

EXPECTATION V. REALITY: HOW THE WOMEN, PEACE, AND SECURITY ACT OF 2017 FAILED AFGHAN WOMEN

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I. Introduction

The world watched in horror as the twenty-year war in Afghanistan ended with the collapse of the Afghan government. Now in full control, the Taliban are burning years of nation-building and democracy to the ground with women's human rights at the center of the flames. Afghan women are now plagued with violence, isolation, and oppression. The ones who were fortunate enough to flee are assigned to a life of purgatory from the country they love. It did not have to be this way. Indeed, the exclusion of women from the United States (US)-Taliban peace negotiations and under-representation of women at the Intra-Afghan peace talks are crucial to understanding the downfall of the US troop withdrawal. This article argues that had the US government better implemented the US Strategy on Women, Peace, and Security (WPS Strategy) from the Women, Peace, and Security Act of 2017 (WPS Act) to support Afghan women leaders in peace negotiations, the rights of Afghan women would not be existentially threatened.¹ This argument is proven by contrasting the WPS Strategy mandates for the peace processes to the international community's failure in implementation.

Women's engagement in peace negotiations is vital.² When women lead and actively take part in peace processes, outcomes are more sustainable and peace agreements are 35% more likely to last at least 15 years.³ Women play an essential role in peace-building due to the ways that they interact with their communities. Because women tend to have different responsibilities and social roles than men, women have access to information and community networks that can better inform aspects of an agreement.⁴ Moreover, women tend to approach conflict resolution by organizing across diverse demographics who are all affected by the conflict, and give weight to the concerns of each group when resolving contentious issues.⁵ This "increases the prospect of long-term stability, and reduces the likelihood of state failure, conflict onset, and poverty."⁶ Women also act as "honest brokers," because they often "operate outside of existing power

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¹ See Women, Peace, and Security Act of 2017, Pub. L. No. 115-68, § 1141, 131 Stat. 1202 (2017); U.S. DEP'T OF STATE, U.S. STRATEGY ON WOMEN, PEACE, & SEC. (2019) [hereinafter U.S. STRATEGY ON WOMEN, PEACE, & SEC.] https://www.state.gov/wp-content/uploads/2021/01/WPS_Strategy_10_October2019.pdf.

² See U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1.

³ Stephenie Foster, *A Laser Focus on Women's Rights Is Key to Sustainable Afghan Peace*, JUST SEC. (Oct. 10, 2021), <https://www.justsecurity.org/76613/a-laser-focus-on-womens-rights-is-key-to-sustainable-afghan-peace>.

⁴ See *Why It Matters, Women's Participation in Peace Processes*, COUNCIL ON FOREIGN REL. (Oct. 11, 2021), <https://www.cfr.org/womens-participation-in-peace-processes/why-it-matters>.

⁵ *Id.*

⁶ *Id.*

structures” and are perceived as “politically impartial mediators” in comparison to men.⁷ Lastly, while men tend to primarily focus on “military action, power-sharing arrangement, and territorial gains” in negotiations, women focus on social issues including “political and legal reforms, social and economic recovery priorities, and transitional justice concerns that make agreements more durable.”⁸

However, women are frequently excluded from peace processes. As evidenced in 30 official peace negotiations from 1992 to 2011, only two percent of mediators and nine percent of negotiators were women.⁹ The resulting agreements consistently excluded women’s interests and political leadership with “only seven percent of agreements signed between 1990 and 2010” referencing women’s rights or gender equality.¹⁰ This exclusion stems from the plethora of social, cultural, and economic barriers women face when attempting to participate in politics. Women political leaders and candidates are often targets of “psychological, physical, and sexual violence” as means of pressuring women to leave politics or stay silent.¹¹ Additionally, women may be deterred from participating in government due to a lack of financial resources to fund campaigns.¹² Understanding that there was so much to gain from women’s active involvement in peace negotiations, the international community came together in the late 20th century to tear down existing barriers and ensure that women would no longer be ignored in peace-building processes.

II. A History: Codifying Women, Peace, and Security

A. *United Nations Security Council Resolution 1325*

When women and pro-feminist men in international organizations, national governments, and civil society coalesce their voices, they can move mountains and pass international resolutions. This is how the passage of the United Nations Security Council Resolution 1325 (UNSCR 1325) came to address the “policy gap of women’s role in peacebuilding and the long-term impact of conflict resolution on their lives.”¹³ The movement to promote women’s rights began in 1945, with the organization of the United Nations (UN) Charter and the Universal Declaration of Human Rights of 1948.¹⁴ While both documents confirmed the

⁷ *Id.*

⁸ *Id.*

⁹ Tanya Henderson, et al., *Promoting Women’s Pol. Participation: A Pathway to Peace, Pol’y Brief*, U.S. CIV. SOC’Y WORKING GRP. ON WOMEN, PEACE, & SEC. 1, 2 (Sept. 18, 2018), <https://www.usip.org/sites/default/files/13th%20US%20CSWG%20September%202018%20v3.pdf>.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *What is UNSCR 1325? An Explanation of the Landmark Res. on Women, Peace, and Sec.*, U.S. INST. OF PEACE (Oct. 9, 2021) [hereinafter *What is UNSCR 1325*], https://www.usip.org/gender_peacebuilding/about_UNSCR_1325.

