RETHINKING SECURITY IN THE 2020s SERIES

AFGHANISTAN: HOW EUROPE SHOULD NAVIGATE THE RETURN OF THE TALIBAN

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Afghanistan: How Europe Should Navigate the Return of the Taliban

Exploring the current EU approach of engagement with the new Taliban government without official recognition, and how the EU's five benchmarks for assessment should be interpreted and considered.

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By Ben Lowings – Political Analyst

1. INTRODUCTION

Following an announcement of his intent to withdraw all US military personnel by US President Joe Biden in mid-April[1], the government and armed forces of Afghanistan collapsed in the face of rapid advances by the Taliban, culminating in the seizure of Kabul on 15 August 2021. The central Asian nation was home to a 20-year NATO-mission purportedly to combat terrorism and such forces that led to the 11 September 2001 terror attacks in New York City, the gains by the Taliban have shocked the world and resulting into deadly scenes in Afghanistan as Western nations have scrambled to evacuate their citizens as well as those Afghans who collaborated with the West over the past 20 years. One particularly deadly suicide

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[1] https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/14/remarks-by-president-biden-on-the-way-forward-in-afghanistan/

bombing at Kabul's international airport[2], attributed to Islamic State Khorasan (IS-K), resulted in the deaths of 169 Afghans as well as 13 US military personnel tasked with securing the airport for evacuations. By the end of August, the US completed its troop withdrawal leaving a nation reeling with a new reality under the Taliban.

Of course, the US was not the only nation engaged with Afghanistan. European nations, including the UK, expressed their discontent[3] with Biden's decision, but faced with the impending vacuum due to the American withdrawal, also had to complete evacuation efforts. The loss of the Afghanistan project to European nations hit in a differing way to the US, for while the US oriented their policy to combat terrorism and insurgency, European nations, and the EU itself have mainly focused on 'nation-building'[4]; development aid, support for the education and health sectors, as well as civilian police. The Taliban are notoriously hard-line in their implementation and interpretation of Sharia law, having previously ruled Afghanistan in such a way during 1996-2001 where public executions, such as stoning for adulterers occurred, amputations were commonplace for thefts, and the rights of women were completely restricted, such as the prohibition of work and school attendance[5]. There is genuine fear that a reversion to this reality will occur now in 2021.

[2] https://apnews.com/article/europe-france-evacuations-kabul-9e457201e5bbe75a4eb1901fedeee7a1

[3] https://www.politico.eu/article/europe-reacts-bidens-afghanistan-withdrawal/

[4] https://ecfr.eu/article/autonomous-in-afghanistan-how-the-europeans-could-have-stayed-after-us-withdrawal/

[5] https://1997-2001.state.gov/global/human_rights/1996_hrp_report/afghanis.html

Taliban fighters in the Afghan Presidential Palace, 15 August 2021 (AP)

Now is a critical juncture for the West as the Taliban have begun to seek official recognition for their rule, including the symbolic request to speak at the UN General Assembly in New York this September[6]. However, there are several outstanding issues that will need to be recognized and addressed in determining how to approach this new relationship with Afghanistan. And, particularly from the perspective of the EU, all issues will need to be considered in a comprehensive and consistent manner to have any prospects of any success.

2. THE EU POLICY: 'ENGAGEMENT WITHOUT RECOGNITION'

In a speech to the European Parliament on 14 September 2021, EU High Representative Josep Borrell articulated that the EU intends to deal with the new Taliban government as such:

> *"In order to have any chance to influence events, we have no other option but to engage with the Taliban. Engaging doesn't mean recognition… But engaging means talking and discussing and agreeing when possible… The level of this engagement will depend on the actions of the new government on the following five benchmarks…".7*

Borrell then outlined the following benchmarks[8] for the Taliban to respect:

1.   That Afghanistan should not become a base for the export of terrorism.

2.   That human rights should be respected, particularly the rights of women, the rule of law and the freedom of media.

3.   That the transitional government should be inclusive and representative.

4.   That there should be free access for humanitarian aid.

5.   That foreign nationals and Afghans at risk who wish to leave the country are free to do so.

The practical meaning of 'engagement without recognition' implies that the EU and other nations that are withholding official recognition, do not recognize the Taliban

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[6] https://www.bbc.com/news/world-asia-58632147

[7] https://audiovisual.ec.europa.eu/en/video/I-210401

[8] https://eeas.europa.eu/headquarters/headquarters-homepage/103745/rentr%C3%A9e-2021-afghanistan-and-beyond_en

as the official representative of the Afghan State in official international diplomacy. This has consequences in terms of, for instance, blocking the Taliban from speaking at the UN General Assembly. However, 'engagement' is a much looser concept, implying a certain level of negotiation and discussion and is often used to signify the type of negotiation between an official government and, for instance, a rebel faction in a civil war setting. Regarding the Taliban, this may be negotiating the access to evacuate citizens from the territory given the need to access Kabul airport.

