It is the National Assembly (parliament)—particularly the 249 seat elected lower house (*Wolesi Jirga, House of the People*)—that is the key institution for the ethnic minorities to exert influence. To the chagrin of many Afghans who want to build a democratic Afghanistan governed by technocrats and newly emerging political figures, many seats in the lower house are held by personalities and factions prominent in Afghanistan’s recent wars, and many of these are non-Pashtuns who inhabit the north and the west, and Kabul city. The lower house is divided into three roughly equal coalitions—pro-Karzai deputies, ethnic minority and other some Pashtun “opposition” figures, and “independents” of varied ethnicities. The factions in the lower house are not strictly organized according to Afghanistan’s 90 registered political parties.

Karzai has not formed his own party, but his core support in the *Wolesi Jirga* consists of former members of the hardline conservative Pashtun-based Hizb-e-Islam party; and supporters of Abd-i-Rab Rasul Sayyaf — a prominent Islamic conservative *mujahedin* party leader.<sup>2</sup> Another base of Karzai’s support in parliament is the contingent from Qandahar (Karzai’s home province) and Helmand provinces, including several Karzai clan members. One clan member in the body is his cousin Jamil Karzai, and another is relative by marriage Aref Nurzai. Karzai’s elder brother, Qayyum, was in the lower house representing Qandahar until his October 2008 resignation due to health reasons, although Qayyum continues to represent his brother informally domestically and abroad, including at 2008 and 2009 meetings to explore negotiated settlements with “moderate” Taliban figures. Also pro-Karzai are former Pashtun militia and Taliban leaders, including Hazrat Ali (Nangarhar Province), who had gained fame for leading the Afghan component of the failed assault on Osama bin Laden’s purported redoubt at Tora Bora in December 2001; Pacha Khan Zadran (Paktia) who, by some accounts, helped Osama bin Laden escape Tora Bora; and Mullah Abdul Salam (“Mullah Rocketi”), from Zabol.

## The Opposition

The “opposition” is led by ethnic minorities (Tajik, Uzbek, and Hazara) who were in an alliance against Taliban rule that was called the “Northern Alliance.” Leaders of these groups, and particularly the Tajiks, view as a betrayal Karzai’s firing of many of the non-Pashtuns from the cabinet—such as former Foreign Minister Dr. Abdullah Abdullah (Tajik, dismissed in 2006). However, the bloc says its disputes with Karzai will remain political and peaceful. In April 2007, *Wolesi Jirga* Speaker Yunus Qanooni and former Afghan president Burhanuddin Rabbani (both, like Abdullah, are prominent ethnic Tajik Northern Alliance figures and former associates of the legendary *mujahedin* commander Ahmad Shah Masood) organized a broader (it includes some Pashtuns) opposition bloc called the “United Front” (UF). Joining the bloc were both of Karzai’s vice presidents, and some Pashtuns prominent in the Soviet-occupation era such as Sayed Muhammad Gulabzoi (Khost Province) and Nur ul-Haq Ulumi, who chairs parliament’s defense committee. The UF advocates amending the constitution to give more power to parliament and to empower the elected provincial councils (instead of the President) to select governors and mayors. Fearing Pashtun consolidation, the UF has been generally opposed to Karzai’s overtures to Taliban fighters to end their fight and join government—an initiative that is now backed by the Obama Administration as a means of combating the Taliban insurgency.

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<sup>2</sup> Sayyaf led the *Ittihad Islami* (Islamic Union) mujahedin party during the war against the Soviet occupation.

Even before the formation of the UF, the lower house opposition first showed its strength in March 2006, following the December 19, 2005 inauguration of parliament, by requiring Karzai's cabinet to be approved individually, rather than *en bloc*, increasing opposition leverage. However, Karzai rallied his support and all but 5 of the 25 nominees were confirmed. One of those defeated was a female nominee for Minister of Women's Affairs, leaving Afghanistan without any women ministers. (The post had been held by a female since it was established in 2002.) In May 2006, the opposition compelled Karzai to change the nine-member Supreme Court, the highest judicial body, including ousting 74-year-old Islamic conservative Fazl Hadi Shinwari as chief justice. Parliament approved his new Court choices in July 2006, all of whom are trained in modern jurisprudence.

In May 2007, the UF achieved a majority in parliament to oust Karzai ally Rangin Spanta as Foreign Minister. Karzai refused to replace him, instead seeking a Supreme Court ruling that Spanta should remain, on the grounds that his ouster was related to a refugee issue (Iran's expulsion of 100,000 Afghan refugees), not a foreign policy issue. The Court has, to date, supported Karzai, and Spanta remains Foreign Minister, although the UF continues to challenge his "legitimacy" in that role. However, the UF has fractured somewhat, in the context of the presidential election, as discussed below.

