

AFGHANISTAN'S FUTURE: ASSESSING THE NATIONAL SECURITY, HUMANITARIAN, AND ECONOMIC IMPLICATIONS OF THE TALIBAN TAKE-OVER

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BEFORE THE
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BANKING, HOUSING, AND URBAN AFFAIRS
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FIRST SESSION

ON

EXAMINING AND ASSESSING THE NATIONAL SECURITY, HUMANITARIAN, AND
ECONOMIC IMPLICATIONS OF THE TALIBAN TAKEOVER OF AFGHANISTAN

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TUESDAY, OCTOBER 5, 2021

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:03 a.m., via Webex and in room 538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN SHERROD BROWN

Chairman BROWN. The Senate Committee on Banking, Housing, and Urban Affairs will come to order. This hearing is in a hybrid format. Our witnesses, three in person, one remote. Members have the option to appear either in person or virtually. Everyone who was at the markup has checked in, in that order.

Once you start speaking there will be a slight delay before you are displayed on the screen. I think you all know those rules.

Speaking order will be as usual, that is by check-in and seniority, so thank you again for all of your cooperation.

In August, we finally ended 20 years of war in Afghanistan. Almost 125,000 people were airlifted out of the country in a few short weeks, because of the skill and the courage of our troops and our diplomats and humanitarian workers on the ground.

Today, our servicemembers are out of harm's way for the first time in two decades. Thousands of Afghans are starting a better life in this country. We welcome, as our history suggests, we welcome these refugees seeking freedom. Our country has done that for generations.

But in the midst of the evacuation, we saw a country in turmoil. An Islamic State suicide bomb attack near the airport killed 13 U.S. troops, scores of innocent Afghan men, women, and children. One of them, Navy Corpsman Max Soviak of Berlin Heights, about 50 miles from where I live, was among those killed in action, and died a hero in service of his country, working to evacuate vulnerable Afghans and protect fellow Americans.

Even after the evacuation ended, tens of thousands of Special Immigrant Visa applicants and other vulnerable Afghans remain in Afghanistan, along with many American citizens or legal permanent residents of the U.S., including some of my constituents.

It is now clear that the agreement that former President Trump reached with the Taliban, which provided for the final phase of the U.S. withdrawal process and the release of around 5,000 battle-hardened Taliban prisoners, was flawed. Many of those released Taliban prisoners contributed to the Taliban's quick seizure of the country. President Biden, understandably reluctant to keep or expand the number of American troops in harm's way while working out a better deal, observed that Trump agreement.

It is also clear that the Biden administration and U.S. officials failed to anticipate the rapid fall of the Afghan Government. It is obvious that the execution of the withdrawal was flawed.

We also now know, of course, that the Taliban never intended, as they claimed, to pursue a peaceful path, a more democratic path, with a broader Government with representatives from a diverse range of ethnic groups, gender, and civil society actors. They refuse to reject relationships with terrorists like the Haqqani network and al Qaeda.

Three different Committees chaired by Banking Committee colleagues—Senator Menendez with Senate Foreign Relations, Senator Warner with Senate Intelligence, and Senator Reed with Armed Services—have begun thorough reviews, including a series of hearings to assess the many decisions, including mistakes made along the way by subsequent Administrations, and possibly by Congress, over 20 years in Afghanistan.

What is clear is that before we send our servicemembers into another conflict we must make sure that military engagement is truly the last resort, and that we know how we will extricate ourselves from military conflicts before we get ourselves into them.

Today the focus of this hearing is to look forward, to envision what we can do to address the urgent economic and humanitarian crisis facing the country in the wake of the Taliban takeover, and to assess the role of economic and financial sanctions and other counterterrorism tools against the Taliban, tools within this Committee's jurisdiction.

With as much as 30 percent unemployment, a brain drain of its most capable young people, enduring deep poverty, an ongoing drought, the COVID crisis, and the collapse of Afghanistan's economy looming, the people of Afghanistan need help.

We must consider how the U.S. can maintain the flow of humanitarian assistance and family remittances, while ensuring that aid does not fall into the wrong hands. This aid has been a lifeline to the people of Afghanistan. Millions rely on it. It must continue, even while we deny access to funds to terrorist actors like Haqqani, al Qaeda, and the Taliban.

As we will hear today, that is no small task, but it is essential. The lives and livelihoods of millions of Afghans may depend on it. We owe them that much. And we must do this while protecting the security of Americans and preventing Afghanistan from once again emerging as a terrorist safe haven.

The Administration has made clear the Taliban should be judged by their actions over time, and that any decisions regarding diplomatic recognition or the release of billions in frozen Afghan Government reserves is far off. They have a clear-eyed realism about who the Taliban are, while at the same time recognizing, along

with our allies, that they control the Government and thus we must engage them, and when necessary, hold them accountable for abuses.

If the last month is any indication, the Taliban are not moderating their positions. They have appointed brutal old-guard Taliban members to serve in the interim Government, including the leader of the terrorist Haqqani network as Minister of the Interior. They have threatened, harassed, and attacked women and girls who were demonstrating to retain their hard-fought freedoms. They closed Kabul's premier university to women faculty and to women students. They converted the former Ministry of Women's Affairs into the old, notorious Ministry of Vice and Virtue—a pretty awful, grotesque irony.

They have harassed, beaten, and killed journalists. They started a return to grisly public executions. They have threatened a return to public amputations. The situation grows more dire each day.

We know that China, Russia, and other countries that do not share our values are already engaging in Afghanistan. They have few qualms about funds falling into the wrong hands.

It is up to us to show the Afghan people, and people around the world, that the U.S. will continue to be a beacon of hope and a source of humanitarian relief.

I am eager to hear today from our four witnesses, who will share their unique perspectives with us. We welcome you all to the Committee, in person and remotely, and look forward to your testimony.

Senator TOOMEY. Thank you.

OPENING STATEMENT OF SENATOR PATRICK J. TOOMEY

Senator TOOMEY. Thank you, Mr. Chairman. I also want to welcome our witnesses today and I look forward to hearing from you.

Last month, of course, we all watched in horror as chaos unfolded at Kabul's airport. This Administration's flawed decisions resulted in catastrophic evacuation from Afghanistan. Responsibility for this withdrawal, notwithstanding our severely flawed negotiations with the Taliban under the previous Administration, lies with President Biden.

To be clear, I felt at the time and still believe, that it was wrong for the previous Administration to negotiate with the Taliban to the exclusion of the legitimately elected Afghan Government, and to agree to a full withdrawal of U.S. troops. However, at least that agreement was conditioned on the Taliban fulfilling certain political commitments, including achieving a "permanent and comprehensive cease-fire," and agreeing upon a "political roadmap" for Afghanistan's future. Since it is universally acknowledged that the Taliban failed to live up to these conditions, the Biden administration could have chosen a different path and adjusted their withdrawal plan without even having violated the prior agreement. Tragically, they did not.

We know from recent congressional testimony that President Biden ignored the counsel of DoD officials to keep a military presence in the country longer. And we also know from recent media reporting that the DoD urged the Administration to begin the evacuation of Americans months earlier. Had the President listened to this advice, America could have ended, not continued, as the Presi-

dent claims, but responsibly ended our involvement in this ongoing war on our own terms. Instead, the terms of our chaotic exit were set by the Taliban, a terrorist group that we have been at war with for 20 years.

Amazingly, the Administration entrusted the “safe passage” of Americans, green card holders, and vulnerable Afghans to evacuate the country to the Taliban, and did not publicly question or challenge the Taliban’s threats that we must depart by August 31st. So it is no wonder that, contrary to President Biden’s assertion that the U.S. would stay until every American was able to leave, in fact, hundreds of American citizens and legal permanent residents were left behind, including Pennsylvanians.

One such Pennsylvanian American citizen, a mother of four, works at a middle school in the Lehigh Valley, where I live. During the evacuation operations in Kabul, she repeatedly tried and failed to make it to the airport. Once she was teargassed. Another time she nearly had her passport seized by a Taliban militant. She was just blocks away when the suicide attack at the airport killed 13 U.S. servicemembers and nearly 200 Afghans.

The only way she escaped Afghanistan was because a veterans’ group operating on the ground found her, protected her, and got her on a flight on September 10th. It is unbelievable to me that a group of American civilians had to save this woman’s life because her own Government abandoned her.

And now, as a direct result of the humiliating and unnecessary surrender in Afghanistan, a massive humanitarian disaster appears likely to descend on the Afghan people.

Today, thousands of Americans, green card holders, and Afghan Special Immigrant Visa applicants, who aided the U.S. military, and their families, are still trying to escape this disaster. And, of course, the Afghan people, including vulnerable women, girls, and minorities now face violence, systemic repression, and the denial of their basic rights under Taliban rule, something that the Afghan people have not known for two decades.

The Biden administration has said repeatedly that the Taliban must cut ties with terrorist groups, ensure the rights of women and girls, conduct no revenge killings against our Afghan partners, and allow Americans, green card holders, and SIVs and their families to leave the country freely. As we will hear today, the Taliban is failing on all of these fronts. They are a brutal, murderous, terrorist group intertwined with al Qaeda. And yet, the Administration’s current posture seems based on the naive hope that the Taliban will reform itself now that they have taken power.

The Administration may feel pressured to provide sanctions relief to the Taliban to address the acute humanitarian crisis that is emerging in Afghanistan. But bestowing international legitimacy on the Taliban and allowing them access to \$7.5 billion dollars at the New York Fed would be a grave mistake. We must be exploring ways to help the Afghan people without empowering the Taliban.

Today we will consider critical issues that will determine whether and how the Administration will engage with the Taliban, including the status of sanctions on the Taliban, which is a Specially Designated Global Terrorist organization, now that it controls Afghanistan; the interconnectedness of al Qaeda and the Haqqani

Network and the Taliban and any new sanctions that should be imposed on these groups; the acute risk of Afghanistan becoming an epicenter of money laundering and terrorist financing; Treasury's policies permitting humanitarian aid to continue flowing to the Afghan people; the current and future status of the \$7.5 billion in Afghan foreign reserves kept at the New York Fed; and Afghanistan's \$500 million in Special Drawing Rights held at the IMF.

I look forward to hearing from today's witnesses about these issues.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Toomey.

Let me take a moment to introduce our witnesses, then we will turn first to Mr. Smith for his testimony.

Adam Smith, former Treasury National Security Official, deep expertise in the implementation of enforcement of sanctions and other illicit finance tools, has some creative ideas on how the Biden administration might ease the suffering of Afghans while preserving effective sanctions on the Taliban. Welcome, Mr. Smith.

Sue Eckert, former Government official now at the Center for Strategic and International Studies, lecturer at Yale University, she has worked for years on sanctions and humanitarian aid, especially on questions concerning bank derisking, where sanctions over compliance by banks may put humanitarian aid efforts at risk. She joins us from New York City.

Ms. Naheed Farid is a member of Afghanistan's Lower House of Parliament, elected from Herat, chair of the Human Rights Civil Society Women's Affairs Committee, a member of the International Relations Committee. She has been a fierce advocate for the rights of women and gender equality in her native country. She was forced to flee with her family after the Taliban takeover. We offer you an especially warm welcome. We admire your courage. We are honored to have you with us today, Ms. Farid. Thank you.

Thomas Joscelyn is a counterterrorism expert at the Foundation for Defense of Democracies, senior editor of its *Long War Journal* newsletter, an expert on al Qaeda and ISIS around the world. Mr. Joscelyn, welcome to the Committee.

Mr. Smith, please begin your testimony.

STATEMENT OF ADAM M. SMITH, PARTNER, GIBSON DUNN AND CRUTCHER, FORMER TREASURY DEPARTMENT SENIOR ADVISOR, AND FORMER DIRECTOR, MULTILATERAL AFFAIRS, NATIONAL SECURITY COUNCIL

Mr. SMITH. Chairman Brown, Ranking Member Toomey, Members of the Committee, thank you for inviting me to the Committee to speak today about the economic impacts of the Taliban takeover of Afghanistan.

In particular, I have been assessing the implications of the Taliban's unique status as an entity that has not only assumed control over a country but also remains subject to sanctions. I am not aware of such a combination of sanctions and control over a country ever having occurred before.

I have submitted written testimony to the Committee, and I wanted to use this brief time to provide a brief overview of my assessment. As the Committee is well aware, the economic situation

in Afghanistan was precarious even before the Taliban took over. Eighty percent of the country's GDP comes from donors. More than half of the population rely on humanitarian aid. Winter is coming and thousands will likely die.

The Taliban's takeover has exacerbated this situation. They have limited access to any assistance that remains, and their status as a sanctioned party has essentially frozen them out of access to any of Afghanistan's official assets abroad. The result is a brewing balance of payments crisis and a potential economic meltdown, as the country runs out of hard currency.

Despite the difficulties created by the Taliban's sanctions, I have heard no serious considerations that the entity should be removed from the sanctions list, and rightfully so. Consequently, U.S. sanctions policy must continue to work to limit flows and benefits to the Taliban and other sanctioned parties. However, it must also work to ensure that tens of millions of Afghani citizens are not victimized twice over, once by being subjected to the brutality of the Taliban and the second time by being denied access to basic needs.

Such a dual policy is not altruistic, or at least not solely altruistic. We know that without support Afghanistan could become a failed State, the population could become radicalized, heroin production could return to being the only viable commercial endeavor in the country, and, of course, China and Russia may have an open door into the country. Any of these outcomes, let alone all of them, could be deleterious to our national security interests and the interests of our allies.

How should the Administration balance these competing interests, prevent flows to Taliban, while simultaneously encouraging certain dealings by private and public sector actors in Afghanistan that we deem critical to our national security interests?

My testimony speaks to two distinct strategies. The first is a call for clarity regarding how the Administration views the current sanctions on the Taliban. And the second is a call for creativity, urging the Administration to use the full breadth of sanctions authorities, including interpretive guidance, licensing, maybe even some forward-leaning humanitarian channels in order to calibrate sanctions appropriately.

Regarding clarity, there is a threshold requirement for the Administration to determine what the sanctions on the Taliban actually mean today. There are three options. The U.S. could view the Taliban sanctions as limited solely to those parties specifically identified as sanctioned. This is broadly in line with the model in place against Burma, since the coup in February of 2021. The junta has been designated, as have several members of the Government, and major economic actors. However the Government of Burma is not designated and neither is the State.

The U.S., alternatively, could view the Taliban designation as extending to the Government of Afghanistan that they now control but not to the State of Afghanistan. That is similar to the model in place in Venezuela in which the Maduro regime is designated but the country of Venezuela is not sanctioned.

And finally, the U.S. could view the sanctions against the Taliban as extending to the Government and the State, which, of course, is akin to the model we have in place against Iran.

As for which interpretation is preferable the more limited approaches in place against Burma and Venezuela probably are the ones that provide the most flexibility. But the reality is that any of these approaches could provide the policy outcomes that are needed, so long as commensurate authorizations and interpretations are provided.

My second strategy is a call for creativity. The Administration could deploy more authorizations and licenses to allow the private sector to assist in promoting U.S. interests. Presently, the Treasury has issued two general licenses, regulatory exemptions to deal with the Taliban and the Haqqani Network.

If the Administration seeks to limit the flow of funds to the Taliban and Haqqani Network while promoting the benefits to the Afghani people, more general licenses are going to be needed. In Venezuela, for example—where the Government is sanctioned but the State is not—there have been over 30 regulatory exemptions issued in order to limit the exposure of the average Venezuelan to the sanctions imposed on the Maduro regime.

Second, the Administration could develop a humanitarian channel, a process that was started in the context of Iran. In such a model, if a party provides the U.S. Government diligence and information, the Administration could provide an assurance that the U.S. Government finds the channel is not problematic from the perspective of sanctions.

Third, creativity is needed with respect to Afghanistan's funds overseas, which include the funds in the Federal Reserve, the Special Drawing Rights at the IMF, et cetera. In this regard, the Administration could also borrow some lessons from Iran sanctions. In the Iran model, certain Iranian funds are immobilized abroad, outside of the country in financial institutions, and cannot be repatriated. However, they can be used under supervision for approved bilateral trade, principally humanitarian and benign consumer goods. I think this model could be of interest in Afghanistan—it would allow the people of Afghanistan to potentially benefit from these funds while leaving the funds themselves outside the reach of the Taliban.

The Administration needs to leverage the flexibility of sanctions. There is clear limit, regulatorially or precedentially, about the creativity of how one can implement sanctions. And leaning in in this regard is not just a moral approach but very much an approach that we need to pursue in order to achieve our core foreign policy and national security interests.

I look forward to your questions.

Chairman BROWN. Thank you, Mr. Smith.

Ms. Eckert joins us from New York City. Ms. Eckert, welcome.

Ms. ECKERT. Thank you. Chairman Brown, Ranking Minority Member Toomey, and other Members of the Committee. It is an honor to [audio interruption].

Chairman BROWN. We have lost you, Ms. Eckert. Something happened on your end.

Ms. Eckert, until we can fix this jointly we will move on to the next witness. Sorry about that.

Ms. Farid, welcome again. You are recognized for 5 minutes.

**STATEMENT OF NAHEED FARID, MEMBER OF PARLIAMENT
(THE WOLESI JIRGA), AFGHANISTAN**

Ms. FARID. Thank you for having me and inviting me to this Committee. Chairman Brown, Ranking Member Toomey, Members of Congress, my name is Naheed Farid. I am a member of Afghanistan Parliament representing the people of Herat, which is my hometown. I have served in Parliament for more than 11 years, and since 2019, I have been the Chairperson of the Human Rights Civil Society and Women's Affairs Commission. And here in Washington, DC, I am on the advisory board of the U.S.-Afghan Democratic Peace and Prosperity Council.

I appear before you today still in shock that the Taliban and the Haqqani Network and al Qaeda have taken over Afghanistan. For years, my family and I have faced death threats from the Taliban. I cannot count how many friends and colleagues I have lost to Taliban violence.

A week before they took Kabul, the Taliban entered Herat, found my house, searched for my family. Luckily, my family and I were able to escape, but we just left everything behind.

For Afghan women of my generation, we remember the Taliban from the 1990s. This sudden takeover of the country brings back so many of the nightmares. When I was a girl growing up in Herat, I loved going to school, becoming a pilot 1 day. When the Taliban took control of Herat, they shut down the schools, and I was forced to spend all of my time at home with my female relatives.

Today what we, as Afghan women, have known all along is clear for the world to see. The Taliban cannot be trusted. Afghan women and girls face blatant gender apartheid by Taliban, and a return to the 1990s. The Taliban have stripped most women of the ability to work. Girls cannot participate and attend secondary schools. Young women who grew up in a free and open society are now hiding in fear.

Make no mistake. The Taliban govern through fear. Their soldiers indiscriminately whip civilians in the street. They have resumed public executions and mutilations. They have committed forced displacements and atrocities against Tajiks and Hazaras in Panjshir, Daikundi, and other places of Afghanistan. They have curbed free speech and decimated Afghanistan's once-thriving media sector that we had.

So how can Congress help the Afghan people? I have had so many meetings with Members of Congress these past few years and I know so many of you feel a deep bond with the Afghan people, a deep bond with Afghan women. And what the Afghan people need right now are three things: one, immediate humanitarian assistance; two, legislation that prohibits U.S. recognition and normalization of relations with the Taliban; and three, support for local NGO's and civil society who can deliver basic services in the absence of a normal Government.

Afghanistan faces a dire humanitarian crisis. Because of the health care system collapse, many internally displaced persons, and widespread food insecurity in the winter that is coming, without outside assistance, more Afghans will suffer and more Afghans will die. But the Taliban cannot be allowed to set terms and conditions on how this humanitarian assistance is delivered and who it

is delivered to. Humanitarian corridors need to be established where international and local NGO's can do their work without any interference from the Taliban.

The Taliban regime cannot be trusted. Because of their hardline beliefs and their partnership with dangerous terrorist groups, the Taliban pose an imminent threat to the region and to the world. I urge the Members of this Committee to support legislation that prevent any U.S. Administration from recognizing the Taliban and normalizing any relations with Taliban. I encourage the Members of this Committee to act quickly, in a bipartisan way, to draft and pass legislation that encourage no U.S. Administration ever recognizes the Taliban. Not only can the Taliban regime be trusted, it also has minimal capacity for governance.

We are witnessing the breakdown in basic services such as health care, education, banking and finance, aviation, and many others. The U.S. should not provide the Taliban with capacity-building support. Instead, the U.S. should provide direct support to Afghan NGO's and civil society. As someone with a background in nonprofit management and a family foundation that has built many schools for girls throughout Afghanistan, I know firsthand how valuable local NGO's are to so many ordinary Afghans, especially to women and girls. The U.S. Government must find ways to provide funding, capacity-building, and also support to these local organizations and NGO's through a ready, trusted corridor.

I will stop here, and I am looking forward to the questions. Thank you

Chairman BROWN. Thank you very much, Ms. Farid.

We will return to Sue Eckert, Ms. Eckert, in New York.

STATEMENT OF SUE ECKERT, SENIOR ASSOCIATE AND LECTURER, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES AND JACKSON INSTITUTE FOR GLOBAL AFFAIRS

Ms. ECKERT. Thank you, Mr. Chairman, Ranking Member Toomey, and Members of the Committee. It is an honor to appear before you today. I am only sorry I cannot join you in person, but there are meetings at the U.N. Security Council and with member States to talk about the future of the al Qaeda, ISIL, and Daesh Committee this year, that I am involved with.

Thanks to the Committee for focusing on this very important topic, which is critical not only for U.S. security and foreign policy but to the lives of millions of Afghan citizens.

Adam has laid out very well the sanctions situation as it applies to Afghanistan, so I want to take my brief time to focus on five points.

The first is, as our previous speaker just noted, the dire and deteriorating humanitarian crisis in Afghanistan. Second, the need for additional measures by OFAC, to support NGO's and to continue their programs in support of the Afghan population. Third, the importance of action at the U.N. Security Council to ensure continuation of humanitarian assistance into Afghanistan. Fourth, the need for international action to create secure and safe channels to move funds into Afghanistan to support NGO's in the near term. And fifth, to take this opportunity to review the U.S sanctions sys-

tem overall, and improve the process to restore humanitarian exemptions and prevent similar situations in the future.

First, the humanitarian situation. As noted, even before the Taliban took control, Afghanistan was experiencing one of the worst humanitarian crises in the world. Between COVID, climate change, the 2021 drought, and persistent insecurities and violence, Afghanistan has been in dire need. Over half the population of Afghani citizens are in need of humanitarian assistance. Food security is deteriorating rapidly, with only 5 percent of households consuming adequate levels of food. Recent reports are that 3 out of 4 households now limit portion sizes, with adults eating less so their children can eat more.

The health system is rapidly deteriorating. With decreasing access to health care there is more measles, diarrhea, and polio, and less resources to respond to the COVID situation. As the World Health Organization noted, 17 percent of over the 2,300 health facilities previously supported by international assistance are suffering and are not fully functional. Two-thirds of these facilities have run out of essential medicines.

David Beasley, former U.S. Congressman and now Executive Director of the World Food Programme, has pleaded that the time is now. We cannot wait 6 months. We need action now, before the winter sets in.

Second, the sanctions situation complicates the delivery of aid, but there are steps that can be taken to clarify and alleviate some of these challenges. The Biden administration issued new general licenses that are very welcomed and very important steps.

But there is need for additional moves to continue delivery of assistance. Here we need to extend authorization beyond just basic humanitarian needs to other programs supporting Afghan citizens, and for which the international community has devoted years and billions of dollars supporting.

In addition there is need for clarification as to who the Taliban is, as Adam discussed previously.

Third, the U.N. Security Council needs to safeguard the continuation of humanitarian action. The Security Council resolution adopted on August 30th called for strengthened efforts to provide humanitarian assistance and the support of all donors.

But there is need for additional action now. Guidance that sanctions are not intended to impede humanitarian action and that member States must implement these measures consistent with their commitments under international humanitarian law is one step, but there is a need for a humanitarian carveout, to ensure that these activities and humanitarian assistance can continue. In that regard, the current exception that exists in the U.N. Somalia sanctions regime represents a very good model.

Fourth, we need to develop new ways for funds to get into Afghanistan. It is going to be months before the financial system stabilizes and international payments can be regularized to NGO's. In the meantime, we need a safe and reliable system to move humanitarian funds in.

In the medium term, we need to deal with financial institutions to provide the kind of incentive assurances for them to continue to

support NGO operations. As Adam said, we need to think creatively about ways to address these derisking issues.

Finally, this crisis brings into stark relief some of the systemic challenges that exist and as such, provides opportunities to improve the U.S. and the U.N. sanctions processes to safeguard humanitarian action through exceptions. Time after time, we have faced this situation. Just this year humanitarian organizations faced with the threat of being forced to withhold humanitarian assistance from Yemen following the designation of Ansarallah in January. Situations in Burma, Ethiopia, and Afghanistan demonstrate the need for systemic reform to create standing carveouts for humanitarian action. And in this regard we need to seriously look at restoring the IEEPA exemption, which is contained in the act that the Committee passed a number of years ago, but which has been routinely waived.

These recommendations do not assume that any of this is necessarily easy, and we need to be realistic about the situation in Afghanistan, which is extremely complicated for NGO's working there. But I think that the overwhelming imperative is to act now, consistent not only with our humanitarian and human rights values but with our national security and foreign policy interests as well.

Thank you very much, Mr. Chairman.

Chairman BROWN. Thank you, Ms. Eckert.

Mr. Joscelyn is recognized for 5 minutes. Thank you for joining us.

**STATEMENT OF THOMAS JOSCELYN, SENIOR FELLOW,
FOUNDATION FOR DEFENSE OF DEMOCRACIES**

Mr. JOSCELYN. Well, Chairman Brown, Ranking Member Toomey, thank you for inviting me to testify here today. You know, I have done this a number of times. Unfortunately, in the past, I was warning about the impending security situation or fall of the Afghan Government. Now we are dealing with the aftermath, of course.

And what I want to focus on here today is that many of the factors that we focused on for years at *Long War Journal*, that led to the collapse of the Afghan Government and the victory for the Taliban and, indeed, al Qaeda, are still relevant for the discussions and debates you are going to be having today and in the future.

In particular, I am going to make three quick points. The first one is that as you, Chairman Brown and Ranking Member Toomey, both recognize, the Taliban's relationship with al Qaeda is unbroken. We heard that from the generals last week when they testified here on the Hill. We have heard that from Secretary of State Blinken.

I think that is a remarkable fact, if you think about it, right. After 20 years of war and more than 10 years of on-again, off-again diplomacy led by the U.S. with the Taliban, during which time the State Department and the military were desperate to have the Taliban throw al Qaeda under the bus, they did not, right. They stood by them this whole time. That is a remarkable fact, and if you think about it, why is that? Why is it that after all these years, going back, in fact, to even the 1990s when the U.S. Government

first started trying to pressure the Taliban to break with al Qaeda, why is it that after a generation they have not?

And I think the answer is that there is a lot more to that relationship than many people realize, a lot more to that relationship than people in the U.S. Government realize. And I am going to give you a few details along those lines.

But before I move on to my second point, I want to note that in early September the Taliban, after they took over Afghanistan, they took over, of course, all the media outlets, and one of the things they did, when they controlled the media in Afghanistan, was they broadcasted a video called "Victorious Force 3." I suggest if you look at some of my testimony or some of the stuff I post on-line you can watch it, and I suggest everyone does. Because they are still saying, no, in 2021, that we deserved to be attacked on 9/11. That is the official Taliban line. That has been the Taliban's line since Mullah Omar first uttered it on September 26 of 2001, for 20 years now, unbroken. For 20 years straight they have said that America deserved to be attacked on 9/11. That is remarkable.

The second point I want to talk about is that the Taliban's regime is an authoritarian regime. The new Taliban is, in fact, just the old Taliban in many ways. In fact, as I was preparing my written testimony today I was struck by the fact that one of the guys I included in my write-up is a guy named Hassan Akhund. He has been named the Head of State, or so-called Prime Minister of the Taliban regime. Of course, he is not really a prime minister, is he? They do not really work that way. But that is the title they gave him in some of the press reporting.

But Akhund was actually first sanctioned by the U.N. in early 2001, 8 months before 9/11, and it was Akhund who, on behalf of the Taliban, rejected the first overtures by the U.N. to get the Taliban to turn over Osama bin Laden. In fact, in 1999, it was Akhund who said, when the U.N. demanded that bin Laden be turned over, it was Akhund who answered on behalf of the Taliban and said, "In fact, we will not turn over Osama at any price." Those are his words.

The Interior Ministry of this authoritarian regime is controlled by Siraj Haqqani. Chairman Brown, you mentioned that. Siraj Haqqani, you can look at my testimony, he is an al Qaeda man. There is this idea that the Taliban is one thing, the Haqqanis are another, and al Qaeda is a third thing. That model has been wrong all along. The Haqqanis have a controlling interest in the Taliban. They always did. The Haqqanis play a lead role in controlling hierarchical positions throughout the Taliban, and, in fact, the special forces of the Taliban, that won the war, including the suicide bombers who played such a prominent role in defeating Afghan forces in America and Afghanistan, were run by the Haqqanis, and we can get into that a little bit more, what that means, because it actually plays out in terms of the security around the airport in Kabul, involved an Haqqani special forces outlet that actually specializes in suicide bombings. Very spooky, actually.

