

NEGOTIATING WITH TERRORISTS: POWER SHARING IN A POST-CONFLICT AFGHANISTAN

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With the pending withdrawal of United States troops from Afghanistan, the post-conflict relationship between the Afghan government and the Taliban has become a high-priority problem for Afghanistan to solve. After decades of the Taliban engaging in military conflict and facilitating the growth of terrorism in the country, the Afghan government and the Taliban are finally beginning to negotiate peace. In its peace negotiations, Afghanistan also has the opportunity to address terrorism within its borders, which is a critical element in ensuring the health of the country's relationship with the international community. Simply, the fate of Afghanistan's domestic and international future rests on the effectiveness of the agreement between the Afghan government and the Taliban.

This Comment argues that the Afghan government and the Taliban should enter into a political and military power-sharing agreement to fulfill the domestic priority of achieving durable peace and the international priority of combatting terrorism. Building upon the power-sharing principles of Arend Lijphart and the power-sharing categories of Caroline Hartzell and Matthew Hoddie, this Comment uses a fact-specific approach, informed by history, to analyze the effectiveness of different power-sharing arrangements and why political and military power-sharing is the best option for Afghanistan. Additionally, this Comment uses the power-sharing agreements in Northern Ireland and Colombia, which also involve power-sharing between governments and paramilitary groups, to discuss the advantages and disadvantages of their agreements and what lessons can be applied to the future agreement in Afghanistan. While power sharing is a well-established practice, confronting the modern issue of terrorism, in a post-9/11 world, must become a new staple in future peace agreements and it starts with Afghanistan.

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I. INTRODUCTION

The War in Afghanistan sits at an important crossroads. On February 29, 2020, the United States and the Taliban signed an agreement plotting the course for withdrawal of American troops and setting the stage for a post-war Afghanistan.¹ More than eighteen years after the conflict began, many analysts believe that both the United States and the new Afghan government recognize that an outright defeat of the Taliban is unlikely, if not impossible.² On the other side, the Taliban recognizes that the most advantageous way to retain power and reduce future casualties is to enter into a power-sharing agreement.³ Most significantly, the Afghan government and the Taliban have a common interest: combating terrorism.⁴ Groups like the Islamic State (ISIS) have festered within Afghanistan's

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1. See Mujib Mashal, *Taliban and U.S. Strike Deal to Withdraw American Troops from Afghanistan*, N.Y. TIMES (Feb. 29, 2020), <https://www.nytimes.com/2020/02/29/world/asia/us-taliban-deal.html> (discussing agreement made between United States and Taliban for withdrawal of U.S. military forces).

2. Seth G. Jones, *Why the Taliban Isn't Winning in Afghanistan: Too Weak for Victory, Too Strong for Defeat*, FOREIGN AFF. (Jan. 3, 2018), <https://www.foreignaffairs.com/articles/afghanistan/2018-01-03/why-taliban-isnt-winning-afghanistan>.

3. See Daniel Serwer, *Why It's Time to Negotiate with the Taliban*, ATLANTIC (Apr. 7, 2011), <https://www.theatlantic.com/international/archive/2011/04/why-its-time-to-negotiate-with-the-taliban/73379/> (detailing how the Taliban are bolstering their position in order to gain a more favorable situation in future).

4. See Wesley Morgan, *Our Secret Taliban Air Force*, WASH. POST (Oct. 22, 2020), <https://www.washingtonpost.com/outlook/2020/10/22/taliban-isis-drones-afghanistan/?arc404=true> (noting how the U.S. has allied with the Taliban in combatting the Islamic State in

borders, and the international impact has been significant.⁵ At a time when the Afghan government and the Taliban have aligned interests and can end a decades-long power struggle, the two sides have an affirmative obligation to reach an agreement to fulfill their obligation to combat terrorism.

In this Comment, I will argue that the Afghan government and the Taliban should enter into a political and military power-sharing agreement so that Afghanistan can focus its efforts on combatting domestic terrorism and ensuring durable peace. First, I will give the historical background of the Taliban in Afghanistan as it relates to its current political situation, including recent negotiations and agreements aimed towards ending the conflict. Second, I will detail the applicable international laws regarding countries' obligations to combat terrorism. Third, I will identify the different approaches to power sharing. Fourth, I will detail how applying the principles of power sharing to the current situation in Afghanistan demonstrates the need for a political and military power-sharing agreement. Fifth, I will discuss how recently ratified power-sharing agreements in Northern Ireland and Colombia provide guidance for political and military power sharing in Afghanistan. Last, I will examine the potential obstacles to the implementation of power sharing between the Taliban and the Afghan government in the post-conflict Afghanistan.

II. THE HISTORY OF THE TALIBAN IN AFGHANISTAN

Afghanistan is a country full of ethnic diversity.⁶ Ethnic groups with a significant presence in the country include Pashtuns, Tajiks, Hazaras, Uzbeks, Turkmen, and Aimaqs.⁷ Afghanistan has earned the moniker “Graveyard of Empires” because its ethnically diverse population has resisted occupation or unification under a single government.⁸ This culture of defiance helped spur the resistance to occupation by the British empire in the 19th century⁹ and by the

Afghanistan).

5. See Darin E.W. Johnson, *The Problem of the Terror Non-state: Rescuing International Law from ISIS and Boko Haram*, 84 BROOK. L. REV. 475, 486–96 (2019) (discussing impact on vulnerable states of international terrorist groups like ISIS and Boko Haram); Samantha Raphelson, *Terrorist Violence Escalates Across Afghanistan and Pakistan*, NPR (Dec. 18, 2017, 4:15 PM), <https://www.npr.org/2017/12/18/571705394/terrorist-violence-escalates-across-afghanistan-and-pakistan> (discussing increasing Islamic State presence in Afghanistan).

6. See THOMAS BARFIELD, *AFGHANISTAN: A CULTURAL AND POLITICAL HISTORY* 19 (2010) (displaying map with distribution of different ethnic groups in Afghanistan).

7. See *id.* at 23–28 (discussing largest ethnic groups in Afghanistan and approximate percentage of total population each group represents).

8. See Akhilesh Pillalamarri, *Why Is Afghanistan the ‘Graveyard of Empires’?: A Brief History of the Empires that Were Broken in the Hindu Kush*, DIPLOMAT (June 30, 2017), <https://thediplomat.com/2017/06/why-is-afghanistan-the-graveyard-of-empires/> (describing the emergence of the “Graveyard of Empires” moniker). But see Nivi Manchanda, *The Graveyard of Empires: Haunting, Amnesia and Afghanistan’s Construction as a Burial Site*, 28 MIDDLE E. CRITIQUE 307 (2019) (refuting the historical accuracy of the “Graveyard of Empires” moniker).

9. See Shane Malhotra, *“If She Escapes She Will Publish Everything”: Lady Sale and the Media Frenzy of the First Anglo-Afghan War (1839–1842)*, 17 BOOK HIST. 272, 273–74 (2014) (describing Britain’s short-lived occupation of, and hasty retreat from, Afghanistan in 1842).

Soviet Union in the 1980s.¹⁰

The Taliban's roots go back to the Soviet occupation of Afghanistan.¹¹ The country's main governing body at that time, the People's Democratic Party of Afghanistan (PDPA), was a communist regime supported by the Soviet Union.¹² Soviet concerns about the PDPA's ineffectiveness and its leader Hafizullah Amin's warming relationship with the United States led to the Soviet invasion in December 1979.¹³ Outside the PDPA, Afghan opponents of the invasion formed a paramilitary force, the mujahideen, to resist the occupation.¹⁴ As ridding the country of the Soviets was a national goal, the mujahideen attracted a large coalition of groups including royalists, nationalists, leftists, and Islamists.¹⁵ The Islamist influence within the mujahideen was strong and many mujahideen groups were forced to affiliate with Islamist groups to obtain weapons and money.¹⁶

When the Soviet Union withdrew from Afghanistan in 1989, the PDPA quickly folded, and the groups that had originally formed the mujahideen fractured and began to compete for power.¹⁷ Though some groups managed to establish regional control, for almost a decade no group could control more than a small fraction of Afghanistan.¹⁸ The Taliban capitalized on Afghanistan's fractured state to consolidate power in the 1990s.¹⁹

The Taliban began as a group of Afghan Pashtuns who received military training from Pakistanis.²⁰ The Taliban started its conquest of Afghanistan in 1994

10. See Charles J. Sullivan, *Sidestepping a Quagmire: Russia, Syria, and the Lessons of the Soviet-Afghan War*, 49 ASIAN AFF. 48, 49–51 (2018) (detailing Soviet Union's occupation of, and rationale behind withdrawal from, Afghanistan in 1988).

11. See Brian Glyn Williams, *On the Trail of the 'Lions of Islam': Foreign Fighters in Afghanistan and Pakistan, 1980-2010*, 55 ORBIS 216, 222–23 (2011) (describing role of former mujahideen and students in forming the Taliban).

12. See BARFIELD, *supra* note 6, at 225 (describing PDPA alliance with the Soviet Union).

13. See *The Soviet Invasion of Afghanistan and the U.S. Response, 1978–1980*, OFFICE OF THE HISTORIAN, U.S. DEPT. OF STATE, <https://history.state.gov/milestones/1977-1980/soviet-invasion-afghanistan> (discussing circumstances leading up to Soviets invading Afghanistan); Peter Baker, *Why Did Soviets Invade Afghanistan? Documents Offer History Lesson for Trump*, N.Y. TIMES (Jan. 29, 2019), <https://www.nytimes.com/2019/01/29/us/politics/afghanistan-trump-soviet-union.html> (detailing Amin's relationship with the United States and the resulting Soviet fear of realignment).

14. See BARFIELD, *supra* note 6, at 235 (discussing the formation of the mujahideen as resistance to Soviet occupation).

15. See *id.* at 235–36 (describing wide coalition of groups opposed to Soviet's invasion).

16. See *id.* at 236 (describing importance of Islamist groups' access to Pakistan's weapons and aid during resistance to Soviet occupation).

17. See Abdul Mahir Hazim, *Toward Cooperation Between Afghanistan and the International Criminal Court*, 49 GEO. WASH. INT'L L. REV. 615, 621 (2017) (discussing fall of PDPA and subsequent struggle for power).

18. See BARFIELD, *supra* note 6, at 245–49 (describing regionalization of Afghan governance after 1989).

19. See Lawrence Azubuike, *Status of Taliban and Al Qaeda Soldiers: Another Viewpoint*, 19 CONN. J. INT'L L. 127, 130–31 (2003) (discussing Taliban's acquisition of power after Soviet withdrawal in 1989).

20. See BARFIELD, *supra* note 6, at 255 (describing Pakistani role in Taliban's origin).

when it took control of the city of Qandahar in Southeast Afghanistan.²¹ Within five years, the Taliban conquered the cities of Kabul, Jalalabad, and Mazar.²² By 1999, the Taliban asserted power over all of Afghanistan except for the Northeast, where General Ahmad Shah Masud and the Northern Alliance continued to resist the Taliban's control.²³

At its core, the Taliban is an Islamist fundamentalist movement that seeks to organize the political affairs of Afghanistan under Islamic law principles.²⁴ While it was the governing power in Afghanistan, Muslim clerics comprised its top leadership positions.²⁵ After taking over Afghanistan, one Taliban cleric, Mullah Omar, took the title of Amir-ul Momineen ("Commander of the Faithful") and became the supreme religious leader of the country.²⁶ In the early days of Taliban rule, Mullah Omar formed two subordinate councils: The Central Shura and the Inner Shura.²⁷ The Central Shura was a nine-member council, which governed day-to-day foreign relations as well as domestic administration and reported to Mullah Omar.²⁸ The Inner Shura was the more influential council, comprised of six members and led by Mullah Omar.²⁹

While in power, the Taliban implemented strict religious and social policies.³⁰ It prohibited many popular forms of entertainment, including music, painting, photography, and television.³¹ It also instituted harsh punishments for thievery (amputation of hands), homosexuality (collapsing of mud walls on the accused), murder (execution), and adultery by women (execution).³² Additionally, the Taliban arrested men who trimmed their beards.³³ Under the Taliban's regime, women could not pursue education and faced many restrictions when appearing in public places, including strict dress codes.³⁴ The international community

21. *See id.* at 258–59 (describing beginning of Taliban's conquest of Afghanistan).

22. *See id.* at 258–60 (describing how Taliban conquered cities between 1994 and 1998 to gain control of most of Afghanistan).

23. *Id.* at 260.

24. *See* Serwer, *supra* note 3 ("The Taliban is an Afghan movement with national ambitions to establish an Islamic state.").