Karzai and the UF have often battled for the support of the many "independents" in the lower house. Among them are several outspoken women, intellectuals, and business leaders, such as the 39 year-old Malalai Joya (Farah Province), a leading critic of war-era faction leaders. In May 2007 the lower house voted to suspend her for this criticism for the duration of her term. She continues to legally challenge the expulsion but, to date, remains barred. Others in this camp include Ms. Fauzia Gailani (Herat Province); Ms. Shukria Barekzai, editor of *Woman Mirror* magazine; and Mr. Ramazan Bashardost, a former Karzai minister who champions parliamentary powers and has established a "complaints table" outside the parliament building to highlight and combat official corruption. U.S.-based International Republican Institute (IRI) has helped train the independents; the National Democratic Institute (NDI) has assisted the more established factions.

Karzai has relatively few critics in the 102 seat *Meshrano Jirga* (*House of Elders*), partly because of his bloc of 34 appointments (one-third of that body). He engineered the appointment of an ally as Speaker—Sibghatullah Mojadeddi—a noted Islamic scholar and former *mujahedin* party leader who headed the post-Communist *mujahedin* government for one month (May 1992).<sup>3</sup> He has since 2003 headed an effort to reconcile with Taliban figures (Peace and Reconciliation Commission, or "PTSD" program). Karzai also appointed Northern Alliance military leader Muhammad Fahim to the body, perhaps to compensate for his removal as Defense Minister, although he resigned after a few months and later joined the UF. There is one Hindu, and 23 women; 17 are Karzai appointees and 6 were selected in their own right.

The upper house tends 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. In late 2008, the body approved a resolution opposing a U.S.-Afghan plan to establish local security organs to help keep Taliban infiltrators out of Afghan communities. The plan, now termed the "Afghan Public Protection Force," is being tested in Wardak provinces south of Kabul (see below).

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<sup>3</sup> The mujahedin party he headed during the anti-Soviet war was the Afghan National Liberation Front.

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

## **Government Performance<sup>4</sup>**

U.S. policy has been to help expand Afghan institutions and to urge reforms such as merit-based performance criteria and weeding out of the rampant official corruption. Afghan ministries are growing their staffs and technological capabilities, although they still suffer from a low resource and skill base, and corruption is fed in part by the fact that government workers receive very low salaries. The anti-corruption and governmental performance aspect of U.S. policy is to be enhanced as a result of the Obama Administration’s strategy review, as announced March 27, 2009, which concluded that more needed to be done to promote the legitimacy and effectiveness of the Afghan government at both the Kabul and local levels. As a consequence of the review, the Administration plans to send up to a reported 430 U.S. civilian personnel—and many additional civilians from partner countries will join them—to advise Afghan ministries, and provincial and district administrations. The Administration also plans to develop metrics to assess progress in building Afghan governance; the proposed metrics are, according to Undersecretary of Defense Michelle Flournoy, to be briefed to Congress in May 2009. On the other hand, some in Congress have said they oppose firm conditionality of any U.S. aid to Afghanistan on Afghanistan’s performance on such metrics, or linkage to any timelines of progress in the U.S. stabilization effort.

### **Regional Strongmen**

The Obama Administration review did not specifically outline any new measures to sideline regional strongmen. Karzai has at times indulged and at other times move against regional strongmen, but he has been hesitant to confront them outright to the point where their followers go into armed rebellion. His choice of Muhammad Fahim, the military chief of the Northern Alliance/UF faction, as first Vice Presidential running mate in the August 2009 elections is likely to reignite concerns that Karzai continues to rely on faction leaders and refuses to modernize his governing approach. Karzai argues that these faction leaders have significant followings and that compromises with them is needed to keep the government intact as he focuses on fighting “unrepentant” Taliban insurgents.

In 2008, some observers cited Karzai’s handling of prominent Uzbek leader Abdurrashid Dostam as evidence of political weakness. Dostam is often referred to as a “warlord” because of his command of partisans in his redoubt in northern Afghanistan (Jowzjan and Balkh provinces), and he is widely accused of human rights abuses of political opponents in the north. To try to separate

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<sup>4</sup> Some information in this section is from the State Department reports on human rights in Afghanistan for 2007. March 11, 2008 <http://www.state.gov/g/drl/rls/hrrpt/2007/100611.htm>; the International Religious Freedom Report, released September 19, 2008. <http://www.state.gov/g/drl/irf/2007/90225.htm>; and Defense Department “Report on Progress Toward Security and Stability in Afghanistan.” June 2008.

him from his militia, in 2005 Karzai appointed him to the post of chief of staff of the armed forces. On February 4, 2008, Afghan police surrounded Dostam's villa in Kabul in response to reports that his followers attacked and beat an ethnic Turkmen rival, but Karzai did not order his arrest for fear of stirring unrest among Dostam's followers. To try to resolve the issue without stirring unrest, in early December 2008 Karzai purportedly reached an agreement with Dostam under which he resigned as chief of staff and went into exile in Turkey in exchange for the dropping any case against him.<sup>5</sup>

Karzai also has curbed prominent Tajik political leader, former Herat governor Ismail Khan, by appointing him Minister of Energy and Water. On the other hand, some say the province has now been infiltrated by Taliban—at least in Pashtun areas of the province and neighboring provinces—because the strong hand of Khan is no longer governing there. Others say that some strong governors, such as Ghul Agha Shirzai of Nangarhar, continue to siphon off customs duties at border crossings, undermining the revenue flow to the central government.