So the Interior Ministry is run by Siraj Haqqani and his family, which has been in bed with al Qaeda since the 1980s. In fact, they incubated and helped build al Qaeda. The Intelligence Ministry is run by another guy, known as Abdul Haq Wasiq, who was a former

Guantanamo detainee. He too was sanctioned in early 2001 by the U.N. before 9/11, and he was sanctioned, why? Because he, as the deputy head of intel at that point for the Taliban actually oversaw foreign fighters for al Qaeda coming into the country and helped protect al Qaeda's training camps.

So if you think of this as an authoritarian regime, which it is, and they are going to implement their draconian version of Sharia on the Afghan population, as Ms. Farid can tell you better than anyone, and they are, the guys are actually pulling the levers of power for this authoritarian regime, have dossiers that are littered with al Qaeda references.

The third point I would make very quick is that I, too, am very concerned about the Afghan people. We, of course, got to know quite a few of them during our time doing this, the *Long War Journal*. I would just emphasize something that Ms. Farid said. She said when it comes to humanitarian assistance, do not let the Taliban decide.

That is a very important, powerful point, because this authoritarian regime here in Afghanistan, to the extent that any humanitarian assistance flows through the Taliban to the Afghan people, that will strengthen their authoritarian regime and legitimize their governance.

I am very open to any of the ideas that Mr. Smith or other have for sort of providing carveouts around sanctions for humanitarian assistance, working with NGO's, as Ms. Farid said, and others. There are all sorts of options we can explore. But do not empower the Taliban's regime. Thank you.

Chairman BROWN. Thank you, Mr. Joscelyn.

I will start my questions with Ms. Farid.

You, for years, have been a fierce advocate for the rights of women and girls in Afghanistan as women have made real strides and emerged in key roles throughout society. Your leadership role as a member of the Parliament, the many able and distinguished Afghan women with whom you work are key examples.

I know you touched on this in your opening statement but can you describe the current situation for women and girls following the Taliban takeover in urban settings like Kabul and provincial cities like in your home of Herat, and in rural settings?

Ms. FARID. Thank you. Thank you so much. You know the situation in Afghanistan is very, very difficult for women. Like 15 million of the population of Afghanistan that are women think that they are abandoned and they have been forgotten. I mean, there was no precondition of women's rights, human rights in the last years of the achievements of Afghan women and Afghan people and Afghan democracy in the peace process with the Taliban. And even with the individuality there was no precondition. And that is the problem that people of Afghanistan are thinking, that why, and especially women, why, after 20 years, we have been forgotten at this level, at this level that 50 percent of the people that are women, and many frontrunners of the democratic process in Afghanistan, actually they are in a situation that they do not know where to hide. We had to escape instead of championing them. We actually cannot help them at this point. They are very helpless.

Chairman BROWN. So what more should the U.S. and our allies do to protect the rights of women and girls? What specifically should we do?

Ms. FARID. In fact, people of Afghanistan, women of Afghanistan, they deserve the Government they want. They deserve the Government that was not enforced on them, the Government that they want to choose. And U.S. has to help the Afghan people, the Government that was not forced by atrocities, by violence, on the people of Afghanistan.

This has to be the strategy, that we have to stand with the people of Afghanistan. And we have to be against the enemies of people of Afghanistan, and those who have no plan and strategy to help the people but they have the strategy to attack the rest. And they have no strategy to do the governance in Afghanistan. See the health care system. See the education system. See women. See girls. They cannot attend secondary schools.

So the reality is that those syndicates, terrorist syndicates, that took place in Afghanistan, they have no idea how to govern Afghanistan. It has to be a group of NGO's, internal NGO's, original NGO's, international NGO's, to fill the gap, to fill the vacuum, and support the Afghan women to provide jobs for them, through capacity building, through providing the basic needs of health care and education to them.

At the same time, Taliban should not decide. Taliban should not say who should receive this aid. Taliban should not put conditions on it. And this is, at least, this is the option that we can start with, but there have to be more options to explore in the future.

Chairman BROWN. Let me follow that way of thinking about the Taliban obviously not deciding with Ms. Eckert and then Mr. Smith. Same question. Treasury has issued new licenses to support the continued flow of humanitarian assistance to people of Afghanistan and other activities that support basic human needs while upholding and enforcing our sanctions against the Taliban and the Haqqani Network. What more should Treasury and State be considering, including with international banks, to ensure the people of Afghanistan continue to receive aid without benefiting the Taliban. Ms. Eckert first, and then Mr. Smith, answer that, please.

Ms. ECKERT. Thank you, Mr. Chairman. I think OFAC needs to issue additional general licenses authorizing NGO programs that go beyond basic human needs, and here we are talking about programs, we are talking about areas of protection and prevention, women's programs, conflict and stabilization, education. These are all programs in which the international community has invested billions of dollars over the last 20 years, and they help individual Afghan people, not the Taliban.

These programs should continue. The way OFAC has currently defined the general licenses, they apply to a narrow set of activities. I think that what we need to do is to broaden it to what used to exist for Yemen, Burma, and Ethiopia, through the broad range of NGO activities.

Chairman BROWN. Mr. Smith, can you respond to that too?

Mr. SMITH. Thank you, Chairman Brown. I think that is right. Licenses and exemptions need to be expanded. I gave an example in my opening statement that if we really want to expand and limit

the exposure of the average Afghani, significantly more licenses are going to be needed.

But outside licenses there is one other component that I wanted to talk about, and I mentioned it briefly in my opening statement, and that is what to do with, or how to leverage safely the funds Afghanistan has outside the country. Now we, of course, should not just identify them as Afghani and let them go. That is not wise. Apart from the issue of sanctions, the Taliban does not have the technical capacity to even manage them for the benefit of the Afghani people.

But I do think that the Iranian model, in which there are funds essentially frozen overseas, in jurisdictions that continue to buy Iranian oil, those funds are not able to be repatriated to Iran but they can be used, and they are used with the oversight of local institutions and with the U.S. looking on very careful, for the provision of basically approved bilateral trade, which is humanitarian goods and other sort of goods in kind.

I think if you focus on using these funds not to provide currency but rather to purchase goods for the Afghanistan people that could be promising. Will there be some seepage to the Taliban? Unfortunately I think there will be, but it is much, much harder to make fungible in-kind goods than just opening the spigots of cash.

So I think we need to be very creative and learn the lessons we have learned in other jurisdictions in this context as well.

Chairman BROWN. Thank you. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman. Ms. Farid, first of all, thank you so much for being with us today. Just very briefly, if you could, because I think we should be clear about this, you fled Herat shortly before the Taliban took the city. When they took the city they came looking for you and your family. What would they have done had you not fled and had they found you?

Ms. FARID. They would have killed me.

Senator TOOMEY. They would have killed you.

Ms. FARID. Yeah.

Senator TOOMEY. Mr. Joscelyn, you made a very interesting point, if I understood it correctly, in your written testimony. I think it is fair to say that you suggest that the distinction between the Taliban and the Haqqani Network is really a Western construct. It is not very meaningful to these people. They are so completely intertwined that it is a meaningless distinction. Do I have that right?

Mr. JOSCELYN. That is absolutely correct, Senator.

Senator TOOMEY. So money going to the Taliban is the same thing as money going to a notorious terrorist network, because they are one in the same.

Mr. JOSCELYN. Correct. The Haqqanis have a controlling interest in the Taliban.

Senator TOOMEY. Right. So Mr. Smith made a point that I think is very, very interesting and important one. One of the things I worry about extending licenses of all kinds, to all kinds of groups, to conduct all kinds of activities sounds to me like it is likely to include funding, and money is inherently fungible. I worry that it gets in the hands of the Taliban, one way or another.

But goods, humanitarian goods—food, medicine, basic human needs—those are harder to convert into things like weapons and terrorist activity. So to get them there I assume entails significant logistical challenges, not to mention security challenges.

My question really for each of you is, should the United States be attempting to create or encourage, facilitate, some kind of international peacekeeping ability to provide security for humanitarian corridors to delivery lifesaving goods? Does that make sense?

Mr. Joscelyn and then Ms. Farid and Mr. Smith.

Mr. JOSCELYN. All I can say I would be a large sum of money the Taliban would not allow that. They are an authoritarian regime, as I said, and they are going to control the show.

Senator TOOMEY. All right. Ms. Farid.

Ms. FARID. I think besides having a peacekeeping coalition, United States needs to partner with a regional player, a regional actor, to Afghanistan. So there will be a base of humanitarian assistance near Afghanistan, where NGO's can operate, where NGO's can have staff that can collect wages there. I think that also is very important, that this corridor has to have a base around Afghanistan, in a country like Tajikistan.

So we have to have partners with the United States around Afghanistan that can facilitate this corridor, and also this banking system should not operate inside Afghanistan because the head of central bank of Taliban is a terrorist, and any money that goes through Western Union, any added procedure, they have had, they can block, they can do anything with that money.

Senator TOOMEY. Mr. Smith.

Mr. SMITH. Ranking Member Toomey, I think to the extent the establishment of the channel for physical goods is possible, leaving aside what Mr. Joscelyn thinks would likely happen, I think it is critical. Whether or not the U.S. should do it on its own is a different story. I do think that multilateralization of these efforts, especially with regional partners, like Ms. Farid suggests, I think is really the way forward, and, of course, leveraging truly multilateral components, be it the World Bank, be it the United Nations, UNDP, and others.

So yes, I agree with you. I think that opening the spigots for funds is much, much more dangerous than opening the spigot for goods, foods, and other sorts of services that are not so easily fungible.

Senator TOOMEY. Well, what about Mr. Joscelyn's point that it is unlikely that the Taliban would tolerate any foreign force, even one that does not have a history of antagonism, for instance? Is that a serious obstacle?

Mr. SMITH. I think it could be a serious obstacle, for sure, and I do not think we need to recognize the Taliban to potentially, on a transactional basis, deal with the Taliban. And so I think that over time, especially if the situation in Afghanistan gets more and more dire, there may be openings to allow this sort of very transactional approach to allow certain goods or services into Afghanistan. But it may be a while, and there may be some quid pro quos, that the Taliban tries to exert on that basis.

Senator TOOMEY. Well, just to be clear, my own view is that it would be a monumental mistake for us to recognize the Taliban,

and I am sympathetic to the idea that Ms. Farid suggested, that legislation to preclude that might make a lot of sense. Thank you.

Chairman BROWN. Thank you.

Ms. ECKERT. Mr. Toomey.

Chairman BROWN. Yes, Ms. Eckert. Go ahead.

Ms. ECKERT. I wanted to respond to Mr. Toomey's question as well. As the mandate for UNAMA, the U.N. mission in Afghanistan, is being considered in early 2022, the U.S. will have the opportunity to advocate for what kind of U.N. presence on the ground that we are going to have.

I do not think that anyone is talking about turning on the financial spigot and handing out cash. What we are talking about is getting funds into the country for NGO's to pay staff, to buy goods that they need, and to distribute the kind of humanitarian assistance that we all support.

So I do not see anyone saying that we need to either recognize Taliban or sanctions on the Taliban or provide any kind of support to the Taliban. We are talking about providing assistance to the Afghan people.

Chairman BROWN. Thank you, Ms. Eckert.

Senator Warren from Massachusetts is recognized.

Senator WARREN. Thank you, Mr. Chairman.

So I have been clear that I believe that President Biden made exactly the right decision to withdraw from Afghanistan. As General Milley testified last week, in response to my questions at the Armed Services hearing, another few months or another few years were unlikely to have changed the outcome of the war. And I actually looked up General Milley's words and brought them with me, because here is what he said. "The end state probably would have been the same, no matter when our troops pulled out."

General Milley also acknowledged to me, at this hearing, that our troops would have been needed indefinitely in order to continue to prop up the Government, and that it would have been at great risk, not only to our troops but also to the Afghan people.

So let me just ask—I have three of you here—does anybody disagree with General Milley's assessment? I take that as three head shakes no, that nobody disagrees.

Mr. JOSCELYN. I do not disagree, Senator. I mean, we have covered the insurgency—I have covered the insurgency for 12 to 15 years of my life, and there is no doubt that the end state, you could keep pushing it off. Our suggestion, Senator, real quick, was that if the U.S. was leaving some years ago it was to leave in a way that allowed the Afghans to own the right. Our big critique was that across two Administrations that never happened. Now maybe it would have failed anyway—it probably would have—but at least allow them to own the fight, and I do not think we did.

Senator WARREN. Well, I appreciate that you want to push back on this, but I also asked about that question, about how we exited Afghanistan. And the point that the generals made, although there has been criticism from the Republican side of the house, is the military designed the withdrawal, and executed the withdrawal, they were given every resource and every bit of support that they asked for, and we faced what we faced, when the Government fled and when the military, the Afghan military, laid down their arms

and melted back into the countryside. So they had everything they asked for in this withdrawal.

You know, for years, the DoD leaders told the Armed Services Committee and the American people about the great progress that we were making. But as we know from the Afghanistan papers published by the *Washington Post*, that simply was not true.

So some of our military leaders, the same military leaders who have basically been wrong about Afghanistan for nearly 20 years now, wanted to leave troops in Afghanistan but leave them there forever, because if we brought them home the Afghan Government would collapse.

Now the Republicans are trying to make this an issue, not because of oversight but because they think it helps them politically. During the Trump years, the Armed Services Committee only held four public hearings on Afghanistan. Over those 4 years, the Taliban was making steady gains, year by year. I do not recall this Committee ever having a hearing on Afghanistan before today, and I welcome our colleagues' new-found interest in oversight over Afghanistan, but I wish they had been interested 5 years ago, or 10 years ago, when it might have made a real difference.

The President made the right decision to withdraw. I do not think I am hearing any objection on that. Once he made that decision he followed the advice and recommendations of the military in executing the withdrawal. And now that we finally ended our military presence in Afghanistan I agree it is time to have a sanctions policy that does not make it more difficult for the Afghan people to have a chance to rebuild. That is our sole responsibility here.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Warren. Senator Rounds from South Dakota is recognized.

Senator ROUNDS. Thank you, Mr. Chairman. And while I was going to begin with a line of questioning with regards to how we get the relief back in to Afghans who are starving, and yet right now I think I have to respond a little bit. I think I was at all of the same meetings as my colleague from Massachusetts, and I came away with a slightly different approach that was being conducted.

It is my understanding, in reviewing and in listening to the generals, three of them, who were before our Armed Services Committee, not just in public session but in classified sessions, they made it very clear that they would never withdraw on a date certain, and that to a person, the recommendations that had been provided was to do a conditions-based withdrawal with the hopes that, first of all, it would be a withdrawal that was not in chaos and it would have allowed the Afghan Government an opportunity to continue with a reserve force continuing there. The conditions-based versus date certain would have allowed that the al Qaeda and the Taliban would have been held in check.

I am just going to—and, ma'am, I am going to begin with you. Would you share with us, as a representative of the Parliament of Afghanistan, what your expectations had been with regard to a transfer of the responsibilities for the defense of Afghanistan directly to the national Government? Can you share what your goals

had been and what happened when there was a date certain established?

Ms. FARID. Thank you so much. Both questions—I want to answer both questions, actually. You know, the day that Doha agreement was signed it emboldened Taliban. Then the withdrawal announcement even gave them more power that demoralized the Afghan national security forces, and that led to more demoralization of the people of Afghanistan.

OK, so there are so many factors that contributed to the situation, that one of them was a hasty withdrawal. The hasty withdrawal was one of the reasons that, unfortunately, led to the situation that we have right now.

You know, the level of loss that Afghan security forces had was 100 casualties per day. That level of loss is unsustainable for any security forces in the world. It is unbelievable that we are losing 100 soldiers per day.

OK. So this was the situation, unfortunately. Besides, the air force was grounded because of the withdrawal, because half of the air force had to have the maintenance that the contractors already left due to the withdrawal. That also contributed to the situation.

And we also lost so many brave commandos, brave soldiers, policemen, police officers in the front line of the battle of fighting against global terrorism, against Taliban, al Qaeda, and Haqqani Network. OK, we should not forget them and we have to admire them.

But at the same time, I, as a member of Parliament, and many in my Parliament, we used the platforms, different platforms, including being the advisory board of the DPPC, Democratic Peace and Prosperity Council. At 1 week before the collapse, we met with Armed Services Committee and Foreign Affairs Committee of the Congress, telling them about the pending collapse of Afghanistan.

Factors inside of Afghanistan also contributed to the situation. For example, the mismanagement of the peace process by Afghanistan Government, President Ghani, and his national security advisor, the mismanagement of war before by isolating so many advisors and generals, and replacing them by loyalists that surrendered to Taliban just in the months of July and August also contributed to the situation.

But here we are. We could have been in a better situation if the announcement of the withdrawal would not happen at the beginning of this seasoning of fight of Taliban. If U.S. could wait a few more months until the winter finished, and the fighting season of Taliban would have finished because so many other things happened that peace still happened, the withdrawal announcement also happened, and demoralized the situation, and the soldiers of the army and Afghan national security forces and defense forces, we would have been in a better situation.

Senator ROUNDS. Thank you. My time has expired. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Rounds. Senator Menendez of New Jersey is recognized.

Senator MENENDEZ. Thank you, Mr. Chairman. I am glad to see the Banking Committee is interested in foreign affairs issues, so good to have the hearing.

Let me ask Mr. Smith. OFAC issued two general licenses on September 24th to better facilitate the flow of humanitarian aid to Afghanistan. How exactly do these licenses work, and how does the Treasury ensure that assistance does not go to the Taliban or the Haqqani Network?

Mr. SMITH. Thank you, Senator. Both of those are very good questions. The way the licenses work—or maybe to begin with, why the licenses are needed. Both the Haqqani Network and the Taliban are sanctioned parties, which means that any individual who is a U.S. person, U.S. company, U.S. party, non-U.S. party that engages on transaction through the United States, cannot engage with the the Taliban or the Haqqani Network without risking criminal and civil liability.

These licenses allow exemptions to these broad prohibitions, allow certain exemptions that are specified in the licenses, to provide certain goods that are articulated within the licenses to certain individuals and certain parties. One of these licenses granted covers the activities of the NGO community, which includes not just the U.S. Government as Government organization but the multilateral organizations and nongovernmental organizations as well, providing humanitarian services. And then the other license is principally concerned with the delivery of food, foodstuffs, medicine, et cetera, as well.

So both of those licenses allow activities that would otherwise be prohibited, namely potential transactions with parties that are sanctioned. Those licenses allow those exemptions to permit the activities that are articulated.

It is a good question, and Ranking Member Toomey, I think, asked this question as well. How do you make sure that the benefits do not go to the Taliban? That is a great question, and I think the way the licenses are structured, and, frankly, the reporting obligations and the oversight that people are going to impose on the licensees, are going to require a lot of care and carefulness with respect to parties who want to use them.

But I think one of the key pieces that makes this perhaps less likely to be abused in that fashion is what they are asking to be delivered usually, at least on the second license with respect to medicine and medical devices, are hard goods, right, in-kind goods, as opposed to just funds.

So is it possible that in-kind goods could be taken off the truck by the Taliban and sold on the market for hard currency? Of course it could. It is significantly more difficult, however, for that to happen than if just cash was put into the system, in the hands of anybody.

So I think that is the key issue, is trying to focus on much more in-kind goods and services rather than simply cash-flows into the country.

Senator MENENDEZ. Well, you know, you have a Taliban Government that has Haqqani-sanctioned individuals in its Government. And so while we want to, of course, assist the Afghan people, we have to be robustly resolute that the Taliban does not get access to these funds, especially when we have sanctioned individuals in their Government. Otherwise, our sanctions regime is meaningless, at the end of the day.

Let me ask you, the OFAC general licenses—I will ask both you and Ms. Eckert—were welcomed by humanitarian organizations as a necessary protection for those NGO's seeking to stay and deliver in time of skyrocketing humanitarian need in Afghanistan. However, we have seen, in contexts, general licenses are sometimes necessary but not necessarily sufficient to ensure humanitarian NGO's have sufficient financial access to provide assistance in crisis areas under the control of sanctioned actors.

What additional actions should OFAC consider to safeguard aid operations in Afghanistan, and if the United States chooses to differentiate between sanctioned Taliban officials and ministry bureaucrats that work under them, how do we ensure that the Taliban does not divert away from the vulnerable groups?

Ms. Eckert.

Ms. ECKERT. Thank you, Mr. Menendez. As you noted the Administration took the very critical step of authorizing the transmission of goods, services, et cetera, of NGO's to support the range of humanitarian activities that meet basic human needs.

But that is only part of the question. The other is how can funds be delivered to the NGO's in-country? Currently there is a critical liquidity crisis in Afghanistan. The banks have limited to \$200 a week the amount of withdrawals that can happen. We have frozen the cash—the Taliban is enormously strapped. The central bank does not have Afghani notes and they do not have U.S. dollars. So there is a real liquidity crisis.

So for U.S. banks or for banks to support humanitarian action they are going to be very hesitant to send funds into Afghanistan, and legitimately so, because even the banks who do not have an interest by the Government have very significant concerns about to whom they can let the funds go.

For this reason I think one of the things that the U.S. and the international community need to do is to establish this unique, safe payment channels or mechanisms in order to negotiate the transmission of funds for humanitarian and NGO activities. And this is something that will require thought, and as Adam notes, creativity. But it is something that we need to work with financial institutions to accomplish because there are high-risk places such as Afghanistan that banks are not going to take the risk of transferring funds.

I have had financial institutions tell me—North Korea, for example—even though there are humanitarian needs there, they do not want DPRK-related transactions on their books. So they are being very hesitant, and in order to encourage them, once the financial situation in Afghanistan stabilizes—because right now we do have this liquidity crisis—once it stabilizes we are going to need to provide some level of encouragement and incentives.

One possibility is actually providing some kind of formalization of OFAC's policy about nonenforcement. But there are a number of things that need to take place as part of the discussion with financial institutions, but right now they are not going to be able to get the funds in. We need a channel to get funds and goods that can go for these purposes, and to be controlled so the Taliban does not have access to it.

Senator MENENDEZ. Well, thank you. I will be monitoring this very closely. Thank you.

Chairman BROWN. Thanks, Senator Menendez. The Senator from North Carolina, Senator Tillis, is recognized.

Senator TILLIS. Thank you, Mr. Chairman, and thank you all for being here, and Mr. Joscelyn, it is good to see you again. Mr. Joscelyn testified before Senate Armed Services last week.

Mr. Joscelyn, I think I am going to start with you. The Taliban, to me, is no different today than it was 20 years ago. They may be slightly more sophisticated. They may be a little bit better on social media since it emerged since then. But they are still ruthless, they are murderers, they repress women, they threaten children.

So should the USG ever grant the Taliban access to Afghanistan's foreign reserves, including the \$7 billion at the NY Fed?

Mr. JOSCELYN. I agree wholeheartedly with your characterization of the Taliban being the same old Taliban, and I would have a lot of reservations about granting them access to any hard cash.

Senator TILLIS. Yeah, and the reason for that is that if we thought that it was going to go to fund medical facilities in the outlying areas of Afghanistan, which we now know are going to be in retreat, if we thought it was to operate schools that young girls could go to, then certainly we would not be having this discussion. It is because we know what it is going to go to. It is either going to go into the pockets of corrupt Taliban leaders or it is going to go to support their malign efforts, including their relationship with al Qaeda.

Ms. Farid, do you agree with that?

Ms. FARID. I agree, and I also addressed at the beginning that this money will go to Taliban. They should not even be given the permission to have, on the condition on any decision regarding the humanitarian corridors and funds to Afghan people.

Senator TILLIS. And Mr. Smith?

Mr. SMITH. Absolutely. I think the money, if you give the money to the Taliban, that that is what is going to happen.

Senator TILLIS. Is it also true that, first, the Taliban is having a problem paying their light bills, and it looks like, you know, their primary source, they import virtually all of the electricity in a grid that they constantly blew up when they were in various parts of the country? So their main sources are smuggling, the opium trade, and now maybe mineral mining, with the help of China.

But should any "governing"—I use in quotes—body, should they ever be seriously considered for any sort of recognition by the IMF or any other world agency?

Mr. SMITH. I certainly do not think so. I do, however, think we can delink the question of recognition from the broader question of how to provide services and support to the Afghani people.

Senator TILLIS. Mr. Joscelyn, you can add to that if you want to, but how do you think China's role there, particularly with mineral extraction, is going to blossom in the coming months and years, and what kind of threat does that rise to an inflow of cash that could help stabilize the Taliban administration? I refuse to call them a Government.

Mr. JOSCELYN. On the first point about recognition, no, absolutely not. There is no reason to give them a political victory to compound their military victory. They are the same old Taliban.

China has been willing to do business with the Taliban for quite some time. We tracked the Doha delegation. We go from meeting with U.S. officials in Qatar and all of a sudden, a few weeks later, they would be in Beijing, cutting deals with the Chinese. We do not know the terms of those but we know the Chinese are basically willing to play ball for mineral extraction and for other initiatives.

The one thing that the Taliban has to guarantee the Chinese Government is that they will not allow the Turkistan Islamic Party, which is, in fact, part of al Qaeda, and fought for the Islamic Emirate of Afghanistan in its resurrection. They have to guarantee that the Uyghurs in Turkistan Islamic Party will not actually attack in Xinjiang, will not cause terrorist operations. It remains to be seen if they can deliver on that guarantee.

Senator TILLIS. Ms. Farid, you are clearly the most experienced in terms of the life that you lived in Afghanistan, and the extraordinary accomplishment that you made as a female Afghani and being elected. What opportunity exists out there, with a Nation of 39 million people, half of whom are less than 19 years old, I think probably 70 percent of whom are less than 25 years old. So they have gotten a glimpse of what life can be without a Taliban leadership. What optimistic message can you send to the men and women who fought there, who sowed those seeds?

Ms. FARID. I want to quote one of our officials of Afghanistan that said that Afghanistan is not dead; it is wounded. And the majority of the population, 70 percent are under the age of 30, 50 percent of the population are women. They are all there. Afghanistan exists, and as I told you, a syndicate took over as a group that want to rule Afghanistan by force, but that is not the Government the people of Afghanistan want. People of Afghanistan want to choose who rules the country—maybe a woman. Maybe a woman.

And that is why I am very hopeful. I am hopeful that the allies of Afghanistan people, including U.S. Congress, continue to help Afghan people, Afghan women, build the corridors to help capacity building and local NGO's of Afghanistan, building a coalition, a global coalition to ban any coordination of Taliban, and also helping humanitarian friends to go to Afghanistan and prevent the problem and the shortage of food and the shortage of health care that people of Afghanistan are suffering.

Senator TILLIS. Thank you. Thank you, Mr. Chair.

Chairman BROWN. Thank you, Senator Tillis. Senator Warner from Virginia is recognized.

Senator WARNER. Thank you, Senator Smith—I mean Senator Brown.

[Laughter.]

Senator WARNER. I appreciate the Committee having this hearing, and I have only got one question for the panel, but I do want to frame a little bit of this. I feel like—and I will be careful of how I state this, sitting from my position on the Intel Committee—I think the intelligence community frankly got it right here. They were predicting weeks and months from when we left, in terms of the demise of the Government, not days or weeks. I do not think any of us could have necessarily predicted that President Ghani would have cut and run the way he did.

And I also share some concerns about the Administration, but I think frankly the biggest mistake the Administration made was not warning the American people that when you exit a country after 20 years involvement, there was no easy way for that to happen, and that decision, which had been initiated by President Trump—and I do not even necessarily criticize him, because I think as things will come out we will see that there were huge concerns, and I give credit to the incredible story of Ms. Farid, but concerns about this Government that were dating back years.

And, you know, with the awful exception of the bombing that took place a few days before our troops left, the fact that we had gone for a year plus with no American soldiers killed in combat—and that does not erase the tragedy of the 13 American soldiers but also the countless Afghans that were murdered by that ISIS-K bombing.

I share Senator Tillis' comments, and I think probably the Committee, that the Taliban has not changed. But we have an enormous challenge going forward. I share we should not be granting recognition, but we do still have this uneasy—we should not lose sight of the fact that the American military, along with our services, got 125,000 people out of Afghanistan, the largest airlift ever, and an overwhelming number of Americans. The fact that, you know, we do not keep tabs on Americans regardless of country, so the idea that there were still some left, they do not have to self-identify. Many of them are dual citizens. Many even in the days leading up did not want to leave yet because they still had family and others.

One of the stories—and again, this is just, I think, a factual basis, I am not making a judgment—that even after our troops left we still see a trickle, but a steady trickle, of American citizens, green card holders, and SIVs coming out, either on charter flights or certain commercial flights, particularly from Qatar.