25. *See* BARFIELD, *supra* note 6, at 255–56 ("The Taliban was unlike other Afghan political movements not only in the exclusively clerical origin of its leaders but in the refugee origins of its followers too.").

26. *See* Carlotta Gall, *Mullah Muhammad Omar, Enigmatic Leader of Afghan Taliban, Is Dead*, N.Y. TIMES (July 30, 2015), <https://www.nytimes.com/2015/07/31/world/asia/mullah-muhammad-omar-taliban-leader-afghanistan-dies.html> (detailing Omar's ascension to Amir ul-Momineen).

27. *See* BARFIELD, *supra* note 6, at 261 (discussing function of Inner Shura and Central Shura).

28. *Id.*

29. *See id.* (describing Inner Shura's structure and influence).

30. *See id.* at 261–62 (describing Taliban's harsh and unpopular new policies).

31. *Id.* at 261; *see also* Nicholas Wroe, *A Culture Muted*, GUARDIAN (Oct. 13, 2001, 8:22 AM), <https://www.theguardian.com/world/2001/oct/13/afghanistan.books> (providing examples of how the Taliban suppressed Afghan culture).

32. *See* BARFIELD, *supra* note 6, at 262.

33. *Id.*

34. *See* Shannon A. Middleton, *Women's Rights Unveiled: Taliban's Treatment of Women*

increasingly ostracized Afghanistan during the Taliban's rule, partially as a result of these strict policies.³⁵

Other states also shunned Afghanistan because of the Taliban's refusal to rid the country of violent groups and terrorists.³⁶ As the self-styled "Islamic Emirate of Afghanistan,"³⁷ the Taliban offered refuge to other Islamist groups,³⁸ including Islamist separatists and jihadis from other countries.³⁹ The most notable of these groups was al-Qaeda, led by Osama bin Laden.⁴⁰ In the late 1990s, the international community requested that Afghanistan oust al-Qaeda and extradite bin Laden to face terrorism charges in the United States and Saudi Arabia for his role in orchestrating various terrorist attacks.⁴¹ Afghanistan's leadership refused, citing *melmastia*, a Pashtunwali tradition that requires a host to protect their guest even at risk to their own life.⁴²

The Taliban's refusal to hand over bin Laden became intolerable to the international community after the events of September 11, 2001.⁴³ On that day, at bin Laden's direction, al-Qaeda-affiliated terrorists hijacked planes and crashed them into the World Trade Center in New York City, the Pentagon in Washington, D.C., and a field outside Shanksville, Pennsylvania.⁴⁴ About 3,000 American civilians died in these attacks,⁴⁵ and many more first responders died later from illnesses related to the dangerous environmental conditions at the crash sites.⁴⁶

The United States quickly responded by invading Afghanistan on October 7, 2001, to pursue bin Laden and al-Qaeda for carrying out the attacks and to crush the Taliban for harboring the terrorists.⁴⁷ Throwing its military might into the

in Afghanistan, 11 IND. INT'L & COMPAR. L. REV. 421, 442–54 (2001) (detailing rules placed on women during Taliban's rule).

35. See, e.g., S.C. Res. 1267 (Oct. 15, 1999) (expressing concern over Taliban's violation of human rights); see also BARFIELD, *supra* note 6, at 264 ("[T]he United Nations stood for international human rights, which included the freedom of religion, gender equality, and the protection of minorities, all of which the Taliban violated continually.").

36. See S.C. Res. 1267, *supra* note 35 (condemning Taliban's refusal to stop sheltering terrorists such as bin Laden).

37. Middleton, *supra* note 34, at 422 n.3.

38. See BARFIELD, *supra* note 6, at 266–67 (describing reasons for Taliban's welcoming of jihadi groups like Al Qaeda as well as Chechens, Uzbeks, Indonesians, Uighurs, and Kashmiri separatists).

39. *Id.*

40. *Id.* at 266.

41. *Id.* at 268.

42. *Id.*

43. See, e.g., S.C. Res. 1390 (Jan. 28, 2002) (condemning Taliban for failure to take proper action and calling upon countries to freeze Taliban assets).

44. *September 11 Terror Attacks Fast Facts*, CNN (Sept. 18, 2020, 2:25 PM), <https://www.cnn.com/2013/07/27/us/september-11-anniversary-fast-facts/index.html>.

45. *Id.*

46. See Nathan Seppa, *9/11 Dust Tied to Some Cancers: Workers Have Higher Rates of Three Kinds of Malignancies*, SCI. NEWS, Jan 26, 2013, at 12 (noting increased prevalence of cancer among rescue workers resulting from debris after attacks on World Trade Center).

47. See Andrew Glass, *U.S. Invades Afghanistan, Oct. 7, 2001*, POLITICO (Oct. 7, 2018, 7:01 AM), <https://www.politico.com/story/2018/10/07/this-day-in-politics-oct-7-2001-867332>

region, the United States ousted the Taliban from power in only ten weeks.⁴⁸ However, the United States was unable to track down and capture bin Laden before he escaped to Pakistan.⁴⁹ After expelling the Taliban from Afghanistan, the United States chose not to engage in peace negotiations with the Taliban and specifically excluded it while establishing a new Afghan government between 2001 and 2003.⁵⁰

Once the United States invaded Iraq in 2003, Afghanistan became an afterthought in U.S. foreign policy.⁵¹ American leadership paid scant attention to Afghanistan until the Obama administration made it a priority again in 2009.⁵² While the War in Afghanistan sat on the backburner for the American occupiers, the Taliban restructured and slowly reconquered small regions within the country.⁵³ Meanwhile, much of the infrastructure set up by the United States and intended to turn Afghanistan into a budding democracy malfunctioned.⁵⁴ Corruption abounded within the new Afghan government.⁵⁵ Opium production skyrocketed.⁵⁶ The United States implemented new practices and systems that the

(describing aims of United States' invasion of Afghanistan beginning on October 7, 2001).

48. BARFIELD, *supra* note 6, at 269 (“Within ten weeks of the war’s beginning, however, Taliban positions unraveled completely.”).

49. See Gordon Corera, *Bin Laden’s Tora Bora Escape, Just Months After 9/11*, BBC (July 21, 2011), <https://www.bbc.com/news/world-us-canada-14190032> (detailing battle to capture Osama Bin Laden in Tora Bora in late 2001 and failure to prevent Bin Laden’s escape).

50. See Craig Whitlock, *Stranded Without a Strategy*, WASH. POST (Dec. 9, 2019), <https://www.washingtonpost.com/graphics/2019/investigations/afghanistan-papers/afghanistan-war-strategy/> [hereinafter *Afghanistan Papers Part 2*] (describing Bush administration’s decision to put further military pressure on Taliban in lieu of including them in negotiations, despite Taliban’s willingness to participate).

51. See Joseph E. Stiglitz & Linda J. Bilmes, *The True Cost of the Iraq War: \$3 Trillion and Beyond*, WASH. POST (Sept. 5, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/03/AR2010090302200.html> (discussing diversion of resources away from Afghanistan beginning in 2003).

52. See BARFIELD, *supra* note 6, at 273 (discussing how the United States shifted its foreign policy to re-focus on Afghanistan in 2009). President Barack Obama increased the number of troops in Afghanistan to a peak of 100,000 during his eight years in office. Danielle Kurtzleben, *CHART: How the U.S. Troop Levels in Afghanistan Have Changed Under Obama*, NPR (July 6, 2016, 4:15 PM), <https://www.npr.org/2016/07/06/484979294/chart-how-the-u-s-troop-levels-in-afghanistan-have-changed-under-obama> (showing change in number of American troops in Afghanistan from 2002 through 2016).

53. See Dawood Azami, *Analysis: The Taliban’s Resurgence in Afghanistan*, AL JAZEERA (Dec. 27, 2015), <https://www.aljazeera.com/news/2015/12/27/analysis-the-talibans-resurgence-in-afghanistan> (describing Taliban’s activities in Afghanistan from 2001 through 2015).

54. See Craig Whitlock, *The Afghanistan Papers: Built to Fail*, WASH. POST (Dec. 9, 2019), <https://www.washingtonpost.com/graphics/2019/investigations/afghanistan-papers/afghanistan-war-nation-building/> [hereinafter *Built to Fail*] (describing difficulties with United States’ efforts to improve Afghanistan).

55. See Craig Whitlock, *The Afghanistan Papers: Consumed by Corruption*, WASH. POST (Dec. 9, 2019), <https://www.washingtonpost.com/graphics/2019/investigations/afghanistan-papers/afghanistan-war-corruption-government/> (discussing corruption in Afghanistan’s government, military, and police due to excessive money flowing into Afghanistan from United States).

56. See Craig Whitlock, *The Afghanistan Papers: Overwhelmed by Opium*, WASH. POST

Afghans had never seen before, which caused cultural clashes.⁵⁷ These clashes, combined with the decreasing presence of U.S. troops in the country, created an environment in which the Taliban could regain some of its lost power.⁵⁸

The most recent formal peace negotiations between the United States and the Taliban began in 2018.⁵⁹ The parties released preliminary terms in late 2018, which included a requirement that the United States remove its troops in exchange for the Taliban's promise to no longer harbor terrorists.⁶⁰ Additionally, these preliminary terms included mandatory representation for the Taliban in the Afghan government.⁶¹ After more than a year of negotiations, the Taliban and the United States reached an agreement in late February 2020.⁶² After the Taliban completed a week of violence reduction, which it had promised to the United States, both parties signed the agreement.⁶³ However, post-agreement violence carried out by the Taliban continues to raise questions about the future of Afghanistan.⁶⁴ Though this future remains unpredictable, Afghanistan has an unprecedented opportunity to address its widespread issue of terrorism through development of a power-sharing agreement that could change global counterterrorism policy as we know it.

(Dec. 9, 2019), <https://www.washingtonpost.com/graphics/2019/investigations/afghanistan-papers/afghanistan-war-opium-poppo-production/> (describing increase of opium production in Afghanistan following U.S. invasion in 2001 as well as failed policies to curtail opium growth and its adverse effects on the country).

57. See *Built to Fail*, *supra* note 54 (“They didn’t even use currency, but bartered for items. We were bringing 21st-century stuff to a society living in a different time period.” (internal quotation marks omitted)).

58. See Azami, *supra* note 53 (discussing how the change in circumstances, along with careful planning, led to Taliban resurgence around 2015).

59. See Mujib Mashal, *Afghan Peace Negotiations Show Signs of Progress*, N.Y. TIMES (July 6, 2019), <https://www.nytimes.com/2019/07/06/world/asia/afghanistan-war-withdraw-american-troops-peace.html?module=inline> (stating that President Trump initiated peace negotiations with Taliban in 2018).

60. Mashal, *U.S. and Taliban Agree in Principle to Peace Framework, Envoy Says*, *supra* note 2. But see Michael Crowley, Lara Jakes & Mujib Mashal, *Trump Says He’s Called Off Negotiations with Taliban After Afghanistan Bombing*, N.Y. TIMES (Sept. 7, 2019), <https://www.nytimes.com/2019/09/07/us/politics/trump-taliban-afghanistan.html?searchResultPosition=1> (detailing President Trump’s cancellation of peace negotiations with Taliban and uncertainty behind the future of such negotiations).

61. See *US-Taliban Agreement Includes Interim Government: Al Jazeera*, 1TV NEWS (Aug. 24, 2019), <https://1tvnews.af/24/08/2019/243/> (reporting Taliban will participate in ministries in interim government). But see *US, Taliban Deny Rumors About Interim Government*, AFG. TIMES (Aug. 26, 2019), www.afghanistantimes.af/us-taliban-deny-rumors-about-interim-government/ (stating that United States and Taliban have not reached agreement on an interim government).

62. See Mashal, *Taliban and U.S. Strike Deal to Withdraw American Troops from Afghanistan*, *supra* note 1 (describing how United States and Taliban reached agreement).

63. *Id.*

64. See Shawn Snow, *US Keeps Air Power Pressure on Taliban Despite Peace Process*, A.F. TIMES (Mar. 13, 2020), <https://www.airforcetimes.com/flashpoints/2020/03/13/us-keeps-air-power-pressure-on-taliban-despite-peace-process/> (discussing Taliban’s resumption of attacks on Afghan forces).