In February 2007, both houses passed a law giving amnesty to so-called “warlords.” Karzai altered the draft to give victims the right to seek justice for any abuses; Karzai did not sign a modified version in May 2007, leaving the status unclear.

## **Official Corruption**

During the Bush Administration, U.S. officials generally refrained from publicly criticizing Karzai when, in the interests of political harmony, he has purportedly tolerated corruption. However, President Obama and his senior aides, including the special representative for Afghanistan and Pakistan Ambassador Richard Holbrooke, have been somewhat more publicly critical of Karzai's shortcomings than were Bush Administration officials. The Obama Administration strategy review highlights the need to reduce official corruption and says that some of the Administration's forthcoming “metrics” will help determine performance toward that end.

Partly as a result of what many Afghans view as a “predatory” central government, some Afghans—and many international donors—are said to be losing faith in the government and in Karzai's leadership. Some observers, such as former Coordinator for Counter-Narcotics and Justice Reform Thomas Schweich, in a July 27, 2008 *New York Times* article, have gone so far as to assert that Karzai, to build political support, is deliberately tolerating officials in his government who are allegedly involved in the narcotics trade. The *New York Times* reported allegations (October 5, 2008) that another Karzai brother, Qandahar provincial council chief Ahmad Wali Karzai, has protected narcotics trafficking in the province. Another brother, Mahmoud Karzai, has apparently grown wealthy through real estate and auto sales ventures in Qandahar and Kabul, purportedly by fostering the impression he can influence his brother, President Karzai. Mahmoud Karzai held a press conference in Washington, D.C. on April 16, 2009 denying allegations of corruption against him.

Observers who follow the widespread corruption say that government positions and mundane functions such as government processing of drivers licenses are “for sale” or routinely require bribes in exchange for action.<sup>6</sup> Several high officials, despite very low official government

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<sup>5</sup> CRS e-mail conversation with National Security aide to President Karzai. December 2008.

<sup>6</sup> Filkins, Dexter. “Bribes Corrode Afghan's Trust in Government.” *New York Times*, January 2, 2009.

salaries, have acquired ornate properties in west Kabul since 2002. Other observers who have served in Afghanistan say that Karzai has appointed some provincial governors to “reward them” and that these appointments have gone on to “prey” economically on the populations of that province. Transparency International, a German organization that assesses governmental corruption worldwide, ranked Afghanistan in 2008 as 176<sup>th</sup> out of 180 countries ranked in terms of government corruption.

To try to address the criticism, in August 2008 Karzai, with reported U.S. prodding, set up the “High Office of Oversight for the Implementation of Anti-Corruption Strategy” with the power to investigate the police, courts, and the attorney general’s office, and to catalogue the overseas assets of Afghan officials. Karzai himself declared his assets on March 27, 2009. In October 2008, Karzai replaced the ministers of Interior, of Education, and of Agriculture with officials, particularly the new Interior Minister (former Soviet-era official Muhammad Hanif Atmar) believed to be dedicated to reform of their ministries and weeding out of official corruption. However, Atmar’s appointment incurred further U.S. concern because Atmar, a Pashtun, replaced a Tajik (Zarrar Moqbel) in that post. Some press reports in March 2009 suggested that the United States and Britain were urging Karzai to appoint Atmar as a “chief of staff” or similar position to be able to monitor government corruption at high levels. In his public appearances during his visit to the United States in May 2009, Karzai repeatedly stressed what he said were efforts by him and his government to remove corrupt officials and combat official corruption.

Some of Karzai’s anti-corruption steps have been recommended in studies within the State Department, the Afghan government, and the U.N. Office of Drugs and Crime which is responsible for assisting Afghanistan on counter-narcotics. The Afghan government committed itself to anti-corruption efforts in the so-called “Afghanistan Compact” adopted at an international meeting in London on February 1, 2006, and it ratified the U.N. Convention Against Corruption in August 2008.

## **Increasing Focus on Local Solutions and Governance**

In part to address the flaws of the Afghan central government, U.S. policy shifted somewhat in 2008 toward promoting local security and governance solutions. The Afghan government asserts that it itself is promoting local governance as the next stage in Afghanistan’s political and economic development. A key indicator of this Afghan shift came in August 2007 when Karzai placed the selection process for local leaders (provincial governors and down) in a new Independent Directorate for Local Governance (IDLG)—and out of the Interior Ministry. The IDLG, with advice from India and other donors, is also in the process of empowering localities (Afghanistan has 22,000 villages) to decide on development priorities. About 30,000 total positions in Afghanistan are to be elected, under the local governance programs advanced by the IDLG. These are mostly community development councils that are helping to decide on development priorities for international donors. The IDLG does not envision that the local leaders being elected will conflict with any district leaderships elected when Afghanistan finally does hold (still delayed) district elections.