So how we manage this relationship while we still have either citizens and/or Afghan allies, to extract them from country, is, I think, tricky, and we need to tread carefully, again, not by any means thinking that the Taliban have changed their stripes but realizing that in this kind of period right now, if we can still get people out, that is helpful.

The question I want to ask for the panel, and I am down to only a minute left so I would apologize. I am gravely concerned about China and the Communist Party of China filling part of the vacuum, and I believe, sir, you touched on part of this, but how big of a threat and concern should that be for us in this country, please?

Mr. SMITH. Thank you, Senator. I think it is a significant concern. As Mr. Joscelyn pointed out, and as we know from around the world, China does not have the same views as we do on moral and human rights issues, on the ability to deal with Governments that we may not like, and I think their willingness to go in, if only for Belt and Road reasons, if not for minerals or otherwise, I think is rather significant. And they have made it very clear, frankly, that they have wanted to go in for 20 years and have not been able to.

But I do think they are standing there, and I think the way to fill a vacuum is by filling a vacuum, and I think we need to do that

through licenses and clever engagements with the Afghan people. But I agree, it is not necessary to engage with the Taliban itself.

Ms. FARID. Actually, Afghanistan's problem was not just a national problem. It is a proxy war that so many Afghan people actually suffered from that proxy war, that the players in the region want to have intelligence inside of Afghanistan to attack their adversaries. But the situation right now is getting very complicated because Taliban are isolated and they have engagement with U.S. adversaries, and one of them is China.

And just thinking that China can protect the borders, and it is far away from Afghanistan, and it is a little bit in upper geography of Afghanistan, in Badakhshan, that cannot be accessed easily, I think that is not correct. China is going to be a player in the future in Afghanistan, because they already had some relationships with Taliban, through Pakistan, and Pakistan facilitated that, unfortunately.

Mr. JOSCELYN. Just real quick, I would just say, look, I think the Islamic Emirate of Afghanistan is probably going to join the anti-American axis on the world stage, where China and other actors are basically emboldening anybody who is against us, and they are willing to do business with them on an amoral fashion, because they do not play by the same rules, as Mr. Smith said, as we do.

It is part of the reason why I am skeptical of the argument that America has leverage over the Taliban now and the Taliban's Government with financial aid or anything else. I do not think that is true. I think that the Taliban can turn to a number of bad actors for support, and they are already doing so.

Senator WARNER. Thank you, Mr. Chairman.

Ms. ECKERT. Mr. Warner.

Chairman BROWN. Ms. Eckert.

Ms. ECKERT. Might I just add one point? It is very clear that China will act in its best interests and it will try to take advantage of the situation whereby the United States is not there now. However, we do have some shared interest, that China has largely been a supporter of efforts to counter al Qaeda, ISIL, and other terrorist groups. They have no reason to want regional instability, and I think an economic and humanitarian crisis there is not something that benefits them either.

So we have some common ground to work with other countries who do not necessarily share our values but do not want to see this become a safe haven again for terrorists and their activities.

Chairman BROWN. Thank you. Thank you, Senator Warner. Senator Hagerty from Tennessee is recognized.

Senator HAGERTY. Thank you. Thank you, Chairman Brown, Ranking Member Toomey. I appreciate you holding this. And Senator Warner, I share your concerns about China's interest here. I fear deeply that assets like Bagram, that lithium deposits could actually become a crown jewel in China's Belt and Road, so thank you for raising that issue.

I would like to turn my questions eventually to you, Mr. Joscelyn, coming back to the fact that the Biden administration's catastrophic withdrawal has created a series of colossal economic, humanitarian, and national security crises that are going to continue to unfold over the next few years. And I share the views that

have been shared by many here, that the Taliban are unreformed. In fact, they may feel vindicated politically in what they have accomplished. And I do not think any of us share their violent and retrograde world view.

It is very clear that the Biden administration needs to work to ensure that the world does not recognize the Taliban as the legitimate Government of Afghanistan, and this Administration must work to restrict the Taliban's access to financial resources, which I agree, the Taliban will use to further this sadistic behavior.

Since 2002, the Taliban has been designated as a specially designated global terrorist organization, which makes them subject to counterterrorism sanctions. This designation must remain, and Treasury must be cautious when considering any loosening of the sanctions regime that we already have in place.

Members of this Committee and this Administration may be tempted by a false choice that resources can somehow safely be channeled to halt a humanitarian catastrophe. But this wishful thinking, I feel concerned, will result in yet another national security catastrophe when the Taliban inevitably redirect those funds to their own purposes.

We cannot support a Government or an economy that is inseparable from a terrorist organization. Mr. Joscelyn, you have already noted that Sirajuddin Haqqani, as the leader of the Haqqani Network, also serves at the Taliban's deputy leader. He is the Interior Minister of the new Taliban Government. And you already noted the Taliban, Haqqani Network, al Qaeda are essentially the same.

So my question to you, Mr. Joscelyn, would you recommend that this Administration formally designate the Taliban as a Foreign Terrorist Organization?

Mr. JOSCELYN. I think, as a matter of fact, if the Haqqani Network is a Foreign Terrorist Organization, and it is and has been since 2012, then the Taliban should be. Haqqanis have a controlling interest in the Taliban. It was that sort of distance between the two that was imagined by the U.S. Government. It does not actually exist.

And so if we are going to deal in facts, then I would say yes, the Taliban should be a Foreign Terrorist Organization, but it is almost something beyond that, right? It is almost beyond even a State sponsor of terrorism at this point. As Mr. Smith said, we have really a terrorist State. It is not even just a terrorist-sponsoring State. And so it is almost like a new category beyond our normal categories.

Senator HAGERTY. You have gone at this briefly with Senator Tillis, and I have got slightly different numbers. It may be \$7 billion. I have got \$9.5 billion of Afghan central bank funds. But are there any circumstances under which you would recommend that we release those funds?

Mr. JOSCELYN. I cannot imagine any.

Senator HAGERTY. I thought so.

Another question for you, and this is very concerning. Do you believe that it is possible that the Taliban turned a blind eye that regrettable day that ISIS attacked the Abbey Gate, the day that we lost 13 American servicemembers? What do you think might have happened that day?

Mr. JOSCELYN. Senator, I cannot say with certainty. What I can say is that days before the bombing we wrote up a report in *Long War Journal* about the security forces that were being placed by the Taliban outside the airport. Those security forces were heavily dominated by an arm of the Taliban known as the Badri 313. You can go through the history of Badri 313. They specialize in suicide and complex suicide attacks, and, in fact, they honor, throughout their propaganda, a guy named Ustadh Yasir, who was an Osama bin Laden man, worked for bin Laden and Zawahiri and helped build this paramilitary force for the Taliban and the Haqqanis. And they glorify martyrdom.

So do I know that they let him through? No. Do I have any evidence that they did? No. But we were very suspicious before the attack of why it was that Badri 313 was stationed outside the airport.

Senator HAGERTY. I agree with you. I am deeply concerned as well. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Hagerty. Senator Van Hollen from Maryland is recognized.

Senator VAN HOLLEN. Thank you, Mr. Chairman. Thank you to all our witnesses here today. We, of course, do not have time in this hearing to go over all the mistakes the United States made in its policies toward Afghanistan over the last 20 years, but given some of the comments I hear this morning and from some of our colleagues on the other side of the aisle, I think it is important to explain what the Biden administration inherited.

It was October 2018, when the Trump and strongarmed the Government of Pakistan to release two Taliban commanders. One was the cofounder of the Taliban and the other was number two, Baradar, who we see in all these photos. They then went to Doha and cut the Afghan Government out of the negotiations, further undermining their credibility. Then they told the Afghan Government, that was not at the table, to release 5,000 Taliban prisoners, many of whom returned to the battlefield.

Then we had an agreement that said do not attack U.S. forces but go ahead and attack the Afghan forces with impunity. And by the way, let us also tie the hands of the Afghan forces. You cannot enter villages after dark but the Taliban can.

That is the situation that the Biden administration inherited. And after all that, Donald Trump criticized President Biden for not pulling out our forces even earlier, in April. So it is great to hear all this revisionist history. It is interesting to hear folks criticize the situation now, when we did not hear a peep earlier on.

So here we are. It is a desperate situation. The Taliban is in control of the country. But I do think that we have an obligation to try to provide humanitarian assistance, and yes, we have to make sure it does not go through the Taliban.

So some have proposed that we add sanctions on top of the sanctions regime that we already have, including designating the Taliban as a Foreign Terrorist Organization. As I look at this, it is not clear to me what additional leverage we gain, but it does seem that we could put in jeopardy independent, international organizations that would be providing humanitarian assistance and potentially subject them to criminal and other penalties.

Mr. Smith, what is your view of that?

Mr. SMITH. I think that is exactly right, Senator. They are already sanctioned, and so at least in one respect there is not much difference if you were to make them an FTO other than the concerns you just suggested. And we know that this is the case because when the Houthis in Yemen were designated an FTO at the end of the Trump administration, this was the big concern of the U.N. and other agencies, that if they were FTOs they would have to pull out and not be able to work with them. So I think that is a very real concern.

If the issue is do we have enough control or sort of coercive authority on them right now, I would argue we do. The SDGT designation is significant. It limits U.S. persons from engaging with them, and U.S. banks or otherwise.

But the FTO designation I do not think is needed, and I think does have that added risk you just suggested.

Senator VAN HOLLEN. And others have suggested that we designate Afghanistan, the country of Afghanistan as a State sponsor of terror. Would not that, in fact, de facto recognize the Taliban Government as the legitimate Government of Afghanistan?

Mr. SMITH. It may well. I think we are definitely in a new world here of having a sanctioned terrorist group take over a country. So I have not quite figured out whether an SST designation would require an identification of Taliban as the Government, but it probably would. That would be an ironic and unfortunate outcome.

Senator VAN HOLLEN. Right. So again, as you pointed out we already have a sanctions regime on the Taliban. That sanctions regime already creates lots of leverage. The question of whether we can successfully utilize that leverage is another question.

What should we be looking for, Mr. Smith, in terms of whether or not our withholding of assistance in order to get the five concessions we talked about—a more inclusive Government, which, of course, is not in existence today; human rights extended to women and girls; making sure that Afghanistan is not again used as a platform for terrorist attacks; and the other conditions—what should we be looking for in terms of any conduct from the Taliban to suggest that that kind of pressure is working? Because count me as a skeptic, as others, but what would you be looking for?

Mr. SMITH. You know, I think we are all skeptical, and I think for good reason. And so I am concerned that those requests are sort of falling on deaf ears and perhaps they are going to be impossible to meet in the near term.

But much as we have negotiated and discussed engagements with parties we do not like in the past, be it Iran, for example, there are times when we can figure out ways to engage with people with whom we do not like, with whom we do not agree, with whom we do not recognize on a transaction-by-transaction basis.

So I think that we go small steps by small steps. I do think we need to open up some humanitarian corridors, and there is a bit of risk, I have to admit. And if the Taliban do not behave themselves, as Mr. Joscelyn suggested they will not, and they may well, then we have to reassess. But I think this is a step-by-step process that could take quite some time.

Senator VAN HOLLEN. Thank you. Time is short. I could go on, but thank you. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Van Hollen. Senator Moran from Kansas is recognized.

Senator MORAN. Chairman, thank you. Mr. Smith and Ms. Eckert, I worked with my colleagues, both Republicans and Democrats across the aisle to try to alleviate the humanitarian crisis in Yemen, where the key parts of the country remained in control of the Houthis. What, if any, lessons from that experience can be applied to our situation in Afghanistan?

Mr. SMITH. Before turning it over to Ms. Eckert, who has quite a bit more experience in Yemen, I think the example I just gave to Senator Van Hollen, with respect to the FTO designation, is a big one. When the Trump administration called the Houthis a Foreign Terrorist Organization the impact was really quite severe and quite immediate with respect to multilateral organizations like the U.N.

And so I think that is one of the lessons that we learned from there, that we do not necessarily need to go that far in order to maintain the leverage that we have.

Ms. Eckert.

Ms. ECKERT. Thank you. Let me just say that there was a crisis that was averted, and thank you for your role in doing that, by having had the Ansarullah, the Houthis, as a Foreign Terrorist Organization. From NGO's who were working, providing food and humanitarian assistance in Yemen, they indicated that even with the announcement that they were going to designate them as an FTO, they ceased operations. And so there was a significant drop in the assistance that went in with that announcement. So the FTO designation would have been devastating in cutting off humanitarian assistance into Yemen.

In reference to Senator Van Hollen's question, if the Taliban would be designated as a State sponsor of terrorism, leaving aside the question of recognition, which is a legal question that I do not know the answer, it would prohibit a whole range of assistance, under the Foreign Assistance Act. No funds can go to a State sponsor of terrorism.

The current designations and sanctions, as well as the frozen assets and reserves, maintain a good amount of leverage. And it may be, as our colleagues have suggested, that ultimately this will not prove successful in moving the Taliban, but we do not need additional sanctions at this point in order to complicate the situation even more.

Senator MORAN. Thank you both for your answers.

Mr. Joscelyn, in your written testimony you declare that the U.S., quote, "Never had any leverage over the Taliban, and there is no good reason to think that it has any now." So if the prospects for humanitarian aid and other assistance will not work, and decades of sanctions have not worked, what path do you propose we follow?

Mr. JOSCELYN. You know, I really do not know. To be honest, I have documented this for so long. All I can say is I have seen all of these different things attempted and we never did have any le-

verage over them, and I can give you all the reasons why I say that.

I hear what Mr. Smith is saying, and I also have similar language in my testimony about hard humanitarian assistance. He said it better than I did. In-kind, hard goods, I think that is the best way to go to try and help the Afghan people.

But in terms of this idea that we are going to be able to use funds or money or any of this assistance to gain leverage to change the Taliban from being something other than the Taliban, I think we have 25 years of experience that says that is not going to happen.

Senator MORAN. Thank you for your straightforward nonanswer. It was an answer, and I appreciate it.

Ms. Farid, special envoys from China, Russia, and Pakistan met with the Taliban officials last month. China and Iran have pledged aid. How did the Afghans view this?

Ms. FARID. This is really unfortunate, as I said before, that Afghan people are experiencing a regional battle inside of Afghanistan, and Pakistan is always thinking of Afghanistan as its strategy dips. And so many of the other issues contributed to the fact that now we have China, we have Pakistan, we have Russia, and other countries like Iran that are backing Taliban. Taliban are not the Government that Afghan people want. Afghan people want a free, democratic country and free, democratic Government that they choose by themselves. I mean, they have continued this resistance.

You see that resistance of the people in social media. You see how brave the women and men of Afghanistan are, saying that we do not want this kind of Government and this kind of atrocity and this kind of bloodshed and mutilation and public execution of the people in front of our kids.

As a matter of fact, we have to let the world know that Taliban are not the Government, that people of Afghanistan want—they have engagement with the terrorist groups in the region. They have terrorists in the cabinet. They have terrorists who are on the wanted list of United Nations and the blacklist of United Nations, and this Taliban has to be wiped out from Afghanistan. Afghan people have to have the right to choose who they want to have as a ruler of the country.

Senator MORAN. Thank you. Thank you for your clarity. Mr. Chairman, thank you to you and Senator Toomey for hosting this hearing.

Chairman BROWN. Senator Smith of Minnesota is recognized.

Senator SMITH. Thank you, Chair Brown, and thank you very much to our panelists. I realize that we are running a little short of time and so I am going to ask just one question, Chair Brown. I know that Reverend Warnock is interested in asking questions as well, so I will be brief.

But I would like to direct my question to Ms. Farid, if I could. Thank you so much for being with us today, and thank you so much for your courageous work advocating for women and girls in Afghanistan.

My question is this. The Taliban takeover of Afghanistan has resulted in interruption of education for thousands of women and

girls, and it is unlikely that many of them will be able to resume that education, particularly in rural areas. This is a huge blow.

My question is, if women continue to be excluded from educational and employment opportunities what do you see as the long-term impacts to the economic security of Afghan women and their families, and do you think that this will further exacerbate the ongoing economic crisis that we see in Afghanistan? And then just as a follow-up, what are the most important things that we could do to build capacity right now?

Ms. FARID. Thank you. Very important question. The women of Afghanistan showed to the world, in the last 20 years, how brave they are, and they showed that they can be agents for change. And Taliban recognized that, understand that, that if they let women of Afghanistan continue to be as free as they have been they will change the country, and then there will not be a suppression that Taliban have. They cannot continue to do the same rules that they have right now over Afghanistan if we have a different situation for women.

So that is a fundamental issue. Taliban do not want women to be a part of the development, because they are afraid, and in the future we will have a country that cannot fly, because one wing is not able to fly. Women, half of the population, and that is the reality.

Senator SMITH. You make such a good point that it is not only the economic capacity of Afghan women but also the political and organizing capacity of Afghan women that is jeopardized. So thank you.

Ms. FARID. Thank you.

Senator SMITH. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Smith. Senator Daines of Montana is recognized.

Senator DAINES. Thank you, Chairman Brown.

President Biden's disastrous withdrawal from Afghanistan has made our Nation less safe. We lost 13 American troops who were heroically conducting a rescue operation that could have been completely avoided in the first place. The Administration left an untold number of Americans, some of our veterans' closest Afghan allies, behind enemy lines, and the U.S. is now far more vulnerable to terrorist attacks down the road.

In fact, according to General Milley, is not confident that the U.S. could deny al Qaeda or ISIS the ability to use Afghanistan as a launchpad for terrorism, both in the region and around the world. This reckless withdrawal from Afghanistan was completely bungled, mismanaged, and its harm to our national security will be seen and felt far beyond those tragic weeks that we saw in August. It will hurt our security for the months and the years ahead.

The chaotic withdrawal also triggered a refugee crisis that has only worsened Americans' confidence in the Biden administration. In late August, the Secretary of Homeland Security grated humanitarian parole status into the United States to tens of thousands of Afghans. They provided us flowchart after flowchart of how vetting these individuals is supposed to work, but far from sufficient proof that it is working as promised.

Indeed, 6 weeks later, the Administration still has not told us much about these individuals. How many worked directly and verifiably with U.S. troops or others in our Government? We have asked but they have not answered. What is the age and gender breakdown of the Afghan parolees? These are not difficult questions. We have asked; they have had no answer back.

And most importantly, we have asked for detailed information about what, if any, vetting of parolees was done beyond database checks among Federal agencies. More than a month later we still do not have reliable or complete answers.

We have also asked how many Afghans at overseas U.S. military bases were identified as being possible threats and transferred to Kosovo for additional screening. Again, no answer.

Just last Friday, my staff visited Camp Upshur in Quantico to see firsthand the situation on the ground. They left with more questions than answers. DHS and State Department officials at this location were unable or unwilling to answer very simple and direct questions brought about demographics, vetting, or prioritization of those who were brought into the U.S. from the lily pad sites.

The Administration's refusal to answer these questions has created tremendous unease among many Americans, and that is unacceptable. I stand with our U.S. veterans in support of welcome fully vetted Afghan SIV holders to our country, or another allied country. But I am troubled the Biden administration has been unwilling or unable to demonstrate how many parolees actually meet the SIV criteria or how many were Priority 1, 2, or 3 refugee applicants before being granted parole status.

The Biden administration has an uphill battle, to show the American people that the people paroled are not a security threat. Isolated incidents regarding alleged crimes by parolees do not help that perception.

But the first step toward increasing the confidence is finally answering our very legitimate questions. In short, President Biden owes it to the people he was elected to serve to address these concerns without further delay. I am pushing Congress to create a joint committee to examine Afghanistan and the effects this disastrous withdrawal has caused.

Mr. Joscelyn, given General Milley's sentiment that terrorist organizations will make a resurgence in the next couple of years, what do you see as the greatest vulnerability to America's security, and how do we prevent terrorists from exploiting it?

Mr. JOSCELYN. I think there is a fundamental misunderstanding, even in General Milley's comments, about the resurgence of a terrorist threat in Afghanistan. I do not think that they really understood that al Qaeda was marbled throughout the Taliban insurgency and was helping the Taliban win the war.

Besides all the tactical things that I worry about, in terms of plots that they can attempt, I think that what has been underestimated here is the degree to which their victory is a boon for the global jihadist movement. We have been tracking jihadist groups all across Africa, the Middle East, and in South Asia. I can show you more than 30 statements from these groups and other high-ranking individuals saying that they see the Taliban's victory as a

sign that the divine will is with them, to achieve victory globally. This is a morale-booster for anti-American terrorists in many places.

Senator DAINES. Thank you, Mr. Joscelyn. Thank you, Mr. Chairman.

Chairman BROWN. Senator Warnock from Georgia is recognized.

Senator WARNOCK. Thank you, Mr. Chairman, and thank you for holding this critically important hearing.

The war in Afghanistan is America's longest war, and by its conclusion, two decades after it started, we were deploying men and women who were not even alive when the conflict started.

Although Afghanistan has been mentioned before—mentioned—in this Committee, in the context of terrorist financing and Iran sanctions, today is the first time, since 2001, that the Senate Banking Committee has held a hearing specifically focused on Afghanistan. And so I am grateful to Chairman Brown and Ranking Member Toomey for holding this hearing.

One of the key components of U.S. strategic failure in the war was an inability to develop reliable and preferable options for Afghans to build an economy that is not based on illicit drugs or minerals that other foreign powers like China and India seek. Failure was also due to an inability to stem the widespread corruption that crippled the ability of the national Government to govern effectively and build trust among the people. We saw that play out at the end, but it was a reality long before August 15th.

Mr. Smith and Ms. Eckert, I would like to hear from you on this question. Recognizing that the U.S. war effort was a whole-of-Government endeavor, not just what is happening with soldiers on the battlefield, and knowing how critical Afghanistan's economic viability was to success and failure, what questions should this Committee and Congress have been asking over the last 20 years, and what can we learn from this lack of oversight to prevent a similar blind spot from happening again elsewhere?

Mr. SMITH. Thank you, Senator. If what we are asking is how could we have built a better system in the past 20 years, which I think is really the fundamental sort of question here, I think we can learn a lot from the military and the failures of the Afghan military, which I understand stemmed, in part, from the U.S. trying to build a military in our image as opposed to a military that the Afghans could actually sustain on their own. They built structure but not institutions.

I think that is true throughout the society. And so we built quite a lot of structures with respect to terrorism financing, banking system, payment systems even, in Afghanistan. But my concern is we have not built the institutions. We have not built with the foundations and with the roots that could be self-sustaining.

And so I think that is the real question with respect to—"Nation-building"—I do not think is the word we are going to be using anymore, but really the building of societies, the assisting of societies. How do we make sure that we build something that is sustaining and not something that just has a structure on top of no foundations? So I think that is throughout the system and not just in the military but the economic system, the humanitarian system, social system, and otherwise.

Senator WARNOCK. Thank you. Ms. Eckert? You are muted. Ms. Eckert, we cannot hear you.

Ms. ECKERT. Excuse me. Can you hear me now?

Senator WARNOCK. Yes, we can. Thank you.

Ms. ECKERT. Thank you. Thank you very much for the question, and I agree with you that we really do need a serious assessment of the last 20 years of U.S. policy, not just the past 2 months of U.S. policy vis-a-vis Afghanistan. And in order to do that I think we really seriously must examine why it went wrong, or why it did not achieve the goals that we wanted.

I do think that Congress, through SIGAR, the Special Inspector General for Afghan Reconstruction, research to follow what has happened to U.S. programs and international programs that we have tried to put in place.

The Committee, however, by virtue of its jurisdiction has responsibility for oversight of a number of these financial programs, sanctions, terrorism financing, et cetera. Too often the Congress provides general authority and does not do much oversight on implementation. There are, undoubtedly, and very clearly as we can see unintended consequences of some of these sanctions policies, especially on the delivery of humanitarian assistance.

With the Afghanistan situation as a case in point, now is an opportune time for this Committee to review these consequences and to try to reform our system so we do not have to go through these kinds of emergency situations of authorizing humanitarian assistance. The Committee could play a critical role by reestablishing the humanitarian exemption in section 203(b) of the International Emergency Economic Powers Act, that it enacted in 1977 but which has been routinely waived since 2001.

So I look forward to the Committee undertaking some of these efforts. Thank you Senator Warnock and thanks very much for your thoughtful question.

Senator WARNOCK. Well, thank you so much, and it is wonderful to talk to you about this, on the first hearing on Afghanistan in this Committee, 20 years later. But these questions clearly are not centered around August 15th, when Kabul fell to the Taliban, but the 7,264 days we had American soldiers on the ground, engaged in war, when many in this Committee, frankly, were not paying much attention.

Thank you all so much, and Ms. Farid, we are inspired by your courage and your service.

Ms. FARID. Thank you so much.

Chairman BROWN. Thank you, Senator Warnock, for your thoughtful comments.

This has been a comprehensive and useful survey of the issuing facing the international community in Afghanistan, the looming economic and humanitarian crisis facing the people in that country under Taliban rule. I thank our witnesses for their assessments of the situation there, how the U.S. and our allies might usefully work to ensure the continued delivery of critical humanitarian and economic assistance to the people of Afghanistan while denying to the Taliban, al Qaeda, and other designated terrorist groups the use of, or the ability to benefit from such funds. So thank you all.

For Senators who wish to submit questions for the record those questions are due 1 week from today, Thursday, October 12. To the witnesses you have, please, 45 days to respond to any questions.

Thank you again. The hearing is adjourned.

[Whereupon, at 11:54 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN SHERROD BROWN

In August, we finally ended 20 years of war in Afghanistan. Almost 125,000 people were airlifted out of the country in a few short weeks, because of the skill and courage of our troops and our diplomats and other humanitarian workers on the ground.

Today, our servicemembers are out of harm's way for the first time in two decades, while thousands of Afghans are starting a better life in this country. We welcome these refugees seeking freedom, just as our country has done for generations.

But in the midst of the evacuation, we also saw a country in turmoil. An Islamic State suicide bomb attack near the airport killed 13 U.S. troops and scores of innocent Afghan men, women, and children. Navy Corpsman Max Soviak of Berlin Heights, Ohio was among those killed in action, and died a hero in service of his country, working to evacuate vulnerable Afghans and protect fellow Americans.

Even after the evacuation ended, tens of thousands of Special Immigrant Visa applicants and other vulnerable Afghans remain in Afghanistan, along with many American citizens or legal permanent residents of the U.S., including some of my constituents.

It's now clear that the agreement former President Trump reached with the Taliban, which provided for the final phase of the U.S. withdrawal process and the release of around 5,000 battle-hardened Taliban prisoners, was flawed. Many of those released Taliban prisoners contributed to the Taliban's quick seizure of the country.

President Biden, understandably reluctant to keep or expand the number of American troops in harm's way while working out a better deal, observed that agreement.

It's also clear that the Biden administration and U.S. officials at many levels failed to anticipate the rapid fall of the Afghan Government. And it's obvious that the execution of the withdrawal was flawed.

We also now know, of course, that the Taliban never intended, as they claimed, to pursue a peaceful path, a more democratic path, with a broader Government with representatives from a diverse range of ethnic groups and civil society actors. They refuse to reject relationships with terrorists like the Haqqani network and al Qaeda.

Three different committees chaired by Banking Committee colleagues—Senator Menendez with Senate Foreign Relations, Senator Warner with Senate Intelligence, and Senator Reed with Armed Services—have begun thorough reviews, including a series of hearings which will assess the many decisions, including mistakes made along the way by subsequent Administrations, and possibly by Congress, over 20 years in Afghanistan.

What is abundantly clear is that before we send our servicemembers into another conflict, we must make sure that military engagement is truly a last resort, and that we know how we will extricate ourselves from military conflicts before we get ourselves into them.

Today, the focus of this hearing is to look forward—to envision what we can do to address the urgent economic and humanitarian crisis facing the country in the wake of the Taliban takeover, and to assess the role of economic and financial sanctions and other counterterrorism tools against the Taliban, tools within this Committee's jurisdiction.

With as much as 30 percent unemployment, a brain drain of its most capable young people, enduring deep poverty, an ongoing drought, the Covid crisis, and the collapse of Afghanistan's economy looming, the people of Afghanistan need help.

We must consider how the United States can maintain the flow of humanitarian assistance and family remittances, while ensuring that aid does not fall into the wrong hands.

This aid has been a lifeline to the people of Afghanistan. Millions rely on it. It must continue, even while we deny access to funds to terrorist actors like the Taliban, al Qaeda, and the Haqqani network.

As we will hear today, that is no small task—but it is essential. The lives and livelihoods of millions of Afghans may depend on it. We owe them that much.

And we must do this while protecting the security of Americans and preventing Afghanistan from once again emerging as a terrorist safe haven.

The Administration has made clear the Taliban should be judged by their actions over time, and that any decisions regarding diplomatic recognition or the release of billions in frozen Afghan Government reserves is far off. They have a clear-eyed realism about who the Taliban are, while at the same time recognizing, along with our allies, that they control the Government and thus we must engage them, and when necessary, hold them accountable for abuses.