III. INTERNATIONAL LAW CONCERNING TERRORISM

While one might think that power-sharing agreements between groups occupying the same physical borders are purely of national interest, international law has the potential to influence the effectiveness of these agreements. In this case, Afghanistan does not exist in a vacuum. Afghanistan is deeply integrated into the international community and, as such, international law's enforcement mechanisms can play a substantial role in developing Afghanistan's post-conflict landscape.⁶⁵

Afghanistan will need substantial foreign monetary support to sustain its government.⁶⁶ The estimated amount to keep the new Afghan government afloat after the United States' military withdrawal is in the billions of dollars per year.⁶⁷ Due to this need, foreign contributors can exert influence over the Afghan government in order to ensure Afghanistan complies with its international obligations. This may manifest in a number of ways.

Individual countries could give aid to Afghanistan contingent on compliance with certain conditions, such as requiring Afghanistan to combat terrorism so the terrorism does not reach their borders. Such conditions will allow these countries to protect their national security interests.⁶⁸ Alternatively, individual countries or economic unions, such as the European Union, could impose their own sanctions on Afghanistan.⁶⁹ The benefit of individual country sanctions versus Security Council sanctions is that national governments have fewer procedural hoops to jump through than the Security Council, and can therefore respond much more easily.⁷⁰ Finally, the United Nations Security Council could impose sanctions on Afghanistan for failure to adhere to its counterterrorism regime.⁷¹ Under this umbrella, the Security Council could also sanction countries who provide funding, weapons, or similar munitions to a non-compliant Afghan government.⁷² Doing so would empower the international community to have a collective say in Afghan counterterrorism efforts while also holding countries who support the corrupt regime accountable.

65. See *Member States*, U.N., <https://www.un.org/en/member-states/index.html> (last visited Feb. 22, 2021) (stating that Afghanistan has been a part of the United Nations since 1946).

66. See *Built to Fail*, *supra* note 54 (reporting that U.S. officials believe it will take billions of dollars per year over the course of decades to maintain stability in Afghanistan).

67. *Id.*

68. See, e.g., Patrick J. Keenan & Christiana Ochoa, *The Human Rights Potential of Sovereign Wealth Funds*, 40 GEO. J. INT'L L. 1151, 1175–76 (2009) (discussing how the United States has disbursed funds to other countries with conditions attached).

69. See Lori Fidler Damrosch, *The Legitimacy of Economic Sanctions as Countermeasures for Wrongful Acts*, 46 ECOLOGY L.Q. 95, 99 (2019) (defining economic sanctions as economic detriments imposed by individual states, multiple states, or the U.N.).

70. See *UN Sanctions: What They Are, How They Work, and Who Uses Them*, U.N. NEWS (May 4, 2016), <https://news.un.org/en/story/2016/05/528382-un-sanctions-what-they-are-how-they-work-and-who-uses-them> (discussing the process required to impose and repeal Security Council sanctions).

71. See S.C. Res. 1333, ¶ 5 (Dec. 19, 2000) (imposing sanctions through the Security Council's authority under the U.N. Charter).

72. See generally *id.*

In this section, I will analyze three different international law mechanisms that confront the issue of terrorism: United Nations (U.N.) Security Council resolutions, U.N. General Assembly resolutions, and sanctions. While each may have advantages and disadvantages that compromise their ability to impact counterterrorism policy alone, these mechanisms when combined create a framework in which international law can adapt to the ever-evolving global terrorism problem.

Afghanistan joined the U.N. in November 1946.⁷³ Like all other U.N. member states, Afghanistan is strictly bound to the resolutions of the Security Council⁷⁴ and must also recognize the resolutions of the General Assembly.⁷⁵ Despite their non-binding nature, General Assembly resolutions are still important for representing principles of international law.⁷⁶

In 1970, the General Assembly passed the “Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations.”⁷⁷ This resolution laid the foundation for many principles of international relations. One such principle is as follows:

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.⁷⁸

The Security Council adopted this principle in 1998.⁷⁹ In 1999, the Security Council further stated that nations must prevent and suppress the preparation and financing of terrorism, deny safe haven to terrorists, and create mechanisms of cooperation between nations to prevent terrorist acts.⁸⁰ After the terrorist attacks of September 11, 2001, the Security Council broadly expanded the duties of U.N. member states to combat terrorism in their respective countries. This included cracking down on the funding of terrorism,⁸¹ urging nations to sign on to

73. *Member States*, *supra* note 65.

74. *See* U.N. Charter art. 25 (“The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”).

75. *See, e.g.*, Emily Crawford, *Introductory Note to United Nations General Assembly Resolution on the Territorial Integrity of Ukraine*, 53 I.L.M. 927, 928 (2014) (recognizing the limited legal impact of General Assembly resolutions due to their non-binding nature).

76. *See, e.g., id.* at 927 (noting that the Resolution refers to customary international law principles that are found in the U.N. Charter).

77. G.A. Res. 2625 (XXV) (Oct. 24, 1970).

78. *Id.* ¶ 1.

79. *See generally* S.C. Res. 1189 (Aug. 13, 1998) (outlining new obligations for U.N. member states to deal with international terrorists, their organizations, and those who support them).

80. *See* S.C. Res. 1269, ¶ 4 (Oct. 19, 1999) (detailing the steps that Member Nations must take to combat terrorism).

81. *See* S.C. Res. 1373, ¶¶ 1–3 (Sept. 28, 2001) (requiring member states to suppress terrorist financing, freeze terrorist assets, and incorporate new punishments to punish those who aid in terrorism).

international protocols and conventions,⁸² encouraging international organizations to join in the efforts,⁸³ and implementing sanctions against some of the culpable actors.⁸⁴

In 2001, the Security Council adopted Resolution 1373, establishing a Counter-Terrorism Committee designed to monitor the implementation of national sanctions.⁸⁵ The General Assembly has also repeatedly discussed developing a comprehensive convention on international terrorism, but the proposal has not yet made much progress towards adoption.⁸⁶

Additionally, the U.N. is currently sanctioning the Taliban under a series of regimes related to its ongoing terrorist acts.⁸⁷ The Security Council categorizes the sanctions associated with the Taliban under its ISIL (Da'esh) & Al-Qaida Sanctions Committee.⁸⁸ The sanctions consist of three different regimes: assets freezes, travel bans, and arms embargos.⁸⁹ An assets freeze requires all states to “freeze without delay the funds and other financial assets or economic resources of designated individuals and entities.”⁹⁰ The travel ban requires that “[a]ll states . . . prevent the entry into or transit through their territories by designated individuals.”⁹¹ Finally, the arms embargo provides that:

All states are required to prevent the direct or indirect supply, sale and transfer from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel [sic] of all types, spare parts, and technical advice, assistance, or training related to military activities, to designated individuals and entities.⁹²

82. See S.C. Res. 1456, ¶ 13 (Jan. 20, 2003) (encouraging Member Nations to adopt the comprehensive convention on international terrorism).

83. See *id.* ¶¶ 8–9 (encouraging international organizations to participate in the fight against terrorism).

84. See *id.* ¶ 2(c) (detailing the sanctions regime to be put in place against al-Qaeda and Taliban).

85. S.C. Res. 1373, *supra* note 81, ¶ 6.

86. See generally Sara De Vido, *The Future of the Draft UN Convention on International Terrorism*, 3 J. CRIMINOLOGICAL RSCH., POL'Y & PRAC. 233, 235–36 (2017) (detailing the General Assembly's need to elaborate on the draft comprehensive convention on international terrorism).

87. See *Security Council Committee Pursuant to Resolutions 1267 (1999) 1989 (2011) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh) Al-Qaida and Associated Individuals Groups Undertakings and Entities*, U.N., <https://www.un.org/securitycouncil/sanctions/1267> (last visited Feb. 22, 2021) (describing the sanctions regime currently in place against terrorist groups in Afghanistan).

88. The committee is also known as the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011), and 2253 (2015), which concern ISIL (Da'esh), Al-Qaida, and associated entities. The Taliban is one of the “associated individual groups.” See *id.* (“States are required to take the measures above with respect to ISIL (Da'esh), Al-Qaida and other individuals, groups, undertakings and entities associated with them, as designated on the ISIL (Da'esh) and Al-Qaida Sanctions List . . .”).

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

The ISIL (Da'esh) & Al-Qaida Sanctions Committee can label an individual, group, undertaking, or entity as a "designated individual" under the sanctions regime in the following circumstances:

1. If they participate in the financing, facilitating, preparing, or perpetrating of acts with ISIL or Al-Qaida; or⁹³
2. If they supply, sell, or transfer arms to ISIL or Al-Qaida;⁹⁴ or
3. If they recruit for or otherwise support the activities of ISIL, Al-Qaida or its affiliates.⁹⁵

These resolutions and sanctions fulfill a dual purpose in the realm of counterterrorism: to punish bad actors and to keep the international community informed of the urgency of the threats. As such, they become useful tools to utilize when reaching a power-sharing agreement as critical as the one shaping post-conflict Afghanistan.

IV. POWER-SHARING PRINCIPLES AND CATEGORIES

As an outright military victory by the Afghan government or the Taliban becomes increasingly unlikely, the most realistic path towards an end of the war in Afghanistan is through a power-sharing agreement. To properly assess the viability of such an agreement, this section will examine the theoretical underpinnings and categories of power sharing.

Modern power-sharing principles arise from Arend Lijphart's work *Consociational Democracy*.⁹⁶ Lijphart theorized an "elite cartel" that would "turn a democracy with a fragmented political culture into a stable democracy."⁹⁷ Lijphart laid out four requirements necessary for a stable democracy.⁹⁸ First, the "elites" (leaders of the principal social groups)⁹⁹ must accommodate divergent interests and demands of the relevant subcultures in the country.¹⁰⁰ Second, the elites must transcend divides between the groups to work together with rival elites of other subcultures.¹⁰¹ Third, the elites must commit to maintaining the consociational system and improving the system's cohesion and stability.¹⁰² Fourth, the elites must understand the "perils of political fragmentation."¹⁰³ Under Lijphart's theory, a fragmented country could find itself tempted to move away from coalition to

93. S.C. Res. 2368, ¶ 2(a) (July 20, 2017).

94. *Id.* ¶ 2(b).

95. *Id.* ¶ 2(c).

96. See generally Arend Lijphart, *Consociational Democracy*, 21 *WORLD POL.* 207 (1969) (discussing the concept of consociational democracy and ways to refine and elaborate on Gabriel A. Almond's typology of democracies).

97. *Id.* at 216.

98. *Id.*

99. See *id.* at 221 (defining elites by relation to principal social groups).

100. *Id.* at 216.

101. *Id.*

102. *Id.*

103. *Id.*

competition if it does not follow those four principles.¹⁰⁴ As a result, an essential component of a successful consociational democracy is cohesion within the subcultures.¹⁰⁵

Later scholars, including Carolina Hartzell and Matthew Hoddie, developed the principles of Lijphart's consociational democracy into a more categorical approach of power sharing to encompass more than the political sphere (to which Lijphart's discussion exclusively applied).¹⁰⁶ Hartzell and Hoddie viewed consociationalism as a method of protecting minority groups through guaranteeing a certain stake in the outcome and preventing "a tyranny of the majority,"¹⁰⁷ especially in the aftermath of bloody civil wars.¹⁰⁸ Hartzell and Hoddie broke down the types of power-sharing agreements into four categories: political, territorial, military, and economic.¹⁰⁹

Political power sharing involves a distribution of a country's power based on group affiliation.¹¹⁰ The mechanism involved in this power-sharing category creates proportionality in representation by group affiliation in various governmental bodies, including legislatures, executives, and administrators.¹¹¹ Territorial power sharing creates a tiered system of governmental control.¹¹² This category looks similar to the relationship between the federal government and state governments in the United States. In the United States, even though there are certain subjects in which the federal government maintains exclusive authority, states retain significant control over some matters upon which the federal government cannot infringe.¹¹³ The fundamental exchange involved in territorial power sharing is that a superior power grants an inferior power some territorial autonomy in exchange for cooperation with the higher-tiered governing bodies of the superior power in certain areas.¹¹⁴

Military power sharing provides for integrating the armed forces of feuding

104. *See id.* at 218 (explaining how this may happen in certain countries such as Colombia).

105. *See id.* at 221 (explaining the importance of subculture cohesion to the success of a consociational democracy).

106. Caroline A. Hartzell & Matthew Hoddie, *The Art of the Possible: Power Sharing and Post-Civil War Democracy*, 67 *WORLD POL.* 37, 40 (2015).

107. *Id.* at 39.

108. *See generally id.* (arguing that actors emerging from civil war may be persuaded to adopt at least a minimally democratic political system because power-sharing arrangements help to mitigate the uncertainty associated with democracy).