### **Provincial Governors**

Many believe that the key to effective local governance is the appointment of competent governors. In March 2008 Karzai replaced the weak and ineffective governor of Helmand - Asadullah Wafa - with Gulab Mangal, who is from Laghman Province and who the U.N. Office

of Drugs and Crime (UNODC) said in an August 2008 report is taking relatively effective action to convince farmers not to grow crops other than poppy. A subsequent UNODC report in February 2009 said his efforts are likely to result in a reduction of cultivation in Helmand in 2009. However, there are reports Karzai wants to replace him with the former governor, Sher Mohammad Akhundzadeh, who is accused of human rights abuses when he was governor during 2002-2005 but who remains powerful in the province. The UNODC report said that improving governance in some provinces had contributed to the increase to 18 “poppy free” provinces (out of 34), from 13 in the same report in 2007. Ghul Agha Shirzai has been effective in curbing cultivation in Nangarhar, although Shirzai reportedly has also not remitted all the customs duties collected at the Khyber Pass/Torkham crossing to the central government. Another four provinces might move into that category in 2009, according to UNODC.

Governing Qandahar is a sensitive issue in Kabul because of Karzai’s active interest in his home province. The governor of Qandahar was changed (to former General Rahmatullah Raufi, replacing Asadullah Khalid) after an August 7, 2008 Taliban assault on the Qandahar prison that led to the freeing of several hundred Taliban fighters incarcerated there. Karzai changed that governorship again in December 2008, naming Canadian-Afghan academic Tooryalai Wesa as governor, perhaps hoping that his ties to Canada would assuage Canadian reticence to continuing its mission in Qandahar beyond 2011.

### **Local Security Programs**

The IDLG is also the chief implementer of the “Social Outreach Program” which provides financial support (about \$125 – 200 per month) and other benefits to tribal and local leaders in exchange for their cooperation with U.S./NATO led forces against the Taliban insurgency. The civilian aspects of the program are funded partly by USAID.

A more widely debated security aspect of the program is the Afghan Public Protection Force, referred to above. Afghan officials say it is not a resurrection of the traditional tribal militias (“*arbokai*”) that provided local security—and often clashed with each other—before and during Afghanistan’s recent wars, but that the local forces formed under the program are under the authority of the Interior Ministry. U.S. commanders say U.S. weapons will not be provided to the militias, only training, but some weapons may come from the Afghan government. The security components of the program are partially funded with DoD funds (the Commanders Emergency Response Program or CERP). The program has begun in Wardak province, although reportedly with halting cooperation from some tribal leaders in furnishing recruits for the program, and will also be implemented in Kapisa, Ghazni, and Lowgar in early 2009. Special Representative for Afghanistan and Pakistan Richard Holbrooke told observers in Washington D.C. in April 2009 that the “jury is still out” on the pilot program.

Some see the shift toward new local militias as a reversal of the 2001-2007 programs to disarm militias nationwide. The upper house of parliament passed a resolution in November 2008 opposing the formation of local militias. In March 2009 press interviews, Karzai indicated that the program might not be effective in increasing local security.

### **Overall Human Rights Issues**

The Obama Administration review did not specifically delineate a U.S. policy on Afghanistan’s human rights practices, although this issue could be deemed addressed implicitly by the

Administration's statement that policy is intended to make the Afghan government more "accountable." On human rights issues, the overall State Department judgment is that the country's human rights record remains poor, according to the Department's report for 2008 (issued February 25, 2009). The security forces are widely cited for abuses and corruption, including torture and abuse of detainees.

There has been some backsliding in recent years on media freedoms, which was hailed during 2002-2008 as a major benefit of the U.S. effort in Afghanistan. A press law was passed in September 2008 that gives some independence to the official media outlet, but also contains a number of content restrictions, and requires that new newspapers and electronic media be licensed by the government. Prior to the new law, Afghanistan's conservative Council of Ulema (Islamic scholars) has been ascendant. With the Council's backing, in April 2008 the Ministry of Information and Culture banned five Indian-produced soap operas on the grounds that they are too risqué, although the programs were restored in August 2008 under a compromise that also brought in some Islamic-oriented programs from Turkey. At the same time, there have been a growing numbers of arrests or intimidation of journalists who criticize the central government or local leaders. On the other hand, freedoms for women have greatly expanded since the fall of the Taliban with their elections to the parliament (numbers in the table below), their service at many levels of government, including a governorship (Bamiyan Province), and their growing presence in the judiciary (67 female judges), the press, and the private sector. Wearing the *burqa* (head-toe covering) is no longer required but many women still wear it.

The September 2008 International Religious Freedom report says the Afghan government took limited steps during the year to increase religious freedom. Still, members of minority religions, including Christians, Sikhs, Hindus, and Baha'i's, often face discrimination; the Supreme Court declared the Baha'i faith to be a form of blasphemy in May 2007. In October 2007, Afghanistan resumed enforcing the death penalty after a four-year moratorium, executing 15 criminals. One major case incurring international criticism has been the January 2008 death sentence, imposed in a quick trial, against 23-year-old journalist Sayed Kambaksh for allegedly distributing material critical of Islam. On October 21, 2008, a Kabul appeals court changed his sentence to 20 years in prison; a judgment upheld by another court in March 2009. He still might receive a Karzai pardon.

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

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

long and highly detailed, had been inadequate, and Karzai reiterated during his U.S. visit in May 2009 that the controversial provisions would be removed. Revised legislation will have to again go through the full legislative process.

