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FEATURE ARTICLE

Have the Taliban Changed?

THOMAS RUTTIG

A VIEW FROM THE CT FOXHOLE

Mary McCord

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FROM THE EDITOR

President Biden soon has to decide whether to withdraw the remaining 2,500 U.S. troops from Afghanistan to meet a May 1 deadline agreed to by the previous administration. With time ticking down, the Biden administration has launched a major diplomatic push to broker a peace settlement for Afghanistan. As noted by Thomas Ruttig in this month's feature article, "Whether and how much the Taliban have changed since their repressive rule over Afghanistan before the fall of 2001 is key to whether a potential peace settlement can create a social and political landscape in Afghanistan that is acceptable to the people of Afghanistan, as well as the United States and NATO allies." Ruttig assesses that "While the Taliban have softened their rhetoric on some issues (for example, on women's rights and education) and there is evidence of real policy change in certain areas (for example, on the use of media, in the education sector, a greater acceptance of NGOs, and an acceptance that a future political system will need to accommodate at least some of their political rivals), their policy adjustments appear to have been largely driven by political imperatives rather than any fundamental changes in ideology." He assesses that "Whether some changes in approach will be perpetuated will depend on the ability of Afghan communities and political groups to maintain pressure on the Taliban. This, in turn, depends on continued international attention toward Afghanistan."

Brian Michael Jenkins, in a feature commentary, examines several possible courses of action the Biden administration could take if the U.S. efforts to broker a peace settlement in Afghanistan do not result in a major breakthrough in the coming weeks. He writes: "What makes a decision on which path to follow so difficult is that each option carries a high risk of resulting in bad outcomes." He notes that "Decisive action always looks good, but a turbulent world also means calculating risks, avoiding unintended consequences, and hedging bets."

This month's interview is with Mary McCord, the executive director of the Institute for Constitutional Advocacy and Protection at the Georgetown University Law Center, whose previous service in government included working as Acting Assistant Attorney General for National Security at the U.S. Department of Justice from 2016 to 2017. She offers insights on the heightened threat of far-right extremist violence in the United States and how the country's legal architecture could evolve to counter it.

Douglas Weeks argues that there is "too much pessimism" in the United Kingdom about the possibility of deradicalizing terrorist offenders. He writes: "To address the root causes of the threat, the United Kingdom needs to learn lessons from what has worked for successful 'deradicalization' mentors and empower their efforts."

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Cover: Representatives led by Mullah Abdul Ghani Baradar (center) leave after a meeting on May 30, 2019, in Moscow, Russia, on the third day of Afghan talks with the Taliban. (Sefa Karacan/Anadolu Agency/Getty Images)

Have the Taliban Changed?

By Thomas Ruttig

Whether and how much the Taliban have changed since their repressive rule over Afghanistan before the fall of 2001 is key to whether a potential peace settlement can create a social and political landscape in Afghanistan that is acceptable to the people of Afghanistan, as well as the United States and NATO allies. While the Taliban have softened their rhetoric on some issues (for example, on women's rights and education) and there is evidence of real policy change in certain areas (for example, on the use of media, in the education sector, a greater acceptance of NGOs, and an acceptance that a future political system will need to accommodate at least some of their political rivals), their policy adjustments appear to have been largely driven by political imperatives rather than any fundamental changes in ideology. Many in the Taliban hope that they can restore their 'Emirate.' Given their continued domineering behavior, intolerance of political dissent and oppression (especially toward girls and women) in the areas they control, there is legitimate concern that if political pressure diminished after an eventual peace agreement and a troop withdrawal, they might revert to pre-fall 2001 practices. Shifts in Taliban rhetoric and positions do, however, shed light on what they may be willing to entertain in a post peace-settlement Afghan political order in which they have to come to some *modus vivendi* with other Afghan power groupings and interests. The Taliban are a religiously motivated, religiously conservative movement that will not give up what they consider their core 'values.' How these values will be reflected in any future constitution and play out in the concrete policies of any eventual power-sharing

Thomas Ruttig is a co-director and senior analyst of the Afghanistan Analysts Network (AAN), an independent research organization based in Kabul and Berlin. He worked as a political affairs officer and head of the United Nations Special Mission in Afghanistan's political office in Kabul during the last years of the Taliban regime and as a political affairs officer of the United Nations Assistance Mission in Afghanistan during the so-called Bonn Process. He speaks Dari and Pashto and—up to the coronavirus crisis—visited Afghanistan several times a year. This article is mainly based on the author's experience at UNSMA in Afghanistan in 2000-2001 and recent research by the Afghanistan Analysts Network.

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government that includes the Taliban will be subject to the day-to-day political bargaining between various political forces and the balance of power between them. Whether some changes in approach will be perpetuated will depend on the ability of Afghan communities and political groups to maintain pressure on the Taliban. This, in turn, depends on continued international attention toward Afghanistan particularly if and when there is a political settlement and power-sharing deal and after foreign soldiers have left.

The question of whether the Afghan Taliban^a have changed their repressive pre-fall 2001 positions, particularly on rights and freedoms—or even their wider ideology,^b and if so, how much and whether for good—is key to whether a potential peace settlement can create a social and political landscape in Afghanistan that is acceptable to the people of Afghanistan, as well as the United States and NATO allies. Soon after taking over as the United States' top diplomat, Secretary of State Antony Blinken stated that any peace settlement needed to preserve “the progress made over the last 20 years with regard to human rights, civil liberties, and the role of women in Afghan society.”¹ This was preceded by similar calls from the European Union and European governments, and assurance by the Afghan government that protecting these rights and liberties is a “red line” for them.²

It has become clear that there is no way around negotiating with the Taliban if the 40 years of war in Afghanistan is to be stopped. Such negotiations resulted in the U.S.-Taliban agreement concluded in Doha in February 2020 and intra-Afghan (peace) negotiations

a Founded in 1994, the Taliban initially used Islamic Movement of the Taliban as their official name, later dropping it in favor of the more state-like Islamic Emirate of Afghanistan, a reminder that they consider their regime's overthrow in 2001 illegal and continue to consider themselves the legitimate government of Afghanistan. See the speech of their representatives at the research conference in Chantilly, France, December 24, 2012, available at Thomas Ruttig, “Qatar, Islamabad, Chantilly, Ashgabad: Taleban Talks Season Again? (amended),” Afghanistan Analysts Network, December 31, 2012.

b The author does not discuss the particularities of the Taliban ideology and the movement's theological positions in this article. On this subject, see Anand Gopal and Alex Strick van Linschoten, “Ideology in the Afghan Taleban,” Afghanistan Analysts Network, June 29, 2017; Thomas Ruttig, “How Tribal Are the Taleban? Afghanistan's Largest Insurgent Movement between its Tribal Roots and Islamist Ideology,” Afghanistan Analysts Network, June 29, 2010; Bernt Glatzer, “Zum politischen Islam der afghanischen Taliban” in Dietrich Reetz ed., *Sendungsbewußtsein oder Eigennutz: Zu Motivation und Selbstverständnis islamischer Mobilisierung* (Berlin: Das Arabische Buch, 2001), pp. 173-182. Glatzer calls the Taliban ideology “eclectic, ad hoc.” He also suggests considering them “a movement, not an organization.”



Mullah Baradar, one of the Taliban's deputy leaders, leaves after signing an agreement with the United States during a ceremony in Doha, Qatar, on February 29, 2020. (Giuseppe Cacace/AFP via Getty Images)

also taking place, and now stalling, in Qatar. These talks have been happening under immense time pressure, following former President Donald Trump's reduction of U.S. troops in Afghanistan, which resulted in the numbers dropping to 2,500 in mid-January 2021, their lowest since 2001.³ These developments have weakened the Afghan government's position in Doha and strengthened that of the Taliban.

Around the beginning of March 2021, the Biden administration launched a new diplomatic effort to "accelerate" the peace process. In so doing, the U.S. government made clear that it had not decided whether to pull U.S. troops out of Afghanistan by May 1 as stipulated, conditions-based, in the U.S. agreement with the Taliban. As part of this push, the United States circulated proposals to the Afghan government, the High Council for National Reconciliation (HCNR) chaired by Dr. Abdullah Abdullah, and the Taliban. According to *The New York Times*, the proposals "included a road map for a future Afghan government with Taliban representation, a revised Afghan constitution using the current one as an 'initial template' and terms for a permanent and comprehensive cease-fire ... national elections after the establishment of a 'transitional peace government of Afghanistan' ... guaranteed rights for women and for religious and ethnic minorities, and protections for a free press ... [as well as a] High Council for Islamic Jurisprudence to advise an independent

judiciary to resolve conflicts over the interpretation of Islamic law."⁴

The first part of this article provides a historical overview of the evolution of the Taliban movement. Before examining whether the Taliban's approach has changed since the fall of 2001, the article examines the movement's decision-making approach and structure. It then scrutinizes the evolution of the Taliban's positions on several key policy areas that have been in focus ever since they took power in Kabul in 1996: women's rights, education, relations with non-governmental organizations, and their ideas about a future political system in Afghanistan. This article does not explore the Taliban's relations with key terror groups active in Afghanistan, the discontinuation of which represents one important set of obligations the Taliban committed to fulfill in the February 2020 agreement. Many observers, and not least the U.S. Department of Defense, have stated that key obligations have not been fulfilled.⁵ Instead, this article is focused on other critical issues that are more important to the daily lives of Afghans.

A Historical Overview

By the end of the 1990s, the situation was clear for many in the West: the Taliban were a 'stone age' movement and the workings of their regime 'medieval.' They banned women from working and studying (not to mention political participation), confining them

to their homes unless accompanied by a *mahram* (male relative) and wearing a burqa. They banned flying kites, playing soccer, and playing music, except for religious chants. Television sets were 'executed,' and music cassette tapes strung up at checkpoints. They tried to force NGOs to separate male from female staff in their offices and tried to establish control over foreign aid organizations by attempting (in vain) to move their accommodations to Kabul University's closed dormitory for women students. They held public executions.

But the reality was never that clear-cut. When the author visited Afghanistan as a journalist in late 1999, kids flew kites and Kabulis and Kandaharis played soccer. The author observed locals dodging the Taliban's religious police when they closed tea houses and restaurants during prayer time and tried to herd them into mosques. There was criticism against the restrictive anti-girls education policy, even among Taliban officials. Some tolerated or even protected home and NGO-run schools, warning those running them when hardliners planned to raid them.⁶ There was open resistance in some government ranks and among Taliban fighters against the attempts of Pakistan and Taliban members originating from Pakistan (who held some positions in the Taliban regime) to set the movement's policies, even leading to shootouts. There was an underground resistance, some of whom were armed (and linked to late Ahmad Shah Massoud's 'Northern Alliance,'^c) and others of whom, including pro-democracy groups, were political only. Even in the Pashtun countryside, some village communities occasionally resisted Taliban measures against local traditions and the ever-repeating Taliban campaigns of forced recruitment.

If these nuances were little understood in the West by the end of the 1990s, they all but vanished from the public policy debate after 9/11. The Taliban had hosted the al-Qa`ida leadership who had committed these atrocities, accepted their money, used their fighters, and continued to refuse to extradite Usama bin Ladin. From a U.S. perspective, the Taliban were in cahoots with terrorists.

But there were no Taliban—nor indeed Afghans—among the 9/11 hijackers. The Taliban had no part in the organization and implementation of the attack, and no prior knowledge. The Taliban were notably absent from bin Ladin's "World Islamic Front for Jihad against Jews and Crusaders," founded in February 1998 with groups from Bangladesh, Egypt, and Pakistan. The August 1998 terrorist attacks against U.S. embassies in East Africa had shown to the Taliban that al-Qa`ida intended and was capable of striking U.S. targets, but like others, the Taliban were unable to imagine 9/11. Taliban leader Mullah Muhammad Omar tried to rein in bin Ladin several times. He demanded the Saudi refrain from activities abroad while being a 'guest' of the Taliban. But ultimately Mullah Omar was not prepared to give up a man who had fought with the mujahideen against the Soviets and had pledged allegiance to him.^{7d}

Considered defeated after their regime collapsed faster than expected in the fall of 2001, the Taliban were not invited to the Bonn conference late that year. Attempts to include individual members

in the institution-building process that followed, for example during the 2002 Emergency Loya Jirga, were not successful. Another opportunity was squandered when several prominent former high-level figures, including ex-foreign minister Wakil Ahmad Mutawakil, returned to Afghanistan and tried to act within the new political system. However, President Karzai and the United States did not allow them to formally set up a 'moderate' Taliban 'party.'⁸ Some ran unsuccessfully for parliament; others later joined Karzai's High Peace Council.

The Taliban staged their military comeback starting from areas in Afghanistan's 'dusty districts' where groups had survived after their defeat in 2001 and safe havens in Pakistan. Their revival was supported and legitimized by widespread corruption in the new government, the wholesale persecution of Pashtun communities for their real or alleged pro-Taliban stance by the victorious U.S.-supported, Northern Alliance-dominated Afghan government forces, and perceived and real political exclusion of Pashtuns at the national, regional, and provincial levels.⁹ This stood in the way of the government setting up an effective administration in Taliban-influenced areas and drove whole communities into the Taliban's arms.¹⁰

In June 2003, Mullah Omar formed a new Taliban Leadership Council to bring all the new or reemerged Taliban groups under one umbrella.¹¹ By 2005-2006, the Taliban were a force to be reckoned with again in the southern half of Afghanistan. Starting in 2009-2010, they expanded into the north and widened their influence into areas where they never had been strong, as well as building up influence among non-Pashtun religious leaders and fighters.¹²

As the Taliban again grew in strength, for years the United States continued to try to defeat them militarily rather than seek a negotiated end to the insurgency. When President Barack Obama's troop 'surge' in 2009-2011 failed to force the Taliban to the negotiating table, the United States reconsidered this approach.¹³ This led to a first series of talks (subsequently referred to as 'Doha 1') from 2009-2014 and the establishment of the Taliban political office in Doha, Qatar. When the 'Doha 2' direct talks between the United States and the Taliban started in 2018, the Taliban had de facto been diplomatically accepted as a key party to the conflict. This came at the expense of the Afghan government, which was sidelined due to the Taliban insisting and the United States conceding that direct Afghan government-Taliban talks could not come before a signed bilateral U.S.-Taliban agreement concerning U.S. troop withdrawal.^e One thing is clear: when the negotiations for this agreement started in 2018, it was not as a result of the U.S. pressure against the Taliban but of President Trump (and a significant portion of the U.S. public) losing patience with one of what he called the "endless wars."¹⁴

During their resurgence, and particularly their expansion into non-Pashtun areas, the Taliban increasingly proved that they were a learning organization. Awareness grew within their movement, that their own (repressive) policies had resulted in global isolation as well as opposition from many Afghans, including those who had initially welcomed the Taliban when they almost ended the inter-

c Officially Jabha-ye Muttahed-e Melli bara-ye Nejat-e Afghanistan (United National Front for the Salvation of Afghanistan, UNFSA).

d Mullah Omar, as the *amir-ul-momenin*, was ready to take decisions on his own, ignoring the opinion of *ulama* (religious scholars) advising him. The author, as a member of the U.N. team, was aware that members of the Taliban leadership were unhappy with Mullah Omar sticking with bin Ladin.

e The Taliban still do not recognize the current Afghan government. As a workaround, they are currently formally negotiating with a team of the "Islamic Republic of Afghanistan," representing a political spectrum including and beyond the government.

factional wars of the 1990s. This resulted in not just a softening in rhetoric, but also (as this piece will discuss further in detail) some of their policies. There was a noted change in tone on ‘foreign policy.’ For years, the Taliban leaders’ messages to the Afghan people and the movement’s ‘mujahideen’ had called on neighboring countries to jointly confront the United States in the region.¹⁵ But in September 2009, the Taliban emphasized for the first time that the ‘Emirate’ wanted “good and positive relations with all neighbors based on mutual respect and ... mutual cooperation and economic development” and assured “all countries” that it would “not extend its hand to cause jeopardy to others.”¹⁶

The Taliban’s Decision-making Approach and Structure

In order to gauge how the Taliban movement has engaged in politics, it is useful to look briefly at their decision-making approach and structure. As Ashley Jackson and Rahmatullah Amiri wrote, the Taliban’s “[p]olicymaking has been driven by military and political necessity”—in other words, it can be pragmatic if needed.¹⁷ This is relevant for the question this article seeks to answer because it means that Taliban policymaking is not set in stone, even though many in the movement regard themselves as believers in an immutable set of truths. It has the capacity to change.

The Taliban are not a political party but primarily a military movement.¹⁸ The movement seeks to produce religious legitimacy from its constant reference to ‘Islamic’ law (and to what it alleges is the non-Islamic character of the current government). This approach is reflected in the title it assigned itself and continues to use, as well as that of the political entity it established, the Islamic Emirate of Afghanistan.

The Taliban movement’s structure is dual in character, with vertical and horizontal features. There is a vertical axis of command-and-control. The leader, called *amir-ul-momenin* (commander of the faithful), stands at the top. Under him is the Rahbari Shura (Leadership Council)^f of which he is not a member and that advises him. The leader takes the final decision. The Rahbari Shura determines the *amir-ul-momenin*. He seems to hold the office until death—at least there is no precedent, or known regulation, to suggest otherwise. When Mullah Omar was the leader, he seems to have been largely removed from the organization’s day-to-day business from 2008 onward,¹⁹ which is carried out under the responsibility of the leader’s deputies who are part of the Rahbari

Shura.⁵

The Rahbari Shura controls a number of commissions, resembling the Afghan government’s ministries.^h They include an influential council of ‘Islamic’ scholars (*ulema*), a Military Commission, and a Political Commission. The latter staffs the Doha office. Since his release from Pakistani detention in 2018 and appointment as one of the three current deputy leaders, in the wake of the ‘Doha 1’ talks commencing, Mullah Abdul Ghani, better known as Baradar, oversees this commission. With this, he is the Taliban’s de facto foreign minister.

At the same time, the Taliban are structured horizontally as a network of networks and fronts led by military commanders. To operate as part of the movement, the local Taliban fronts (usually called *mahaz*) must obtain recognition from the Leadership Council. After this is granted, the front commanders have a significant degree of autonomy, including in decision-making in day-to-day affairs. This seems to be a guiding principle of Taliban leadership: an acceptance of commanders operating with a significant degree of autonomy, as long as they do not act against what the leadership considers central principles.ⁱ This not only reflects the segmented structure of a tribal/community-based society,²⁰ but is designed to avoid splits in the movement by over-administrating.

In the Taliban structure, fronts can belong to larger informal networks, linked to members of the Leadership Council or other strong figures in the movement, and can control—at least partly—their own sources of income.²¹ One of these networks is that of the Haqqanis in southeastern Afghanistan, a semi-autonomous entity within the Taliban, as it has a different tribal base, is older than the ‘mainstream’ ‘Kandahari’ Taliban movement, and, significantly, has successfully maintained a close relationship with the Inter-Services Intelligence (ISI) agency in Pakistan, stemming from the anti-Soviet struggle. These attributes allow the Haqqani network

g The number of the leader’s deputies has fluctuated. After the resurgence of the Taliban in the early 2000s, there were two, the late Mullah Obaidullah and Mullah Baradar (actually Abdul Ghani). When Pakistan arrested Obaidullah in 2007, he was replaced by Mullah Akhtar Muhammad Mansur. The latter remained the only deputy after Baradar was also arrested in 2010. See Borhan Osman, “Toward Fragmentation? Mapping the post-Omar Taleban,” Afghanistan Analysts Network, November 24, 2015. This gave Mansur the best position to replace Mullah Omar as *amir-ul-momenin* when, in 2015, the Taliban had to confirm that Mullah Omar had already died two years earlier. For more on this, see Khalilullah Safi and Thomas Ruttig, “Understanding Hurdles to Afghan Peace Talks: Are the Taleban a political party?” Afghanistan Analysts Network, June 27, 2018. When Mansur became the Taliban leader, two new deputies were appointed: Sirajuddin Haqqani (the leader of the Haqqani network) and Mawlawi Muhammad Yaqub, Mullah Omar’s son. See Borhan Osman, “The Taleban in Transition 2: Who is in charge now?” Afghanistan Analysts Network, June 22, 2016. Currently, there are three deputies. After Baradar was released in 2018, he was appointed deputy ‘for political affairs’ and given oversight of the Doha talks. See Rajab Taieb, “Taliban Appoints Mullah Baradar as Head of Qatar Office,” TOLONews, January 24, 2019.

h During their pre-fall 2001 time in power, the Taliban initially also called their ministries ‘commissions.’

i The ‘tax’ issue is central. When Qari Hekmat, a local Taliban commander in Jawzjan province, repeatedly refused to send tax revenues to the next-higher level in the movement, he was expelled in the fall of 2017. When he declared his allegiance to the Islamic State, the Taliban fought him until he was killed in a U.S. airstrike in April 2018. See Obaid Ali, “Qari Hekmat’s Island Overrun: Taleban defeat ‘ISKP’ in Jawzjan,” Afghanistan Analysts Network, August 4, 2018; Obaid Ali, “Non-Pashtun Taleban of the North (4): A case study from Jawzjan,” Afghanistan Analysts Network, September 18, 2017.

f The number of its members seems to fluctuate.

to act autonomously in many instances, while its current leader—Sirajuddin Haqqani—has risen to become one of the movement's deputy leaders.^j Other informal networks are linked to influential 'Kandahari' leaders. This can be the case even after their death, such with the currently active informal network linked to Mullah Omar's first successor Akhtar Muhammad Mansur (killed 2016).²² The larger the network is, the more influential its leader is.