If the last month is any indication, the Taliban are not moderating their positions.

They have appointed brutal old guard Taliban members to serve in the interim Government, including the leader of the terrorist Haqqani network as Minister of the Interior.

They have threatened, harassed, and attacked women and girls who were demonstrating to retain their hard-fought freedoms. They closed Kabul's premier university to women faculty and students. They converted the former Ministry of Women's Affairs into the old, notorious Ministry of Vice and Virtue—a pretty grotesque irony.

They have harassed, beaten, and killed journalists and members of other ethnic groups, they started a return to grisly public executions of alleged lawbreakers, and threatened a return to public amputations.

The situation grows more dire each day. We must get to work.

We know that China, Russia, and other countries that do not share our values are already engaging in Afghanistan—and they have few qualms about funds falling into the wrong hands.

It's up to us to show the Afghan people, and people around the world, that the U.S. will continue to be a beacon of hope and a source of humanitarian relief.

I am eager to hear today from our four witnesses, who will share their unique perspectives with us. We welcome you all to the Committee, in person and remotely, and look forward to your testimony.

PREPARED STATEMENT OF SENATOR PATRICK J. TOOMEY

Mr. Chairman, thank you.

Last month, we all watched in horror as chaos unfolded at Kabul's airport. This Administration's flawed decisions resulted in an utterly catastrophic evacuation from Afghanistan. Responsibility for this withdrawal—notwithstanding our severely flawed negotiations with the Taliban under the previous Administration—lies with President Biden.

To be clear, I felt at the time and still believe that it was wrong for the previous Administration to negotiate with the Taliban to the exclusion of the legitimately elected Afghan Government, and to agree to a full withdrawal of U.S. troops. However, at least that agreement was conditioned on the Taliban fulfilling certain political commitments, including achieving a “permanent and comprehensive ceasefire,” and agreeing upon a “political roadmap” for Afghanistan's future. Since it's universally acknowledged that the Taliban failed to live up to these conditions, the Biden administration could have chosen a different path and adjusted their withdrawal plan without even having violated the prior agreement. Tragically, they did not.

We know from recent congressional testimony that President Biden ignored the counsel of DOD officials to keep a military presence in the country longer. We also know from recent media reporting that the DOD urged the Administration to begin the evacuation of Americans months earlier. Had the President listened to this advice, America could've ended—not continued, as the President claims, but responsibly ended—our involvement in this war on our own terms. Instead, the terms of our chaotic exit were set by the Taliban, a terrorist group we've been at war with for 20 years.

Amazingly, the Administration entrusted the “safe passage” of Americans, green card holders, and vulnerable Afghans to evacuate the country to the Taliban, and did not publicly question or challenge the Taliban's threats that we depart by August 31st. So it's no wonder that, contrary to President Biden's assertion that the U.S. would stay until every American was able to leave, hundreds of American citizens and legal permanent residents were left behind—including Pennsylvanians.

One such Pennsylvanian American citizen, a mother of four, works at a middle school in the Lehigh Valley. During the evacuation operations in Kabul, she repeatedly tried and failed to make it to the airport. Once she was teargassed. Another time she nearly had her passport seized by a Taliban militant. She was just blocks away when the suicide attack at the airport killed 13 U.S. servicemembers and nearly 200 Afghans.

The only way she escaped Afghanistan was because a veterans' group operating on the ground found her, protected her, and got her on a flight on September 10th. It's unbelievable to me that a group of Americans—civilians—had to save this woman's life because her own Government abandoned her. And now, as a direct result of the humiliating unnecessary surrender in Afghanistan, a massive humanitarian disaster appears likely to descend on the Afghan people.

Today, thousands of Americans, green card holders, and Afghan special immigrant visa applicants, who aided the U.S. military, and their families are still trying to escape this disaster. And, of course, the Afghan people, including vulnerable women, girls, and minorities now face violence, systematic repression, and the de-

nial of their basic rights under Taliban rule—something they have not known for two decades.

The Biden administration has said repeatedly that the Taliban must cut ties with terrorist groups, ensure the rights of women and girls, conduct no revenge killings against our Afghan partners, and allow Americans, green card holders, and SIVs and their families to leave the country freely.

As we will hear today, the Taliban is failing on all of these fronts. They are a brutal, murderous, terrorist group intertwined with al Qaeda. And yet, the Administration's current posture seems based on the naive hope that the Taliban will reform itself now that they have taken power.

The Administration may feel pressured to provide sanctions relief to the Taliban to address the acute humanitarian crisis emerging in Afghanistan. But bestowing international legitimacy on the Taliban and allowing them access to \$7.5 billion dollars at the New York Fed would be a grave mistake. We should be exploring ways to help the Afghan people without empowering the Taliban.

Today we will consider critical issues that will determine whether and how the Administration will engage with the Taliban, including the status of sanctions on the Taliban, which is a Specially Designated Global Terrorist organization, now that it controls Afghanistan; the interconnectedness of al Qaeda and the Haqqani Network with the Taliban and any new sanctions that should be imposed on these groups; the acute risk of Afghanistan becoming an epicenter of money laundering and terrorist financing; Treasury's policies permitting humanitarian aid to continue flowing to the Afghan people; the current and future status of the \$7.5 billion in Afghan foreign reserves kept at the New York Fed; and Afghanistan's \$500 million in Special Drawing Rights held at the IMF.

I look forward to hearing from today's witnesses about these issues.

PREPARED STATEMENT OF ADAM M. SMITH

**PARTNER, GIBSON DUNN AND CRUTCHER, FORMER TREASURY DEPARTMENT SENIOR
ADVISOR AND FORMER DIRECTOR, MULTILATERAL AFFAIRS, NATIONAL SECURITY
COUNCIL**

OCTOBER 5, 2021

**United States Senate
Committee on Banking, Housing, and Urban Affairs**

Hearing

“Afghanistan’s Future: Assessing the National Security, Humanitarian, and
Economic Implications of the Taliban Takeover”

538 Dirksen Senate Office Building

10:00 AM

Tuesday, October 5, 2021

Testimony of: Adam M. Smith – Partner at Gibson, Dunn & Crutcher, LLP
Former Senior Advisor to the Director of the Office of Foreign Assets Control
Former Director for Multilateral Affairs, National Security Council

* * * *

Chairman Brown, Ranking Member Toomey, and Members of the Committee:

Good morning and thank you for inviting me to speak before the Committee. I have been asked to share my perspectives on the situation in Afghanistan, especially as they relate to the micro- and macroeconomic impacts of the Taliban takeover of the country. In particular, I have been requested to provide some thoughts and analysis on the inter-relationship between sanctions, humanitarian assistance, and national security given the unique implications of the Taliban’s and the Haqqani Network’s dual identities as parties with members in senior roles in the new Afghanistan government while simultaneously being parties that have long been subject to U.S. sanctions.

I have been writing and speaking about this issue extensively.¹ My views are informed both by my time at the Treasury Department’s Office of Foreign Assets Control (“OFAC”) and the National Security Council under President Obama and just as importantly by my more recent experience in the private sector where I have seen the direct and collateral impacts of sanctions in a diversity of jurisdictions including Afghanistan.

The private sector – both non-profit and profit-making enterprises – are critical to understanding how sanctions work and how best to calibrate sanctions to meet foreign policy aims. Sanctions, after all, are a unique tool of coercive authority in that they are designed by the government but implemented by the private sector. It is principally private enterprises that sell products and provide services and are asked to refrain from doing so under sanctions; and it is the same private concerns that are caught up in enforcement actions and are severely penalized if they misstep. Consequently, understanding the views, misgivings, and even misunderstandings of the private

¹ See, e.g., Adam M. Smith, “The Humanitarian and Policy Challenges of U.S. Sanctions on the Taliban,” (*Just Security*, August 23, 2021). <https://www.justsecurity.org/77957/the-humanitarian-and-policy-challenges-of-u-s-sanctions-on-the-taliban/>

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sector with respect to sanctions is critical if we hope for sanctions to contribute to the success of whatever policy goals for which we are deploying them.

The Situation on the Ground

As this Committee is well aware, the economic situation in Afghanistan even prior to the Taliban takeover, was precarious. The country is almost entirely dependent upon foreign aid – 80 percent of its GDP comes from donors.² Substantial portions of the population are in need of assistance. With winter coming widespread malnutrition, famine, illness, and death are increasingly likely; children are particularly vulnerable.³

The Taliban's takeover exacerbated already challenging circumstances. Not only has the group's human rights violations and violence restricted physical access to the limited assistance that remains available, but also the fact that the Taliban (and the Haqqani Network – members of which have assumed senior roles in the new Afghan government) remain sanctioned by the United States has further reduced the availability of the support. Banks have closed, and while some financial services have resumed in cities, currency is in short supply and the movement of funds even internally in the country is very challenging.

The Afghan government has scant official assets located domestically, and given the Taliban sanctions the country has been shut off from its modest assets domiciled abroad. Limiting access for the Taliban to Afghanistan's funds has had immediate macroeconomic effects for the country – leading to a near certain balance of payments crisis – and potentially cataclysmic microeconomic effects as food and medical supplies dry up given the absence of funds and donations. This dire situation has been exacerbated by the near-term scaling down or outright shuttering of many embassies in Kabul and international aid operations in the country.⁴

The Taliban remain sanctioned – rightfully so. U.S. sanctions policy must continue to work to limit flows of funds and goods to the Taliban and other sanctioned parties. It should also work to ensure that tens of millions of Afghani citizens are not victimized twice over – once by being subjected to the brutality of the Taliban and again by being denied access to basic needs.

Pursuing such a dual policy of pressuring the Taliban while assisting innocent Afghans is not a purely altruistic endeavor – we know from Afghanistan in the 1990s and numerous others

² Jeff Stein, "Biden Administration Freezes Billions of Dollars in Afghan Reserves, Depriving Taliban of Cash," (*Washington Post*, August 17, 2021). <https://www.washingtonpost.com/us-policy/2021/08/17/treasury-taliban-money-afghanistan/>

³ "Aid Official Warns of a Bleak Situation in Afghanistan as Winter Approaches," (*National Public Radio*, September 24, 2021). <https://www.npr.org/2021/09/24/1040092084/afghanistan-situation-winter-save-the-children-director>

⁴ Adam M. Smith, "The Humanitarian and Policy Challenges of U.S. Sanctions on the Taliban," (*Just Security*, August 23, 2021). <https://www.justsecurity.org/77957/the-humanitarian-and-policy-challenges-of-u-s-sanctions-on-the-taliban/>

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jurisdictions around the world, that without some support to Afghans the likelihood of radicalization among the population increases as does the potential of the country returning to being a failed state (and a likely safe harbor for terrorists and other groups that wish to do us harm). Moreover, how the United States addresses the mounting humanitarian crisis will impact both whether the only viable commercial enterprise in Afghanistan returns to being heroin production and whether other rivals – including China and Russia – are able to make inroads into the country. Both outcomes could potentially have broader geopolitical impacts on U.S. and our allies' interests. The existence of potentially thousands of people (Afghans and non-Afghans) remaining in the country who wish to depart Afghanistan further pressurizes the situation.

Balancing these policy interests is difficult and sanctions are of course only one instrument in the tool box. However, sanctions are a key element and their unique flexibility and impact – the very reasons that sanctions have become such a popular policy choice to address a diversity of national security challenges – provides a potential way forward. The key will be to provide clarity to the private sector, international and domestic non-government organizations (NGOs), multinational entities like the United Nations (UN), and foreign governments with respect to both the Administration's goals and how the Administration interprets the sanctions as they apply to Afghanistan today while also leveraging and calibrating sanctions in order to further U.S. interests going forward.

The Current Sanctions and a Call for Clarity

The Taliban was one of the first targets of U.S. counter-terrorism sanctions launched in the immediate wake of the 9/11 attacks. Given the role of the United States, and in particular the U.S. dollar, in global finance, these sanctions have had far-reaching consequences for the Taliban – choking off their access to formal finance. Existing U.S. sanctions freeze any assets associated with the Taliban that come under U.S. jurisdiction, while also criminalizing almost any transaction with a U.S. nexus involving the Taliban. Such a U.S. nexus can occur through the involvement of a "U.S. person" in a financial transaction or a U.S. entity including a financial institution. Non-U.S. entities and individuals can easily come under U.S. jurisdiction given the ubiquity of the use of U.S. dollars and financial institutions in international commerce and within the multilateral aid community.⁵ Moreover, the reach of U.S. sanctions is far greater than their legal grasp as many international financial institutions, NGOs, and corporations around the world choose to comply with U.S. sanctions even if they have no legal obligation to do so.

From the perspective of sanctions, the Taliban's move from rebel group at the periphery to central government leadership is unprecedented. There has never been a case of which I am aware in which a designated terrorist group has assumed the control of an entire jurisdiction. Exactly what the Taliban's status as a sanctioned entity means for the Afghanistan government and for the jurisdiction of Afghanistan is uncertain.

⁵ See, e.g., Global Terrorism Sanctions Regulations, 31 CFR Part 594.

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Unfortunately, uncertainty is anathema to the private sector – it leads to paralysis and de-risking by private actors even if the policy of the United States would prefer a more nuanced, engaged approach. The increasing reflex to de-risk by the global banking community (and increasingly other private actors) means that without clarity many key players – for reasons of their own internal policies and fiduciary obligations – will stay on the sidelines even with respect to humanitarian assistance.⁶

Interpreting the Taliban Sanctions

There are three primary options for how the United States could view the Taliban's sanctions status with respect to the Afghanistan government and the Afghan state. In each case there are analogs to other U.S. sanctions programs from which we can learn.

First, the United States could view the Taliban sanctions as limited solely to those entities and parties identified as sanctioned. In such a case, the prohibitions regarding dealings with the Taliban would only extend to the entities identified as such and would not extend to the government of Afghanistan nor to the jurisdiction of Afghanistan. This is broadly the model that has been in place in Burma since that country's coup in February 2021. The junta is designated, as are several members of the government and some major economic actors in the country that are owned by the government – but neither the government as a whole nor the state itself is restricted.⁷

Second, the United States could view the Taliban's designation as extending to the Afghanistan government that it now controls and to that government's various agencies and instrumentalities – but *not* extending to the entire jurisdiction of Afghanistan. This is similar to the sanctions model the United States has in place with respect to Venezuela. The government of Nicolás Maduro – which is defined very broadly by Executive Order 13884⁸ – is sanctioned, as are all agencies and instrumentalities of his government, including commercial actors. However, the jurisdiction of Venezuela is not designated. So long as parties can engage in activities in Venezuela without touching the government (or can do so under the protection of a license) transactions remain permitted.⁹

⁶ See, e.g., "De-risking in the Financial Sector," (World Bank, October 7, 2016).
<https://www.worldbank.org/en/topic/financialsector/brief/de-risking-in-the-financial-sector>

⁷ Executive Order 14014, "Blocking Property with Respect to the Situation in Burma," February 10, 2021.

⁸ The Government of Venezuela is defined to include "any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela..., any person owned or controlled, directly or indirectly, by the foregoing, and any person who has acted or purported to act directly or indirectly for or on behalf of, any of the foregoing, including as a member of the Maduro regime." Executive Order 13884, "Blocking Property of the Government of Venezuela," August 5, 2019.

⁹ See OFAC Frequently Asked Question 519: "Sanctions do not preclude U.S. persons from exporting or reexporting items to Venezuela provided that the transactions do not involve sanctioned individuals or entities or certain prohibited activities."

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Third, and most restrictive, the United States could view the Taliban's designation as extending to both the government *and* the jurisdiction of Afghanistan. This outcome would be similar to the comprehensive, jurisdiction-based sanctions programs that the United States has in place against Iran, Cuba, North Korea, Syria, and the Crimea Region of Ukraine. In such a case, the sanctions would amount to an embargo and presumptively all transactions with any entity in the jurisdiction of Afghanistan – or any party ordinarily resident in Afghanistan – would be prohibited.¹⁰

It does not appear that the Administration has made a choice as to which interpretation it is pursuing. On the one hand, the fact that the \$9.4 billion of Afghanistan's foreign reserves located at the Federal Reserve Bank of New York have been reported as "frozen" suggests that the Administration may view the entire government of Afghanistan as restricted.¹¹ After all, these reserves are "owned" by the Central Bank of Afghanistan which is not a sanctioned entity though it is now under the control of the Taliban. This would imply that the sanctions restrictions on the Taliban now extend to at least some governmental instrumentalities under their ownership and control. (As noted below, there could be other practical and non-sanctions-related reasons for the funds' unavailability.)

Regardless how one interprets the blocked funds at the Federal Reserve, OFAC's recently-issued General Licenses (General License 14 and 15) suggest a broader restriction. These licenses extend authorization for trade with the Taliban only to non-governmental actors pursuing humanitarian activities and only to parties seeking to deliver food, medicine and related items, respectively.¹² This means that even benign trade in consumer goods, for example, are effectively prohibited. Such a restriction implicitly creates a more extensive ban than just on the Taliban or the Afghan government. In the Venezuela context for instance, in order to calibrate the restrictions on the government (and to ensure that the restrictions do not have broader impact), OFAC has issued dozens of General Licenses to allow commercial activities even outside the humanitarian realm,¹³ and has issued Frequently Asked Questions ("FAQs") confirming as much.¹⁴

¹⁰ For example, in the Iran context, U.S. persons are prohibited from importing goods or services from Iran, as well as prohibited from exporting, reexporting, selling, or supplying goods, technology or services to Iran. *See*, 31 CFR 560.201; 31 CFR 560.204.

¹¹ *See, e.g.*, Saleha Mohsin, "U.S. Freezes Nearly \$9.5 Billion Afghanistan Central Bank Assets," (*Bloomberg*, August 17, 2021). <https://www.bloomberg.com/news/articles/2021-08-17/u-s-freezes-nearly-9-5-billion-afghanistan-central-bank-assets>

¹² General License 14, "Authorizing Humanitarian Activities in Afghanistan," September 24, 2021 (https://home.treasury.gov/system/files/126/et_gl14.pdf); General License 15, "Transactions Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, Replacement Parts and Components, or Software Updates in Afghanistan," September 24, 2021 (https://home.treasury.gov/system/files/126/et_gl15.pdf).

¹³ *See* "Venezuela-Related Sanctions," Office of Foreign Assets Control (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/venezuela-related-sanctions>).

¹⁴ OFAC Frequently Asked Question 519.

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As for which interpretation of the current Taliban sanctions the Administration should choose, the more limited interpretations akin to those in effect in Burma or Venezuela are logical and could provide the needed flexibility going forward for U.S. policy to adjust to changing realities. However, U.S. policy goals could potentially be met with any of the options – so long as the Administration provides guidance and authorizations to calibrate the diverse effects of each option. As we move from a narrower targeting of just the Taliban as identified, to a broader sanctions regime that would include the Afghanistan government, to an even more extensive blocking covering the entire jurisdiction of Afghanistan, the requirement for private sector clarity – necessary if the Administration seeks to have private actors remain engaged in some way in the country in order to effectuate U.S. policy interests – moves from the need for guidance to the need for formal authorizations.

Elements of a Potential Sanctions Strategy

We have learned in the context of U.S. sanctions on Iran, Russia and in other programs that the multilateralization of sanctions efforts both enhances the clarity of policy while serving as a critical force multiplier. As such, to the extent that the elements discussed below could be undertaken in parallel bilaterally with key core allies like the United Kingdom, and multilaterally with partners like the Group of Seven ("G7"), the European Union ("EU"), and the UN – amongst others – the more consistent and effective the approach will be.

The following are a list of tools and related policies that could be considered in the context of Afghanistan sanctions.

- *Authorizations*

OFAC licenses are the principal tool used to calibrate broad sanctions, permitting activities on either a "General" or "Specific" basis that would otherwise be prohibited. As sanctions in recent years have become ever more ubiquitous and focused on larger and more economically-critical actors in the global economy OFAC licenses have proliferated. In the context of the Taliban and Haqqani Networks such licenses are required to engage in almost any transaction. This is because the terrorist sanctions authorities pursuant to which they are designated do not have many of the even limited exemptions for food, medicine, and medical devices that many other sanctions programs include as a matter of course.¹⁵

¹⁵ See, e.g., the various General Licenses and exemptions available in the Iran, Venezuela, North Korea, Syria, Cuba, and Ukraine/Russia sanctions program allowing for food, medicine, and medical devices. An overview is available in "Fact Sheet: Provision of Humanitarian Assistance and Trade to Combat COVID-19," Office of Foreign Assets Control, April 16, 2020.
https://home.treasury.gov/system/files/126/covid19_factsheet_20200416.pdf

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Specific licenses are not public but I am aware that OFAC granted the U.S. State Department a license to allow USAID operations to continue in Afghanistan even if they involve certain transactions with sanctioned parties.¹⁶ General Licenses, on the other hand, are public.¹⁷ OFAC's issuance of General Licenses 14 and 15 on September 24, 2021 was welcomed by the international aid community.¹⁸ General License 14 authorizes the U.S. Government, NGOs including the UN and other identified multilateral entities to engage with sanctioned parties as needed in order to provide for humanitarian assistance in Afghanistan. General License 15 meanwhile allows transactions to the extent required to provide for food, medicine, and medical devices to be sent into the country.

These General Licenses are a good and necessary start. However, further clarity – in addition to the FAQs published alongside the General Licenses¹⁹ – are critical if private parties are expected to find comfort to act. In particular, it is not clear how broadly to interpret “humanitarian” transactions. For instance, where does “humanitarian” end and “development” begin?

Moreover, the United States could consider adding to these General Licenses other authorizations that have become commonplace in even comprehensively sanctioned jurisdictions. For instance, the Administration could promulgate licenses to cover activities such as overflight fees²⁰ and to allow the payment of fees associated with intellectual property protection.²¹ The Administration could also make known a formal statement of licensing policy that it will look to authorize, on a case-by-case basis, the shipment of U.S.-origin goods into Afghanistan for the purposes of repairing aircraft and potentially other vehicles needed to deliver goods and services in the country.²² Each of these additional authorizations would go far in furthering the policies that appear to be animating General Licenses 14 and 15.²³

¹⁶ Daphne Psaledakis, “U.S. Treasury Issued New License to Ease Flow of Aid in Afghanistan,” (*Reuters*, August 31, 2021), <https://www.reuters.com/world/asia-pacific/exclusive-us-treasury-issued-new-license-ease-flow-aid-afghanistan-2021-09-01/>

¹⁷ See, e.g., OFAC Frequently Asked Question 4: “OFAC regulations often provide General Licenses authorizing the performance of certain categories of transactions.”

¹⁸ See, e.g., “Treasury Issues Two General Licenses for Humanitarian Activities in Afghanistan,” (Charity & Security Network, September 24, 2021), <https://charityandsecurity.org/news/treasury-issues-two-general-licenses-for-humanitarian-activities-in-afghanistan/>

¹⁹ OFAC Frequently Asked Questions 928-931.

²⁰ See, e.g., 31 CFR 542.518 (Syria), 31 CFR 560.522 (Iran).

²¹ See, e.g., 31 CFR 542.520 (Syria), 31 CFR 560.509 (Iran).

²² See, e.g., 31 CFR 560.528 (Iran): “Specific licenses may be issued on a case-by-case basis for the exportation or reexportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft.”

²³ In announcing the General Licenses, the Treasury stated that it was doing so “to support the continued flow of humanitarian assistance to the people of Afghanistan.” “Treasury Issues General Licenses and Guidance to Facilitate Humanitarian Assistance in Afghanistan,” U.S. Treasury - Press Release, September 24, 2021 (<https://home.treasury.gov/news/press-releases/jy0372>)

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Finally, to the extent the U.S. government wants to provide even limited commercial options to Afghans outside narcotics and other troubling sectors and to potentially tamp down the potential for radicalization born of lack of opportunity, additional General Licenses may be prudent. For a sense of the scope of such potential General Licenses U.S. policy in Venezuela may be instructive. With respect to Venezuela, the United States has sought to limit as much as possible the collateral consequences of the designation of the Maduro regime. To achieve that end, the U.S. government has issued a record number of General Licenses – more than thirty. These measures allow transactions with sanctioned parties in the Maduro government in order to promote a limited amount of approved commercial activities. For example, such licenses include authorizations to pay entities related to the Maduro regime for licensing fees and for costs associated with electricity and other utilities.²⁴

While OFAC licenses are an important indicator of policy intent and a powerful tool to further policy, in highly risky and fluid environments licenses can be too passive and reactive to properly serve their policy purposes. Private actors need even more certainty. Afghanistan is such an environment and consequently in order to effectuate its policy goals the Administration may need to consider more proactive efforts to actually facilitate (rather than just allow) the kinds of transactions they seek to support. A “humanitarian channel” is one such option.

- *A Humanitarian Channel*

U.S. and non-U.S. parties eager to comply with U.S. regulations in heavily-sanctioned countries have often found even broad General Licenses (and accompanying explanatory FAQs) insufficient to overcome their reflexive risk aversion. Rather, parties have long-asked OFAC for more formal “safe harbors” or “comfort letters” on an *ex ante* basis. OFAC has historically been reluctant to offer such assurances. The agency has, however, taken small steps in that direction with respect to developing a “humanitarian mechanism” for Iran that offers at least foreign financial institutions some comfort if they provide the U.S. Treasury substantial information about their activities. The Administration could revisit that mechanism and consider applying it to Afghanistan.

In the Iran context, in order to receive the benefits of the mechanism, OFAC requires enhanced due diligence by foreign banks interested in engaging with Iran. This diligence includes robust reporting obligations to OFAC by interested parties including with respect to the purpose of proposed transactions, the list of customers and end users to be involved, and a commitment to compliance. To the extent the entity is able to provide this information on an on-going basis it can

²⁴ General License 35, “Authorizing Certain Administrative Transactions with the Government of Venezuela,” November 5, 2019 (https://home.treasury.gov/system/files/126/venezuela_gl35.pdf), *see also* “Venezuela-Related Sanctions,” Office of Foreign Assets Control (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/venezuela-related-sanctions>).

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"seek written confirmation from Treasury that the proposed financial channel will not be exposed to U.S. sanctions."²⁵

Such a mechanism – and parallel efforts like the Swiss Humanitarian Trade Arrangement in place with respect to Iran²⁶ – could be expanded in the Afghanistan context to cover not just banks but also shippers, logistics providers, and other critical players, and could be extended and calibrated to cover development and even approved commercial activities (in addition to humanitarian trade).