109. *See id.* at 40–43 (discussing the four distinct categories of power-sharing that may arise to share or divide power).

110. *See id.* at 41 (noting that all groups are guaranteed some degree of representation).

111. *See id.* (describing the process by which political power sharing allows different groups to be represented in government and how this has occurred in Burundi).

112. *See id.* at 42 (explaining how territorial power-sharing decentralizes government structures among territories).

113. *See, e.g.,* U.S. CONST. amend. X (reserving rights to states not expressly given to the federal government in the Constitution).

114. *See* Hartzell & Hoddie, *supra* note 106, at 42 (noting the interplay between the federal and lower-level governments that maintains cohesiveness).

parties into one unit for a country.¹¹⁵ The terms of integration are often based on either a proportional formula for troop integration or an imposition of numerical limits to the total number of troops each group may maintain.¹¹⁶ Economic power sharing does not rely as heavily on institutions as other modes of power sharing.¹¹⁷ Economic power sharing creates an infrastructure in which previously disenfranchised citizens gain access or control of the economic resources of the country.¹¹⁸ This could include distribution of wealth, income, control of natural resources, and control of production facilities.¹¹⁹

V. APPLYING THE POWER-SHARING PRINCIPLES TO AFGHANISTAN

Afghanistan presents a problem unique to the world stage. Not only does it have a strategic position in the Middle East and an ethnically diverse population,¹²⁰ but it also lies at the epicenter of international conflict over terrorist organizations.¹²¹ As a result, any Afghan power-sharing agreement must be designed to address these specific concerns. Considering the categories identified by Hartzell and Hoddie, the most appropriate power sharing structure for Afghanistan is a political and military power-sharing agreement.

To design a new power-sharing agreement, the facts of the specific situation must be applied to the theory and practice of power sharing. As the facts of the present situation in Afghanistan have already been discussed,¹²² this Section provides a recommendation for political and military power sharing in Afghanistan through an analysis of four factors I find especially critical to determining the proper power-sharing structure: social cohesion, international support, strategic military positioning, and counterterrorism.

The first factor relates to the social cohesion between the parties to a power-sharing agreement. Social cohesion is the trust built between citizens through a shared sense of community.¹²³ Lijphart discussed two scenarios where groups could have divergent ideas and still maintain a successful consociational democracy.¹²⁴ In the first scenario, the divergent groups could have incompatible

115. *Id.*

116. *Id.*

117. *See id.* at 42–43 (describing economic power-sharing as responsive to concerns that groups shut out of other political institutions will lack access to resources).

118. *Id.*

119. *Id.*

120. *See* Mohammad Bashir Mobasher, *Understanding Ethnic-Electoral Dynamics: How Ethnic Politics Affect Electoral Laws and Election Outcomes in Afghanistan*, 51 GONZ. L. REV. 355, 371–73 (2015) (discussing the diverse ethnic makeup of Afghanistan).

121. *See* CLAYTON THOMAS, CONG. RSCH. SERV., R45122, AFGHANISTAN: BACKGROUND AND U.S. POLICY IN BRIEF at 8–9 (2019) (discussing regional relationships between Afghanistan and its neighbors and the influence of terrorists within those relationships).

122. *See supra* Section II (discussing the history of the Taliban in Afghanistan).

123. *See* Christian Albrekt Larsen, *Social Cohesion: Definition, Measurement, and Developments 2* (2014), <https://www.un.org/esa/socdev/egms/docs/2014/LarsenDevelopmentinsocialcohesion.pdf> (defining social cohesion).

124. Lijphart, *supra* note 96, at 219–21.

ideas, but the lack of interaction between the groups could prevent conflict entirely.¹²⁵ This would allow groups with low social cohesion to nonetheless coexist in a divided society. In the second scenario, the groups have significant interaction, so they must be devoted to cooperation and compromise in order to maintain cohesion.¹²⁶ These two scenarios align with factors considered in making the choice of implementing either a political power-sharing model or a territorial model. If a group has low social cohesion and does not embody the ideals of cooperation and compromise, territorial power sharing would be appropriate to avoid conflict.¹²⁷ However, groups with higher social cohesion or a known ability to cooperate and compromise could benefit more from a political power-sharing arrangement.¹²⁸

At this point in time, one cannot conduct a reasonable analysis of the social cohesiveness between the Taliban and the Afghan government due to a lack of development in their relationship.¹²⁹ The Afghan government remains in its infancy, as it was only established in 2004.¹³⁰ Moreover, the Taliban has only recently found its resurgence in the region after the United States invasion ousted it from the country in 2001.¹³¹ Additionally, the Taliban's recent actions seem to be motivated by a desire for continuing negotiations rather than its view of a future Afghan government.¹³² As time goes on and the Taliban and the Afghan government inch closer to reaching an agreement, the social cohesion factor may begin to play a larger role.

The second factor is the presence of international support and international opposition to the country's power-sharing agreement. Though this factor is not determinative for selecting one power-sharing category over another, it does dictate the durability of power sharing generally. The international community can have a significant impact during every stage of creating a power-sharing agreement, including bringing the sides to the negotiating table, brokering an

125. *See id.* at 219–20 (suggesting voluntary apartheid policy).

126. *See id.* at 220–21 (explaining the necessity of tolerance and cooperation between the elites of each bloc).

127. *See* Hartzell & Hoddie, *supra* note 106, at 42 (noting that a territorial policy allows more autonomy).

128. *See id.* at 41 (noting that political power sharing involves a structure that requires some cooperation and compromise in a central government).

129. *See, e.g.,* Mujib Mashal, *Afghan Government Demands Cease-Fire Before Any Taliban Talks*, N.Y. TIMES (Oct. 29, 2019), <https://www.nytimes.com/2019/10/29/world/asia/afghanistan-taliban-talks-ceasefire.html> (detailing how the Afghan government and Taliban are at odds regarding negotiations).

130. *See* Sean Kane, *Intra-Afghan Peace Negotiations: How Might They Work?*, SPECIAL REP. N. 440 (U.S. Inst. of Peace, Washington, D.C.) Feb. 2019, at 8 (discussing the adoption of the Afghan constitution).

131. *See* Azami, *supra* note 53 (discussing Taliban offensive maneuvers to regain lost territory).

132. *See* Mashal, *Afghan Government Demands Cease-Fire Before Any Taliban Talks*, *supra* note 128 (discussing Taliban attacks being carried out while negotiations between the United States and Taliban are ongoing).

agreement, and aiding in its implementation.¹³³ As Afghanistan has been a central focus of the Global War on Terror,¹³⁴ the international community has paid close attention and continues to have a strong influence in the region.¹³⁵

Specifically, the United States maintains a strong interest in the region with its visible military presence occupying the country for nearly two decades¹³⁶ and is likely to maintain a strong relationship with the Afghan government that it helped set up. Additionally, the United States has been negotiating on-and-off with the Taliban¹³⁷ and will closely monitor the country as it withdraws its troops pursuant to the newly minted peace agreement with the Taliban.¹³⁸

On the Taliban's side, Afghanistan's neighbor Pakistan remains a strong supporter. During the Soviet invasion, both the Pakistani government and Islamist groups in the country funneled money to the mujahideen for both religious and strategic reasons.¹³⁹ Pakistan's aid to the mujahideen in the late twentieth century evolved to providing diplomatic support for the Taliban, including hosting some of the United States-Taliban negotiations.¹⁴⁰ The continuing influence of the United States, Pakistan, and other states demonstrates that international support for the peacemaking process is strong in Afghanistan.¹⁴¹ The issue that will inevitably arise is whether other regional powers will work to undermine the peace in Afghanistan through either harboring terrorist groups¹⁴² or attempting to exploit any military vulnerabilities in the region.¹⁴³ Though this issue is currently hypothetical, the potential is very real given the recent history of political upheaval

133. See generally Kane, *supra* note 130.

134. See, e.g., *id.* at 17 (noting threat of terrorism against the United States arising from Afghanistan).

135. See *id.* at 18 (discussing possibility of international guarantees being part of the peace process in Afghanistan).

136. See Naveed Mukhtar, *Afghanistan: Alternative Futures and Their Implications*, U.S. ARMY WAR C. Q.: PARAMETERS, Summer 2011, at 63 (detailing history of United States' military presence in Afghanistan since 2001).

137. See, e.g., Mashal, *Afghan Peace Negotiations Show Signs of Progress*, *supra* note 59 (showing that the United States and Taliban have repeatedly engaged in negotiations).

138. See Mashal, *Taliban and U.S. Strike Deal to Withdraw American Troops from Afghanistan*, *supra* note 1 (noting contingencies that Taliban must meet or United States would halt withdrawal).

139. See BARFIELD, *supra* note 6, at 236 (discussing the connection between Afghanistan and Pakistan).

140. See Asif Shahzad & Charlotte Greenfield, *Taliban, U.S. Envoy in Pakistan to Review Broken Peace Talks*, REUTERS (Oct. 2, 2019, 12:23 AM), <https://www.reuters.com/article/us-afghanistan-taliban-pakistan-idUSKBN1WH09A> (stating that negotiations between Taliban and the United States took place in Islamabad, Pakistan).

141. See, e.g., Mashal, *Afghan Peace Negotiations Show Signs of Progress*, *supra* note 59 (discussing increased likelihood of peace deal).

142. See, e.g., M Ilyas Khan, *Why Did Pakistan Admit to Hosting the Afghan Taliban*, BBC NEWS (Mar. 3, 2016), <https://www.bbc.com/news/world-asia-35719031> (stating that the Pakistani Minister admitted that the leadership of the Afghan Taliban were living in Pakistan).

143. See generally Matt Ince, *Filling the FARC-Shaped Void: Potential Insecurity in Post-Conflict Colombia*, 158 RUSI J. 26, 26 (2013).

in Afghanistan.¹⁴⁴

The third factor involves the government's position on whether it is strategically advantageous to disarm its power-sharing partner in cases involving paramilitary or quasi-military groups. In making this decision, there are two considerations. First, the government must determine whether the opposition will come to the table while they remain heavily armed. Second, the government must weigh whether the arms and strategic positions of the paramilitary groups create a situation where it is essential to fight off foreign or domestic threats. This factor applies solely to the prospects of military power sharing.

Attempting to disarm the Taliban at this point in the conflict would be a poor choice for a variety of reasons. Disarmament would require devoting significantly more resources to not only militarily subdue the Taliban, but also to prevent its members from fleeing to neighboring countries.¹⁴⁵ The current agreement between the Taliban and the United States does not require Taliban disarmament, instead hinges on the Taliban severing ties with terrorist organizations that have operated from Afghanistan.¹⁴⁶ Most importantly, it would be advantageous to utilize the military positions and arms already in the Taliban's possession of to eradicate threats from inside the Afghan border and protect against threats from outside the Afghan border.¹⁴⁷ Given these realities, the best course of action would be to establish a military power sharing with the Taliban in lieu of attempting to disarm them.

The fourth factor is that international law requires the country to dedicate itself to combatting terrorism.¹⁴⁸ Though international obligations manifest differently in different regions, they remain relevant. Therefore, where a terrorist group has enough influence in a region that an outright defeat seems unlikely, the law requires other affirmative acts to quash the bad actors.¹⁴⁹ The equation is simple when a government negotiates directly with a designated terrorist group,¹⁵⁰ but becomes more complex when the parties must deal with multiple sources of terrorism.

The most important component of this agreement will be how Afghanistan

144. See Erin Blakemore, *What Was the Arab Spring and How Did It Spread?*, NAT'L GEOGRAPHIC (Mar. 29, 2019), <https://www.nationalgeographic.com/culture/topics/reference/arab-spring-cause/> (discussing political upheaval in Middle East beginning in 2010).

145. See Corera, *supra* note 49 (discussing Osama bin Laden's and al-Qaeda's escape from capture by the United States).

146. See generally Mashal, *Taliban and U.S. Strike Deal to Withdraw American Troops from Afghanistan*, *supra* note 1.

147. See generally Johnson, *supra* note 5.

148. See G.A. Res. 2625, *supra* note 76 ("Every state has the duty to refrain from organizing, instigating, assisting[,] or participating in acts of civil strife or terrorists acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts . . .").

