

# Responsible International Aid for Populations Ruled by Illegitimate Regimes

## An Indicative Framework for Afghanistan

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### Introduction

After more than a year under Taliban rule, Afghanistan is mired in dysfunction. Basic services such as health and education continue to decline, the public sector is paralysed and the private sector lacks basic preconditions for the kind of economic activity that could alleviate dire poverty. The country can be expected to remain in a major humanitarian crisis and state of aid dependency for years.

Since September 2021, the international community has been struggling with the dilemma of how to support the population and reduce hardship if the country continues to be led by an unelected, illegitimate regime, which includes officials who have been designated as terrorists and placed under international sanctions.

The situation of Afghanistan is not entirely unique. In Syria,<sup>1</sup> Venezuela,<sup>2</sup> Myanmar,<sup>3</sup> Sudan<sup>4</sup> and many other countries, the international community is similarly balancing the goal of supporting the population against the risk of legitimising an unrecognised or predatory regime. This discussion paper looks at lessons learnt from these contexts and proposes creative ideas for an alternative aid delivery framework, drawing primarily on the views of local leaders and experts. Ultimately, the shifting boundaries among humanitarian aid, 'humanitarian plus' aid, early recovery assistance and development may need to be revisited, so that donors can find a better balance among competing policy considerations in countries ruled by illegitimate regimes.

## Aid to Afghanistan: Historical and current context

There are few places where the constraints on aid have been as great, or the clash between theory and practice in humanitarian response as significant, as in Afghanistan. The country has gone through several phases of conflict since the early 1980s, and in each of them aid constituted an important part of the international response.

Beginning in 1980, **most donors used humanitarian aid as an instrument of foreign policy in Afghanistan, and in an openly political manner.** But after the former Soviet Union withdrew from the country in 1989, the strategic interest of the United States and other Western donors diminished. The United Nations became the primary international actor engaging in peacebuilding efforts and the key objective of aid became conflict prevention and peacebuilding.

At that time, local NGOs began to grow in size and capacity as part of a stated policy of ‘Afghanisation’. **Yet, Afghan actors were rarely part of programme design and priority setting** by UN agencies and other donors. There was no meaningful local ownership.

The end of the Cold War resulted in international attention shifting away from Afghanistan as the US and other Western powers lacked clear strategic interests in the country. This was reflected, among other things, in donors **delinking humanitarian concerns from the larger political agenda** and in the separation of the political mission of the UN Special Mission in Afghanistan (UNAMA) and the humanitarian agenda of the UN Office for the Coordination of Humanitarian Affairs (UNOCHA).<sup>5</sup>

In fact, UN agencies and other humanitarian **aid actors began to perform as a surrogate government**, taking on the role of provider of food and services.<sup>6</sup> In rural areas and in some cities, aid organisations moved from urgent aid to long-term rehabilitation and development projects in the agriculture, health and education sectors.<sup>7</sup>

Between 1994 and 2001, when the Taliban came onto the political scene in Afghanistan, international humanitarian and peacebuilding programmes faced new obstacles. The Taliban’s draconian methods, repression of women and harbouring of international terrorist groups put it at odds with international donors and prevented aid programmes from reaching their intended beneficiaries. Because the Taliban’s policies so sharply contradicted the West’s worldview and strategic interests, **humanitarian aid – the only means of interaction at the time – came to be seen as an instrument to influence the policy and attitude of the Taliban with regard to key questions of human rights and security.**

In November 2001, a US-led international coalition removed the Taliban from power, in part in response to the 9/11 attacks. Donors began treating Afghanistan less as a humanitarian cause and more as an object of international rehabilitation and development. Afghan NGOs grew stronger in institutional capacity and delivery of services, and the Afghan state began to perform a leading role in managing aid and programme implementation.

Because of the influx of resources and the large-scale presence of donors in the country, a wide range of aid delivery methods emerged. These efforts, however, involved an over-dependence upon private international aid contractors and international NGOs, which reduced local ownership and increased aid dependency.

