HUMAN RIGHTS WATCH

Afghanistan on the Eve of Parliamentary and Provincial Elections

Introduction 2
Recommendations 4
Background: The Election Process 6
Key Areas of Concern 7
The Threat from Taliban and other Insurgent Forces 7
Fear of Local Commanders and Militias 8
Lack of Faith in Disarmament Measures 14
Rights Abusers as Candidates 15
Obstacles for Women Candidates 17
The Secrecy of the Ballot 21
The Potential for Future Violence 21
Appendix A: List of Attacks on Candidates 23
Appendix B: Recent Attacks on Clerics 25

I cannot talk openly or criticize these people freely. . . . These commanders, they have been disarmed—so they say—but they still have weapons. Of course we still have fears.

—Candidate from Sar-e Pul province, August 26, 2005

We are sick of such people [referring to warlords]. . . . Damn all of them. Until the government in Kabul says to them that they cannot take part in the elections, until there is justice for all that they did to us, we cannot trust this process.

—Pashtun elder in Samangan province, September 10, 2005

Introduction

On September 18, 2005, Afghanistan will hold elections to choose a national assembly and local councils for the country's 34 provinces. The elections, which were originally scheduled to occur simultaneously with last year's presidential election but were delayed for almost a year, should be an important step forward in Afghanistan's still nascent democracy-building process.

To assess these elections from a human rights persepective, Human Rights Watch has been conducting research throughout the country in the lead-up to the elections, focusing on basic freedoms for candidates and voters, perceptions about political rights, freedom of expression, and women's rights.[1]

In many ways, the election process so far has surpassed expectations. Millions of Afghans have registered to vote, thousands of polling sites have been prepared, and millions of ballots printed. Despite severe logistical hurdles, misunderstandings about the process among many Afghans, and the continuing effects of insecurity across the country, the process—in most areas at least—has proceeded without serious disruption or violence, and Afghanistan is engaged in a real political dialogue.

However, there are serious causes for concern about the election, and questions remain as to whether contests will fairly reflect popular will and serve as the basis for genuine political development.

The biggest immediate problem is that anti-government, anti-coalition forces, including former Taliban forces and forces under the former mujahideen leader Gulbuddin Hekmatyar, continue to operate at will in many districts in the south and southeast, carrying out assassinations, attacking civilian government workers and humanitarian staff, and intimidating election workers and potential voters and candidates. These

[1] This report] is based on over 100 interviews with candidates and voters—men and women from both rural and urban areas, in provinces across Afghanistan—as well as discussions and consultations with Afghan and international election officials. Human Rights Watch spoke with officials in the Afghan Electoral Commission and Joint Election Monitoring Body (JEMB), the United Nations Assistance Mission to Afghanistan (UNAMA), the Afghan Independent Human Rights Commission (AIHRC), the European Union (EU) and Organization for Security and Cooperation in Europe (OSCE) election observation teams, and other officials involved in election observation efforts, both domestic and international. We also compared our information with numerous Afghan and foreign journalists, who have been interviewing candidates and voters across the country.

attacks have severely impacted campaigning activities in the south and southeast, and further attacks may seriously harm the integrity of the election.

The second serious problem is Afghanistan's continuing "warlord problem." In regions across the country, voters and candidates voiced strong concerns to us about the intimidating power of local or regional de facto strongmen—mostly former militia commanders, known in Dari or Pashto as *jangsalaran*, or warlords. Many candidates, especially outside of the south, stated that problems with warlords were the most serious challenge they faced in running for office. Many expressed to Human Rights Watch serious frustration and disappointment about the failure of election authorities, and the Afghan government, to limit the ability of warlords to stand for office.[2] In many areas, fear of local commanders has compromised the election process. Candidates and voters from all over the country told Human Rights Watch that this fear has limited their participation and influenced what they feel safe doing or saying in public.

Another worrying area is women's participation. Human Rights Watch is concerned about the numerous and ongoing obstacles facing women candidates, who comprise about 10 percent of all candidates. In late August, Human Rights Watch released a report about problems and challenges facing women candidates and voters in the lead-up to the elections.[3] The report described how women candidates continue to confront numerous challenges to equal participation, including weak guarantees of physical safety, limited access to information, restricted movement around the country, and lack of financial resources compared to men. As the report detailed, many of Afghanistan's security problems disproportionately affect women candidates and voters, who, due to long-standing inequalities and discrimination, are at greater risk of being targeted for attacks or threats—whether from insurgents or local commanders.

Lastly, Human Rights Watch is concerned about the potential for future violence. As explained in more detail below, Afghanistan's electoral law currently contains an "assassination clause," which allows losing candidates to take the seats of winners who die or resign from office. We are seriously concerned that losing candidates may take advantage of this clause by resorting to violence after election results are announced.

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[2] Through 2005, the Afghan election commission received complaints about over 500 candidates (out of a field of nearly 5,800), but has only disqualified 32 for links to armed factions—11 initially, and another 21 on September 12. None of the more senior commanders running in the elections, whose records of human rights violations are well-known to Afghans, were disqualified.

[3] See Human Rights Watch, "Campaigning against Fear: Women's Participation in Afghanistan's 2005 Elections," *A Human Rights Watch Short Report*, August 2005, available at http://hrw.org/backgrounder/wrd/afghanistan0805/index.htm.

Recommendations

Ultimately, the September 18 elections will exhibit both the successes and failures of the fledgling Afghan government and its international supporters. That the government and its international partners have managed to arrange a second national election within a year of last year's presidential race, without widespread violence and with large-scale participation, demonstrates how much is possible in Afghanistan with even a modest amount of financial support, political will, and security assistance.

In hindsight, however, these elections may be remembered among Afghans as yet another missed opportunity. Many Afghans had hoped that aside from electing representatives, these elections could serve to deepen Afghanistan's legitimate governmental institutions and hasten the end of the rule of warlords and gunmen. Yet that outcome now seems unlikely. There is already widespread cynicism about the process at the local level, with many Afghans assuming the results are a foregone conclusion: that warlords and their proxies will take the most seats.