During the post-2001 years, the Taliban have established parallel government structures that administer the growing area controlled by them and which also operate and exert influence in areas nominally under government control. Taliban 'governance' does not include the direct provision of services. Rather, the Taliban shadow administration monitors the Afghan government-paid service delivery in the insurgency-controlled areas.²³ On paper, the Taliban have military and 'civilian' administrative structures in place, with the commissions mirrored at the subnational levels.^k In practice, however, the Taliban's district governors, who often are the local military commanders, also oversee the 'civilian' commissions and often double as administrators.²⁴

Over the past decade, the Taliban leadership has worked on more consistent sectoral policies and their implementation. This particularly applies to the education sector (which is discussed in detail below).²⁵ In the late 2010s, the Taliban set up a system of 'taxing' the transport of goods in which individuals could avoid multiple taxation by furnishing Taliban-issued receipts recognized by Taliban structures countrywide.²⁶

The overall structure described in the paragraphs above is still in place under the Taliban's current leader Mawlawi Hebatullah Akhun[d]zada.^l Although he might lack the quasi-mythical image of founder-leader Mullah Omar, as *sheikh ul-hadith*^m and former primary religious 'advisor' to Omar, he has a stronger theological pedigree.²⁷

While the vertical chain of command, the religious self-legitimization of the *amir-ul-momenin*, and the structures he leads keep the Taliban movement together under one flag, the horizontal autonomy provides elasticity. Unity is a key requirement for the

Taliban's strength, both as a guerrilla movement and when and where in power. This horizontal autonomy also means that any changes in approach over policy by the top Taliban leadership may not be translated fully or at all into a change in approach 'on the ground.' However, the Taliban movement has proven less fractious than many other political movements in Afghanistan.ⁿ

When assessing the Taliban movement's policymaking process and the ability of its leadership to get Taliban administrators and commanders 'on the ground' to implement policy changes, it is also important to bear in mind that the movement has never—unlike other armed insurgent groups elsewhere^o—developed a political organization, or wing, clearly distinct from its military arm. This is also unlike the Afghan mujahideen 'parties' (*tanzim*) of the 1970s-1990s that have registered as and work as political parties, although they are still associated with armed groups.^p The Taliban's structure closest to a political wing is the office of the Political Commission in Doha, which doubles as their negotiating team with the United States and other international actors, mandated by the *amir-ul-momenin*. However, this is not an independent structure, but resembles a foreign ministry in exile.

The Evolution of Taliban Policies

Having provided a historical overview of the Taliban movement and examined its decision-making structure, this article now turns to whether and to what degree Taliban policies have changed in five key areas: media and communication, women's rights, education, relationships with NGOs, and their view of what kind of polity Afghanistan should be.

As already noted, one peculiarity of the Taliban's decision-making structure is that policy changes at the top leadership level may not be translated into a change in approach on the ground. As a result, local Taliban commanders might choose to pay lip-service to their leaders' decisions. Shifts in rhetoric from Taliban leaders may also be paying lip-service to the sensitivities of many within Afghanistan and within the international community by merely softening its policy rhetoric rather than fundamentally changing its

j The Taliban were able to establish themselves in southeastern Afghanistan in the first place because the Haqqani network joined forces with the Taliban in their march north from Kandahar in the 1990s. The Pashtun tribes that are the Haqqani network's tribal basis (such as the Dzadran) are distinct from the Durrani and Ghilzai tribal 'confederacies' strong in the south. The southeastern Ghilzai (mainly Ahmadzai) are more strongly represented in other Taliban-associated networks, such as those of the Mansur family and ex-Harakat-e Inqilab-e Islami networks. For more background, see Thomas Ruttig, "Loya Paktia's Insurgency: The Haqqani Network as an Autonomous Entity in the Taliban Universe," in Antonio Giustozzi ed., *Decoding the New Taliban: Insights from the Afghan Field* (London: Hurst, 2009), pp. 57-88, and Wahid Brown and Don Rassler, *Fountainhead of Jihad: The Haqqani Nexus, 1973-2012* (New York: Columbia University Press, 2013).

k There is insufficient on-the-ground research to understand how this works in practice. The Afghanistan Analysts Network (AAN), in looking at Ghazni province, has recently shown that even the terminology for the Taliban's administrative and military structures seem to differ (or are understood differently) in some regions. See Sahil Afghan, "Living with the Taleban (1): Local experiences in Andar district, Ghazni province," Afghanistan Analysts Network, October 19, 2020.

l Both spellings appear in Taliban sources.

m A religious scholar qualified to teach the hadith, the codified renderings of the Prophet Mohammad's sayings and deeds, one of the three sources of Islamic law.

n The largest split within the Taliban so far was the emergence of the faction calling itself High Council of Afghanistan Islamic Emirate in 2015. This splinter group was active mainly in western Afghanistan, but largely faded away after key leaders returned to the mainstream Taliban. Jessica Donati and Habib Khan Totakhil, "Taliban Splinter Faction Pledges Allegiance to Main Group," *Wall Street Journal*, August 14, 2016.

o For example, the New People Army and the Communist Party of the Philippines (CPP); the Irish Republican Army and Sinn Féin; and Colombia's FARC and the Unión Patriótica (UP). For comparison with Afghanistan, the case of the formation of the UP in 1985 is particularly interesting insofar as it was the result of a FARC attempt to end the armed struggle and join electoral politics. It also showed the risks of such an approach, as thousands of UP activists were killed by armed right-wing groups, driving the FARC back into armed struggle.

p The *tanzim*, however, have shifted only partly. Their internal workings are far from transparent and democratic. Most importantly, they have not given up using armed violence (or the threat thereof) as a means of political competition as they have maintained connections to a multitude of militia-like armed groups with historical links to them. These militias switch between being part of government structures when funding is available (such as the ALP or 'uprising forces') and a 'freelancer' role when not. If there is a peace settlement in Afghanistan, the Taliban could opt to follow this pattern, joining government structures while maintaining loosely affiliated armed groups that, where possible, seek government funding. See Thomas Ruttig, "Outside, Inside: Afghanistan's paradoxical political party system (2001-16)," Afghanistan Analysts Network, May 6, 2018.

approach. Skeptics would argue that it was when the Taliban were in power in Kabul that they showed their true colors and that any subsequent softening in their rhetoric on certain issues should be dismissed as merely designed to improve their image and facilitate their return to power. But it should be noted that both local communities and international actors, particularly NGOs trying to keep basic services running in Afghanistan during that time, were able to extract concessions from the Taliban. Furthermore, the Taliban leadership has also demonstrated that it is able to rein in unruly commanders *when it chooses to do so*.

While the Taliban have the ability to be pragmatic and therefore change their rhetoric and policies, its religious character as a movement limits their ability to agree to ideas and concepts (including in governance) they could regard as religiously illegitimate. Put another way, shifts in what the Taliban say shed light on what the Taliban may be willing to entertain in a post peace-settlement Afghan political order in which they have to come to some *modus vivendi* with other Afghan power groupings and interests. Presumably, some in the Taliban have learned the lesson that Afghans will judge any government led by or involving them not mainly by its religiousness but whether it will be able to improve their livelihoods. A majority of the population is still living under the poverty line. The failure to improve the economic welfare of Afghans before 2001 contributed to the Taliban's lack of support despite a very religious population.^q

Furthermore, although the Taliban's new policy program has not yet been tested by them returning to govern at the national level, the fact that the Taliban exert significant influence over large parts of the country (and therefore the policies that are implemented in those areas) means that it is possible to make useful observations about whether and to what degree there have been real changes in approach. For example, as will be outlined below, while research of the Taliban's current practice in areas they control suggests there have been some tangible changes in media and communications, the education system, and the relations with NGOs, it does not indicate positive changes toward women's rights, political freedoms, and political participation.

Media and Communications

The most striking, although not most important, change in Taliban policies is their handling of media and communications. During their time in power before the fall of 2001, they banned watching TV and instead communicated to the population through print media and radio and often face-to-face with local communities. The use of phones—mainly, the rare satellite phones in those days—was monopolized by the Taliban.

Now the Taliban make use of the full spectrum of technically available conventional and social media, from radio (still without music) to multilingual websites featuring print, audio, and video material. Accordingly, anecdotal reports indicate that the Taliban have grown less repressive toward people watching TV in areas they control, but they still draw the line at smart phones, which are

often completely banned for the population. This is also the case for their rank-and-file fighters, mainly to prevent them from being tracked.^{28r} A very restricted number of authorized commanders and fighters is allowed to use smart phone-operated messenger services as a means of military communications.^{29 s}

Overall, the Taliban's approach to means of communications is more pragmatic now, dominated by the demands of the military conflict and propaganda. This means there are fewer restrictions on the population in Taliban-controlled areas. Arguably, what has driven the change in the Taliban's approach was not mainly a shift in their belief-system, but rather an acceptance that they could not control the rapid spread of mass media and internet in Afghanistan and a realization that these technologies could be useful for their own messaging.

Women's Rights

The wide-ranging exclusion of Afghan women from the social and political spheres was a major feature of Taliban rule before the fall of 2001. The Taliban's public rhetoric on this issue has changed significantly, but it is important to note that they have not followed through with visible practical steps regarding the social and political inclusion of women in the areas they control, except on some improvement of girls' education (described below). It is also important to note that, as a June 2020 Human Rights Watch report put it, "strict social norms regarding dress—especially for women—and women's movements are common among communities in much of rural Afghanistan, including in conservative government-held areas."³⁰ Here, the Taliban often act not against but in conformity with the majority of public opinion.

In the Resolution of the Intra-Afghan Peace Conference in Doha in July 2019, initially called an Afghan dialogue meeting, the Taliban agreed to assure "women rights in political, social, economic, educational, cultural affairs within the Islamic framework of Islamic values" in the future.³¹ A recent reiteration of this was the February 2021 "Open letter to the people of the United States of America" from one of the Taliban's deputy leaders, Mullah Baradar, where he reiterated that the Taliban were "committed to upholding and guaranteeing all rights of women afforded to them by Islamic law."³²

The Taliban attach such formulas to many of their statements about rights and freedoms to distance themselves from what they see as 'Western' concepts. At an Afghanistan-related conference in February 2019 in Moscow, Taliban chief negotiator Mullah Sher Muhammad Abbas Stanakzai told the media that "Islam has given women all fundamental rights, such as business and ownership, inheritance, education, work, choosing one's husband, security, health and right to good life." He also said that women could get

q The Taliban might also take a lesson from the fate of Islamic State Khorasan Province (ISK) in Kunar province in which an extremely religiously conservative population turned against a group whose (theoretical) views it shared because its rule had become unbearable. See Obaid Ali and Khalid Gharanai, "Hit from Many Sides (2): The demise of ISKP in Kunar," Afghanistan Analysts Network, March 3, 2021.

r The Taliban continue to reject what they consider to be too liberal entertainment programs. See Ben Farmer, "Taliban say women's rights to be protected under Islam, but must not threaten Afghan values," *Telegraph*, February 5, 2019.

s The numerous Taliban attacks on cell phone towers are not operations against communication as such, but designed to enforce black-out times supporting their own operations and movement and to extract 'taxes' from the operating companies. Scott Smith, "Service Delivery in Taliban-Influenced Areas of Afghanistan," USIP, April 30, 2020, pp. 16-17.

t In this letter, the Taliban also declare their "commitment towards freedom of speech within the framework of Islamic principles and national interests." "Open letter to the people of the United States of America," Islamic Emirate of Afghanistan, February 16, 2021.

elected, come into high political office—except that of head of state and chief justice.^{32 u} However, he added, “If the world thinks we give the women the rights America or the West gives to them, this is not congruent with the culture and tradition and our religion.”^{33v} Taliban deputy chief Mullah Baradar repeated this position in a speech delivered in late 2020 where he stated that “the only work done under the shadow of occupation in name of woman rights is the promotion of immorality and anti-Islamic culture.”³⁴

In the July 2019 Doha meeting, a number of female participants attending from Afghanistan approached the Taliban delegation on the issue of ‘Islamic dress’ for women. They replied that no full burqa was required and that a headscarf (*chaderi*) was sufficient. Some of the women saw this as a change in the Taliban’s “mindset,” having become “more willing to discuss women’s rights.” The impression of more openness was also conveyed after an earlier first direct meeting between Afghan women and Taliban in Oslo in mid-2015.³⁵

However, these statements may only have been diplomatic gestures designed to placate urban women that Taliban delegates encountered in meetings abroad. Human Rights Watch has reported that “in more diverse or urbanized areas, Taliban officials have sanctioned and reinforced rigid social controls in communities that had previously not observed such practices” after gaining more influence there.³⁶ Tellingly, women do not play any active role within the organized structures of the Taliban. There are no women on their negotiating team in Doha and no reports of active female involvement in the Taliban’s parallel administration, let alone the frontlines.

In general, the Taliban’s position on the social and political role of women remains conservative and often contradictory. This is also reflected by another statement from the February 2019 Moscow meeting. The Taliban chief negotiator, Stanakzai, stated there that women’s rights were “imposed on Afghan society” and that in “the name of women’s rights, there has been work for immorality, indecency and circulation of non-Islamic culture.”³⁷

Education

Restriction of girls’ and women’s rights has been a key feature of the Taliban’s education policy when in power up to the fall of 2001.³⁸ On their way to power, between 1994 and 1996, and later

on, Taliban commanders used to almost automatically close down schools, particularly girls’ schools, in areas they took control of. In some areas, girls’ schools were transformed into boys’ schools. During the time that the Taliban were in power, education for girls was restricted to those before puberty. Female teachers were sent home, and male teachers were not allowed to teach girls. The ban on female teachers also impacted boys’ education, as around 70 percent of all public school teachers in Afghanistan used to be women.^v The Taliban still see schools as a possible entry point for the spread of Western values.

The story of the Taliban regime’s approach to girls’ education is not that of a total shutdown, but rather one of strict limitations and asserting control. In 1998, the Taliban announced that schools (including those just for girls) “would not be allowed to teach girls over the age of 8, that schools teaching girls would be required to be licensed, and that such schools would be required to limit their curriculums to the Koran.”³⁹ In order to give their measure some muscle, around 100 of them were closed in June 1998.⁴⁰ However, many of the shuttered schools resumed operations when the immediate pressure decreased.

Even during Taliban rule, there were a number of girls’ and mixed-gender schools operating in Kabul and elsewhere. Some did so clandestinely, often run by former female teachers or women activists and financially supported by foreign NGOs. A 1997 survey counted “422 boys’ schools, 125 girls’ schools and 87 co-education [mixed schools] in [the] form of primary schools and home-schools” in at least 10 provinces.⁴¹

Some foreign NGO-operated, mixed-gender schools were allowed to operate as a result of agreements with Taliban authorities. One German NGO, COFAA, ran a school program at 13 madrassas mainly in Kabul with a total of around 10,000 pupils and an attached teachers’ training program in agreement with the Taliban’s Ministry of Religious Affairs. Half of the pupils were girls. These schools ran up to grade six, beyond the earlier decreed maximum age of eight years.⁴² Ulla Asberg, the regional director of the Swedish Committee for Afghanistan (SCA), told the media in 2000 that the SCA ran schools with some 200,000 pupils, 37,000 of them girls, based on a protocol agreed with the Taliban Ministry of Education.⁴³ A year earlier, SCA reported that it served 567 schools, most of which were formal (there were also 39 home schools^x), many in rural areas. A U.S. government report referred to instances where in areas “newly captured by the Taliban, some communities successfully petitioned Taliban representatives to reopen” schools.⁴⁴

During 1999, around 300,000 to 350,000 children were educated at schools run or financed by various assistance agencies and NGOs.⁴⁵ By December 2001, an estimated 500,000 boys and girls in Afghanistan were in schools supported by NGOs; the gender proportion was not reported.⁴⁶ In a report on human rights practices in Afghanistan in 2000, the U.S. government cited a UNICEF report stating that approximately 25 to 30 percent of all

u The view that women should be excluded from the highest offices of state is shared by Islamist politicians in Afghanistan and has frequently been aired in the Afghan parliament (for example, during the debates about the Elimination of Violence against Women Law). See Christine Roehrs, “Damage Avoided, for Now? The very short debate about the EVAW law,” Afghanistan Analysts Network, May 18, 2013. Misogynistic views toward women are not limited to Islamist politicians. When very important decision-making circles meet in Afghanistan, a woman is rarely in sight. See photos of this November 28, 2019, meeting of the country’s Senior Security Leadership at NSC Afghanistan, “NAS @hmo hib chaired Senior Security Leadership (SSL) meeting ...” Twitter, November 28, 2019, and when President Ghani announced the November 2019 prisoner/hostage swap at “De Afghanistan de Islami Jumhuriat de Jumhur-Rais Muhammad Ashraf Ghani de waina matn [Text of a speech of the President of the Islamic Republic of Afghanistan, Muhammad Ashraf Ghani],” posted on the website of the Office of the President of Afghanistan. See <https://president.gov.af/da/?p=23248>

v It is worth noting that the current Afghan constitution also enshrines the ‘Sharia caveat’ in Article 3, stipulating that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam.”

w In 1996, Afghanistan had 158 public schools with 11,208 teachers, of which 7,793 were women, according to the United Nations. “Country Reports on Human Rights Practices,” United States Department of State, February 1997, p. 1.416.

x Home schools pertains to schools operated in private homes, both in cities and the countryside, which were often run by teachers dismissed by the Taliban.



Members of the Taliban delegation gather ahead of the signing ceremony with the United States in Doha, Qatar, on February 29, 2020. (Giuseppe Cacace/AFP via Getty Images)

boys and up to 10 percent of all girls were estimated to be attending any school. UNESCO reported lower figures for 2000, with as few as three percent of Afghan girls receiving primary education as opposed to up to 39 percent of boys.⁴⁷

Although, in general, arrangements pertaining to schools in Taliban-run Afghanistan were rather volatile, Taliban-decreed restrictions were never fully enforced, and the Taliban occasionally gave in to local populations' or NGOs' demands to keep the educational system running, including for girls, even if with restrictions.⁴⁸

It is important to understand the nuances of the Taliban's approach to education when they were in power. Taliban leaders maintained that they were not against education, even of girls, in principle. They blamed the bad security situation as standing in the way of girls' education, as well as a lack of funds; when security was reinstated in the country, they promised, schools would reopen. But toward the end of the Taliban regime, the Taliban's argument sounded increasingly hollow, as fighting was ongoing in only a few parts of the country. It is worth stressing that the Taliban's restrictive approach toward education reflected similar widespread beliefs in conservative sectors of the rural population from which the movement sprang. But it is important to note broader attitudes had already started changing before the Taliban came to power. Many Afghan refugees forced to flee to Pakistan during the 1979-

1989 war had come to appreciate the schooling that was provided there, including for girls.