From the outset, there needs to be coherence and consistency between the EU and its composite Member States on how this 'engagement' with the Taliban should be manifested, as in itself the term does not have strict definition. One potential discrepancy here is how Member States have closed their embassies and evacuated all their diplomatic staff from Afghanistan due to the nature of the Taliban's ascension to power. The EU, meanwhile, has maintained its presence within Kabul through a delegation coordinated by the EEAS. In the above speech Borrell stated:

> *"The embassies of the Member States have been closed, and they are not going to reopen. But we still have a delegation that can be, since it's not an embassy since we are not a State, can be used as an antenna if the security conditions are met in order to discuss with the government in a closer way than through video conference or through messages." 9*

In this way the EU has considered using its existing resources, i.e., its delegation, to facilitate 'engagement' with the Taliban on the ground in Kabul. Indeed, an embassy and the EU delegation are different in legal terms, but is there a true practical difference? In normal relations with a foreign country, a State will use their embassy as a coordination point to engage in diplomacy, and this is precisely the role that Borrell has articulated the EU delegation to maintain. Additionally, in other contexts, notably in the post-Brexit UK where the country's refusal to give the EU ambassador full diplomatic status resulted in a row[10], the EU has expected to be treated at the same level as an official diplomatic presence, which also corresponds to its growing presence as an autonomous foreign policy actor. It therefore seems strange that the EU will continue to operate its delegation while its Member States have instead closed their embassies.

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9 https://audiovisual.ec.europa.eu/en/video/I-210401

10 https://www.bbc.com/news/uk-politics-55742664

3. EXPLORING THE EU BENCHMARKS

3.1 The First Benchmark: Terrorism

Moving to the more practical, and consequently pragmatic, elements of the EU's position we can turn to the first issue of terrorism. During the Taliban's first stint in power during the late 1990s, the group sheltered the then-leader of al-Qaeda who had plotted the 11 September 2001 terror attacks in New York City, Osama bin Laden[11]. The refusal for the group to handover bin Laden to the US was one of the principal justifications cited by the George W. Bush administration to invade Afghanistan, and eventually topple that Taliban government. In 2020, as part of the negotiations[12] between US officials under the Donald Trump administration and the Taliban in Doha was, along with a commitment to engage in talks with the ousted-Afghani government, to not support terrorism and terror groups such as al-Qaeda. However, as we have seen in the manner of the Taliban's ascent to power, the first condition was not respected. And now there is concern that the second condition will not be respected either.

One notably active terror group is IS-K, Islamic State Khorasan. This splinter group of the Islamic State was responsible for the bombing attack on Kabul airport that killed nearly 200 people. IS-K is particularly noteworthy as they seem to stand in opposition to the Taliban[13], acting as a rival for fundamentalist support across the country, and sometimes directly clashing with the Taliban. However, some analysts suggest[14] that there has been tactical convergence with the Taliban, amongst other links, in differing regions of the country. This is a consequence of the Talban's fragmented and factional structure, with competing interests and leaders across the State.

One such faction of the Taliban is the Sunni Islamist Haqqani Network, which, like IS-K and al-Qaeda, was designated a terrorist network by the US in 2012[15]. Unlike

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[11] https://www.wsj.com/articles/who-are-the-taliban-11628629642
[12] https://www.nbcnews.com/news/world/u-s-envoy-touted-peace-afghanistan-18-months-later-peace-n1276811
[13] https://www.csis.org/blogs/examining-extremism/examining-extremism-islamic-state-khorasan-province-iskp
[14] https://foreignpolicy.com/2021/08/26/afghanistan-kabul-airport-attack-taliban-islamic-state/
[15] https://www.state.gov/foreign-terrorist-organizations/

those other groups, who are only peripherally related to the Taliban, the Haqqani Network is an intrinsic part of the Taliban. This is to the extent that the leader of the group, Sirajuddin Haqqani, has been appointed Interior Minister of the new Taliban government[16], giving international diplomats the unsettling reality of a designated terrorist overseeing Afghanistan's police and security forces.

