Summary

Since 2001, Afghanistan has adopted a permanent constitution and elected a president and a parliament; that body is emerging as a significant force in Afghan politics and factions within it pose a growing challenge to President Hamid Karzai. The Afghan government’s inability to extend its authority throughout the country, and widespread corruption, has contributed to an upsurge of Taliban insurgent violence. See CRS Report RL30588, Afghanistan: Post-War Governance, Security, and U.S. Policy, by Kenneth Katzman.

Post-Conflict Political Transition

For the first time, Afghanistan has a fully elected government, although there were parliamentary elections during the reign of King Zahir Shah (the last were in 1969). 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, after the Taliban had fled Kabul (“Bonn Agreement”).¹ That agreement formed an interim administration led by Hamid Karzai, an ethnic Pashtun. The constitution was approved at a “constitutional loya jirga” (traditional Afghan assembly) in January 2004. It set up a strong elected presidency, but, at the urging of the minority-dominated “Northern Alliance” faction, it gave substantial powers to an elected parliament, such as veto power over cabinet selections. It also provided for:²

- Presidential elections (held by June 2004). Two vice presidents run on the same election ticket as the president, and one succeeds him in the event of the president’s death. They serve a five-year term, and presidents are limited to two terms.

¹ For text, see [http://www.un.org/News/dh/latest/afghan/afghan-agree.htm].
² Text of constitution is at [http://www.afghan-web.com/politics/currentconstitutionenglish.pdf].
A parliament consisting of a 249-seat lower house (Wolesi Jirga, House of People) and a 102-seat selected upper house (Meshrano Jirga, House of Elders) elected simultaneously, if possible, with presidential elections. In the Wolesi Jirga, ten seats are reserved for Afghanistan’s Kuchis (nomads), and at least 68 of those elected (two per province, with 34 provinces) “should” be women, giving women about 25% of the seats. The top two women in each province earn seats.

For the Meshrano Jirga, 34 seats are selected by provincial councils (one from each of Afghanistan’s 34 provinces); another 34 are to be selected by nearly 400 elected district councils; and the final 34 are appointed by the President. (Half of the president’s 34 appointees are to be women.) The provincial and district councils were to be elected, simultaneously, if possible, with the other elections. No clear roles are stipulated for the provincial or district councils, although the provincial councils are playing a role in determining local reconstruction and development priorities. Provincial governors are appointed by the president, and Karzai is trying to replace local faction leaders with qualified technocrats in those positions.

The constitution states that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam,” and says that men and women have “equal rights and duties before the law.” Political parties can be established so long as their charters “do not contradict the principles of Islam,” and they do not have affiliations with other countries. The constitution does not impose Islamic law but provides for court rulings “in accord with [the Hanafi school of] Islamic law,” when there is no specific provision in the Constitution or other laws on that issue.

Presidential and Parliamentary Elections

Karzai sought to hold presidential elections by the June 2004 deadline to demonstrate that he did not seek to monopolize power. However, there was an early recognition that parliamentary, provincial, and district elections would be complicated to organize and might be delayed. In July 2003, a joint Afghan-U.N. (U.N. Assistance Mission in Afghanistan, UNAMA) elections management body, the Joint Election Management Body (JEMB), was set up. Even though a population census had never been taken, it was estimated that 10.5 million would be eligible to vote. The voting age is 18. Registration was slowed by violence in early 2004 and holding to the June 2004 schedule was judged not feasible, but a firm presidential election date was set for October 9, 2004. The parliamentary, provincial, and district elections were postponed (initially to April-May 2005). A total of 10.5 million voters registered, of which about 42% were women. On May 25, 2004, Karzai signed an election law providing for district-based (voting for candidates) rather than proportional representation (voting for party slates).

In advance of the vote, Karzai engaged in substantial political bargaining with the Northern Alliance to try to blunt opposition. No agreement was reached, and Karzai chose as his running mates Ahmad Zia Masud, brother of legendary slain Alliance commander Ahmad Shah Masud, and Hazara (Shiite Muslims) leader Karim Khalili. The Northern Alliance fielded Education Minister Yunis Qanooni, who instantly became the
most serious challenger. Also running were Uzbek leader Abdul Rashid Dostam, who has been part of the Northern Alliance, and 15 other candidates, including Hazara leader Mohammad Mohaqiq and Dr. Masooda Jalal, the only woman who ran.