During their reorganization and expansion phase between 2001 and 2009, the Taliban reenacted their pre-2001 patterns of closing all schools in areas they recaptured, particularly keeping girls' schools closed, but also of being occasionally responsive to local inhabitants' pressure to allow schools. For a decade, the Taliban specifically targeted schools as symbols of the government's influence. Their first *layha* (code of conduct) published in May 2006 made clear to commanders and fighters that it was "forbidden to work as a teacher under the current puppet regime, because this strengthens the system of the infidels." The code of conduct stated, "True Muslims" should only study "with a religiously trained teacher and ... in a mosque or similar institution. Textbooks must come from the period of the jihad or the Taliban [regime]." According to the code, teachers working for the government had to be warned to give up their jobs, and if they did not, should be killed. If a school headmaster failed to heed the instruction to close, the school "must be burned." Foreign NGOs should be "treated as the government is treated."⁴⁹ Girls' schools were more often targeted than boys' schools.⁵⁰

During the course of the 2010s, now operating from a consolidated territorial base inside Afghanistan, the Taliban gradually switched from attacking to taking control over the

government-run education system. Their change in approach was partly due to the backlash they faced from villagers who wanted their children to be educated. In a new version of the *layha*, published in 2010, all provisions declaring the education system a target were dropped.⁵¹ At around the same time, aid groups were reportedly entering into safe passage agreements or even registering with the Taliban.⁵²

As early as 2007, the Afghan Ministry of Education established contacts with the Taliban to keep schools open and keep at least a foothold in Taliban-controlled or contested areas.⁵³ In some areas, this led to unwritten agreements with local Taliban through local elders or religious figures. As noted by Barnett Rubin and Clancy Rudeforth, this crystallized into a full-fledged (although officially denied) Taliban-government pact^y with regard to education in 2011, and so-called community-based education became “a feature of the education landscape in Afghanistan” and “has led to higher enrolment.”⁵⁴

By 2012, internally the Taliban had drafted a softer education policy.⁵⁵ This was reflected in the Taliban’s August 2013 Eid al-Fitr message proclaiming that “our young generations should arm themselves with religious and modern education, because modern education is a fundamental need in every society in the present time.” The document does not distinguish between boys’ and girls’ education, but uses the neutral term “children.” This therefore can be interpreted as applying for both sexes.⁵⁶

In its arrangement with the government on education, the Taliban set conditions on how the schools in their areas of influence would operate. They placed restrictions on curricula, often not allowing ‘Western’ subjects such as social sciences, culture, or English for girls to be taught, or reducing their hours while increasing the time for religious subjects.⁵⁷ They forced the government to hire pro-Taliban staff or former Taliban fighters as teachers, or tried to win over teachers to have at least one at every school who could report back on their fellow teachers and on the implementation of Taliban measures. They taxed teachers’ salaries (as they did the incomes of all inhabitants in the areas of their control), confiscated ‘ghost’ teachers’ salaries, and fined absentee teachers, a step appreciated by local populations.⁵⁸ Still, many in the local populations credit the Taliban, not the government, for making the schools run.⁵⁹

During the 2010s, the Taliban were more frequently responsive to demands by local communities in areas they held sway over to keep schools, including for girls, open. In one example, members of a German NGO told the author that the local Turkmen population in areas outside of Andkhai (Faryab) pressured the Taliban to re-open girls schools up to grade 12 after they had initially closed them down after seizing the areas in 2010. In 2018, the Afghanistan Analysts Network (AAN) found that in Obe district (Herat), girls’ schools were allowed to reopen after additional female teachers had been hired. After the Taliban took over much of Dasht-e Archi (Kunduz) in early 2019, they allowed school girls to sit for their grade 12 final exam.⁶⁰ In contrast, in Taliban-ruled Sayedabad district in Wardak,

girls’ schools that year were open only up to (including) grade 5, while teachers were male.⁶¹

Despite a softening of the Taliban approach to the education sector, the battle over control of education and schools in Afghanistan remains ongoing, particularly in contested areas. There, schools—often the most sophisticated building in a given area—are often used as temporary military bases either by government forces or Taliban, or serve as polling stations during elections and therefore become targets.⁶²

Relations with NGOs

Up to 2009 and 2010 when the Taliban issued two new versions of their *layha*, there was open hostility to NGOs. The first Taliban *layha* in 2006 described NGOs in general as “tools of the infidels” and banned “all their activities” and (although not explicitly) condoned the killing of NGO personnel; the new versions focused on co-opting them when useful. Any exceptional contract with an NGO had to be authorized by the Leadership Council “in exchange for money or materials.” More specifically, NGOs were asked to register with local Taliban authorities, and the Taliban ‘taxed’ contractors and NGO workers’ salaries.^z With the new *layhas* of 2009 and 2010, the Taliban changed their attitude toward co-opting NGO projects where useful for them. This also applied to government-funded, NGO-operated state schools, with the Taliban offering where it judged beneficial to its interests “the protection necessary for teachers and NGO and health workers to live, work, and serve the local population.”⁶³ Following this, a commission responsible for dealing with NGOs was established, officially called “Commission for the Arrangement and Control of Companies and Organisations.”⁶⁴ The fact that the Taliban lump companies and NGOs together reflects that they see both categories as commercial and ‘taxable.’^{65a}

There were and are exceptions to the softer Taliban approach. The Taliban strongly oppose USAID- and U.S. military-funded projects and consider them a form of non-military ‘occupation of the country.’ The author has heard numerous reports from NGOs before 2010 of Taliban checking documents and computers in their offices to obtain information on their funding sources. In June 2011, a Taliban representative was quoted as saying “Mullah Omar had ordered a halt to the killing of” people working for organizations and companies building roads, as long as they did not work with private security contractors that were considered enemy fighters.^{65ab} This policy shift went along with a softening of the Taliban stance on other issues, as provided by their 2009 and 2010 *layhas*. In her 2011 analysis of the *layhas*, Kate Clark described the motivation behind the softening of policies toward NGOs and schools as dealing with them “in a way which does not alienate [the] local population” (which depends on services provided by NGOs) and simply “an acknowledgement of reality.”⁶⁶

y Similar government-Taliban agreements have occurred in other sectors such as health. In southeastern Afghanistan, this author observed as early as 2010 that local Taliban kept contact with local health authorities and workers, such as doctors and midwives, in order to be able to ensure their family members and fighters are treated. As a result, Taliban control over clinics and health posts in their areas is less strict than in the education sector. Smith.

z How regularly this happens in practice is difficult to gauge.

aa The general confusion in the country, also in the public and administration, about the role of NGOs has been exacerbated by the activity of ‘for-profit’ NGOs in Afghanistan’s development sector.

ab It is not clear whether this provision of the *layha* covered all contractors or just those working in specific sectors (such as road building, which has also military effects).

Ideas about the Future Political System

“The Taliban have been much clearer about what they oppose than what they support,” Barnett Rubin noted in a recent paper.⁶⁷ There is no available document, such as a political program, that lays out the Taliban’s ideas about the future political system after the conclusion of a peace agreement.

Of course, during the 1990s, the Taliban showed the world the kind of political system they then believed in. Structurally, their government resembled earlier Afghan governments, with roughly the same number of ministries (called “commissions” by the Taliban, to reflect their initial claims that they did not want permanent power) and even a prime minister (*sadr azam*, the traditional title used under the Afghan monarchy)⁶⁸ in Kabul and governors and police chiefs for provinces and districts. It was also equally centralized. The only key structural difference was the existence of a parallel government apparatus in Kandahar, the Taliban movement’s ‘capital,’ where deputy ministers had more power than their formal superiors in Kabul, not least because of their physical and political proximity to Mullah Omar.

Insights about Taliban ideas for Afghanistan’s *future* political system and how these may be different from their previous approach can be distilled from their presentations at conferences, track II meetings,^{ac} Eid messages, and other messages of their leaders and public interviews, now regularly posted on their official website. An examination of these public statements shows there has been a large degree of continuity since their former minister of planning Qari Din Muhammad became the first Taliban representative to publicly speak abroad after their regime’s defeat at a conference labeled ‘academic’ in Kyoto in 2012.⁶⁹

The Taliban have repeatedly stated that their general political goal is to “gain independence of the country and establish a just Islamic system there on the basis of the aspirations of the Muslim nation,” as Mullah Omar put it in 2009. In that statement, Mullah Omar did not specifically mention the reestablishment of an emirate.⁷⁰ In 2016, Borhan Osman and Anand Gopal reported on the basis of a series of interviews that “few if any Taliban say they want to re-establish the Emirate or revive the policies that rightly drew the world’s opprobrium upon them. Their main grievance is the continued presence in Afghanistan of the foreign military forces.”⁷¹

In mid-2019, Taliban spokesman Zabihullah Mujahid said, according to *The New York Times*, “Our goal is Islamic government. How this Islamic government will come about is something we cannot decide now. On this issue, the clerics, analysts, and authoritative Afghans make decisions in its right time.” At the same time, *The New York Times* concluded from “private interviews,” including with “some Taliban figures,” that “what they want is the return of their Emirate with a more open embrace that shares power, but not a renegotiation of the fundamentals of how they view power.”⁷² In his February 2021 “Open letter to the people of the United States of America,” Mullah Baradar did not explicitly demand the reestablishment of the Islamic Emirate, but wrote more vaguely of “the establishment of an Islamic government

and enduring peace and security through intra-Afghan dialogue” while he claimed that it was “an irrefutable fact that majority of the [Afghan] general public supports the Islamic Emirate.”⁷³

Notwithstanding this posture, the Taliban have repeatedly issued statements that they understand they have to deal with other political forces in the country and that some form of pluralism needs to be ensured. At least since 2011, they have frequently stated that they are not interested in reestablishing a political monopoly.⁷⁴ In a speech published in December 2020, Baradar reiterated that position by saying “the Islamic Emirate is not pursuing monopoly over power following the independence of Afghanistan” but “rather it seeks an inclusive Islamic government with all Afghans in our beloved homeland.”⁷⁵

A leading researcher in the field, Borhan Osman has recently reported that the Taliban “seem to have reached a conclusion internally that their 1990s model of government is not tenable today.”⁷⁶ It is important to note that the new guidance to their fighters on how to conduct jihad published in May 2017 under the title *Mujahedino ta de Amir ul-Mumenin Larshowene* (Instructions to the Mujahideen from the Commander of the Faithful) and described as “dictated” by the movement’s then new leader, Hibatullah Akhundzada, does not directly refer to the ongoing discussion about Afghanistan’s future political system. According to Osman, the author of the Taliban book refers to the “concepts of emirate and caliphate a few times in the text, but he never spells out how he defines or distinguishes one from the other. They are sometimes mentioned interchangeably as if they meant the same thing to him.” There is strong emphasis on ‘obedience to the *amir*’ (i.e., the Taliban leader) and on continuing the jihad against “the infidels’ ... puppets” after “the departure of the infidels,” but Osman warned against over-interpreting the book as being applicable beyond the current phase of the Taliban’s struggle and as “rejecting any idea of a political settlement.”⁷⁷

It is known but not widely reported that international and Afghan interlocutors have probed the Taliban for ideas on elections, parliamentarianism, pluralism, and so forth, and that several models have been discussed, including the ‘Iranian’ one that puts a council of religious scholars above all elected bodies.⁷⁸ It was notable in this regard that in their 2015 Eid message, the Taliban spoke of “an Islamic, just, independent and all Afghan-inclusive system” with “an accountable, transparent, professional and inclusive Afghan administration.”⁷⁹

These discussions have so far mainly focused on political structures at the central government level. This reflects the top-down approach to governance that is typical for all political forces in Afghanistan.⁸⁰ It has become apparent that the Taliban—like most other Pashtun-dominated political forces—prefer to maintain a centralized state with a ‘presidential’ (i.e. ‘one-leader’) system, which also could be an *amir*.⁸¹

With respect to political inclusivity, Taliban participants said as early as at a meeting in 2016 that they could “accept elected shuras (*muntakhab shuragane*)” at the national, provincial, district, and village level.⁸² This could point to a multi-step, bottom-up delegation system, similar to how district councils in Afghanistan are supposed to delegate members into provincial councils under the current constitution. In such a system, even a parliament with female members could be possible. This sounds democratic and even grassroots driven. The Taliban left it unclear, however, what kind of relationship between the legislative branch and the executive

ac Track II diplomacy or “backchannel diplomacy” is the practice of “non-governmental, informal and unofficial contacts and activities between private citizens or groups of individuals, sometimes called ‘non-state actors.’” See Louise Diamond and John McDonald, *Multi-Track Diplomacy: A Systems Guide and Analysis* (Grinnell, IA: Iowa Peace Institute, 1991), p. 1.

they would pursue. Would it be one of mutual checks-and-balances or of the executive taking precedence over the legislative bodies?

There is another reason to believe the Taliban may eventually favor political engagement over open warfare, namely that even a power-sharing agreement would not be an end state. The last 40 years of Afghan history have repeatedly shown that factional realignment can happen rather quickly and across previous lines of enmity,^{ad} and the Taliban might assume that forces within the current political system of the Islamic Republic of Afghanistan might choose to or be forced to realign themselves with the strongest military faction (which they believe they are). The Taliban are already actively pursuing such a realignment, by reaching out to former mujahideen leaders within the current Afghan political set-up who have competing ambitions to the current president Ashraf Ghani and even to HCNR chairman Abdullah.⁸³

However, it can be assumed that many in the Taliban leadership and rank and file privately believe that the reestablishment of the Emirate would be the optimal political outcome. This view may have been strengthened as a result of the United States entering into direct negotiations with the Taliban, from which the Afghan government remained excluded, and as a result of the February 2020 U.S.-Taliban agreement, after which there was triumphalist Taliban rhetoric.^{84ae}

An emirate would be based on the unelected power of the *ulema* (the Islamic ‘clergy’), not on the current constitutional principle of the general suffrage.⁸⁵ The Taliban also consider the current Afghan constitution with its promulgation of human and women’s rights and some secular principles as a “major obstacle for peace” as it had been “imposed” by the West.⁸⁶ They want to draft a new one, “exclusively by Afghan religious scholars, jurists and law specialists (*ulama, fuqaha au qanun-pohan*)” and without international expertise and excluding anyone they feel is ‘under foreign influence’ as Sher Muhammad Abbas Stanakzai, then head of the Political Commission and member of the Taliban Leadership Council, put it in a meeting in January 2016 in Doha.⁸⁷

The Taliban’s continued use of the term “Emirate” when referring to themselves has put them in an antagonistic position toward the relevant political forces that are part of the current political set-up of the Islamic Republic of Afghanistan (IRoA), making it evident that they represent just one party in the conflict. This amounts to a tactical weakness. As much as the Taliban have repeatedly rejected joining the IRoA political set-up, it is unlikely that the parties included in this set-up would subordinate themselves under this

‘Emirate’ as a result of a political settlement.^{af}

Furthermore, the political forces opposing the Taliban will not be an easy pushover, as they are armed themselves. This is recognized at least by some Taliban, as a 2016 quote from a Taliban interlocutor reflects: “[I]t is now obvious that the opponents of the Islamic Emirate cannot be forced to surrender nor be eliminated. We will be in the state of an unending war if each side stresses their primary positions against the other.”⁸⁸ One important caveat is that the military position of anti-Taliban forces has been weakened by U.S. troop reductions.

There has been no sign in any of the Taliban’s statements, or in their practical policy either, to indicate that they would agree to any future political system fully legitimized by general elections, including for the head of state. The Taliban’s shift in rhetoric regarding political inclusivity does not represent a commitment to a pluralistic, party- and “one person, one vote”-based political system. A parliament formed according to the Taliban’s ideals would be a body resembling a *shura-ye ahl-e hal o aqd* (those qualified to elect or depose a caliph on behalf of the Muslim community), a form of Islamic representation through selection, not election. Here, it is worth noting that shuras often use open-ballot voting, which then increases the pressure to vote for powerful individuals and contradicts the principle of a secret vote. The Taliban have also made statements that suggest they consider the votes of privileged groups, such as the *ulema*, as more valuable than those of other Afghans. This notion resembles an earlier idea of Hezb-e Islami,⁸⁹ according to which the current formally open pluralistic system would be replaced with a system whose only claim to ‘pluralism’ would be to allow different mujahideen and ‘Islamic’ (in fact, Islamist) factions to operate.

Notwithstanding the fact that all post-2001 Afghan elections have been deeply flawed, the introduction of any new system—based on the ‘Iranian’ model or some hybrid form—would abolish an important element of the current political set-up in Afghanistan, namely the right to vote for every citizen. It does not augur well for democracy in Afghanistan that the Taliban’s apparent openness to a partly pluralistic system that does not feature general elections would likely be palatable to former mujahideen leaders in the current system and also feature as options for the interim period envisaged in the latest U.S. proposals for an “accelerated” peace process.⁹⁰

It is important to note that reports from Taliban-controlled areas do not indicate any change from the pre-fall 2001 practices when it comes to political participation. Taliban commanders are fully in power everywhere, and there are no formal bodies—even advisory

ad See, for example, the realignments between various PDPA (People’s Democratic Party of Afghanistan) and mujahideen factions after the fall of the Najibullah government in 1992, the Hekmatyar-Dostum-Hezb-e Wahdat alliance in early 1994, and the anti-Taliban rapprochement between Hezb-e Islami and the ‘Northern Alliance’ in 1996, immediately before the Taliban takeover of Kabul.

ae Taliban leader Mawlawi Hebatullah Akhundzada called the Doha deal a “collective victory of the entire Muslim and Mujahid nation.” Anas Haqqani, a leader of the Haqqani network, released from an Afghan jail as a result of the February 2020 Doha deal was quoted as saying: “Even if we don’t say that the U.S. is defeated in Afghanistan, it is an open secret now that they are defeated.” Ayaz Gul, “US, Taliban Sign Historic Afghan Peace Deal,” Voice of America, February 29, 2020; Saphora Smith, Mushtaq Yusufzai, Dan De Luce, and Ahmed Mengli, “U.S. sees Taliban deal as exit from Afghanistan. Militants see it as victory over the superpower,” NBC News, March 3, 2020.

af President Ashraf Ghani has termed the republican order a red line for the talks with the Taliban. See “Ghani Describes Election, Republic System as Redlines,” Ava Press (Kabul), November 6, 2020. Vice President Amrullah Saleh was quoted in January 2021 as saying that there was “no condition in the peace process other than preserving democratic values.” “President Ghani urges Taliban to shun violence,” Salam Watandar, January 7, 2021. Dr. Abdullah, though, has remained vague. In a September 22, 2020, interview at the Council on Foreign Relations in Washington, D.C., he replied to a question that he would rather not have “a precise prescription” of the future Afghan state order. He also stated that “values” such as “a Republic” would “hopefully ... get [in]to an agreement with the Taliban.” “A Conversation With Abdullah Abdullah,” Council on Foreign Relations, September 22, 2020. On the Taliban position, see Borhan Osman and Anand Gopal, “Taliban Views on a Future State,” Center on International Cooperation, New York University, July 2016, p. 6.

ones such as shuras—that can influence day-to-day policies. Only in a very limited sense do the Taliban accept community and religious elders as mediators between themselves and the local population and between themselves and the government.⁹¹ Even Afghan media may only enter Taliban-held areas with explicit Taliban permission. “Vice and virtue” police continue to exert social control in “districts under Taliban control,” monitoring “residents’ adherence to Taliban-prescribed social codes regarding dress and public deportment.”⁹²

Afghan journalist Sahil Afghan, during research in a district of Ghazni province in 2020, found no sign of “open protests” against the Taliban in Andar, “not because there is nothing to complain about, but because people see it as too dangerous.” Local interviewees assumed that the Taliban would quickly establish who was organizing protests, label them as “government affiliate[d]”, and crack down. The most that locals could safely do was petition Taliban leaders, which in some cases was successful, but in others not, particularly if the local population’s request went against the Taliban’s military priorities. Some badly received petitions could even trigger punishment. One example of the Taliban’s lack of tolerance for dissent was its June 2020 abduction and killing of the grand-nephew of Ghulam Muhammad Niazi, one of the founders of the historical Afghan Islamic movement, on the suspicion that he was working with the Islamic State in Khorasan Province (ISK).⁹³

Conclusion

Although many look back to the track record of the years of Taliban rule in Kabul between 1996 to 2001 to understand their general worldview and politics, this is not sufficient. It would be misguided to assume that the future Taliban and their policies would necessarily be the same as those during the pre-fall 2001 Taliban rule.

Even before their regime was toppled in 2001, the Taliban were not a uniform organization. There was always a plurality of opinions while factionalism was strongly suppressed.⁹⁵ There had even been high-ranking Taliban officials who individually disagreed with aspects of official policies (for example, fathers of girls on girls’ education) or who even consciously did not implement decisions (for example, on cracking down on girls’ and/or NGO-supported schools). When ruling Afghanistan, the Taliban also developed what in the United Nations was then called “implementation fatigue;” the Taliban were simply unable to consistently implement all bans and regulations, so that the population could ignore some and had niches of greater but still very limited freedom.

The post-2001 Taliban have proved to be a learning, more political organization that is more open to the influence of external factors. They are pursuing their political aim, namely regaining power and establishing what they call a genuinely “Islamic government,” with political methods now as well as with military methods. This includes, as one option, pursuing a negotiated settlement that would likely result in a power-sharing arrangement with other factions. It is undisputed that the Taliban’s political strength and diplomatic successes are to a significant degree based on their military prowess, having withstood 20 years of war against a coalition around the mightiest military power in the world. Having

fought their way back from being an international pariah hosting terrorists to being a diplomatically accepted party to the conflict and negotiating partner, the Taliban consider themselves to be the victorious party in the ongoing war. But currently, going through negotiations might appear to the Taliban an easier and faster way back to power, entailing fewer losses than a prolonged war against a government with a large number of troops and which continues to be financed by the United States and its allies.

The last two decades have had another impact on the Taliban. Their control over large parts of the Afghan territory and population has brought them into permanent contact with groups outside their original Pashtun basis and has instilled in them the need to develop some form of governance. This is reflected by the growing quasi-governmental structures they have developed. These structures need to perform in the eyes of the population who can use them as entry points to try to influence Taliban behavior and day-to-day politics. To this author, it looks as if the Taliban have learned from their defeat in 2001 in certain respects. They realize they cannot rule over a population by only resorting to bans and prohibitions but will have to also provide services and perform a range of governance functions.^{ah}

At the same time, it is clear that local communities in areas the Taliban control appreciate their efforts to limit corruption, including in the education sector, and their running of what local communities consider to be an effective judicial system “outgoverning the government.”⁹⁴ However, the Taliban’s current political practice shows that there have been no positive changes toward any political freedoms or political participation, a fact also noticed by local Afghans.

