Between Fear and Hope

COVID-19, Peace Negotiations and Longer Term Prospects for Development Assistance in Afghanistan

Briefing Paper

**Proceedings from the Expert Meeting,
"Do Not Forget Afghanistan" - October 20, 2020**

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Situation Analysis: Afghanistan at Crossroads

Afghanistan is facing concomitant and compounding crises in humanitarian, governance, economic, environmental, and political arenas. Internally, the implications of COVID-19 have reinforced structural vulnerabilities and inequalities and strengthened ongoing concerns among Afghans and international donors alike about the dysfunctions of governance. The global effects of the pandemic have also added to levels of uncertainty concerning the modalities of international aid for Afghanistan.

Current pledges to Afghanistan by the international community will end in December 2020. The extent and modalities of international aid after 2020 will be of significant consequences for Afghanistan. Efforts to disincentivize the continuation of conflict and create conditions for development and stabilization will be key in laying the foundations for sustainable peace.

Four key events in the immediate future will have serious implications for Afghanistan. These are:

- The peace talks between the Government of Afghanistan and the Taliban in Doha, the outcome of which remains uncertain. The armed conflict continues between the two parties while there has been minimal space for international intermediaries to help moving along the stalled process.

- The Geneva Conference, scheduled November 23-24, 2020 to bring together the international community and the Afghan government to define mechanisms and modalities of support and cooperation beyond 2020.

- The withdrawal of NATO troops, expected to take place in the spring of 2021 though without specifics about the manner in which the withdrawal is to take place, the timeline or the modalities.

- The probable policy change on Afghanistan by the incoming US administration when it takes office in January 2021.

The current situation raises fundamental questions about the future of Afghanistan, how and under what conditions international assistance should be provided over the longer term, with or without a peace agreement being reached between the Afghan government and the Taliban.

Recognition by both the Government of Afghanistan and the Taliban about the need for continued international support to Afghanistan beyond a peace agreement provides instrumental leverage for international stakeholders in formulating an agenda for sustainable peace, in which inclusivity and respect for human rights must play central roles.

The Geneva Conference of November 23-24, 2020 presents an opportunity for Afghanistan's international donors to formulate future aid modalities based on lessons learned from other peace processes with implications for Afghanistan's conflict and its most pressing needs

The Netherlands has committed to helping Afghanistan become a safe and stable country by strengthening the rule of law, promoting peace and contributing to social and economic development, focusing particularly on women and vulnerable groups.

This three-pronged approach focuses on the Rule of Law, Security and Stability, and Social Development (Box 1).

The Netherlands' Priorities in Afghanistan, 2019 – 2022

> **Rule of Law** consists of assistance to strengthen the legal system in Afghanistan, giving people (especially women) improved access to the courts.
>
> **Security and Stability:** contributing to lasting security and stability in Afghanistan through training and supporting Afghan security forces and a peace process that is Afghan-owned and Afghan-led.
>
> **Social Development** through provision of technical assistance in agricultural development to improve living conditions as a pre-requisite for increased stability.

Source: The Ministry of Foreign Affairs[1]

In an attempt to move away from the dependency reflected through the rhetoric of assistance, the Dutch approach emphasizes 'partnership' rather than 'assistance' and 'investment' rather than 'aid'. This approach entails strong local leadership with Afghan institutions of governance.

One of the key challenges lying ahead in planning support for Afghanistan is the uncertainty concerning the outcome of the ongoing peace process, further aggravated by the continuation of armed conflict between the government security forces and the Taliban and violent criminal activity carried out by organized armed gangs. A pre-requisite for sustainable peace is a significant reduction – if not a complete – ceasefire between the fighting parties.

Reintroducing stability in an environment characterized by decades of conflict and uncertainty will require functioning government institutions and a more robust civilian economy that is not driven by rent seeking but by productive economic activity. Such an economy should also have the capacity to absorb and integrate tropes of fighters when the fighting ends. Given these parameters, the international community should not revert to humanitarian and development aid modalities of the past two decades and expect better results.