¹⁴ See Torunn L. Tryggstad, *Trick or Treat? The UN and Implementation of SCOR Resol. 1325 on Women, Peace, and Sec.*, GLOB. GOVERNANCE: A REV. OF MULTILATERISM & INT’L ORGS. 539, 545 (2009), https://brill.com/view/journals/gg/15/4/article-p539_11.xml?language=en.

“equal rights of men and women,” the Commission on the Status of Women (CSW) was formed in 1946 to set “normative and international legal standards both inside and outside the UN system... to strengthen women’s rights.”¹⁵ From 1975 to 1995, the CSW helped organize a series of international conferences focused on the “political participation of women and women in development.”¹⁶ It was not until the 1995 Beijing Conference that “Women and Armed Conflict” became “one of the twelve critical areas of concern” for the UN.¹⁷

With “women and peace” on the agenda, a cascading reel of events developed and produced UNSCR 1325.¹⁸ First, the total reformation of the UN peacekeeping operations in the 1990s was identified as gender blind, launching policy debates to include gender-sensitive measures.¹⁹ Second, countries such as Namibia, Bangladesh, and Canada began to actively campaign for UNSCR 1325 by emphasizing “that peace is inextricably linked with equality between women and men.”²⁰ Lastly, lobbying groups, such as the NGO Working Group on Women, Peace, and Security, formed to “advocate for a Security Council resolution on women, peace, and security, aided in drafting the text for a resolution, and provided relevant information to Security Council members.”²¹

On October 31, 2000, the UNSC unanimously adopted the UNSCR 1325 as a legally binding instrument to ensure women’s inclusion in peace-building efforts.²² The resolution focuses on two critical issues: the disproportionate impact that violent conflict and war has on women and girls, and identifying the crucial roles that women should—and do—play in conflict prevention, conflict management, and sustainable peace efforts.²³ To address these issues, UNSCR 1325 consists of mandates for nation-states to follow that relate to one of the four basic pillars: Participation, Protection, Prevention, and Relief and Recovery.²⁴

Since the UNSCR 1325 is binding on all UN Member States, the Security Council placed the burden on nations in 2005 to properly implement the resolution through developing a National Action Plan (NAP).²⁵ A NAP should articulate the country’s priorities and detail how the four pillars and objectives of the UNSCR 1325 would be implemented into national governing regimes.²⁶ As of October 2020, 86 nations have created NAPs, with many countries on their second or third

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 546-49.

¹⁹ *Id.* at 546.

²⁰ *Id.* at 547.

²¹ *Id.* at 548-49.

²² See *Advancing Women, Peace, and Sec.*, U.S. INST. OF PEACE (Oct. 9, 2021), <https://www.usip.org/programs/advancing-women-peace-and-security>.

²³ *Id.*

²⁴ See *What is UNSCR 1325*, *supra* note 13.

²⁵ See *id.*

²⁶ See *Advancing Women, Peace, and Sec.*, *supra* note 22.

versions.²⁷ In 2011, President Barack Obama adopted the first National Action Plan for the US through Executive Order 13595 as the “first legal and policy framework to recognize women’s inclusion as a central aspect of US conflict prevention and resolution efforts,” making the WPS agenda an official priority of US national policy.²⁸

B. Women, Peace, and Security Act of 2017

In October 2017, the US cemented its commitment to ensuring women’s involvement in peace and security procedures by replacing the existing NAP framework under UNSCR 1325 with the WPS Act as bipartisan legislation, signed into law by President Donald Trump.²⁹ The WPS Act requires the President to submit a National Strategy on WPS to Congress, emphasizing the essential role of women’s political participation to peace and security, and the inclusion of female peacebuilders, mediators, and negotiators.³⁰

Two years later, the WPS Strategy was unveiled in June 2019.³¹ The WPS Strategy establishes a policy framework for implementation of WPS initiatives by the Departments of State (DOS), Defense (DOD), Homeland Security (DHS), and United States Agency for International Development (USAID).³² The WPS Strategy aims to make demonstrable progress by 2023 in women’s political empowerment and equality through three strategic objectives: (1) women are more prepared and increasingly able to participate in efforts that promote stable and lasting peace; (2) women and girls are safer, better protected, and have equal access to government and private assistance programs, including the US, international partners, and host nations; and (3) the United States and partner governments have improved institutionalization and capacity to ensure WPS efforts are sustainable and long-lasting.³³

To achieve these strategic objectives, the WPS Strategy outlines four primary Lines of Effort, or necessary actions, for government agencies to integrate into their policies and programming. First, Line of Effort 1 commits US government agencies to seek and support the preparation and participation of women around the world in decision-making processes related to conflict and crises.³⁴ This is followed by Line of Effort 2, which promotes the protection of women and girls’ human rights, access to aid, and safety from violence, abuse, and exploitation around the world.³⁵ Next, US international programs, under Line of Effort 3, aim

²⁷ See *1325 National Action Plans (NAPS)*, WILPF, <http://1325naps.peacewomen.org> (last visited Oct. 9, 2021).

²⁸ *What is UNSCR 1325*, *supra* note 13; *Advancing Women, Peace, and Sec.*, *supra* note 22.