## Aid systems and illegitimate governments: Common challenges and lessons from other contexts

As the international community considers how to engage with the new realities in Afghanistan, familiar questions emerge not only from Afghanistan's past but also from other comparable contexts. During the last decade in Syria, for example, vast amounts of international assistance have been mobilised in response to the country's humanitarian crisis, as donors are unwilling to pick up the cheque for reconstruction in the absence of a political transition. As such, donors have opted to use 'early recovery', 'humanitarian plus' and other labels to walk the fine line between supporting the Syrian population (and preventing further migration waves) and avoiding legitimisation of the Assad regime.<sup>8</sup>

Similar donor dilemmas have arisen in Sudan, Venezuela, Myanmar and other countries. Common challenges and risks include:

- **Navigating central authorities:** When the leadership of a country is not recognised by the international community, donor interactions with central authorities are reduced to the bare minimum. Yet, even working at the sub-national, local or civil society level requires some consent from the central authorities, which international actors may need to negotiate or tolerate. Effective bypassing is often only possible through carefully chosen local partners.
- **Doing harm:** Intentional co-option of international aid and state-sponsored corruption are serious risks to aid delivery in a country like present-day Afghanistan. In Syria, humanitarian aid has been distorted and co-opted by the Assad regime in multiple ways, including through exchange rate manipulation and the setting up of government-run NGOs.<sup>9</sup> In Venezuela, remote parts of the country, which have the greatest humanitarian need, are only accessible through the Maduro-aligned military. In Afghanistan, the Central Bank is putting pressure on private banks to use only its facilities for currency exchange.<sup>10</sup> Such contexts directly test aid's 'do no harm' principle.
- **Geopolitics:** Western international aid is premised on respect for human rights, democracy and good governance, and aid programmes (with the partial exception of humanitarian aid) are shaped to promote these values. With the growth of non-traditional donors like China, Russia, Iran and Turkey, increasing amounts of aid are available without such value-driven conditions, thus decreasing the influence of Western aid in places where the promotion of human rights is most needed.

Navigating these challenges is no easy task, but some lessons from Syria and elsewhere are worth noting:

- **Long-term implications of short-term fixes:** Channels for delivering humanitarian assistance in Syria were initially designed to respond to armed conflict and the terrorist threat of ISIS. Ten years on, the cross-border humanitarian mechanism that allows foreign aid to flow to Syria without government consent, which was established by the UN Security Council, remains the key point of biannual negotiation among Security Council members.<sup>11</sup> The lesson (repeated elsewhere) is that early decisions and approaches tend to get entrenched.
- **Insufficiency of humanitarian principles:** It is large-scale assistance that ends up shaping a country's economy and internal balance of power more than humanitarian aid. This reality is exemplified by the common occurrence of government co-option of the largest flows of aid and the channelling of it to reward war allies and support demographic engineering. Early consideration and use of blended concepts like the humanitarian-development-peace nexus can help lower this risk.
- **Cost of early concessions:** Despite donor efforts to deliver aid in a values-driven way, central governments or de facto authorities (DFAs) often have the upper hand. They can influence aid distribution, restrict donor operations through administrative measures, or manipulate exchange rates. Tolerating such practices allows them to become permanent, and thus a principled approach is needed from the start.
- **Limits of UN agencies:** While the UN system has the capacity to deliver aid and overcome certain obstacles in sanctioned environments, it is rarely perceived as a neutral actor by the local population. UN agencies operate in a space granted to them by the central authorities and often act under their close oversight. As such, UN agencies should become the main channel for aid only when they can ensure principled and conflict-sensitive aid provision, and if their work is independently monitored.
- **National ownership and local resources:** Aid provision through international NGOs, private contractors and multilateral agencies is chronically met with discontent by the local population. Locals do not feel involved in the design of aid programmes that often shape their lives and economies. In contexts where the government does not represent the interests of its citizens, setting up creative mechanisms for meaningful aid-related consultations with the population is particularly important.
- **Monitoring and oversight limitations:** Thorough and independent monitoring is crucial early on to detect and prevent any aid diversion and identify operational gaps. Monitoring should be carried out not only to measure the progress of aid programmes but also to enable adaptation in line with a changing political environment.

## Aid to Afghanistan: Recommendations for the current context

In August 2021, Afghanistan was plunged into a humanitarian catastrophe. The economy is now in free fall and the private sector has withdrawn or halted investment activities. The Taliban government has reintroduced authoritarian rule, restricted political diversity, resumed extrajudicial killings, banned girls' secondary education, and limited other freedoms and rights.<sup>12</sup> As such, the international community faces a similar set of moral

and practical dilemmas to that of the 1990s (albeit this time it comes after two decades of military support and state-building).

