

RELEASING TALIBAN DETAINEES: A MISGUIDED PATH TO PEACE

In an effort to bring the war in Afghanistan to a swift conclusion, the Obama administration is trying to bring the Taliban to the negotiating table. In late 2011, the Taliban expressed a willingness to engage in preliminary talks with the U.S. in exchange for the release of Taliban officials detained at Guantanamo Bay. To facilitate this, the Taliban struck a deal to open a political office in Qatar in early 2012. Yet in mid-March, after preliminary contact with representatives of the U.S. government, the Taliban halted all talks, claiming that the U.S. reneged on its “promise” to transfer the detainees. Last week, in an attempt to get the Taliban back to the negotiating table, the Obama administration indicated a willingness to consider giving up tighter restrictions on the proposed transfers, including a waiver of previous requirements such as imprisonment, house arrest, or continuous monitoring by security forces in Qatar.¹

Administration officials insist they will only agree to the lesser restrictions if the arrangements serve U.S. counterterrorism objectives.² However, given the individuals under consideration and the Qatari government’s poor record of monitoring high-level terrorists, this is a dangerous proposition and one that is unlikely to facilitate further peace prospects with the Taliban.

PROPOSED TALIBAN DETAINEES

Reports differ on the exact identity and number of prisoners to be released, but the proposed transfers are high-level former regime officials including: Khairullah Khairkhwa, a former Taliban governor and interior minister; Mullah Mohammad Fazl, the Taliban army chief of staff; Noorullah Noori, a former Taliban governor and military commander; Abdul Haq Wasiq, the former deputy intelligence minister; Mohammad Nabi, a militant commander and al-Qaeda operative; and Haji Wali Mohammad, a businessman who served as a top Taliban and al-Qaeda financier.³ These six detainees are only a portion of the twenty-person list the Afghan High Peace Council submitted to the U.S. for consideration; the full list also includes several individuals currently detained by Pakistan.⁴ The Taliban negotiating team, headed by Tayyab Aga, Mullah Omar’s deputy, has reportedly asked for the release of nearly 600 detainees held by the United States in Afghan detention facilities.⁵

Khairullah Khairkhwa

Khairullah Khairkhwa is a senior Taliban leader and was part of the original Taliban who launched the movement in 1994.⁶ Khairkhwa, a Popalzai from Arghistan in Kandahar, received his religious education at the Haqqaniya and Akhora Khattak madrassas in Pakistan, alongside other influential Taliban

and insurgent leaders.⁷ Within the overall movement, he was reportedly “one of the more moderate Taliban in leadership circles.”⁸ He served as an official in a variety of capacities, including as the regime’s chief spokesman and minister of Interior. Khairkhwa commanded Taliban forces during the capture of the northern city of Mazar-e Sharif from the Northern Alliance in 1997. After the city successfully rebelled, he led the retreat of the disorganized Taliban forces, which used “scorched earth” tactics and conducted ethnic massacres as they pulled back.⁹

Khairkhwa was appointed governor of Herat in 1999, and under his control the anti-Taliban Shi’a-majority province became an important source of taxes for the Taliban regime.¹⁰ He also established himself as the leading narcotics trafficker in the region. According to declassified documents, Khairkhwa had close personal ties to Osama bin Laden, al-Qaeda in Iraq leader Abu Musab al-Zarqawi, and other al-Qaeda figures, and he oversaw al-Qaeda training camps in Herat.¹¹ He eluded capture until Pakistani forces in Chaman, Pakistan captured him at the house of Manan Niazi, the former Taliban governor of Kabul, in February 2002.¹² Khairkhwa is believed to have a close relationship with Afghan President Hamid Karzai, who also belongs to the Popalzai tribe, and in January 2002 Khairkhwa called the president’s brother, Ahmed Wali Karzai, to negotiate his surrender. The following day Pakistani forces arrested him. The president personally requested his release in February 2010, but he was rebuffed.¹³

