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## FREEDOM IN THE WORLD

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# Afghanistan

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### OVERVIEW:

In 2011, the Afghan political landscape still reverberated from the flawed 2010 parliamentary elections, and the president's ultimately unsuccessful attempts to alter the election results by means of an unconstitutional special court demonstrated the weaknesses of the judicial system. A series of high-profile assassinations further undermined the stability of the already embattled government, raising doubts about the ongoing transfer of control over security from coalition troops to the Afghan army and police. A broader increase in civilian casualties, continued government corruption, reported abuse of prisoners, and violence against women, along with sectarian attacks, further eroded the credibility of Afghan state institutions.

After decades of intermittent attempts to assert control and ward off Russian influence in the country, Britain recognized Afghanistan as a fully independent monarchy in 1921. Muhammad Zahir Shah ruled from 1933 until he was deposed in a 1973 coup and a republic was declared. Afghanistan entered a period of continuous civil conflict in 1978, when a Marxist faction staged a coup and set out to transform the country's highly traditional society. The Soviet Union invaded to support its allies in 1979, but was defeated by U.S.-backed guerrillas and forced to withdraw in 1989.

The mujahideen guerrilla factions finally overthrew the Marxist government in 1992 and then battled one another for control of Kabul, killing more than 25,000 civilians in the capital by 1995. The Islamist Taliban movement entered the fray, seizing Kabul in 1996 and quickly establishing control over most of the country, the rest of which remained in the hands of other factions. In response to the terrorist attacks of September 11, 2001, the United States launched a military campaign to topple the Taliban regime and eliminate Saudi militant Osama bin Laden's terrorist network, Al-Qaeda.

As a result of the December 2001 Bonn Agreement, an interim administration took office to replace the ousted Taliban. In June 2002, the United Nations oversaw an emergency *loya jirga* (gathering of representatives) that appointed a Transitional Administration (TA) to rule Afghanistan for another two years. Interim leader Hamid Karzai won the votes of more than 80 percent of the delegates to become president and head of the TA.

In 2004, Karzai won a presidential election under the country's new constitution, taking 55 percent of the vote and forming a cabinet that was a mix of technocrats and regional powerbrokers. Relatively peaceful elections for a National Assembly and 34 provincial councils were held in September 2005. However, a large number of warlords and others involved in organized crime and human rights abuses were elected.

The new parliament made little progress over the next several years on addressing political and economic reforms or passing key legislation. While some analysts had expressed concern that the legislative branch would be largely subservient to the executive, it was often at odds with the president, making it difficult for him to advance the government's agenda.

The UN-mandated International Security Assistance Force (ISAF), which had been managed by NATO since August 2003, completed the expansion of its security and reconstruction mission from Kabul to the rest of the country in 2006. Despite tens of thousands of additional U.S. and allied troops, and the ongoing development of the Afghan army, Afghanistan largely remained under the sway of local military commanders, tribal leaders, warlords, drug traffickers, and petty bandits. Meanwhile, the resurgent Taliban increased their attacks on the government and international forces, and steadily extended their influence over vast swaths of territory, particularly in the southern provinces of Kandahar and Helmand, but also in previously quiet areas of the north and west.

## 2012 SCORES

STATUS

**Not Free**

FREEDOM RATING

**6.0**

CIVIL LIBERTIES

**6**

POLITICAL RIGHTS

**6**

The constitution called for the 2009 presidential election to be held by April, with Karzai's term due to expire in May, but delays in passing the electoral law and slow international coordination resulted in the election being postponed until August. Fraud and manipulation during the voter registration process, low turnout, a compromised electoral management body, and insecurity across the country undermined the balloting. Karzai initially emerged as the outright winner with more than 50 percent of the vote, but the confirmation of large-scale fraud significantly reduced his total, necessitating a November runoff against his main opponent, former foreign minister Abdullah Abdullah. However, Abdullah withdrew before the vote, arguing that the flaws in the electoral system had not been adequately addressed, and Karzai was declared the winner.