It did not need to be this way. Afghanistan's international partners, through the International Security Assistance Force (ISAF) and Provincial Reconstruction Teams (PRTs), could have provided better security arrangements in remote areas, and sooner. Electoral rules could have been written to sideline or at least discourage potential candidates implicated in war crimes and serious rights abuses.[4] The Afghan government could have created a more robust Electoral Commission, with the power to effectively investigate candidates' links to armed factions, and disqualify those retaining such links. And the Afghan government and its international allies could have worked harder to ensure that notorious military commanders with poor human rights records were convinced to stand aside in favor or more qualified and less tarnished representatives.

Of course, it is now too late to fix many of the problems identified in this report. But it is not too late to improve Afghanistan's future political environment, by offering political support to and protecting the country's legitimate leaders and institutions and working to sideline abusive persons from positions of power. It is not too late for the Electoral Complaints Commission to disqualify additional candidates who have violated electoral law or who maintain links with armed factions (under Afghanistan's election

[4] For recommendations on how the electoral registration process for candidates could be designed to help exclude alleged war criminals and human rights abusers, see Human Rights Watch, "Blood-Stained Hands: Past Atrocities in Kabul and Afghanistan's Legacy of Impunity," A Human Rights Watch report, July 2005, recommendations section, available at: http://hrw.org/reports/2005/afghanistan0605/7.htm#_Toc105552371.

law, candidates, even after elected, can be disqualified up until taking the oath of office). It is not too late to increase the number of international security forces in the country and U.N. political affairs and human rights monitors (the number of security forces and monitors, though expanded over the last year, are still woefully inadequate and far fewer than the number deployed in other conflict and post-conflict areas). And it is not too late to redouble efforts to properly train a professional army and police force that could displace and truly disarm and disband militias, and to help build an effective and fair judicial and penal system.

We strongly urge the Afghan government and international community to take such steps. They are necessary steps: Afghanistan's security situation remains precarious. And many Afghans are understandably worried about the future, fearing that the international community may turn its attention away from Afghanistan after the election, and that troop deployments from ISAF may decrease, even if only temporarily, thereby jeopardizing the delicate security situation. Local and international security forces should remain on high alert and continue to provide security to candidates and elected members through the announcement of results and the first sitting of the new parliament.

This election must not be viewed as a final chapter in Afghanistan's reconstruction efforts—on the contrary, it should be viewed as part of a longer process. Afghanistan's international friends and donors must redouble their efforts in coming years to strengthen the rule of law, protect vulnerable persons and groups, and help Afghanistan rebuild its institutions—or risk having its efforts wasted if Afghanistan backslides into authoritarianism and violence in later years.

These are important elections. Last year's presidential election was indeed critical and historic, but aside from electing a president, Afghans have not had the opportunity to choose anyone to represent their local interests, and until now, Afghanistan has been governed without a legislative, or law-making, branch of government. These elections could go a long way towards addressing this democratic deficit, creating for the first time a representative legislative process and a representative forum for debate about the country's past, present, and future.

Yet it is important for those concerned about Afghanistan's future to take these elections for what they are: an important but tentative step on the path to a representative political system, held against a backdrop of decades of extraordinary violence and continued warlord domination—domination that in many parts of the country has perpetuated an atmosphere of deep and well-founded fear. This fear, in turn, has significantly limited debate of key issues and discouraged the participation of

many potential parties and candidates, all of which has circumscribed the choices offered to voters. How this will affect the election results is unknowable, but what is unacceptable in democracies elsewhere must not be deemed acceptable in Afghanistan. A sober and clear-eyed analysis of these elections will be essential if better elections, reaching closer to international standards, are to be achieved in the future.

Background: The Election Process

On September 18, Afghan voters will be casting two votes: one for a candidate to represent their province in the *Wolesi Jirga* (lower house of the national assembly) and one for a candidate to represent them in their local provincial council.[5] The *Wolesi Jirga* is set to have 249 seats, of which 25 percent (68 seats) are reserved for women. Each of Afghanistan's 34 provinces will elect a constituency to the *Wolesi Jirga* based on the province's population, and an additional 10 seats will be reserved for the nomadic Kuchi population.[6]

Each voter will cast one vote for the *Wolesi Jirga*, for a single candidate to represent their province. Men and women can vote for either a male or female candidate. Each single province has a set of open seats—which can go to men or women—as well as a set of seats reserved for women. The top vote-winners in each province will be elected to the open seats; the next top women vote-winners will be elected to the seats reserved for women. For example, for the 8 *Wolesi Jirga* seats for Helmand province—of which 2 are reserved for women—the first 6 seats will go to the top 6 vote-winners (men or women) and the remaining 2 seats will go to the next top 2 women vote-winners.[7] The process is similar for the provincial councils. The provincial councils will have between 9 and 29

[5] For more information on the election process, see Joint Electoral Management Body Secretariat, "Background Briefing: *Wolesi Jirga* and Provincial Council Elections 2005," available at: http://www.jemb.org/eng/electoral_system/jembs_background_briefing.pdf. See generally, JEMBS fact sheets, available at http://www.jemb.org/eng/bg&factsheets.html.

[6] To provide some examples: the province with the largest population, Kabul, will elect 33 seats; Herat will elect 17; Kandahar will elect 11; Khost will elect 5; Panjshir will elect 2. For each district (and with the 10 Kuchi representatives) about 25 percent of the seats will be reserved for women. For instance, with the 33 Kabul seats, 24 seats will be "open" for men and women, and 9 will be reserved for women alone; with the 11 Kandahar seats, 8 seats will be open and 3 for women alone.

[7] For more information on seat distribution, see Joint Electoral Management Body Secretariat, "Fact Sheet: Seat Distribution for *Wolesi Jirga* and Provincial Councils," available at: http://www.jemb.org/eng/electoral_system/seat_distribution_fa.pdf.

members, depending on each province's population, and roughly 25 percent of the seats will be reserved for women.[8]

Subsequent to the election, each provincial council will elect one of its members to the *Meshrano Jirga* (house of elders, or upper house of the national assembly). Another 17 representatives to the *Meshrano Jirga* will be appointed by the president, for a total of 51.