149. See S.C. Res. 1373, *supra* note 80, ¶¶ 1–3 (describing means by which countries should combat terrorism).

150. See generally Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998, 37 I.L.M. 751 [hereinafter Belfast Agreement].

manages the terrorism crisis within its borders. As the agreement between the United States and the Taliban was being negotiated, the Afghan government was striving towards compliance with international counterterrorism measures, with the United States carrying much of that burden.¹⁵¹ However, every indication points to a United States withdrawal as a necessary precondition for an Afghan-Taliban agreement.¹⁵² Therefore, shifting this burden from the United States, with the most well-funded military on the planet, to an infant Afghan government will become critical.¹⁵³

To fulfill its well-established counterterrorism duties, Afghanistan has a twofold responsibility. First, the government must ensure that the Taliban's acts of terror come to an end. This includes their use of suicide bombers,¹⁵⁴ election sabotage,¹⁵⁵ and hostage keeping,¹⁵⁶ among other things. Quashing the Taliban's terroristic acts is the initial purpose of the power-sharing agreement, and it is fundamental to peace in the country. The second, and more difficult responsibility, requires that the government must not only forbid harboring of terrorist groups, but also assume an affirmative obligation to combat the groups within Afghanistan's borders. Though not explicitly stated in General Assembly or Security Council Resolutions, a functional reading of the body of international law—especially that developed in the United Nations after the September 11, 2001 terrorist attacks—imposes such an affirmative obligation.¹⁵⁷ Otherwise, the restriction on acquiescing to terrorist acts within a country's border and requirements to restrain terrorist group financing, restraint of arms transfers to terrorist groups, and crack down on terrorist recruitment efforts cannot be properly enforced.¹⁵⁸ To help enforce this affirmative obligation, Afghanistan's state partners could utilize the previously mentioned sanctions and funding conditions.¹⁵⁹

With these four factors in mind, the power-sharing categories that fit best are those of political and military power sharing. The role of social cohesion in

151. See Mashal, *Afghan Peace Negotiations Show Signs of Progress*, *supra* note 59 (discussing the United States' continued presence in Afghanistan).

152. See *id.* (discussing the roadblocks to the Afghan-Taliban agreement).

153. See *U.S. Defense Spending Compared to Other Countries*, PETER G. PETERSON FOUND. (May 13, 2020), https://www.pgpf.org/chart-archive/0053_defense-comparison (showing that U.S. military spending outpaces that of many other industrialized nations by far).

154. See Michael Crowley, Lara Jakes, & Mujib Mashal, *Trump Says He's Called Off Negotiations with Taliban After Afghanistan Bombing*, *supra* note 60 (discussing an apparent Taliban suicide bombing in Kabul).

155. See Thomas Gibbons-Neff & Najim Rahim, *To Disrupt Elections, Taliban Turn to an Old Tactic: Destroying Cell Towers*, N.Y. TIMES (Oct. 2, 2019), <https://www.nytimes.com/2019/10/02/world/asia/afghanistan-taliban-cell-towers.html> (detailing Taliban efforts to interfere with Afghanistan's elections).

156. See Adam Goldman & David Zucchino, *Deal with Taliban Will Free American and Australian Professors, Officials Say*, N.Y. TIMES (Nov. 12, 2019), <https://www.nytimes.com/2019/11/12/world/asia/kevin-king-hostage-timothy-weeks-afghanistan.html> (noting that Taliban held two professors hostage from 2016 to 2019).

157. See generally G.A. Res. 2625, *supra* note 76.

158. *Id.*

159. See *supra* Section III, for further discussion on sanctions and funding conditions.

Afghanistan is currently undeterminable, so that factor cannot support an argument for or against the use of territorial power sharing. The strong international support available to Afghanistan suggests that power sharing is likely to endure. The strategic positioning factor, especially given the heavy obligations placed on Afghanistan under the counterterrorism factor, weighs in favor of a power-sharing arrangement. While the need for political power sharing was contemplated by the Taliban's already existing agreement with the United States,¹⁶⁰ the last two factors strongly favor utilization of military power sharing. Contemporary examples of successful power sharing, discussed in the next section, support the implementation of political and military power sharing in Afghanistan.

VI. THE NORTHERN IRELAND MODEL AND THE FARC-COLOMBIA AGREEMENT

Power sharing between an already-established government and a paramilitary group is not unprecedented. Two recent examples of paramilitary-government power-sharing agreements are the power-sharing agreement in Northern Ireland that began in the late 20th century¹⁶¹ and the 2016 peace agreement reached in Colombia.¹⁶² I will apply the four previously mentioned power-sharing factors to assess what can be learned from the power-sharing agreements in these countries. Though the circumstances present in Afghanistan are not exactly the same as those in Northern Ireland and Colombia, these power-sharing agreements show how power sharing can be an effective means of resolving conflicts and ensuring durable peace.

A. Northern Ireland

The power-sharing agreement in Northern Ireland involves the relationship between the Republic of Ireland and the United Kingdom.¹⁶³ Starting in the 1870s, the British subjects living in Ireland sought to establish their own political power separate from the United Kingdom, which controlled the entirety of the island.¹⁶⁴ This political movement, initially known as "Home Rule," later culminated in an Irish War for Independence between 1919 and 1921.¹⁶⁵ In the midst of the war, the United Kingdom partitioned off Northern Ireland from the rest of the island (then Southern Ireland)¹⁶⁶ in the Government of Ireland Act 1920.¹⁶⁷ Partition allowed

160. See Mashal, *U.S. and Taliban Agree in Principle to Peace Framework*, *supra* note 59 (reporting Taliban eagerness to discuss shared interim government).

161. See generally Belfast Agreement, *supra* note 150.

162. Nicholas Casey, *Colombia Signs Peace Agreement with FARC After Five Decades of War*, N.Y. TIMES (Sept. 26, 2016), <https://www.nytimes.com/2016/09/27/world/americas/colombia-farc-peace-agreement.html>.

163. See generally Belfast Agreement, *supra* note 150.

164. *Home Rule*, ENCYC. BRITANNICA (Sept. 15, 2010), <https://www.britannica.com/event/Home-Rule-Great-Britain-and-Ireland>.

165. See generally CHARLES PHILLIPS & ALAN AXELROD, *Irish War of Independence*, in REFERENCE GUIDE TO THE MAJOR WARS AND CONFLICTS IN HISTORY: WARS IN THE EARLY 20TH CENTURY (1900 TO 1950) (2015) (ebook), https://search.credoreference.com/content/entry/fofwetc/irish_war_of_independence/0.

166. See V. T. H. Delany, *The Constitution of Ireland: Its Origins and Development*, 12 U.

the United Kingdom to grant greater autonomy to Catholic Southern Ireland while protecting the interests of Northern Ireland, which was dominated by Protestant Unionists.¹⁶⁸ However, similar to many artificial borders created by the British Empire,¹⁶⁹ the lines drawn in Ireland did not properly account for the ethnicity and political opinions of the populations there.¹⁷⁰

There are two different political factions in Northern Ireland related to its relationship with the United Kingdom: Unionists and Nationalists.¹⁷¹ Unionist political groups, made up of mostly Protestants, want Northern Ireland to maintain a close relationship with the United Kingdom and oppose separation from Britain.¹⁷² Nationalist organizations, which are mostly Catholic, want Northern Ireland to be more closely connected to the Republic of Ireland and support Northern Irish independence from Britain.¹⁷³ The United Kingdom attempted to take into account these factions when partitioning out the two Irelands in 1920 during the Irish War for Independence.¹⁷⁴ The areas designated to Northern Ireland included “the parliamentary counties of Antrim, Armagh, Down, Fermanagh, Londonderry and Tyrone, and the parliamentary boroughs of Belfast and Londonderry.”¹⁷⁵ The areas of Antrim, Armagh, Down, Londonderry, and Belfast are made up of mostly Unionists,¹⁷⁶ but Fermanagh and Tyrone have significant Nationalist populations.¹⁷⁷

In 1921, the British and the Irish brought an end to the Irish War for Independence through the signing of the Anglo-Irish Treaty of 1921.¹⁷⁸ This treaty served two functions.¹⁷⁹ First, the treaty granted Southern Ireland its own self-

TORONTO L.J. 1, 1 (1957) (discussing the partition of the Irish island).

167. See generally Government of Ireland Act 1920, 10 & 11 Geo. 5 c. 67 (Eng.).

168. See Elizabeth E. Driscoll, “Equal Treatment for the Identity”: *The Inequality of Irish and British Citizenship in Post-Brexit Northern Ireland*, 37 B.U. INT'L L.J. 211, 216–17 (2019) (noting the different identities used by people living in Northern Ireland and the initial political dominance of Unionists).

169. See generally Tarek Osman, *Why Border Lines Drawn with a Ruler in WWI Still Rock the Middle East*, BBC (Dec. 14, 2013) <https://www.bbc.com/news/world-middle-east-25299553>.

170. See Driscoll, *supra* note 168 (portraying conflict based on clashes of identity in Northern Ireland).

171. See *id.* (detailing the different communities in Northern Ireland).

172. *Id.* at 213.

173. *Id.*

174. See Heidi L. Wushinske, *Politicians and Paramilitaries: Is Decommissioning A Requirement of the Belfast Agreement?*, 17 TEMP. INT'L & COMPAR. L.J. 613, 616–17 (2003) (discussing how the partition of Ireland in 1920 was aimed at easing tensions between the British and those who supported Irish Home Rule).

175. Government of Ireland Act of 1920, *supra* note 167, ch. 67, §1, ¶ 2.

176. See *Interactive Content*, N. IR. STAT. & RSCH. AGENCY, <http://www.ninis2.nisra.gov.uk/public/InteractiveMapTheme.aspx> (select Census 2011 on left-side menu, then select Religion or Religion Brought Up In: KS212NI) (last visited Mar. 1, 2021) (showing statistics related to religion for the population).

177. See *id.* (comparing the Unionist and Nationalist populations of different regions).

178. See PHILLIPS & AXELROD, *supra* note 165 (describing the truce and the signing of the Anglo-Irish Treaty).

179. See Michael A. Hopkinson, *Anglo-Irish Treaty of 1921*, in *ENCYCLOPEDIA OF IRISH*

governing dominion under the British Commonwealth, known as the Irish Free State.¹⁸⁰ This Irish Free State was the precursor to the current Republic of Ireland and represented the first step to the establishment of independence.¹⁸¹ This later culminated in the Republic of Ireland Act of 1948 that removed the role of the British monarchy in the Irish Free State and ceded the authority to the President of Ireland.¹⁸² Second, the treaty allowed Northern Ireland the option to opt out of the Irish Free State and remain under direct control of the United Kingdom.¹⁸³ Northern Ireland exercised this option to opt out on December 7, 1922.¹⁸⁴

The Irish War for Independence and the partition of Ireland failed to quell the conflict between the Unionists and Nationalists in Northern Ireland.¹⁸⁵ While economic growth in the region could have indicated easing tensions, violence eventually broke out between the Nationalist and Unionist factions over Northern Ireland's future and its relationship with the United Kingdom.¹⁸⁶ The violence further escalated in the 1960s,¹⁸⁷ beginning a period known as "The Troubles."¹⁸⁸

The Troubles describes the armed conflict in Northern Ireland that lasted from 1968 to 1998.¹⁸⁹ Participants in the conflict caused around 3,600 deaths and wounded 30,000 more over the thirty-year span.¹⁹⁰ Its origins can be traced to the civil rights movements by Irish Catholics to gain equal rights and to seek independence from British rule.¹⁹¹ Tensions from the movement caused Unionists

HISTORY AND CULTURE 18 (James S. Donnelly et al. eds., 2004) (summarizing the purpose of the Anglo-Irish Treaty).

180. *See id.* (describing the terms of the establishment of dominion status for the Irish Free State).

181. *See Ireland, Republic of*, CREDO REFERENCE, https://search.credoreference.com/content/entry/heliconhe/ireland_republic_of/0 (detailing establishment of Irish Free State) (last visited Mar. 4, 2021).

182. *See id.* (describing decision by Republic of Ireland in Republic of Ireland Act 1948 to leave the Commonwealth).

183. *See* Hopkinson, *supra* note 179 (describing the clause allowing Northern Ireland to choose to opt out of the Irish Free State).

184. *See Partition of Ireland*, NEW WORLD ENCYCLOPEDIA, https://www.newworldencyclopedia.org/entry/Partition_of_Ireland (quoting a statement from Parliament expressing Northern Ireland's intent to opt out of the Irish Free State) (last visited Feb. 23, 2021).

185. *See* Jeff Wallenfeldt, *The Troubles*, ENCYC. BRITANNICA (Aug. 21, 2020), <https://www.britannica.com/event/The-Troubles-Northern-Ireland-history> (discussing the unrest in Northern Ireland during the Troubles).

186. *See id.* (describing benefits to Catholics in Northern Ireland from economic growth in early twentieth century).

187. *See id.* (describing the various instances of violence progressing during the 1960s between the two factions).