Afghanistan was again placed in Tier 2 in the State Department's June 4, 2008, Trafficking in Persons report for 2008 on the grounds that it does not fully comply with minimum standards for the elimination of trafficking in persons. However, the report says it is making significant efforts to do so, including by establishing anti-trafficking offices in the offices of the Attorney General in all 34 provinces.

## **Funding Issues**

USAID has spent about \$440 million (FY2002-2008) to build democracy in Afghanistan, and an additional \$68 million to promote "rule of law," and to assist Afghanistan's elections. FY2009 total aid for this category is not yet determined; about \$900 million in democracy and governance aid is to be provided in FY2009, including through a FY2009 supplemental request now under congressional consideration.

Some FY2009 aid is being extended to the IDLG for its operations and to support the Social Outreach Program discussed above. In FY 2009, according to a September 25, 2008 State Department fact sheet, USAID is providing \$8.5 million to support the IDLG and to fund the Social Outreach Program and a separate "Governor's Performance Fund" intended to promote good governance. Another \$95 million is going to the IDLG to help it construct new district centers and rehabilitate fifty provincial and district offices. For comprehensive tables on U.S. aid to Afghanistan, by fiscal year and by category and type of aid, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman.

## **2009 Elections**

The next major political milestone in Afghanistan is the 2009 presidential and provincial elections, although the provincial elections component has been receiving little attention in international media. On February 3, 2009, Afghanistan's Independent Election Commission (IEC) set August 20, 2009 as the election date—a change from a date mandated by one section of the Constitution (Article 61) as taking place by April 21, 2009, in order to allow at least 30 days before Karzai's term expires on May 22, 2009. The IEC decision on the latter date cited another article of the Constitution (Article 33) mandating universal accessibility to the voting—and saying that the April 21 date was precluded by difficulties in registering voters, printing ballots, training staff, making the public aware of the elections, and the dependence on international donations to fund the elections, in addition to the security questions.<sup>7</sup> This decision caused the UF bloc to say it would not "recognize" Karzai's presidency after May 22.

In response to the UF criticism that he seeks to prolong his term and use his incumbency to his advantage, Karzai said in late February 2009 that he would run for re-election no matter when the IEC sets the election—even if the body moved the election to the April 21, 2009 date. To

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<sup>7</sup> Statement of the Independent Election Commission Secretariat. February 3, 2009, provided to CRS by a Karzai national security aide.

reinforce that assertion, on February 28, 2009, Karzai issued a presidential decree directing the IEC to set the elections in accordance with all provisions of the constitution. However, observers say Karzai's decree was largely political because it is widely recognized that Afghan authorities would not be ready to hold elections by the April 21 date. The IEC reaffirmed on March 4, 2009 that the election must be held on August 20, 2009.

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

Despite the political dispute between Karzai and his opponents, enthusiasm among the public appears to be high, and pre-election maneuvering is advancing, according to observers. Registration (updating of 2005 voter rolls) began in October 2008 and was completed by beginning of March 2009, even in the most restive areas. However, there were also reports of some registration fraud, with some voters registering on behalf of women who do not, by custom, show up at registration sites. U.S./NATO military operations in some areas, including in Helmand in January 2009, were conducted to secure registration centers, although some reports say that Taliban militants decided not to try to obstruct registration.

The elections are expected to cost about \$200 million; on March 31, 2009, at a U.N.-led conference in the Netherlands, the United States committed \$40 million of that amount. U.S. allies are likely to close the \$50 million funding gap that remains, based on pledges made at an April 3-4, 2009 NATO summit.

## **Outlines of the Contest**

Politically, Karzai has benefitted from the August 2009 date because it gives him more time to restore his popularity and gives more time for the infusion of U.S. troops (about 21,000 additional due by August 2009, plus about 3,000 partner combat troop contributions) to secure the Pashtun areas which will be the source of many Karzai votes. The UF sensed vulnerability on the part of Karzai and the April 2009 date appeared to suit that faction politically. However, as 2009 has progressed, the opposition had largely changed its position on the election date because April was too early to field a candidate that might defeat Karzai. With the August date set, candidates registered their candidacies during April 24 - May 8, 2009.

In the election-related political jockeying,<sup>8</sup> Karzai obtained an initial agreement from Muhammad Fahim, formerly his antagonist and a UF member, to run as one of his Vice Presidents. He, Fahim, and incumbent second vice president Karim Khalili registered their ticket on May 4, 2009, just before Karzai left to visit the United States for the latest round of three way strategic talks (U.S.-Pakistan-Afghanistan). The Fahim choice was criticized by human rights and other groups because of Fahim's long identity as a mujahedin commander/militia faction leader, but the selection, and Fahim's acceptance, was viewed as a major political coup for Karzai by splitting the UF bloc. Karzai is now viewed as the clear favorite for re-election.

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<sup>8</sup> Some of the information in this section obtained in CRS interviews with a Karzai national security aide. December 2008.