This briefing benefits from a webinar, held on October 20, 2020 with participation of representatives from the Dutch Ministry of Foreign Affairs, academia, diaspora organizations, Nordic+ non-governmental organizations and civil society engaged in Afghanistan. The briefing calls for a critical reflection on how the Netherlands, the Nordic+ countries, and the international community more generally could formulate their approach to Afghanistan and to address the multiple challenges the country is facing today.

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[1] Based on The Ministry of Foreign Affairs (2019), The Netherlands and Afghanistan: Main objective of Dutch efforts in the period of 2019 – 2022, available from: https://www.government.nl/binaries/government/documents/publications/2019/08/13/the-netherlands-and-afghanistan/The+Netherlands+and+Afghanistan.pdf

Security and Stability

Current Status

Key to the Netherlands' contribution to security and stability has been the dual focus on supporting Afghan security forces and an Afghan-owned and Afghan-led peace process. Progress has been slow regarding the former but the Dutch and international efforts in terms of training and assisting Afghan security forces have, for example, resulted in a slow but gradual increase in the number of Afghan women in the police force.[2] In terms of contributions to peacebuilding, however, the current peace process has lacked open and explicit support as compared to other successful peace processes such as those in Northern Ireland and Colombia, both of which benefited significantly from interest and engagement of multiple international stakeholders.

The outcome of the ongoing talks in Doha – whether they result in an agreement between the parties or not – will be instrumental in shaping the political, social and economic context in which international interventions will take place. The outcome of the peace process will very much depend on who is currently able to influence the process, and to what extent. To date, international facilitators other than the United States have not played significant roles in engaging with the negotiating parties, or attempting to ensure that the rights of women, youth and minorities are addressed in the process – apart from formal statements denouncing the heightened violence despite the peace talks.

On February 29, 2020 the United States and the Taliban signed the "Agreement for Bringing Peace to Afghanistan." The agreement calls for the cessation of violence between the Taliban and the United States and a phased withdrawal of foreign forces from Afghanistan. It also includes a provision to commit the Taliban to participate in an intra-Afghan dialogue on peace, though the agreement is not tied to progress made during the dialogue.

Intra-Afghan talks started on September 12, 2020, with much hope among various stakeholders about the possibility of peace. The process, however, has dragged on without yielding tangible results toward an equitable peace agreement. The Afghan government is facing increasing difficulties to lead the process – which is *de facto* owned by the Taliban. This has been attributed to a weak and divided government in Afghanistan, the autonomously planned US withdrawal, ill-preparedness of Afghan security forces, and heightened armed conflict between the government and Taliban forces.

The exercise of violence is indeed too important for the Taliban as a source of legitimacy and leverage for them to abandon it. Violence therefore continues, but the dynamics have evolved. The government has adopted a defensive attitude, which has resulted in citizens in Taliban-held areas being slightly better off. At the same time, the Taliban have increased their attacks in areas under government control, increasing the number of citizens that fall victim to targeted and indiscriminate attacks.

There are serious concerns relating to protection of human rights, women's rights and state-building efforts which are not directly addressed in the agreement between the United States and the Taliban and have not, to date, featured in the Doha talks.

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[2] Kamminga, J. (2020). 'A Tale of Two Pragmatisms: How to increase the meaningful participation of women in Afghanistan's police force', *Oxfam*

Discussion Paper. Available from: https://oxfamilibrary.openrepository.com/handle/10546/620974.

Aggravating these conditions is the prospect of a NATO withdrawal in the spring of 2021, the modalities of which remain unclear. In addition, it is not yet known what approach will be adopted toward Afghanistan by the incoming US administration.

Ill-prepared, inefficient, and financially unsustainable Afghan National Security Forces (ANSF) and National Army (ANA) are highly to withstand coordinated attacks by the Taliban or other forces.

Under these conditions, four scenarios may be assumed for Afghanistan in the immediate and medium terms.