188. *See generally* Juliana van Hoeven, *Counter-Terrorism Measures and International Humanitarian Law: A Case Study of the "Troubles" in Northern Ireland*, 37 U. PA. J. INT'L L. 1091 (2016).

189. Wallenfeldt, *supra* note 185.

190. *Id.*

191. *See* van Hoeven, *supra* note 188, at 1105 ("American civil rights movements inspired Catholics to protest not only against British rule generally, but for rights equal to those enjoyed by Protestants from a pure equality standpoint as well.").

and Nationalists to form paramilitary groups¹⁹² and led the United Kingdom to send soldiers to intervene and occupy the region.¹⁹³

The most significant paramilitary group in the conflict was the Irish Republican Army (IRA) (formally known as the Provisional Irish Republican Army).¹⁹⁴ The IRA connected itself with the Nationalists and acted as the paramilitary complement of Sinn Féin, a Nationalist political party in Northern Ireland and the Republic of Ireland.¹⁹⁵ The IRA's conduct fits squarely into the modern definition of terrorism. Terrorism involves violence or threats of violence committed in furtherance of a political goal or ideology.¹⁹⁶ The IRA's acts clearly constituted acts of violence aimed at a particular political goal: to unify Northern Ireland with the Republic of Ireland.¹⁹⁷ In furtherance of this goal, the IRA utilized guerilla war tactics and also participated in bombings and street fighting.¹⁹⁸ Additionally, as the IRA carried out attacks in Northern Ireland itself, Great Britain, and other European countries,¹⁹⁹ it would likely have fallen under the umbrella of an international terrorist organization.²⁰⁰

The Troubles ended when the United Kingdom and the IRA signed the Belfast Agreement, commonly known as the Good Friday Agreement, in 1998.²⁰¹ The Belfast Agreement involved a power-sharing structure between the Unionists and the Nationalists in Northern Ireland.²⁰² This agreement is a combination of political and territorial power sharing.²⁰³ The political component was the more complex of the two. The Northern Ireland government became a legislative and executive body designed to ensure equal power distribution between the

192. *Id.* at 1105–06.

193. *See id.* at 1113–16 (discussing the events surrounding the presence of British troops in Northern Ireland).

194. *See id.* at 1111 (“The IRA issued an official statement declaring a ‘war of attrition’ on Great Britain . . .”).

195. *See* Wushinske, *supra* note 174, at 616, 619 (discussing the common thread between Sinn Féin and IRA).

196. *See, e.g.*, International Convention for the Suppression of the Financing of Terrorism art. 2(1)(b), Dec. 9, 1999, T.I.A.S. No. 13075 (providing similar definition of terrorism generally).

197. Wallenfeldt, *supra* note 185.

198. *Id.*

199. For example, in 1990, the IRA undertook attacks in Northern Ireland, Great Britain, the Netherlands, and Germany. *A Chronology of the Conflict – 1990*, CONFLICT ARCHIVE ON INTERNET, <https://cain.ulster.ac.uk/othelem/chron/ch90.htm> (last visited Feb. 24, 2021).

200. *See* DAVID S. KRIS & J. DOUGLAS WILSON, § 8:27. *FISA's Definition of “International Terrorism,”* in NATIONAL SECURITY INVESTIGATIONS AND PROSECUTIONS (2019) (describing international terrorist groups as those who operate without considering national borders).

201. *See* Wallenfeldt, *supra* note 185 (noting the agreement's peacemaking function).

202. *See* John Coakley, *Ethnic Conflict and Its Resolution: The Northern Ireland Model*, 9 NATIONALISM & ETHNIC POL. 25, 37 (describing how the Belfast Agreement, also known as the Good Friday Agreement, sought to embed within it the principle of power-sharing).

203. *See id.* (describing how the British insisted the agreement incorporate power-sharing principles within the structure of the political system as well as formal cooperation amongst the Unionists and Nationalists in Northern Ireland).

Nationalists and Unionists.²⁰⁴ This included the institution of a dual prime minister structure: a Prime Minister and a Deputy Prime Minister, one Nationalist and one Unionist.²⁰⁵

The territorial power-sharing agreement involved Northern Ireland's status within the United Kingdom.²⁰⁶ The Belfast Agreement established Northern Ireland's government as a devolved government of the United Kingdom, meaning that the Northern Ireland government would have some autonomy, but the U.K. Parliament would maintain supremacy over Northern Ireland.²⁰⁷ The Agreement created the devolved government to take away direct control from the United Kingdom, which gave Northern Ireland a similar status to Wales and Scotland.²⁰⁸ Also, Northern Ireland acquired the ability to leave the United Kingdom if its population chose to do so.²⁰⁹ In conjunction with the Belfast Agreement's grant of power to Sinn Féin in Northern Ireland, the IRA agreed to a ceasefire beginning around 1994.²¹⁰ The agreement created a structure for disarming paramilitary groups, like the IRA, in exchange for the United Kingdom withdrawing its military forces from the country.²¹¹

The Belfast Agreement did so well in suppressing the terrorist acts in the country and maintaining peace that scholars dubbed it "The Northern Ireland Model."²¹² Scholars analyzing the Northern Ireland Model focus on the Republic of Ireland and the United Kingdom's abilities to negotiate with Sinn Féin and the IRA to create lasting peace.²¹³ Despite an extended conflict with a paramilitary group, the governments of the Republic of Ireland and the United Kingdom created an arrangement that has since maintained peaceful relations.²¹⁴ However, the Northern Ireland Model has some notable drawbacks.

First, there is a split in scholarly opinion regarding the circumstances required for the Northern Ireland Model to function.²¹⁵ Under the "Orthodox" opinion, it is nearly always beneficial to negotiate with the enemy.²¹⁶ The Orthodox opinion narrows in on the beneficial aspects of parties' negotiations, the agreement's terms,

204. *Id.* at 43–44.

205. *Id.* at 44.

206. *Id.* at 43.

207. *See id.* at 43–45 (describing relationship between Northern Ireland's devolved government and U.K. Parliament).

208. *Id.* at 46.

209. *See id.* at 37 ("[T]he British made clear their commitment to maintaining partition for as long as a majority in Northern Ireland wished it . . .").

210. Paul Dixon, *Guns First, Talk Later: Neoconservatives and the Northern Ireland Peace Process*, 39 J. IMPERIAL & COMMONWEALTH HIST. 649, 649 (2011).

211. Coakley, *supra* note 202, at 49.

212. *See id.* at 50–51 (describing the three issues that mark the significance of the model).

213. *See Dixon, supra* note 210, at 650 (providing overview of peace process negotiations between parties, which led to a decrease in violence in region).

214. *See id.* (describing the apparent success of the arrangement).

215. *Id.*

216. *Id.* at 651.

and the resultant peace.²¹⁷ However, under the “Neoconservative” opinion, such negotiations should not take place until the enemy is defeated.²¹⁸ Therefore, some Neoconservatives find the Northern Ireland Model effective mainly because the IRA had basically been defeated before the parties came to an agreement.²¹⁹

Second, the Northern Ireland Model showed major vulnerabilities recently when the government of Northern Ireland encountered monumental problems. As a result of a political scandal, Northern Ireland’s Deputy Prime Minister, representing Sinn Féin, resigned on January 9, 2017.²²⁰ This resignation caused the collapse of the coalition government in the Northern Ireland Executive (the country’s executive branch).²²¹ A dissolution of the Northern Ireland Assembly (the country’s legislative body) on January 26, 2017 triggered new elections for the Assembly.²²² However, the Assembly remained suspended for nearly three years until the Assembly elected a new Executive on January 11, 2020.²²³

Third, the Northern Ireland Model has failed to outright eliminate violence in Northern Ireland. Since the Belfast Agreement’s ratification, a new IRA group has formed in Northern Ireland called the “New IRA.”²²⁴ The New IRA consists of IRA members who want to continue the fight for Irish unification and reject the ceasefire and negotiations.²²⁵ The New IRA has been connected to about four murders and multiple bombings over the last seven years.²²⁶ Although they do not operate at the same level or create harm at the same magnitude as the IRA during The Troubles, they still use terroristic tactics to further their Nationalist cause.²²⁷ However, given the group’s small size and its lack of official backing from Sinn

217. *Id.*

218. *Id.* at 650.

219. *See id.* at 652–53 (noting multiple strands of Neoconservative opinion on Northern Ireland, including one view which holds that negotiations worked because IRA was already defeated).

220. Henry McDonald, *Martin McGuinness Resigns as Deputy First Minister of Northern Ireland*, GUARDIAN (Jan. 10, 2017, 2:12 AM) <https://www.theguardian.com/politics/2017/jan/09/martin-mcguinness-to-resign-as-northern-ireland-deputy-first-minister>.

221. *Id.*

222. *The Northern Ireland Assembly is Now Dissolved. But What Does That Mean? Find Out Here*, N. IR. ASSEMBLY (Jan. 26, 2017), <http://blog.niassembly.gov.uk/2017/01/the-northern-ireland-assembly-is-now.html>.

223. Henry McDonald, *Northern Ireland Assembly Reopens Three Years After Collapse*, GUARDIAN (Jan. 11, 2020, 9:29 AM), <https://www.theguardian.com/politics/2020/jan/11/northern-ireland-assembly-reopens-three-years-after-collapse>.

224. Richard Connor, *Northern Ireland’s New IRA: What Is It?*, DW (Apr. 24, 2019), <https://www.dw.com/en/northern-irelands-new-ira-what-is-it/a-48460874>.

225. Debbie White, *‘They’re No Dad’s Army’ Who Are the New IRA and How Are They Different?*, SUN (Apr. 23, 2019, 12:29 PM), <https://www.thesun.co.uk/news/8896986/who-are-new-ira-how-different/>; *see, e.g., Lyra McKee: ‘New IRA’ Admits Killing of Journalist*, BBC NEWS (Apr. 23, 2019), <https://www.bbc.com/news/uk-48018615> (describing the IRA’s murder of journalist Lyra McKee); *Timeline of Dissident Republican Activity*, BBC NEWS (Sept. 10, 2019), <https://www.bbc.com/news/uk-northern-ireland-10866072> (describing the murders and bombings used as part of the New IRA’s tactics).

226. *Timeline of Dissident Republican Activity*, *supra* note 225.

227. *See id.* (laying out the different activities of the New IRA and its terrorist tactics).

Féin or other political factions, the New IRA's effect is minimal at this point in time.²²⁸

A comparison of the IRA and the Taliban shows the potential for the Northern Ireland Model to be applied to the Afghanistan conflict. Both the IRA and the Taliban began operations as paramilitary groups.²²⁹ Both gained political connections to foreign groups, with the Taliban receiving support from Pakistan and the IRA receiving support from Irish citizens and Irish-Americans.²³⁰ Both also embraced religious ideologies, though the Taliban acted more openly by establishing itself explicitly as an Islamic theocracy,²³¹ whereas the IRA's Catholic nationalism was more an ethnic identification than a desire to insert Catholicism into the daily lives of Northern Ireland's citizens.²³²

A major difference between the IRA in 1998 and the Taliban today is military position. In 1998, the IRA had already agreed to a ceasefire and the military threat it posed was no longer very strong.²³³ On the other hand, the Taliban retains a strong military presence in Afghanistan.²³⁴ The problems addressed by the agreements also have fundamental differences. The Belfast Agreement essentially dealt with a single "bad actor" (the IRA) by giving certain concessions to the Northern Ireland Nationalists and Sinn Féin.²³⁵ To properly address the situation in Afghanistan, including the post-9/11 counterterrorism obligations, the Afghan government must not only aim to stop the Taliban's violence but also violence carried out by other terrorist groups in the country, such as ISIS.²³⁶

B. Colombia

Colombia's power-sharing agreement, though more recent, represents a different approach to post-conflict power sharing. Colombia endured a decades-

228. See Connor, *supra* note 224 (noting that Sinn Féin rejected any connection between Sinn Féin and New IRA).

229. See Coakley, *supra* note 202, at 25 (stating that IRA was a paramilitary group); see also Donna E. Arzt, *Historical Heritage or Ethno-National Threat? Proselytizing and the Muslim Umma of Russia*, 12 EMORY INT'L L. REV. 413, 462 (1998) (defining Taliban as paramilitary group).

230. See Fatima Ayub & Sari Kouvo, *Righting the Course? Humanitarian Intervention, the War on Terror and the Future of Afghanistan*, 84 INT'L AFF. 641, 643 (2008) (detailing Pakistan's funding and training of Taliban); Paul Arthur & Kimberly Cowell-Meyers, *Irish Republican Army*, ENCYC. BRITANNICA (Dec. 16, 2019), <https://www.britannica.com/topic/Irish-Republican-Army> (stating that Irish-Americans provided money to the IRA).