Amid light violence, voter turnout was heavy (8 million votes cast, or about 80%). The vote was observed by about 400 international monitors, who mostly rebuffed allegations by 15 challenging candidates that there had been widespread fraud. Karzai was declared the winner on November 3, 2004, with about 4.4 million votes (55.4%), more than the 50% needed to avoid a runoff. Qanooni was second with 1.3 million (16.3%); Mohaqiq, 935,000 (11.7%); Dostam, 800,000 (10%); and Masooda Jalal, 91,000 (1.1%). Karzai was sworn into a five-year term on December 7, 2004, with Vice President Cheney in attendance. In December 2004, he named a 27-seat cabinet that tilted more heavily toward Pashtuns, particularly in the key security ministries. Fahim was replaced as Defense Minister by his Pashtun deputy, Abdul Rahim Wardak. Qanooni was not given a cabinet seat. Karzai also created a Ministry of Counter-Narcotics, headed by Habibullah Qaderi. International donors provided more than $90 million in aid for the presidential elections, of which about $40 million came from the United States (P.L. 108-106, FY2004 supplemental appropriation).

**Parliamentary and Provincial Elections.** On March 21, 2005, the Afghan Independent Electoral Commission (IEC) announced parliamentary and provincial elections for September 18, 2005. District elections were postponed (no date is yet scheduled) because of the complexities of drawing district boundaries. The postponement meant that these councils would not select their representatives to the *Meshrano Jirga*, but, in the interim, the 34 provincial councils would select two representatives — one permanent (full four-year term) and one interim. Each interim member is to be replaced by a district council selectee when the district councils are elected.

The election system was the “Single Non-Transferable Vote System” (SNTV) in which candidates stand as individuals, not as members of a party list. Each voter cast a ballot for only one candidate for the lower house, even though there were multiple representatives per province; the number varied from 2 (Panjsher province) to 33 (Kabul province). Herat province has 17 representatives; Nangahar, 14; Qandahar, Balkh, and Ghazni, 11 seats each. Each of the 34 provincial councils consists of between 9 and 29 seats (Kabul province is largest with 29). Some experts had urged that the parliamentary elections be conducted by proportional representation because there would be less potential for local manipulation. That system was not adopted because of the fears of empowering political parties, which are unpopular in Afghanistan because of the *mujahedins* parties' links to foreign governments during the anti-Soviet war. Even though the vote was not party-based, 90 parties are registered with the Ministry of Justice.

There were a total of 2,815 candidates (including 347 women) for the lower house and 3,185 candidates (including 279 women) for the provincial councils. Three provinces (Nangahar, Uruzgan, and Zabol) did not have enough female candidates for the provincial elections to ensure at least 25% female representation; these seats remain vacant until the next election. During June 25-July 21, over 2 million additional voters registered, bringing the total to about 12.5 million. An Electoral Complaints Commission (ECC) initially disqualified 208 candidates for alleged ties to illegal militias; some disarmed, others withdrew their candidacies. A final list disqualified only 11, although another 28 were later disqualified mostly for alleged links to armed groups.
Turnout was lower than expected, about 57% (about 6.8 million voters), which was widely attributed to high voter illiteracy and confusion over the large numbers of candidates per ballot. No major attacks on polling centers were reported during the vote, but about 15 people were killed in election day violence, including a French soldier. Election observers (OSCE and the European Union) expressed concerns about apparent fraud (mostly proxy voting in some districts), and JEMB investigations of the complaints delayed publication of final results until November 12, 2005.³ The election cost about $159 million, all of which came from international donors; the U.S. contribution was $44.9 million (P.L. 109-13, FY2005 supplemental appropriation).