Smoke following the explosion at Hamid Karzai International Airport, 26 August 2021 (Haroon Sabawoon/Anadolu Agency via Getty Images)

3.2 The Second Benchmark: Human Rights

Policymakers have worried, with good reason, that the return of the Taliban will lead to a deterioration in human rights across the nation. During their prior five-year reign, there were multiple accounts of atrocities committed against civilians, including brutal punishments such as amputations and public executions. For their part, the current Taliban has promised the international community that this time the group would be different, with more respect for personal freedoms and human rights[17].

Unfortunately, these promises have already been broken. The feared Ministry of Virtue and Vice, a type of religious police, has been reinstated. Mullah Nooruddin Turabi a founder of the Taliban, and the former leader of the Ministry of Virtue and

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[16] https://www.cnbc.com/2021/09/08/terrorism-to-increase-under-afghanistans-new-taliban-government.html

[17] https://www.bbc.com/news/av/world-asia-58223530

Vice during 1996-2001, has already indicated[18] a return to brutal punishments including public executions, stoning, amputations, and public shaming for various crimes. In the past Kabul's sports stadium or Eid Gah Mosque were often used as public punishment sites. This has come at the expense of the Ministry for Women's Affairs, which has been completely eradicated from the Taliban government structure, and whose offices have been repurposed for the renewed religious police[19]. There have been multiple reports of those collaborators who worked with the West being hunted by the Taliban[20]. Protests by those opposed to the Taliban have been met with gunfire and violent crackdowns[21].

More generally, 20 years of progress for women's rights in Afghanistan are systematically being eradicated. Women across the country have been forced to stay indoors due to restrictions on exiting without a male chaperone[22]. Scores of professional women have either gone into hiding, or outright fled the country. The sectors are diverse, yet comprehensive insofar as all professional women have suffered.

220 female judges have gone into hiding, with the BBC[23] reporting that for six of them, the men they had convicted for crimes such as rape and murder, are now seeking retribution given that the Taliban had released many prisoners from jail. Professional women's sports teams such as the national football and cricket teams have either fled the country or gone into hiding[24]. One of Afghanistan's trailblazing female mayors for the town of Maidan Shahr, Zarifa Ghafari, was evacuated to Germany[25]. Female journalists, including Beheshta Arghand who had made international headlines interviewing a senior Taliban official on national television[26],

[18] https://www.npr.org/2021/09/24/1040339286/taliban-official-says-strict-punishment-and-executions-will-return

[19] https://www.nytimes.com/2021/09/17/world/asia/taliban-women-ministry-religious-police.html

[20] https://www.thetimes.co.uk/article/taliban-on-hunt-for-western-collaborators-says-secret-un-report-s7d60hxxs

[21] https://www.bbc.com/news/world-asia-58520146

[22] https://www.theguardian.com/world/2021/aug/16/there-are-no-women-kabul-street-stayed-home-fear-beaten-taliban-fighters

[23] https://www.bbc.com/news/world-asia-58709353

[24] https://inews.co.uk/news/world/afghanistatn-women-footballers-evacuation-kabul-fears-safety-taliban-1165431

[25] https://www.reuters.com/world/asia-pacific/former-afghan-mayor-pledges-fight-womens-rights-exile-2021-08-24/

[26] https://edition.cnn.com/2021/08/29/media/arghand-fleeing-afghanistan/index.html

have likewise fled, stopped working, or disappeared[27]. Meanwhile, access to education for women at secondary schools and universities are being summarily restricted[28].

Taliban members attempt to stop a women's march in Kabul, 8 September 2021 (Marcus Yam/Los Angeles Times via Getty Images)

Despite such oppression, some Afghani women have responded with resistance and protests against the Taliban and its policies[29]. They have campaigned for equal rights and women in government, despite a ban by the Taliban on demonstrations without government permission. These events remind the world that while indeed the Taliban have regained power, Afghanistan in 2021 is very different to Afghanistan in 1996 and that intimidation and force will not erase years of progress in developing women's rights.

3.3 The Third Benchmark: An Inclusive and Representative Government

Unsurprisingly, the government imposed by the Taliban is neither inclusive, nor representative. There are no women, with posts instead being taken by senior

[27] https://rsf.org/en/news/fewer-100-kabuls-700-women-journalists-still-working

[28] https://www.theguardian.com/world/2021/sep/17/taliban-ban-girls-from-secondary-education-in-afghanistan

[29] https://www.npr.org/2021/09/09/1035214735/women-afghanistan-protest-taliban

figures in the Taliban[30]. This of course includes designated terrorists[31]. As stated above, the Ministry for Women's Affairs has been removed, and replaced by the Ministry for Virtue and Vice. Additionally, while they have not completely ruled elections out[32], there is no clear path to any sort of democratic elections in the foreseeable future, nor any reason to expect that any election would be fair and participatory for all. The Taliban, for now will govern as they please in line with their own autocratic hierarchy that answers to their Supreme Leader, Mawlawi Hibatullah Akhundzada.