Overall, international donors have struggled to find a new approach. Despite some discussions on how to stabilise the economy and inject liquidity, there is **limited progress on how to address the mid- to long-term issues of effective aid delivery under Taliban rule**. The choices for donors are not easy, but the following aid principles and processes aim to support responsible policy and programming:

## Principles

- **Human rights:** In present-day Afghanistan, international aid may help increase the protection of human rights (especially women's rights) and preserve the human rights gains of the past. In this regard, the values bar should be set high. The fact that aid has been an ineffective instrument for influencing the Taliban's behaviour in the past should not deter donors from continuing to reinforce Afghans' demands for basic rights and freedoms.

The aim of setting the bar high is not to change the Taliban's worldview but rather to empower local activists – morally, technically and financially – to protect and expand civic space. Over time, explicitly human rights-based aid can generate increased safety for activists and foster important local debates, while also constraining the Taliban's ability to disregard international obligations.

- **Community ownership:** Delivery of both humanitarian and development aid should deliberately enable community ownership. The process should be mindful of Afghanistan's ethnic diversity and gender gaps and could be facilitated through community-level and civil society groups.
- **Local responsibility:** Countries like Afghanistan cannot remain forever dependent on foreign aid. As such, care must be taken to structure it in a way that does not institutionalise such dependence or replace the local economy. Aid-receiving communities should have responsibilities proportionate to their capacity to contribute to the relevant programme.
- **Transparency and accountability:** The selection of partners and the implementation of programmes should reflect high standards of transparency and accountability. A regular community impact assessment, with public discussion and publication of findings, could generate a sense of empowerment in society and encourage citizens to hold government accountable to an equivalent standard of openness.
- **Pragmatic compliance:** While legal compliance is essential to the successful and sustainable provision of aid in a sanctioned environment, habits of overcompliance and 'de-banking' often limit aid operations.<sup>13</sup> Local organisations need legal support so they can understand how to navigate the issue. In Afghanistan, creative payment channels will be required, and reputable local financial institutions that have long-standing business relationships with international clearing banks can play a role in this regard.

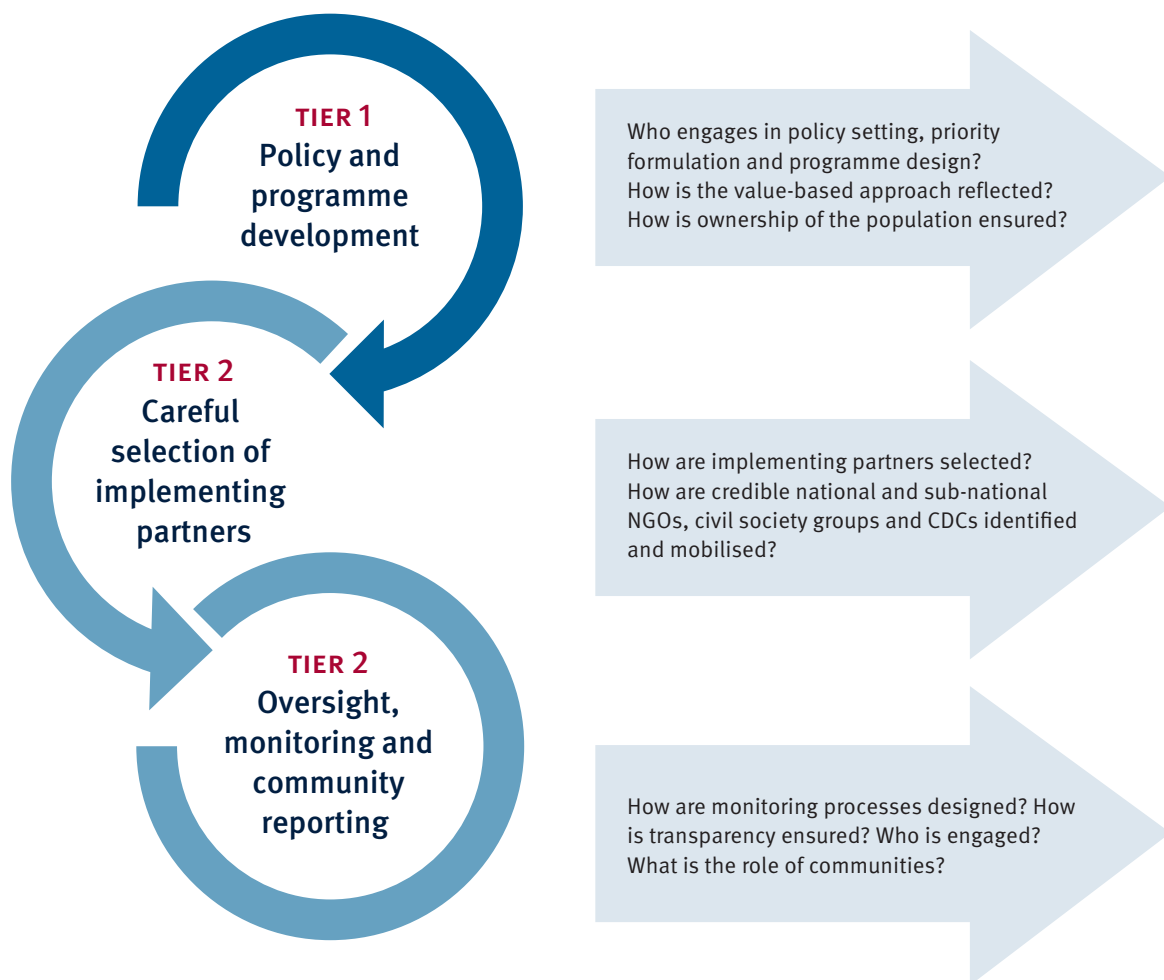
- **Communication:** Aid efforts in settings like present-day Afghanistan often fail not only because of capacity constraints but also because of donors' failure to communicate effectively with stakeholders. Effective and direct communication with the Taliban leadership is naturally fundamental, but so is donor communication with the public, especially in terms of the key messages about and key goals of the aid on offer.
- **Linking short-term and long-term planning:** Humanitarian aid should be designed with consideration of its long-term effects on society and politics, and aimed at building the pathway to development and peacebuilding programming. The risks of entering a dynamic of perpetual humanitarian aid must be understood and planned around from the start.