Parliamentary Factions.⁴ The results confirmed expectations that many seats would go to prominent personalities and factional groupings. Although Karzai has not formed a party, observers say that his supporters are about 60% of the parliament. Among the pro-Karzai parliamentarians is his elder brother, Qayyum (Kandahar Province). About 40 parliamentarians are from the Hizb-e-Islam party of anti-U.S. former mujahedin leader Gulbuddin Hikmatyar, but they have renounced violence and are said to support Karzai. This support may have contributed to a statement by Hikmatyar in March 2007 that he might consider negotiating a settlement with Karzai. Also often supporting Karzai in parliament are reputed militia leaders and Taliban era figures who have renounced Taliban membership. One former militia leader is Hazrat Ali (Nangarhar Province), who had gained fame for directing the Afghan component of the assault on the Al Qaeda redoubt at Tora Bora during the U.S.-led war. Another is Pacha Khan Zadran, from Paktia Province who, by some accounts, helped Osama bin Laden escape Tora Bora during the U.S. offensive. Of the former Taliban, Mullah Abdul Salam (“Mullah Rocketi”) holds a parliament seat from Zabol province, and Mohammad Islam Mohammadi, who ran Bamiyan Province during the Taliban’s destruction of the large Buddha statues there in early 2001, won from Samangan province. Mohammadi was assassinated by unknown gunmen on January 27, 2007. (The Taliban-era Foreign Minister Wakil Mutawwakil ran but did not win a seat, nor did the former enforcer of the Taliban’s puritanical restrictions, Maulvi Qalamuddin.)

Yunus Qanooni, potentially a presidential candidate again in 2009, leads a potent “opposition” bloc, along with Northern Alliance political leader and former Afghan president (pre-Taliban) Burhanuddin Rabbani. These leaders engineered Qanooni’s selection as speaker in December 2005, beating back a challenge from Abd-i-Rab Rasul Sayyaf (Kabul Province), a prominent Islamic conservative mujahedin party leader who was tacitly backed by Karzai. On April 3, 2007, Qanooni and Rabbani formed a new political party, the “National United Front,” composed essentially of the Northern Alliance factions (Qanooni and Rabbani/Dostam’s faction/Hazara groups); both of Karzai’s vice presidents; and some ex-Communist leaders, such as the feared Soviet-era Interior Minister, Sayed Muhammad Gulabzoi, a parliamentarian from Khost Province; and Nur ul-Haq Ulumi, an ex-Communist military leader now a parliamentary defense committee chairman. The new bloc says it wants to amend the constitution to give more power to parliament and to directly elect governors and mayors. Fearing growing Pashtun domination, the bloc also opposes Karzai’s announced negotiations with Taliban members

³ Results are available at [http://www.jemb.org/].

⁴ Some of the information in this section is taken from author participation in a House Democracy Assistance Commission assessment visit to Afghanistan during February 26-March 2, 2006.
(but not with the core of the former Taliban regime), negotiations that Karzai says are the key to establishing permanent peace in southern Afghanistan. Some press reports say Karzai might form his own party to counter this new bloc.

Two deputy lower house speakers are first deputy Aref Nurzai (related by marriage to the Karzai clan); and Kawzia Kofi, a Tajik woman from Rabbani’s province (Badakhshan). Among the unaffiliated, well-educated Afghans in the lower house are the 29-year-old Malalai Joya (Farah Province), an outspoken women’s rights advocate who has emerged as a leading critic of major faction leaders. Others are Ms. Fauzia Gailani (Herat Province) and Ms. Shukria Barekzai, editor of Woman Mirror magazine. A vocal intellectual is Ramazan Bashardost, a male former Karzai minister who champions parliamentary powers. The U.S.-based International Republican Institute (IRI) is working to organize and train the estimated 93 lower house “independents”; the National Democratic Institute (NDI) is assisting the major factions discussed earlier.

Karzai has fewer critics in the Meshrano Jirga because of his bloc of appointments, but that body lacks the appointment and budgetary review powers of the Wolesi Jirga. After making his 34 appointments to that body, he supported an ally, Sibghatullah Mojadeddi as Speaker, helping him narrowly win that post. The deputy speaker is Hamid Gaylani, member of a pro-Karzai family with five members in parliament. Karzai also appointed Northern Alliance military leader Muhammad Fahim, although Fahim is part of the new opposition party discussed above. Other appointments included alleged drug trafficker and former Helmand governor Sher Mohammad Akhund, and former Taliban religious affairs deputy minister Arsala Rahmani. There is one Hindu.