A more likely catalyst of governmental change will be internal divisions between the different Taliban factions. There are already reports[33] of fighting between the Haqqanis and the faction led by Mullah Abdul Ghani Baradar, who was responsible for the Taliban side of the diplomatic talks in Doha that led to the US withdrawal agreement made under the Trump administration in 2020. Policymakers will need to remember that the Taliban are a group that has operated as an insurgency for 20 years, and that there will likely be a significant period of power consolidation as all the factions are either forced to unify or are expelled.

3.4 The Fourth Benchmark: Humanitarian Aid

It is important to emphasise that humanitarian aid is different to development assistance or other types of foreign investment insofar as the former is supposed to be independent of any political concerns, that is so long as a civilian population is in need of humanitarian aid, then they should be provided for despite any government. The EU, among other international partners, have been keen to stress this and that they intend to continue sending humanitarian aid to Afghanistan[34]. The Taliban themselves have also made public requests to the international community continue to send humanitarian aid[35].

Afghanistan continues to have an extremely high proportion of its population living in poverty and dependent on international assistance. The UN, for instance, has

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[30] https://www.euronews.com/2021/09/21/taliban-adds-to-its-government-but-there-are-still-no-women

[31] https://www.bbc.com/news/world-asia-58479750

[32] https://www.voanews.com/a/taliban-not-ruling-out-holding-elections-/6231821.html

[33] https://www.bbc.com/news/world-asia-58560923

[34] https://audiovisual.ec.europa.eu/en/video/I-210401

[35] https://www.bloomberg.com/news/articles/2021-09-14/taliban-ask-for-more-foreign-aid-as-un-pledges-over-1-billion

stated that given the recent political shift and its impacts such as asset freezes, amidst existing deficiencies within the State, Afghanistan is nearing "*universal poverty*" with a projected 97-98% poverty rate for the country[36].

But, as we have seen in other conflict zones, there is no guarantee that any aid provided will be used fully to the benefit of the intended recipients. There is a high chance of corruption and mismanagement[37], which is stronger in new governments, even more so for an administration such as the Taliban with its unique history and circumstances that led to its ascent to power. With the decreased level of international oversight due to the evacuation of many foreign personnel, such as diplomatic staff, it will be extremely difficult to implement systems to link aid directly to civilians, and with unless an alternative is found, there will be a reliance on such an unreliable actor as the Taliban.

3.5 The Fifth Benchmark: Evacuation and Migration

A Taliban fighter stands outside Hamid Karzai International Airport, 16 August 2021 (Reuters)

One of the enduring scenes in the aftermath of the Taliban's rise in Afghanistan, was the situation at Kabul airport where thousands have attempted to flee on international flights, in some cases with fatal consequences[38]. However, there have been reports that the Taliban have been intimidating and forcibly preventing people

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[36] https://apnews.com/article/middle-east-pakistan-afghanistan-islamabad-qatar-d35bb246ad1db460b2a2e8d24c77f99d

[37] https://www.cnbc.com/2021/09/17/aid-funding-for-afghanistan-at-risk-of-taliban-misuse-corruption.html

[38] https://apnews.com/article/afghanistan-kabul-airport-deaths-8254e2e79a1a88dd1bd8802b6b9dedac

from reaching the airport, having officially stated that they wish for Afghans to stay in the nation[39]. With the end of the initial flurry of flights, there are still scores of people, in many cases vulnerable people who have either helped the West or represent part of the former system such as the many women that had professional careers, who are still left behind in Afghanistan.

Even so, the ramifications for the return of the Taliban in terms of migration remain to be seen. Many commentators[40] suggest that there will be a surge in migrants attempting to leave Afghanistan, with a large proportion aiming to reach Europe. While there is no certainty, it is doubtful that they will all be received openly in a Europe that has often appealed to an anti-migration sentiment by tightening restrictions on legal migration pathways into the bloc[41]. Furthermore, the realities of such types of migration could lead to additional humanitarian challenges for those who make the journey to Europe, which was also demonstrated in 2015 at the height of the irregular migration across the Mediterranean Sea[42].