Key Areas of Concern

The Threat from Taliban and other Insurgent Forces

Through 2005, insurgent forces have been increasingly active in southern provinces and in southeastern provinces bordering Pakistan. Insurgent Taliban forces in the southern provinces of Helmand, Kandahar, Zabul, Ghazni, and Uruzgon and other forces in the eastern provinces of Jalalabad and Kunar have attacked not only military targets such as coalition and Afghan military forces, but also candidates, civilian election workers, clerics, police, and humanitarian workers.[9]

At the time of writing, six candidates nationwide are known to have been killed; in at least two of these cases, the Taliban have claimed responsibility, and in an additional two cases, local authorities suspect them in the attacks. In addition, seven prominent Islamic clerics from southern Afghanistan, who have publicly supported the government or the election process, have been attacked or killed in 2005—in all but one case the Taliban has claimed responsibility. (A list of these attacks can be found in the appendices to this report.) Several other attacks, including attacks on women candidates in eastern

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[8] In practice, although candidates for both the *Wolesi Jirga* and provincial councils are intended to be representatives for their entire province, many candidates (but not all) appear to be focusing their campaigns on specific districts within their home province, or on the single district in which they live. Many candidates thus describe themselves as candidates for a particular district, through officially they can seek votes anywhere in their province.

[9] In late August 2005, Latif Hakimi, a man who has repeatedly claimed to be a spokesman for the Taliban, told several journalists by telephone that Taliban forces would not disrupt the election process, and would focus instead on targeting U.S. and Afghan military targets. Most government and diplomatic officials are skeptical Hakimi actually represents Taliban forces in Afghanistan. In any case, mere days after Hakimi's announcement, additional attacks on candidates and supporters took place in Kandahar and Helmand, including the killings of two candidates. Hakimi subsequently claimed to one journalist that the killings were carried out by Taliban forces, and that the Taliban would continue to target candidates and election workers. "Taliban kill cleric for election involvement in southern Afghan province," Pajhwok News Agency, September 2, 2005.

Afghanistan, and an August attack on a doctor in Ghazni, may also have been carried out by insurgents.

Not surprisingly, candidates and political organizers in the south and southeast have told Human Rights Watch that they have serious fears for their security, and that they are limiting their travel and other activities. Candidates in Jalalabad, Paktia, Paktika, Ghazni, and Kandahar told Human Rights Watch about limits on their campaigning and about their well-founded fears of being targeted for attack.

A candidate from Ghazni explained that he limited his campaign activities to Ghazni city, and that he and other candidates were afraid to travel outside of the city "because of the security threat from the Taliban."[10] Many candidates in Kandahar city said the same.

A woman candidate from Paktika explained the situation for women candidates: "As a woman candidate, my life is in danger. I can't travel openly. I send out some men with materials who campaign for me."[11] A second Paktika candidate had similar views: "The security problem in the country is very bad; I cannot go and run my election campaign."[12]

These views were shared by numerous candidates in southern provinces. The continuing attacks by Taliban and other insurgent forces in southern and southeastern areas—especially rural areas—have impeded the political rights of Afghans voters and candidates in these areas in the lead-up to the election. The atmosphere of intimidation produced by the attacks will likely interfere with polling processes in these areas, and, at the local level, compromise the election as a vehicle for expression of democratic will.

Fear of Local Commanders and Militias

In addition to fears of Taliban and other insurgent forces, found primarily in the south and southeast, many voters and candidates voiced concerns to Human Rights Watch about their sense of vulnerability at the hands of warlord forces—de facto or official militia forces ostensibly allied with the government. Human Rights Watch, in past reports, has documented how warlords and their forces, who seized local control of

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[10] Human Rights Watch interview with I.T., candidate from Ghazni, August 27, 2005. (Interviewees' names throughout this report have been replaced with initials that do not correspond to the person's actual name.

[11] Human Rights Watch interview with S.S., woman candidate from Paktika, August 30, 2005.

[12] Human Rights Watch interview with G.W., woman candidate from Paktika, August 30, 2005.

most parts of Afghanistan in the wake of the Taliban's collapse in late 2001, have committed serious human rights abuses from 2002 to the present and have often repressed dissent by local political opponents and journalists.[13] These forces do not openly challenge the central government's authority, but their abusive actions undermine the government's legitimacy and cause widespread fear and cynicism among Afghans.

Although Human Rights Watch did not receive any reports of systematic violence or large-scale armed interference with the election process, we heard consistent reports from around the country of the fear inspired by commanders and their forces, whose past abuses remain fresh in the minds of ordinary Afghans. These complaints were heard in almost all regions of the country, and grew stronger as we moved away from urban areas where international security forces were present.

Across the country, candidates and political organizers complained to Human Rights Watch of cases in which local commanders or strongmen, or local government officials linked with them, have held meetings in which they have told voters and community leaders for whom to vote. In some cases, candidates and their supporters allege that direct threats have been communicated.

In Ghazni, several candidates complained about intimidation of voters and community leaders in August by police and army commanders loyal to Governor Shir Alam and former Ghazni governor Asadullah Khalid.[14] A campaign worker for one candidate told Human Rights Watch that a district governor under Shir Alam told him: "I ask you not to work on the election campaign of [candidate's name deleted for security reasons]. . . but if you continue to work for him, then don't come to me if something happens to you."[15] One candidate says he was told by a representative of Asadullah Khalid: "Do not

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[13] See, e.g., Human Rights Watch, *"Killing You is a Very Easy Thing For Us": Human Rights Abuses in Southeast Afghanistan*, A Human Rights Watch Short Report, vol. 15, no. 5 (C), July 2003, available at http://www.hrw.org/reports/2003/afghanistan0703; and Human Rights Watch, *Paying for the Taliban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan*, A Human Rights Watch Short Report, vol. 14, no. 2(c), n. 13, available at http://www.hrw.org/reports/2002/afghan2.

[14] Human Rights Watch interview with M.I.S., candidate in Ghazni, Kabul, August 25, 2005. Human Rights Watch interview with M.J., Ghazni candidate, Ghazni city, August 26, 2005. Both Shir Alam and Asadullah Khalid are linked with Abdul Rabb al-Rasul Sayyaf's political-military faction Tanzim-e Dahwat-e Islami-ye Afghanistan, formerly known as Ittihad-e Islami-ye Afghanistan. As one candidate said, "All the districts are run by Sayyaf's party. There are problems for other candidates, but not for them [Tanzim candidates]. We don't feel safe going out to districts." Human Rights Watch interview with M.I.S., Kabul, August 25, 2005.

[15] Human Rights Watch interview with H.E., campaign worker, Ghazni city, August 26, 2005.

contest this election or you will face big problems."[16] Both the worker and the candidate understood these statements as threats.