As an added benefit, if such a channel were implemented broadly, it could also provide meaningful opportunities for intelligence gathering. The channel could encourage information sharing among parties and between the private sector and the government (in the spirit of the Treasury Department's FinCEN Exchange information-sharing authority).²⁷ If the effort was expanded further, through multilateral partners (and leveraging entities such as the Financial Action Taskforce,²⁸ the Egmont Group,²⁹ and other initiatives), the Administration may gain real "over the horizon" financial intelligence while allowing critical transactions to take place.³⁰

- *Safely Leveraging Afghanistan's Assets Outside of the Country*

While providing humanitarian – let alone development – assistance to Afghanistan will require an investment by the international community, Afghanistan does have some assets of its own that could potentially be leveraged to that end. Most of those assets are presently domiciled outside the country. Ajmal Ahmad, a former governor of the Afghanistan Central Bank, has reported that the country has approximately \$9.4 billion of officials reserves held at the Federal Reserve Bank of New York, \$2.4 billion of World Bank Reserve Advisory and Management Partnership (RAMP) funds, \$700 million at the Bank for International Settlements, as well as some fiat

²⁵ "Financial Channels to Facilitate Humanitarian Trade with Iran and Related Due Diligence and Reporting Expectations," U.S. Treasury, October 25, 2019 (https://home.treasury.gov/system/files/126/iran_humanitarian_20191025.pdf)

²⁶ See, e.g., "The United States and Switzerland Finalize the Swiss Humanitarian Trade Arrangement," U.S. Treasury – Press Release, February 27, 2020 (<https://home.treasury.gov/news/press-releases/sm919>); Michael Shields, "First Swiss Deal with Iran via Humanitarian Channel has Gone Through: Swiss Government," (Reuters, July 27, 2020) <https://www.reuters.com/article/us-swiss-iran/first-swiss-deal-with-iran-via-humanitarian-channel-has-gone-through-swiss-government-idUSKCN24S0MV>

²⁷ See generally, Alex Zerden, "Reassessing Counter Terrorism Financing in Taliban-Controlled Afghanistan," (Just Security, September 17, 2021). <https://www.justsecurity.org/78221/reassessing-counter-terrorism-financing-in-a-taliban-controlled-afghanistan/>

²⁸ See generally, The Financial Action Taskforce. <https://www.fatf-gafi.org/>

²⁹ See generally, The Egmont Group. <https://egmontgroup.org/en>

³⁰ See generally, Alex Zerden, "Reassessing Counter Terrorism Financing in Taliban-Controlled Afghanistan," (Just Security, September 17, 2021). <https://www.justsecurity.org/78221/reassessing-counter-terrorism-financing-in-a-taliban-controlled-afghanistan/>

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currency and gold assets at private sector institutions largely in the United States.³¹ Afghanistan also stands to receive some \$440 million worth of Special Drawing Rights ("SDRs") from the International Monetary Fund's ("IMF") recent disbursement – SDRs could be converted into hard currency.³²

As of today, all of those funds are effectively blocked. As noted above, it is not clear the legal basis upon which they are blocked. For the sake of not just Afghanistan policy, but also to protect the Federal Reserve's role as a banker to central banks, providing clarity in this regard would be prudent. Are the funds at the Federal Reserve blocked because they are deemed to be frozen (owned by sanctioned parties)? Or are they blocked because of uncertainty regarding which party has signing rights to access the funds? The situation with respect to the IMF is clearer – the IMF has stated that it is a question of international recognition of the new government in Afghanistan that is holding up distribution of the SDRs.³³

While there are several potential options through which foreign-domiciled Afghan funds could be used, simply deeming the new Afghanistan government the rightful owners of these assets and releasing them accordingly would be unwise. The challenge with doing is not just due to concerns about terrorism financing and sanctions, but also from the fact that the Taliban do not appear to have appointed any individuals with the sufficient technical expertise and experience to professionally manage the funds for the benefit of the Afghan people.³⁴

One potential option is to apply some of the lesser known aspects of U.S. sanctions on Iran. As the Committee is aware, in the Iran program billions of dollars of Iranian funds have been immobilized outside of Iran in financial institutions in jurisdictions that have continued to purchase Iranian oil. Due to concerns stemming from U.S. sanctions, these foreign banks have been restricted from repatriating any funds directly to Iran. Instead, under the scrutiny and control of these banks (and with the U.S. Government paying close attention) Iran has able to use the funds only for "approved bilateral trade" – this has largely meant payments for humanitarian and agricultural goods, along with some benign consumer goods.³⁵

³¹ Ajmal Ahmady, (Tweet, August 18, 2021). <https://twitter.com/ahmady/status/1427883012348424192?s=20>

³² David Lawder, "IMF Blocks Afghanistan's Access to SDR Reserves Over Lack of Clarity on Government," (Reuters, August 18, 2021) <https://www.reuters.com/world/asia-pacific/biden-Administration-seeks-block-taliban-accessing-reserves-imf-new-york-times-2021-08-18/>

³³ The IMF's "engagement with Afghanistan has been suspended until there is clarity within the international community on the recognition of the government...." "IMF / Special Drawing Rights, Afghanistan, Ukraine," (IMF Media Center, September 16, 2021) <https://mediacenter.imf.org/news/all/imf---special-drawing-rights--afghanistan--ukraine/s/c49e6106-b937-45de-95dc-c040b4633d05>

³⁴ See, e.g., "Taliban Name Obscure Official as Central Bank Governor as Crisis Looms," (Bloomberg, August 23, 2021) <https://www.bloomberg.com/news/articles/2021-08-23/taliban-name-obscure-official-central-bank-chief-as-crisis-looms>

³⁵ In order to be compliant with U.S. regulations, foreign banks can only deploy the Iranian funds consistent with the "bilateral trade restrictions" in Section 504 of the TRA, "credit the funds to an account in the country with primary jurisdiction over the foreign financial institution, and do not repatriate the funds to Iran." OFAC Frequently Asked Questions 254, 255.

This model might be promising in the Afghanistan case for two reasons. First, it would allow continued oversight and assurances of Anti-Money Laundering / Countering the Financing Terrorism (AML/CFT) obligations as well as promote sound fiscal management; and second, by allowing transactions to take place only outside of Afghanistan and limit the use of such funds to the trade of physical goods to be exported to Afghanistan, there would be reduced likelihood of spillover of hard currency and other assets into the hands of the Taliban and other sanctioned parties. In-kind goods are less easily fungible than cash.

I recognize that even deeming certain assets outside of Afghanistan to be the property of the new Afghanistan government is inextricably bound up in the question of recognition of the new government. However, I am confident that the question of political recognition can be de-linked from the question of property ownership (all the more so if the powers and prerogatives of traditional "ownership" are limited as described above). For the IMF, for instance, the body simply needs a majority of its shareholders to approve the SDR distribution – which could theoretically happen for reasons other than recognition of the Taliban. Concerning the Federal Reserve, we must of course respect the independence of our central bank, but I am aware of no regulatory restriction preventing the Administration from providing clarity on the ownership of funds while remaining silent on the question of formally recognizing the Taliban's control of Afghanistan.

Even outside the macroeconomic issues associated with the country's reserves are the very real challenges due to the absence of hard currency in the Afghan economy. Hawalas and informal trading networks which have historically made up a large proportion of commercial trading volumes in the country, rely on hard currency.³⁶ The Afghanistan Central Bank's currency note printers – all located outside the country – are likely to cease providing Afghani notes;³⁷ and U.S. dollar bulk cash shipments (which derived from Afghanistan's reserves) have also been put on hold.³⁸ The situation has been exacerbated due to the absence of any widespread digital-, tele-banking, or personal electronic payments systems in the country.

In order to prevent a widespread macro- and microeconomic collapse, the international community will need to find a way to provide hard currency into the system. This is challenging and the potential for spillover of cash to the Taliban is naturally present. However, we could use some of the structures and institutions built up over the last twenty years to assist. For example, one of the most sophisticated financial institutions in the country is the Afghanistan International Bank. That entity, which I understand remains private and as-yet not infiltrated by the Taliban could be

³⁶ See, e.g., S. Maimbo, "The Money Exchange Dealers of Kabul" (The World Bank, 2003), cited in Alex Zerden, "Reassessing Counter Terrorism Financing in Taliban-Controlled Afghanistan," (*Just Security*, September 17, 2021).

³⁷ Kate Marino, "Afghanistan's Cash Problem," (*Axios*, September 13, 2021) (cited former Afghanistan Central Bank Governor Ajmal Ahmad). <https://www.axios.com/afghanistan-cash-currency-afghani-taliban-crisis-6166b014-f935-4328-a089-40b3356ed68b.html>

³⁸ Kate Davidson and Ian Talley, "U.S. Halted Dollar Shipments to Afghanistan to Keep Cash Out of Taliban's Hands," (*Wall Street Journal*, August 17, 2021). <https://www.wsj.com/articles/u-s-halted-dollar-shipments-to-afghanistan-to-keep-cash-out-of-talibans-hands-11629233621>

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charged with holding dollar auctions (and housing the reserves) – and the United States (working with the UN, the G7, and potentially China and perhaps even an appropriately-incentivized Pakistan) could make it clear to the Taliban that such funds will cease if the Taliban does not live up to its obligations.

- *Enhanced Guidance*

OFAC FAQs are an important means to articulate policy priorities. Though the initial issuance of FAQs in the context of General Licenses 14 and 15 is welcome, more can be done.

One example of enhanced guidance was seen with respect to Somalia. In that context, the U.S. Government was compelled to deal with another designated terrorist group – al-Shabaab. While al-Shabaab did not assume the mantle of the Somali state as a whole it did assume control over key arteries around the country and ports of entry into Somalia. As such it had the ability to require taxes and other payments from aid agencies and others who sought access to impoverished regions.

In that case, after significant back and forth with the NGO community and within the federal interagency, it was agreed that if in the course of providing humanitarian goods incidental benefits were provided to the designated group, OFAC was unlikely to deem such transactions of enforcement interest. The agency issued two FAQs to this effect:

FAQ 131. What if, in delivering humanitarian assistance, my organization unintentionally provides food or medicine to members of al-Shabaab?

Due to the dangerous and highly unstable environment combined with urgent humanitarian needs in south and central Somalia, some food and/or medicine delivered in these areas may end up in the hands of al-Shabaab members. Such incidental benefits are not a focus for OFAC sanctions enforcement.³⁹

FAQ 132. What if, in delivering humanitarian assistance, my organization unintentionally provides cash to members of al-Shabaab?

U.S. persons should be extremely cautious in making cash payments in areas under the control of al-Shabaab. Al-Shabaab has, in the past, demanded “taxes” and “access” payments from assistance organizations. To the extent that such a payment is made unintentionally by an organization in the conduct of its assistance activities, where the organization did not have reason to know that it was dealing with al-Shabaab, that activity would not be a focus for OFAC sanctions enforcement. To the extent that an organization is facing demands for large or repeated payments in al-Shabaab-controlled areas, it should consult with OFAC prior to proceeding with its operations.⁴⁰

³⁹ OFAC Frequently Asked Question 131.

⁴⁰ OFAC Frequently Asked Question 132.

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While the U.S. government needs to be very careful in pursuing such a course in Afghanistan – and at least in the near term such allowances may be imprudent unless and until the Taliban demonstrate some changed and improved behaviors – over time some similar, carefully-crafted guidance by OFAC in this context could assist U.S. policy interests while limiting any benefit to designated parties.

Conclusion

The last time the Biden Administration faced a potential humanitarian catastrophe resulting from the designation of a terrorist group with control over a large territory it opted to de-list that group – Ansar Allah (the Houthis) in Yemen.⁴¹ The reasoning the Administration provided was that because the group controlled significant parts of Yemen the designation would have severe humanitarian consequences for Yemeni citizens.

Lifting sanctions against the Taliban is a non-starter.⁴² Sanctions will and should remain in place for the foreseeable future. Consequently, the Administration needs to leverage the flexibility and creativity of the sanctions tool in order to pursue core policy objectives including reducing sanctions' collateral effects. Doing so is not just a moral approach, but also is critical to achieving broader foreign policy and national security aims.

Fortunately, in any effort to creatively leverage sanctions we are not starting from a blank slate. Over the last decade sanctions have developed from simple, binary measures that served to block jurisdictions, into an entire ecosystem of nuanced policy instruments that can be carefully calibrated to achieve specific policy goals. We still have the "old-fashioned" comprehensively sanctioned jurisdictions along with the targeted Specially Designated Nationals "blacklist," but we also have, *inter alia*, "sectoral" measures focused only on dealings in new debt, equity, and certain technologies,⁴³ measures that name and shame,⁴⁴ and measures that allow the flexibility to impose both primary and secondary sanctions restrictions. Congress has played an important role in helping the Executive develop and implement many of these novel approaches. And, of course, OFAC has demonstrated significant flexibility and creativity with respect to licensing; the agency issues thousands of exceptions each year on specific and generalized bases, offering wind-down

⁴¹ Humeyra Pamuk, "U.S. to Drop Houthi Terrorist Designation Due to Yemen Crisis," (*Reuters*, February 5, 2021). <https://www.reuters.com/article/us-yemen-security-usa/u-s-to-drop-houthi-terrorist-designation-due-to-yemen-crisis-idUSKBN2A600Z>

⁴² Secretary of State Antony J. Blinken, State of the Union (CNN), August 15, 2021.

⁴³ See, e.g., Office of Foreign Assets Control, Sectoral Sanctions Identifications List and Directives 1-4. <https://home.treasury.gov/policy-issues/financial-sanctions/consolidated-sanctions-list/sectoral-sanctions-identifications-ssi-list>

⁴⁴ See, e.g., "Treasury Releases CAATSA Reports, Including on Senior Foreign Political Leaders and Oligarchs in the Russian Federation," U.S. Treasury – Press Release, January 29, 2018. <https://home.treasury.gov/news/press-releases/sm0271>

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licenses, maintenance licenses, and limited transaction licenses, all as policy needs dictate. There are very few, if any, statutory, regulatory, or precedential restrictions limiting policy innovation with respect to sanctions.

The Administration must consider with dispatch how to hold the Taliban to account with respect to its obligations while offering direction and certainty to parties who seek to assist Afghans in line with U.S. foreign policy goals. This would be a boon to broader U.S. interests – allowing western finance, aid groups, and perhaps even eventually commercial actors to compete against opportunistic heroin syndicates and forward-leaning parties propelled by Beijing and Moscow — while providing opportunities outside the drug trade, reducing the likelihood of radicalization, and serving the needs of the Afghan people.

PREPARED STATEMENT OF NAHEED FARID
MEMBER OF PARLIAMENT (THE WOLESI JIRGA), AFGHANISTAN

OCTOBER 5, 2021

Thank you to the Committee for inviting me to speak today. Chairman Brown, Ranking Member Toomey, Members of the Committee, my name is Naheed Farid. I am a member of Parliament from Afghanistan representing the people of Herat, which is my hometown. I have served in Parliament for more than 11 years and since 2019 I have been the Chairperson of the Human Rights Civil Society and Women's Affairs Committee. Here in Washington, DC, I serve on the advisory board of the Afghanistan–U.S. Democratic Peace and Prosperity Council.

I appear before you today still in shock that the Taliban, the Haqqani Network, and al Qaeda have taken over Afghanistan. For years my family and I have faced death threats from the Taliban. I cannot count how many friends and colleagues I have lost to Taliban violence and targeted assassinations. A week before they took Kabul, the Taliban entered Herat, found my house, searched for my family. Luckily, my family and I were able to escape with just the clothes on our backs. We fled to safety and now I'm among thousands of displaced women, who left our lives behind, not knowing if and when we will ever return.

For Afghan women of my generation, we remember the Taliban from the 1990s. Their sudden takeover of the country brings back so many nightmares. When I was a girl growing up in Herat, I loved going to school and I dreamed of one day becoming a pilot. When the Taliban took control, they closed my school, and I was forced to spend most of my time at home with female relatives.

Today what we as Afghan women have known all along is clear for the world to see. The Taliban cannot be trusted. They are rolling back all of the gains of the past 20 years and reinstituting their draconian rules. Afghan women and girls face a return to the 1990s. The Taliban have stripped most women of the ability to work, girls cannot attend secondary schools, young women who grew up in a free and open society are now living in fear.

Make no mistake, the Taliban govern through fear. Their soldiers indiscriminately whip civilians in the street. They have resumed public executions and mutilations. They have committed forced displacements and atrocities against Tajiks and Hazaras in Panjshir, Daikundi and other places. They have curbed free speech and decimated Afghanistan's once-thriving media sector. The Haqqani Network, al Qaeda, and other dangerous terrorist groups now operate freely in Afghanistan and have significant control within the Taliban leadership.

So how can Congress help the Afghan people? I have had so many meetings with Members of Congress these past few years and I know that so many of you feel a deep bond with the Afghan people and especially with Afghan women. What the Afghan people need right now are three things: immediate humanitarian assistance, legislation that prohibits U.S. recognition and normalization of relations with the Taliban, and support for local NGO's and civil society who can deliver basic services in the absence of a normal Government.

Afghanistan faces a dire humanitarian crisis. The health care system, which was reliant on direct payments from international donors, is on the brink of collapse. There are millions of Internally Displaced Persons unable to return to their homes. More than half of the population faces food insecurity. Without outside assistance more Afghans will suffer and die. But, the Taliban cannot be allowed to set terms and conditions on how this humanitarian assistance is delivered and who it is delivered to. Humanitarian corridors need to be established where international and local NGOs can do their work without any interference from the Taliban.

The Taliban regime cannot be trusted. Because of their hardline beliefs and their partnership with dangerous terrorist groups, the Taliban pose an imminent threat to the region and the world. No U.S. Administration or U.S. allies should recognize the Taliban regime, nor should they normalize relations unless and until the Taliban purge their ranks of known terrorists and deliver a pluralistic political system that provides equality to all Afghans. I urge the Members of this Committee to support legislation preventing Taliban recognition. There are two different pieces of legislation that have already been introduced in Congress—the Taliban Recognition Prevention Act in the House, and the Afghanistan Counterterrorism, Oversight and Accountability Act in the Senate. I urge you to act quickly and in a bipartisan way to pass legislation to this effect.

Not only can't the Taliban regime be trusted, it also has minimal capacity for governance. Very few of the technocrats that remain in the country are willing to resume their jobs at the various ministries. We are witnessing the breakdown in basic services such as health care, education, banking and finance, aviation, and many

others. The U.S. should not provide the Taliban with capacity building support. Instead the U.S. should provide direct support to Afghan NGOs and civil society. As someone with a background in nonprofit management and a family foundation that has built many schools for girls throughout Afghanistan, I know firsthand just how valuable local NGOs are to so many ordinary Afghans, especially to women and girls. The U.S. Government must find ways to provide funding, capacity building, and support to these local organizations who are on the ground helping Afghans.

A free and democratic Afghanistan that I committed my life to build, the Afghanistan that me and my generation, and the Gen Z'ers that followed us, love, and cherish, that Afghanistan still exists. It exists in the pulse of our cities, in our green landscapes and in our rugged terrain. A free and democratic Afghanistan exists in our hearts and our minds. We will reclaim this dream that the Taliban took away from us. We will fight them, on all levels, until they give us our freedom back. I just hope that our allies in the U.S. Congress, those whose ideals we embraced and whose encouragement we accepted at face value, continue to stand with us during this, our greatest time of need and show the world once again that it can lead and be a force for positive change.

Thank you!

PREPARED STATEMENT OF SUE ECKERT

SENIOR ASSOCIATE AND LECTURER, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES AND JACKSON INSTITUTE FOR GLOBAL AFFAIRS

OCTOBER 5, 2021

Chairman Brown, Ranking Member Toomey, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to discuss the critically important implications of the Taliban's takeover for U.S. national security, and the future of Afghanistan.

My views are informed by many years seeking to refine economic tools to promote U.S. national security and foreign policy objectives. As a staff member of the House Committee on Foreign Affairs overseeing export controls and economic sanctions, and then in the Executive branch administering U.S. dual-use export controls, and subsequently in academia and think tanks, I've worked to realize the potential of economic and financial measures to promote international peace and security. My research and efforts to reform these instruments at both the U.N. and domestic levels entail a better understanding of the objectives, utility, and limitations of such measures (including unintended consequences), as well as the circumstances when sanctions are most likely to be effective. While popular discourse continues to be skeptical of sanctions, I believe economic coercion, carefully crafted and effectively implemented, remains a critical component of U.S. national security.

Dire and Deteriorating Humanitarian Situation in Afghanistan

Even before the Taliban took control in August, Afghanistan was experiencing one of the worst humanitarian crises in the world. After decades of conflict, the country has been mired in overlapping humanitarian crises—including the COVID-19 pandemic, climatic changes and 2021 drought, persistent political insecurities, and increased violence. The Taliban's return to power—and the ensuing political instability—compounded these challenges. Responding to the severe and worsening humanitarian situation, U.N. Secretary-General Antonio Guterres launched an urgent flash appeal on September 13 for \$606 million in additional funding, emphasizing the urgent need to ensure that the international community's humanitarian response “saves lives but also saves livelihoods.”¹ Donors responded by pledging \$1.2 billion for the Afghani population.

Over 18.4 million people (or half of Afghani citizens) need humanitarian assistance, with more than 30 percent of the population facing emergency or crisis levels of food insecurity; half of all children under five facing acute malnutrition.² This increase in food insecurity can be partially attributed to rising food and fuel prices, disappearing jobs, and the drought-induced destruction of 40 percent of the country's wheat crop. In the first half of 2021, there were 5,183 civilian casualties and injuries, with a sharp increase between May and June following the withdrawal of international military forces and an uptick in fighting; more than 4 in every 10 civilian casualties were women and children. Additionally, at least 570,000 individuals

¹ <https://www.un.org/sg/en/node/258992>

² OCHA's Flash Appeal: Snapshot of Immediate Humanitarian Response Needs (Sept-Dec 2021) <https://www.humanitarianresponse.info/en/operations/afghanistan/document/flash-appeal-snapshot-immediate-humanitarian-response-needs-sept-%E2%80%93dec-2021>

have fled from conflict in 2021, while a record 757,000 Afghans were deported or returned from neighboring countries between January and August, despite sub-optimal return conditions.³

According to the United Nations Development Programme's most recent assessment, Afghanistan is heading toward universal poverty. As much as 97 percent of the population is at risk of falling below the poverty line by mid-2022—compared to the current poverty rate of 72 percent—unless the country's political and economic crises are curtailed. The ramifications of the Taliban's takeover are accelerating these crises, particularly due to frozen foreign reserves, long-standing sanctions against the Taliban, collapsing public finances, and increasing pressure on the banking system.

On October 3rd, the European Union's foreign policy chief Josep Borrell, warned that Afghanistan is facing a collapse of its economic and social systems that risks turning into a humanitarian catastrophe, which is dangerous not only for Afghans, but for the region and international security as well. Since the Taliban took power in August, food prices have jumped more than 50 percent as the freezing of \$9 billion of Afghanistan's assets held in foreign central bank reserves and the withdrawal of foreign income stokes inflation. The Afghan banking system is largely paralyzed, with people unable to withdraw money, while the country's health system—which was heavily dependent on foreign aid—is close to collapse.⁴

The World Food Program (WFP)'s Situation Update in late September reported that food security is deteriorating rapidly with only 5 percent of households consuming adequate levels of food.⁵ WFP Executive Director and Former U.S. Congressman David Beasley pleaded, "The time is now, we cannot wait 6 months—we need the funds immediately so we can move the supplies, to pre-position before the winter sets in."⁶ WFP noted that the situation is also dire among the middle classes, who used to be able to feed their families every day: three out of four households now limit portion sizes; adults are eating less so their children can eat more.

Moreover, the World Health Organization (WHO) last week warned of a deteriorating health situation in Afghanistan, with decreasing access to health care for the Afghan population. There are more cases of measles and diarrhea, and less response to the pandemic, as well as a resurgence of polio. According to WHO, only 17 percent of the over 2,300 health facilities previously supported by the World Bank are fully functional. Two thirds of these health facilities have run out of essential medicines.⁷

We are deeply concerned that Afghanistan faces imminent collapse of health services and worsening hunger if aid and money do not flow into the country within weeks. There needs to be some solution to the financial flows into Afghanistan to ensure that at least salaries can be paid, and that essential supplies—power and water being two of them—can be procured.

Fears about a surge in deaths from basic medical ailments have ballooned, as more than 20,000 health workers are out of work, either because the facilities closed, or their salaries were frozen.

U.N. Emergency Relief Coordinator Martin Griffiths on September 22 released \$45 million in life-saving support from the U.N. Central Emergency Response Fund to help prevent Afghanistan's health care system from collapse, noting, "Allowing Afghanistan's health care delivery system to fall apart would be disastrous. People across the country would be denied access to primary health care such as emergency caesarean sections and trauma care."⁸

Beyond official U.N. and EU agencies stressing the critical nature of the situation in Afghanistan, leading humanitarian organizations have also issued stark assessments. Jan Egeland, Secretary-General of the Norwegian Refugee Council, and

³ CSIS, "U.S. Sanctions Squeeze Humanitarian Assistance in Afghanistan", <https://www.csis.org/analysis/us-sanctions-squeeze-humanitarian-assistance-afghanistan>.

⁴ "Afghanistan on Verge of Socio-Economic Collapse, EU's Top Diplomat Says", Reuters. <https://www.reuters.com/world/asia-pacific/afghanistan-verge-socio-economic-collapse-eus-top-diplomat-says-2021-10-03/>

⁵ World Food Program Situation Report, 30 September 2021, <https://reliefweb.int/report/afghanistan/wfp-afghanistan-situation-report-30-september-2021>.

⁶ "Afghanistan: The Time To Act Is Now", <https://www.wfp.org/stories/afghanistan-time-act-now>.

⁷ Alexander Matheou, Asia Pacific director of the International Federation of Red Cross and Red Crescent Societies, said at a news conference on September 30. <https://www.nytimes.com/2021/09/30/world/asia/afghanistan-aid.html>

⁸ "Afghanistan: ERC Griffiths Releases \$45M From U.N. CERF for Life-Saving Support", <https://www.unocha.org/story/afghanistan-erc-griffiths-releases-45m-un-cerf-life-saving-support>.

former U.N. Undersecretary-General for Humanitarian Affairs, visited Afghanistan last week, reporting that,

Afghanistan's economy is spiraling out of control. The formal banking system could collapse any day now because of a lack of cash. I've spoken to families who tell me they are surviving on tea and small scraps of old bread. If the economy collapses, even the most basic services will no longer function, and humanitarian needs will soar even higher. Dealing with the liquidity crisis is critical as aid organizations seek to scale up to meet urgent humanitarian needs. U.N. member States must urgently broker a multilateral agreement to stabilize the economy, fund appropriate public services and address the liquidity crisis.⁹

After visiting Afghanistan last month, Peter Maurer, head of the International Committee of the Red Cross, warned of "conditional humanitarianism." Humanitarian action should not be conditioned on political, human rights, or other stipulations, as it weakens respect for IHL and humanitarian actors. And it erodes principles of neutral, independent, and impartial humanitarian action.¹⁰

Ensuring that assistance reaches the Afghan population is not just a moral and legal imperative, but one which also advances U.S. security interests. The risk of massive flows of refugees destabilizing the region and creating an environment conducive to the spread of terrorism is real. Continuation of humanitarian support and programs in Afghanistan, as well as efforts to stabilize the economic and financial system (minimizing the Taliban's benefit and maximizing the public's benefit) is the international community's best chance to avoid an economic and humanitarian catastrophe.¹¹

Complications of Sanctions for Humanitarian Responses

Preexisting sanctions by the United States and the United Nations make an already challenging operational environment for humanitarian actors in Afghanistan even more complicated.

Following the bombings of U.S. Embassies in East Africa in 1998, the United Nations Security Council imposed sanctions on the Taliban. Initially under UNSCR 1267 and in 2011, as part of a new sanctions regime pursuant to UNSCR 1988, all member States must prohibit any "funds, financial assets, and economic resources" from being provided to designated parties. In this regard, the U.N. 1988 regime targets individual members of the Taliban (but not the entity of the Taliban), currently consisting of 135 individuals plus five entities (the Haqqani network and four hawaladars). Of note, the majority (19) of the acting Taliban officials announced in September are sanctioned by the U.N., with at least 4 members of the Haqqani Network currently in charge of Afghan ministries (Interior, Telecommunications, Higher Education and Refugees).¹² In addition to 1988 sanctions, the U.N. also sanctions al Qaeda and ISIL (UNSCR 1267/2253) which includes 12 individuals and 20 entities affiliated with al Qaeda operating within Afghanistan.

In the U.S., the Taliban as an entity is designated as a Specially Designated Global Terrorists (SDGT) under E.O. 13224; the Haqqani Network is also a SDGT, as well as being designated as a Foreign Terrorist Organization (FTO) under section 219 of the Immigration and Nationality Act. Thus, the U.S. sanctions both leaders of the Taliban group as individuals, but also sanctions the Taliban as an entity. While these sanctions do not prohibit U.S. persons from exporting or reexporting goods or services into Afghanistan, the lack of clarity regarding precisely whom the Taliban is has created concern among NGOs. U.S. persons (and others given U.S. secondary sanctions) are prohibited from any dealings with the Taliban, at the risk of potential civil and criminal penalties.

First, significant uncertainty over how to treat the Taliban as a sanctioned entity now that they are the de facto Government of Afghanistan exists . . . do sanctions apply to self-identified members of the Taliban or to the totality of the Afghan Government? Given that principled humanitarian assistance requires engagement with all parties to a conflict to secure access to the civilian population, the answer to this question has serious implications for humanitarian and civil society organizations,

⁹"Afghanistan Is on a Countdown to Economic Collapse", <https://www.nrc.no/news/2021/september/afghanistan-is-on-a-countdown-to-economic-collapse/>.

¹⁰"High Level Ministerial Meeting on the Humanitarian Situation in Afghanistan", <https://www.icrc.org/en/document/president-maurer-meeting-humanitarian-situation>.

¹¹"William Byrd on Afghanistan's Economic Crisis", <https://www.usip.org/publications/2021/09/william-byrd-afghanistans-economic-crisis>.

¹²"Afghanistan's U.N. Rep Slams Taliban's New Govt: 17 of 33 Ministers Sanctioned by U.N.", <https://www.republicworld.com/world-news/rest-of-the-world-news/afghanistans-un-rep-slams-talibans-new-govt-17-of-33-ministers-sanctioned-by-un.html>.

as well as financial institutions providing banking services to NGOs. The fact that that majority of acting Taliban officials are on U.N. or U.S. sanctions lists adds to the confusion as to whether entire ministries led by these individuals are also subject to sanctions. Payments of partnership money to ministries for joint implementation of civil society programs benefiting the populations are on hold until questions as to how ministries led by designated individuals should be treated are clarified. Further complicating the situation, countries implement sanctions differently, with the European Union and the United Kingdom closely aligning with U.N. sanctions, while the United States is more expansive in its scope.

In light of outstanding questions regarding who is sanctioned, it is not surprising that financial institutions are being cautious, with many suspending transactions related to Afghanistan and even a few “derisking” NGOs operating in Afghanistan.¹³ Concerns over reputational harm, potentially invasive audits by regulators, and the possibility of civil and criminal penalties should a transaction inadvertently involve the Taliban are pushing banks to avoid these risks instead of managing them. The chilling effect leads to disruptions of financial services and forces NGOs to scale back operations due to a lack of financial access and even altered programs (some NGOs have referred to programmatic decisions being made based on where banks will transfer funds, rather than purely on need)—with meaningful effects on civilians who rely on these services.