Lingering doubts about the Karzai administration's legitimacy, combined with the continued deterioration in security, posed a major challenge to the central and provincial governments as they struggled to control areas under their jurisdiction, deliver basic services, and engage in vital reconstruction efforts.

The country's institutional integrity was dealt another blow when the September 2010 parliamentary elections also proved to be deeply flawed, with low voter turnout, at least 1,000 electoral workers accused of fraud, and the discovery of misplaced ballots from over 500 polling stations. Karzai did not inaugurate the new parliament until January 2011, ruling by decree in the interim. The delay was largely due to disputed votes and the establishment in December 2010 of an unconstitutional Special Election Court (SEC), with judges appointed by the president, to review complaints from losing candidates. Six months later, in June 2011, the SEC ruled that 62 candidates for the 249-seat lower house who had been considered losers or were disqualified should be reinstated. This decision triggered an international outcry which led to the SEC's dissolution in August. The Independent Election Commission, which had declared the final results in November 2010, only agreed to replace 9 of the lawmakers bringing Karzai's nine-month effort to change the parliament's makeup to an end.

Also during 2011, the government was shaken by a series of high-profile assassinations and terrorist attacks, including an assault on Kabul's Intercontinental Hotel in June; the murder of Ahmad Wali Karzai, the president's half-brother and a leading Kandahar Province powerbroker, in July; an attack on the U.S. embassy in September; and later that month, the assassination of former president Burhanuddin Rabbani, who was leading efforts to initiate peace talks with the Taliban.

Despite such incidents, the United States announced in June that it would withdraw 10,000 troops by year's end and another 23,000 by the end of September 2012. The United States and its NATO allies proceeded in July with the transfer of responsibility for security to Afghan forces in the provinces of Bamiyan, Kabul, and Panjshir as well as in the eastern town of Mehtar Lam, the western city of Herat, and the northern city of Mazar-e-Sharif. The second phase of security handover, announced in November, involved the handover of Balkh, Takhar, Daikundi, Samangan, Kabul, and Nimroz provinces, along with the cities of Jalalabad, Cheghcheran, Sheberghan, Faizabad, Ghazni city, Qalai-e-Naw, and Maidan Shahr.

Though the Afghan army and police met their growth targets, their competence was cast into doubt by a major jailbreak in Kandahar in April and by a UN human rights report that alleged torture and abuse of detainees. The year was also marred by an increase in Afghan civilian casualties. A separate UN report documented 1,462 Afghan civilian deaths from January to June 2011, a 15 percent increase from the same period in 2010; most of the deaths were attributed to insurgents.

## **POLITICAL RIGHTS AND CIVIL LIBERTIES:**

Afghanistan is not an electoral democracy. The overall results of the 2004 presidential election and delayed 2005 parliamentary elections were broadly accepted by Afghans and the international community, despite allegations of intimidation by militias and insurgent groups, partisanship within the electoral administration, and other irregularities. However, the 2009 presidential and 2010 parliamentary elections were critically undermined by fraud and other problems, and state institutions have failed to provide effective governance or transparency. Afghanistan's district council elections, which were scheduled to take place in 2010, were canceled.

The directly elected president serves five-year terms and has the power to appoint ministers, subject to parliamentary approval. In the directly elected lower house of the National Assembly, the 249-seat Wolesi Jirga (House of the People), members stand for five-year terms. In the 102-seat Meshrano Jirga (House of Elders), the upper house, two-thirds of members are indirectly elected by the provincial councils for three- or four-year terms, and one-third are appointed by the president for five-year terms. Ten of the Wolesi Jirga seats are reserved from the nomadic Kuchi community, including at least three women, and another 65 seats are reserved for women. Provisions for women's representation have also been implemented for the Meshrano Jirga and provincial councils.