The Taliban have repeatedly signaled in messages and statements that they understand that, given the current balance of power in Afghanistan (with a government still supported by the international community), a political settlement will entail compromise. In this light, it seems that the Taliban have adopted a strategy of gradual changes on policies. These changes, however, might be tactical, or lip-service, or not shared by everyone in their leadership or local commanders or rank and file and therefore often not implemented on the ground. Yet, the strong vertical aspect of the Taliban’s organizational structure and their top-down chain of command indicate that the Taliban leadership would be able to enforce in its own rank and file the implementation of any commitments resulting from an eventual peace and power-sharing agreement *if*

ah Another lesson learned for the Taliban is that they cannot afford to again alienate the international community. Although the Taliban and al-Qa’ida continue to maintain close relations, according to the United Nations, the Taliban realize that if and when they return to power, they cannot afford for Afghanistan to again become a security threat to the international community and cannot rule Afghanistan against the international community, particularly when they openly cooperate with internationalist-jihadi terrorists. The Taliban are primarily a movement of a “national Islamist” character, and their project is to run Afghanistan as an ‘Islamic’ state. Support for wider jihadi aims would bring them into an undesired antagonism with the international community again and actually jeopardize the implementation of their (still unclear in detail) home agenda. This is reflected by the policy changes they have adopted both in rhetoric and in reality. “Eleventh report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2501 (2019) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan,” United Nations Security Council, May 19, 2020.

ag An exception were the Khuddam ul-Furqan. See Thomas Ruttig, “The Ex-Taliban on the High Peace Council: A renewed role for the Khuddam ul-Furqan?” Afghanistan Analysts Network, October 20, 2010.

it chooses to do so. The Taliban's ability to get its rank and file to obey key top-down commands was demonstrated when they dealt with splinter groups, in their actions during the three-day ceasefire over the Eid holidays in June 2018, as well as their actions during the week-long 'reduction of violence' period preceding the U.S.-Taliban Doha agreement in February 2020 and the stop of attacks on Western troops and large Afghan cities thereafter.⁹⁵

The fact that the Taliban have so far not laid out what their idea of the exact configuration of a post-peace settlement Afghan political order might look like could reflect a lack of agreement in the ranks of their leadership on that issue, or an unwillingness to discuss their vision for the future publicly and show their hand before it is necessary—at substantial intra-Afghan talks, for example. The Taliban are surely aware of the widespread doubts about their honesty and the clear rejection of their pre-fall 2001 model of governance by most Afghans according to available polls and in the international community.^{ai}

An important factor weakening their position is the Taliban's lack of means and personnel to run a government on their own; this is already visible in the areas they control. There, they are forced to accept that even basic services are run by government funds and NGO personnel. (This would change, though, if they became part of a power-sharing arrangement as that would give them access to domestic and external resources, and would enable them to co-opt existing personnel.)

Under the current context of an ongoing war and political negotiations to end it by diplomatic means, it is difficult to untangle to what degree the changes in the Taliban's policies, rhetoric, and behavior reflect a reaction to political necessity, are tactical lip service, or represent a genuine shift in ideology. One thing seems sure: The Taliban are a religiously motivated, socially, politically,

and religiously conservative movement that will not give up what it considers its core "values" (even if outsiders agree they are not well-defined). How these values will be reflected in any future constitution and play out in the concrete policies of any eventual power-sharing government that includes the Taliban will be subject to the day-to-day political bargaining between various political forces and the balance of power between them. This balance of power will also determine who will define what is 'Islamic' and what is not.

A more pessimistic prognosis is that a peace agreement bringing the Taliban into a 'new Islamic government' as stipulated by the February 2020 U.S.-Taliban agreement will tilt the scale more to the conservative or even Islamist side. These forces would likely easily be able to denounce any demand from Afghan civil society groups for maintaining or even strengthening current political and individual freedoms as 'anti-Islamic.' That these forces frequently play the religion card to try to exercise political hegemony was demonstrated, for example, in discussions about women's rights-related issues in parliament and public debates about transitional justice and legal impunity provided by the 2008 'amnesty law' to the perpetrators and those politically responsible for war crimes and grave human rights violations.⁹⁶

More optimistically, it can be assumed that policy adaptations that are only tactical at first can evolve into genuine changes, particularly as a result of negotiations during which the concerned party is systematically confronted with views of other parties as well as the pressure of day-to-day political decision-making, also on the subnational levels. This requires time, which an extended, detail-oriented negotiation process would provide, given it is connected with the ceasing of hostilities, regardless under which term: 'ceasefire', 'reduction of violence', or any other.^{aj}

An intra-Afghan peace agreement will not be an end-state for the country, but a new phase of intra-Afghan competition for power. It can only be hoped that during the current peace process, functioning mechanisms for peaceful competition can be developed. That they are preserved in the long run will depend on the United States and the other donor countries maintaining attention on and development-oriented support for Afghanistan, even after foreign troops leave. **CTC**

ai Surveys by The Asia Foundation and the Kabul-based Afghan Institute for Strategic Studies (AISS) indicate that the Taliban do have a domestic support base that could be between 10 and 15 percent of the Afghan population, not a small portion in the country's fractured political landscape. The Asia Foundation found that this support was 13.4 percent in 2019. The AISS reported 10.2 percent conveying acceptance of Taliban policies and conduct, plus 16 percent with some acceptance; more than a quarter say they see the Taliban as "able ... to govern effectively." In the AISS survey, support for the Taliban was higher in the eastern and southern regions. The two surveys likely overemphasize government-controlled areas and may undercount Taliban support. *A Survey of the Afghan People: Afghanistan in 2019* (San Francisco: Asia Foundation, 2019), p. 69; Omar Sadr, *The Fallacy of the Peace Process in Afghanistan* (Kabul: Afghan Institute for Strategic Studies, 2018), pp. 52, 109.

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A View from the CT Foxhole: Mary McCord, Executive Director, Institute for Constitutional Advocacy and Protection, Georgetown University Law Center

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Mary McCord serves as Executive Director at the Institute for Constitutional Advocacy and Protection (ICAP) and Visiting Professor of Law at Georgetown University Law Center. McCord was the Acting Assistant Attorney General for National Security at the U.S. Department of Justice from 2016 to 2017 and Principal Deputy Assistant Attorney General for the National Security Division from 2014 to 2016.

Previously, McCord was an Assistant U.S. Attorney for nearly 20 years at the U.S. Attorney's Office for the District of Columbia. Among other positions, she served as a Deputy Chief in the Appellate Division, overseeing and arguing hundreds of cases in the U.S. and District of Columbia Courts of Appeals, and Chief of the Criminal Division, where she oversaw all criminal prosecutions in federal district court.

CTC: In the wake of the storming of the U.S. Capitol on January 6, 2021, what is your assessment of the threat posed by the extreme far-right in the United States?

McCord: If anyone were ever inclined to discount the threat of far-right extremist violence in the United States, the insurrection at the U.S. Capitol certainly should have changed their views. We witnessed our fellow Americans violently assaulting U.S. Capitol Police, forcibly entering and overrunning the Capitol Building, and attempting to kidnap elected officials and prevent the certification of the electoral college vote. They succeeded in delaying the counting for several hours. Although it was shocking to witness because of the sheer number of people willing to use violence to overthrow the government, it was not surprising that extremists led the charge. This is something that has been building up for some time now.

The former president sowed the seeds for this even before the election as he claimed that mail-in ballots were particularly susceptible to fraud and that the only way he could lose were if the election were rigged.¹ He doubled down after the election, refusing to concede and actively spreading disinformation about election fraud, for which there was no credible evidence produced in court after court in states around the country.² He bought into the “Stop the Steal” rhetoric and propagated it, adding a veneer of credibility because of his position of power and influence. The false narrative gave the extremists a “cause” that he urged them to fight for, explicitly calling on them to “never concede” and “fight like hell.”³ We worried before January 6 that Trump’s most extreme supporters would take him literally, and they did.⁴

The lies and rhetoric that spurred extremists to commit the assault on the Capitol—and our democracy—is the kind of rhetoric that often spurs individuals and groups to commit some sort of act of terrorism. We’ve seen disinformation used this way before.

For example, the El Paso shooter, he’s never been traced back

to a particular group, but that doesn’t mean he wasn’t radicalized by consuming toxic disinformation and violent rhetoric on social media, which came through in his manifesto.⁵ The Michigan plot [to kidnap the state’s governor] was a terrorist plot—a plot to influence a policy of government through intimidation or coercion, specifically because of Governor Gretchen Whitmer’s pandemic-related policies.⁶ That’s terrorism. And that wasn’t done by an individual; that was a group that plotted together over a course of months, acquired weapons, built weapons, created strategies, cased out various places for this crime to take place—all the type of plotting that I’ve seen by terrorists in my career, oftentimes connected to a foreign terrorist organization.

And what is particularly worrisome is that the extremist tent seems to be getting bigger. On January 6, there was a whole spectrum of people participating. There were conspiracy theorists who were promoting utterly baseless conspiracies, including the QAnon conspiracy, conspiracies that have to do with the Democrats being child sex traffickers, and other conspiracy theories about the election, and about ballots appearing in the middle of the night, etc. There were unlawful private militia groups, including the Oath Keepers—several of whom were the first to be charged with conspiracy related to the insurrection—and violent paramilitary street gangs like the Proud Boys, many of whom are also charged with conspiracy and other crimes arising from the insurrection.

Now happily, Washington does not allow open carrying of weapons, and you can only conceal carry if you have a registration in Washington, D.C., which most people do not. Although some still smuggled in weapons, imagine what it would have been like if many of those who stormed the Capitol had been armed with semi-automatic assault rifles? So you had unlawful militias, unlawful violent street gang groups, extremist conspiracy theorists, but then I think you also had a fair number of people who honestly and legitimately believe that there might have been election fraud because they’d been consuming the disinformation that even some cable networks were promoting, and they were there to exercise their First Amendment rights. They might have had no intention to be violent, but they were at the same event with extremists who *did* have such plans. And the way that looks to me as somebody who has dealt in counterterrorism for years involving foreign terrorist organizations, those are opportunities for the extremists to try to radicalize the more mainstream over to the more extremist views. That’s partly where the danger comes from, because the rhetoric and disinformation is promoted not just in the deep, darkest places on the web, but also in some cases by elected officials—by people on Capitol Hill, by state legislators in some cases, by Marjorie Taylor Greene who is a QAnon conspiracy believer and just won election to the Congress. That impact on people and potential for radicalizing people who then might find alignment with more extremist individuals and groups who think that using violence is an acceptable means to an end, that’s where the danger comes from,

and we saw it on January 6.

CTC: Since leaving the Department of Justice in 2017 where you served as Acting Assistant Attorney General for National Security, you and your colleagues at the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown Law have focused on a range of efforts, including using litigation and public education to address the threat of violence posed by unlawful private paramilitary activities at rallies and protests. What reflections do you have on the transition from the Department of Justice to ICAP, and specifically, what was it like to shift focus from Islamic State cases and other well-recognized national security threats to more localized threat types?

McCord: I think the experience at the Department of Justice in the National Security Division really transferred very well into moving into the private sector in a time when we started seeing a real rise of far-right, extremist violence and a far-right extremist threat here in the U.S. And when I say “transferred very well,” it is because this extremist threat in the U.S. is a national security issue in many ways not that dissimilar from the national security issue posed by a foreign terrorist group like ISIS. That might sound dramatic, but when you really look at the data and statistics, it’s not. Because the lethality from [the] far right—and really, we’re talking about white supremacist extremist violence in the U.S.—the lethality of that type of violence and terrorist acts is greater than it is from what we commonly think of as international terrorism or terrorism that is promoted by and carried out by adherents to Islamist extremism. In looking at what’s happening in the U.S., I—and some of my colleagues who also came from a national security community—have been able to draw upon a rich base of knowledge in counterterrorism to try to apply some of those same principles and ways of thinking about an approach to the threat here in the U.S. from domestic actors.

CTC: Can you walk us through how ICAP arrived at the approach you used for the lawsuit you filed after the Unite the Right Rally in Charlottesville and how it motivated or informed your subsequent anti-militia work?

McCord: Charlottesville is a good example of really drawing on the previous experience. Even in the National Security Division, we weren’t focused solely on ISIS or al-Qa`ida or foreign terrorist organizations. We also certainly were very aware of the increase in the threat of domestic terrorism and had directed resources toward that, including the hiring of a domestic terrorism counsel within the National Security Division to provide regular briefings and accumulate data and statistics toward understanding that threat better and understanding what gaps there are in our laws.

But when the “Unite the Right” rally happened in Charlottesville in August of 2017, and I saw footage of James Fields⁷ using his car to ram into a crowd of counter-protesters, we had just come off of several years of vehicles being used as a weapon of terrorism by foreign terrorist groups and those who were committing terrorist crimes in their names. We’d seen that across Western Europe and elsewhere, including some car-rammings in the U.S. on behalf of ISIS. And so, my first reaction was that this was a crime of domestic terrorism, and I went onto Lawfare to write a piece about that⁸—



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to say “this is domestic terrorism, we ought to be treating this as the moral equivalent of international terrorism, it’s done with the intent to intimidate or coerce, it’s a crime of violence.” When I went on to Lawfare to see if anyone had already written about it, I saw a post by Philip Zelikow,⁹ who is a history professor at UVA [the University of Virginia] but he was also on the 9/11 Commission, and he wrote about the unlawful paramilitary groups that were there in Charlottesville. He explained how that type of activity is illegal under state law—both state constitutions and state statutes—and that when he had been a constitutional lawyer back in the 70s and 80s, he had partnered with the Southern Poverty Law Center to bring a couple of different cases in different areas—one was in Texas, one was in North Carolina against the militia wing of the KKK—using state anti-militia law.

So that is where the idea for our Charlottesville case and our anti-militia work first came from. Even though I had a pretty good understanding of the threat of right-wing extremist violence in the U.S., I didn’t know very much about unlawful militias. I knew about Ruby Ridge,¹⁰ and I knew about Waco and the famed standoffs with the federal government, including the much more recent standoffs at Bunkerville¹¹ and in Oregon at the Malheur Wildlife Refuge.¹² But this notion of these armed individuals looking like members of the military, dressed in full military kits, interacting and projecting authority over the public in a public environment while heavily armed with semi-automatic assault rifles seemed extremely dangerous, and I had no idea that it was utterly unprotected by the Second Amendment and unlawful under state law.

And so, what we did is we used Virginia’s own constitutional

provision that makes clear that in all cases the military must be strictly subordinate to the civilian government, which means the governor. The governor is the commander-in-chief of the state militia in Virginia, and in *all* states, only the governor has the authority to call forth the militia. So the only lawful militia is the National Guard or other state militia that answers to the governor. And in some states, the governor also has the authority to call forth the “unorganized militia,” meaning all able-bodied residents between certain ages, when needed, but that is really a vestige of history that isn’t used anymore. The constitutional structure and the statutory structure in Virginia and elsewhere make clear that only the governor can do that. We also used criminal anti-paramilitary activity laws in Virginia plus criminal laws that make it unlawful to assume the functions of law enforcement.

We represented the city of Charlottesville, local businesses, and local residential associations to bring a lawsuit [that was] forward-looking only. We weren’t looking for damages for injuries sustained during the event; other people were bringing lawsuits about that. We solely wanted to get injunctive relief to prevent a repeat of Charlottesville—to prevent those groups, the self-professed militia groups as well as the white nationalist groups who also organized themselves and engaged in paramilitary activity—even though for them it was with shields and batons and pointed flagpoles used as offensive weapons against counter-protesters—to prevent them all from doing it again. We used those theories to bring our lawsuit seeking injunctive relief against 23 different individuals and organizations, including the organizers of the rally, and we were successful in obtaining that court-ordered relief.

We ended up not going to trial, as just a few weeks before trial, we prevailed on all of our legal theories against a motion to dismiss the case. After that, all the defendants, except for a couple who had defaulted, entered into consent decrees.¹³ These were then entered as orders by the court and are binding on these organizations and their successors, preventing them from returning in groups of two or more people acting in concert while armed with anything designed to be used as a weapon during any rally, protest, demonstration, or march.

CTC: In preparation for the 2020 election, ICAP rolled out factsheets on unlawful militias for all 50 states.¹⁴ Recently, your team launched a new toolkit to prevent violence at protests and rallies.¹⁵ How has this work affected the capabilities of relevant stakeholders?

McCord: The pre-election effort, I think, was very important because we saw during 2020 an increase—even over the previous three years where we had already seen an increase—in the public engagement of unlawful militias, and we saw it in a couple of ways. We saw it dramatically early in the year when private militias engaged in armed opposition to state government pandemic-related policies—so stay-at-home orders and that type of thing, most notably, of course, with the armed storming of the statehouse in Lansing, Michigan.¹⁶ We saw similar armed activity by unlawful militias in Ohio, Kentucky, Idaho, and elsewhere. Then after George Floyd was killed and the racial justice demonstrations spread across the country, we saw more and more of these armed unlawful militia groups “self-activating,” if you will, and deploying to where racial justice demonstrations were occurring. They would purport to be protecting property or protecting statues in some cases, but again,

projecting this authority while heavily armed over other people that they had absolutely no authority under federal or state law to project, and it’s very dangerous as we saw in places like Kenosha where two people were killed and one another tragically injured.¹⁷ We saw the same thing happen in Albuquerque, where a person was shot during a racial justice protest.¹⁸ When these armed groups that are not publicly accountable get involved in a demonstration, it can have really tragic consequences.

Coming into the election, disinformation about mail-in ballots being more susceptible to voter fraud and claims about election rigging were already circulating on social media and other platforms. We were also seeing those kinds of conversations within unlawful militia groups. The concern that we had and that many others had was that these groups were going to use these claims of fraud as a reason to deploy to polling places, ostensibly to protect against fraud, but, of course, their armed presence had the potential to be hugely intimidating. So we—ICAP at Georgetown—put out a series of fact sheets explaining what is a militia, why they’re unlawful and not protected by the Second Amendment, not authorized by federal law or state law, how to know if a group of individuals is an unlawful militia and what to do about it. We put out guidance for law enforcement as well, and we put out guidance explaining that armed groups of individuals at polling places could also violate voter intimidation statutes. By putting these out, we got a lot of press coverage by not only major nationwide media like *New York Times*, *Washington Post*, CNN, NPR, but also localized press: for example, *The Idaho Statesman* and various other smaller media at the local level. And this also generated a number of meetings with state attorneys general, district attorneys, police chiefs, sheriffs, mayors who then went out on their own and, after learning more about unlawful militias and after learning that they’re not protected by the Second Amendment, made strong statements that this type of activity at polling places could be very intimidating and they were going to enforce the law against that type of intimidation. It wouldn’t be tolerated.

What we saw was that these efforts were quite successful. On Election Day, my team was getting a feed of voter intimidation calls, and we did not see any indications of armed unlawful militia activity. There were a few occasions of individuals with firearms at polling places who caused people to feel intimidated. There were maybe one or two instances of two individuals, but they weren’t in military gear and they weren’t purporting to be policing the area. By and large, even though there were other types of intimidation happening at some polling places, it wasn’t [being done by] armed groups. We also learned that right before Election Day, one of the nationwide militia groups put out their own guidance, telling their members not to go to the polling places, quoting from our fact sheets. They actually linked to the Georgetown fact sheets in their own guidance, so we think that [our initiative] really did help to prevent that type of unlawful militia intimidation on Election Day.

CTC: Does it make sense to call these entities militias? Or do you think that there is a more appropriate label for these actors?

McCord: I try to always use the adjective “unlawful” in front of the word militia unless I’m talking about a lawful militia. And as I indicated, the only lawful militia is the National Guard or other state-sanctioned militia that reports to the government. Oftentimes,

“vigilantes” or “unlawful paramilitary organizations” are better terms to use, although I recognize that some researchers have just used the term “militia” for years because their job is not necessarily to be making the legal distinctions.

I think it’s important to understand that these groups will often point to the words “a well-regulated militia” in the Constitution as their authority for existence. Historically, “well-regulated” has always meant regulated by the government, not self-regulated. Even before the founding of the country when we had the colonies, they had their own militia acts, which defined militias [as] all able-bodied residents capable of being called forth in service of the colony, but the only way they could be called forth was by the governor. And when they were called forth, they were armed and trained and commanded by the governor or the governor’s designee, in defense of the colony. It was never what you sometimes hear claimed today—that militias exist to oppose the tyranny of the government. No, that was not a thing. We had just come from England, and there was a desire not to have standing armies because of the threat they posed to liberty. The idea of the militia was that it was the way the state would defend itself, not that the militia had to exist in order to oppose the state. [The latter conception] is just not supported by history, the text of the Constitution, or subsequent Supreme Court interpretation. But the concept of “well-regulated” by the government was, of course, included in the Second Amendment and the constitutions of most states.