Mohammad Fazl

Mohammad Fazl was one of the Taliban’s most experienced military commanders, and Mullah Omar considered Fazl his

top soldier.¹⁴ Originally from Uruzgan, Fazl quickly rose within the movement's ranks. From 1996 and 1997, he was a top field commander, and he oversaw the military campaign against the Northern Alliance and the capture of Kunduz.¹⁵ He led forces, alongside Mullah Dadadullah, in most major Taliban operations throughout the war, and by 2001 he was the army chief of staff and defense minister. He commanded a force of 2,500 to 3,000 fighters that fought in northern Afghanistan against the U.S. invasion. According to declassified documents, he frequently met with top al-Qaeda figures and more than 1,000 foreign fighters served in his unit.¹⁶

Fazl is a known war criminal. The Afghanistan Justice Project (AJP), which has extensively documented war crimes during the civil war of the 1990s, links Fazl to massacres during the 1999 Shomali offensive in Parwan and Kabul provinces and a January 2001 massacre in Yakaolang, Bamyan.¹⁷ During the 1999 offensive, Taliban forces summarily executed civilians, destroyed civilian infrastructure on "an industrial scale" and "forcibly displaced" several hundred thousand people.¹⁸ An AJP report states that Fazl personally oversaw the destruction of homes and businesses.¹⁹ During the capture of Yakaolang district in January 2001, Fazl planned and supervised the execution of about 175 civilians.²⁰

Noorullah Noori

Though he was not a founding member of the Taliban movement, Noorullah Noori rose quickly through the ranks and served as the governor of Balkh and the Northern Zone, an amalgamation of six northern provinces. While the Taliban were responsible for numerous massacres in the north during his tenure as governor, Noori's role within the Taliban command structure is unclear. According to declassified documents, Noori was also a senior Taliban military commander closely linked with al-Qaeda. He fought in an al-Qaeda unit in 1995 and often met with Osama bin Laden's deputies, acting as a messenger between al-Qaeda and Mullah Omar.²¹

Noori, along with Fazl, surrendered to Northern Alliance commander Rashid Dostum in November 2001. During a major uprising by captured Taliban, al-Qaeda, and Pakistani fighters in Mazar-e Sharif, Noori and Fazl refused to order their men to stop rioting, and an American, Johnny Michael Spann, was killed during the fighting.²² Noori's brother, Mullah Latfullah, is reportedly the top Taliban figure in Zabul, and Noori "remained a significant figure to Taliban supporters even after his capture."²³

Abdul Haq Wasiq

Little information on Abdul Haq Wasiq is available in open source reporting, but he is the former deputy chief of the

Taliban *Estakhbarat*, or intelligence directorate, an organization better described as a secret police unit.²⁴ He reportedly received his position in the late 1990s after his cousin Qari Ahmadullah, a founding member of the Taliban, became the head of the *Estakhbarat*.²⁵ According to declassified documents, Wasiq arranged for al-Qaeda intelligence experts to train Taliban operatives, and he supported and facilitated Chechen and Arab fighters in Afghanistan.²⁶

Mohammad Nabi (Abdul Nabi Omari)

Mohammad Nabi is a relatively minor figure from Khost province and may have connections with the Haqqani family, a notoriously powerful and semi-autonomous insurgent group operating primarily in eastern Afghanistan. Nabi served both the Taliban communications office and the border department, which Jalaluddin Haqqani, the patriarch of the Haqqani network, ran.²⁷ After the fall of the regime, he was instrumental in smuggling al-Qaeda fighters out of the country and fought in Khost province with an al-Qaeda cell.²⁸ Nabi is also connected to the Hizb-e-Islami Gulbuddin faction. His brother-in-law, Nalim Jan, nicknamed the "Butcher of Khost," commanded a Haqqani death squad in the eastern province.²⁹ In early 2002, he attempted to establish a shadow government in Khost at Jalaluddin Haqqani's behest and was a key commander in the insurgency until his capture in September 2002.³⁰ Nabi's inclusion on the list may be an attempt to negotiate the release of American Sergeant Bowe Bergdahl, who was kidnapped and is being held by another Haqqani commander, Mullah Sangeen.