After a one-week training session, both houses were inaugurated on December 19, 2005, with Vice President Cheney attending. Assisting the members is a staff of about 275 Afghans, reporting to a “secretariat.” Staff was hired a year before parliament convened, helping limit factional influence, and they and the members received assistance and training from the U.N. Development Program and the State University of New York (SUNY) under an $8 million contract with USAID. There are 18 committees to oversee governmental functions; each committee has two staff members. There is a small research group and a small library. The parliament’s budget is controlled by the government (Ministry of Finance).

Government-Parliament Relations and Performance

The parliamentary elections were considered a major milestone that gave the Afghan government additional legitimacy. Parliament has challenged Karzai on several issues, in some cases blocking his perceived attempts to appease Islamic conservatives, but at other times favoring Islamic conservative positions. Signaling some criticism of the international military presence in Afghanistan, immediately after it was seated, parliament called for the dismantling of (mostly U.S.-run) “security barriers” in Kabul. In November 2006, several parliamentarians visited the Qandahar area to investigate reports of civilian deaths resulting from coalition military operations there.

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In March 2006, the parliament began to review the hundreds of decrees issued by Karzai during 2001-2005, when there was no parliament. In May 2006, the parliament initially voted down Karzai’s March 2006-March 2007 budget because the proposed spending plan did not raise civil service salaries. Parliamentary opposition contributed to Karzai’s apparent dropping of a July 2006 proposal to revive a “Ministry of Supporting Virtue and Discouraging Vice,” a ministry that was used by the Taliban to commit major human rights abuses. Karzai said the ministry would focus on advice and public relations to encourage Islamic behavior. Another significant vote came in February 2007, when both houses passed a law giving amnesty to so-called “warlords,” the faction leaders who participated in the two decades of anti-Soviet and then civil war. Despite demonstrations in Kabul by 25,000 Afghans supporting the resolution, Karzai returned a modified draft giving victims of these commanders the right to seek justice for any abuses. It was passed and he signed the modified measure into law in late March 2007.

Karzai has had mixed success achieving approval of his appointments. In February 2006, the Qanooni/Rabbani faction achieved a lower house vote to review Karzai’s cabinet individually, rather than en bloc, increasing their leverage over the nominations. However, Karzai rallied his followers and all but five of his 25 nominees (announced March 22, 2006) were confirmed. (Three ministers were declared confirmed after receiving plurality votes.) Among those confirmed was Dr. Rangeen Dadfar Spanta, a Pashtun who replaced the well known Northern Alliance figure Dr. Abdullah. Those rejected were voted down because of opposition from parliament conservatives or for purported poor performance. All five of Karzai’s replacement nominees were approved on August 7, 2006, including the nominee for Minister of Women’s Affairs Husn Banu Ghazanfar, professor at Kabul University. However, the defeat of his first nominee, a woman, left the cabinet with no women. Parliament debated abolishing that ministry, in part because its role is mostly to promote public awareness about women’s rights, but deadlocked. In May 2006, the Wolesi Jirga voted down six of Karzai’s appointments to the nine-member Supreme Court, the highest judicial body, including his reappointment of the 73-year-old Islamic conservative Fazl Hadi Shinwari as chief justice. Parliament approved his new choices in July 2006, all of whom are trained in modern jurisprudence. The new chief justice is 69-year-old U.S.-educated Abdul Salam Azimi, who has fired or jailed eight corrupt judges and set up a system of standards of accountability, instilling some confidence in the justice sector.

The building of institutions has not shielded Karzai from criticism for indulging faction leaders with appointments and control over companies (such as the state airline, Ariana) and for tolerating corruption. In August 2006, 60 parliamentarians signed a letter criticizing the poor performance of the government, which many experts believe at least partly responsible for the upsurge of Taliban violence in 2006. The government’s failure to extend infrastructure and services to citizens, particularly in the south, apparently has led some Afghans to cooperate with Taliban militants. On the other hand, U.S. official reports credit Karzai’s government with progress on human rights and democracy, including formation of an anti-corruption commission, appointment of an attorney general who has focused on anti-corruption efforts, monitoring the security forces for human rights abuses, and providing the security forces with human rights training.