## Processes

1. **Needs assessment:** Country needs assessments are critical and should be designed with the following in mind: 1) mid-term needs that go beyond the immediate humanitarian crisis; 2) ways to reduce the risk of long-term aid dependency; 3) a risk threshold to avoid unintended legitimacy gains by the de-facto authority; and 4) close collaboration with informal community-based groups, independent NGOs and civil society activists, with meaningful participation of women and other vulnerable or excluded groups.



2. **Actor mapping:** Politics in conflict settings like Afghanistan are fluid. As such, it is important to regularly update and map the key actors and where they stand in terms of policies and capacity. This is best produced through inputs from local organisations that understand the context. Below is the current picture of Afghan aid stakeholders.
3. **Integrated programme design, partner selection and monitoring:** Based on lessons learned from Afghanistan’s past and from similar conflict contexts, three interlinked steps need to be clearly defined. The way these are structured and sequenced significantly influences the aid results.



### **Tier 1 – Value-based policy and programme development**

The declared primary goal of most donors is to reduce the hardship of the population in developing countries. However, international aid, including humanitarian, is delivered in a highly charged political context; as such, it is “inevitably highly political”.<sup>14</sup>



To achieve value-based objectives in aid programmes, donor policies need to be defined in a way that encompasses and explains all relevant goals – from promoting rights and freedoms, to reducing the hardship of the population. The objectives need to be crafted in a language that is understandable to implementing partners and the recipient population. Using explicit references to values-based aid objectives (human rights, freedom of speech, etc.) should be the rule, not the exception. Most importantly, **priority setting and narrative framing should be done in partnership with credible local actors**, primarily civil society groups (especially women’s groups); selected community leaders from major geographic zones of the country; and entities such as provincial chambers of commerce and teachers’ associations, which are active in most provinces.

### **Tier 2 – Selecting trusted implementing partners**

The identification of suitable implementing partners is recognised by most donors as one of the key challenges of effective aid delivery. In situations like Afghanistan or Syria, donors most often opt for international organisations, among other things to reduce the legal complications caused by sanctions regimes. Yet, this practice limits direct interaction by the donors with local organisations and ultimately risks undermining local ownership and local capacity – something that is particularly problematic in Afghanistan where institutional capacity was built up during the past two decades in the non-governmental sector.