Finally, there is a lack of clarity over the scope and scale of authorizations provided. On 24 September, Treasury’s Office of Foreign Assets Control (OFAC) issued two new general licenses (GL 14 and 15) along with four FAQs, authorizing humanitarian assistance or other activities that support basic human needs to Afghanistan. These actions and guidance were welcomed and extremely helpful to many NGOs, and the Biden administration is to be commended for taking these important steps.

However, the scope of activities covered by the new GL authorizations is narrower than in other recent OFAC actions, raising questions as to how the range of civil society programs and services benefiting ordinary Afghans which the international community has supported for the past 20 years are to be treated.¹⁴ General Licenses issued by OFAC in 2021 for Yemen, Burma, and in September Ethiopia (and previously as applied to Venezuela), have included a broad range of authorized humanitarian and civil society programs. These routinely include:

1. Activities to support humanitarian projects to meet basic human needs, including drought and flood relief, the provision of health services, assistance for vulnerable populations including individuals with disabilities and the elderly, environmental programs, and food, nutrition, and medicine distribution.
2. Activities to support democracy building, including activities to support rule of law, citizen participation, Government accountability, universal human rights and fundamental freedoms, access to information, and civil society development projects;
3. Activities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects;
4. Activities to support noncommercial development projects directly benefiting the people of the sanctioned country, including preventing infectious disease and promoting maternal/child health, sustainable agriculture, and clean water assistance; and
5. Activities to support environmental protection, including the preservation and protection of threatened or endangered species and the remediation of pollution or other environmental damage.¹⁵

In the case of GL 14 and 15 for Afghanistan, however, the scope of authorized activities is much narrower and limited to transactions, “that are ordinarily incident and necessary to the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or

¹³ Derisking entails denying or delaying financial access or the transfer of funds to humanitarian agencies out of concern of running afoul of regulatory requirements (i.e., sanctions, anti-money laundering, and countering the financing of terrorism). See “Financial Access for U.S. Nonprofits”, February 2017. [https://www.charityandsecurity.org/system/files/FinancialAccessFullReport-2.21%20\(2\).pdf](https://www.charityandsecurity.org/system/files/FinancialAccessFullReport-2.21%20(2).pdf)

¹⁴ “Treasury Issues General Licenses and Guidance To Facilitate Humanitarian Assistance in Afghanistan”, <https://home.treasury.gov/news/press-releases/jy0372>.

¹⁵ Language contained in Yemen, Burma, and Ethiopia General Licenses.

software updates for medical devices to Afghanistan, or to persons in third countries purchasing specifically for resale to Afghanistan.¹⁶

While broad agreement exists that no support should be provided to the Taliban, NGOs have significant concerns as to whether and how other assistance activities will be permitted to continue. According to reports of the Special Inspector General for the Reconstruction of Afghanistan (SIGAR), the U.S. has spent \$145 billion rebuilding Afghanistan in the past 20 years—with billions going to USAID's long term development programming. Many NGOs are looking for clarity and confirmation that that USAID's basic development sectors of agriculture, education, democracy and governance, health, and economic growth among others, would be authorized under a GL and permitted to continue. Programs beyond basic human needs to promote education, governance, human rights and protection, and peacebuilding are vital to preserve and build upon gains made by and for the Afghan population during the last two decades.

Other Challenges Faced by NGOs

Aside from ongoing uncertainty as to permitted transactions, NGOs' most significant problem in getting assistance into Afghanistan relates to the limitations in moving cash into Afghanistan. The U.S.' freezing of foreign reserves and suspension of international assistance through the World Bank and IMF have resulted in a shortage of cash (USD and AFN) and severe liquidity crises affecting NGO operations.

Without access to its foreign reserves, the Central Bank (DAB) has set limits on a range of financial activities, including cash withdrawals for individuals and corporate payments between banks, and unavailability of corporate banking services. Without the ability to import USD notes, the scarcity of cash will continue: NGOs report that the cash flow crises in Afghanistan is getting worse with every passing day: people waiting on line for hours to withdraw limited funds and banks are running out of cash, asking individuals to register and wait until they get physical cash with some staff waiting more than 3 weeks. Foreign remittances are blocked, and the banking system is barely able to operate. With such a scarcity of cash, NGOs are not able to pay suppliers, contractors, vendors, and most importantly national staff. Everybody wants to be paid either by cash or outside of country which refers to another layer of difficulties in terms legality, due diligence, compliance as well as security issues linked to physical handling of cash.

Moreover, devaluation of AFN currency and high inflation are making it more difficult to maintain financial frameworks for NGO operations; several fear that the collapse of the banking sector if the Government continues to be unable to access Government accounts held externally (which remains explicitly prohibited in OFAC GL14). Informal methods of moving money have also proven to be inadequate. While hawalas are an option for cash transfer, they are not generally a reliable one. Problems associated with screening hawalas, high fees, and the fact that hawalas will not have enough cash to meet NGO needs (some NGOs estimates that the sector needs as much as \$3 million USD/day) limit the utility of such methods.

Recommendations To Address Humanitarian Challenges in Afghanistan

The Biden administration has been supportive of NGOs continuing to provide their essential assistance in Afghanistan, and the September OFAC GLs represent important steps in clarifying permissible NGO activities. Additional action is needed, however, in the near term to avert a humanitarian catastrophe. As in past cases of severe humanitarian need (such as 2010–11 famine in Somalia, or in response to the natural disasters), the U.S. should be forward-leaning and provide broad grants of authority and legal certainty to NGOs, as well as the financial institutions providing services to support these activities. This should happen in several ways.

First, OFAC should continue to broaden and clarify the scope of authorized activities for Afghanistan. Additional GLs authorizing other NGO programs, including ongoing development programs that benefit the Afghan population, not the Taliban, should be issued as the most expeditious way to ensure civilians continue to receive vital assistance.

Important NGO programs providing services to Afghan citizens in the areas of protection and prevention (such as atrocities prevention, protection of human rights defenders, protection of religious and ethnic minorities or early warning and response systems and rights-based education initiatives), women's rights (addressing women's economic empowerment, support to women-led civil society, prevention of gender-based violence, etc.) and conflict and stabilization (such as community-level

¹⁶ See GL 14 and FAQ 928.

dialogue, conflict prevention, mediation, conflict resolution, and violence prevention at the local level) should be continued and authorized through general licenses.

Second, the United States should clarify to whom the sanctions apply. Is the Taliban deemed to have an interest in the Government of Afghanistan and, if so, whether the Afghanistan Government's assets are blocked and transactions with it are prohibited? Since the Taliban is the de facto Government, do sanctions apply broadly to the entirety of the Government, or just the designated ministers? And if a minister is sanctioned, does that mean any dealings with their ministry are prohibited? Further clarifications and legal protection are necessary for payments to be processed in support of these programs. In addition to GLs, providing NGOs and financial institutions with official assurance codifying OFAC's no enforcement policy that inadvertent violations will not be the basis of enforcement actions if due diligence is exercised, could go a long way toward mitigating risk aversion.

Third, because it is likely to be months before the Afghan financial system stabilizes with international payments in support of humanitarian and civil society NGOs being regularized, the U.S., together with international partners, financial institutions, and NGOs, need to develop a safe and reliable system to move humanitarian funds into Afghanistan. A viable mechanism to support these important programs in a way that does not benefit the Taliban but ensures necessary funds, goods, and services are able to be transferred into the country with appropriate protections is necessary to forestall a widespread humanitarian and economic collapse.

Fourth, the U.S. needs to work within the Security Council to create safeguards to ensure humanitarian action can continue in Afghanistan. Clear guidance is needed, not only from national regulatory authorities, but also from the 1988 Taliban sanctions committee to clarify that sanctions are not intended to impede humanitarian action, and that Member States must refrain from any measures or restrictions on humanitarian activities carried out by impartial humanitarian actors—building on UNSCR 2462's requirement that States must implement sanctions consistent with their obligations under International Humanitarian Law.

Further, explicit measures to safeguard humanitarian activities and the provision of essential goods and services in Afghanistan should be authorized through the adoption of an exception. An exception or "carve-out" as currently exists in the UNSCR 751 regime regarding Somalia is needed for transactions and other activities required for humanitarian activities and for the provision of essential supplies and services in Afghanistan. The Somalia regime provides a precedent upon which to build to ensure that all impartial humanitarian organizations' activities and transactions required to provide essential supplies and services in Afghanistan can continue.

Fifth, the U.S. needs to work closely with allies to harmonize policies and regulatory practices, as well as engage with other countries that have relationships with Afghanistan. Recognizing national interests of other countries such as Russia, China and Pakistan vary, all States have common interest in ensuring that Afghanistan does not become a safe haven for al Qaeda and other terrorist groups, ensuring regional stability, managing refugee flows, and preventing a return by the Taliban to violence and practices of the past concerning women and minorities. Other countries with more influence on the Taliban, such as Qatar also represent opportunities for cooperative engagement.

Sixth, the USG needs to engage banks and other financial and money service providers, insurance and transportation companies, and exporters to provide assurances that they will not be violating sanctions by authorizing and facilitating transactions that are permitted under licenses or a U.N. exception. This includes the issuance of "comfort letters" and other forms of guidance and encouragement to the private sector as a means of effective risk sharing among stakeholders.

Long-Term Systemic Reform Is Necessary

While the focus of today's hearing is clearly on the immediate crises in Afghanistan and finding ways to maintain existing humanitarian and civil society programs and activities in Afghanistan that benefit the Afghan people, this crisis brings into sharp relief the complicated interplay between sanctions and humanitarian action.

Time after time when there are crises in countries subject to sanctions, the U.S. regulatory system goes through a difficult process to clarify, define, and except humanitarian action. Just this year, we've been faced with the threat of withholding humanitarian assistance in Yemen (following the designation of Ansarallah in January 2021), Burma, Ethiopia, and Afghanistan. There is a need for systemic reform to create standing carve-outs for humanitarian action.

In fact, when Congress passed the International Emergency Economic Powers Act,¹⁷ the foundational authority for Treasury's financial sanctions, it included Section 203(b) a humanitarian exemption. Since 9/11, however, most terrorism-related Executive orders issued under IEEPA automatically waive this exemption without rationale. In doing so, humanitarian aid is treated as prohibited transactions with designated terrorist organizations, affecting everything from negotiating access to civilians to coordinated rescues during earthquakes and floods.¹⁸ It's time to restore the Congressionally mandated humanitarian exception and reform the financial sanctions framework so general licenses do not have to be created each time. Humanitarian exceptions should also be routinely included in U.N. Security Council sanctions as well.

Distinguished Members of the Committee, significant U.S. security and foreign policy interests are at stake with the Taliban's reconrol of Afghanistan. A serious assessment of the past two decades of U.S. policy is certainly in order as we seek to learn from this tragic experience. As the U.S. respond to the many challenges in Afghanistan, it's important that sanctions do not further compound the humanitarian crisis evolving on the ground in which real people are suffering. The U.S. and the international community maintain valuable leverage to influence the Taliban through frozen reserves and assets, continued sanctions, and ultimately, recognition. But humanitarian assistance should not be conditional—it's fundamental to U.S. values and commitments to protect human rights and international humanitarian law. "Saving lives and also saving livelihoods" is the best way of achieving U.S. objectives to prevent Afghanistan from becoming again a safe haven for terrorists, precipitating a refugee crisis, and maintaining regional stability. A humanitarian catastrophe and collapse of the economy would have devastating consequences for millions of people and risk destabilizing neighboring countries—an outcome that serves noone's interests.

The U.S. has invested much in Afghanistan and its' people over the past 20 years; the U.S. must continue critical assistance programs and support the broad range of NGOs' activities and access in Afghanistan through urgent and coordinated action with international partners.

¹⁷ Public Law 95-223, 28 December 1977. "(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 202 of this title."

¹⁸ Charity & Security Network, "Proposals for New Congress and Biden-Harris Administration To Support and Facilitate Humanitarian and Peacebuilding Operations Through Non-governmental Organizations", <https://charityandsecurity.org/wp-content/uploads/2021/03/CSN-Transition-Memo-V4.pdf>.

PREPARED STATEMENT OF THOMAS JOSCELYN
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OCTOBER 5, 2021

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Chairman Brown, Ranking Member Toomey, and other members of the committee, thank you for inviting me to testify today. The Taliban's victory over the Afghan government will lead to additional national security and humanitarian challenges for years to come. There are no easy answers to these challenges, but I hope to provide some clarity on related issues in my testimony.

The resurrection of the Taliban's Islamic Emirate, which was deposed during the U.S.-led invasion in late 2001, is a boon for the global jihadist movement. The Islamic State, which retains a network inside Afghanistan, rejects the Islamic Emirate's legitimacy. But al-Qaeda's regional branches throughout Africa and the Middle East see it as a divine sign that they can also defeat local governments and build their own jihadist emirates. Therefore, the Islamic Emirate of Afghanistan's interactions with other nations and international institutions will continue to serve as a model for jihadists around the globe.

We should be clear about the nature of the Taliban's Islamic Emirate. It is an authoritarian regime that will impose its draconian laws on the Afghan population. The Taliban and al-Qaeda fought for two decades for this very purpose — to rule according to their version of sharia. This is a foundational part of the Taliban's and al-Qaeda's belief system. It is not something they are willing to compromise on. Both the Taliban and al-Qaeda refer to the Islamic Emirate's top leader, Haibatullah Akhundzada, as the "Emir of the Faithful," an honorific usually reserved for a Muslim caliph. Ayman al-Zawahiri, who leads al-Qaeda's global network, has sworn a blood oath to Akhundzada on the premise that he is the only religiously legitimate ruler on the planet.¹ In other words, the Taliban's regime is no ordinary nation-state. Zawahiri himself has described the Taliban's "blessed emirate" as the "core" or "nucleus" of the jihadists' effort "to reestablish their caliphate according to the Prophetic methodology."²

Some hope to be able to influence the Taliban's behavior, as if socio-economic concerns will trump their deeply held religious beliefs. This is a dubious assumption. The Taliban may be willing to make marginal compromises, but it has never deviated from its core agenda. There is no reason to think the group ever will. This hard truth must be remembered as the world tries to use various carrots to convince the Taliban to moderate its behavior toward women, religious and ethnic minorities, and other Afghans who do not share its religious convictions. The jihadists know that the Islamic Emirate of Afghanistan must provide for the people if it is to be successful and stable. But that does not mean they are willing to adopt Western-style norms, or anything remotely resembling those norms, to improve their economic conditions. The regimes in Iran and North Korea have repeatedly demonstrated that the lure of economic aid is not enough to make them renounce their core tenets. The Taliban's Islamic Emirate of Afghanistan is not all that different in this regard.

Below, I make several points about the Taliban's Islamic Emirate, its unbroken relationship with al-Qaeda, and related issues. These and other facts must be weighed when considering the viability and means of providing humanitarian assistance to the Afghan people. I then provide a closer look at the so-called Haqqani Network, which is closely allied with al-Qaeda and an

¹ Thomas Joscelyn, "Zawahiri swears allegiance to the Taliban's new leader," *FDD's Long War Journal*, June 11, 2016. (<https://www.longwarjournal.org/archives/2016/06/ayman-al-zawahiri-swears-allegiance-to-the-talibans-new-leader.php>)

² Ayman al-Zawahiri, "The Battle of Awareness and Will – The Solid Structure," *As Sahab*, August 23, 2018.

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integral part of the Taliban. The relationships described in my testimony greatly complicate any effort to help the Afghan people, who are in desperate need of relief after more than four decades of war.

The Taliban is al-Qaeda's oldest and closest ally.

The relationship between the Taliban and al-Qaeda remains intact despite America's 20 years of war and more than a decade of on-again, off-again diplomacy. Senior American diplomatic and military officials have confirmed that the Taliban has not severed its relationship with al-Qaeda. For example, General Mark Milley, the chairman of the Joint Chiefs of Staff, recently testified that "the Taliban has never renounced" al-Qaeda "or broke its affiliation with them."³ There is no reason to think that the prospect of financial assistance will convince the Taliban to do so now. Indeed, the close ties between the two have been grossly underestimated.

My colleague Bill Roggio and I closely tracked the insurgency in Afghanistan at *FDD's Long War Journal*. There is overwhelming evidence showing that al-Qaeda played a much larger role in the Taliban's victory than is widely assumed. Al-Qaeda's men are marbled throughout the Taliban. Al-Qaeda's ranks include Afghan, Arab, Central Asian, Pakistani, Uighur, and other foreign fighters who work for a constellation of groups under the Taliban's banner. They all fought to resurrect the Islamic Emirate of Afghanistan, meaning it isn't just the Taliban's regime, but al-Qaeda's as well. Therefore, it is no surprise that al-Qaeda's senior leadership has described the defeat of the U.S.-backed government as a "historic victory."⁴

Some have worried that al-Qaeda will return to Afghanistan, or be reconstituted there, after the Western withdrawal. But this misunderstands al-Qaeda's role in the war. It is true that some senior al-Qaeda figures, and perhaps many fighters, will now make their way back to Afghanistan. However, as we regularly documented at *FDD's Long War Journal*, al-Qaeda maintained a footprint across Afghanistan throughout the war. Other sources have recently recognized al-Qaeda's current network inside the country as well. For example, a team of experts working for the UN Security Council reported earlier this year that al-Qaeda has an active presence in at least 15 of Afghanistan's 34 provinces.⁵ This assessment is broadly consistent with al-Qaeda's own reporting, via its Arabic newsletter *Thabat*, as well as with analyses by other sources.⁶ The U.S. Treasury Department warned in January that al-Qaeda has been "gaining strength in Afghanistan while continuing to operate with the Taliban under the Taliban's

³ General Mark A. Milley, "Department of Defense Afghanistan Hearing," *Testimony Before the Senate Armed Services Committee*, September 28, 2021. (<https://www.armed-services.senate.gov/imo/media/doc/Printed%2028%20Sep%20SASC%20CJCS%20Written%20Statement.pdf>)

⁴ Al-Qaeda's General Command, "Congratulations to the Islamic Ummah on the victory granted by Allah in Afghanistan!" *As Sahab*, August 31, 2021. (<https://www.longwarjournal.org/wp-content/uploads/2021/08/21-08-31-Al-Qaeda-congratulates-Islamic-Ummah-on-Taliban-victory.jpg>)

⁵ UN Security Council, "Twelfth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2557 (2020) concerning the Taliban and other associated individuals and entities constituting a threat to the peace stability and security of Afghanistan," April 28, 2021, page 12. ([https://www.undocs.org/pdf/symbol=en/S/2021/486](https://www.undocs.org/pdf/symbol/en/S/2021/486))

⁶ Bill Roggio, "Analysis: Al Qaeda continues to operate throughout Afghanistan," *FDD's Long War Journal*, April 8, 2021. (<https://www.longwarjournal.org/archives/2021/04/analysis-al-qaeda-continues-to-operate-throughout-afghanistan.php>)

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protection.” Al-Qaeda has a “network of mentors and advisers who are embedded with the Taliban, providing advice, guidance, and financial support.”⁷ Much of al-Qaeda’s focus inside Afghanistan has been on winning the war. Now that the war has been won, al-Qaeda’s personnel will have the resources to devote to other missions, both throughout the region and globally.

Meanwhile, the Taliban won’t even admit that al-Qaeda is present inside Afghanistan. Its spokesmen consistently lie about this and other topics. In fact, the Taliban is now using its February 29, 2020, agreement with the U.S. to protect al-Qaeda and other wanted terrorists. At no point in time has the Taliban complied with the supposed counterterrorism assurances in that accord. Regardless, the Taliban is claiming that America is violating the deal by flying drones through Afghan airspace.

On September 3, 2021, Pentagon spokesman John Kirby refused to rule out airstrikes targeting Sirajuddin Haqqani and other members of the so-called Haqqani Network.⁸ As discussed below, Sirajuddin Haqqani is not only the overall leader of the Haqqani Network, but also an al-Qaeda man. The Taliban responded to Kirby’s comments by arguing that such attacks would violate the Doha accord. On September 9, the Taliban released a statement titled, “Latest US position regarding blacklist is a violation of Doha Agreement,” arguing that the Haqqanis are fully part of the Taliban and protected by the agreement with the U.S.⁹ On September 29, the Taliban reiterated this argument in another statement titled “About airspace of Afghanistan.” The Taliban claims that the U.S. continues to fly drones overhead, thereby “violating all international rights” and “law” and the U.S. “commitments to the Islamic Emirate in Doha, Qatar.”¹⁰

Therefore, we are left with the following state of affairs. The Taliban hasn’t renounced al-Qaeda or severed the relationship. The Taliban’s spokesmen continue to lie about al-Qaeda’s presence. And the Taliban claims that any operations in Afghan airspace are a violation of the Doha agreement. Those same aerial operations are necessary to carry out counterterrorism missions against al-Qaeda, the Islamic State, and affiliated terrorists.

The United States never had any leverage over the Taliban and there is no good reason to think that it has any now.

⁷ U.S. Department of the Treasury, Memorandum for Department of Defense Lead Inspector General, “Operation Inherent Resolve - Summary of Work Performed by the Department of the Treasury Related to Terrorist Financing, ISIS, and Anti-Money Laundering for First Quarter Fiscal Year 2021,” January 4, 2021.

(<https://oig.treasury.gov/sites/oig/files/2021-01/OIG-CA-21-012.pdf>)

⁸ U.S. Department of Defense, “Pentagon Press Secretary John F. Kirby and General Glen D. VanHerck Hold a Press Briefing,” September 3, 2021.

(<https://www.defense.gov/News/Transcripts/Transcript/Article/2764972/pentagon-press-secretary-john-f-kirby-and-general-glen-d-vanherck-hold-a-press/>)

⁹ Islamic Emirate of Afghanistan, “Latest US position regarding blacklist is a violation of Doha Agreement,” September 9, 2021. (<https://justpaste.it/8b8fb>)

¹⁰ Islamic Emirate of Afghanistan, “About airspace of Afghanistan,” September 29, 2021. (<https://justpaste.it/31vt0>)

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Some American officials argue that the prospect of humanitarian aid and other assistance may provide the West with leverage in its dealings with the Taliban.¹¹ This argument is inconsistent with the history of the past 25 years.

The United States did not have leverage over the Taliban prior to the September 11, 2001, hijackings, when officials repeatedly demanded that the Taliban turn over Osama bin Laden.¹² The Taliban chose to be sanctioned rather than betray bin Laden.¹³ The U.S. did not have leverage over the Taliban's leadership after the 9/11 hijackings, when President Bush demanded that Mullah Omar hand over bin Laden and his not-so-merry men, or face war. Mullah Omar chose war.¹⁴ And the United States did not demonstrate any ability to gain leverage over the Taliban during the two-decade war, even when 100,000 American troops were deployed to Afghanistan at the peak of the effort. While thousands of troops were in country, the United States could not convince the Taliban to agree to a ceasefire with the now deposed Afghan government, take part in meaningful intra-Afghan talks, or break its relationship with al-Qaeda. In fact, the Taliban never made any real concessions during negotiations with the United States.

The Taliban has been uncompromising since it first rose to power in 1996. If anything, the Taliban has demonstrated its ability to gain leverage over the United States and extract concessions in return for little, or nothing. For instance, the Taliban got the State Department to agree to a fixed timetable for the withdrawal of all American and NATO forces, plus an uneven prisoner exchange with the former Afghan government (in which 5,000 jihadists were freed from Afghan prisons in exchange for just 1,000 members of Afghan security forces).

The Taliban certainly needs external funds to bolster its totalitarian Islamic emirate. But such aid will not enhance American national security interests.

Financial aid did not provide the U.S. with leverage over the Pakistani military and intelligence establishment, which harbored and supported the Taliban throughout the war in Afghanistan.

¹¹ For example, State Department spokesperson Ned Price has said that the Biden administration's "broader goal" is "to do all we can, whether [it's] through humanitarian support, whether it is through diplomacy, whether it is through the significant amounts of leverage that we will have with our international partners, with the UN to see to it that Afghans who decide to remain or who need to remain have access to safety and security and some degree of opportunity." See: U.S. Department of State, "Department Press Briefing - August 27, 2021." (<https://www.state.gov/briefings/department-press-briefing-august-27-2021-2/>)

¹² "Taliban File Update: U.S. Pressed Taliban to Expel Usama bin Laden Over 30 Times, Only Three Approaches in First Year of Bush Administration," *George Washington University's National Security Archive*, January 30, 2004. (<https://nsarchive2.gwu.edu/NSAEBB/NSAEBB97/index3.htm>)

¹³ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report: Final Report of the National Commission On Terrorist Attacks Upon the United States* (New York: Norton, 2004), pages 125-126.

¹⁴ "Mullah Omar - in his own words," *The Guardian* (UK), September 26, 2001. (<https://www.theguardian.com/world/2001/sep/26/afghanistan.features11>)

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The United States provided Pakistan with more than \$30 billion in financial aid and military reimbursements since 2001.¹⁵ But this significant financial support did not alter Pakistan's behavior with respect to the Afghan Taliban, including the Haqqani Network. The State Department regularly reports that the Taliban operates with impunity on Pakistani soil. For instance, the State Department reported that, in 2015, "Pakistan took steps to support political reconciliation between the Afghan government and the Afghan Taliban, but it did not take sufficient action to constrain the ability of the Taliban and the Haqqani Network (HQN) to threaten U.S. and Afghan interests in Afghanistan."¹⁶ The State Department included the same or similar language in its reporting on terrorism for the years 2016 through 2019.¹⁷

In 2017, the Trump administration correctly diagnosed Pakistani duplicity as a major problem for the war effort in Afghanistan. According to the State Department, the U.S. government then attempted to alter Pakistan's calculus by placing "a pause on spending new Foreign Military Financing for Pakistan, holding these funds until Pakistan addressed key U.S. concerns, including the threat posed by the Haqqani Network and other terrorist groups that enjoyed safe haven with Pakistan."¹⁸ However, "Pakistan did not adequately address these concerns in 2017."¹⁹ In 2018, the Trump administration again sought to influence Pakistan's behavior by suspending and then canceling approximately \$300 million in military aid.²⁰ This did not convince Pakistan to stop harboring the Taliban's senior leadership and facilitation networks.

It could be argued that this attempt to alter Pakistan's decision-making was made late in the war, when the U.S. was already preparing to leave Afghanistan, and it should have been tried much earlier. Even so, the U.S. government has demonstrated that it has no ability to affect Pakistan's relationship with the Afghan Taliban, including the Haqqani Network. This is an important consideration to keep in mind going forward, as it demonstrates the limits of using financial assistance as leverage. Recent history shows that Pakistan preferred to give up hundreds of millions of dollars in American military assistance rather than curtail the Taliban's jihad.

¹⁵ K. Alan Kronstadt and Susan Epstein, "Direct Overt U.S. Aid Appropriations for and Military Reimbursements to Pakistan, FY2002-FY2020," *Congressional Research Service*, March 12, 2019. (<https://sgp.fas.org/crs/row/pakaid.pdf>)

¹⁶ United States Department of State, Bureau of Counterterrorism and Countering Violent Extremism, *Country Reports on Terrorism 2015*, June 2016, page 252.

¹⁷ See United States Department of State, Bureau of Counterterrorism and Countering Violent Extremism, *Country Reports on Terrorism 2016*, June 2017, page 235. (https://www.state.gov/wp-content/uploads/2019/04/crt_2016.pdf); *Country Reports on Terrorism 2017*, September 2018, page 166. (https://www.state.gov/wp-content/uploads/2019/04/crt_2017.pdf); *Country Reports on Terrorism 2018*, October 2019, page 161. (<https://www.state.gov/wp-content/uploads/2019/11/Country-Reports-on-Terrorism-2018-FINAL.pdf>); *Country Reports on Terrorism 2019*, page 210. (<https://www.state.gov/wp-content/uploads/2020/06/Country-Reports-on-Terrorism-2019-2.pdf>)

¹⁸ *Country Reports on Terrorism 2017*, page 250.

¹⁹ *Ibid.*

²⁰ Missy Ryan and Carol Morello, "Trump administration suspends most security aid to Pakistan," *The Washington Post*, January 4, 2018. (https://www.washingtonpost.com/world/national-security/trump-administration-suspends-security-aid-to-pakistan/2018/01/04/303145e4-f18a-11e7-b3bf-ab90a706e175_story.html); Phil Stewart and Idrees Ali, "Exclusive: Pentagon cancels aid to Pakistan over record to militants," *Reuters*, September 1, 2018. (<https://www.reuters.com/article/us-usa-pakistan-military-exclusive/exclusive-pentagon-cancels-aid-to-pakistan-over-record-on-militants-idUSKCN1LH3TA>).

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Many of the jihadists who lead the Taliban's restored Islamic Emirate of Afghanistan were prominent figures in the Taliban's first regime from 1996 to 2001.