4. APPROCHING CHALLENGES WITH PRGMATISM

A key priority for any foreign policy response by the EU is to have coherence, unity, and consistency with its Member States. This will mean to delineate what 'engagement' with the Taliban means, and to ensure that all approach negotiation in the same way. Utilising the existing delegation space in Kabul for coordination is not necessarily a bad suggestion in terms of practicality, but there will need to be vigilance that these uses do not overstep their scope and consequently break the point of withholding recognition of the Taliban.

Regarding terrorism, there are currently international sanctions against the Taliban due to UNSC Resolution 1988 (2011)[43]. The US has distinct sanctions against the Taliban due to their links to terrorism, which was used as a justification to freeze nearly US$9.5 billion of governmental assets following the fall of Kabul this year[44]. The EU also has an embargo against the Taliban-controlled parts of the State

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[39] https://edition.cnn.com/2021/08/24/asia/kabul-airport-afghanistan-intl-hnk/index.html

[40] https://time.com/6091084/afghanistan-taliban-europe-migration/

[41] https://euobserver.com/world/152759

[42] https://www.unhcr.org/news/stories/2015/12/56ec1ebde/2015-year-europes-refugee-crisis.html

[43] https://digitallibrary.un.org/record/705598?ln=en

[44] https://www.bloomberg.com/news/articles/2021-08-17/u-s-freezes-nearly-9-5-billion-afghanistan-central-bank-assets

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through Council Decision 2011/486/CFSP[45]. In this regard as the Taliban de facto controls the entire country, the EU arms embargo should now apply to the to the entire State, which should help limit any access to weapons and military technology.

Ideally, there will eventually be independent monitors of the activity of armed groups, which would probably be under the umbrella of the UN. Admittedly this would be difficult to implement, but for now should use existing capacity with links to on-ground CSOs and other Afghan non-governmental organisations. Monitors will also be necessary to investigate and monitor human rights abuses, and to assess that humanitarian aid reaches its intended recipients. For the former, the monitoring of abuses should eventually form the basis of an international inquiry to investigate injustices, but for now any recorded instances must be acknowledged for when firmer action can be taken.

For the latter, indeed the EU should continue to offer humanitarian aid. A challenge will be how to send aid while circumventing the Central Bank, whose assets have been frozen by the US. Where possible, direct pathways to aid distribution should be pursued such as linking with on-ground aid organisations, rather than merely sent to the Taliban government. International organisations should take best practices and lessons from other conflict zones where aid has been distributed in rebel- held areas for some guidelines to this delivery, and especially utilize the expertise of relevant UN agencies.

Finally, regarding evacuations and migration the EU, and other international actors, have already begun to identify those remaining in Afghanistan that are the most vulnerable and in need of immediate evacuation. All efforts should be made to ensure these individuals are evacuated at the soonest opportunity. But in more general terms, the possible humanitarian consequences in terms of large-scale irregular migration should act as a warning to the EU that there needs to be more effective legal pathways for migrants so that a repeat of 2015 is avoided.

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[45] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:199:0057:0072:EN:PDF

RECOMMENDATIONS

To the European Union:

- Clearly establish a set of guiding principles for how to 'engage' with the Taliban for all Member States and EU agencies to follow to ensure a consistent, coherent, and unified diplomatic stance. This includes how to coordinate on the ground in Kabul using the EEAS delegation office, and what functions this delegation space should be used for.

- Implement the 2011 arms embargo in full across the entire State of Afghanistan. Consider revising the existing framework to account for the changed reality of a Taliban-led national government.

- Urgently identify remaining individuals in Afghanistan at risk of reprisals by the Taliban and make all efforts so that these individuals can be evacuated. This can be done jointly through existing formal means such as The European Union Human Rights Defenders Mechanism, and informal means such as contacting local sources and on-ground non-governmental organisations.

- Consider revising existing legal methods for migration to Europe with particular attention to the crisis in Afghanistan and its likely repercussions of increased migration.

To the international community in general, including the European Union, the United States, and the United Nations:

- Utilise existing links with local Afghani non-governmental organisations such as CSOs and charities to document relevant violations such as armed group proliferation, human rights abuses, and corruption of humanitarian aid delivery.

- Implement more direct pathways of humanitarian aid delivery through these existing organisations using relevant experience in other global contexts, so that aid reaches its intended civilian targets.

- Establish and implement more rigorous international monitors under the auspices of the United Nations.

- Consider updating existing arms embargos in Afghanistan to account for the changed reality of governance.

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