The conventional wisdom among observers is that the two-round election virtually assures victory by an ethnic Pashtun. Anti-Karzai Pashtuns attempted, unsuccessfully, to coalesce around one challenger. Observers in Kabul said that these leaders, such as former Interior Minister Ali Jalali (who resigned in 2005 over Karzai's compromises with faction leaders), and former Finance Minister (2002-2004) and Karzai critic Ashraf Ghani, tried to forge a single ticket, but did not reach agreement. In the end, Ghani registered his candidacy, but without Jalali or strong representation from other ethnicities in his vice presidential slots. He has appeared frequently in U.S. media broadcasts saying Karzai has failed to establish legitimate and successful governance, but he has spent much time in the United States and Europe and might lose support among some average Afghans who might view him as a global technocrat who is not necessarily in touch with day to day problems in Afghanistan. Ghani may show strength in the east of Afghanistan, the seat of his Ahmedzai clan, but is unlikely to draw substantial support in the south, the base of Pashtun support for Karzai. Another strong Pashtun candidate, who did register, is the 48-year-old deputy speaker of the lower house of parliament Mirwais Yasini, but also without well known non-Pashtun running mates.

Other Pashtun contenders Ghul Agha Shirzai, a member of the powerful Barakzai clan, and Anwar al-Haq Ahady, the former Finance Minister and Central Bank governor, did not run. Shirzai reportedly reached an arrangement with Karzai the week of the registration period that headed off his candidacy. Nor did Bush Administration U.S. Ambassador to U.N., Afghan-born Zalmay Khalilzad himself run; he organized a conference of Karzai opponents in Dubai in early March 2009 and was, up until the last minute, said to be trying to build support for a candidacy or to unify anti-Karzai factions.

As noted above, neither was the UF was not successful in forging a united front to challenge Karzai. Burhanuddin Rabbani (Afghanistan president during 1992-1996), the elder statesman of the UF bloc, reportedly insisted that an ethnic Tajik (the ethnic core of the UF) head the UF ticket. Observers in Kabul say the UF had always leaned toward former Foreign Minister Dr. Abdullah Abdullah to its slate, but there were others purportedly challenging Abdullah for the UF mantle. These included Ahmad Zia Massoud (currently one of Karzai's Vice Presidents), who is the brother of Ahmad Shah Masoud (see above), who was killed purportedly by Al Qaeda two days before the September 11 attacks on the United States. Fahim, as noted above, made a deal with Karzai to join his ticket, thus fracturing the UF's unity. Dr. Abdullah did register to run, but his running mates are Dr. Cheragh Ali Cheragh, a Hazara who did poorly in the 2004 election, and a little known Pashtun, Homayoun Wasefi. Wasefi is not likely to pull many Pashtun votes from Karzai or Ghani's slates.

As noted above, Karzai's popularity has been undermined by perceptions of ineffectiveness and corruption. Karzai has in some measure used some U.S. policy setbacks to bolster his electoral prospects. He has railed against civilian casualties resulting from U.S./NATO operations. Following an August 21, 2008, airstrike that some Afghans said killed 90 civilians (the incident is in dispute) near Herat city, the Afghan cabinet called for bringing foreign forces under Afghan law, replacing an 2001 interim "status of forces agreement" with the coalition. Afghanistan and the United States conducted a joint investigation of the incident. Another major incident occurred in Farah Province in early May 2009, on the eve of Karzai's visit to the United States.

Some observers say that Karzai's main potential opponents are basing their election strategy on creating the impression that the Obama Administration prefers that Karzai not be re-elected. It is not certain that, even if this impression took hold, that Afghan voters would cast their ballots on this basis.

Other significant candidates, of the 45 slates that registered by the May 8 deadline are shown in the box below.

### **Other Candidates**

Abd al-Salam Rocketi ("Mullah Rocketi") - A Pashtun, reconciled Taliban figure, member of the lower house of parliament. May do unexpectedly well if Taliban sympathizers participate, but some believe he might drop out later and endorse Karzai.

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

Abd al Jabbar Sabit - A Pashtun, was fired by Karzai in 2007 for considering run against Karzai in the election.

Shahnawaz Tanai - A Pashtun. Served as Defense Minister in the Communist government of Najibullah (which was left in place after the Soviets withdrew in 1989) but led failed coup against Najibullah in April 1990.

Abd al-Rashid Dostam - Most prominent Uzbek leader. Ran against Karzai in 2004. Was sought by other candidates for their endorsement; not clear who he will back. Has been in exile in Turkey since December 2008 over a case in which he beat up a Turkmen figure at his villa in Kabul.

Ramazhan Bashardost. A Hazara, mentioned above, running on platform of anti-corruption and improving government services.

### **Conclusion**

Some believe that U.S. policy requires a new Afghan president untainted by corruption among associates. Others believe that Karzai's opponents might not necessarily perform better if they are elected, and would similarly favor their clansmen and other inner circle members. Still, U.S. policy is said to increasingly be accommodating the likelihood of a Karzai re-election, in large part because of the apparent disarray among his opponents.

Ambassador Holbrooke has said repeatedly in interviews that the United States favors no candidate in the election. Ambassador Tim Carney will oversee U.S. activities to support the election from U.S. Embassy Kabul, ensuring that the United States does not provide Karzai with specific advantages.