In Parwan and Kapisa provinces, several candidates alleged that police and government officials held meetings in rural districts in which they threatened community leaders to vote for certain candidates, saying there would be "problems" if the candidates were not elected.[17] In Baghlan, two candidates complained that local clerics, who they claimed were linked with local military and police commanders, made similarly vague threats to voters during public meetings in August, telling them to vote for candidates linked to two local commanders, Amir Qul and Bashir Baghlani.[18] (Bashir Baghlani was disqualified from the election on September 12, after the electoral commission determined that he had maintained links to armed groups in Baghlan.)

In several northern provinces surrounding Mazar-e Sharif, complaints centered around commanders associated with two contending military factions, the ethnic Tajik-dominated Jamiat forces led by Mohammed Atta, now the provincial governor, and the ethnic Uzbek-dominated Junbish forces led by Gen. Abdur Rashid Dostum. Several candidates alleged that Allam Khan Azadi, a Jamiat commander in the Langarkhana hamlet northwest of Mazar, recently threatened campaigners for other candidates and told Uzbek voters that he would cut off their water supply if they did not vote for him.[19] Human Rights Watch also heard numerous complaints of overt intimidation in relation to Akhtar Khan Ibrahimkheil, an ethnic Pashtun commander with a history of serious abuses throughout Mazar's recent and bloody past. Journalists, human rights workers, and campaigners in Balkh explained that Ibrahimkheil has tried to monopolize the Pashtun vote in the city by threatening voters and other candidates' campaigners.[20]

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[16] Human Rights Watch interview with M.J., Ghazni candidate, Ghazni city, August 26, 2005.

[17] Human Rights Watch interviews with three Parwan candidates, Charakar, Parwan Province, August 23, 2005.

[18] Human Rights Watch interviews with two Baghlan candidates, Kabul, August 27, 2005.

[19] Human Rights Watch interviews with three election campaigners in Mazar-e Sharif, September 10, 2005.

[20] Human Rights Watch interviewed several candidates, local journalists, human rights rights workers, and election campaigners in Mazar-e Sharif on September 9 and 10, 2005.

In Samangan province, voters of different ethnicities complained about the intimidating shadow cast by Ahmad Khan, a Junbish commander closely tied to Dostum.[21] Ahmad Khan's forces were implicated in major abuses carried out in reprisals against Pashtuns in the area after the fall of the Taliban.[22] Local journalists also told Human Rights Watch about cases of intimidation involving the Mohaqiq faction of Hezb-e Wahdat.[23] In Faryab province, an area under strong Junbish control, claims and counterclaims of intimidation have focused around the campaign of General Malik, a militia commander and rival of Dostum.[24]

Candidates in several provinces have also received anonymous threats which they believe came from local forces. Many candidates have been threatened anonymously by telephone. In such cases, candidates said that they often feel reluctant to report the cases to authorities, because they fear the persons threatening them may in fact be connected to government forces, or have connections with local police or military commanders. One woman candidate from Herat described threats she received in August:

> They called from a local phone, and then from a mobile. The first time they said, "Don't run in this race. We will hurt you, we will kill you, we may even do something to your family."
>
> Then another time, they called and said, "Are you [name deleted]?" I said, "Yes?" And they said: "We called because we have some advice for you. You should stop these things you're doing." I said, "What do you mean? Who are you?" And they said, "There's no need for an introduction, because by the time you know who we are, you won't be alive. Please, do not compete in this election." And then they hung up the phone. I don't know who it was. . . .

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[21] Human Rights Watch interviews with residents of three villages in Samangan province, Samangan, September 10, 2005; Human Rights Watch interview with local journalists and human rights workers, Mazar-e Sharif, September 9 and 10, 2005.

[22] Human Rights Watch, *Paying for the Taliban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan*, A Human Rights Watch Short Report, vol. 14, no. 2(c), n. 13, March 2002, available at http://www.hrw.org/reports/2002/afghan2.

[23] Human Rights Watch interview with local journalists and human rights workers, Mazar-e Sharif, September 9 and 10, 2005.

[24] Human Rights Watch interview with J.P., local journalist working in Faryab province, September 9, 2005.

> There are a lot of problems for women candidates. They face a lot of difficulties. . . . There are no real mechanisms to protect women's rights, and when women are threatened, they don't have anyone to go to. . . . We can't trust the police.[25]

One campaigner in Balkh province who received a number of threatening phone calls in early September described his frustration:

> This is a coward's threat, because they don't face us. And I don't want to be a coward and give in to them. But I also fear for my family if something should happen to me. How can I complain about this [to the election commission]? What can I show them [as evidence]? Who do I blame?

These cases of threats and intimidation by local forces, detailed above, are not occurring in a vacuum. In most places, Afghans are already living in a climate of fear and repression, and for many candidates, the recent history of abuses and repression by local commanders has—by itself—been intimidating.

Numerous candidates told Human Rights Watch that it was unnecessary for commanders to make direct threats to candidates or voters: when commanders and local authorities make their choices known, people believe that they must obey.

"They don't need to make threats," said one candidate from Kapisa, speaking about local Kapisa commanders. "They are the threat."[26]

After living under one abusive regime after another, many candidates and voters have already been "intimidated" and already go about their daily lives watching what they say and do, fearful of upsetting local forces. Many candidates told Human Rights Watch that they refrain from controversial or critical speech or remarks that might cause a hostile reaction.

"I cannot speak openly outside my own home," said one Ghazni candidate.[27]

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[25] Human Rights Watch interview with H.L., woman candidate from Herat, August 29, 2005.

[26] Human Rights Watch interview with Q.H., Kapisa candidate, Kabul, August 26, 2005.

[27] Human Rights Watch interview with G.J., Ghazni candidate, Kabul, August 22, 2005.