Unlawful militias will also point to the Second Amendment right of an individual to bear arms for self-defense, and they will say, ‘where you have that individual right under the Second Amendment and you’re in an open-carry state, that means we can form our own militia.’ But that also has no support in Supreme Court precedent because the Supreme Court has been clear as far back as 1886 that the Second Amendment does not protect private paramilitary organizations.¹⁹ In 1886, the Supreme Court upheld a state statute that exists still to this day on the books of 29 states that bans bodies of men from associating together as military units or parading or drilling in public with firearms. And [in] that case upholding that statute, the Supreme Court said it was without question that states have to be able to prohibit paramilitary organizations in order to protect public safety, peace, and good order. The Supreme Court in 2008, when it determined for the first time that the Second Amendment protects an individual right to bear arms for self-defense,²⁰ pointedly contrasted that with paramilitary organizations, and Justice Scalia, writing for the court in 2008, said, essentially, ‘we stated in 1886, and no one has even argued otherwise, that the states certainly are allowed to prohibit private paramilitary organizations.’^a And all states do, either through their constitutional schemes or their state statutes.

a Editor’s note: Writing for the court in 2008, Justice Scalia stated, “*Presser v. Illinois*, 116 U. S. 252 (1886), held that the right to keep and bear arms was not violated by a law that forbade ‘bodies of men to associate together as military organizations, or to drill or parade with arms in cities and towns unless authorized by law.’ *Id.*, at 264–265. This does not refute the individual-rights interpretation of the Amendment; no one supporting that interpretation has contended that States may not ban such groups.” Justice Scalia added, “*Presser* said nothing about the Second Amendment’s meaning or scope, beyond the fact that it does not prevent the prohibition of private paramilitary organizations.” *District of Columbia v. Heller*, 554 U.S. 570 (2008).

CTC: How do you evaluate the threat posed by left-wing extremism? And are the legal measures used to address extreme far-right and extreme far-left groups ideologically neutral?

McCord: All of the concepts we’ve been talking about when it comes to the U.S. Constitution not providing any protection for paramilitary groups, the state anti-militia statutes, these are all ideologically neutral. These are all based on conduct. In fact, in our Charlottesville litigation, most of the defendants were right-wing militia organizations or white supremacist organizations, but there also were two left-wing self-described militias that were defendants in that case because they were doing that same thing. They were arming themselves with semi-automatic assault rifles; they were staking out a perimeter around a park and asserting their authority over others with no actual authority whatsoever, completely outside of public accountability, and arrogating unto themselves when and under what circumstances they would deploy lethal force. What we’re talking about here is conduct. The biggest threat comes from the right-wing militias; those are the ones who are agitating for bombastic things like civil war, etc., and some of them were involved in the insurrection at the U.S. Capitol on January 6. But we do have leftist militias. There are many fewer of them, but they do exist. And we also have straight-up anarchist militias that would claim they don’t really fall on any ideological side. Any of these are a danger if they’re actually engaging with the public, projecting authority over the public. But there’s a greater threat of injury and violence from the right-wing militias just based on their rhetoric.

CTC: In addition to your work with ICAP, you also regularly speak on the topic of domestic terrorism, and you’ve identified gaps in U.S. terrorism statutes and proposed ways to fill these gaps. First, could you help our readers understand the legal difference between international terrorism and domestic terrorism?

McCord: There’s not a huge difference. Terrorism is defined the same way. It’s a crime of violence that’s illegal under any federal or state law—so we’re talking about things like murder, kidnapping, armed assault, that type of thing—a crime of violence when done with the intent to intimidate or coerce a civilian population or to influence the policy of government through intimidation or coercion. It also covers things like assassinations, but the heart of it is violence to intimidate or coerce. Under U.S. law, the only difference between international terrorism and domestic is that international terrorism means there’s some sort of tie to international activities, and usually, what that means is a tie to a foreign terrorist organization. It doesn’t mean that the crime has to occur overseas. The crime can still occur in the U.S. and be considered international terrorism if it’s done on behalf of a foreign terrorist organization. If you think about the Pulse nightclub shooting in Orlando, for example, where the shooter pledged *bay`a* to the leader of ISIS before that shooting,²¹ that is considered international terrorism, even though it occurred right here in the domestic U.S. Under U.S. law, domestic terrorism is defined, again the same way—crime of violence to intimidate or coerce—but that occurs domestically and doesn’t have that connection to some international element like a foreign terrorist organization.

Today, I think these are no longer meaningful distinctions and probably should be eliminated from our discussions of terrorism

because the ideologies that tend to motivate terrorists here to commit crimes in the United States might run across a spectrum, but they don't necessarily end at the U.S. border. So even though most international terrorism is terrorism associated [with a] foreign terrorist organization, and the vast majority of the 67 or so designated foreign terrorist organizations are Islamist extremist organizations, and so far none are white supremacist organizations, that doesn't mean that white supremacy doesn't exist overseas. And we've seen that in the connections already in the networking of white supremacist extremists. So, for example, the El Paso shooter cited in his screed²² the Christchurch, New Zealand, shooter, who [in turn] referenced other international or other white supremacist extremists from other countries, including Norway,²³ and so we see a network of inspiration.²⁴ We also know that there have been various camps in Ukraine²⁵ and elsewhere, training camps for white supremacist extremists and white nationalist extremists. So they're using many of the tactics and strategies and networking, not to mention the recruiting tactics, the propagandizing tactics, etc. that we see with foreign terrorist organizations. So this notion that one is domestic and one [is] international, I think it's time to abolish those distinctions. I think what's more meaningful is in its ordinary meaning: if it's domestic, that means it happened in the U.S., regardless of the ideology that motivated it.

CTC: As you've discussed and written about in recent years, the United States lacks a domestic terrorism statute. While defined at the federal level, domestic terrorism is not a prosecutable offense presently in the United States. Can you walk us through why this is and how it affects law enforcement's ability to detect and disrupt different actors?

McCord: We have a whole suite of terrorism statutes in the United States Code, and although many of them technically could apply to what we're still referring to as domestic terrorism—meaning things that are not associated with a foreign terrorist organization—these are very, very specific things like the use of a weapon of mass destruction or biological device or radiological or nuclear device, or shooting down an airplane. Right now, no terrorism offense would apply to a mass shooting or a car-ramming here in the U.S. unless it is connected to a foreign terrorist organization or is targeted at a U.S. government official or U.S. government property. That means crimes like the El Paso shooting, the Poway shooting,²⁶ the Tree of Life synagogue shooting,²⁷ and the car-ramming by James Fields in Charlottesville can be prosecuted because they're violations of law, but they can't be prosecuted as terrorism offenses under U.S. terrorism laws because none of those attackers had connections to a designated foreign terrorist organization. For example, if the El Paso shooter had pledged *bay'a* to Abu Bakr al-Baghdadi right before his shooting, that would have been prosecuted [differently] as a number of terrorism offenses would have applied to that crime. The same crime done for purposes of creating a white ethnostate and preventing [in the shooter's mind] a Latino invasion across our southwest border ends up being prosecuted as murder under state law, and maybe as a hate crime under federal law. These are significant crimes with significant penalties, but they don't carry the terrorism label.

One of the reasons I think we should at least consider filling this gap pertains to investigations. Our counterterrorism program and our counterterrorism agents at the FBI and in other law enforcement are used to focusing their investigatory tools and techniques on

preventing acts of terrorism. The idea of *counterterrorism* is not to let it get to the point of prosecuting after 50 people have been killed; it's to prevent those attacks from happening in the first place. And so [law enforcement] aggressively use tools like online undercover personas, sting operations, measures that sometimes can be controversial, but that is how we prevent things from happening. They're the same tools that are used, for example, to prevent child sexual exploitation. You have an FBI agent who engages in conversations in pedophilia chatrooms, sets up a sting operation, then prevents a real child from being sexually exploited by disrupting the process with a sting operation.

Without a statute that applies to the most common acts of domestic terrorism—mass shootings or car-rammings that are not connected to a foreign terrorist organization—the FBI must rely on other criminal predicates to open its investigations, such as hate crimes or other federal crimes. Historically, hate crimes have been investigated outside of the counterterrorism section of the FBI. They have typically been after-the-fact investigations to bring justice to the victims, and there hasn't been the daily drumbeat of approaching the domestic threat the way we approach the international threat when it comes to opening investigations and using the prevention strategy. If Congress were to pass a terrorism statute that applies to all acts of terrorism in the territorial U.S., whether motivated by Islamist extremism, white supremacist extremism, animal rights extremism, anarchist extremism, whatever the ideology, if it applied to violent acts done to intimidate or coerce, it'd put all these actors on the same moral plane, which is important.

I also think it would help with data collection because the government doesn't have great data on domestic terrorism right now. The government has complete data on international terrorism cases because all those cases must be coordinated through the National Security Division of the Department of Justice. We don't have good measures to counter the domestic threat because you need data and research, etc. to come up with good ideas for countering the threat. We don't really have that body of knowledge because it's been treated so differently historically from international terrorism. If Congress in the future signs into law a statute to fill this gap, it would also be a mandate to direct resources toward it. I will say, it does seem like the FBI under Director [Christopher] Wray is putting resources toward these issues. He's been very open and public that the greatest domestic terrorism threat is from racially motivated extremism, and within that category, the greatest threat is from white supremacist extremism.²⁸

Another gap that would be filled by a statute that applies to all acts of terrorism in the U.S. relates to those preparing for a terrorist attack. Right now, if a person is amassing a stockpile of weapons, etc. intending to use those to conduct a series of mass shootings in order to create a white ethnostate, law enforcement might be able to find some kind of criminal charge to thwart that plot, as the FBI did in the case of the Coast Guard Lieutenant Christopher Paul Hasson, but not with a terrorism crime. Lieutenant Hasson was doing exactly what I just described; he was amassing an arsenal of semi-automatic assault rifles and other equipment for what he was planning to be a series of mass shootings in order to create a white ethnostate.²⁹ The FBI thwarted that plot by charging Lieutenant Hasson with unlawful possession of a silencer, unlawful possession of drugs because he had some amphetamines in his apartment with his other materials, and unlawful possession of a firearm by a drug addict because of the quantity of drugs that had been found. None of these crimes are even considered to be crimes of violence,

much less terrorism crimes. They have relatively short penalties, and they're not things that typically you can even get preventive detention on—by that, I mean a detention prior to trial, even when clearly the lieutenant was very dangerous.

If the U.S. were to create a crime that applies to all terrorism in the territorial U.S., that would also trigger liability for providing material support to that terrorism—not material support to a foreign terrorist organization, which is a separate material support charge. Material support to a foreign terrorist organization, in violation of 18 U.S.C. 2339B, is the most commonly used charge for international terrorism, but here, I'm talking about 18 U.S.C. 2339A, which prohibits providing material support or resources or disguising the nature of resources knowing or intending that they will be used in committing a listed crime of terrorism.^b So if terrorism in the territorial U.S. was one of those listed crimes of terrorism, then if you are stockpiling firearms (resources) thereby disguising those resources (because you're hiding them), knowing and intending to use them in mass shootings to intimidate or coerce, then you could be liable for material support to terrorism under 18 U.S.C. 2339A. This would apply *before* committing any crime of violence, even without a conspiracy or before the person has actually attempted to commit the crime. Without a charge like this, a gap exists that we've seen in a number of cases. We saw it recently in the charges against three members of an accelerationist^c militia group, The Base,³⁰ here in the U.S., which has been acquiring weapons and training, etc. in order to trigger a civil war.³¹ And yet, the charges against some of the individuals who've been arrested don't include any type of terrorism offense.

CTC: The Russian Imperial Movement was designated an SDGT [Specially Designated Global Terrorist] in April 2020.³² You have called for the group to be declared a Foreign Terrorist Organization [FTO] as well.³³ How do you view that course of action as it pertains to The Base or Atomwaffen³⁴? Would that be appropriate for those entities as well?

McCord: First, just to start to make sure people understand the difference between SDGT, which is Specially Designated Global Terrorist, and foreign terrorist organization: the criteria for designation is pretty much the same, and both are important, but the foreign terrorist organization designation triggers that material

b Editor's note: In an August 2019 policy paper about addressing gaps in terrorism statutes in the United States, McCord explained 18 U.S.C. 2339A, noting, "Section 2339A makes it illegal to 'provide material support or resources or conceal[s] or disguise[s] the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of' any one of a list of enumerated federal crimes of terrorism." Mary McCord, "Filling the Gap in our Terrorism Statutes," GW Program on Extremism, August 2019, p. 4. For more context, see also "Terrorist Material Support: An Overview of 18 U.S.C. §2339A and §2339B," Congressional Research Service, December 8, 2016.

c Editor's note: For reference, the Anti-Defamation League (ADL) offers a primer on the concept of "accelerationism" on its blog. In short, ADL explains that "accelerationism is a term white supremacists have assigned to their desire to hasten the collapse of society as we know it ... The concept of acceleration has existed for years as a fringe philosophy ... However, some white supremacists have adopted the terminology and determined that a societal collapse is both imminent and necessary." See "White Supremacists Embrace 'Accelerationism,'" Anti-Defamation League (ADL), April 16, 2019.

support statute under 18 U.S.C. 2339B. SDGT does not. SDGT was devised as a way to go after the money and use finances, asset forfeitures, and asset seizures as a leverage mechanism against those who would engage in or support terrorist activity. So if you're talking about individuals with large amounts of financial resources or organizations with large amounts of financial resources, that designation automatically freezes any assets they have in U.S. banks. It prohibits U.S. financial transactions, and it prohibits doing business with U.S. companies. That's important, but it doesn't trigger material support, criminal liability, and that's been a critical tool in our counterterrorism program for years. More than half of the U.S. terrorism prosecutions post-9/11 have been for material support to an FTO.

If the Russian Imperial Movement were a designated FTO, then if anybody [in the U.S.] went to go seek to train with them, that would trigger liability for training with a foreign terrorist organization. If anybody here sought to provide any material resources, or support, including themselves, to the organization—money, services, anything—that would trigger liability. So it's a more effective, more substantial tool, and it also drives more investigations. I think the foreign terrorist designation could be used against groups like these. The reason I say "I think" is because I don't have access to all the information about foreign white supremacist organizations such as the Russian Imperial Movement, but if they meet the criteria, and I think that there are several that would, those designations could be made by the State Department in consultation with the Department of Justice and Treasury. That again could be a very, very useful tool. If the organization is foreign, engages in acts of terrorism, or has the capability and intent to do so, and is a threat to U.S. nationals or U.S. national security, that's the criteria for designation.

For U.S.-based organizations, there is no lawful structure for designating a domestic terrorist organization. Congress would have to create a new authority to do that. That bumps up against First Amendment rights because people and organizations in the U.S. have the right to express views, peacefully assemble with each other, and petition the government with their grievances. The Supreme Court has never had to rule on whether it would be lawful to designate a domestic organization as a terrorist organization since there has never been such an attempt, and we don't have the legal authorities to do it. I think it's not an impossible thing to do, but it would be subject to immediate challenge, First Amendment challenge, and I think it would be extremely controversial in Congress to consider authorities for designating domestic terrorist organizations. There is a lot of distrust of law enforcement in the U.S. and a lot of concern that [the government] would use that tool to designate organizations based on ideology rather than grounds such as advocating the use of violence. I think people would be concerned that it would be used to designate movements like Black Lives Matter or maybe Antifa (which has no real organizational structure), even if there's actually no history of those movements engaging in acts of terrorism or having the capability and intent to engage in acts of terrorism.

There are a number of people in the civil rights and civil liberties community who oppose a new terrorism statute like the kind we've been discussing, even though it does not include designations of domestic groups. These people worry that even a statute focused on crimes of violence would be misused by law enforcement to open investigations into individuals who associate with organizations, including progressive organizations, that are

not really responsible for the current threat picture in the U.S. And that distrust is well-founded historically. So because of all of this, I think the designation of domestic organizations would be very controversial and ultimately face a lot of court challenges. SDGT is a little bit different and can be applied to domestic actors who then

can challenge it in court, but it also raises tricky First Amendment issues. With the First Amendment protections that we have in the U.S., designation tools like the FTO and SDGT tools become much more difficult. **CTC**

Citations

- 1 Editor's note: For reporting on this, see Morgan Chalfant, "Trump: 'The only way we're going to lose this election is if the election is rigged,'" *The Hill*, August 17, 2020.
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Securing the Least Bad Outcome: The Options Facing Biden on Afghanistan

By Brian Michael Jenkins

Very soon, President Joseph Biden must decide whether to withdraw the remaining 2,500 U.S. troops from Afghanistan to meet a May 1 deadline agreed to by the previous administration. The consequences of the decision will decide the fate of Afghanistan and signal the United States' broader strategic intentions. The administration could decide that the United States is finally out and the Afghans are on their own, or it could announce that further troop withdrawals from Afghanistan would undermine U.S. national security interests. It could order further reductions while avoiding zero, reframe the U.S. mission, or ignore the deadline and try to extend diplomatic efforts beyond it. To the proponents and opponents of any course of action, the issues are clear. To a president who must reconcile often competing national interests, decisions are more complicated. Decisive action always looks good, but a turbulent world also means calculating risks, avoiding unintended consequences, and hedging bets.

In one of the most difficult decisions of his nascent administration, President Joseph Biden must very soon decide whether to withdraw the remaining 2,500 U.S. troops from Afghanistan to meet a May 1 deadline agreed to by the Trump administration. In launching a major diplomatic effort to advance the Afghan peace process in early March 2021, Secretary of State Antony Blinken made clear in a letter to Afghan President Ashraf Ghani that as the “policy process continues in Washington, the United States has not ruled out any option.”¹

This article examines other possible courses of action the Biden administration could take if this diplomatic effort does not result in

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a major breakthrough in the coming weeks. What makes a decision on which path to follow so difficult is that each option carries a high risk of resulting in bad outcomes. As *The New York Times* recently put it:

*If the Biden administration honors the withdrawal date, officials and analysts fear the Taliban could overwhelm what's left of the Afghan security forces and take control of major cities like Kandahar in a push for a complete military victory or a broad surrender by the Afghan government in the ongoing peace negotiations. But if the United States delays its withdrawal deadline, as a congressionally appointed panel recommended on Feb. 3, the Taliban would most likely consider the 2020 deal with the United States void, which could lead to renewed attacks on American and NATO troops, and potentially draw the United States deeper into the war to defend Afghan forces, whom the Taliban could still retaliate vigorously against.*²

To a significant degree, the challenge facing President Biden is therefore to make the decision that leads to the least bad outcomes. Because his decision will have reverberations far beyond the future of Afghanistan, he will need to take account of the enduring threat posed by a global jihadi terror movement that could again threaten the United States from Afghanistan. The president will also need to weigh other key strategic and geopolitical interests of the United States, as well as the appetite of the American public for ongoing military commitments overseas and the budgetary pressures facing the United States a year into the global coronavirus pandemic.

The following discussion will focus first on the current strategic and political context. Next, it will focus on the nature of the continuing terrorist threat. It will then turn to the 2009 debate about troop levels in Afghanistan at the beginning of the Obama administration when then Vice President Biden offered a different view on how the United States should proceed. The article will then examine the diplomatic and political complexities of the decisions facing now President Biden—they are far more than purely military calculations. The section after this will review the president's options with regard to Afghanistan by weighing the arguments for and against what the author identifies as six different possible courses of action. The final section offers some concluding observations.

The Strategic and Political Context

Twenty years later, the 9/11 attacks, in which 2,977 people were killed, may seem a distant memory to many, eclipsed by the death toll of the coronavirus, which in the first two months of 2021 on average killed roughly that number of Americans daily. But as recent events attest, the global terrorist campaign begun by Usama bin Ladin three decades ago has not ended. Jihadi groups continue to plot major terrorist operations from abroad, while they incite homegrown terrorists to carry out attacks wherever they are.

In April 2020, German police thwarted a plot targeting U.S. and NATO air bases by a terrorist cell that was receiving instructions from the Islamic State in Syria and Afghanistan.³ Between September and November 2020, there was a surge in jihadi terrorist attacks in Europe, including an Islamic State-inspired attack on the streets of Vienna.⁴ In early February 2021, Danish and German authorities arrested 14 individuals, including three Syrians, for plotting a jihadi terrorist attack.⁵

On this side of the Atlantic, the U.S. Department of Justice in mid-December 2020 unsealed an indictment revealing the existence of a new plot to hijack an airliner and carry out a 9/11-style attack in the United States.⁶ U.S. authorities have been largely—but not always—successful in interrupting such plots.⁷ But as we have seen before, in the first year of the George W. Bush administration, a single bloody attack could change the narrative and sabotage the new administration's agenda.