It is understandable that donors do not always have the operational capacity to engage directly with a large number of local organisations, as it requires field presence and larger teams. Nevertheless, **thanks to technological advances, donors can develop practical ways to solve these issues.**

In Afghanistan, as elsewhere, it is important to have criteria for the selection of ideal implementing partners. This paper advocates **partnering with non-government-controlled entities (whether for-profit or non-profit) that 1) advance basic human rights or public interests; 2) have strong community-based links and presence; 3) demonstrate capacity to navigate the Taliban regime’s technical, legal and security restrictions; and 4) can creatively manage finances within the reality of sanctions.** Examples of such entities include:

- **Community-based governance structures:** Close to 70% of Afghans are living outside the provincial urban centres.<sup>15</sup> For a long time, community shuras, jergas and ‘street tribes’ have been the community-based decision makers.<sup>16</sup> The National Solidarity Program (NSP), designed by the Afghan government two decades ago, was rooted in these structures. Attempts were made to turn them into gender-balanced, elected Community Development Councils (CDC). Once constituted, CDCs drafted community-development plans and proposals for local development projects that were funded by the NSP.<sup>17</sup> The Ministry of Rural Rehabilitation and Development oversaw the programme (although it was managed by project-based contractors and a network of national and international organisations). Organisationally, the NSP remained separate from the official structure of the civil service sector. However, the programme



had mixed outcomes and was criticised for its top-down planning approach; its inability to foster alternative community leadership; and its low effectiveness in aid distribution in some areas.<sup>18</sup>

Looking ahead, Afghanistan's CDCs could be reformed and revived to implement small to mid-size rehabilitation projects in areas such as agriculture (e.g., for village-based water and irrigation systems) and infrastructure (e.g., for building secondary roads and small hydro-electricity projects). A reform effort could include bottom-up methods of planning and work, detached from the current de-facto authorities. In this regard, international donors could work as a united bloc to negotiate with the Taliban a holistic set of principles, including non-interference in the work of CDCs (see below). The financing of the programme could be run through a trust fund managed by the World Bank or similar multilateral institution, so as to ensure independence from Taliban-led institutions. A key mark of success of the programme would be its geographic and ethnic balance.

- **Private sector:** In recent years, private sector growth in Afghanistan stemmed out of development aid (and liquidity in the market because of development projects). Sectors such as logistics, construction, and IT made significant progress. Thanks to aid contracting requirements, the private sector grew in delivery capacity and became a key partner in the implementation of development projects.

Under Taliban rule, the private sector – while significantly shrunk – is still providing important financial services for aid systems. It has created legitimate payment channels that meet requirements of waver licences under the sanctions regime, and it is adapting business models to meet the challenges of the new environment. The private sector also has the advantage of bypassing most of the Taliban's restrictions on civil society and NGOs. Nevertheless, careful management of the relationship with the regime is important. For example, it is essential to publish or have reliable information about the beneficial ownership of companies to prevent the Taliban setting up companies with different fronts.<sup>19</sup>

In some cases, tax exemptions for companies engaged in aid implementation projects could be negotiated with the Taliban. Under existing sanctions rules, however, these would need to preclude the Taliban-run treasury from financially benefiting from aid project implementation.

- **Civil society groups:** Afghanistan's future democratic and human rights prospects will greatly depend on the ability to sustain and strengthen civil society groups. Since the Taliban's takeover, the space for civil society has been reduced to the minimum. Except for some brave women's groups and journalist associations, most have restricted or reduced their operations, or seen their leaders forced to leave the country. Institutions such as teacher associations, professional unions and cultural groups, by contrast, are carefully navigating their way under Taliban rule. These groups need to be mapped and their programmes supported (without putting them at risk).

In the short term, most Afghan civil society groups can carry out their advocacy and awareness raising on social, cultural and economic issues, including girls' education and literacy programmes. Organisations such as Pen Path Volunteers, which works closely with communities, has broad public backing that makes it hard for the Taliban to justify any restriction on their activities. But these organisations need international recognition and acknowledgement, which will give them more protection. In general, civil society groups should be kept close when moral support is needed, but at arm's length when it comes to setting strategies and keeping up local traditions of volunteerism.