> They might harm me, my children, my cousins, my brothers or other relatives. I feel threatened: they might harm them. Even now, if they [commanders loyal to the former governor, Asadullah Khalid] come to know I'm having this meeting with you, they would harm me or my family.[28]

A candidate from Takhar said: "We *are* afraid. These are powerful people. If I say something criticizing a commander, they can easily send someone to kill me. Who's going to protect me?"[29]

A Sar-e Pul candidate had similar concerns:

> I cannot talk openly or criticize these people freely. I distributed some tapes and CDs, recordings of me speaking, but I do have some fears. These commanders, they have been disarmed—so they say—but they still have weapons. Of course we still have fears.[30]

Many candidates who are critical of local strongmen tone down or generalize their criticisms. A Ghazni candidate quoted above explained: "When we give a speech, we don't name these people [local commanders], or criticize them, we just make veiled references to them, and to 'warlordism.'"[31] A Takhar candidate made similar remarks:

> You can say generally, "Don't vote for people with blood on their hands," or "Don't vote for the people who stole and destroyed houses," or "Don't vote for the illiterate and bad leaders." But if you say a commander's name—then you might be killed.[32]

An independent candidate in Mazar-e Sharif, a comparatively stable area, put it this way: "We refer to past crimes, we talk about the need for expertise instead of guns. That is as much as we can say. To say anymore would cause real trouble."

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[28] Human Rights Watch interview with G.J., Ghazni candidate, Kabul, August 22, 2005.

[29] Human Rights Watch interview with T.M., Takhar candidate, Taloqan, August 30, 2005.

[30] Human Rights Watch interview with A.B.B., Sar-e Pul candidate, Kabul, August 26, 2005.

[31] Human Rights Watch interview with G.J., Ghazni candidate, Kabul, August 22, 2005.

[32] Human Rights Watch interview with I.S., Takhar candidate, Taloqan, August 30, 2005.

Candidates in southern and southeastern rural areas, where Taliban and insurgent forces are active, are doubly pressured. Several southern candidates, already fearful of possible attacks by Taliban or insurgent forces, told Human Rights Watch that they worry also about threats and attacks from local security forces or other militia forces opposed to their campaigns. Some candidates said they were concerned that local forces could perpetrate threats or acts of violence against them and then shift blame onto insurgents.

As one woman candidate from Paktika told Human Rights Watch: "The local authorities, they can do something—shoot you, threaten you—and then say it was the Taliban. It's too easy."[33] A Ghazni candidate held the same view: "They [local commanders in Ghazni] can kill their enemies, and say it was the Taliban."[34]

Lack of Faith in Disarmament Measures

Candidates throughout the country said that disarmament and the sidelining of commanders from security posts had helped weaken some of them and lessened their capacity to threaten voters or candidates. But many candidates and voters who spoke with Human Rights Watch expressed serious doubt that local forces have been effectively disarmed. A candidate from Baghlan province explained his concerns:

> These people [commanders in local factions in Baghlan] have not been disarmed. These commanders have kept ten guns for every one gun they gave up. They're not threatening anyone, but they don't need to. They've killed thousands of people. They do not need to make threats, because when they speak, everything they say is a threat.[35]

From isolated villagers to savvy local journalists, many Afghans are convinced that Afghanistan is still awash with weapons. "We saw their tanks and big guns only a few years ago," one journalist in Mazar-e Sharif said. "And we saw the old and rusty guns they handed in [more recently, to the disarmament program]. So where are the rest?"[36]

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[33] Human Rights Watch interview with M.K.A., woman candidate from Paktika, Kabul, August 27, 2005.

[34] Human Rights Watch interview with G.J., Ghazni candidate, Kabul, August 22, 2005.

[35] Human Rights Watch interview with N.G., Baghlan candidate, Kabul, August 27, 2005.

[36] Human Rights Watch interview with H.R., local journalist, Mazar-e Sharif, September 9, 2005.

Many candidates were cynical that commanders sidelined from security posts were no longer a threat. As a Takhar candidate said:

> These are people with money and guns, and they still have money and guns. They drive around in S.U.V.s and are guarded with Kalashnikovs [assault rifles], and you say they are not a threat? These commanders steal and rob, and still have power. Everyone's afraid.[37]

A candidate from Sar-e Pul had similar complaints in his province's districts, where he said the supposedly "disarmed" commanders were still a threat to him:

> The commanders have changed their name: they call themselves "elders" now. But they are still warlords. . . . A week ago, I was going to campaign in some districts, but decided against it. Some people there I know told me, "We cannot guarantee your security; the commanders are in control and could threaten you." They told me not to come.[38]

Alleged Rights Abusers as Candidates

Another key factor affecting the electoral atmosphere is that many candidates are implicated in war crimes or human rights abuses during the last twenty-five years of conflict.

Under Afghanistan's election law, there are no explicit prohibitions against alleged war criminals and human rights abusers standing as candidates. In some ways, this is not surprising. Many individuals with continuing political aspirations are connected to events or groups with records of abuse, and there are fears that creating a vetting process for candidates based on their alleged human rights record would be open to abuse and could even have had the perverse effect of allowing powerful warlords to falsely accuse their opponents while retaining the power to protect themselves against being disqualified.

Instead of explicit human rights conditions, the election rules state that candidates cannot have been convicted of any crimes and must not have links with armed militias or have control of armed groups. These rules were adopted with the knowledge that almost none of the commanders implicated in past abuses have been convicted in any

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[37] Human Rights Watch interview with A.M.N., Takhar candidate, Taloqan, August 31, 2005.

[38] Human Rights Watch interview with A.B.B., Sar-e Pul candidate, Kabul, August 26, 2005.

court. (Despite the magnitude of the war crimes and crimes against humanity committed in Afghanistan over the past three decades, there have been no efforts as yet to create a tribunal to try persons implicated in past abuse.) And commanders who are still linked with or control armed groups have all too easily formally shed their links or control by announcing that they have resigned from their party and handing in some of their weapons to Afghanistan's disarmament program (even as they secretly retain others).

As a result, many persons with questionable human rights records—whether Soviet era, mujahideen, or Taliban—are candidates in the election, and many retain significant military resources. Some examples follow:

Sayed Mohammad Gulabzoi, a parliamentary candidate from Khost, served as interior minister in the Soviet-backed Afghan government in the 1980s, overseeing the government's police forces, which were implicated in numerous abuses during the Soviet occupation, including killings and torture of detainees. (Shahnawaz Tanai, who served as defense minister during the Soviet occupation, is not a candidate, but is leading a political party in Khost with numerous parliamentary candidates who served in the Soviet government.)