A major fear among experts is that the election will be marred by violence, or by real or perceived fraud. Some believe that if many candidates enter the race, there will be small percentages separating each candidate, magnifying the effect of any fraud. If the election is derailed by unending fraud charges or the grave security situation, it is possible that Afghan leaders could convene a *loya jirga* to select a president. Some believe that this process could lead to the emergence of a Karzai opponent if the Obama Administration exerts influence on behalf of a challenger. Others say any U.S. interference in any Afghan process could produce a backlash against the United States.

**Table I. Afghanistan Political Transition Process**

Interim Administration	Formed by Bonn Agreement. Headed by Hamid Karzai, an ethnic Pashtun, but key security positions dominated by mostly minority "Northern Alliance." Karzai reaffirmed as leader by June 2002 "emergency loya jirga." (A jirga is a traditional Afghan assembly).
Constitution	Approved by January 2004 "Constitutional Loya Jirga" (CLJ). Set up strong presidency, a rebuke to Northern Alliance that wanted prime ministership to balance presidential power, but gave parliament significant powers to compensate. Gives men and women equal rights under the law, allows for political parties as long as they are not "un-Islamic"; allows for court rulings according to Hanafi (Sunni) Islam (Chapter 7, Article 15). Set out electoral roadmap for simultaneous (if possible) presidential, provincial, and district elections by June 2004. Named ex-King Zahir Shah to non-hereditary position of "Father of the Nation;" he died July 23, 2007.
Presidential Election	Elections for President and two vice presidents, for 5-year term, held Oct. 9, 2004. Turnout was 80% of 10.5 million registered. Karzai and running mates (Ahmad Zia Masud, a Tajik and brother of legendary mujahedin commander Ahmad Shah Masud, who was assassinated by Al Qaeda two days before the Sept. 11 attacks, and Karim Khalili, a Hazara) elected with 55% against 16 opponents. Second highest vote getter, Northern Alliance figure (and Education Minister) Yunus Qanooni (16%). One female ran, got about 1%. Hazara leader Mohammad Mohaqiq got 11.7%; and Dostam won 10%. Funded with \$90 million in international aid, including \$40 million from U.S. (FY2004 supplemental, P.L. 108-106).
Parliamentary Elections	Elections held Sept. 18, 2005 on Single Non-Transferable Vote" System; candidates stood as individuals, not part of party list. Parliament consists of a 249 elected lower house (Wolesi Jirga, House of the People) and a selected 102 seat upper house (Meshrano Jirga, House of Elders). Voting was for one candidate only, although number of representatives varied by province, ranging from 2 (Panjshir Province) to 33 (Kabul Province). Herat has 17; Nangahar, 14; Qandahar, Balkh, and Ghazni, 11 seats each. The body is 28% female (68 persons), in line with the legal minimum of 68 women - two per each of the 34 provinces. Upper house appointed by Karzai (34 seats, half of which are to be women), by the provincial councils (34 seats), and district councils (remaining 34 seats). There are 23 women in it, above the 17 required by the constitution. Because district elections (400 district councils) were not held, provincial councils selected 68 on interim basis. 2,815 candidates for Wolesi Jirga, including 347 women. Turnout was 57% (6.8 million voters) of 12.5 million registered. Funded by \$160 million in international aid, including \$45 million from U.S. (FY2005 supplemental appropriation, P.L. 109-13).
Provincial Elections/ District Elections	Provincial elections held Sept. 18, 2005, simultaneous with parliamentary elections. Exact powers vague, but now taking lead in deciding local reconstruction Provincial council sizes range from 9 to the 29 seats on the Kabul provincial council. Total seats are 420, of which 121 held by women. 13,185 candidates, including 279 women. Some criticize the provincial election system as disproportionately weighted toward large districts within each province. District elections not held due to complexity and potential tensions of drawing district boundaries.
Cabinet	Full-term 27 seat cabinet named by Karzai in December 2004. Heavily weighted toward Pashtuns, and created new Ministry of Counter-Narcotics. Rahim Wardak named Defense Minister, replacing Northern Alliance military leader Mohammad Fahim. Qanooni not in cabinet, subsequently was selected <i>Wolesi Jirga</i> Speaker. Northern Alliance figure Dr. Abdullah replaced as Foreign Minister in March 2006. Cabinet reshuffle in October 2008 including appointment of Muhammad Hanif Atmar as Interior Minister.
Next Elections	Presidential and provincial elections to be held Aug. 20, 2009. Parliamentary, district, and municipal elections to follow in 2010. Each election to cost \$200 million.