- **Major NGOs:** Some of Afghanistan's best-known local NGOs work closely with INGOs, partner with UN agencies, and operate through coordination bodies like ACBAR and the Afghan Women's Network. They could continue as important interlocutors in the delivery of services such as health and education. In the past year, they have continued partnering with the UN to deliver humanitarian (and humanitarian-plus) aid in limited ways. To prevent development of a large UN bureaucracy on the ground, they could become direct development partners.

### Tier 3 – Oversight, monitoring and evaluation

In 2022, the size of the UN aid appeal for Afghanistan was more than the USD 2.6 billion annual budget announced by the Taliban. Considering the size of international aid in Afghanistan, its geographic spread, its role in delivering basic services, and the increased reports of Taliban interference in the work of aid organisations, **it is important to devise a strategic mechanism of oversight, monitoring and evaluation of international aid programmes.** A combination of methods can be applied, including technology to collect data on both national and sub-national levels.

- **Local level:** Regular on-the-ground oversight of project implementation can be performed by revived and reformed CDCs (except when they are themselves the implementing partners). Mandated communities could be provided with simple checklists to report on, transferable by SMS to a dedicated database that does not require high levels of education or technology literacy.
- **National level:** A national non-governmental monitoring platform, inspired by the idea of an 'executive agency' (recommended in the past for NSP delivery), could be considered.<sup>20</sup> It could be led by a steering committee composed of academics, technocrats, and elected members of the boards of directors of some civil society groups. Donors could collectively leverage their aid offering to negotiate with the Taliban the necessary space for the agency to operate with autonomy. Alternatively, a nationally reputable research institute (e.g., AREU) could lead the monitoring and evaluation of aid programmes utilising other existing structures, including:
  - **Teacher associations:** These are among the few social organisations that are still operational in Afghanistan. They are inclusive of female teachers, geographically spread across the country, and internally diverse. They have the ability to mobilise technical resources and impartially conduct monitoring at the provincial level.

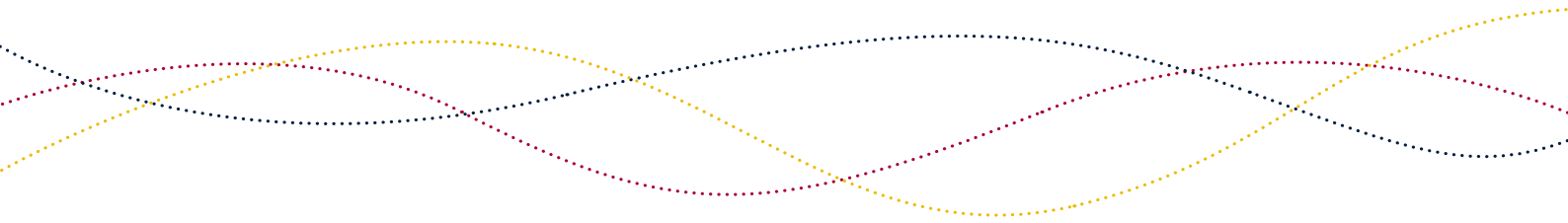
- **Student unions:** Public and private universities are still operational across the country. Student unions are among the limited number of institutions facilitating debate and the generation of social capital in Afghanistan today. University students, often coming from very diverse backgrounds, could be trained and tasked with monitoring, evaluation and data collection for development projects.
- **Professional councils:** The professional council in Herat or the doctors' council in Nangahar are examples of credible bodies that have the ability to carry out complex national-level verification processes.
- **Third-party verification and technology:** Innovative methods, including ICT and mobile technology to collect data on project progress, are increasingly used to overcome security and access challenges associated with in-person site visits. Donors could invest more in remote sensing, satellite imagery and geospatial tools, and use these accurate technologies in projects traditionally requiring physical inspection (e.g., agriculture, infrastructure, or population counts).

## Conclusion

There is a broad consensus that donors' leverage over the Taliban and their ability to change the direction of its major policies, for example in girls' education, has been minimum to non-existent. To make some of this paper's recommendations possible, the primary objective of engagement should be to empower Afghan society's ability to protect and ultimately expand civic space in the country.