Violence, insecurity, and repression continue to restrict political activity nationwide, particularly outside urban areas. Critics have warned that vague language in the 2003 Political Parties Law could be exploited to deny registration to parties on flimsy grounds. In addition, analysts viewed the adoption of the single-nontransferable-vote system for the 2005 legislative elections as a disadvantage for new political parties. Parties lack a formal role within the legislature, which further weakens their ability to contribute to stable political, policymaking, and legislative processes. There have been regular violent and often deadly attacks against government officials at all levels, including assassination attempts aimed at the president. The victims of assassinations in 2011 included the provincial council chairman, deputy governor, mayor, and provincial police chief of Kandahar; the former governor

of Uruzgan; the police chief for a nine-province zone in the north; and the chief peace negotiator, a former president.

Corruption, nepotism, and cronyism are rampant at all levels of government, and woefully inadequate salaries encourage corrupt behavior by public employees. The international community, concerned that government corruption is crippling the counterinsurgency campaign, has pressed the administration of President Hamid Karzai to make the issue its top priority. However, a massive scandal involving fraud at Kabul Bank that emerged in 2010 continued to plague confidence in Afghan financial institutions in 2011. The International Monetary Fund withheld approval for transfers of donor funds until late in the year, when it finally acknowledged sufficient progress in Afghanistan's efforts to address the damage from the banking scandal. Afghanistan was ranked 180 of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.

Afghan media continue to grow and diversify, but face major challenges including physical attacks and intimidation. Though a 2007 media law was intended to clarify press freedoms and limit government interference, a growing number of journalists have been arrested, threatened, or harassed by politicians, security services, and others in positions of power as a result of their coverage. Media diversity and freedom are markedly higher in Kabul than elsewhere in the country, but some local warlords display limited tolerance for independent media in their areas. Dozens of private radio stations and several private television channels currently operate. Some independent outlets and publications have been criticized by conservative clerics for airing programs that "oppose Islam and national values," or fined by the authorities for similar reasons. The use of the internet and mobile telephones continues to grow rapidly and has broadened the flow of news and other information, particularly for urban residents, but increased Taliban attacks on mobile-phone transmission infrastructure has recently worked against this trend. In September 2011, an Afghan journalist with the British Broadcasting Corporation was killed by NATO forces who mistook him for a suicide bomber during a battle against insurgents.

Religious freedom has improved since the fall of the Taliban government in late 2001, but is still hampered by violence and harassment aimed at religious minorities and reformist Muslims. The constitution establishes Islam as the official religion. Blasphemy and apostasy by Muslims are considered capital crimes. While faiths other than Islam are permitted, non-Muslim proselytizing is strongly discouraged. A 2007 court ruling found the minority Baha'i faith to be a form of blasphemy, jeopardizing the legal status of that community. Hindus, Sikhs, and Shiite Muslims—particularly those from the Hazara ethnic group—have also faced official obstacles and discrimination by the Sunni Muslim majority. Militant groups have targeted mosques and clerics as part of the larger civil conflict, with two particularly brutal attacks against Shiites in Kabul and Mazar-i-Sharif in December 2011 that left 60 people dead and over 200 wounded.

Aside from constitutional provisions regarding the role of Islam in education, academic freedom is not officially restricted, but insurgents have attacked or destroyed schools associated with the government or foreign donors, particularly girls' schools. The quality of school instruction and resources remains poor, and higher education is subject to bribery and prohibitively expensive for most Afghans.

The constitution guarantees the rights to assembly and association, subject to some restrictions, but they are upheld erratically from region to region. Police and other security personnel have occasionally used excessive force when confronted with demonstrations or protests.

The work of hundreds of international and Afghan nongovernmental organizations (NGOs) is not formally constrained by the authorities, but their ability to operate freely and effectively is impeded by the worsening security situation and increasingly restrictive bureaucratic rules. Both foreign and Afghan NGO staff members have been targeted in a growing number of kidnappings and violent attacks by criminals and insurgents. Civil society activists, particularly those who focus on human rights or accountability issues, continue to face threats and harassment. Despite broad constitutional protections for workers, labor rights are not well defined, and there are currently no enforcement or dispute-resolution mechanisms. Child labor is reportedly common.