²⁹ *Women, Peace, and Sec. Act of 2017*, § 1141; *Advancing Women, Peace, and Sec.*, *supra* note 22.

³⁰ *Id.*

³¹ See U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1.

³² *Id.* at 2.

³³ *Id.* at 5.

³⁴ *Id.* at 6.

³⁵ *Id.* at 8.

to improve equality and empowerment outcomes for women.³⁶ Lastly, Line of Effort 4 supports the encouragement of partner governments to adopt policies, plans, and capacity to improve the meaningful participation of women in processes connected to peace and security and decision-making institutions.³⁷ Each Line of Effort is supported with a goal, an outline of the problem, and the WPS Strategy Approach to overcome the problems to reach the specified goal.³⁸ With these recommendations, the DOS, DOD, DHS, and USAID must provide Congress with a “detailed, consolidated implementation plan,” followed by yearly briefing reports to update appropriate Congressional Committees on the participation of women in conflict-prevention and peace building.³⁹

III. A Timeline of the Peace Processes in Afghanistan: Expectation v. Reality

A. Background

With mounting pressure in the US to end the twenty-year war, the Trump Administration began Peace Talks with the Taliban hoping to remove all US and NATO forces from Afghanistan.⁴⁰ The negotiations commenced in 2018, headed by US Special Representative for Afghanistan Reconciliation, Zalmay Khalilzad, and the Taliban’s top official, Mullah Abdul Ghani Baradar.⁴¹ Over the span of eighteen months and nine rounds of talks, the two parties discussed four key issues: 1) the withdrawal of US forces from Afghanistan, 2) Taliban counterterrorism assurances, 3) an in-country ceasefire, 4) and the Taliban’s commitment to participate in intra-Afghan negotiations with the government of Afghanistan.⁴²

B. Peace Talks Between the United States and The Taliban

i. Expectation

In all nine rounds of the US-Taliban Peace Talks, the WPS Strategy should have been prioritized and implemented, since Khalilzad served as a diplomat under the direction of the DOS.⁴³ Because women are consistently under-represented in “conflict prevention, conflict resolution, and post-conflict peace-building efforts,” the US-led delegation to the Peace Talks should have prioritized the goal of Line of Effort 1 by increasing “women’s meaningful participation in political, civic,

³⁶ *Id.* at 10.

³⁷ See U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 12.

³⁸ *Id.* at 6-21.

³⁹ *Id.* at 16.

⁴⁰ See *The U.S. War in Afg. Timeline*, COUNCIL OF FOREIGN RELS. (Oct. 10, 2021), <https://www.cfr.org/timeline/us-war-afghanistan>.

⁴¹ See *id.*

⁴² See *Interpreting the U.S. Talks with the Taliban*, INT’L CRISIS GRPS. (Oct. 10, 2021), <https://www.crisisgroup.org/asia/south-asia/afghanistan/interpreting-us-talks-taliban>.

⁴³ See *Zalmay Khalilzad, Special Representative for Afg. Reconciliation*, U.S. DEP’T OF STATE (Oct. 10, 2021), <https://www.state.gov/biographies/zalmay-khalilzad>; U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 2.

and military processes to prevent and resolve conflicts... and set conditions for stability during post-conflict and post-crisis efforts.”⁴⁴ Put simply, women and their voices should have been included in the peace negotiations with the Taliban under the WPS Strategy, to which the DOS is bound.⁴⁵

Fortunately, the women leaders of Afghanistan were well prepared to participate. Since 2001 and the fall of the Taliban, Afghan women have made tremendous progress in the fight to participate in both public and private spheres.⁴⁶ This shift is due in large part to more women and girls attending school. In 2003, only six percent of girls were enrolled in secondary education and by 2017, there was a substantial increase to 39 percent.⁴⁷ Women also began to serve in positions of power.⁴⁸ By 2020, during the peace negotiations, “21 percent of Afghan civil servants were women, 16 percent of them were in senior management positions,” and 27 percent of the Afghan members of parliament were women.⁴⁹ Further, many women were appointed to prominent positions like governors, mayors, Ambassador of Afghanistan to the United States, and representative of Afghanistan to the UN.⁵⁰ Afghan women were equipped with all the capabilities and tools necessary to provide powerful insights to the political settlement.

Critics argue that because the negotiations were only between the Taliban and US government, and not the Afghan government, neither of the negotiating parties represented the Afghan people. Therefore, the inclusion of Afghan women leaders would have been inappropriate under the circumstances. However, Line of Effort 1 of the WPS Strategy specifically states “where appropriate, US diplomatic and military interventions will lead by example through inclusion of American women in such efforts, and will engage local women leaders as vital partners.”⁵¹ Afghan women leaders should have been considered vital partners, and thereby included in the peace negotiations because the Peace Agreement was not only a diplomatic intervention by the DOS, but also a military intervention.⁵² Moreover, American women trained as Gender Advisors and mediators should have been present after consulting with the women leaders to provide a gender analysis of all terms, address the specific needs of women, and lay the groundwork for post-conflict gender equality.⁵³ The inclusion of a gender lens would have ensured the

⁴⁴ U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 6.

⁴⁵ *Id.* at 7 (“Line of Effort 1 requires the increase of ‘meaningful participation of women in security-sector initiatives funded’ by the U.S. Government, including the peace negotiations with the Taliban which is supported by the DOS.”).