Haji Wali Mohammad

Haji Wali Mohammad is not a Taliban or al-Qaeda military commander, but he was a top financier for both. A close confidant of Taliban leader Mullah Omar and Taliban Vice President Mullah Mohammad Rabbani, Mohammad conducted financial transactions through a variety of Afghan, Pakistani, and Gulf banks to purchase vehicles for the Taliban.³¹ He also facilitated the travel of senior Taliban officials to Dubai and Saudi Arabia.³² Mohammad conducted monetary transfers on behalf of Osama bin Laden in the purchase of surface-to-air missiles.³³ Through his currency exchange business in Dubai and Peshawar, he allegedly smuggled gold for al-Qaeda. Moreover, Mohammad served as an intermediary for the al-Rashid Trust, which the United States and the United Nations designated as a terrorist organization.³⁴ The trust served as a conduit for funding going to extremist groups and provided financial and logistical assistance to al-Qaeda, Kashmiri extremist groups, and Pakistani sectarian organizations. According to U.S. intelligence sources, the al-Rashid Trust was one of Osama bin Laden's main sources of income.³⁵

QATAR'S TERRORISM TRACK-RECORD

The release of high-level detainees could have a number of political and security costs, including the potential return of captured leaders to the battlefield, the reinvigoration of the Taliban insurgency, and the alienation of Afghanistan's religious and ethnic minorities. A key question surrounding the potential transfers of prisoners to Qatar is how the arrangements will guarantee that freed detainees do not return to the insurgency. According to a U.S. official familiar with negotiations with the Qatari government, Qatar is "balking" at security measures such as imprisonment, house arrests, and continuous monitoring.³⁶

Even if the Qatari government were interested in restricting the detainees' ability to rejoin the insurgency, Qatar's history of dealing with high-level terrorists is not an encouraging one. According to the U.S. State Department, Qatar's support for terrorism since 9/11 has been "significant."³⁷ Most notably, the links between the Qatari royal family and al-Qaeda paint a disturbing picture of support and complicity. Famed al-Qaeda mastermind Khalid Sheikh Mohammed (KSM), the principal architect of the 9/11 attacks, maintained deep ties to the Qatari royal family both before and after 9/11. According to the 9/11 Commission Report, Qatari government officials likely warned KSM and allowed him to escape after the U.S. Attorney's office obtained an indictment against him in January 1996.³⁸ KSM first arrived in Qatar with his family in the mid-1990s at the suggestion of the former minister of Islamic affairs of Qatar and cousin to the reigning emir, Sheikh Abdalla bin Khalid bin Hamad al-Thani.³⁹

Al-Thani is a deeply religious member of the royal family who has provided support for militant causes for years. Former CIA operative Robert Baer described al-Thani as an al-Qaeda "sympathizer" and an ideological and financial supporter of al-Qaeda's international agenda.⁴⁰ At one point, al-Thani is alleged to have provided Qatari passports to al-Qaeda terrorists and personally financed the organization by providing more than \$1 million in a bank account the organization used, according to current and former U.S. intelligence officials.⁴¹ Even after the 9/11 attacks, Saudi intelligence officials reported that KSM spent two weeks hiding in Qatar with the help of "prominent patrons," possibly a reference to al-Thani.⁴² Even if al-Thani acted alone and without the assistance or knowledge of other Qatari government figures, it does not inspire confidence that the Qatari government will sufficiently safeguard U.S. national security interests.

GUANTANAMO DETAINEES' RECIDIVISM

According to a report the Director of National Intelligence submitted to Congress in March 2012, ninety-five of the 599 released detainees have reengaged in "terrorist or insurgent

activity" and another seventy-two are suspected of reengaging.⁴³ The total recidivism rate is 27.9 percent, or more than a quarter of released detainees. The majority of recidivists were transferred prior to 2008 under policies designed to remove as many detainees from Cuba as fast as possible.