The Biden administration faces daunting domestic challenges—taming the still-raging coronavirus pandemic, which will require accelerating the rate of vaccinations; restoring an economy cratered by the pandemic, while leading a deeply divided nation; restoring morale and public trust in battered government institutions; and confronting an unreconciled opposition and continuing challenges to his legitimacy. Abroad, the new administration must address the challenges posed by an assertive China, an aggressive Russia, a belligerent Iran, and an unpredictable North Korea,

always dangerous at the best of times but especially when ignored. Repairing alliances, starting with NATO, will also be a challenge for the new administration.

Jihadi terrorism does not top the list of the new administration's immediate concerns, but the threat remains and could grow. President Biden will have to decide whether and how fast to continue American troop withdrawals from Afghanistan and Iraq, as well as a smaller contingent in Syria, and to what extent the United States will continue its military support for local counterterrorism operations in other African and Asian countries. There will be pressure to reduce the defense budget in order to address immediate domestic concerns, finance the national shift toward great-power competition, and get the country out of the seemingly endless wars that started with the Global War on Terror in 2001.⁸

Americans view war as a finite undertaking, not an enduring condition. Instead of anything that resembles “military victory,” nearly 20 years of fighting, at great cost in blood and treasure, have produced what has been variously described as a “modicum of success,”⁹ “fragile gains,”¹⁰ and a “dismal failure.”¹¹ Many ask why we do not just call it quits and bring the troops home, let other countries fend for themselves. This thinking encapsulates the views of the previous administration.

When to withdraw from Afghanistan is not just about bringing American forces home, although that will be the most salient and



*An Army UH-60 Black Hawk helicopter transports troops across Afghanistan on March 6, 2019.
(Army Captain Roxana Thompson/U.S. Department of Defense)*

immediate question facing the administration. It is about how the United States will continue to defend itself against foreign and foreign-inspired terrorist threats against U.S. targets abroad and especially on U.S. soil.

For the past quarter-century, U.S. counterterrorism strategy has been driven by the assumption that security at home depends on engaging the terrorists abroad: “We will fight them over there so we do not have to face them in the United States of America.”¹² This linkage seemed clear immediately after 9/11; those responsible for the attack had to be scattered and destroyed before they could carry out further—potentially even larger-scale—attacks.

There is no exchange rate that tells us how many troops deployed to fight terrorists and their allies abroad reduces the risk of a particular number of foreign-directed or -inspired terrorist attacks in the United States. We cannot say that withdrawing a certain number of troops from Afghanistan increases risk here by a certain number of percentage points.

Some would argue that the equation goes the other way: Continuing U.S. military operations in Afghanistan and the Middle East inflame our foes, boost their recruiting, and increase the likelihood of further terrorist attacks. Al-Qa`ida propaganda certainly exploited the U.S. invasion of Iraq in 2003. A new wave of jihadi attacks in the United States only began six years later.¹³

At the same time, the number of U.S. troops deployed in Afghanistan has plummeted by more than 90 percent since 2012;¹⁴ it declined in Iraq after 2007, resulting in complete withdrawal in 2011. The number of jihadi terrorist attacks and plots in the United States reached a high point in 2015 and 2016.¹⁵ That peak coincided with the rise of the Islamic State in 2014 and the return of U.S. troops to Iraq that year to lead the campaign to destroy the group. These events provide evidence for both sides of the argument—the rise of jihadi groups abroad can prompt terrorist attacks in the United States, which may decline when the United States goes after the groups, but engaging them militarily can also provoke a violent backlash and revenge attacks.

We must take care here not to fall into what Lieutenant General (Ret) H. R. McMaster has called “strategic narcissism,” that is, the view that the level of the terrorist threat is determined exclusively by what the United States does.¹⁶ Doing so underestimates the risks of both military intervention and military extrication. It is narcissistic in that it overestimates the role of U.S. decisions and ignores the agency of the terrorist foes—as if Washington has exclusive control of the volume switch.

As a veteran of the Vietnam War, I find that this has a familiar ring. From the Pentagon to the U.S. headquarters in Saigon down to the local U.S. district advisor, that war was viewed exclusively through briefing slides that counted the things we could count, mostly our “inputs”—troop strength, number of sorties, tonnage of ordnance, and so on. Enemy actions were seen as responses to what the United States did.¹⁷ Rarely did U.S. commanders in Vietnam or political leaders in Washington mentally switch sides to ask, what do the enemy’s briefing slides say? They were, assuredly, not the mirror image of our own.

The “strategic narcissism” that McMaster warned against has a corollary reflected in the mistaken view that conflicts end with U.S. withdrawal. The United States may choose to extricate itself from an armed conflict, but that does not mean others will stop fighting. What for the United States is a strategic choice is for them a mission mandated by history or by God. We learned this in Vietnam, too.

What we can say in the current circumstances is that our jihadi adversaries have their own worldview. They have not abandoned their ambitions. What they do depends on their capabilities and their own strategic assessments of how to proceed. Moreover, the jihadi enterprise has metastasized since 9/11.

The Continuing Terrorist Threat

The United States and its allies have succeeded in degrading al-Qa`ida’s ability to launch large-scale attacks abroad, but the global jihadi enterprise survives. The competing branches and affiliates of today’s global jihadi enterprise have suffered setbacks, but their determination appears undiminished.

The indictment detailing a new plot to hijack an airliner in the United States, unsealed by the U.S. Department of Justice in December 2020, charged an alleged operative of al-Shabaab (al-Qa`ida’s affiliate in Somalia) who had allegedly gone to flight school in the Philippines, practiced breaching cockpit doors, and scouted targets in preparation for a 9/11-style attack in the United States.¹⁸ Such ambitious plots now seem far-fetched, but had authorities arrested the 9/11 hijackers in July or August 2001, their plot would have seemed equally improbable. Who would have seriously believed that a small gang of 19 conspirators could hijack four airliners, bring down the World Trade Center with two of them, and fly a third into the Pentagon? And even if this latest al-Shabaab plot had not been discovered, it still might not have succeeded. It was simply another try, which highlights the sober conclusion that as long as these groups exist, they will never stop plotting attacks. Terrorist plots involving U.S. aviation that the public knows about were also uncovered in 2001, 2006, 2009, 2010, 2012, and 2017.^a

Some plots to bomb commercial airliners involved al-Qa`ida veterans in Pakistan and later al-Qa`ida in the Arabian Peninsula (AQAP), its affiliate in Yemen. Meanwhile, Islamic State affiliates in Egypt brought down a Russian airliner in 2015, killing 224 on board, and al-Shabaab was responsible for a bomb that exploded on a Somali airliner in 2016.¹⁹ The al-Shabaab aviation plot disclosed in December 2020 underscores the continuing threat. As the Russian revolutionary Leon Trotsky reportedly once said, “You may not be interested in war, but war is interested in you.”²⁰

Both al-Qa`ida and the Islamic State also continue to incite homegrown terrorists to carry out attacks. In the fall of 2020, jihadi attacks occurred in Dresden, Germany; Paris; Nice; Vienna;

a In 2001, the so-called “shoe bomber” attempted to sabotage a U.S.-bound commercial airliner; in 2006, British authorities uncovered an al-Qa`ida plot to sabotage U.S.-bound airliners using liquid explosives; in 2009, the “underwear bomber” attempted to bring down a U.S.-bound jet; in 2010, bombs were smuggled into two air cargo shipments bound for the United States; in 2012, U.S. and foreign intelligence services disrupted an al-Qa`ida network plot targeting civilian aviation; and in 2017, the United States and the United Kingdom banned laptops on flights from a number of Middle Eastern countries to prevent suspected sabotage attempts by the Islamic State.

and the Swiss town of Lugano.^b Most of the recent incidents have been stabbings or shootings, reflecting the limited capabilities of individual attackers. But while the latest attacks resulted in few casualties, single offenders can be lethal. A jihadi driving a truck into a crowd in Nice in 2016 killed 86 people,²¹ and a 2017 vehicle ramming attack in New York killed eight people.²² Four died in the shooting in Vienna, and three died in the Nice stabbings. In 2016, a lone jihadi shooter killed 49 people at a nightclub in Orlando, Florida.²³

Although every single death is tragic, it is a testament to U.S. counterterrorism efforts that jihadi-directed or -inspired terrorists were able to kill only a few over 100 people in the United States since 2001.²⁴ That was far fewer than feared in the immediate aftermath of the 9/11 attacks. However, body counts do not capture the psychological effects of terrorism. A single dramatic attack can have great impact, create a major crisis, and alter the political landscape.

The kidnapping and murder of a Canadian official in 1970 and threat of further terrorist violence prompted the Canadian prime minister, with the support of more than 80 percent of the population, to invoke the War Measures Act and deploy the armed forces internally for the only time in the history of the nation.²⁵ The August 2014 murder of an American hostage by the Islamic State and the release of footage of the crime on the internet changed the rhetoric in Washington and was a turning point in U.S. military efforts to destroy the Islamic State.²⁶ The gruesome murder of a teacher in France in October 2020 has threatened President Macron's political future and exacerbated long simmering tensions in French society.

Biden Has Been Here Before

During the 2020 campaign, candidate Biden pledged to “end the forever wars in Afghanistan and the Middle East.”²⁷ However, ending forever wars may lie beyond the limits of American power. The United States controls only the level and mode of its own participation. The question for the Biden administration will be, how much can the United States stay out of war-fighting without shutting down counterterrorism operations?

President Biden has been there before, and the proposals he made earlier may offer clues about his future preferences. In 2009, the new Obama administration, which wanted to end U.S. military involvement in Iraq and Afghanistan, faced a dilemma: While American attention and resources were focused on dealing with the insurgency that followed the U.S. invasion of Iraq, the Taliban had regrouped and made a strong comeback in Afghanistan. By 2009, they posed a growing threat that the limited U.S. and allied forces and weak Afghan forces could not handle. The Pentagon and most of the president's advisors favored sending reinforcements.²⁸

Then Vice President Biden took a contrary view. The United States, he argued, lacked a clear strategy. The Afghan government

was dysfunctional and corrupt. Biden argued that counterinsurgency operations conducted by foreign forces were futile and would only further alienate the Afghan population. Americans were foreigners killing Afghans, and even if the casualties were Taliban and even though the Americans sought (not always successfully) to avoid civilian casualties, those facts alone would not endear them to the Afghan people.²⁹

Instead of increasing American involvement, Biden proposed a counterterrorism strategy that would reduce the U.S. military footprint and limit the direct involvement of U.S. ground forces in counterinsurgency operations. He suggested deploying the remaining American forces in the cities, thus preventing a Taliban takeover there. The U.S. military operations would focus on destroying al-Qa`ida, mainly by attacking its leadership.³⁰

Would it have worked? Could the United States have destroyed al-Qa`ida without defeating Taliban insurgents? The counterterrorism strategy outlined by Vice President Biden would have allowed the Taliban to dominate the countryside until Afghanistan's own forces were able to establish government control. Given the dreadful state of the Afghan army, that might take decades. As long as the Taliban survived in the countryside, would not al-Qa`ida survive in its shadow?

The same issue comes up in the current negotiations between the United States and the Taliban. The United States cannot be certain whether the Taliban will ever sever their ties with al-Qa`ida. The coordinator of the United Nations Monitoring Team that tracks the Taliban and global jihadi terror groups warned that al-Qa`ida continues to be deeply embedded with the Taliban, and the two groups carry out joint operations and training.³¹ If the Taliban are brought into the Afghan government as part of a political settlement, or if Kabul quickly falls after a U.S. pullout, will al-Qa`ida again have its sanctuary? Echoing the UN Monitoring Team warning, some analysts have pointed out, the Taliban and al-Qa`ida, and other groups that it hosts are so deeply intertwined that counterterrorism is inseparable from counterinsurgency.³²

Whether Biden's counterterrorism strategy would have worked was not tested. President Obama decided in February 2009 to send in 17,000 more American combat forces, less than the 30,000 the Pentagon thought were needed but still nearly a 50 percent increase in the troop level. President Obama also agreed to deploy an additional 4,000 military personnel to train the Afghan army and police. Following a further review of the situation later in the year, President Obama approved a major surge in U.S. military operations and ordered 30,000 additional troops to be deployed, bringing the total up to 100,000.³³

However, President Biden's opposition to large-scale deployments of U.S. troops to fight insurgents abroad, in fact, coincided with President Obama's own wariness about deploying American ground forces. Even as he approved sending additional reinforcements to Afghanistan, President Obama expanded the air campaign against al-Qa`ida and Taliban leadership, which has remained a significant component of U.S. counterterrorism strategy. Greater emphasis was also placed on preparing the Afghan military to take over counterinsurgency operations.

To increase pressure on the Afghans, in December 2009, President Obama announced a timetable for U.S. withdrawal³⁴—but the timetable was not met. Obama, on his own counsel, in 2014 avoided putting U.S. combat forces into Iraq and Syria to engage the Islamic State and instead relied on Kurdish and Arab

b On September 25, 2020, two people were injured in a stabbing attack in Paris; on October 4, one man was killed and another was injured in a stabbing attack in Dresden; on October 16, a jihadi attacked and beheaded a teacher in Paris; on October 20, three people were killed in a stabbing attack at a Catholic basilica in Nice; on November 2, a gunman who pledged allegiance to the Islamic State opened fire on people at various locations in Vienna, killing four people; and on November 23, a Swiss woman wounded one in a department store in Lugano, Switzerland, in what authorities called a suspected terror attack.



Then Vice President Joe Biden and then International Security Force Commander General David Petraeus are pictured at Kabul Military Training Center in Afghanistan on January 11, 2011. (Office of the Secretary of Defense Public Affairs)

proxies, supported by U.S. airpower, to fight the ground war. The United States moved away from counterinsurgency and toward the counterterrorism strategy sought by both Biden and Obama.

To a certain degree, that is the current situation in both Afghanistan and Iraq, where U.S. military personnel are primarily involved in training and logistics support of local armies while continuing active counterterrorism operations.

Diplomatic and Political Complexities Facing Biden Current Deployments

As of early 2021, approximately 2,500 U.S. troops remain in Afghanistan and 2,500 troops remain in Iraq. The U.S. deployments to counterterrorism missions in Syria, various African nations, and the Philippines measure in the hundreds. The greatest numbers of U.S. forces are deployed mainly in Bahrain (about 4,700), Djibouti (about 4,000), Kuwait (13,500), Qatar (about 10,000), Saudi Arabia (about 2,000), and United Arab Emirates (5,000) where they are deployed at U.S. military headquarters and naval and air bases supporting a variety of missions, including countering threats from Iran and Russia.³⁵ In addition, there are about 2,300 American troops deployed in Jordan.

The Trump administration wanted all U.S. forces out of

Afghanistan, Iraq, and Somalia by May 2021.³⁶ American forces have been almost entirely redeployed from Somalia and are now mainly based in Kenya where operations against al-Shabaab continue.³⁷ Congress has opposed further withdrawals from Afghanistan without an assessment of the risks withdrawing will create.³⁸

Political Pressures, Political Risks

What President Biden decides to do will depend on the situation, the advice of his civilian and military advisors, and his own judgment. As all political leaders must, President Biden probably will also weigh the political costs and risks of each possible course of action. Domestic politics always influence wartime strategy, but they loom larger today, given the intense partisanship that characterizes U.S. politics.

Some in Biden's own party will want to see the war on terrorism shut down. What was seen as a necessary response to 9/11 has been tarnished by excesses, revelations of abuses, and, in their eyes, morally dubious strategies and tactics—drone strikes, for example.

At the same time, President Biden's political opponents have more angles of attack. Failure to continue President Trump's withdrawals will mean reversing a popular policy of getting the

United States out of what Trump called “ridiculous, endless wars.”³⁹ At the same time, Biden’s opponents will be on the watch for any sign of weakness they can contrast with President Trump’s *declared* success, allowing Biden to be blamed for *losing Afghanistan*. And a bloody jihadi attack on American soil would prompt accusations that the Democrats have once again demonstrated their inability to prevent terrorism here. In 2016, former New York City Mayor Rudy Giuliani reflected this line of thinking when he asserted that jihadi attacks in the United States “all started when Clinton and Obama got into office,”⁴⁰ perhaps forgetting the 9/11 attacks that occurred during George Bush’s administration (and when Giuliani was mayor of New York). In fact, no president since George H. W. Bush has escaped jihadi attacks on U.S. soil.^c

A serious terrorist attack against a U.S. target, which no U.S. president since the 1940s has avoided,⁴¹ would bring similar condemnation, especially if it took place in the context of further U.S. troop withdrawals, even though these were already accelerated by the Trump administration.

One can also imagine President Biden being blamed for failure (as well as humanitarian catastrophe) if Afghanistan were to fall during his administration. At a time when there is low tolerance for refugees, the United States would be under pressure to open its doors to refugees fleeing the country as it did after the fall of Cuba in 1959, the fall of South Vietnam in 1975, and the ‘Islamic Revolution’ in Iran in 1979.

Avoiding blame—which may be impossible no matter what occurs—would not be President Biden’s sole or even primary concern. A major terrorist attack on Americans abroad could increase popular pressure for a robust response. Not going after al-Qa`ida following the 9/11 attacks was unthinkable. As mentioned previously, the beheading of American hostages by the Islamic State demanded a response and was a major factor in expanding U.S. military operations against it. But any administration will want to avoid being forced to play into the hands of fanatics who may seek exactly that result.

Biden’s Options

Despite differences in political rhetoric, U.S. troop levels generally were on a downward trajectory in Iraq after 2007 and, after coming back to deal with Islamic State in 2014, resumed a downward trend. They have been on a downward trajectory in Afghanistan since 2011, indicating a shared desire by four presidents to reduce the U.S. military role and curtail new deployments in the region. President Biden would like to continue that trajectory.

However, each president has acted cautiously, not wanting to risk losing a war or allowing a jihadi return. Even President Trump backed off from what many regarded as an impulsive announcement of withdrawing U.S. troops from Syria when confronted with sober advice about the military and foreign policy consequences. The result is an asymptotic curve—as the number of remaining U.S. troops declines, the cuts get smaller. President Biden’s decisions will involve the last few thousand. Although the numbers are small, however, what the Biden administration does will have great symbolic importance. It will signal a strategic decision to the American public and to U.S. allies and adversaries

abroad. That decision could define the Biden foreign policy for the next four years.

The Biden administration seems unlikely to shut down counterterrorism operations. No one expects the FBI to announce one day that organized crime has been defeated once and for all and continuing law enforcement operations are no longer necessary. Counterterrorism can be seen in the same way—as an enduring task. It requires diplomacy, intelligence, law enforcement, and at some times, in some places, military operations short of sending large contingents of U.S. troops into a ground war.

Right now, the looming May 1 decision point, accepted by the previous U.S. administration under the February 2020 agreement with the Taliban,^d makes Afghanistan the most salient issue. What the United States decides will affect upcoming decisions elsewhere. In early March 2021, the Biden administration launched a high-level diplomatic effort to advance the peace process. Secretary of State Blinken in a letter to Afghan President Ghani stated that the United States would be sharing proposals with the Afghan government and the Taliban to accelerate discussions and would ask the United Nations to convene the foreign ministers of the United States and regional powers. He also stated that the United States would ask Turkey to host a senior-level meeting of “both sides in the coming weeks to finalize a peace agreement.” To coincide with these efforts, he stated the United States had drafted “a revised proposal for a 90-day Reduction in Violence, which is intended to prevent a Spring Offensive by the Taliban.” Importantly, the administration has said it is fully consulting with NATO and other partners.⁴²

If these diplomatic efforts do not result in a major breakthrough in the coming weeks, what then are the options? Essentially, there are only two. Either the United States removes all of its remaining forces by May 1 or it does not. However, there are variations that prioritize various strategic and political goals. These are briefly discussed below.

Option 1: The administration could announce that it is ordering the expeditious withdrawal of the remaining U.S. forces from Afghanistan.

The Biden administration has not shut off this option. In his early March 2021 letter to Afghan President Ghani, Secretary of State Blinken stated, “We are considering the full withdrawal of our forces by May 1st, as we consider other options.”⁴³ In this scenario, the withdrawal will not be dictated by the May 1 deadline, but rather determined by the security and logistics requirements for a safe departure and necessary adjustments by Afghan and allied forces. The United States could offer to continue its efforts with government officials and Taliban representatives to assist in bringing about a peaceful resolution to the conflict, but recognizes that this ultimately is in the hands of Afghans. However, so long as al-Qa`ida and Islamic State terrorists remain at large in Afghanistan, the United States will take whatever measures it deems necessary to protect itself until such time as Afghan authorities can guarantee that Afghan territory is not being used to mount new terrorist operations against the United States or its allies.