⁴⁶ See Masooma Rahmaty, *On Int’l Women’s Day, A Closer Look at the Missing Voices of Women in Afghan Peace Talks*, IPI GLOB. OBSERVATORY (Oct. 11, 2021), <https://theglobalobservatory.org/2019/03/international-womens-day-missing-voices-women-afghan-peace-talks>.

⁴⁷ John R. Allen & Vanda Felbab-Brown, *The fate of women’s rights in Afg.*, BROOKINGS INST. (Sept. 2020), <https://www.brookings.edu/essay/the-fate-of-womens-rights-in-afghanistan>.

⁴⁸ *Id.*

⁴⁹ Rahmaty, *supra* note 46; Allen & Felbab-Brown, *supra* note 47.

⁵⁰ *Id.*

⁵¹ U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 7.

⁵² *Id.*

⁵³ *Id.*; Foster, *supra* note 3 (gender advisors are essential to effective policy and program development).

documentation of Afghan women's needs, despite the cultural biases blocking local women out of the negotiating table.

Given the Taliban's interpretation of Islamic Law and its traditionalist view on the role of women in society, it is arguable that the insurgent group would have rejected women's participation in negotiations. However, despite any objections by the Taliban, the DOS should have followed US policy, outlined in the goal of Line of Effort 4.⁵⁴ The US should have pushed partner governments, or aspirational political groups such as the Taliban, to reform "policies, programs, and plans" that "increase women's meaningful participation in processes connected to peace and security and decision-making institutions."⁵⁵ The US government is required to address host-nation barriers that discriminate against meaningful participation of women.⁵⁶ This includes encouraging partner governments to revise formal laws, rules, and regulations that disadvantage women and equal participants in all phases of conflict and crisis resolution. Therefore, excluding women because of the Taliban's opposition to their inclusion in such matters violates US policy. Before any peace agreement was signed, the US government should have insisted on the inclusion and participation of women in negotiations.

Once women are included in peace negotiations, Line of Effort 1 calls for women's perspectives and needs to be incorporated into the four key issues discussed in the Agreement for Bringing Peace to Afghanistan.

The Peace Agreement should have explicitly required the inclusion of women in all future peace negotiations, meetings, and conferences. Under Line of Effort 2, the US government "must identify and reduce obstacles or barriers that reflect sex-based discrimination, sex-based bias, or lack of recognition for women's rights."⁵⁷ To reduce obstacles or barriers of sex-based discrimination, women at the peace talks would have advocated for three explicit provisions that prioritize women's needs. First, respecting the rights and inclusion of women in all aspects of the peace process must be a condition for US troops withdrawal. Second, the intra-Afghan peace talks must include discussions on upholding the rights of women and girls, thereby setting the expectations that such rights are non-negotiables. And third, at the very least, all peace negotiations moving forward must include an equal ratio of men to women as negotiators, mediators, and facilitators.

In addition to an explicit provision, the women would insist that the Afghan government and the Taliban must reach a political settlement before any US troops withdraw from Afghanistan. Of the four key issues, the evacuation of US

⁵⁴ U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 12-14.

⁵⁵ *Id.* at 13.

⁵⁶ *Id.*

⁵⁷ *Id.* at 9.

troops was the only bargaining tool the US could wield.⁵⁸ Counter-terrorism assurances, an in-country ceasefire, and the Taliban's participation in the intra-Afghan peace talks were all within the Taliban's control.⁵⁹ Therefore, to secure the constitutional rights of women, the withdrawal of US forces should have been conditioned on not only the Taliban's commitment to participate in intra-Afghan negotiations, but also on a determined political settlement. This strong political bargaining power over the Taliban would have provided the Afghan women leaders with leverage to negotiate and put women's rights at the center of a political settlement, thereby ensuring the progress made in women's political and social rights in Afghanistan would remain intact.

The WPS Strategy outlined expectations for US foreign policy, to which the US delegation to the peace talks was obligated to follow in developing the Peace Agreement. The inclusion of women in these initial talks would have established that the following peace negotiations between the Afghan government and the Taliban would include not only the presence of Afghan women leaders, but also the power of their voices.

ii. Reality

Not a single Afghan woman leader or Gender Advisor participated in the nine rounds of peace talks or the final signing of the Peace Agreement on February 29, 2020 between the Taliban and the Trump Administration.⁶⁰ With no input from women leaders and a complete disregard for the WPS Strategy, the US-Taliban Agreement outlines the four key issues as goals, with the last two dependent on the status of the first two.⁶¹ First, the Taliban agreed to counter-terrorism measures by both the Taliban and Afghan security forces, meaning armed groups would be prevented from using Afghanistan as a base for acts against the US and its allies.⁶² Second, the US agreed that all foreign forces would withdraw from Afghanistan by May 1, 2021.⁶³ Upon the planned fulfilment of these two goals, the Taliban agreed to participate in intra-Afghan negotiations, which were notionally scheduled to begin on March 10, 2021.⁶⁴ The start of the intra-Afghan negotiations was also dependent on the Afghan government releasing 5,000 Taliban prisoners and the Taliban releasing 1,000 prisoners who were government affiliates.⁶⁵ Lastly, the agenda for the intra-Afghan negotiations included discussions on how to implement a permanent and comprehensive ceasefire, and a political roadmap for Afghanistan's future.⁶⁶

⁵⁸ See *Interpreting the U.S. Talks with the Taliban*, *supra* note 42.