To do so effectively, a discussion among donors should take place through a high-level working group to agree collectively on a set of technical requirements linked to aid implementation (such as non-interference in the work of CDCs, or tax exemptions like those described above) and then to try securing the Taliban's commitment to them through a judicious mix of private and public communications. The list should be a clearly articulated technical – not political – set of requirements, ideally culminating in a written confirmation by the Taliban Supreme Leader.

It is clear that past efforts at leveraging aid to negotiate concessions from the Taliban bore little fruit. The next time may not be any easier. A more efficient way forward may be through decoupling the negotiation of political questions and the negotiation of an agreed set of technical requirements of aid delivery. Focusing initially on the latter may help reduce the foreseeable difficulties with the former.



## Endnotes

1. See, e.g. Institute for Integrated Transitions (IFIT), “International Assistance for all in Syria”, accessed 21 November, 2022, <https://ifit-transitions.org/wp-content/uploads/2021/10/srg-international-assistance-for-all-in-syria.pdf>.
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4. See, e.g., <https://www.aljazeera.com/opinions/2022/10/25/to-save-its-economy-sudan-needs-civilian-rule>.
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8. See, Institute for Integrated Transitions (IFIT), “International Assistance for all in Syria: Choosing the Right Channels”, accessed 21 November, 2022, [https://ifit-transitions.org/wp-content/uploads/2022/03/International\\_Assistance\\_for\\_All\\_in\\_Syria\\_Choosing\\_the\\_Right\\_Channels.pdf](https://ifit-transitions.org/wp-content/uploads/2022/03/International_Assistance_for_All_in_Syria_Choosing_the_Right_Channels.pdf).
9. Natasha Hall, Karam Shaar, and Munqeth Othman Agha, “How the Assad Regime Systematically Diverts Tens of Millions in Aid”, *Center for Strategic and International Studies*, accessed 21 November, 2022, <https://www.csis.org/analysis/how-assad-regime-systematically-diverts-tens-millions-aid>.
10. Conversation with a member of the board of governors of an Afghan private bank, corroborated by two sources in the Central Bank.
11. See, United Nations News, “Syria: Security Council extends cross-border aid delivery for six months”, accessed November 21, 2022, <https://news.un.org/en/story/2022/07/1122332>.
12. See, United Nations Assistance Mission in Afghanistan (UNAMA), “Human Rights in Afghanistan: 15 August 2021 - 15 June 2022”, accessed November 21, 2022, <https://afghanistan.un.org/sites/default/files/2022-07/UNAMA%20Human%20rights%20in%20Afghanistan%20report%20%E2%80%93%20June%202022%20%28ENGLISH%29.pdf>.
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16. Qaum-e-Kocha (a street tribe) is a community-based mechanism that exists in some parts of the country, mostly in cities like Mazar-e-Sharif. They are similar to rural-based village councils.

17. Andrew Beath, Christia Fotini, and Ruben Enikolopov, “The National Solidarity Program: Assessing the Effect of Community Development in Afghanistan”, World Bank Group, accessed November 21, 2022, <https://openknowledge.worldbank.org/bitstream/handle/10986/22653/Infrastructuredevelopingoconomies.pdf?sequence=1&isAllowed=y>.

18. For more on the NSP’s actual impacts and the aspects of it to be reformed, see Jennifer Brick Murtazashvili, *Informal order and state in Afghanistan* (Cambridge: Cambridge University Press, 2016) and Christia Fotini, Andrew Beath, and Ruben Enikolopov, “Brief 03: Democratic Governance in Afghanistan”, Egap, accessed November 21, 2022, <https://egap.org/resource/brief-03-democratic-governance-in-afghanistan/>.

19. In this regard, lessons from Syria are instructive. See, e.g., Syrian Legal Development Programme, “UN Procurement Contracts in Syria:

A “few” Bad Apples? A Study of the Top 100 Suppliers”, accessed November 21, 2022, [https://sldp.ngo/wp-content/uploads/2022/10/SLDP\\_OPEN-UN-Procurement-in-Syria-En.pdf](https://sldp.ngo/wp-content/uploads/2022/10/SLDP_OPEN-UN-Procurement-in-Syria-En.pdf), and Syrian Legal Development Programme, “Policy Brief: The Role of Syrian Businesses in Conflict-Related Human Rights Abuses: Options for Accountability”, accessed November 21, 2022, <https://sldp.ngo/wp-content/uploads/2021/02/Policy-Brief-Accountability.pdf>.

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