Proponents of this course of action argue that the war, which has cost 2,400 American lives and more than \$2 trillion,⁴⁴ has turned into a catastrophe for the United States. The Taliban remain

c To date, there have been no jihadi terror attacks on U.S. soil during the nascent Biden administration.

d Officially known as the “Agreement for Bringing Peace to Afghanistan.”

stronger than ever. Their argument is that fixing Afghan society is beyond U.S. capabilities or responsibility. If the Afghan government cannot defend the country after 20 years, when can it? They warn that keeping American troops in Afghanistan beyond May 1 will make them targets of renewed Taliban violence. Moreover, they argue, it will undermine the peace process by signaling to the Afghan government that the United States will continue to back it despite its corruption and ineffectiveness.⁴⁵ A total withdrawal will also be a political crowd-pleaser for Americans at both ends of the political spectrum.

Total withdrawal would signal that the United States is finally out and probably will not come back, although that is not guaranteed. (President Obama, despite overseeing the full withdrawal of troops from Iraq in 2011, began bombing Islamic State forces when they swept across northern Iraq in 2014 and redeployed American troops to Iraq and Syria to destroy the jihadi entity.) Opponents of this course of action warn that precipitate American withdrawal will encourage the United States' allies to get out and demoralize Afghan forces. The argument is that it is unlikely to accelerate negotiations. Instead, U.S. withdrawal will encourage the Taliban to escalate military operations in a final offensive to impose their control over the countryside and cities,^e leading to panic and a possible humanitarian disaster. Opponents of withdrawal also argue that U.S. withdrawal will have consequences beyond Afghanistan. It could lead to developments that destabilize the region, in particular Pakistan. And they warn that it will erode U.S. credibility with its allies and foes in dealing with future challenges.

Option 2: The administration could announce that further troop withdrawals from Afghanistan would undermine U.S. national security interests at this time.

Proponents of this view tend to make the following observations. The negotiations envisioned in the Doha Agreement are still in the beginning stages. The Taliban have not met their commitment to lower the level of violence. According to the United Nations team monitoring, the Taliban, despite their pledge to stop cooperating with terrorist organizations, retains close ties with al-Qa`ida, which has been gaining strength in Afghanistan.⁴⁶ Counterterrorism operations continue. The argument is that the United States should not abandon its allies. Thirty-seven other nations, mostly NATO members, have deployed roughly 7,000 troops to assist the Afghan government. A bipartisan report commissioned by Congress urges postponing a U.S. exit.⁴⁷ That represents a rare national and international consensus. If it opts for this option, the Biden administration would likely stress that decisions regarding strategy and U.S. troop deployments will be continually reviewed and adjusted according to the changing requirements of the situation and U.S. national security priorities.

A recent net assessment in this publication of the balance of forces between the Afghan security forces and Taliban concludes

that the absence of U.S. forces would give the Taliban a "slight military advantage."⁴⁸ However, absent U.S. advisors to assist in maintenance and support function, the Taliban's advantage would begin to grow. The author of the assessment, Jonathan Schroden, points to the fact that the Afghan forces chronically fail to meet their recruiting goals and therefore remain understrength. A second factor is that the Afghan forces are far too complex and expensive for the government to sustain.⁴⁹

This was a problem that arose in Vietnamization more than 60 years ago. The United States created local forces and taught them the costly tactics that mirrored those of its own armed forces and that vastly exceeded local resources and capacity to support.⁵⁰ Withdrawal of American troops thus means more than loss of military manpower. It creates the perception that defeat is inevitable, and thus hastens political and military collapse.⁵¹ The U.S. agreement to completely withdraw its forces from Vietnam had a major impact. "The physical side of it ... was no more disastrous than the concomitant psychological effects of no longer being regarded by the United States as worth saving."⁵²

Proponents of this option are not arguing for an endless commitment, but rather against precipitate action to meet an arbitrary deadline. They tend to argue that the short-term risks of immediate withdrawal exceed the short-term benefits. "Victory" in the classic military sense is not an option in Afghanistan, but losing is. They could point out that the longer-term risks and benefits are uncertain, but for now, the costs to the United States are manageable.

Not withdrawing U.S. troops leaves open the possibility of continuing military operations. Instead of seeing negotiations as an alternative to fighting, the United States would thus recognize that fighting and negotiations are not alternatives, but rather are simply different dimensions of an armed struggle, which is the Taliban view. Americans—especially but not exclusively the last administration—are looking for an exit deal. The Taliban accept a condition of continuing war. Some elements might seek peace, but others see the war as divinely inspired or in some cases lucrative.

Opponents may agree with the last observation that the Taliban are uninterested in peace, arguing that it indicates unending armed conflict, which is not an entirely inaccurate summary of Afghanistan's history. But they could also argue that the destruction of the Taliban would require an American military investment and a ruthless application of military power unacceptable to the American people and antithetical to American values. The argument is that since the United States cannot change things in Afghanistan, U.S. withdrawal at some time is a unilateral decision, determined solely by American interests, not conditions in Afghanistan. In this view, the sole justification for an American military presence in Afghanistan today would be an imminent threat of terrorism directed at the United States. The argument is that because this no longer exists, the United States can still deal with that threat through preventive and punitive actions without troops in the country.

There is an additional argument that can be made against this and all other options which lead to the U.S. not withdrawing as envisaged by the Trump administration's agreement with the Taliban. The Taliban may determine that the peace agreement is defunct and renew attacks on American and NATO troops.⁵³

This gets into a discussion of what the Taliban actually agreed to and whether they have complied. The public version of the

^e The Biden administration is well aware of this risk. According to *The New York Times*, in a March 2021 letter to Afghan President Ashraf Ghani, Secretary of State Antony Blinken stated that he was concerned that following a U.S. withdrawal, "the security situation will worsen and that the Taliban could make rapid territorial gains." Thomas Gibbons-Neff, David Zucchino and Lara Jakes, "U.S. Pushes U.N.-Led Peace Conference in Letter to Afghan Leader," *New York Times*, March 7, 2021, and updated March 8, 2021.

agreement includes no Taliban commitment to reduce the level of violence, and it is not clear they could even if Taliban leaders wanted to do so. In the public version of the agreement, the Taliban promised only that it “will prevent any group or individual in Afghanistan from threatening the security of the United States and its allies,” and that “it will not allow any of its members, other individuals or groups, including al-Qa’ida, to use the soil of Afghanistan to threaten the security of the United States and its allies.”⁵⁴

This addressed (but did not assuage) U.S. concerns about Afghanistan again being used as a base for terrorist attacks. U.S. officials assert that American and Taliban representatives spoke about “all sides reducing violence by as much as 80 percent to pave the way for peace talks,”⁵⁵ but discussions are not agreements. The Afghanistan Study Group Final Report states that, “According to briefings with those close to the negotiations, the Taliban had further committed to not attacking international forces, large Afghan cities, and some other targets.” Whether this commitment was in writing and further details are not available. The Taliban have focused their recent attacks on Afghan forces and Afghan civilians.⁵⁶

Option 3: The administration could continue to cut the number of U.S. forces in Afghanistan, signaling its continuing commitment to eventual withdrawal, but avoiding zero.

This would mean smaller withdrawals and a smaller residual force. We are getting to the edge. Leaving even a small force behind indicates a continuing symbolic, albeit fragile, commitment. Politically, it also makes a surge easier if circumstances demand.

Clearly, this is a hedge. Proponents could argue that its benefit is that it allows the administration greater flexibility. Critics could argue that pursuing this course risks the Taliban renewing attacks on U.S. and NATO troops. They could also point out that the force reductions already anticipated guarantee that the few remaining combat forces are “insufficient to accomplish any outcome of strategic utility to the United States”⁵⁷ and can make no strategic contribution to the outcome of the conflicts. With no achievable objective, U.S. military personnel could be there forever.

The Biden administration could counter this by announcing a new tentative timetable for complete withdrawal, but would face criticism that this has not worked before and is not credible now. Neither President Obama’s timetable nor President Trump’s declared goals for withdrawal were met.

Option 4: The administration could argue that withdrawal applies only to U.S. ground forces engaged in combat operations other than counterterrorism, and that has been largely achieved.

Withdrawal was never intended to mean that the United States would deliberately cripple the Afghans by suspending assistance, training, or air operations, which are also directed against al-Qa’ida and other terrorist targets.

Essentially, this is reframing the U.S. role in Afghanistan. Proponents of this course of action could maintain that not all American troops there have to come home to signify that the war is over. They could point out that U.S. forces are deployed all over the world, fulfilling a variety of vital security missions. Some areas are more volatile than others, but they could note that American casualties in Afghanistan have been extremely low—four Americans died in Afghanistan in 2020. Every death is, of course, a tragedy, but

this is fewer than are killed in military training accidents.⁵⁸

The utility of this option is that it underscores the difference between the situation in 2009 and a very different situation today. The 2,400 Americans killed and the more than \$2 trillion spent is in the past. Sunk costs cannot be an argument against withdrawal, but neither can they support withdrawal. Today’s decisions begin with the current situation.

Option 5: The administration could ignore the deadline and instead intensify diplomatic efforts.

Looking for a quick deal, the United States agreed to an accelerated timetable for withdrawal by May 1, 2021. Predictably, the negotiations proceeded very slowly. Once the United States set its deadline for leaving Afghanistan and started removing its forces, there was little incentive for the Taliban to do much more than wait. The two sides did not even exchange proposed agendas until this January (2021), and the Taliban has not agreed to consider a ceasefire until all other matters are resolved.⁵⁹

If the diplomatic efforts launched by Secretary of State Blinken do not result in a breakthrough in the coming weeks, the United States could ignore the May 1, 2021, deadline, reasoning that it is self-imposed and dependent upon a reduction in violence, which has not occurred. In this scenario, the administration could announce that it has communicated to the Taliban a continued desire to lower the volume of violence to pave the way for meaningful discussions aimed at a political resolution of the conflict. The United States could also make clear that in consultation with the government of Afghanistan and its allies in the field, it will agree to a ceasefire during which all parties to the conflict will stand down. If the Biden administration pursues this option, it would likely do so in the hope that negotiations then can continue in an atmosphere of peace. A ceasefire would also facilitate humanitarian efforts—medical treatment, vaccination against COVID-19, and other health measures—that will benefit all Afghans.

Benefits of this option are that it would address the immediate problem of rising violence and at least temporarily allow some humanitarian concerns to be addressed. The Taliban, however, also get a vote.^f But if the Taliban overtly refuse to participate in further talks and instead escalate the violence as they might during their usual spring offensive and renew their targeting of U.S. and NATO forces, the onus of responsibility for continuing bloodshed would clearly be on them. One can rightly be skeptical, but proponents of this course of action would say it is worth a try. The question would be, what might the Taliban demand to extend negotiations? Alternatively, what coercive measures does the United States have?

The argument against trying to extend diplomatic efforts beyond May 1 is that it only delays the inevitable and even opens the door to the United States remaining in Afghanistan indefinitely or even increasing its military operations if the Taliban reject diplomacy. The logic is that since the United States cannot change the ultimate outcome, it should get out unconditionally as soon as possible.

^f In February 2021, *The New York Times* reported that “one option under consideration, [Biden administration] aides said, would be to extend the May 1 troop withdrawal deadline by six months to give all sides more time to decide how to proceed. But it is unclear that the Taliban would agree ...” Helene Cooper, Eric Schmitt, and David E. Sanger, “Stay or Go? Biden, Long a Critic of Afghan Deployments, Faces a Deadline,” *New York Times*, February 16, 2021.

Option 6: The administration could order a broad strategic review of its global counterterrorism strategy while it delays withdrawal.

The review would aim at deciding how best to continue necessary counterterrorism operations while increasing the capacity of other governments to successfully address security challenges that are of mutual concern. Although military training and assistance are a significant component of these efforts and provide a major source of influence in dealing with many governments, the review would address non-military measures, which are widely recognized as being chronically short-changed.

Hasty decisions can create unintended consequences. Proponents of this option could argue that it is another way to buy time to think through the broader consequences of withdrawal from Afghanistan as well as future troop withdrawals from Iraq, Syria, and other places. They would also point out that it is better to ignore an arbitrary near-term deadline in favor of a calm and thorough examination of where we go in the future.

Conclusions

The United States is in Afghanistan and other places to support its own national security interests beyond defeating the Taliban or even jihadi terrorists. There are a lot of moving parts—and this calculus does not take into consideration U.S. concerns about Iran's ambitions to dominate the Middle East or develop nuclear weapons or regional stability in South Asia.

The decision calculus goes beyond immediate military assessments and reflects broader strategic and philosophical views. The arguments about withdrawing troops from Afghanistan tend to fall into two categories:

Those who want to see immediate full withdrawal tend to reflect one or several of the following three lines of thought:

- (1) The “Global War on Terror” was a mistake from the beginning. It has been enormously costly in lives and treasure. We should end it now. The tagline to this argument is usually something

along the lines of “if Biden does not get out now, he owns it.”

- (2) There is no longer any serious terrorist threat, which from early on has been greatly exaggerated. Anyway, the United States can handle it without troops on the ground

- (3) There are not enough American troops in Afghanistan to make a difference—a sort of continuation of the Weinberger or Powell Doctrines that U.S. forces should be committed only when we are determined to “win” and military victory is achievable. Numbers 1 and 3 reflect philosophical positions more than assessments of the current situation.

The arguments for not withdrawing in May include:

- (1) The United States cannot erase almost 20 years and start over—we begin with where we are now. We are in Afghanistan. Withdrawing has consequences, too. It could lead to crises that we would want to avoid.

- (2) There is a continuing threat. It could become worse as a consequence of rapid withdrawal.

- (3) It is not about “victory” in the classic sense. The United States’ (currently small) military deployment is still a component of international diplomacy as well as of its negotiating strategy. The differences appear irreconcilable. Do U.S. military operations abroad help protect the United States against terrorism or only increase the threat? Is U.S. withdrawal synonymous with ending the conflicts, or does it mean only that we are out? Should military operations be undertaken only to defeat foes, or does a military presence and assistance support diplomacy or achieve other non-military objectives? Is war finite, or is counterterrorism continuing work?

To the proponents and opponents of any course of action, the issues are clear. To a president who must reconcile often competing national interests, decisions are more complicated. Decisive action always looks good, but a turbulent world also means avoiding unintended consequences, hedging bets, not foreclosing options—and above all, responding to inevitable events. **CTC**

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Lessons Learned from U.K. Efforts to Deradicalize Terror Offenders

By Douglas Weeks

As the United Kingdom's House of Lords wraps up its final amendments to the Counter-Terrorism and Sentencing Bill (HL Bill 175), it is arguably no closer to effectively managing its terrorism offenders. Questioning whether it is possible to deradicalize more than a very small number of terrorism offenders, U.K. authorities have prioritized longer prison sentences for terrorism offenders and stronger monitoring upon release as its primary means of risk management. Although not everyone can be successfully 'deradicalized,' the vast majority of terrorism offenders do not again carry out terrorist crimes. The low recidivism rate of terror offenders does not necessarily mean that there have been many cases of deradicalization, but it does at the very least suggest that desistance is occurring in the large majority of cases. Yet, individuals can be and have been guided by 'deradicalization' mentors away from extremist views. There is too much pessimism over deradicalization efforts. While there are many challenges in changing the mindset of terrorist offenders, some mentors have employed approaches that have proven effective in rehabilitating a not insignificant number of terrorist offenders and helped reduce the overall threat. Lengthening prison sentences just delays the threat posed by terrorist convicts. To address the root causes of the threat, the United Kingdom needs to learn lessons from what has worked for successful 'deradicalization' mentors and empower their efforts.

The attack by Usman Khan that killed Jack Merritt and Saskia Jones during a conference at Fishmongers Hall in the vicinity of Westminster Bridge in London on November 29, 2019, restarted an avalanche of debate over whether convicted terrorists could be 'deradicalized.' His two victims were involved with the organizers of the conference, Learning Together, "a trailblazing prison education program developed by academics at the University of Cambridge's Institute of Criminology." Khan had been invited to the event as an alumnus of the program.¹ The debate was further fueled when Sudesh Amman carried out an attack in London on February 2, 2020, stabbing two before he was shot and killed by police. Both offenders had previous terrorism convictions: Khan for his role (before his arrest in 2010) in a group that planned to bomb the London Stock Exchange, and Amman for possessing documents containing terrorist information and disseminating terrorist publications.²

Following the attack by Khan, questions began to emerge

regarding the early release of terrorism prisoners, and in the aftermath of Amman's attack, the U.K. government passed emergency legislation ending early release^a and requiring all terror-related prisoners to serve at least two-thirds of their prison sentence.³ Currently, the House of Lords is completing its review of the Counter-Terrorism and Sentencing Bill (HL Bill 175), which in part increases prison sentences, increases notification requirements, increases the time prisoners spend on license, sets stricter standards for release, requires offenders to submit to regular polygraph tests, removes the two-year restriction on Terrorism Prevention and Investigation Measures, and increases the oversight and management of terrorism offenders upon release.⁴

Although the attacks by Khan and Amman prompted rhetoric from the U.K. government to once again 'get tough on terrorism,' the response had little to do with 'deradicalization.' Rather than seek informed and inventive ways to minimize the threat of 'extreme reactionary absolutism,'^b the response became a blunt tool that mostly focused on increased sentencing to keep extremists off the streets.

Khan asked for deradicalization help as early as October 2012 but was not able to access a mentor.⁵ The policy at that time was to wait until incarcerated terrorist offenders got closer to their release date before authorities would grant them access to a

a Most prisoners in the United Kingdom spend half their sentence in prison and the other half of their sentence on license (probation). Known as 'early release,' there was a public outcry following Khan's attack as to why terror offenders only spent half of their time in prison. Removed from the discussion was that the vast majority all prisoners in the United Kingdom are managed in that way. See "Why do prisoners serve only half their sentence?" BBC, December 19, 2019.

b 'Extreme reactionary absolutism' is a term that is used by some mentors to describe the mindset of those they engage with.

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'deradicalization' mentor. The rationale for managing terrorism offenders that way during that period was that any progress made too early would likely be lost as the individual continued to associate with other radicalized inmates in prison.⁶ Thus, it was better to wait until the end of their prison sentence before making any attempt to 'deradicalize' them. In Khan's case, he did ultimately participate in two deradicalization programs: the Healthy Identity Intervention Programme while he was in prison and the Desistance and Disengagement Programme (DDP) upon his release.⁷ However, despite assessments that he was positively reengaging in society, those programs were insufficient in the long term to immunize him from violence.

Amman, on the other hand, rejected the opportunity to participate in a 'deradicalization' program of any kind or have any engagement with a mentor.⁸ As a result, Amman was assessed to have a high likelihood for violence, which is why he was under constant surveillance by the authorities following his release.⁹

Thus, although both Khan and Amman ultimately went on to commit violent acts, their cases are quite different. Khan's attack was widely reported initially as an anomaly by the press whereas Amman's attack was considered predictable by the authorities. In the aftermath, no one explained what triggered Khan's murderous violence or what interventions could have been implemented to mitigate the threat. However, with two attacks in just over two months, the narrative changed after Amman's attack to one that supported the idea that Amman and Khan were simply the latest examples that terrorist offenders cannot be 'deradicalized.'

The first part of this article provides an overview of U.K. deradicalization efforts. To understand 'deradicalization' efforts in Britain, appreciation of its fundamental architecture is needed. Through that lens, a better understanding of both the Khan and Amman cases is possible, as well as the highly complex environment that terror offenders and mentors alike must navigate. The next part of the article provides perspective on the recidivism rates of terrorism offenders, and the arguments by some that 'deradicalization' does not work, therefore longer prison sentences are warranted. It next provides some understanding about what leads to failure and what leads to success when it comes to the relationship between a 'deradicalization mentor' and mentee. It then provides some insight through the lens of one of the United Kingdom's longest-running and most successful mentoring companies, The Unity Initiative, about Usman Khan, its relationship with the Home Office, and why it chose to sever its ties with the government, before offering some concluding observations.

An Overview of U.K. Deradicalization Efforts

Since 2005, the U.K. government has attempted to identify and intervene with individuals considered at risk of radicalization, those considered radicalized extremists, and those convicted of terrorism-related offenses.¹⁰ Although different schemes have been implemented over the past 16 years, currently those considered 'at risk' are managed under The Channel Programme while those in prison or on license are managed under the Desistance and Disengagement Programme (DDP), which supplements a deradicalization program called Healthy Identity Intervention

(HII).^c

In brief, The Channel Programme was first introduced in 2012.¹¹ The program is voluntary, typically operates in the pre-criminal space, and is administered as a safeguarding tool. Those managed under Channel are provided bespoke 'interventions' designed to divert 'vulnerable people' away from whatever influence might be drawing them toward radicalization or terrorism.¹² Examples include education, job training, sports, housing assistance, and drug and alcohol support.¹³ In short, the program provides personalized enticement designed to encourage those deemed at risk to choose a path away from potential violence to one that is more attractive to the individual based on his/her self-interest.