Official recidivism rates, however, are controversial, and estimates vary. Using statistics similar to those cited in the DNI report, a House Armed Service Committee report in February 2012 drew sharp criticism from the Democratic members of the committee who argued that DNI's numbers conflated actual recidivists with individuals suspected of recidivism.⁴⁴ A January 2011 analysis from the New American Foundation based on open-source reporting found that only forty former prisoners, or 8.2 percent, were confirmed or suspected of reengagement.⁴⁵

According to a June 2010 report, twenty-five of the 120 former detainees transferred to Saudi custody returned to radical Islamist activities and rejoined al-Qaeda. Approximately ten or eleven were still at large, with the remainder killed in anti-al-Qaeda operations or arrested again on terrorism charges.⁴⁶ For example, Said al-Shiri, who was transferred to Saudi Arabia in 2007, became a senior leader of al-Qaeda in the Arabian Peninsula.⁴⁷ Al-Shiri has been linked to a car bombing outside the U.S. Embassy in Sana'a, as well as the attempted bombing of Northwest Airlines Flight 253, bound for Detroit on Christmas Day in 2009. Another former Guantanamo Bay detainee, Abdul Hafiz, otherwise known as Abdul Qawi, rejoined the Taliban following his release in December 2009 and now reportedly handles ransom negotiations and shake-downs of international aid organizations for the Quetta Shura.⁴⁸ Hafiz was linked to the death of a kidnapped Red Cross worker in 2003.⁴⁹

Of particular note is the case of Abdul Qayum Zakir, a high-profile transfer to Afghan control in 2007. Zakir was returned to Afghan custody, was then released in 2008, and quickly rejoined the insurgency. He is now the second in command of the Quetta Shura.⁵⁰ In a recent Senate Armed Services Committee hearing, Senator Kelly Ayotte (R-N.H.) commented on the release of Mullah Zakir, stating that he was assessed as a medium risk detainee at Guantanamo. In reality, Zakir was one of the Taliban's most important and most capable commanders. The commander, believed to be in his late 30s, runs the Taliban's ruling council from the city of Quetta in Pakistan's Baluchistan province.⁵¹ Zakir is as hard-line as Taliban commanders come. He tells his fighters that they have one primary focus: to wage jihad until death.⁵²

Much like Zakir's return to the insurgency, the release of these individuals may re-invigorate the Taliban movement by providing an important propaganda victory and fresh leadership. As other Taliban officials have been killed or captured, the

leadership cadre of the Quetta Shura has been winnowed, leaving few individuals with the prominence and pedigree of the detainees. Despite being removed from the insurgency since the early 2000s, their Guantanamo Bay detention could serve as an important credential, and these individuals may be feted as heroes and quickly return to leadership positions.

A FALSE FOUNDATION FOR PEACE

Both the Afghan High Peace Council and the Quetta Shura Taliban leadership support the release of Guantanamo Bay detainees, but a number of on-the-ground realities undermine the goals of any prisoner releases. Designed to incentivize negotiations, establish confidence in the negotiating process, and build contacts within the insurgency, the release of high-level detainees is unlikely to accomplish these objectives.

The release of high-profile detainees will provide an important propaganda victory and reinvigorate the decimated leadership ranks of the Quetta Shura. Most importantly, Afghan ethnic and religious minorities, as well as some Pashtuns who are loyal to the government, are likely to view these negotiations as compromising their interests. For the Hazara, Uzbek, and Tajik communities, the release of the prisoners named so far is likely to be particularly unpalatable, given that many were military commanders during the civil war in the 1990s and in some cases directly participated in massacres and ethnic cleansing. The potential release of high-level Taliban officials may fuel a sense of vulnerability and insecurity, leading some Pashtun and minority leaders loyal to the government to question, as one analyst has written, “What if it unravels? Who is going to come after me? Will I be the weakest in the room?”⁵³ Furthermore, the notion that the Taliban represents all disenfranchised Pashtuns is a falsehood. Although the Taliban claims to be a government in exile, its popular legitimacy is limited even in the historical Taliban heartland in southern Afghanistan. Seeking negotiations with the Taliban as a means of pacifying the Pashtun belt is a grievous error.