231. See BARFIELD, *supra* note 6, at 255 (describing the Taliban's Islamist ideology).

232. See Coakley, *supra* note 202, at 30 (connecting Catholic population to nationalism of Sinn Féin and IRA).

233. See Dixon, *supra* note 210, at 650 (discussing the IRA's 1994 ceasefire, prior to the 1998 agreement).

234. See Thomas Gibbons-Neff, *Rocket Attack Wounds at Least 5 Marines in Afghanistan*, N.Y. TIMES (Oct. 23, 2019), <https://www.nytimes.com/2019/10/23/world/asia/marines-afghanistan-wounded-taliban.html> (describing new Taliban attacks on Americans in Afghanistan).

235. See generally Belfast Agreement, *supra* note 150.

236. See Raphelson, *supra* note 5 (reporting that violence in Afghanistan can be attributed to both ISIS and Taliban).

long civil war lasting from the 1960s until the 2010s.²³⁷ The feuding parties consisted of the Colombian government and the Revolutionary Armed Forces of Colombia (FARC).²³⁸ The Colombian government is a republic backed by the United States,²³⁹ while FARC was a paramilitary group fighting under communist ideology and seeking certain social justice reforms in the country.²⁴⁰ FARC's funding came through unconscionable practices such as kidnap-and-ransom tactics and illegal drug distribution.²⁴¹

The Colombian Civil War lasted for decades—largely due to FARC's prolonged use of guerilla warfare.²⁴² However, an offensive by the Colombian government in the early 2000s brought FARC to the negotiating table in 2012.²⁴³ On September 26, 2016, FARC and the Colombian government reached a comprehensive peace agreement ending the conflict.²⁴⁴ By September 2016, over 200,000 people had died during the fighting.²⁴⁵

The provisions of the FARC peace agreement addressed six topics: (1) comprehensive rural reform, (2) political participation, (3) the ceasefire and cessation of hostilities and laying down of arms, (4) the illicit drug problem, (5) victims' rights and reparations, and (6) mechanisms for implementation and verification.²⁴⁶ To put the agreement into the power-sharing categories, the provisions would fit into both political and economic power sharing.²⁴⁷ The political component of the FARC-Colombia Agreement involved guaranteed representation for FARC in Colombia's government.²⁴⁸ Under the agreement,

237. See Ince, *supra* note 143, at 26 (describing the internal conflict that waged in Colombia and the peace talks that occurred around 2010).

238. *Id.* The group's acronym, FARC, is based on the Spanish language version of the group's name. *Revolutionary Armed Forces of Colombia/Fuerzas Armadas Revolucionarias de Colombia – FARC*, FED'N AM. SCIENTISTS, <https://fas.org/irp/world/para/farc.htm> (last visited Feb. 24, 2021).

239. See *Colombia's Prospect's Under Duque*, 24 STRATEGIC COMMENTS i, i–ii (2018) (discussing the United States' support of Colombian President Uribe).

240. See *Who Are the FARC?*, BBC (Nov. 24, 2016), <https://www.bbc.com/news/world-latin-america-36605769> (describing FARC's political ideology).

241. *Id.*

242. See *The Guerilla Groups in Colombia*, U.N. REG'L INFO. CTR. W. EUR., <https://archive.unric.org/en/colombia/27013-the-guerrilla-groups-in-colombia> (last visited Feb. 24, 2021) (stating that FARC's guerilla tactics started as early as 1966).

243. See *FARC*, ENCYC. BRITANNICA (July 12, 2018), <https://www.britannica.com/topic/FARC> (discussing how FARC stopped fighting in 2012 and began negotiations in the same year).

244. Casey, *supra* note 162.

245. Tim Walker, *Colombia Referendum: Public Rejects President's FARC Peace Deal in Referendum Vote*, INDEPENDENT (Oct. 2, 2016, 11:09 PM), <https://www.independent.co.uk/news/world/americas/colombia-referendum-farc-peace-deal-vote-result-no-wins-a7342111.html>.

246. See *generally* PRESIDENCIA DE LA REPÚBLICA, SUMMARY OF COLOMBIA'S AGREEMENT TO END CONFLICT AND BUILD PEACE (2016), <https://reliefweb.int/sites/reliefweb.int/files/resources/summary-of-colombias-peace-agreement.pdf>.

247. See Hartzell & Hoddie, *supra* note 106, at 40–44 (detailing types of power-sharing agreements).

248. Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, Colom.-FARC, art. 2.1, Nov. 24, 2016 [hereinafter FARC-Colombia Agreement], <http://>

FARC could now form a political party and receive a guaranteed ten seats in Colombia's legislature.²⁴⁹ In 2016, FARC created its new political party, the Common Alternative Revolutionary Force.²⁵⁰

The FARC-Colombia Agreement also contained many social justice promises aimed toward economic power sharing. The goal of these promises was to narrow the divide between the rural population and the rest of the country,²⁵¹ including by improving infrastructure, granting better access to wages and social security, and distributing reparations to victims of the conflict.²⁵²

Much like the Belfast Agreement, the FARC-Colombia Agreement has encountered some major setbacks.²⁵³ First, the Colombian people rejected ratification of the agreement. Colombia initially tried to get the agreement passed through a referendum, but those efforts failed when the citizens voted to reject the agreement by a narrow margin.²⁵⁴ The voters showed concern that the agreement did not properly address the rights of victims and let FARC combatants go largely unpunished.²⁵⁵ As a result of the failed referendum, FARC and the Colombian government amended the agreement and ratified it through the legislature, which they completed on November 30, 2016.²⁵⁶

Second, in May 2017, the Colombian Constitutional Court struck down key components related to the implementation of the FARC-Colombia Agreement.²⁵⁷ The Court limited the ability for the Colombian President, Juan Manuel Santos, to "fast-track" the Agreement and instead forced the legislature to resort to piecemeal implementation.²⁵⁸ This decision hindered Colombia's ability to carry out the broad policy goals of the FARC-Colombia Agreement in a timely fashion.²⁵⁹

especiales.presidencia.gov.co/Documents/20170620-dejacion-armas/acuerdos/acuerdo-final-ingles.pdf.

249. Angela Barajas, *Colombia Clears Path for Former FARC Members to Hold Office*, CNN (Apr. 28, 2017, 5:24 PM), <https://www.cnn.com/2017/04/28/americas/colombia-farc-senate/index.html>.

250. Appropriately, the acronym for the political party is also FARC, abbreviating its name in Spanish, *la Fuerza Alternativa Revolucionaria del Común*. *Colombia's FARC Revolutionaries Become a Political Party*, ECONOMIST (Sept. 9, 2017), <https://www.economist.com/the-americas/2017/09/09/colombias-farc-revolutionaries-become-a-political-party>.

251. See generally FARC-Colombia Agreement, *supra* note 248.

252. See generally PRESIDENCIA DE LA REPÚBLICA, *supra* note 246.

253. See *Colombia Referendum: Voters Reject FARC Peace Deal*, BBC NEWS (Oct. 3, 2016), <https://www.bbc.com/news/world-latin-america-37537252> (discussing the Colombian government's failure to pass the FARC-Colombia Agreement via the popular vote).

254. *Id.*

255. David Landau, *Vulnerable Insiders: Constitutional Design, International Law, and the Victims of Internal Armed Conflict in Colombia*, 57 VA. J. INT'L L. 679, 696 (2018).

256. Reuters, *Colombia's Congress Ratifies Peace Deal with FARC Rebels*, NBC NEWS (Nov. 30, 2016, 10:45 PM), <https://www.nbcnews.com/news/world/colombia-s-congress-ratifies-peace-deal-farc-rebels-n690501>.

257. See Robert A. Karl, *The Politics of Peace in Colombia*, 49 NACLA REP. AMERICAS 405, 406 (2017) (describing how the Constitutional Court limited the Colombian President's ability to fast track the implementation of the peace agreement).

258. *Id.*

259. *Id.*

Third, FARC has not performed well at the polls now that it has shifted from a paramilitary organization to a political party.²⁶⁰ In the 2018 elections, though guaranteed ten seats in the legislature, FARC only received 0.5% of the total vote.²⁶¹ Though this was an expected result given the recency of the peace agreement,²⁶² FARC may resort to old tactics to regain influence in the country if it continues to be unpopular with voters. However, voters could also begin to voice their frustration about the disproportionate number of seats being given to FARC despite its unpopularity.²⁶³

Fourth, similar to the New IRA in Northern Ireland defying the Belfast Agreement, some FARC members started fighting again in 2019.²⁶⁴ The FARC dissidents claim that Colombia has not complied with its end of the Agreement, including its promises to “guarantee the life of its citizens and especially avoid assassinations for political reasons.”²⁶⁵ These dissidents now operate alongside the smaller National Liberation Army, a leftist rebel group not party to the FARC-Colombia Agreement, to continue terrorizing the country.²⁶⁶

Fifth, the disarming of FARC has led to other rebel groups vying to fill the void.²⁶⁷ In areas where FARC’s harsh tactics had victimized rural communities, this new outbreak of violence has displaced thousands of citizens.²⁶⁸ This demonstrates that the Colombian government has yet to address the complex network of illicit funding, the drug trade, and the other vulnerabilities left in the country, especially in the rural regions.²⁶⁹

The similarities between FARC and the Taliban are numerous. Before the 2016 FARC-Colombia Agreement, both FARC and the Taliban acted as paramilitary groups without official connection to a political branch of government.²⁷⁰ Neither acted in independently; with FARC’s guerilla tactics being

260. *Colombia Election: FARC Fails to Win Support in First National Vote*, BBC NEWS (Mar. 12, 2018), <https://www.bbc.com/news/world-latin-america-43367222>.

261. *Id.*

262. *See id.* (explaining that FARC’s transition from guerrilla group to political party posed difficulties in years immediately following the conflict).

263. *Id.*

264. Joe Parkin Daniels, *Former FARC Commanders Say They Are Returning to War Despite 2016 Peace Deal*, THE GUARDIAN (Aug. 29, 2019, 12:12 PM), <https://www.theguardian.com/world/2019/aug/29/ex-farc-rebels-announce-offensive-despite-peace-deal-colombia-video>.

265. Sasha Ingber, *Former FARC Leaders Announce ‘New Stage of Fighting,’ Upending Colombia’s Peace Deal*, NPR (Aug. 29, 2019, 4:45 PM), <https://www.npr.org/2019/08/29/755425619/former-farc-leaders-announce-new-stage-of-fighting-upending-colombia-s-peace-dea>.

266. Daniels, *supra* note 264.

267. Ingber, *supra* note 265.

268. *Id.*

269. *See id.* at 29 (describing FARC as the largest of several paramilitary groups in Colombia); *see also* Arzt, *supra* note 229 (defining Taliban as paramilitary group). *See generally* Ince, *supra* note 143.

270. *See* Ince, *supra* note 143, at 29 (describing FARC as participating in the paramilitary groups in Colombia); *see also* Arzt, *supra* note 229 (defining Taliban as paramilitary group).

supplemented by other rebel groups such as the National Liberation Army,²⁷¹ and the Taliban's military actions running alongside and sometimes being dwarfed by terrorist acts committed by other terrorist organizations such as ISIS.²⁷² Additionally, both groups retained power through territorial control, with FARC occupying the rural regions of Colombia²⁷³ and the Taliban digging out pockets of regional control in Afghanistan.²⁷⁴

Despite some similarities, major differences separate FARC and the Taliban. The motivations of these groups lie at two ends of the ideological spectrum. FARC follows a uniquely political ideology under the umbrella of communism,²⁷⁵ while the Taliban's sole ideological bent is a religious one: a desire to establish (or reestablish) a fundamentalist theocracy with Islam as the religion of the country.²⁷⁶ Additionally, the foreign resources devoted to the groups differed dramatically. FARC funded itself through intra-Colombian sources²⁷⁷ whereas a significant percentage of the Taliban's monetary support comes from Afghanistan's neighbor Pakistan.²⁷⁸

C. Guidance from Power Sharing in Northern Ireland and Colombia

Applying the above-mentioned power-sharing factors to the Belfast Agreement and the FARC-Colombia Agreement provides a guide for what could make power sharing in Afghanistan work. Social cohesion played a large role in the peace agreements in both Northern Ireland and Colombia. In Northern Ireland, there was not enough Nationalist influence to warrant absorbing the area into the Republic of Ireland but also not enough Unionist power to make continued direct rule from Great Britain acceptable, so the parties adopted a territorial devolved government model.²⁷⁹ In Colombia, despite the years of guerilla warfare, both sides found high social cohesion through the adoption of common values, cooperation, and compromise in striking an agreement and therefore made a political power-sharing structure feasible.²⁸⁰ Determining the appropriateness of

271. Ince, *supra* note 143, at 29.

272. Raphelson, *supra* note 5.

273. See Ince, *supra* note 143, at 30 (explaining FARC's control over cartels in northern Colombia).

274. See Gibbons-Neff & Rahim, *supra* note 155 (stating that the Taliban have control or contest many regions in Afghanistan).