The judicial system operates haphazardly, and justice in many places is administered on the basis of a mixture of legal codes by inadequately trained judges. Corruption in the judiciary is extensive, and judges and lawyers are often subject to threats from local leaders or armed groups. Traditional justice remains the main recourse for the population, especially in rural areas. The Supreme Court, composed of religious scholars who have little knowledge of civil jurisprudence, is particularly in need of reform. Prison conditions are extremely poor, with many detainees held illegally. The national intelligence agency as well as some warlords and political leaders maintain their own prisons and do not allow access to detainees.

In a prevailing climate of impunity, government ministers as well as warlords in some provinces sanction widespread abuses by the police, military, local militias, and intelligence forces under their command, including arbitrary arrest and detention, torture, extortion, and extrajudicial killings. The Afghan Independent Human Rights Commission (AIHRC) receives hundreds of complaints of rights violations each year. In addition to the abuses by security forces, reported violations have involved land theft, displacement, kidnapping, child trafficking, domestic violence, and forced marriage.

U.S. forces have reportedly made some improvements to their detention practices in recent years, but Human Rights First has found ongoing violations of due process and other rights, and Afghan detainees who are handed over to Afghan authorities continue to suffer abuses. An October 2011 UN human rights report revealed egregious violations of detainee rights in the custody of Afghan security forces. U.S.-led forces have also bred popular resentment through the growing use of nighttime raids on households that are aimed at killing or capturing suspected Taliban commanders.

The Afghan security forces continued to grow in 2011, but the army and especially the police have been plagued by inadequate training, illiteracy, corruption, involvement in drug trafficking, and high rates of desertion. The intelligence service, the National Directorate of Security, lacks transparency and stands accused of serious human rights violations.

Disarmament programs have stalled, and foreign military programs to rearm informal militias as a counterinsurgency force are actively undermining efforts to curtail and regulate the distribution of weaponry. Ongoing programs aimed at reintegrating former insurgents have failed to ensure that they disarm.

As of December 2011, approximately 400,000 civilians were displaced within the country, according to the Office of the UN High Commissioner for Refugees. Humanitarian agencies and Afghan authorities are ill-equipped to deal with the displaced. Factors like the poor security situation and widespread land-grabbing have prevented refugees from returning to their homes, and many congregate instead around major urban centers. In the absence of a properly functioning legal system, the state remains unable to protect property rights.

Women's formal rights to education and employment have been restored, and in some areas women are once again participating in public life. They accounted for about 16 percent of the candidates in the 2010 parliamentary elections, and roughly 41 percent of registered voters were women; 69 female parliamentarians were elected. There were two women among the 41 candidates for the 2009 presidential election, but on the whole female participation was limited by threats, harassment, and social restrictions on traveling alone and appearing in public. Another major setback to women's rights came with the passage in 2009 of legislation that derogated many constitutional rights for women belonging to the Shiite Muslim minority, leaving questions of inheritance, marriage, and personal freedoms to be determined by conservative Shiite religious authorities.

Social discrimination and domestic violence against women remain pervasive, with the latter often going unreported because of social acceptance of the practice. In 2010, the AIHRC recorded 2,765 cases of violence against women, a 22 percent increase compared with 2009. President Karzai's controversial pardon in December 2011 of a rape victim provisional on her marrying her attacker further confirmed the precarious situation for Afghan women. The case first came to light in an EU documentary on women's moral crimes in Afghanistan which the organization chose to withdraw in fear of security reprisals despite criticism from human rights workers who wanted to bring to light the inadequacies of the Afghan government in terms of women's rights and protections. Women's choices regarding marriage and divorce remain circumscribed by custom and discriminatory laws, and the forced marriage of young girls to older men or widows to their husbands' male relations is a problem. Nearly 60 percent of Afghan girls are married before the legal age of 16, according to UNICEF, and in 2009 UNICEF ranked Afghanistan as the world's worst country in which to be born. Though men, women, and male children have been used to perpetrate suicide bombings in Afghanistan, a June 2011 attack in Uruzgan Province was committed by a young girl and one of the youngest child bombers in the decade-long conflict.

#### **TREND ARROW:**

Afghanistan received a downward trend arrow due to a steady increase in violence and further deterioration in the independence of the judiciary.

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