Abdul Rabb al-Rasul Sayyaf, a candidate in Kabul province, led the Ittihad-e Islami faction, which was implicated in widespread abductions and summary executions in the early 1990s, as well as pillage and the shelling of civilian areas.[39] One of his top commanders at the time, **Mullah Taj Mohammad** (governor of Kabul Province from 2002-2004) is also a candidate.

Several commanders and leaders within the Jamiat-e Islami faction—which was involved in indiscriminate attacks on civilians, shelling of civilian areas, abductions, and pillage during the early 1990s—are also candidates. These include **Burhanuddin Rabbani**, the political head of the Jamiat party and the President of Afghanistan from 1992 to 1996, and **Younis Qanooni**, a main Jamiat official and spokesman for the faction during the early 1990s. **Haji Almas** and **Mullah Ezatullah**, both of whom served as Jamiat commanders in the 1990s were also implicated in the abuses noted above.[40]

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[39] See Human Rights Watch, "Blood-Stained Hands: Past Atrocities in Kabul and Afghanistan's Legacy of Impunity," A Human Rights Watch report, July 2005, available at http://hrw.org/reports/2005/afghanistan0605/, pp. 112-116.

[40] See "Blood-Stained Hands," pp. 119-121.

Several former high-level officials in the Taliban are also running in the elections, including **Mohammed Khaksar**, the Taliban's deputy interior minister; **Wakil Ahmad Mutawakil**, the foreign minister; and **Qalamuddin**, the minister of the department of vice and virtue (which fielded special police to enforce the Taliban's severe social restrictions). The three were centrally involved in the Taliban regime, which was infamous for its draconian system of repression. Further investigation is needed to determine whether the three were involved in specific atrocities and war crimes committed by the Taliban during military engagements from 1995-2001.

Many voters and candidates told Human Rights Watch that they were frustrated by the fact that candidates with records of past abuse could not be sidelined from the process. Many were cynical about claims that the democratic process would sideline unpopular abusers, noting that under the balloting process for both the *Wolesi Jirga* and provincial councils one need not come in first to win a seat, but rather merely receive enough votes to win seats allocated in the order of finish (for instance, in the Kabul race, which has 24 open seats (for men and women), a candidate can come in 24th and win a seat).

A Pashtun elder in Samangan province said the situation had sullied the election process:

> We are sick of such people, not just the Uzbeks, but the Pashtuns, the Tajiks—damn all of them. Until the government in Kabul says to them that they cannot take part in the elections, until there is justice for all that they did to us, we cannot trust this process.[41]

A candidate in Mazar-e Sharif criticized the government's failures to sideline commanders and past abusers:

> The government says it has to let these men be candidates because they could make problems. That is not true, but that is what they say. Well if the central government cannot stand up to them, will not stand up to them, how can they expect the people here—who live with these blood-thirsty commanders every day—to vote against them? We should not have to bear the pressure—it is the job of the government.[42]

Obstacles for Women Candidates

[41] Human Rights Watch interview with Samangan voters, Samangan province, September 10, 2005.

[42] Human rights Watch interview with Mazar-e Sharif candidate, September 10, 2005.

Women candidates share the dangers of a poor security environment with their male counterparts, but in addition confront risks associated with challenging social norms.

In areas with greater security, such as Kabul, women have been able to campaign relatively freely. But in many other areas, especially those still dominated by insurgent activity or warlordism, or both, a pervasive atmosphere of fear and weak guarantees for physical protection have led many women to curtail their campaigning. Campaigning activities like posting photographs or campaign flyers, or traveling around the province, can expose women candidates to social censure and retribution. Limited financial resources and restrictive attitudes toward women's political roles have also dampened women's participation.

In the final candidate list, although 25 percent of seats are reserved for women, female candidates represent only about 12 percent of the candidates for the *Wolesi Jirga* (328 out of 2707) and only 8 percent of the candidates for provincial councils (247 out of 3025).[43] In the period after the deadline for submitting candidate nominations and the finalization of the candidate lists in July, 281 potential candidates withdrew and 17 were excluded.[44] Fifty-one of the withdrawals were women, a disproportionately high number given the relatively low number of candidates. Some women cited procedural issues for their withdrawals, but others cited security threats, barriers to campaigning in rural areas, and financial constraints.

The numbers of women candidates for provincial councils is especially low, suggesting that security in provincial centers falls short of the relative safety slowly being established for women in the national arena. One women's rights activist explained the particular vulnerability of provincial candidates: "For the *Wolesi Jirga*, the center of activities is in Kabul. For the provincial councils, the center of activities is in the provinces. Women don't feel secure in the provinces. Also, the role of delegates in the provincial councils is not clear yet."[45] A woman candidate for a provincial council said, "We need security even after we win. Because we are not parliament candidates, we don't go to Kabul. We

[43] The number of initial nominations was slightly higher. At the close of the nomination period for the 2005 *Wolesi Jirga* and provincial council elections, 2,838 candidates had been nominated for the 239 available *Wolesi Jirga* seats, 342 of whom were women. 3,198 individuals had nominated themselves for the 420 provincial council seats, of whom 286 were women. There were an additional 67 candidates for the ten seats reserved for the nomadic Kuchis.

[44] JEMB press release, "JEMB certifies final list of candidates," July 12, 2005.

[45] Human Rights Watch phone interview with a woman NGO worker focusing on elections, Kabul, August 10, 2005. She additionally noted that, "Many of the NGOs and civic education has focused on the *Wolesi Jirga*."

have to stay here with all commanders in the provincial council, so we need security."[46] There are so few women candidates for the provincial councils in Zabul, Uruzgon, and Nangarhar provinces that five of the seats reserved for women will remain empty.

Human Rights Watch interviewed women candidates who had faced low-level harassment from commanders—harassment that has instilled a sense of fear among many women candidates, who are aware that commanders have both the history and capability of using violence as a tool of intimidation or retribution. Many were afraid to allow the use of their names or identifying details.