275. See *Who Are the FARC?*, *supra* note 240 (describing FARC as communist).

276. See BARFIELD, *supra* note 6, at 255 (describing the Taliban's Islamist influence).

277. See *Who Are the FARC?*, *supra* note 240 (describing FARC's methods of funding).

278. See Fatima Ayub & Sari Kouvo, *supra* note 230 (detailing Pakistani support for Taliban). While FARC received some support from its neighbor Venezuela, including drug trafficking corridors, escape routes from the Colombian military, and space to do military training and weapons resupply, the distinguishing factor between FARC's relationship with Venezuela and the Taliban's relationship with Pakistan is that Pakistan's government provided the Taliban with monetary resources and Venezuela did not provide such support to FARC. See *FARC in Venezuela*, INSIGHT CRIME (last updated June 27, 2019), <https://insightcrime.org/venezuela-organized-crime-news/farc-in-venezuela/> (describing the support Venezuela provided to FARC).

279. Coakley, *supra* note 202, at 47.

280. See generally FARC-Colombia Agreement, *supra* note 248.

political and territorial power sharing will depend on which end of the spectrum the groups lie.

International support factors heavily into both upholding and undermining agreements in both Northern Ireland and Colombia. The United Kingdom played a large role in the development of the Belfast Agreement²⁸¹ and many international players were involved in the FARC-Colombia Agreement.²⁸² However, though Northern Ireland was already facing internal political turmoil,²⁸³ the United Kingdom's 2016 referendum to leave the European Union ("Brexit") resurrected the potential of a hard border between Northern Ireland and the Republic of Ireland. As the creation of a hard border violates the terms of the Belfast Agreement, Brexit has stoked public fears about restarting sectarian violence.²⁸⁴ Similarly, the civil unrest in Venezuela²⁸⁵ certainly does not help the cause for peace in neighboring Colombia, especially where the international community has not helped secure the Colombian countryside left vulnerable to other rebel groups after FARC's disarmament.²⁸⁶

The approach to strategic military positioning demonstrates the limits of the Neoconservative opinion of the Northern Ireland Model. According to the Neoconservative opinion, it would be inappropriate to negotiate with a paramilitary group until the group is largely subdued.²⁸⁷ However, this strategy backfired in Colombia.²⁸⁸ If the Colombian government had brought strategic military positioning to the table during its negotiations with FARC, they might have allowed FARC to retain positions in the rural parts of the country, thereby preventing the eventual mass displacement of citizens resulting from the invasion of other rebel groups like the National Liberation Army.²⁸⁹

The most striking difference in effectiveness between the power-sharing agreements in Northern Ireland and Colombia is which parties were invited to the negotiating table. In Northern Ireland, the IRA was a substantial antagonist, and therefore the IRA was appropriately one of several parties at the negotiating table

281. See generally Coakley, *supra* note 202.

282. See *Colombia's 2012-2016 Peace Talks*, COLOM. REPORTS (Sept. 25, 2016), <https://colombiareports.com/colombia-peace-talks-fact-sheet/> (detailing the steps of the FARC agreement negotiations and the parties involved).

283. See, e.g., McDonald, *supra* note 220 (reporting on the Irish Prime Minister's resignation as a protest).

284. Jason Blazakis & Colin P. Clarke, *Brexit Could Spark a Return to Violence in Northern Ireland*, FOREIGN POL'Y (Jan. 22, 2020, 3:41 PM), <https://foreignpolicy.com/2020/01/22/northern-ireland-paramilitary-violence-brexit/>.

285. See, e.g., Scott Smith, *Venezuela's Guaidó Urges Nation Back into the Streets*, ABC NEWS (Nov. 15, 2019, 1:01 PM), <https://abcnews.go.com/International/wireStory/venezuelas-guaid-urges-nation-back-streets-67032004> (describing Venezuela's current political crisis).

286. See generally Ince, *supra* note 143.

287. See Dixon, *supra* note 210, at 650 (detailing neoconservative mode of interpreting Northern Ireland Model).

288. See Ince, *supra* note 143, at 29 (discussing how the National Liberation Army has taken control of territory and enterprises formerly under FARC control).

289. See *id.* (discussing the National Liberation Army's assumption of control over territory and enterprises formerly controlled by FARC).

when the parties decided on power sharing.²⁹⁰ When Colombia chose to bring only FARC in on the agreement, it opened the doors to other rebel groups retaliating, such as the National Liberation Army.²⁹¹ Given the significant role that non-FARC rebel groups had and continue to have in the terrorist acts being carried out in Colombia, bringing many of these groups into the FARC-Colombia Agreement might have mitigated the terrorism plaguing its countryside now and avoided the need for multiple rounds of negotiations.²⁹²

The successes of power sharing in Northern Ireland and Colombia involve political power-sharing.²⁹³ Accordingly, because it remains effective, the Afghan government and the Taliban should include political power sharing in its agreement. Further, the rise of the New IRA and the FARC dissidents demonstrates the advantages that military power sharing can bring. However, Northern Ireland and Colombia also show how there will always be obstacles to power sharing, whether expected or unexpected. The next section discusses those obstacles that can be expected in Afghanistan.

VII. OBSTACLES TO AGREEMENT IN AFGHANISTAN

As with every negotiation process, the peace process in Afghanistan has some notable obstacles preventing an agreement between the Taliban and the Afghan government from being developed. Early on, the Taliban had insisted on a bifurcated negotiation process.²⁹⁴ This meant that the Taliban would not even come to the negotiating table with the Afghans until a deal was struck with the United States.²⁹⁵ As a result, this left the Afghan government on the sideline until the Taliban and the United States concluded their negotiations, extending the conflict even further by requiring a two-deal solution.

Also, despite the Taliban reaching an agreement with the United States, violence has increased again in Afghanistan after a brief reduction while the agreement was pending.²⁹⁶ Now that the Americans have set an exit plan, the

290. See Charles Landow & Mohammed Aly Sergie, *The Northern Ireland Peace Process*, COUNCIL FOREIGN RELATIONS (Mar. 5, 2020, 7:00 AM), [https://www.cfr.org/background/northern-ireland-peace-process](https://www.cfr.org/background/2019/01/northern-ireland-peace-process) (detailing the six parties to the Belfast Agreement); see generally Coakley, *supra* note 202, at 25–26.

291. See generally FARC-Colombia Agreement, *supra* note 248 (referring to FARC and the Colombian government as the only parties to the FARC-Colombia Agreement).

292. See Geoff Ramsey & Sebastian Bernal, *Colombia's ELN Peace Talks Explained*, WASH. OFF. ON LATIN AMERICA (Feb. 7, 2017), <https://www.wola.org/analysis/colombias-eln-peace-talks-explained/> (describing the extended peace talk process between the Colombian government and the National Liberation Army); see Ingber, *supra* note 265 (describing the continued kidnapping, extortion and violence in Colombia).

293. See Hartzell & Hoddie, *supra* note 106, at 40–41 (defining political power sharing); see also *Power-sharing*, N. IR. ASSEMBLY, https://education.niassembly.gov.uk/post_16/snapshots_of_devolution/gfa/power_sharing#:~:text=The%20main%20features%20of%20the,one%20nationalist%2C%20have%20equal%20powers (last visited Feb. 26, 2021) (explaining Northern Ireland's power-sharing system).

294. Mashal, *U.S. and Taliban Agree in Principle to Peace Framework*, *supra* note 59.

295. *Id.*

296. See Morgan Phillips, *US Commander Disappointed with Taliban Peace Efforts*:

Taliban has shifted its focus from seeking to expel the Americans to fighting the Afghans who reject their religious ideology.²⁹⁷ As a result, the Taliban's level of violence moving forward will certainly dictate the effectiveness of its newly minted agreement with the United States and its negotiations with the Afghan government. If the Taliban ceases its violent activities, it will likely expedite the withdrawal of U.S. troops and help facilitate more meaningful negotiations with the Afghan government. However, if the violence continues, the United States and the Afghan governments can stall the efforts to moving towards durable peace.

Additionally, the Taliban will likely run into problems governing ethnic minorities in the country. A high level of distrust remains after the brutal treatment the Taliban handed down during its time in power.²⁹⁸ Whether the power-sharing agreement can prevent the Taliban from reimplementing its strict religious practices or its persecution of minorities remains a legitimate concern.²⁹⁹ The numerous Afghan ethnic groups must get on board with the power-sharing agreement to avoid resistance reminiscent of that during the Soviet and British control of the country.³⁰⁰ Given the Taliban's low level of approval throughout much of Afghanistan, non-Pashtun groups will undoubtedly demonstrate much hostility towards the Taliban as rulers.³⁰¹

Last, the Taliban might take advantage of the U.S. withdrawal to conduct a complete military takeover. The Taliban's refusal to negotiate in good faith and its insistence on U.S. withdrawal as a precondition could easily amount to the Taliban attempting to wait out the Afghan government to simply take over the country once the United States leaves.³⁰² The reality of the situation is that the Taliban have never maintained healthy relations with any Afghan government, so power sharing based on the assumption that the Taliban will change course could be highly risky.³⁰³

Violence 'Higher' Than Agreement Allows, FOX NEWS (Mar. 10, 2020), <https://www.foxnews.com/politics/us-commander-disappointed-taliban-peace-efforts-violence-higher-than-agreement-allows> (discussing increased levels of violence by Taliban after they signed the agreement with the United States); see also *The Almost Peace Deal*, N.Y. TIMES: THE DAILY (Mar. 6, 2020), <https://www.nytimes.com/2020/03/06/podcasts/the-daily/taliban-peace-deal.html?showTranscript=1> (describing increase in violence by Taliban after it signed peace deal with the United States).

297. See *The Almost Peace Deal*, *supra* note 295 (noting that focus of Taliban violence shifted away from the United States and towards the Afghan people).

298. See, e.g., David Zucchini & Fatima Faizi, *They Are Thriving After Years of Persecution but Fear a Taliban Deal*, N.Y. TIMES (Mar. 27, 2019), <https://www.nytimes.com/2019/03/27/world/asia/afghanistan-hazaras-taliban-peace-talks.html?searchResultPosition=2> (discussing how minority groups in Afghanistan, like the Hazaras, are concerned about the Taliban).

299. *Id.*

300. See generally Manchanda, *supra* note 8.

301. See Jones, *supra* note 2 (describing the strained relationship between the Pashtun Taliban and other ethnic groups in Afghanistan).

302. See *Afghanistan's Prospects*, 25 STRATEGIC COMMENTS i, iii (2019) (noting the likelihood of instability and increased violence that could result after the United States military withdrawal from Afghanistan).

303. See BARFIELD, *supra* note 6, at 170–72 (noting that, before engaging in combat with

Though these obstacles present very real challenges to power sharing, and other obstacles remain unknown, they do not warrant outright dismissal of power sharing. The advantages to power sharing as a means of ending conflict, promoting durable peace, and reinforcing counterterrorism efforts outweigh whatever obstacles may be faced in Afghanistan.

VIII. CONCLUSION

As U.S. military withdrawal is imminent, Afghanistan has reached what could be the last steps of its decades-long war. A power-sharing arrangement in the country between the Afghan government and the Taliban could set a model for conflict resolution and counterterrorism around the world. Though there are obvious risks to power sharing with a terrorist organization as infamous as the Taliban, the use of power sharing to address terrorism is not unprecedented and has proven effective in the past.³⁰⁴ Should the Taliban and Afghan government successfully utilize a political and military power-sharing arrangement to carry out counterterrorism actions and maintain durable peace in the country, it could realistically turn the tide of the Global War on Terror and help facilitate peace in the region. The stakes are high, and the time is ripe for an agreement; this opportunity should not be squandered.

the United States, the Taliban overthrew socialist government in Afghanistan).

304. *See generally* FARC-Colombia Agreement, *supra* note 248; Belfast Agreement, *supra* note 150.