Scenario 1: the government security forces will manage to defeat the Taliban and strengthen the institutions of governance of the Islamic republic, route out ethnic and religious tensions, and bring endemic corruption under control. *This scenario, based on past trends, is highly unlikely.*

Scenario 2: the Taliban defeat and overrun the government to establish a Taliban government similar in characteristics to the Taliban regime that ruled Afghanistan from 1996-2001. *This scenario, based on the chaotic manner in which Taliban forces fight government security forces, and the manner in which Afghanistan's urban population has evolved since 2001, is unlikely though perhaps more likely if foreign troops leave Afghanistan and the international community ceases to fund Afghan security forces and support the nascent Afghan civil society.*

Scenario 3: a political deal is brokered between the negotiating parties to result in a new regime including the Taliban and based more fundamentally on a much stricter interpretation of Shari'a in line with the Hanafi school, minimizing the rights of citizens, particularly women, youth and minorities. *Given the advantage and legitimacy awarded to the Taliban in the agreement between the Taliban and the United States, and on the condition that a peace deal is reached, this is a likely outcome.*

Scenario 4: chronic conflict with unchanged parameters will continue indefinitely with little or no possibility of peace or a reduction in armed violence. Warlords and commanders will tighten their grip on political and economic life and illicit economy will persist, ultimately pushing the country toward a civil war comparable to the civil war of 1992-1996. *With no fundamental change in the current parameters, such as a peace agreement being reached or international forces suddenly withdrawing from Afghanistan, this is the most likely prospect for Afghanistan.*

Each scenario has serious consequences for Afghans and serious implications for the international community with stakes in Afghanistan.

Afghan civil society, made up mostly of young men and women who have come to age since 2001, has a potentially instrumental role to play in steering the direction of developments toward peace and away from conflict and chaos. To play this role, civil society and its various organizations need to orient their strategic direction toward "popular sovereignty," or a government of the people for the people. As such, civil society should strive for a post-peace government that is legitimate and accountable to all Afghans and serves all Afghans.

Photo: Oriane Zerah

For the international community with stakes in Afghanistan, the current conditions present an opportunity to rethink the modalities of their support to and partnership with Afghanistan. In the event of Scenario 4, above, the choice by international stakeholders of approaches toward Afghanistan should go beyond the binary of development versus humanitarian aid. In deciding the modality of aid, and with sustainable peace as the ultimate goal, continued assistance by the international community to Afghanistan must be cognizant of, and address, a number of context-specific issues and factors as follows.

1. **Systemic Drivers of Conflict:** The conflict in Afghanistan remains one of the longest-running and deadliest on earth, reaching unprecedented levels in recent weeks. Afghan civilians and civilian infrastructure is under constant threat – in the first half of 2020, nearly 3,500 civilian casualties were documented, including 30% women and children. In addition, at least 40 schools have been attacked or burnt down in the last six months and 400 remain closed due to conflict and fighting across the country. The decades-old conflict in Afghanistan is driven by regional and geopolitical, ethnic, linguistic, religious and economic factors.[3] Without clear and concrete support for peace from neighbors and allies, even if the Taliban stop fighting, other groups or dissenting members of the Taliban are likely to emerge and undermine security and stability in Afghanistan. The experience from other peace processes clearly demonstrates that a peace agreement is no guarantee of ending a conflict if the agreement has not addressed the root causes of conflict.

2. **Displacement:** The displacement crisis continues to grow with more than 200,000 people newly displaced in 2020, in addition to nearly 3 million people who remain displaced across the country due to conflict and violence. There remains little strategic vision to find a solution to Afghan's displacement and in the meantime, IDPs, returnees, and host communities continue to fall through the gaps between humanitarian and development assistance.

Photo: Oriane Zerah.

3. **Women's Rights:** There is mainstream recognition that men and women experience conflict and its traumas in different ways. In Afghanistan, where conflict and violence affect all aspects of social, political and economic life, gendered experiences of violence and their legacy in everyday life interact with multiple forms of discrimination that affect women's participation and place in society.

   There appears to be unanimity among men and women, however, on the question of women's presence and active, meaningful participation in the peace negotiations with the Taliban.[4] The inclusion and participation of women as survivors of the armed conflict

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[3] Dorronsoro, G. (2005), Revolution Unending – Afghanistan: 1979 to the Present, (London: C. Hurst & Co. [Publishers] Ltd.)

[4] APPRO (2020), Fragility and Making Peace: Rights of Afghan Women and Peace with the Taliban,

available from: http://appro.org.af/publications/fragility-and-making-peace-rights-of-afghan-women-and-peace-with-the-taliban/.

and as mediators and/or negotiators in the peace process would be in line with Afghanistan's commitment to UNSCR 1325 and the subsequent resolutions on Women, Peace and Security.