More than one dozen of the men leading the Taliban's Islamic Emirate have been sanctioned by the UN Security Council, some of them as far back as January and February of 2001.²¹ The purpose of these sanctions is to freeze "the funds and other financial assets or economic resources of designated individuals and entities," ban their travel to UN member states, and enforce an arms embargo on them.²² Should the U.S. and its allies recognize the Taliban as the legitimate government of Afghanistan, and remove these sanctions, it would grant the Taliban a political victory it never could have imagined when the war began in October 2001. Prior to 9/11, the Taliban had no international legitimacy, as only a handful of governments recognized it. The Taliban won the war, but this should not be sufficient to recognize it as a legitimate actor on the world stage. The Taliban's new Islamic Emirate is the same as the old Islamic Emirate, which was a pariah state 20 years ago.

One of the sanctioned Taliban leaders is Hassan Akhund, who was Mullah Omar's "close associate" and political advisor, according to the UN's 1988 Sanctions Committee.²³ Akhund served in multiple roles for the Taliban prior to 9/11, including as the group's foreign minister. In that position, Akhund defended Osama bin Laden. After the United Nations threatened to sanction the Taliban if it didn't hand over bin Laden in 1999, Akhund responded: "We will never give up Osama at any price."²⁴ Today, Akhund has been named the "head of state" or "prime minister" of the Taliban's Islamic Emirate.²⁵

Another Taliban leader sanctioned by the United Nations is Abdul Haq Wasiq. Prior to 9/11, Wasiq served as the deputy director general of intelligence for the Islamic Emirate. In that capacity, Wasiq "was in charge of handling relations with al-Qaeda-related foreign fighters and their training camps in Afghanistan."²⁶

Wasiq was detained at Guantanamo before being exchanged for Sgt. Bowe Bergdahl in 2014. U.S. officials at Joint Task Force — Guantanamo (JTF-GTMO) found that Wasiq "utilized his office to support al-Qaeda and to assist Taliban personnel elude capture" in late 2001. Wasiq also "arranged for al-Qaeda personnel to train Taliban intelligence staff in intelligence methods."²⁷

²¹ Thomas Joscelyn and Bill Roggio, "Taliban's government includes designated terrorists, ex-Guantanamo detainees," *FDD's Long War Journal*, September 8, 2021.

²² United Nations Security Council, "Security Council Committee established pursuant to resolution 1988 (2011)," June 17, 2011. (<https://www.un.org/securitycouncil/sanctions/1988#background%620information>)

²³ UN Security Council, "Mohammad Hassan Akhund" (TAi.002), accessed October 4, 2021.

(<https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/mohammad-hassan-akhund>)

²⁴ "Taliban Rejects U.N. Demand, Won't Surrender Bin Laden 'at Any Price,'" *Los Angeles Times*, October 17, 1999. (<https://www.latimes.com/archives/la-xpm-1999-oct-17-mn-23280-story.html>)

²⁵ TOLONews, "Taliban announces Head of State, Acting Ministers," September 7, 2021.

(<https://tolonews.com/afghanistan-174556>)

²⁶ UN Security Council, "Abdul-Haq Wassiq" (TAi.082), accessed October 4, 2021.

(<https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/abdul-haq-wassiq>)

²⁷ Joscelyn and Roggio, "Taliban's government includes designated terrorists, ex-Guantanamo detainees," *FDD's Long War Journal*, September 8, 2021. (<https://www.longwarjournal.org/archives/2021/09/talibans-government-includes-designated-terrorists-ex-guantanamo-detainees.php>)

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Today, Wasiq has been named the director of intelligence for the Taliban's Islamic Emirate — a promotion from his role as a deputy prior to 9/11.²⁸

Other senior Taliban leaders have similar dossiers. They worked with al-Qaeda prior to 9/11 and have never renounced their ways.

The Taliban is not a transparent organization. It will be difficult, if not impossible, to certify how any financial assistance is used and distributed.

The Taliban does not publish quarterly or annual budgets. Even if it did, it would not be possible to produce reliable audits of the Taliban's bookkeeping. This is no small point, as any direct financial assistance would essentially disappear into the jihadists' black hole. Cash is fungible and can be diverted from humanitarian purposes. Should the Taliban direct all the external aid it receives to the Afghan people, as intended, it will free up resources for other aspects of the regime's nefarious agenda.

Perhaps the U.S. and its allies could attempt to provide foodstuffs, or other hard subsidies to the Afghan people, but it would still be impossible to avoid dealing with the Taliban's authoritarian regime. We all want to improve the lives of the Afghan people, but this shouldn't lead the U.S. government to pretend that the Taliban is a viable partner in that endeavor.

The Taliban has multiple income streams and is not solely dependent on Western aid.

Several other countries have already provided financial assistance to the Taliban or have promised to do so. This is another factor severely limiting the ability of the U.S. and UN to gain leverage over the Taliban. The Taliban relies on foreign donations, the drug trade, taxes on the local population, and extortion of local mining business, among other sources, to generate revenues.²⁹ Pakistan and Qatar will likely continue to play a leading role in providing cash and other assistance to the Islamic Emirate of Afghanistan.³⁰ The Iranian regime has long worked with the Taliban in the drug trade and has investments in western Afghanistan.³¹ And China has pledged more than \$30 million in emergency financial aid, while also suggesting that a more robust economic relationship could be possible, if the Taliban meets certain security criteria.³²

²⁸ TOLONews, "Taliban announces Head of State, Acting Ministers."

²⁹ Dawood Azami, "Afghanistan: How do the Taliban make money?" *BBC World Service & Reality Check*, August 28, 2021. (<https://www.bbc.com/news/world-46554097>)

³⁰ "Pakistan, Qatar call for unconditional humanitarian aid to Afghanistan," *Reuters*, September 9, 2021. (<https://www.reuters.com/world/asia-pacific/first-post-evacuation-flight-has-taken-off-afghanistan-qatar-says-2021-09-09/>)

³¹ U.S. Department of the Treasury, Press Center, "Treasury Targets Taliban Shadow Governor of Helmand Afghanistan as Narcotics Trafficker," November 15, 2012. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1768.aspx>); U.S. Department of the Treasury, "Treasury and the Terrorist Financing Targeting Center Partners Sanction Taliban Facilitators and their Iranian Supporters," October 23, 2018. (<https://home.treasury.gov/news/press-releases/sm532>)

³² "China offers \$31m in emergency aid to Afghanistan," *BBC News*, September 9, 2021.

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While we do not know what the Taliban's total budget will look like, we do know that it has multiple income streams. And the United States has little to no leverage over any of them, outside of the sanctions imposed by the U.S. and the UN.

The Taliban seeks the removal of the sanctions placed on its leaders by the United States and the United Nations. Lifting these sanctions would undoubtedly assist al-Qaeda in its fundraising efforts, because some of the Taliban figures who are sanctioned also work with Ayman al-Zawahiri's organization.

The Haqqani Network is an integral part of the Taliban and closely allied with al-Qaeda.

Throughout much of the war, the United States targeted members of the so-called Haqqani Network. Yet some misconceptions about the Haqqanis linger. For example, some U.S. officials have suggested that the Haqqani Network is really an independent entity and not truly a part of the Taliban. That is false. The Haqqanis are an integral part of the Taliban, holding key positions throughout the group's hierarchy and running the Taliban's most lethal special forces. Indeed, the "Haqqani Network," a U.S.-designated foreign terrorist organization, is partly an American construct. This concept obscured the U.S. government's understanding of how the Taliban is really organized.

The patriarch of the Haqqani family, Jalaluddin, was Osama bin Laden's most important benefactor and ally. According to bin Laden's bodyguard, Jalaluddin helped bin Laden escape in late 2001. The first generation of al-Qaeda's leadership was incubated in Jalaluddin's camps in eastern Afghanistan. During the 1980s, Jalaluddin worked with the CIA against the Soviets, becoming one of the most effective so-called mujahideen commanders.

After the U.S.-led invasion of Afghanistan in October 2001, Jalaluddin vowed to wage "a never-ending war to free Afghanistan again from invaders," saying his men were prepared to conduct "a long guerrilla war to reclaim our pure land from infidels and free our country again like we did against the Soviets."³³

Jalaluddin, who was the top Taliban military commander in late 2001, steadfastly refused to break with bin Laden and al-Qaeda. "We don't think in terms of nationalities like Arab, Indian or Pakistani," Jalaluddin said in a response to a question about al-Qaeda. He elaborated: "All with us are Afghans. Whoever migrates to Afghanistan in the name of Islam, we consider them Afghans be they from Saudi Arabia, Britain, Chechnya, Pakistan, India or any other country of the world. And yes, we are all fighting this war together."

"We are all fighting together," Jalaluddin repeated, adding that bin Laden was free to come or go from Afghanistan as he wished, and that no one was forcing the al-Qaeda founder out.³⁴

³³ Aslam Khan, "Taliban leader warns of long guerrilla war," *Gulf News* (UAE), October 21, 2001. (<https://gulfnews.com/uae/taliban-leader-warns-of-long-guerrilla-war-1.427860>)

³⁴ *Ibid.*

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Jalaluddin Haqqani outright rejected any new government in Afghanistan. “No one from the Taliban will be part of such an unacceptable government, which will be filled with American, Russian and Indian stooges,” Jalaluddin said. Press reporting noted that he spoke these words from “a house in Islamabad belonging to Pakistan’s military intelligence agency.”³⁵

The Taliban announced Jalaluddin’s death in 2018, and he has been eulogized by al-Qaeda’s overall leader, Ayman al-Zawahiri. Before I examine the current role played by his family members, I want to look briefly at the Darul Uloom Haqqania seminary in Pakistan. Jalaluddin took this religious institute’s name as his own.

Samiul-Haq, the longtime chancellor of Darul Uloom Haqqania, was killed in a knife attack in 2018. Both the Taliban and the Pakistani military mourned him.³⁶ By the time of Haq’s death, it is likely that tens of thousands of students had passed through Haqqania’s doors. Haq has been nicknamed the “Father of the Taliban,” and his influence on the organization cannot be overstated.³⁷

Haq never hid his admiration for bin Laden and al-Qaeda. In 1998, Haq hung a poster from the “Crush America Forum” in his office. The poster held up bin Laden as a hero, warning that “any action against him will be considered an action against the whole Muslim world.” “Each and every person in this institution wants to be like Osama bin Laden,” Haq explained.³⁸

Multiple leaders in the Taliban’s Islamic Emirate are graduates of Haqqania, and some of al-Qaeda’s leaders have been educated there as well. Zabihullah Mujahid, the Taliban’s longtime spokesman, recently explained that he is “a native of Paktia Province,” a Haqqani stronghold, as well as a “graduate in Islamic jurisprudence from the well-known Darul Uloom Haqqania madrasa in Pakistan.”³⁹ Asim Umar, the first emir of Al-Qaeda in the Indian Subcontinent (AQIS), was reportedly educated at Haqqania.⁴⁰ Umar was killed during a September 2019 counterterrorism raid in Musa Qala, Helmand, a Taliban stronghold.

³⁵ John F. Burns, “A Nation Challenged: The Aftermath; Taliban Army Chief Scoffs At Report of Peace Talks,” *The New York Times*, October 21, 2001. (<https://www.nytimes.com/2001/10/21/world/nation-challenged-aftermath-taliban-army-chief-scoffs-report-peace-talks.html>)

³⁶ Thomas Joscelyn, “Taliban, Pakistani military mourn death of extremist cleric,” *FDD’s Long War Journal*, November 3, 2018. (<https://www.longwarjournal.org/archives/2018/11/taliban-pakistani-military-mourn-death-of-extremist-cleric.php>)

³⁷ Maria Golovnina and Sheree Sardar, “Pakistani ‘Father of Taliban’ keeps watch over loyal disciples,” *Reuters*, September 15, 2013. (<https://www.reuters.com/article/pakistan-taliban/pakistani-father-of-taliban-keeps-watch-over-loyal-disciples-idINDEE98E03320130915>)

³⁸ Andrew Maykuth, “Islamic Seminary Has Strong Ties to Bin Laden,” *The Philadelphia Inquirer*, August 30, 1998.

³⁹

Mathieu Aikins and Jim Huylebroek, “The Taliban wants to forget the past, a leader tells The Times, but there will be some restrictions,” *The New York Times*, August 25, 2021. (<https://www.nytimes.com/2021/08/25/world/asia/taliban-spokesman-interview.html>)

⁴⁰ Asim Tanveer and Maria Golovnina, “Al Qaeda’s shadowy new ‘emir’ in South Asia handed tough job,” *Reuters*, September 9, 2014. (<https://www.reuters.com/article/us-southasia-alqaeda-insight/al-qaedas-shadowy-new-emir-in-south-asia-handed-tough-job-idUSKBN0H42DN20140909>)

Active Members of the So-Called Haqqani Network

Sirajuddin Haqqani has been appointed as the Taliban's interior minister, a position that will presumably grant him the power to oversee the regime's security and police forces. Sirajuddin has been the Taliban's deputy emir since 2015, meaning he has been one of the top two or three leaders within the organization for the past six-plus years. Sirajuddin's close working relationship with al-Qaeda is well-known. Both the United States and United Nations have designated him as a terrorist, in part because of his bond with al-Qaeda.⁴¹ The State Department has also offered a reward of up to \$10 million for information on Sirajuddin's whereabouts, noting that his network is "allied with" al-Qaeda.⁴²

In the spring of 2010, Sirajuddin gave an interview in which he explained that he was a member of the Taliban's shura council. The interviewer asked Sirajuddin about the "mujahideen who emigrate to the land of the Khorasan," meaning foreign fighters in Afghanistan, and whether they "form any obstacle or burden on the Afghan people." Sirajuddin responded that the foreign mujahideen "enlighten the road for us and they resist against the cross worshippers by cooperating with us and us with them in one trench." Sirajuddin also stressed that cooperation between the foreign fighters and the Taliban "is at the highest limits."⁴³

Files recovered in Osama bin Laden's compound show that Sirajuddin Haqqani was indeed cooperating with the foreign mujahideen "at the highest" levels when spoke those words. And he clearly meant bin Laden's lieutenants. In fact, the Abbottabad files show Sirajuddin worked closely with al-Qaeda to carry out attacks against the United States and its partners inside Afghanistan. For example, one memo sent to bin Laden in June 2010 summarized some of the "special operations" al-Qaeda was conducting inside Afghanistan at the time.⁴⁴ Atiyah Abd al-Rahman, the author of the memo, explained that bin Laden's men "cooperated with Siraj Haqqani and another commander" to plan and carry out the May 19, 2010, suicide assault on Bagram Air Base. In that same memorandum, Atiyah explained that al-Qaeda had "very strong military activity" across at least eight Afghan provinces and had fielded "the same" fighting groups "every season for many years now."⁴⁵ At the time, the U.S. government was downplaying

⁴¹ The United Nations reported that Sirajuddin "is one of the most prominent, influential, charismatic and experienced leaders within the Haqqani Network ... a group of fighters with a close association with both the Taliban and Al-Qaida." The United Nations added that Sirajuddin "derives much of his power and authority from his father, Jalaluddin Haqqani," who "established very close links with Al-Qaida." See: UN Security Council, "Sirajuddin Jallaloudine Haqqani," September 13, 2007.

(<https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/sirajuddin-jallaloudine-haqqani>)

⁴² U.S. Department of State, Rewards for Justice, "Sirajuddin Haqqani," accessed September 28, 2021. (https://rewardsforjustice.net/english/sirajuddin_haqqani.html)

⁴³ Bill Roggio, "Taliban cooperation with al Qaeda 'is at the highest limits,'" *FDD's Long War Journal*, April 15, 2010. (https://www.longwarjournal.org/archives/2010/04/taliban_cooperation.php)

⁴⁴ Memo from Atiyah Abd al-Rahman to Abu Abdallah (Osama bin Laden), dated June 19, 2010. The U.S. government's translation of the memo can be found at: <https://www.longwarjournal.org/wp-content/uploads/2015/03/EXHIBIT-421-ENG-TRANS-EX-420-76C5764D-1.pdf>

⁴⁵ For more, see: Thomas Joscelyn and Bill Roggio, "Osama bin Laden's Files: 'Very Strong Military Activity in Afghanistan,'" *FDD's Long War Journal*, February 27, 2015.

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the extent of al-Qaeda's footprint inside Afghanistan. But Atiyah's memo, as well as other evidence, showed that America's assessment was deeply flawed.

In another memo, written in July 2010, Atiyah explained how al-Qaeda was working with Sirajuddin Haqqani and other jihadists to coerce the Pakistani government into a ceasefire at the time. Under pressure from the U.S. government, the Pakistani military had launched operations in northern Pakistan that threatened the Haqqanis' strongholds, where al-Qaeda was also sheltering. Atiyah wrote to bin Laden:

We let slip (through Siraj Haqqani, with the help of the brothers in Mas'ud and others; through their communications) information indicating that al-Qaeda and Tehrik e-Taliban [Pakistan] have big, earth shaking operations in Pakistan, but that their leaders had halted those operations in an attempt to calm things down and relieve the American pressure.⁴⁶

Not long after, bin Laden replied that he approved of truce talks between al-Qaeda, the Haqqanis, and Tehrik e-Taliban Pakistan (TTP) on one side and the Pakistani government on the other. "In regards to the truce with the Pakistani government," bin Laden wrote to Atiyah, "continuing the negotiations in the way you described is in the interest of the Mujahideen at this time."⁴⁷

The TTP, which is discussed in the memos to bin Laden, is an al-Qaeda-affiliated group. The TTP is also closely allied with the Haqqanis and continues to threaten parts of the Pakistani state. The TTP has expressed its reverence for Sirajuddin Haqqani in its media, while also eulogizing his father, Jalaluddin.

In 2011, according to an account published by *Newsweek*, the Haqqanis distributed 10,000 copies of a 144-page book by Sirajuddin in which he justifies suicide bombings and encourages aspiring jihadists to mimic al-Qaeda's ways. Sirajuddin praised al-Qaeda because it "terrifies" its foes, arguing that those drawn to al-Qaeda's cause should "stay and live among people who are against our faith and ideology, like those militants operating in Europe and the U.S." Aspiring terrorists in the West should "[b]lend in, shave, wear Western dress, be patient." The book offers travel advice for would-be terrorists and also endorses attacks on civilian targets. "You should attack the enemy's weaker points, such as economic targets like the World Trade Center and diplomatic targets like the U.S. embassies in Africa," Sirajuddin reportedly wrote.⁴⁸

(<https://www.longwarjournal.org/archives/2015/02/osama-bin-ladens-files-very-strong-military-activity-in-afghanistan.php>)

⁴⁶ Memo from Atiyah Abd al-Rahman to Abu Abdallah (Osama bin Laden), dated July 17, 2010. The U.S. government's translation of the memo can be found at *FDD's Long War Journal*.

(<https://www.longwarjournal.org/wp-content/uploads/2015/03/EXHIBIT-423-ENG-TRANS-EX-422-56202CC8-.pdf>) For more on the contents of this memo, see: Thomas Joscelyn, "Osama bin Laden's Files: The Pakistani government wanted to negotiate," *FDD's Long War Journal*, March 9, 2015.

(<https://www.longwarjournal.org/archives/2015/03/osama-bin-ladens-files-the-pakistani-government-wanted-to-negotiate.php>)

⁴⁷ Memo from "Zamuray" (Osama bin Laden) to "Sheikh Mahmud" (Atiyah Abd al-Rahman), dated August 7, 2010. The U.S. government's translation of the memo can be found at *FDD's Long War Journal*.

(<https://www.longwarjournal.org/wp-content/uploads/2015/03/EXHIBIT-425-ENG-TRANS-EX-424-AC52C7B7-.pdf>)

⁴⁸ Ron Moreau, "Afghanistan: Haqqani's Jihad Manual & the Secret Taliban Letter," *Newsweek*, November 14, 2011. (<https://www.newsweek.com/afghanistan-haqqanis-jihad-manual-secret-taliban-letter-66379>)

Naturally, Sirajuddin's men have also been some of al-Qaeda's closest comrades. After Sirajuddin was appointed as the Taliban's interior minister in August, *The Wall Street Journal* cited "U.S. intelligence" sources who said he "had close relations with a prominent al Qaeda commander, Abdul Rauf Zakir, who was responsible for protecting Osama bin Laden's son Hamza."⁴⁹ Abdul Rauf Zakir, also known by the honorific Qari Zakir, was the chief of the Haqqani Network's suicide operations.⁵⁰ Indeed, when the State Department designated Zakir as a terrorist in 2012, it noted that he was a "trusted associate and confidant of Sirajuddin" Haqqani and had helped the Haqqani Network expand its operations into northern Afghanistan.⁵¹ It appears that Qari Zakir was killed alongside Osama bin Laden's son Hamza in a U.S. strike, though the government has never confirmed the precise details of how either man was killed.

Regardless, let this basic fact sink in: Sirajuddin Haqqani's right-hand man protected Hamza bin Laden, just as Sirajuddin's father protected Osama bin Laden himself.

One of the billboards erected by the Taliban after it took control of Afghanistan in mid-August shows Sangeen Zadran alongside Bowe Bergdahl, the former American soldier who was held by the Haqqanis. The billboard was raised in Khost province, a longtime Haqqani stronghold. Zadran, a senior aid to Sirajuddin Haqqani, was designated as a terrorist by the U.S. State Department in 2011. State reported that Zadran was "believed to have planned and coordinated the movement of hundreds of foreign fighters into Afghanistan," including al-Qaeda members.⁵² Zadran was a high priority target for the U.S. intelligence community and military, as he served as the Taliban's military commander and then as the group's shadow governor for Afghanistan's Paktika province, another Haqqani stronghold. Zadran was killed in a drone strike in North Waziristan on September 5, 2013.

While serving under Sirajuddin, Sangeen Zadran was proudly one of al-Qaeda's "brothers." In September 2009, al-Qaeda's central media arm, As Sahab, released an interview with Sangeen. When asked about his relationship with al-Qaeda, Sangeen responded:

All praise is for Allah, Al-Qaeda and Taliban all are Muslims and we are united by the brotherhood of Islam. We do not see any difference between Taliban and Al-Qaeda, for we all belong to the religion of Islam. Sheikh Usama has pledged allegiance to Amir Al-Mumineen (Mulla Muhammad Umar) and has reassured his leadership again and again. There is no difference between us, for we are united by Islam and the Sharia governs us.⁵³

⁴⁹ Sune Engel Rasmussen and Nancy A. Youssef, "In Taliban-Ruled Afghanistan, Al Qaeda-Linked Haqqani Network Rises to Power," *The Wall Street Journal*, August 26, 2021. (<https://www.wsj.com/articles/in-taliban-ruled-afghanistan-al-qaeda-linked-haqqani-network-rises-to-power-11629990056>)

⁵⁰ Bill Roggio, "US adds Haqqani Network suicide operations chief to list of global terrorists," *FDD's Long War Journal*, November 5, 2012. (https://www.longwarjournal.org/archives/2012/11/us_adds_haqqani_netw_2.php)

⁵¹ U.S. Department of State, Media Note, "Designation of Haqqani Network Chief of Suicide Operations Qari Zakir," November 5, 2012. (<https://2009-2017.state.gov/r/pa/prs/ps/2012/11/200165.htm>)

⁵² Bill Roggio, "US State Department adds Mullah Sangeen to terrorist list," *FDD's Long War Journal*, August 16, 2011. (https://www.longwarjournal.org/archives/2011/08/us_state_department_1.php)

⁵³ Bill Roggio, "An interview with Mullah Sangeen," *FDD's Long War Journal*, September 17, 2009. (https://www.longwarjournal.org/archives/2009/09/an_interview_with_mullah_sange.php)

Khalil Haqqani is one of Jalaluddin's brothers and one of Sirajuddin's uncles. Khalil has been named the Taliban's minister of refugees, a position that may give him the power to protect al-Qaeda figures, as some are likely considered "refugees" in the Islamic Emirate of Afghanistan. Khalil's relationship with al-Qaeda has long been known. The U.S. Treasury Department designated Khalil Haqqani as a terrorist in 2011, describing him as "among the Haqqani Network's most important figures and fundraisers." Treasury reported that in addition to fundraising for the Taliban, overseeing "the detention of enemy prisoners," and taking operational orders from his nephew (Sirajuddin), Khalil worked with al-Qaeda. Khalil has "acted on behalf of al-Qaeda and has been linked to al-Qaeda military operations." Khalil supported al-Qaeda at crucial moments in the group's history. In 2002, when the United States was hunting al-Qaeda fighters in eastern Afghanistan, Khalil deployed "men to reinforce al-Qaeda elements in Paktia Province, Afghanistan." As of 2011, Khalil had raised funds in China, Dubai, Iran, Pakistan, Saudi Arabia, and the United Arab Emirates, according to Treasury.⁵⁴

Ibrahim Haqqani is another brother of Jalaluddin and uncle of Sirajuddin. Ibrahim has made prominent appearances in Taliban-controlled Afghanistan. It appears that he has played a diplomatic role of sorts, meeting with former Afghan President Hamid Karzai and possibly other former Afghan officials as well. A memorandum recovered in Osama bin Laden's compound shows that Ibrahim and other members of the so-called Haqqani Network acted as "guarantors" for a ransom payment made by the Afghan government to al-Qaeda.⁵⁵ The \$5 million ransom was paid to secure the release of an Afghan ambassador held by bin Laden's men.⁵⁶

Yahya Haqqani is Sirajuddin's brother-in-law and a U.S.-designated terrorist. The U.S. Treasury Department has explained that Yahya is so senior within the Haqqani Network that he has "acted as de facto head of the group when" other senior leaders, such as Sirajuddin and Khalil, are "absent." Yahya has been "closely involved" in the Haqqani Network's "military, financial, and propaganda activities," often working with Sirajuddin. Like his brother-in-law, Yahya works with al-Qaeda. Treasury explained that Yahya "sometimes serves as a liaison between the" Haqqani Network and al-Qaeda and "has maintained ties with [al-Qaeda] since at least mid-2009." Yahya has "provided money to [al-Qaeda] members in the region for their personal expenses" and "acted as the [Haqqani Network's] primary liaison with foreign fighters, including Arabs, Uzbeks, and Chechens."⁵⁷

⁵⁴ U.S. Department of the Treasury, Press Release, "Treasury Targets the Financial And Support Networks of Al Qaeda and the Taliban, Haqqani Network Leadership," February 9, 2011, (<https://www.treasury.gov/press-center/press-releases/Pages/tg1055.aspx>). Another jihadist, Said Jan 'Abd al-Salam, was designated alongside Khalil Haqqani. Treasury reported that 'Abd al-Salam served as the "primary assistant" to an al-Qaeda commander and also worked with the Taliban.

⁵⁵ Memo from Atiyah Abd al-Rahman ("Sheikh Mahmud") to Osama bin Laden ("Abu Abdullah"), dated November 23, 2010. The U.S. government's translation of the memo can be found at *FDD's Long War Journal*, (<https://www.longwarjournal.org/wp-content/uploads/2015/03/EXHIBIT-429-ENG-TRANS-EX-428-4AA63D2B-.pdf>).

⁵⁶ For more on the ransom payment, see: Matthew Rosenberg, "C.I.A. Cash Ended Up in Coiffers of Al Qaeda," *The New York Times*, March 14, 2015, (<https://www.nytimes.com/2015/03/15/world/asia/cia-funds-found-their-way-into-al-qaeda-coiffers.html>).

⁵⁷ U.S. Department of the Treasury, Press Center, "Treasury Department Targets Key Haqqani Network Leaders," February 5, 2014, (<https://www.treasury.gov/press-center/press-releases/Pages/tl2284.aspx>).

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN
FROM ADAM M. SMITH**

Q.1. Some have suggested using U.N. agencies as a conduit to continue humanitarian, development, and reconstruction aid to Afghanistan, even though its mission has been hampered by the need to evacuate many of its staff in the wake of the Taliban takeover.

If the legal arrangements could be worked out, would U.N. entities be a viable means—a safe channel—to provide not only aid from Western Governments directly to the Afghan people, bypassing the Taliban Government, but also to use at least a portion of Afghanistan's currency reserves to provide such aid? How would this likely work, as a practical matter?

A.1. The U.N. agencies—in addition to the Bretton Wood institutions—could be viable means to leverage in order to provide aid to the Afghan people. Some agencies, like UNICEF, already have experience in making direct payments to parties outside the Taliban's purview (even in areas that have been under Taliban control even before the formal takeover). U.N. agencies and multilateral development banks (both the IBRD and the Asian Development Bank) have significant experience in working in challenging environments and leveraging both their good offices and the expertise of their personnel to prioritize certain forms of aid and strategize for its delivery.

The source of any development funds to be deployed is a distinct question and should be delinked from the mechanisms of delivery. It is not clear that domestic foreign currency reserves can be used without Taliban oversight (assuming that such funds are housed at the Central Bank which is now run by the Taliban). Rather, any funds could be provided directly to the U.N. agencies or others who are vetted by foreign officials. The Taliban could be informed that any interference in delivery will lead to the immediate cessation of such funds. Alternatively, the international community could focus on in-kind aid in the immediate term, rather than cash transfers.