The Desistance and Disengagement Programme (DDP) was first introduced in 2016. DDP is a mandatory program that bridges the Prevent/Pursue^d workstreams and is designed to reduce the risk posed by individuals involved in terrorism or suspected terrorism-related activities.¹⁴ The idea behind DDP is that it attempts to dissuade individuals from participating in whatever terror-related activity they are involved in (desist) and to abandon (disengage) whatever radical ideological beliefs they might have.¹⁵ To accomplish that task, DDP relies on a three-pronged approach that includes psychological, theological, and ideological mentoring.¹⁶ In other words, DDP attempts to have individuals develop an identity that is more accepting of others, understand their religion in a more mainstream way, and reject any ideology that is inconsistent with British values.^e During the time individuals are receiving psychological, theological, and ideological mentoring, they are also provided with practical mentoring (job hunting, housing assistance, filling out forms, etc.) to support an individual's reintegration into society. Like The Channel Programme, DDP is conceived as an individual support mechanism for individuals but with added teeth because it is mandatory.

Both Channel and DDP are not without criticism. Although government sources are quick to point out that both programs work, quantifying that assessment has been elusive.¹⁷ Government statistics from 2018 to 2019 demonstrate that only a small number (just under 10%) of all referrals to Channel are ultimately provided Channel support. Many (28%) are not deemed to be at risk, most (49%) are referred to other agencies (education, family, friends, police, health, community services, etc.), and roughly half of those who are offered support reject it.¹⁸ Despite the low numbers, the

c "HII seeks to address two areas: the reasons why people are motivated to offend, and the beliefs that enable them to offend. The programme aims to prevent extremist offending by minimising an individual's engagement within a specific group or ideology. The intervention is delivered on a one-to-one basis. The programme is open to those convicted of Islamist terrorism offences and those jailed for 'extreme right-wing violence.'" Claire Brader, "Extremism in prisons: Are UK deradicalisation programmes working?" House of Lords Library, June 11, 2020.

d Prevent and Pursue are pillars of the United Kingdom's counterterrorism strategy (CONTEST). Prevent aims to stop people becoming terrorists or supporting terrorism. Pursue aims to stop terrorist attacks. The two other pillars of CONTEST are Protect (to strengthen protection against terrorist attack) and Prepare (to mitigate the impact of a terrorist attack). "Counterterrorism strategy (CONTEST) 2018," U.K. Home Office, August 20, 2018.

e CONTEST 2011 defines the core British values as "democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs." "U.K. Counter-terrorism strategy (CONTEST)," U.K. Home Office, July 12, 2011, p. 62.

U.K. government's claim of success is not wholly unwarranted. For those that willingly receive support, 85% are reported to exit the program without further concerns.¹⁹

In the case of DDP, the program is too new^f to make any firm assessment, and the U.K. government has only offered limited evaluation of associated efforts such as a 2018 report by the Prison and Probation Service that the Healthy Identity Intervention (HII) pilot, which ran from 2010-2011, was "viewed positively by facilitators and participants."²⁰ The report also stated that one-third of those offered the HII program refused to participate.²¹

The data from Channel and DDP (albeit limited) and the attacks by Khan and Amman reaffirm a couple of truths that well-respected mentors of radicalized extremists have known for years. The first is that there is no one-size-fits-all approach to 'deradicalization.' Individuals embrace or reject interventions based on their own personalized experiences. While some will take a reflective approach to their circumstances, others will not. The second is that not everyone is capable of being 'deradicalized.' Not only do some reject the intervention, there are often intellectual and social bonds that carry far more weight and importance to the individual than his/her own personal current circumstance. To underscore that reality, following the attack by Amman, a notebook was found that confirmed his unwavering goal was to "die as a shuhada" (martyr).²²

Low Terrorist Recidivism

Despite the varied and highly individualized reasons that people slip into extremism and the spectrum of reasons they accept or reject government-sanctioned 'deradicalization' efforts, terrorism offenders have one of the lowest recidivism rates compared to other offenders. The reply to a parliamentary request by David Anderson, the former Independent Reviewer of Terrorism Legislation, revealed that "Between January 2013 and December 2019, 6 individuals (3.06%) convicted of a terrorist offence (who have been convicted under the Terrorism Act 2000 and 2006) have been released from prison and have been convicted of a further terrorist offence (under the Terrorism Act 2000 and 2006) in England and Wales."²³ Making that figure even more stark is that the recidivism rates for violent sexual offenders in the United Kingdom is 13% after one year²⁴ while "the recidivism rates for 'ordinary criminals' in the UK continues to hover around 48%."^{25 g}

The Pessimism on Deradicalization

The low recidivism rate of terror offenders does not necessarily mean that there have been that many cases of deradicalization, but it does

f Although the DDP has existed for the past five years, the success or failure of terrorism interventions often relies on longitudinal data generally in the form of recidivism rates. Thus, five years is actually a limited period of time for such an assessment.

g Recent studies have found low rates of jihadi terrorist recidivism in Belgium and the United Kingdom. For instance, Thomas Renard in assessing data in Belgium found that "less than five percent reengaged in terrorist activities." Robin Simcox and Hannah Stuart in assessing data in the United Kingdom found a terrorist recidivism rate of 3.7% where "terrorist recidivism is understood as individuals who are convicted on two separate occasions for at least one terrorist offense each time." See Thomas Renard, "Overblown: Exploring the Gap between Fear of Terrorist Recidivism and the Evidence," *CTC Sentinel* 13:4 (2020) and Robin Simcox and Hannah Stuart, "The Threat from Europe's Jihadi Prisoners and Prison Leavers," *CTC Sentinel* 13:7 (2020).

at the very least suggest that desistence is occurring in the large majority of cases. However, rather than offer any viable explanation as to why these offenders are not reoffending, prominent voices in the think-tank community and even the Independent Reviewer of Terror Legislation in the United Kingdom continue to argue that the chances for rehabilitation are slim.

In a December 2020 interview, the United Kingdom's Independent Reviewer of Terrorism Legislation Jonathan Hall painted a pessimistic view of deradicalizing those being released from prison, stating:

*I can see why people try, because if you didn't try, it would be throwing away all hope, and these offenders are also subjected to some pretty major restrictions so it's worth giving them an opportunity to change. And there will be some who will change, but you should be under no illusions. It is not some automatic process. And in many cases it simply won't work. It doesn't mean it's not worth trying.*²⁶

Liam Duffy, an advisor to the Counter Extremism Project think-tank, cites three recent terror attacks (Khan, Amman, and Khairi Saadallah^h) in the United Kingdom before stating, "Clearly, serving time has had no impact on the worldview of any of the men."²⁷ Duffy goes on to argue that "Unrealistic expectations of deradicalisation efforts in particular must be reined in" and that "Terrorists involved in serious and deadly plots ... should not be a priority for deradicalisation, they should simply never get out and have the chance to harm anyone else."²⁸

'Deradicalization' Mentoring: What Works and What Does Not

To accept the notion that deradicalization is an almost hopeless task is far too pessimistic. It is true that deradicalization mentoring is very difficult, but some mentors have developed effective approaches, which U.K. authorities need to learn from. This author's own interest in 'deradicalization' began in 2013 when he conducted an E.U.-funded, two-year research project on mentoring terrorism offenders in the United Kingdom. The research was part of a broader, multi-country investigation on the motivations of mentors and how individuals responded to that mentoring.²⁹ The research included extensive interviews with 21 active mentors in the United Kingdom and six radicalized extremists.ⁱ Although the research focused on the motivation of the mentors and how individuals responded, key findings from that research provided valuable insights as to why mentoring is and is not successful.

By far, the most universal challenge was that before mentors could have any kind of meaningful discussion with those they engaged with, they first had to establish their own credibility and legitimacy. In this case, credibility refers to the motivation behind their engagement and legitimacy refers to the degree of requisite Islamic knowledge the mentors possess. In other words, one of the first things that the recipients of mentoring do is immediately question the motivation of their assigned mentors, to assess

h On June 20, 2020, Khairi Saadallah attacked six people with a knife in Reading, resulting in three people being killed. During the attack, Saadallah yelled "Allahu Akbar" (God is Great). Vikram Dodd, "Reading Attacker Khairi Saadallah Given Whole Life Prison Sentence," *Guardian*, January 11, 2021.

i Five of the six individuals were either at that time being mentored or had been mentored in the past. The remaining individual went through the mentoring process later but is now in prison.



Commuters cross London Bridge on December 2, 2019, after it was reopened following the terrorist attack at its north end by Usman Khan on November 29, 2019. (Peter Summers/Getty Images)

whether the mentors are genuine or simply cogs in a government system. Additionally, are they perceived as sufficiently qualified, or are they perceived as there to promote and/or convince individuals that the state's sanctioned version of Islam is the true Islam?

For the recipients of mandatory, state-sponsored mentoring, credibility is the initial litmus test. The number of individuals providing mentoring services is quite small, and because their reputations precede them, the individuals and community know exactly who they are. Thus, some mentors are rejected long before the first meeting even takes place.

Legitimacy has similar challenges and is not something that is embraced quickly or easily. A mentor cannot begin interacting with someone, tell them about their qualifications, expertise, or experiences, and expect the individual will automatically respect them. It just does not work that way. It takes time to develop that level of respect, and many times, it is never achieved.

As difficult as it is for individuals to establish credibility and legitimacy with those they mentor outside of prison, that challenge is magnified exponentially within the prison environment. The simple fact that the mentors are even there undermines their credibility, legitimacy, and the entire process because the prisoner knows that they are sanctioned by the government.

Whether inside the prison or once the individual has been released, other challenges prevail. The biggest priority within any 'deradicalization' effort is for the mentors to help individuals build a strong identity. Identities that are weak or otherwise in

search of meaning are unquestionably one of the most important vulnerabilities that facilitate radicalization and extremism. Conversely, strong identities facilitate more critical thinking, allowing the individual to closely assess whatever information is being provided and to make critical assessments about what is in their best interest. However, one aspect that is often overlooked is that once an individual embraces an extreme worldview, he/she develops both a strong personal identity and a strong collective identity.³⁰ Moreover, successful mentors know that they must work first on an individual's collective identity before they have any chance of transforming his/her personal identity. This is because the individual's personal identity is constantly in flux as situational factors affect his/her collective identity. Those who adopt radicalized Islamist political thought also adopt what can be termed a transactional mindset that necessitates personal action

when events conflict with their collective identity.^{31j}

In addition to the environmental and structural elements that make successful mentoring difficult to achieve, each kind of mentoring has its own unique challenges. For instance, theological mentoring is exclusively dependent on the mentor's ability to establish his/her own legitimacy. In the 2013-2015 study, this author found the approach used by the vast majority of mentors was to try to convince the individual that his/her understanding of Islam is incorrect. Referred to as the *da'leel'* (evidence) approach, mentors provide evidence from various authoritative sources to correct whatever misinterpretations the individual may have accepted. However, Islam always has been and always will be based on exegesis. Different schools of *fiqh* (jurisprudence) give different weight and understanding to Islamic belief, and so sources and interpretations vary. Moreover, whatever sheikh an individual might follow, that sheikh will always profess that his interpretation of Islam is the true path of *Ahlu Sunnah* (the way of the Prophet Mohammad). Thus, most mentors are summarily rejected by those with whom they engage.

Similar to theological mentoring, most mentors who do ideological mentoring attempt to dismantle the individual's ideological foundation by undermining his/her interpretations and/or the sheikh that made them. Assuming momentarily that the individual is embracing the mentoring process, the danger is that as the ideology the individual follows is undermined, so too is his/her personal identity. In those cases, it is critical that the individual be provided ongoing and long-term support. Usman Khan is perhaps a classic case of an individual who was on the road of rehabilitation but slipped back into his previous extreme absolutist mindset.

But neither the panel of public bodies managing his case (including the probation services) nor the Learning Together group at Cambridge University who had worked with Khan appears to have had any inkling of his reversion to violent extremism.³² Learning Together reportedly viewed him as a success story, and the multi-agency panel would not have given him permission to travel unescorted to the Learning Together conference in London if they had viewed him as a continued threat.³³ Learning Together was formed in 2015 as a means of sharing educational opportunities for those within the criminal justice system and others in higher education to "learn with and from each other through dialogue and the sharing of experience."³⁴

However, despite the misplaced optimism, Khan's collective identity was not being addressed, and events happening far outside of the United Kingdom, as well as the structural limitations within DDP, likely played a significant role in his attack.³⁵

Lessons Learned from The Unity Initiative

The assessment regarding misplaced optimism comes from one of the most effective mentoring organizations in the United Kingdom, The Unity Initiative (TUI). TUI has a long history of successfully mentoring convicted terrorists on their release from prison in the United Kingdom and has an extensive history of working with both the Home Office and probation services.³⁶ Because of that long-standing relationship and the success that TUI has had, when DDP was started in 2016, TUI was selected to provide ideological mentoring services for individuals being managed by DDP.^k TUI was initially contracted to run the pilot program, which lasted for two years and was then contracted for an additional year. When the contract was up for renewal again in August 2019, TUI chose not to renew its contract with the U.K. Home Office. According to TUI, the relationship started off positively but a change in management at the Home Office led to a more "reductive approach."³⁷ Although TUI was originally contracted to deliver ideological mentoring based on its own methodology,^l the change in management limited TUI's engagement in some cases and required TUI to also provide practical mentoring.^m One of the cases where TUI's engagement was limited was Usman Khan. Khan was released from prison in December 2018. Under TUI's Home Office contract, Khan was one of the individuals for whom TUI was required to provide practical mentoring but not allowed to engage in ideological mentoring. When TUI left DDP in August 2019, their engagement with Khan stopped. By that time, they had gotten to know Khan well.³⁸

TUI was leaving the DDP program when violence erupted in Kashmir following the lockdown by the Indian government in August 2019, but because of the relationship it had built up with Khan, TUI recognized an immediate threat to Khan's collective identity³⁹ but was no longer meeting with him and therefore not in a position to intervene. However, even if TUI had continued to engage with him, they would have been barred from engaging on this issue. DDP policy limited mentors to specific assigned roles and prohibited mentors from engaging with mentees they are not specifically assigned to or engage in activities they are not contracted to do.^{40 n}

In the author's discussions with TUI CEO Usman Raja in late 2018, Raja stated that he did not think that he would renew his contract with the U.K. Home Office. Referencing the contractual limitations that TUI had to abide by, Raja characterized the Home Office's practical mentoring activities as "highly restrictive and reductionist" and explained "that is not what we do."⁴¹ Referencing his own success in mentoring highly violent offenders, Raja also took the opportunity to vent some of his frustrations regarding

j For salafi-jihadis, what can be termed a transactional mindset often takes two general forms that relate directly to an individual's personal and collective identity. There is a belief that if they accept a more literal interpretation of the Qur'an and Sunnah (sayings, deeds, and examples of the Prophet Mohammad), and practice the religion as close as possible as the first three generations of Muslims did, they will be closest to the correct understanding of Islam and be rewarded in the afterlife. Similarly, the collective sense of the *ummah* (Muslim community) is rooted in a hadith that says the *ummah* is like one body, so "When any limb aches, the whole body reacts with sleeplessness and fever" (Sahih al-Bukhari 5665, Sahih Muslim 2586). It is through the transactional mindset of seeking to be rewarded in the afterlife that an individual may feel an obligation to 'fight back' even when events happen in another part of the world.

k The author has previously provided advice to The Unity Initiative on a pro bono basis.

l TUI uses an approach it developed called Islamic Behavioural Therapy, which emphasizes humanity, global harmony, and the peaceful coexistence between the individual, society, and his/her creator.

m TUI argued against the idea that they should be required to provide practical mentoring as that was outside of their purview. However, when the new contract was offered, it required TUI to also provide practical mentoring. Author interview, Usman Raja, The Unity Initiative, November 2020.

n In an interview with the author in March 2021, TUI CEO Usman Raja stated: "Even if Unity had continued its mentoring with the Home Office, it would have been restricted to practical mentoring of Khan and [would] not [have] been allowed to engage in ideological or theological mentoring with him."

the methods used by other DDP mentors. Raja's criticisms were a frequent topic of conversation with the author, and he was clearly uneasy with the way individuals were being managed by DDP. He often said that something bad is likely to happen, and in early March 2019, Raja offered his most direct criticism of DDP saying, "this is going to get someone killed."⁴² Eight months later, Khan initiated his attack.

Concluding Observations

If the United Kingdom and other countries are to be effective at deradicalization, they need to understand the nuances and drivers that lead to violence, and appreciate that radical beliefs in and of themselves are not a precursor to violence. Furthermore, as the psychologist behind the HII program has aptly stated, "We have to be very careful about saying someone has totally changed or has been cured."⁴³ The notion of cure is reminiscent of the logic associated with the so-called 'conveyor belt theory' that attributes radicalization to a set of progressive steps that individuals go through that lead him/her to violence and suggests that individuals can be stopped, or "cured," by simply interrupting or reversing the conveyor. The idea that all of the beliefs, knowledge, and grievances an individual might have adopted in his/her journey into extremism will somehow miraculously be reversed and the individual will be transformed back to his/her pre-radical/pre-extremist state is an unrealistic fantasy. All of us are products of our own epistemological experiences, individualized worldview, logic, intellect, and maturity. To suggest that portions of one's experiences or fundamental beliefs can be erased fails to understand what it means to be human.

Similar to the thinking that individuals can be 'cured,' determining the success or failure of a 'deradicalization' program needs to be approached cautiously. Government concepts of deradicalization often vary significantly from the reality, especially if the expectation is for the individual to recant his/her previous worldview and religious beliefs. In the author's experiences engaging with those who he could confidently assess as being 'deradicalized,' most if not all retain their core beliefs and grievances. They are part and parcel of the individual's life experiences and cannot be reversed. What makes the difference is how the individual engages with the world around them, whether he/she can move beyond the 'extreme reactionary absolutism' they embraced in their journey into extremism, and then exist harmoniously within the legal and accepted boundaries of society. Although that may not fit comfortably within the notion of 'deradicalization' as envisioned by some prominent voices in UK counterterrorism, that is how success should rightfully be claimed.

Despite the U.K. government's exclusive authority to manage the individuals it views as a risk under programs like Channel and DDP and to assess whether they have actually been 'deradicalized,' the reality is that there is no adoptable, singular, boilerplate program or approach that will guarantee success. Programs and approaches need to be matched to the individual, and they should be organically driven rather than ideologically or policy driven, holistic in nature, and focus on the person, including his/her individual and collective identity. Last, deradicalization is an individualized journey that

both the individual and his/her mentor undertake together. It is not a short-term relationship or fix, and mentors must make a personal commitment to the individual. Anything short of that has little chance of success.

Although there are many barriers to 'deradicalization,' it can and does happen when the right people and approach is in place. The argument that deradicalizing terrorist offenders is almost hopeless reflects the lack of understanding by those making such claims and their inability to appreciate the data, the individuals involved, or the thousands of individuals around the world who have ventured into radicalized political thought and then returned to coexist harmoniously within society. Although it may be convenient and even politically advantageous to suggest that terror offenders cannot be deradicalized, numerous examples exist to refute that claim.^o

At the same time that the U.K. government is seeking to incarcerate its terror offenders for longer periods,⁴⁴ there is simultaneous concern that the individuals may radicalize others in prison. To address this concern, the United Kingdom's Independent Reviewer of Terrorism Legislation, Jonathan Hall, recently announced that he is beginning his own review of prison radicalization.⁴⁵ Thus, there are no easy way out for the U.K. government to meet all of the strategic demands. Whatever decisions are made will unquestionably impact the individuals affected and the country for years to come.

The United Kingdom passed emergency legislation on February 26, 2020, to end its policy of early release for prisoners convicted of terrorism-related crime, requiring that they first serve a minimum of two-thirds of their sentence in custody.⁴⁶ While that will keep some in prison longer in the future, "in the year to September 2019, 42 convicted terrorists were released from custody after serving prison sentences, some of whom would have been released automatically at the halfway point of their sentence with no Parole Board assessment."⁴⁷ Consequently, the stakes are high to get it right.

A more informed perspective is that at least some of the individuals are salvageable. Despite a clear desire to protect the public, it is not tenable in a democratic society like the United Kingdom to lock up all terror offenders indefinitely. Longer prison sentences will not address the root of cause of the threat posed by individuals, which is their radical beliefs. A better mechanism of assessment and systematic rehabilitation is needed. The United Kingdom needs to learn lessons from what has worked for successful mentors and empower their efforts. When that happens, we might have an option that manages those individuals more effectively.

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- o Notable cases the author is personally familiar with involve the leader of the "Muslim Patrols," one of the individuals convicted in relation to the 7/21 London bomb plot, and one of the individuals convicted for the 2008 "Jewel of Medina" arson attack. Also, the author has engaged extensively with several others associated with the former group al-Muhajiroun who have left their former activism behind and not gotten back into trouble with the U.K. legal system.

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