⁵⁹ See *id.*

⁶⁰ See Allen & Felbab-Brown, *supra* note 47.

⁶¹ See Lindsay Maizland, *U.S.-Taliban Peace Deal: What to Know*, COUNCIL OF FOREIGN RELS. (Mar. 2, 2020), <https://www.cfr.org/backgrounder/us-taliban-peace-deal-agreement-afghanistan-war>.

⁶² See *id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

This final agreement failed to mention the mandatory inclusion of women or their role in the peace process. Moreover, rather than conditioning the withdrawal of US troops on a political settlement between the two Afghan groups to prioritize women's rights, the US opted to condition the withdrawal on counter-terrorism assurances against the US and its allies. This decision left the Afghan government and women leaders with little bargaining power as they went head-to-head with the Taliban.

C. Intra-Afghan Peace Talks

i. Expectation

Despite excluding explicit provisions to protect women's participation and failing to prioritize a political settlement, the intra-afghan peace talks should have included an equal number of women and men negotiators to advocate for women's rights.⁶⁷ Moreover, Line of Effort 1 of the WPS Strategy provides that the US government should "provide logistical support to female negotiators, mediators, and peace-builders, and stakeholders during democratic transitions."⁶⁸ Therefore, the US government should have provided logistical support to the Afghan women leaders during the peace negotiations.

With support from the US government, the women leaders would have been in a position to negotiate three key demands. First, the constitutional rights and status granted to women under the current constitution must be preserved.⁶⁹ Afghan women negotiators like Fawzia Koofi pressed the US government to condition international aid to Afghanistan on upholding minimum standards of women rights and protecting the constitutional role of women in governing institutions.⁷⁰ This would have provided the Afghan government with incentives to ensure women's rights are protected. Line of Effort 2 supports this demand, holding that the US government must "ensure women and girls are safe and have equal access to humanitarian assistance, including food, shelter, and health security targeted at saving lives."⁷¹

Second, Afghan women leaders would have demanded that the Afghan government and the Taliban reserve 30 percent of elected seats and appointments in Afghan political institutions for women.⁷² Third, these women leaders would have advocated that all aspects of an agreement between the Taliban and the Afghan government must include a gender analysis. The proposed agreement

⁶⁷ See Allen & Felbab-Brown, *supra* note 47.

⁶⁸ U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 8.

⁶⁹ See *Women negotiators in Afghan/Taliban peace talks could spur glob. change*, THE CONVERSATION (Oct. 11, 2021), <https://theconversation.com/women-negotiators-in-afghan-taliban-peace-talks-could-spur-global-change-159033>.

⁷⁰ See Allen & Felbab-Brown, *supra* note 47; Foster, *supra* note 3.

⁷¹ U.S. STRATEGY ON WOMEN, PEACE, & SEC., *supra* note 1, at 10.

⁷² Allen & Felbab-Brown, *supra* note 47.

would have shaped the policy and legal framework of Afghanistan, making it imperative to analyze the constraints and realities of how women and men live and work to support families and communities.⁷³

ii. Reality

Unfortunately, not only were women underrepresented in the intra-Afghan peace talks, but also the negotiations themselves were unsuccessful. In September 2020, representatives of the Afghan government and the Taliban met in Doha, Qatar for the first time after nearly twenty years of war.⁷⁴ The Afghan delegation consisted of twenty-one negotiators, with only four women.⁷⁵ While the inclusion of four women was unprecedented, their views were often ignored.⁷⁶ The Doha talks reached stalemate at the start of 2021, as neither the Taliban nor the Afghan government were willing to compromise or engage with each other.⁷⁷

With the US troop withdrawal deadline approaching, the newly elected Biden Administration faced a major dilemma. If troops were withdrawn from Afghanistan by the May 1 deadline before a political settlement had been reached, the country most likely would have erupted into civil war.⁷⁸ However, keeping troops past May would surely lead to more attacks by the Taliban against US and international forces.⁷⁹ Therefore, in an attempt to escape this dilemma and “fast-track” the peace process, Secretary Anthony Blinken sent a blunt and controversial letter to Afghan President Ashraf Ghani—one that was not meant for public exposure, but leaked to the press anyway.⁸⁰ The letter pressured the Afghan government to participate in a UN conference with the US, China, Russia, Iran, Pakistan, and India.⁸¹ The conference was set to be held in Istanbul, Turkey to discuss an “interim power-sharing government composed of Taliban and Afghan leaders.”⁸² Additionally, the letter ended with an “ominous statement” that all options were still on the table, including a full withdrawal by May.⁸³ President Ghani strongly opposed the idea of an interim government, which would not only end the constitutional democratic system established over the past

⁷³ See Foster, *supra* note 3.

⁷⁴ See *The U.S. War in Afg. Timeline*, *supra* note 40.

⁷⁵ See *Peace Negotiation Team of the Islamic Republic of Afg.*, STATE MINISTRY FOR PEACE (Oct. 11, 2021), <https://smp.gov.af/en/peace-negotiation-team-islamic-republic-afghanistan>. The four women included Fawzia Koofi, Habiba Sarabi, Fatema Gailani, and Sharifa Zormati Wardak.