4. **Conflict Trauma:** Conflict trauma exacerbates deeply rooted animosities that can take generations to heal and require much investment in confidence building and increasing mutual trust at the local, intercommunity levels, and Mental Health and Psycho-Social Support initatives. Offering to compromise on basic rights, driven by helplessness and desperation to have relative peace, should be understood, recognized and addressed through full clarity on different scenarios of peace within a spectrum of imposed (weak) and unsustainable peace and inclusive (strong) and sustainable peace.

5. **Representativeness and Legitimacy:** Pre-existing traditional and formal structures have not been used to elect representatives rooted in local communities and thus having legitimacy within local communities and knowledge of their communities' specific redlines or green lines for peace negotiations. More extensive and managed use could be made to elect representatives for peace negotiations through village councils, community development councils, district level jirgas, and provincial councils.

6. **Negotiation Capacity**
If representativeness and legitimacy are addressed, the next challenge is to ensure adequate capacity of these representatives to negotiate on behalf of their constituents. Those who negotiate with the Taliban need to have knowledge about Islam and its provisions for civil liberties and knowledge of international standards and protocols on

human rights. While women should be a significant part of the intra-Afghan peace negotiations, there are clear limitations to their added value if women only focus on women's rights and the Taliban delegation continues to be men-only.

7. **Agenda for Peace:** The agenda for bringing peace to Afghanistan has thus far been limited to an honorable withdrawal by the United States from Afghanistan and meeting the Taliban's main demand for all international military forces to leave Afghan soil. This incomplete agenda for peace makes a peace agreement for Afghanistan particularly vulnerable, particularly given the fact that even full and comprehensive peace agreements around the world have remained vulnerable to long standing and historically rooted divisions.

Key elements of an agenda would include commitments by both sides to a ceasefire and cessation of hostilities, reductions in poverty and corruption, enhancements in economic development, combating the drugs production and smuggling, instituting transitional and restorative justice, ratifying the peace agreement by impartial third parties, and monitoring the implementation of the provisions in the peace agreement.

8. **Human Rights**
In addition to clear provisions to combat poverty, corruption, illicit drugs production and trafficking, and commitments to increase political participation and improve social and economic conditions, a peace agreement should have provisions for human rights and a specific provision for a constitutional amendment on "Humane and Non-discriminatory Treatment" of persons based on Article 3 of the Geneva Conventions.[5] In the event of a peace

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[5] For the full text of the Convention, see: https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.32_GC-III-EN.pdf

agreement in Afghanistan, there is likely to be a need for clear provisions for transitional and restorative justice based on the right to legal identity, effective civilian representation and oversight in all key sectors based on international human rights standards, and protection of civil society, journalists, and human rights defenders.

9. **Civil Society and Taliban:** There is much uncertainty about the prospects for CSOs, including national and local NGOs, under a government heavily influenced or fully run by the Taliban. The Taliban's recent statements about women's rights and human rights in general, have so far not been able to convince Afghan civil society that the underlying principles of these statements are substantially different from those on which the Taliban regime (1996-2001) based itself. Nothing is known about how the Taliban view NGOs with mandates driven by adherence to international human rights, inclusion, and equity.[6]

Recommendations

- The international community should articulate their priorities and red lines in terms of future cooperation with Afghanistan – notably in terms of fundamental rights, governance and rule of law. The negotiating parties recognize the need for sustained international support in the future. This provides the international community to influence the intra-Afghan peace process and ensure that fundamental

rights, democratic governance, and rule of law are directly addressed in positions put forward by the negotiating teams from both sides.

- To maintain a balance in the fight between the Taliban and Afghan security forces, a residual NATO presence and continued financial support for Afghan security forces will be needed, regardless of whether or not a peace agreement is reached or the type of government after peace.

- In providing support for Afghan security forces, the international community is well advised to stay away from short cuts, particularly a reliance on local armed militias as substitutes for formally trained security forces that have roots in and account to communities they are to serve.