**Table 2. Major Pashtun Tribal Confederations**

<b>Clan/Tribal Confederations</b>	<b>Location</b>	<b>Example</b>
<b>Durrani</b>	Qandahar	
Popalzai	Qandahar	Hamid Karzai, President of Afghanistan; Jelani Popal, head of the Independent Directorate of Local Governance
Alikozai	Qandahar	N/A
Barakzai	Qandahar, Helmand	Ghul Agha Shirzai (Governor, Nangarhar Province)
Achakzai	Qandahar, Helmand	
Noorzai	Qandahar	Noorzai brothers, briefly in charge of Qandahar after the fall of the Taliban in November 2001
<b>Ghilzai</b>	Paktia, Paktika and Khost	Mullah Omar
Ahmadzai	Paktia, Paktika, Khost	Mohammed Najibullah (pres. 1986-1992) Ashraf Ghani, Finance Minister 2002-2004
Taraki		Nur Mohammed Taraki (leader 1978-1979)
Kharoti		Hafizullah Amin (leader, September - December 1979)
<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		
Jawaki		
Adam khel		
Malikdin, etc		
<b>Yusufzais</b>	Khursan, Swat, Kabul	

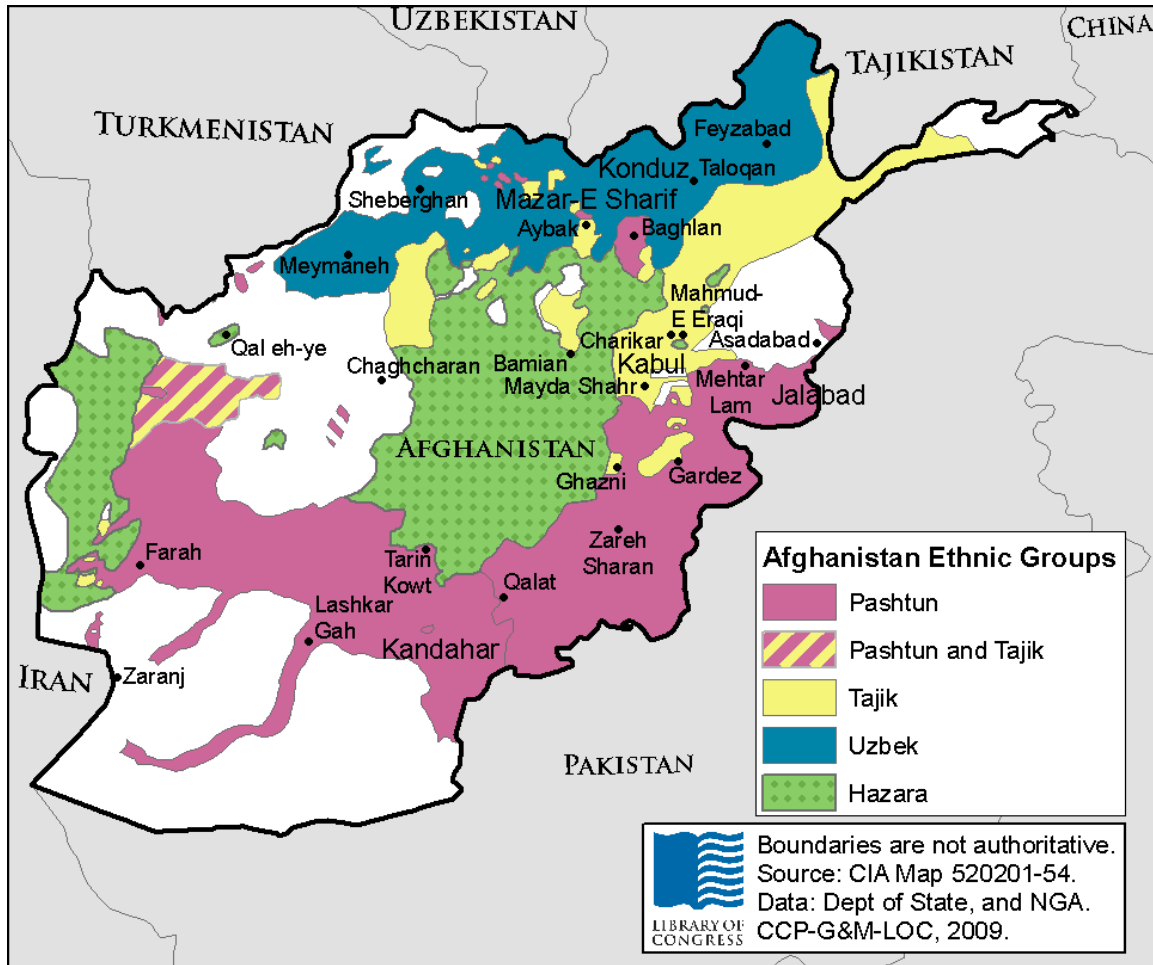
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<b>Clan/Tribal Confederations</b>	<b>Location</b>	<b>Example</b>
Akozais		
Malizais		
Loezais		
<b>Khattaks</b>	Kohat, Peshawar, Bangash	
Akorai		
Terai		
<b>Mohmands</b>	Near Khazan, Peshawar	
Baizai		
Alimzai		
Uthmanzais		
Khawazais		
<b>Wazirs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

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**Source:** This table was prepared by Hussein Hassan, Information, Research Specialist, CRS. Louis Dupree, and Abdul Rahman Pazhwak, Edited by: Shah Muhammad Rais, Pashtunistan, 2003. S. Iftikhar Hussain, Some Major Pukhtoon Tribes Along The Pak-Afghan Border, Area Studies Center, University of Peshawar, Pakistan, 2000. Brigadier Haroon Rashid, The History of the Pathans, Vol I: The Sarbani Pathans, Islamabad, Pakistan, 2002. N/A indicates no example is available.

Figure 1. Afghanistan Ethnic Groups



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