Q.2. Since the Taliban takeover in August, daily and weekly limits have reportedly been placed on bank withdrawals, due to currency shortages in-country. This has forced an even greater reliance on the Hawala system, which most Afghans use—but that system is also reportedly strained.

What do you think U.S. and other Western Governments should be doing now to ease the economic strain on ordinary Afghan families caused by currency shortages—besides allowing an expansion of personal and family remittances through entities like Western Union and Money Gram, now restored after being briefly cut off, to flow into Afghanistan?

A.2. In the immediate term the United States and other Western Governments should work on the mass expansion of in-kind aid delivery (rather than cash payments). With winter quickly upon Afghanistan the need for heating, clothes, blankets, food, and medicine are critical if the international community seeks to arrest a near-certain humanitarian emergency. The importance of in-kind deliveries comes not just because of the absence of such goods in the Afghan market, but the reality that it is very difficult to get money into the country even if goods existed to buy. The U.N.'s Of-

fice for the Coordination of Humanitarian Affairs (OCHA) reports that 89 percent of NGOs are unable to bring any money (of whatever currency) into the country.

In addition to in-kind aid, the international community must urgently clarify how to interpret the scope of both U.S. sanctions on the Taliban, and U.N. Security Council Resolution 1988. The international aid community has interpreted both U.S. and U.N. sanctions to extend not only to named individuals or entities, but also to every person who works with or on behalf of an agency that is run by a listed person. For example, this has meant that line workers providing key services on behalf of the Ministry of the Interior are being denied payments by the international community because their ministry is being run by a sanctioned individual. That aggressive interpretation has never been employed in other sanctions programs—and the international community must act quickly to publicize and clarify that that is not the case here.

Q.3. Since just after 9/11, the Taliban has been a Specially Designated Global Terrorist organization, and its leaders and many of its members have been designated separately as well. Entities or individuals listed under that authority are effectively blacklisted from the U.S. financial system, and from the global financial system because the restrictions apply with respect to U.S. persons, U.S. banks, or transactions that might traverse the United States, including most U.S. dollar trade around the world.

Can you discuss the legal implications of that designation and what it means for organizations operating in Afghanistan? What if anything more should Treasury do to clarify its enforcement policy for aid organizations working in the region, to enable them to continue to operate effectively?

A.3. The U.S. Treasury's sanctions system—operated principally by the Office of Foreign Assets Control (OFAC)—is enormously successful in restricting the ability of named parties to access the global, formal financial system. As a legal matter, individuals or entities named as Specially Designated Global Terrorists appear on the Specially Designated Nationals and Blocked Persons List (the "SDN List") and any property they own that is in U.S. jurisdiction (or that comes into U.S. jurisdiction) is frozen. Additionally, any entity that is owned 50 percent or more by a listed party is itself blocked (even if that entity does not appear on the SDN List itself). Parties that continue to deal with sanctioned or blocked persons—or who are deemed to "cause" other parties to deal with such persons—can face both substantial criminal and civil consequences.

There are two additional impacts of being listed. First, because the vast majority of global trade continues to be conducted in the U.S. Dollar—and most U.S. Dollar transactions require a financial institution under U.S. jurisdiction to serve as a correspondent bank—listed parties are essentially shut out of the global U.S. dollar-based trading system. And, second, given OFAC's professionalism (all employees at OFAC are career civil servants—many of whom have devoted their entire professional careers to the agency), and the ubiquity of the U.S. Dollar, numerous financial institutions and corporations throughout the world choose to comply with U.S. sanctions even if they are not legally obligated to do so. As

such, a listed party can find themselves outside the formal financial system almost no matter where they work in the world or in what currency they choose to operate.

The shadow of the SDN List—on which the Taliban, the Haqqani Network, and numerous related individuals appear—makes it very challenging and risky for any party to transact with them. The challenge comes from the fact that counterparty institutions critical for any work in Afghanistan (financial intermediaries and providers of logistics and aid) will potentially be unwilling to play a part for fear of tripping up their own sanctions compliance obligations. And, second, while perhaps unlikely, there is a theoretical risk that aid groups could find themselves sanctioned or enforced against for providing support to the Taliban and/or the Haqqani Network. The Executive orders underlying almost all sanctions programs (including the Specially Designated Global Terrorist program) include the provision of “material support” to listed parties as a potential basis for designation. Indeed, there have been several nominally charitable groups that have found themselves listed and/or enforced against for providing aid to sanctioned terrorist groups.

Given the impact of even potentially being designated or enforced against, the U.S. Government needs to lean forward to provide clarity and comfort with respect to what sorts of activities with the Taliban and the Haqqani Network are permitted and what sort of activities will not give rise to enforcement. On the permission side of the equation, OFAC has only issued two general licenses. While a good start, they need to be broader and clearer. They only extend to humanitarian activity, which is undefined but clearly falls short of “development” activities. As the U.N. Secretary General made clear, saving livelihood is critical to saving lives in Afghanistan. As such, the U.S. Government should consider the careful expansion of these licenses to include more than emergency humanitarian provision.

To provide a sense of what might be needed, in my testimony I spoke about the designation of the Venezuelan Government. In that context, in an effort to limit the collateral consequences on innocent Venezuelans (while restricting the flow of funds to the regime of Nicolas Maduro) OFAC has issued several dozen licenses of various sorts to permit a wide of transactions needed to support the livelihoods (and the future) of Venezuelan citizens. Similarly, in the context of the Palestinian Authority, the U.S. has also provided general licenses. In 2006 when Hamas assumed the majority party within the Palestinian Legislative Council OFAC provided that U.S. persons were prohibited from engaging with the Palestinian Authority unless licensed. OFAC quickly issued several broad general licenses authorizing transactions with the PA, fees and tax payments, and transactions undertaken with parts of the PA in which Hamas was not present.

Every case is different, but both the Venezuela and the PA situations make clear that two general licenses—limited solely to the immediate humanitarian needs of the populace—are insufficient to provide for the Afghan people and to meet U.S. interests in the country.

With respect to enforcement, OFAC could follow the example set in the Somalia context and underline that it will not pursue enforcement actions in cases in which incidental benefits accrue to the Taliban or the Haqqani Network in the process of delivery of aid or other services.

Q.4. In your written testimony to the Committee, and in your oral presentations, you both advocated for expanded use of OFAC’s General Licenses to allow for the delivery of food, medicine, and related items. For some time, the Taliban have raised revenue by “taxing” or imposing surcharges on the illegal movement of ordinary goods, like fuel and consumer imports.

Given our shared desire to facilitate the delivery of humanitarian and development aid while denying any benefit to the Taliban or its allies, how would you suggest restructuring western aid delivery mechanisms to avoid the kind of sanctions “leakage” you talked about—including denying the ability of the Taliban to benefit from the imposition of illegal surcharges, taxes, or other fees on aid?

A.4. As noted above and in my testimony, there does not appear to be a way to completely eliminate leakage of aid to the Taliban and its allies. However, there are ways to reduce the amount of such leakage. A key way will be to move towards greater reliance on in-kind aid rather than cash payments. Cash is difficult to get into the country and the risk of “taxes” (or outright theft) of large quantities of hard currency bills is very high. It is possible for the Taliban to purloin aid delivery as well but it is harder to do so and harder to monetize—as a consequence, in-kind aid is more likely to be received.

A second approach that I know the World Bank and others are assessing, is to develop an electronic payments system for the country. Cell phone penetration in Afghanistan is very high and there are numerous technologies available to roll out cell phone-based e-payment systems that would allow the delivery of electronic money to persons directly and then permit them to purchase goods using their phones. While this technology is well-tested and used in many parts of the world, the difficulty in Afghanistan is an absence of trust in the economic system and the likely desire for participants to cash out of the e-money system in order to secure hard currency. While such an electronic payment system is a potentially promising avenue—especially if the printing of hard currency Afghanis proves difficult to restart—it is likely a midterm solution rather than one that can arrest the onset of the immediate crisis.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM ADAM M. SMITH

Q.1. What are your thoughts on the best way to structure sanctions on the Taliban?

A.1. The United States needs to continue sanctioning the Taliban but needs to do so in a thoughtful and targeted manner. We need to focus on the right entities and to ensure that interpretations of the restrictions and exceptions to them are clear and in line with our policy interests. To that end, OFAC must clarify the extent of the “Taliban” sanctions. It must provide clarity if the sanctions ex-

tend to the work of all employees of all ministries under Taliban and/or Haqqani Network control—this is an interpretation that is very prevalent in the international aid community and is proving to be a significant hindrance to the delivery of critical supplies. Additionally, the United States must clarify if the exemptions also extend to any commercial imports into Afghanistan that are not purely “humanitarian” in nature. This may require a new set of licenses. If the U.S. Government does not seek to encourage commerce (in addition to providing humanitarian support) viable, non-opium-related business will wither, as will any educational or health care advancements that were seen during the past two decades. As such, I would recommend a careful and targeting broadening of the exceptions to dealings with the Taliban and the Haqqani Network so as to promote legal commercial activities outside the grasp of narcotics dealers and terrorists.

Q.2. What is your assessment of how the Trump administration’s unilateral negotiation of the Doha Agreement affected our ability to work with allies and partners using the nonmilitary tools of national security making?

A.2. Multilateralism is critical for successful diplomacy in almost all cases involving complex international problems with numerous, cross-cutting equities like in Afghanistan. The Trump administration’s highly unilateral approach to dealing with Afghanistan made it difficult for the United States to gain the support from and trust of core allies who had been fighting with us in Afghanistan for decades. The Doha Agreement, which set up the unilateral departure, removed key partners from the equation and have made it difficult on a going forward basis to rely on them to assist in Afghanistan’s new chapter. Such countries’ willingness to assist in the aid efforts, in maintaining strong, nuanced sanctions on the Taliban and the Haqqani Network, and even engaging with the new Afghanistan Government is much less more subdued than it would have been if they had all been consulted and engaged with as partners in the lead up to the departure.

Q.3. What role do you think our allies and partners should play in structuring effective sanctions? What should the role of multilateral institutions be in this process—including the U.N., the EU, or the G7?

A.3. The multilateralization of sanctions is always preferable. While the United States benefits due to the role of the U.S. Dollar and remains the most important sanctions actor unilaterally, we know from experience that if the European Union, the United Kingdom, the G7, and even the United Nations, are able to impose parallel measures the consistency and impact of sanctions will be greatly improved. In this case the existence of a U.N. sanctions program (under U.N. Security Council Resolution 1988) makes it even more important to achieve international buy in. There is no consistency of interpretation of Resolution 1988 which has left many aid groups uncertain as to their ability to provide assistance into Afghanistan. The U.N. needs to clarify its interpretation of—and provide needed exceptions to—the Resolution in order to meet the international community’s goals.

I recognize that going forward the Security Council may be too divided to impose new nuanced sanctions measures. The veto powers of the P5 may make that impossible. However, as we know from situations including Yemen and Syria, the United States has been able to develop sanctions coalitions that allowed a great deal of coordination of sanctions authorities without the U.N. imprimatur. The United States develop a “Friends of” model in these cases in which the Security Council proved unable to move forward. I would strongly recommend that the United States work towards a similar “like minded” grouping to assist the people of Afghanistan.

Q.4. Are there ways to free up currency to the Afghan people without it flowing through a Taliban Government?

A.4. The importance of cash in the Afghan economy and the shortage of notes (both hard currency U.S. Dollars and Afghanis) threatens a major economic collapse. As such, finding a way to get currency into Afghanistan is critical—and doing so while limiting any benefit to the Taliban Government equally so. While different strategies are possible, the one that is likely the easiest in the short term is to leverage the structure and professionalism of one of an Afghani private financial institution to take on the role of the Central Bank (which is now under the control of the Taliban). A bank such as AIB—which is likely the most sophisticated, westernized, and regulation-driven institution in the country—could be up to the task. AIB could serve the role as depository of hard currency, as the holder of auctions for the currency, and the provider of necessary financing and liquidity. However, the U.S. Government would have to be willing to provide hard currency to the AIB which is certainly risky. Despite this, given the dire situation in Afghanistan it might be possible to convince the Taliban that such an avenue needs to be protected if the entire country is to be spared from economic calamity.

A medium term approach that the World Bank and others are considering is to lean into digital payments rather than hard currency payments. The cell phone penetration in the country is very high and if the network was developed e-payments from cell phone to cell phone could end run around both the shortage of hard currency notes and the Taliban’s avariciousness.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM ADAM M. SMITH

Q.1. Money laundering and terrorist financing remains a global threat that is especially pervasive in Nations and regions immediately after a significant destabilizing event such as a swift and violent regime change like the one Afghanistan experienced in August. How do you assess the networks financing the Taliban following the August takeover? Do you understand there to be any significant changes to these networks?

A.1. I am not aware of any meaningful changes in these networks since the August takeover.

Q.2. In recent years, cryptocurrencies and other emerging decentralized finance products have created new opportunities for eco-

conomic development in many communities, including in Arizona. However, organized crime networks and other bad actors have also begun to utilize these products to launder money to support criminal and terrorist operations. What steps can businesses that facilitate the transfer and use of cryptocurrencies take to prevent their platforms from being used for illicit purposes? How can Treasury empower businesses to take these steps?

A.2. Treasury needs to provide more guidance to the industry and to do so must balance regulation against the need for innovation and the reality that regulation will always be playing catch up with technology. This is an area in which public-private partnerships, to educate each other and develop best practices, are critical. Clarity is especially needed at the point of interface between offline fiat transactions and cryptocurrencies. Without that clarity it is possible that either the industry could be needlessly hobbled or could quickly migrate into areas much more challenging for regulatory oversight and enforcement.

Q.3. The United Nations reported in June 2021 that the Taliban reaps hundreds of millions of dollars in income from the poppy harvest and drug trade, which may continue to be the Taliban Government's largest source of revenue. Our servicemembers fought to curtail drug production and worked with the Counter-Narcotics Police of Afghanistan to limit those illicit activities. What can we do now to limit opiate production and prevent those drugs from finding their way to America?

A.3. The lure of opium production as a viable source of hard currency for an Afghan economy that lacks much else makes the likelihood of opium returning to the forefront of Government revenue sources under Taliban leadership very high. As such, there are only two options. The first, is to promote eradication of crops which will be difficult now that the United States has departed. The second, longer-term solution, is to encourage education and opportunities outside the illegal drug sector. Focusing on development and the promotion of legal enterprises, demonstrating the possibility for a livelihood in other areas, is the only certain way to move the country away from its dependence.

Q.4. In September 2021, Treasury's Office of Foreign Assets Control issued two licenses authorizing humanitarian assistance and exportation of medical devices, pharmaceuticals, and food and livestock to Afghanistan. These permitted transactions with the Taliban or Haqqani network. How do you evaluate the benefits and risks to providing this aid? How can U.S. funding and resources be most effectively deployed, and with which Nations, international governing bodies, or nongovernmental organizations should the U.S. partner to accomplish this?

A.4. The two general licenses are a good start but will likely be insufficient to provide Afghanistan with what it needs and to meet U.S. policy interests in the country and the region. The two licenses are limited to providing humanitarian aid, excluding assistance for development or education, for example. In the immediate term the licenses should assist in providing comfort to encourage aid groups to provide assistance. However, in the medium term they will not allow aid agencies to provide for education and devel-

opment opportunities critical to establishing a viable state for Afghanis and preventing either a complete Taliban-ization of the country or a disintegration of the State. There are risks, of course, to providing any aid into Afghanistan given the possibility for the Taliban to seize some of it. However, if the aid is principally in-kind (rather than cash) and the United States leverages experienced multilateral actors (like the U.N. agencies, the World Bank, and other multilateral development banks) the possibility of leakage to the Taliban reduces substantially.

Q.5. Treasury sanctions relating to Afghanistan are primarily directed toward the Afghan Taliban and not toward the Government of Afghanistan. However, the Taliban now controls the majority of former Afghan Government assets, including Da Afghanistan Bank (DAB), Afghanistan's central bank. The Federal Reserve currently holds over \$9 billion in frozen assets belonging to DAB. Do these frozen assets provide the U.S. Government sufficient leverage to negotiate for more humanitarian policies as the Taliban moves to govern?

A.5. It does not appear that the Federal Reserve's continued freezing of the DAB's account provides leverage over the Taliban. The Taliban would clearly like this money but simply releasing it would not provide the Afghan economy the necessary ballast to continue functioning. There are systemic and systematic concerns in the economy—including the inability to get currency into the country and the shortages of Afghani notes (given the cessation of printing)—neither of which would be ameliorated by the release of these funds. As such, given both the Taliban's philosophical bent and that the Federal Reserve funds would not be a panacea, it is not surprising that the continued hold fails to provide substantial leverage to encourage the Taliban's behavior.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN FROM NAHEED FARID

Q.1. The United Nations reported in June 2021 that the Taliban reaps hundreds of millions of dollars in income from the poppy harvest and drug trade, which may continue to be the Taliban Government's largest source of revenue. Our servicemembers fought to curtail drug production and worked with the Counter-Narcotics Police of Afghanistan to limit those illicit activities. What can we do now to limit opiate production and prevent those drugs from finding their way to America?

A.1. The drug trade is one of the largest sources of income for the Taliban. As Afghanistan's economy teeters on total collapse, and the Taliban struggles to pay salaries and operational costs for its own soldiers, let alone millions of former Government employees and departments, we are likely to witness a significant increase in opiate production and trafficking by the Taliban and its terrorist allies. Outside of international aid, they simply do not have any other means of generating large sums of income right now.

Unfortunately, America has limited options available to stop the Taliban from engaging in the drug trade. It can monitor and track production and trafficking through drones and other means. It can

urge neighboring countries such as Pakistan and Iran to intervene and seize shipments. But America cannot change the Taliban's official policy, dating back 25 years, of growing and selling drugs. Absent an intervention from U.S. servicemembers or empowered allied Afghan forces, the Taliban will not stop its involvement in the drug trade. In the immediate term, maintaining and enhancing a sanctions regime that targets Taliban leadership, and all those individuals and entities that support their illicit drug trade, would be the most effective course of action.

Q.2. In September 2021, Treasury's Office of Foreign Assets Control issued two licenses authorizing humanitarian assistance and exportation of medical devices, pharmaceuticals, and food and livestock to Afghanistan. These permitted transactions with the Taliban or Haqqani network. How do you evaluate the benefits and risks to providing this aid? How can U.S. funding and resources be most effectively deployed, and with which Nations, international governing bodies, or nongovernmental organizations should the U.S. partner to accomplish this?

A.2. Afghanistan is in the midst of an unprecedented humanitarian disaster. The economy and health care system are failing. There are millions of IDP's stranded, unable or unwilling to return home. And according to a recent U.N. report more than 45 percent of the country faces an acute food crisis. There is no question that the people of Afghanistan desperately need assistance. The OFAC licenses are a lifeline to the Afghan people. But they also come with the obvious risk of empowering and enriching a Taliban regime and its terrorist allies. We are already seeing signs of both happening. I have heard reports of large NGO's and multilateral organizations sidelining female staff during direct interactions with the Taliban, and providing aid directly to Taliban leaders for their own personal use in return for permission to operate. The U.S. cannot give into the Taliban demands for unconditional aid. Aid to Afghanistan should be conditions based, it should empower our Afghan allies on the ground, and provide much needed employment and humanitarian relief to and tied to women's rights, human rights, democracy promotion, and freedom of speech.

The Taliban have and will continue to use humanitarian aid as a weapon to increase its leverage over the Afghan people. We should aim not to benefit or enrich the Taliban in any way. No amount of aid should be tied to or lead to recognition and normalization of relations with the Taliban. By establishing humanitarian corridors in friendly neighbors such as Tajikistan, assistance can be provided. Working with local NGOs and civil society is the most effective way to deliver basic services directly to the neediest populations throughout the country, in the absence of a normal and functioning Government. Attached please find a list of trusted local NGOs that I and my committee have worked with throughout the years.

Q.3. Treasury sanctions relating to Afghanistan are primarily directed toward the Afghan Taliban and not toward the Government of Afghanistan. However, the Taliban now controls the majority of former Afghan Government assets, including Da Afghanistan Bank (DAB), Afghanistan's central bank. The Federal Reserve currently

holds over \$9 billion in frozen assets belonging to DAB. Do these frozen assets provide the U.S. Government sufficient leverage to negotiate for more humanitarian policies as the Taliban moves to govern?

A.3. No, I don't believe this money will provide the U.S. sufficient leverage to do such a thing because the Taliban will only promote the bare minimum humanitarian policies until funds are released. If the Taliban were to care about the Afghan people, then they would want to allow humanitarian aid to Afghans, since they do not have the capacity to provide basic services.

At no point in their history has the Taliban proved to be honest brokers in any negotiations. The U.S. should not negotiate with a terrorist regime. Any concessions to the Taliban will only make them emboldened and will let the regime use the money against the Afghan people both militarily and politically. The Taliban has a long history of saying one thing, especially to western media and diplomats, and doing something entirely different on the ground. At its core the Taliban is a violent organization that uses fear and violence to control a large population with a relatively small force. At the DPPC we have been documenting human rights abuses that have occurred under Taliban rule, but do not get covered in mainstream or western media.

In our latest report, which covers a 2-week period from late October through early November, there were 24 extrajudicial killings across 16 provinces.

Thank you for keeping the good work that benefits Afghanistan people and please keep them in your prayers too.

Afghanistan Parliament, House of Representatives

Human Rights, Civil Society, Women Affairs Commission

List of Trusted Civil Society Organization

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**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN
FROM SUE ECKERT**

Q.1. Some have suggested using U.N. agencies as a conduit to continue humanitarian, development and reconstruction aid to Afghanistan, even though its mission has been hampered by the need to evacuate many of its staff in the wake of the Taliban takeover.

If the legal arrangements could be worked out, would U.N. entities be a viable means—a safe channel—to provide not only aid from Western Governments directly to the Afghan people, bypassing the Taliban Government, but also to use at least a portion of Afghanistan’s currency reserves to provide such aid? How would this likely work, as a practical matter?

A.1. Response not received in time for publication.

Q.2. In your written testimony to the Committee, and in your oral presentations, you both advocated for expanded use of OFAC’s General Licenses to allow for the delivery of food, medicine, and related items. For some time, the Taliban have raised revenue by “taxing” or imposing surcharges on the illegal movement of ordinary goods, like fuel and consumer imports.

Given our shared desire to facilitate the delivery of humanitarian and development aid while denying any benefit to the Taliban or its allies, how would you suggest restructuring western aid delivery mechanisms to avoid the kind of sanctions “leakage” you talked about—including denying the ability of the Taliban to benefit from the imposition of illegal surcharges, taxes, or other fees on aid?

A.2. Response not received in time for publication.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED
FROM SUE ECKERT**

Q.1. What are your thoughts on the best way to structure sanctions on the Taliban?

A.1. Response not received in time for publication.

Q.2. What is your assessment of how the Trump administration’s unilateral negotiation of the Doha Agreement affected our ability to work with allies and partners using the nonmilitary tools of national security making?

A.2. Response not received in time for publication.

Q.3. What role do you think our allies and partners should play in structuring effective sanctions? What should the role of multilateral institutions be in this process—including the U.N., the EU, or the G7?

A.3. Response not received in time for publication.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM SUE ECKERT**

Q.1. The United Nations reported in June 2021 that the Taliban reaps hundreds of millions of dollars in income from the poppy harvest and drug trade, which may continue to be the Taliban Government’s largest source of revenue. Our servicemembers fought to curtail drug production and worked with the Counter-Narcotics Po-

lice of Afghanistan to limit those illicit activities. What can we do now to limit opiate production and prevent those drugs from finding their way to America?

A.1. Response not received in time for publication.

Q.2. In September 2021, Treasury's Office of Foreign Assets Control issued two licenses authorizing humanitarian assistance and exportation of medical devices, pharmaceuticals, and food and livestock to Afghanistan. These permitted transactions with the Taliban or Haqqani network. How do you evaluate the benefits and risks to providing this aid? How can U.S. funding and resources be most effectively deployed, and with which Nations, international governing bodies, or nongovernmental organizations should the U.S. partner to accomplish this?

A.2. Response not received in time for publication.

Q.3. Treasury sanctions relating to Afghanistan are primarily directed toward the Afghan Taliban and not toward the Government of Afghanistan. However, the Taliban now controls the majority of former Afghan Government assets, including Da Afghanistan Bank (DAB), Afghanistan's central bank. The Federal Reserve currently holds over \$9 billion in frozen assets belonging to DAB. Do these frozen assets provide the U.S. Government sufficient leverage to negotiate for more humanitarian policies as the Taliban moves to govern?

A.3. Response not received in time for publication.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM THOMAS JOSCELYN

Q.1. Money laundering and terrorist financing remains a global threat that is especially pervasive in Nations and regions immediately after a significant destabilizing event such as a swift and violent regime change like the one Afghanistan experienced in August. How do you assess the networks financing the Taliban following the August takeover? Do you understand there to be any significant changes to these networks?

A.1. The Taliban maintained multiple revenue streams throughout the nearly 20-year war, including from narcotics trafficking, wealthy donors, seemingly legitimate businesses and tax collection in the areas under the group's control. It is too early to fully assess how these networks have or will change, but I expect the Taliban's regime to receive more financial assistance from ideologically minded donors and other parties invested in the success of its Islamic emirate.

Q.2. In recent years, cryptocurrencies and other emerging decentralized finance products have created new opportunities for economic development in many communities, including in Arizona. However, organized crime networks and other bad actors have also begun to utilize these products to launder money to support criminal and terrorist operations. What steps can businesses that facilitate the transfer and use of cryptocurrencies take to prevent their platforms from being used for illicit purposes? How can Treasury empower businesses to take these steps?

A.2. This is a complex topic. In short, I think sunshine is the best disinfectant. The U.S. Treasury Department and other Government agencies should continue to educate businesses on the various nefarious schemes that are used to finance criminal and terrorist operations, including any involving cryptocurrencies. In particular, the U.S. Government should continue to flag instances in which known bad actors use cryptocurrencies in specific industries or transactions, alerting private businesses to the risks.

Q.3. The United Nations reported in June 2021 that the Taliban reaps hundreds of millions of dollars in income from the poppy harvest and drug trade, which may continue to be the Taliban Government's largest source of revenue. Our servicemembers fought to curtail drug production and worked with the Counter-Narcotics Police of Afghanistan to limit those illicit activities. What can we do now to limit opiate production and prevent those drugs from finding their way to America?

A.3. First and foremost, the U.S. needs to keep exposing the Taliban members and affiliated actors who are profiting from the drug trade. The U.S. Government did this throughout the war by sanctioning key individuals, but there was always much more that could have been done. In some cases, additional sanctions are likely warranted. If the Taliban chooses to be a narco-jihadist State, then the U.S. should make it clear to other countries that doing business with the Islamic Emirate of Afghanistan may implicate them in the drug trade and have various financial ramifications.

Q.4. In September 2021, Treasury's Office of Foreign Assets Control issued two licenses authorizing humanitarian assistance and exportation of medical devices, pharmaceuticals, and food and livestock to Afghanistan. These permitted transactions with the Taliban or Haqqani network. How do you evaluate the benefits and risks to providing this aid? How can U.S. funding and resources be most effectively deployed, and with which Nations, international governing bodies, or nongovernmental organizations should the U.S. partner to accomplish this?

A.4. As I and other witnesses recommended at the hearing, the U.S. should focus its aid efforts on foodstuffs and other commodities that are difficult to convert to cash. The risk with any such aid is that the Taliban, including the Haqqani Network, will use it for its own purposes and not for the intended recipients. I am not sure at this point which entities would be the best options for delivering aid.

Q.5. Treasury sanctions relating to Afghanistan are primarily directed toward the Afghan Taliban and not toward the Government of Afghanistan. However, the Taliban now controls the majority of former Afghan Government assets, including Da Afghanistan Bank (DAB), Afghanistan's central bank. The Federal Reserve currently holds over \$9 billion in frozen assets belonging to DAB. Do these frozen assets provide the U.S. Government sufficient leverage to negotiate for more humanitarian policies as the Taliban moves to govern?

A.5. I am skeptical that these frozen assets provide the U.S. Government with much, if any, leverage. As I documented in my writ-

ten testimony before both the Senate Banking Committee and, also recently, the Senate Armed Services Committee, the U.S. never had any real leverage over the Taliban going back to the 1990s. For example, the U.S. and the United Nations threatened to sanction the Taliban's first regime if it didn't turn over Osama bin Laden. The Taliban chose to be sanctioned rather than give up the world's most wanted terrorist. More recently, the U.S. threatened to withhold aid if the Taliban used military force to overthrow the now former Government of Afghanistan. The Taliban chose military victory over cash. The Taliban certainly wants financial assistance, but I don't think this will lead the organization to moderate its behavior much at all. The Taliban's primary goal all along has been to rule according to its draconian version of Islamic law.