A woman provincial council candidate in a northeastern province explained her fears:

> I am frightened to go to places where the commanders are influential or where they are present. I don't talk about them. . . . If I did talk about them they might react. . . . I talk about them indirectly. . . . But in front of them I won't say anything because then maybe I or my family might face a problem. We have to be friendly to them. . . . If we don't they may destroy us and people won't vote for us. We have to cooperate. It's an obligation. If we don't cooperate they'll tell the people in that district not to vote for me, they'll threaten them—or I and my family will face problems.[47]

A woman parliamentary candidate told Human Rights Watch, "I'm not worried about normal people but I'm really worried about these commanders. Anything could happen, a fake car accident for example, or they might give money to someone to put a bomb in my house."[48] Commanders are trying to retain their local power, she said, adding that: "My only worry is that people who see their interests are in danger will do anything to save it. So I am worried something will happen to me. . . . I feel the real danger, 100 percent, will be if I win. If he [the local commander] loses, then it is a real danger for me. We are both candidates for [district name withheld] and so he is worried I will get

[46] Human Rights Watch interview with an independent Takhar provincial council candidate, Kabul, August 2, 2005.

[47] Human Rights Watch interview with Z.A., woman provincial council candidate in a northeastern province, August 30, 2005.

[48] Human Rights Watch interview with A.G., woman *Wolesi Jirga* candidate in a northern province, August 30, 2005.

the votes from [district name withheld]."[49] Several women candidates from Paktia and Paktika made similar statements.

The mix of insecurity and the risks associated with challenging women's traditional roles have had a particularly strong impact on women candidates' ability to travel freely for campaign activities, especially to remote rural areas. As one woman candidate explained: "In some places there are guns and army people. We are afraid to go to those areas. Commanders have guns there."[50]

Given the combination of social strictures and the atmosphere of insecurity, many women candidates feel compelled to travel only in the company of male relatives. A provincial council candidate from the north told Human Rights Watch, "My brother and some of his friends accompany me. I can't travel alone—I might be killed or something might happen."[51] Another provincial candidate said, "I always take somebody from the family because people do not think it is good if a woman travels alone. I [personally] don't have any trouble traveling without a man but the problem is cultural: people, especially mullahs, don't respect woman who travel alone; it's because of traditions."[52]

Women candidates also struggle against low levels of awareness about election procedures and discriminatory attitudes against women in public office. Election officials and candidates have observed that many voters mistakenly believe that women can only vie for the 25 percent of seats reserved for women, rather than understanding that they are also competing against men for the other "open" seats. Not surprisingly, many women candidates have reached out primarily to women voters rather than seeking men's votes.

Unfortunately, while women's high voter registration rates demonstrate their enthusiasm to participate in the elections, many women's votes may be controlled by male family members, who will instruct women how to vote. One woman candidate said that she was forced to recruit men to campaign for her. She said, "I contacted influential people

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[49] Human Rights Watch interview with A.G., woman *Wolesi Jirga* candidate in a northern province, August 30, 2005.

[50] Human Rights Watch interview with J.W., woman *Wolesi Jirga* candidate in a central province, August 31, 2005.

[51] Human Rights Watch interview with T.K., woman provincial council candidate in a northern province, August 30, 2005.

[52] Human Rights Watch interview with Z.A., woman provincial council candidate in a northern province, August 30, 2005.

because even if I talk to women for hours and hours they still cannot vote for me because their family is male-dominated."[53] Another woman told us, "One of the obstacles is the traditions and discrimination against women and people look badly at women. They don't let women vote for the women or attend our campaigns. Sometimes mullahs tell people not to vote for women, [that] it is un-Islamic."[54]

The Secrecy of the Ballot

Human Rights Watch asked many candidates, voters, and election observers about the perceived secrecy of the balloting on election day—whether most voters understood or believed that their vote choice could be kept secret. We found that in most urban areas and in less remote rural areas, voters understood the secrecy of the ballot (although some voters were concerned that if local commanders did not win, they would be angry at local populations and retaliate—whether or not they knew how individuals had voted).

But in many rural areas, especially more remote areas, Human Rights Watch found that numerous voters simply did not believe in or understand the concept of the secret ballot. Numerous election observers across the country told Human Rights Watch they had serious concerns about whether rural populations understood that they could vote in secret. As one international observer put it: "It's common knowledge that most people [in rural areas] don't understand what this election is for, or how the voting works, that the voting is secret, and so on."[55]

Human Rights Watch is concerned about this lack of understanding because it directly impacts the potency of threats and intimidation. Simply put, voters who are threatened by local commanders to vote in a certain way, and who don't believe in the secrecy of the ballot, are more likely to do what they are told. Radio announcements and voter education projects have often not succeeded in the more remote areas of the country.

The Potential for Future Violence

Human Rights Watch is further concerned about what may happen in Afghanistan after the September 18 election. We are particularly worried about the possibility of

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[53] Human Rights Watch interview with Z.A., woman provincial council candidate in a northern province, August 30, 2005.

[54] Human Rights Watch interview with J.W., woman *Wolesi Jirga* candidate in a central province, August 31, 2005.

[55] Human Rights Watch interview with international election observer in a rural area of northern Afghanistan, September 1, 2005.

candidates resorting to violence if they are not elected or are otherwise displeased with the results of the election.

There is a real cause for alarm. According to Afghanistan's electoral law, if a member of a *Wolesi Jirga* or provincial council resigns or dies in office, he or she is to be replaced from among the losing candidates by the person who received the next highest number of votes in the election but was still unelected.[56] This is known among election observers in Afghanistan as the "assassination clause." It allows election losers to become winners if they bribe winners into resigning, or worse, have the winners killed. Human Rights Watch is concerned that some losing candidates—those with the capacity to organize violence against other candidates—may resort to assassinating (or bribing) winning candidates, to take their seats.

For this reason, we believe that the Afghan government should, as quickly as possible, amend the electoral law to provide for new special elections in the case of deaths or resignation of elected officials in the government, to minimize the risk of political violence in the wake of the election.

[56] Electoral Law of Afghanistan, art. 21(4): "If a candidate is not able to take, or abandons, his or her seat during the term of the Wolesi Jirga, the vacant seat shall belong to the next most voted candidate from the same gender."