⁷⁶ See Foster, *supra* note 3.

⁷⁷ See Catherine Putz, *The Blinken Letter: A Renewed Push for Afghan Peace, Proposals Both New and Old*, THE DIPLOMAT (Mar. 8, 2021) [hereinafter *Blinken Letter*] <https://thediplomat.com/2021/03/the-blinken-letter-a-renewed-push-for-afghan-peace-proposals-both-new-and-old>.

⁷⁸ See Scott Smith et al., *Can Blink’s Letter Jump-start the Afghan Peace Process*, U.S. INST. OF PEACE (Mar. 11, 2021), <https://www.usip.org/publications/2021/03/can-blinkens-letter-jump-start-afghan-peace-process>.

⁷⁹ See *id.*

⁸⁰ *Id.*

⁸¹ See *Blinken Letter*, *supra* note 77.

⁸² See Smith et al., *supra* note 78.

⁸³ *Id.*

two decades, but would also jeopardize women's rights.⁸⁴ However, the Afghan government conceded and the Taliban declared its openness to participation.⁸⁵

Despite the planned Istanbul Talks and the stalled Doha Talks, Russia threw their hat into the ring and held an intra-Afghan peace conference in Moscow in March 2021, with the purpose of discussing "a unified approach to support peace in Afghanistan."⁸⁶ Out of fifteen negotiators, this delegation of the Afghan government included only one woman, Habiba Sarabi.⁸⁷ Due to the COVID-19 pandemic, the Moscow Talks were postponed.⁸⁸

In April 2021, President Biden shockingly announced that the US would not meet the May 1 deadline for full withdrawal, extending the date to September 11, 2021.⁸⁹ The devastating turn of events defied the original Peace Agreement by announcing an unconditional withdrawal, where all remaining troops would leave Afghanistan regardless of whether a political settlement was made in the intra-Afghan peace talks or whether the Taliban reduced its attacks on Afghan security forces.⁹⁰

Although the US noted its continuing support for the peace process, the unconditional withdrawal announcement stalled any and all peace talks.⁹¹ With the US in clear violation of the Peace Agreement (the necessary withdrawal of troops), the Taliban refused to participate in any conference on Afghanistan's future until all troops left Afghanistan (the Taliban's sufficient commitment to participate in intra-Afghan peace negotiations).⁹² This was the moment the Taliban seized complete control of the peace negotiations. The insurgent group subsequently refused to participate in the Washington-backed Afghan peace conference in Istanbul, Turkey, thereby postponing the entire conference.⁹³ In this moment, the peace negotiations completely collapsed.

The US grew desperate to withdraw all troops, and began evacuation operations in August 2021.⁹⁴ With no peace agreement signed between the two groups, the Afghan government collapsed and the Taliban took control of Kabul, the capital of Afghanistan.⁹⁵

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Catherine Putz, *Afghan Delegation for Moscow Talks Announced*, THE DIPLOMAT (Oct 11, 2021), <https://thediplomat.com/2021/03/afghan-delegation-for-moscow-talks-announced>.

⁸⁷ *See id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *See* Reuters & Hamid Shalizi, *U.S.-backed Afghan peace conference in Turkey postponed over Taliban no-show-sources*, REUTERS (Oct. 2021), <https://www.reuters.com/world/middle-east/us-backed-afghan-peace-conference-turkey-postponed-over-taliban-no-show-sources-2021-04-20>.

⁹² *See id.*

⁹³ *Id.*

⁹⁴ *See The U.S. War in Afg. Timeline*, *supra* note 40.

⁹⁵ *Id.*

IV. Conclusion and Consequences

The consequences of not including Afghan women's voices in negotiations have been devastating. With the eyes of the international community on the self-branded “new”—and all-male—interim Taliban government, the leaders vowed to respect women's rights, but only within the bounds of Islamic law.⁹⁶ Their actions have completely failed to live up to their words.

The attack on women's rights began immediately. The Ministry of Women Affairs was replaced with a Ministry for The Propagation of Virtue and The Prevention of Vice.⁹⁷ While girls up to sixth grade were allowed to return to school, only after being separated from male peers, teenage girls and women in universities were completely banned from education.⁹⁸ Sports for women or girls were deemed impermissible.⁹⁹ The Taliban forced women out of employment, pushing half the population out of the public sphere.¹⁰⁰ Moreover, the Taliban laid out the conditions for women's appearances in public: the color of their dress should not be attractive, no perfume, and no long boots or shoes that make any sound as they would be “an announcement” for young men.¹⁰¹ Upon arriving at women's shelters, the Taliban forced women to choose between returning to their abusive families or going with the Taliban, only to be placed in abandoned prisons.¹⁰² Rights to reproductive health were also threatened when the Taliban told midwives that they are “not necessary in society, because death is in the hands of God, and only God can save mother's lives.”¹⁰³

⁹⁶ See Ahmed Seir et al., *Taliban vow to respect women, despite history of oppression*, AP NEWS (Aug. 17, 2021), <https://apnews.com/article/afghanistan-taliban-kabul-1d4b052ccef113adc8dc94f965ff23c7>; Ibraheem Bahiss, *Afg. 's Taliban Expand Their Interim Gov't*, INT'L CRISIS GRP. (Sept. 28, 2021), <https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistans-taliban-expand-their-interim-government>.