- Security provision needs to be coupled with local economic development and inter-community reconciliation initiatives. Strengthen the localization of humanitarian and development aid through institutional support to government and non-government local organizations, targeted capacity building, and partnerships based on mutual dependence and economic prosperity.

- Integration of Taliban fighters into the army and security forces will be challenging but necessary as a means to avoid resurgence of violence and recruitment of former fighters into other organized armed gangs.

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[6] These nine points are drawn mostly from APPRO (2020), Toward an Inclusive Framework for Sustainable Peace in Afghanistan, available from: http://appro.org.af/publications/toward-an-inclusive-framework-for-sustainable-peace-in-afghanistan-communique-3/

Rule of Law / Governance

Current Status

Dutch assistance to support rule of law in Afghanistan has focused on strengthening the legal system and making improvements in access to courts, particularly for women. Since the overthrow of the Taliban regime in late 2001, an abundance of legal provisions has emerged on a wide range of issues including women's rights. Afghanistan has also become signatory to the United Nations Security Council Resolution 1325 (UNSCR 1325) and the subsequent related resolutions on women, peace and security, as well as a host of other resolutions and conventions on human rights and women's rights.

There have been steady signs of improvements and professionalization in the formal justice sector under the National Unity Government (2014-2019) including increases in the number of qualified male and female judges and in the number of women using the formal justice system. The legal framework has improved over the past five years and the body of laws has expanded. The government has also displayed more willingness than in the past for openness and transparency while the president has made pledges to protect political rights, freedom of speech and media rights. Public access to trials has increased, legal representation has improved, and case registration and case progress have improved.

Much, however, remains to be done. Many officials in the Ministry of Justice and Criminal investigation Department have little or no legal background. The availability of qualified male and female justice personnel is uneven and a function of the degree to which traditionally conservative and locally varied customs allow for the functioning of formal justice institutions in local communities. Availability does not necessarily lead to access to and use of formal justice structures, particularly by women.

Corruption in the justice system is still high, and recruitment is affected by entrenched nepotism and political corruption.

There is persistent competition between three legal systems that coexist without communicating with each other: the formal government system, shadow Taliban courts, and traditional dispute resolution mechanisms of *jirgas* and *shuras*. In areas controlled by the Taliban or subject to strict patriarchal conventions, men and women are unlikely to seek formal justice. The persistence of formal and informal justice systems will have a direct bearing on arrangements for transitional and transformative justice in the event of a peace agreement.

Photo: Oriane Zerah.

Endemic, entrenched, systematic and institutionalized corruption and rent seeking directly affects the outcomes of the talks in Doha and the extent to which issues of transitional and transformative justice will be addressed as part of the negotiations. Elements from both parties have been heavily involved in the drugs trafficking, illegal extraction of mineral, illicit financial flows, land grabbing, patronage appointments and political corruption.

Any discussion on transitional and transformative justice will need to include

active participation of ordinary citizens and the media. In the absence of formal mechanisms for engagement of civil society in the negotiations, the media will have to play a crucial role to play to carry the voices of citizens.

Recommendations

- Current shortcomings in the rule of law in Afghanistan are at least in part due to the Bonn Agreement, which did not adequately make provisions for the rule of law. Peace without justice is unsustainable. Rule of Law should not be addressed separately from the ongoing peace process. To avoid past mistakes, it is essential to include provisions for the rule of Law as part of discussions on peace and development, including at the Geneva Conference.

- Support civil society engagement in fostering a public debate about transitional justice in Afghan society.

Social development

Current Status

The past twenty years have witnessed substantial progress in some aspects of development – notably in access to education and access to health. School enrolment has increased while child and maternal mortality have dropped significantly. These gains are tenuous, however.

There were alarming rates of poverty and food insecurity prior to the pandemic. In 2016, an estimated 55% of the population lived below the poverty line and around 45% were considered food insecure.[7] An estimated 3.7 million children remained out of school in 2019, 60% of which were girls, and maternal mortality rates are still among the highest in the world.[8]

The advent of COVID-19 in February 2020 aggravated these pre-existing vulnerabilities. Securing livelihoods has become increasingly challenging due to the economic consequences of the pandemic, with poverty rates expected to increase up to 72% in 2020, with direct effects on access to amenities and services including food, shelter, health care and education.[9]

In rural areas, where the drought of 2018-2019 had devastating effects on livelihoods with many of the most vulnerable families having lost their ability to cope, travel restrictions imposed in response to the pandemic adversely impacted producers' ability to access markets.