Appendix A: List of Attacks on Candidates

1. Akhtar Mohammad Tolwak, a representative in the 2002 Emergency Loya Jirga and 2003 Constitutional Loya Jirga, was shot dead in Ghazni province on **May 11** when his vehicle was ambushed.[57] Local government officials claim that the Taliban was responsible for the attack.[58]

2. Mohammad Wali, a provincial council candidate in Uruzgon province, was shot and killed on **June 22**. The governor of Uruzgon, Jan Mohammad Khan, claimed that the Taliban carried out the attack.[59]

3. Mohammed Karim Qurabaghi, a former mujahideen and Taliban commander, was shot dead in Kabul province on **August 19,** when his vehicle came under attack by unknown assailants.[60]

4. Haji Atiqullah, a candidate for the *Wolesi Jirga*, was shot dead on **August 27**, in Uruzgon province. Taliban spokesman Latif Hakimi said the Taliban was responsible for the attack.[61]

5. Khan Mohammad Yaqubi, a candidate for the *Wolesi Jirga*, was kidnapped on **September 1**, along with four others, when their vehicle was ambushed by suspected Taliban gunmen in the Ghorak district of Kandahar.[62] The Taliban claimed responsibility for the kidnapping. Taliban spokesman Latif Hakimi claimed that the five

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[57] "Afghan candidate killed in Ghazni Province," BBC News Online, May 12, 2005.

[58] "Taliban kill Afghan election candidate," Agence France-Presse, June 24, 2005; "Afghan candidate killed in Ghazni Province," BBC News Online, May 12, 2005; "Afghan election candidate, driver killed in firefight," Agence France-Presse, May 12, 2005.

[59] "Afghan election candidate shot dead, Taliban blamed," Reuters, June 23, 2005.

[60] "Ex-Taliban commander and candidate in Afghan legislative elections is killed," Associated Press, August 20, 2005; "Former Taliban commander killed in Afghan capital," Xinhua News Agency, August 19, 2005.

[61] "Another candidate gunned down in Uruzgon," Paghwok Afghan News, August 28, 2005.

[62] "District leader, election candidate and three others kidnapped in Afghanistan," Associated Press, September 3, 2005.

were killed by a firing squad on September 3. On September 9, police found all five bodies in Ghorak district after an intensive search operation.[63]

6. Habibullah Khan, a *Wolesi Jirga* candidate, was severely wounded on **September 4**, when his vehicle hit a landmine placed outside the gate to his home in Helmand province.[64] He died in a hospital later the same day.[65] According to local government officials, the mine was deliberately planted in front of his gate.[66]

In addition to the above cases, on July 25, a convoy of vehicles carrying a *Wolesi Jirga* candidate, **Azatullah Khan**, was hit by a bomb blast in Waza district, in Paktika province. Azatullah's mother was injured, and his brother was killed. Azatullah himself was following in a second car, and was not injured. And on July 26, **Mohammad Moktar**, a provincial council candidate in Samangan province, was reportedly shot, but survived.[67]

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[63] "Bodies of five including kidnapped candidate found in Afghanistan," Agence France-Presse, September 9, 2005.

[64] "Afghan parliamentary election candidate attacked, 11 others killed," Agence France-Presse, September 4, 2005.

[65] Carlotta Gall, "Attackers kill 9, Including Candidate," *New York Times*, September 4, 2005.

[66] Ibid.

[67] Afghan Independent Human Rights Commission/United Nations Assistance Mission to Afghanistan, "Joint Verification of Political Rights, *Wolesi Jirga* and Provincial Council Elections, Second Report," August 2005, para. 47-48.

Appendix B: Recent Attacks on Clerics

Several high-level clerics who vocally supported the government or the election process have been attacked and killed in the months leading up to the September 18 elections. These include:

1. Mullah Abdul Hayee

On January 15, 2005, Hayee was injured when an explosive device was detonated near him in a mosque in Tirin Kot, Uruzgon province.[68]

2. Maulavi Abdullah Fayaz

Head of the Council of Clerics of Kandahar, Fayaz was shot dead in his office on May 29 by suspected Taliban supporters. Taliban spokesman Latif Hakimi said members of the Taliban were responsible for the killing.[69]

3. Maulavi Mohammad Musbah

Musbah was shot by suspected Taliban insurgents on July 3 in Kandahar while walking out of his home. He died later the same day.[70]

4. Maulavi Saleh Mohammed

Mohammed was the head of the religious council of Helmand province. He was shot dead on July 13 by two men on a motorcycle as he left a mosque.[71] Local officials blamed Taliban loyalists for the killing.[72]

5. Malik Agha

Agha, a tribal elder, was seized by armed men on July 15 in Attaghar district of Zabul province, taken to the neighbouring Zawana district and hanged in a tree.[73] Taliban

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[68] "Cleric escapes Taliban's murder attempt in Uruzgon," Deutsche Presse-Agentur, January 17, 2005.

[69] Carlotta Gall, "Senior Cleric is murdered in Kandahar, Anti-taliban stance suspected as motive," *New York Times*, May 30, 2005.

[70] "Taliban gun down pro-government cleric in southern Afghanistan," Agence France-Presse, July 3, 2005; "Afghan cleric killed in Kandahar," BBC News Online, July 4, 2005.

[71] "17 Rebels, Cleric killed in Afghanistan," Associated Press, July 13, 2005.

[72] "US, Afghan forces kill 17 in clashes in southern Afghanistan," Agence France-Presse, July 13, 2005.

[73] "Taliban hang Afghan tribal chief," Reuters, July 16, 2005.

spokesman Latif Hakimi said the Taliban was responsible for the attack and accused Agha of being a spy for Americans forces in Afghanistan.[74]

6. Mullah Abdullah Malang

Malang, deputy head of the religious council of Panjwaey district, Kandahar, was shot dead by two men on a motorcycle as he made his way home from a mosque on August 21.[75] Local officials blamed the Taliban for the attack.[76]

7. Mullah Amir Mohammed Akhund

Akhund was stabbed to death on September 1 in Helmand province.[77] Taliban spokesman Latif Hakimi claimed the Taliban was responsible for the killing.[78]

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[74] "Taliban hang tribal elder in southern Afghanistan," Agence France-Presse, July 16, 2005.

[75] "Taliban shoot cleric dead in southern Afghanistan," Agence France-Presse, August 21, 2005.

[76] Carlotta Gall, "Attacks increasing as Afghan vote nears, year is already deadliest there for GIs," *New York Times*, August 22, 2005; "Suspected Taliban kill pro-Afghan government cleric," Reuters, August 21, 2005.

[77] "Cleric killed, five people wounded in separate attacks in Afghansitan," Agence France-Presse, September 3, 2005.

[78] "Taleban kill cleric for election involvement in southern Afghan province," BBC News Online, September 2, 2005.