⁹⁷ See Kathy Gannon, *Taliban replace ministry for women with 'virtue' authorities*, AP NEWS (Sept. 18, 2021), <https://apnews.com/article/middle-east-afghanistan-womens-rights-kabul-taliban-eee5a8c73dd5d58acfa008582ef77bb>.

⁹⁸ See Sune Engel Rasmussen & Jalal Nazari, *Afg. 's Taliban Prohibits Girls From Attending Secondary School*, WALL ST. J. (Sept. 19, 2021), https://www.wsj.com/articles/afghanistans-taliban-prohibit-girls-from-attending-secondary-school-as-boys-return-to-classrooms-11631951310?mod=searchresults_pos6&page=1.

⁹⁹ See James Simpson, *Afg. Women captain Shabnam Mobarez on team's evacuation to Austl., their 'unsure' situation and the future*, SKY SPORTS (Oct. 5, 2021), <https://www.skysports.com/football/news/11095/12425900/afghanistan-women-captain-shabnam-mobarez-on-teams-evacuation-to-australia-their-unsure-situation-and-the-future>.

¹⁰⁰ See *Taliban tells women and girls to stay home from work and school*, CBS NEWS (Sept. 20, 2021) <https://www.cbsnews.com/news/afghanistan-taliban-women-girls-work-school-sharia-rules>.

¹⁰¹ See Natiq Malikzada, (@natiqmalikzada), TWITTER (Sept. 29, 2021, 3:00 PM), <https://twitter.com/natiqmalikzada/status/1443289712760811520>.

¹⁰² See Kathy Gannon, *Where women took shelter from abuse, Taliban now in control*, AP NEWS (Sept. 28, 2021), <https://apnews.com/article/afghanistan-only-on-ap-kabul-taliban-c56142dc17994e1848c8fa57475cb4a5>.

¹⁰³ See Scott Peterson, *How Afghan midwives are challenging Taliban strictures on women*, CHRISTIAN SCI. MONITOR (Oct. 7, 2021), <https://www.csmonitor.com/World/Middle-East/2021/1007/How-Afghan-midwives-are-challenging-Taliban-strictures-on-women>.

As women's participation in society sharply declined, Afghan women fled into hiding, desperately seeking evacuation measures. Prominent female members of parliament, judges, and women in local governments were at the top of the Taliban's kill lists.¹⁰⁴ Their homes and offices were ransacked and searched.¹⁰⁵ Thousands of Afghans rushed to the Kabul airport gates, which were blocked by US marines.¹⁰⁶ This chaos caused the Afghan women lawmakers to be turned away from the airport despite being told they had seats on evacuation flights and that the US military had their names on departures lists.¹⁰⁷ As the women "kept getting pushed down to the bottom of the evacuation list, groups of private citizens and NGO workers stepped in to help these women leaders flee to countries like Greece and Albania.¹⁰⁸ However, the majority of women were abandoned in Afghanistan, under the control of the new Taliban government.¹⁰⁹

Afghanistan is now on the verge of an economic collapse and humanitarian crisis. In an effort to not legitimize the Taliban interim government, foreign aid from the Western world, which supports up to 80% of all Afghan government expenditures, was cut off.¹¹⁰ The US froze over \$9 billion of Afghan currency reserves.¹¹¹ The World Bank, International Monetary Fund, and other donor countries stopped project funding and halted funding access.¹¹² Soaring food and commodity prices in conjunction with scarce income and cash from lack of jobs caused a rise in hunger among the most vulnerable.¹¹³ About half of the population – 22.8 million people – face acute food insecurity and 3.2 million children under the age of five could suffer from acute malnutrition.¹¹⁴

¹⁰⁴ See Joshua Nevett, *Young Afghan mayor who fled Taliban hidden in car*, BBC NEWS (Aug. 26, 2021), <https://www.bbc.com/news/world-asia-58343250>; *I don't think I'd be as brave as female Afghan Judges*, BBC NEWS (Oct. 4, 2021), <https://www.bbc.com/news/av/uk-58792434>.

¹⁰⁵ See Nevett, *supra* note 104.

¹⁰⁶ *Id.*

¹⁰⁷ See Kareem Fahim, *To help U.S. allies flee Afg., these advocates turned to Iran*, WASH. POST (Sept. 24, 2021), https://www.washingtonpost.com/world/asia_pacific/afghanistan-iran-refugees-parliament-women/2021/09/24/cd23357c-1c6c-11ec-914a-99d701398e5a_story.html.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Shadi Khan, *From rural drought to urban shortages: Afghanistan's new hungry*, NEW HUMANITARIAN (Oct. 6, 2021), https://www.thenewhumanitarian.org/news/2021/10/6/rural-drought-to-urban-shortages-Afghanistans-new-hungry?utm_campaign=social&utm_medium=social&utm_source=Twitter.

¹¹¹ Sune Engel Rasmussen, *Afg.'s Economic Meltdown Leaves Ordinary Citizens Scrambling to Survive*, WALL ST. J. (Sept. 18, 2021), https://www.wsj.com/articles/afghanistans-economic-meltdown-leaves-ordinary-citizens-scrambling-to-survive-11631969485?mod=article_inline.