In the first half of 2020, disruptions in regional trade led to food shortages and inflation in the prices of staple food commodities such as flour, wheat, rice, sugar, pulses and cooking oil.[10] Food insecurity is expected to reach emergency levels in 2020.[11]

The pandemic underlines the fragility of Afghanistan and serves as a reminder to the international community that its efforts since 2001 have not resulted in addressing the systemic drivers of widespread poverty in Afghanistan. Pre-existing poverty combined with the pandemic directly affects children, with repercussions in malnutrition, heightened risks of neglect, exploitation, violence and abuse, child labor, and early marriages for girls.

Photo: Oriane Zerah.

Child labor, already used as a coping mechanism by a large number of vulnerable households, is at the risk of increasing.[12]

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[7] Central Statistics Office (2017). Afghanistan Living Conditions Survey 2016-2017. Analysis Report. Islamic Republic of Afghanistan.

[8] Wagner and Warren, 2020.

[9] World Bank (2020). Surviving the Storm. Afghanistan Development Update. July 2020. 29 July 2019.

[10] Market price of cooking oil increased by 30% between March and August 2020, for example (WFP, 2020).

[11] IPC (2020). A survey conducted in three provinces in the initial phase of the pandemic shows 37% of respondents were in an emergency state of food insecurity, 35% acutely food insecure, and 28% borderline food insecure. See: Ahmad, N.A et al (2020). *Community Perception Survey – COVID-19. Knowledge, Attitude and Perception Survey in Kabul, Kunduz and Khost Provinces.* Kabul: The Johanniter. Available at: http://www.acbar.org/upload/1587551493338.pdf

[12] Save The Children (2020). COVID-19: An Additional Three Million Children in Afghanistan Need Help to Survive in Afghanistan. June 11, 2020; United

Civil society organizations are crucial actors in raising the voices of the disenfranchised: women, youth, minorities and people with disabilities. Local NGOs have been instrumental in the delivery of basic services in health and education. The operational space of civil society, however, has consistently shrunk over recent years, with further restrictions due to consequences of the pandemic and hostile government policies, including the draft ANPDF II and the draft NGO Law.

Photo: Oriane Zerah.

Recommendations

▪ Regardless of whether a peace agreement is reached in Doha, humanitarian assistance will be crucial in addressing acute needs of citizens and development assistance will be needed to ensure the gains since 2001 are sustained and opportunities for recovery supported.

▪ Productive civilian economies will be essential in laying the basis for reducing conflict and sustainable peace. Design targeted, integrated approaches to support private sector actors involved in productive, value adding economic activity such as MSSEs through interventions that link stakeholders throughout value chains.

▪ The specific needs of women and children and minorities in conflict should be integrated in internationally supported initiatives in Afghanistan.

▪ Coordination between development actors, based on interdependence and complementarities, should be sought in setting intervention priorities for Afghanistan. This will require flexibility in approaches, but also better communication channels between actors within Afghanistan and decision-makers for donor entities outside of Afghanistan.

▪ Shift the focus from upward accountability of the government to donors, to downward accountability of the government and the international donors to citizens. In so doing, civil society organizations should be capacitated to play a key role as monitors of government action.

▪ Ensure the government of Afghanistan remains committed to the international legal framework it is signatory to, and national policies developed under these frameworks as part of ongoing negotiations in Doha – including the National Action Plan for the Implementation of UNSCR 1325 and related resolutions (NAP 1325).

Nations' Children Fund (2020). COVID-19 May Push Millions More Children into Child Labor. Press Release. June 12, 2020.

Photo: Oriane Zerah.

About Afghanistan Platform:

Based in the Hague, the Afghanistan Platform brings together NGOs working in Afghanistan to identify needs and challenges in Afghanistan and how to address them. It serves as a platform for information and knowledge sharing between and among civil society organizations, the Ministry of Foreign Affairs of the Netherlands, and relevant development and humanitarian stakeholders.

Afghanistan Platform Members:

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