Some analysts argue that the opening of the political office in Qatar in exchange for a prisoner release is a watershed moment, similar to other peace processes that ended insurgencies through political negotiation. Vali Nasr, a former Obama administration advisor working on the reconciliation process, has stated that this development is akin to the Taliban forming a Sinn Féin, a political wing to conduct negotiations....The next phase will need concessions on both sides.”⁵⁴ While prisoner releases have formed a part of negotiated settlements that have successfully ended insurgencies, such as the Good Friday Agreement in Northern Ireland and Multiparty Negotiating Forum in South Africa, U.S. officials must be wary of making too many concessions too quickly. One limiting factor is the Taliban’s lack of a political wing. Other than their military leadership, it is unclear how exactly they would fit into a national governance structure.

The situation in Afghanistan is not analogous to Northern Ireland in 1998 or South Africa in 1993. In these cases, prisoner releases worked because they were part of a wider peace deal—rather than confidence-building measures—that incentivized all parties to renounce violence and accept a political deal. Moreover, released prisoners were required to formally abjure violence and participate in political processes such as de-radicalization projects and Truth and Reconciliation commissions. Critically, the security situation was largely settled prior to a political negotiation. The differences between the Taliban and Sinn Féin or the African National Congress are stark. In Afghanistan, in the absence of a wider deal encompassing all insurgent groups—not just the Quetta Shura—and a defeated insurgency, the release of detainees connected with the former regime is likely to only increase instability.

POLICY RECOMMENDATIONS

The Obama administration should not release these Taliban figures currently held at Guantanamo Bay. This “confidence-building measure” is unlikely to generate any immediate results with respect to Taliban reconciliation talks. Instead, it would serve as a boost to the Taliban senior leadership and rank-and-file fighters.⁵⁵

The highest-risk individuals among the six proposed individuals are: Khariullah Khairkhwa, Mohammad Fazl, Noorullah Noori, and Abdul Haq Wasiq. These individuals should not be released under any circumstances. Mohammad Nabi is a relatively minor figure and appears to be linked more closely with the southeastern insurgency, most likely the Haqqani family. Rather than including Nabi amongst the current list of six individuals, the administration should pursue a separate track, proposing a trade of Nabi for Sergeant Bowe Bergdahl, an American prisoner of war currently being held by the Haqqani network. Haji Wali Mohammad, a top Taliban and al-Qaeda financier, likely poses minimal risk if released if he is closely monitored by Qatari authorities and the U.S. Treasury Department’s threat finance specialists.

Rather than trying to entice the Taliban’s senior leadership back to the negotiating table, the Obama administration ought to authorize and empower the U.S. military and other government agencies’ attempts to divide elements of the insurgency while attempting to deepen and exacerbate the mistrust and internal confusion within the Quetta Shura. A large segment of rank-and-file fighters had a visceral reaction to the Taliban’s initial participation in peace talks in Qatar. According to a former Taliban official, “many Taliban are ambivalent, hesitant, and confused over peace talks.”⁵⁶ In a recent example of the divisions within the Taliban, the senior leadership council in Quetta arrested two high-level Taliban commanders in March for allegedly having unauthorized reconciliation discussions with the Afghan government.

Appeasing the Taliban at the current juncture is unlikely to advance U.S. interests. Given the Qatari government's history of dealing with terror suspects and the alleged willingness of the Obama administration to forgo strict oversight and accountability mechanisms, which would likely be insufficient in any event, releasing the Taliban detainees at Guantanamo Bay is not only dangerous but also unlikely to advance peace talks with the Taliban.

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NOTES

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