¹¹² See *Afghanistan: World Bank halts aid after Taliban takeover*, BBC NEWS (Aug. 25, 2021), <https://www.bbc.com/news/business-58325545>; Beth Timmins, *IMF suspends Afghanistan's access to funds*, BBC NEWS (Aug. 19, 2021), <https://www.bbc.com/news/business-58263525>.

¹¹³ See Khan, *supra* note 111.

¹¹⁴ *Afghanistan facing desperate food crisis, UN Warns*, BBC NEWS (Oct 25, 2021), <https://www.bbc.com/news/world-asia-59011501>.

Additionally, the US exit created a refugee crisis as 124,000 people evacuated Afghanistan.¹¹⁵ More than 55,000 Afghan refugees are now on US soil with over 50,000 of the evacuees on eight military bases waiting to be resettled.¹¹⁶ This does not include the thousands more waiting in limbo on US military bases in Germany, Spain, and the Middle East, who can only enter the US when space on the military bases open up.¹¹⁷

These smoldering ashes of Afghanistan, from oppressing women to the refugee crisis, demonstrates why women must be equally and substantively engaged in peace negotiations. Because the past cannot be undone, it is vital for the US and international community to implement the mandates contained within the WPS Strategy and the UNSCR 1352 moving forward. Afghan women must be primary participants in all negotiations and peace processes with the new Taliban government. The exiled Afghan women leaders are prepared and voicing their right to participate in all conversations and decisions on women, peace, and security. “Create spaces for me and other Afghan women leaders to talk directly with the Taliban,” remarked Asila Wardak, an established women’s rights and civil society activist.¹¹⁸ “Give us a seat at the table. Do not put us in the corridor.”¹¹⁹

The women know exactly what is necessary to help Afghanistan. First, the international community must pressure the Taliban to form an inclusive government by including women in all political spaces and decision-making processes.¹²⁰ In October 2021, a group of Afghan women leaders called on the UN to block the Taliban from gaining a seat in the General Assembly, urging the seat to be given to “somebody who respects the rights of everyone in Afghanistan.”¹²¹ Wardark urged the international community to pressure the Taliban to “put their words into actions” when it comes to women’s rights, emphasizing that if the Taliban is given a seat, conditions must be set.¹²² Second, the international community must take immediate actions in aiding the humanitarian crisis by establishing a corridor for civil society and humanitarian actors to help people in need with women leadership guiding humanitarian

¹¹⁵ Nancy A. Youssef, *Almost Half of Afghan Evacuees at U.S. Bases Are Children, Pentagon Says*, WALL ST. J. (Oct. 20, 2021), <https://www.wsj.com/articles/almost-half-of-afghan-evacuees-at-u-s-bases-are-children-pentagon-says-11634720580>.

¹¹⁶ Ben Kesling & Michelle Hackman, *U.S. Afghan Resettlements Slowed by Housing Shortage, Old Technology*, WALL ST. J. (Oct. 17, 2021), <https://www.wsj.com/articles/u-s-afghan-resettlements-slowed-by-housing-shortage-old-technology-11634463001>; Miriam Jordan & Jennifer Steinhauer, *Military Bases Turn Into Small Cities as Afghans Wait Months for Homes in U.S.*, N.Y. TIMES (Oct. 3, 2021), <https://www.nytimes.com/2021/10/03/us/afghan-evacuees-military-bases.html>.

¹¹⁷ See Jordan & Steinhauer, *supra* note 117.

¹¹⁸ *Afghan women leaders speak at UN: “Give us a seat at the table.”*, MIRAGE (Oct. 26, 2021), <https://www.miragenews.com/afghan-women-leaders-speak-at-un-give-us-a-seat-658867>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Michelle Nichols, *At United Nations, Afghan women appeal: don’t let Taliban in*, REUTERS (Oct. 21, 2021), <https://www.reuters.com/world/asia-pacific/united-nations-afghan-women-appeal-dont-let-taliban-2021-10-21>.

¹²² *Id.*

delivery and assistance.¹²³ Lastly, the Taliban must permit freedom of press in order to hold the government accountable.¹²⁴ By actively placing the women and their interests at the forefront of all peace negotiations, the fruition of these specific requests may start a tattered country down a road of recovery.¹²⁵

In conclusion, the answer to the question of, “did the US withdrawal of Afghanistan have to end this way?” is an emphatic no. Including the interests of women in peace negotiations could have altered the outcome in Afghanistan, saving not only thousands of lives, but also an entire country. The international community must learn from these mistakes. The faults of the past must not be repeated. The policy guidelines in UNSCR 1325 and the WPS Act exist for this very reason—women’s engagement in conflict resolution is the crucial element for sustainable peace.¹²⁶ While the future of Afghanistan is in the hands of the Taliban is still unknown and ever-changing, including Afghan women at the negotiation table is paramount to restoring peace in this war-torn country.

¹²³ See *Afghan women leaders speak at UN: “Give us a seat at the table,”* supra note 119.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ Women, Peace, and Security Act of 2017, Pub. L. No. 115-68, § 1141 Stat. 1202 (2017).