

THE BROOKINGS INSTITUTION

WEBINAR

ALLIES: HOW AMERICA FAILED ITS PARTNERS IN AFGHANISTAN

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P R O C E E D I N G S

MR. WITTES: Welcome to the Brookings Institution. I'm Benjamin Wittes, senior fellow in Governance Studies here at Brookings, and the editor-in-chief of Lawfare.

We always say, and it even says so on Lawfare's front page, that Lawfare is produced in cooperation with Brookings. And people sometimes ask me what that means. This event is actually a good illustration of what that means. We're here at Brookings at a Brookings event talking about issues covered in Allies, which is a new podcast series from Lawfare and our partners at Goat Rodeo.

Allies details the decades-long struggle to protect the Afghan interpreters, translators, and other partners who served alongside the United States forces, using what's called the Special Immigrant Visa, SIV program. Despite the efforts of veterans, lawmakers, and senior leaders in the military, unending violence and bureaucratic red tape resulted in a protracted American failure to fulfill our promise to those individuals and their families, that most basic promise, which was to keep them safe. And it is some of those underlying issues and policy failures that we're here to talk about today.

So when Lawfare Associate Editor Bryce Klehm first came to me with the idea for Allies, I told him that I was going to okay it but he was never allowed to use the word SIV or the acronym SIV in the trailer or in any promotional material because it was just too nerdy and no one would want to listen to a podcast about the SIV program. But the thing is here at Brookings we're actually allowed to nerd out and use acronyms. So here we can say SIV and we can spend some time today talking about the details of this policy effort, what worked, what didn't, and why there were ultimately so many interpreters and translators left behind.

Jokes about acronyms aside, this is a story that seeks to connect legislation and policy implementation with the direct consequences that that policy has for individual human lives. These are life and death consequences for whether people can come to the United States and safely live their lives or whether they have to live or die as a result of constant Taliban threat of reprisal and murder.

This morning we released the sixth episode of the series, which covers the U.S. withdrawal from Afghanistan in the summer of 2021 and tells the story of the events at the Kabul airport last August.

In many ways the events of last August were kind of a culmination of the problems that

had existed with the SIV program for two decades. And those are problems we are still feeling the effects of today. So the clip that you're about to hear is from Episode 6, and in it you will hear from an Afghanistan interpreter whom we call Billy, who had applied for a Special Immigrant Visa.

(Podcast clip begins)

PODCAST NARRATOR: In the last days of the evacuation Billy, the afghan interpreter, was still waiting on his SIV application. At one point Billy thought about just making a go of it and heading to the airport.

BILLY: I was in touch with some friends who even got the airport passage email from their Department of State. And they went to the airport and I was following them to see what it was like.

PODCAST NARRATOR: But on TV and social media Billy saw the massive crowds, the Taliban beatings, explosion at Abbey Gate. He still hadn't heard back from the embassy about his visa. So he stayed home and waited for an official green light.

BILLY: And I was assured that they wouldn't let anyone get out of the gate passage until I found out that there was a total miss and those were pushed and wrestled further in the crowd. Even without SIV passes or SIV documents made it through and were evacuated. And by then it was too late for me.

PODCAST NARRATOR: Billy watched as thousands of Afghans like him packed into flights. But he had done what the U.S. government had told him to do, he followed the rules. So Billy waited and watched as he got left behind. To this day he still hasn't gotten any updates on his visa. Billy and his family are in Afghanistan right now, still waiting. He has no idea what the status of his application is, if it's even being processed. But he remembers August 30th vividly. That was the day the last American flight left the Kabul Airport.

BILLY: You know, I never cry. But that moment, you know, my eyes were just tearing. You know, I'm a father of two sweet kids and I would look at them and I don't know what will happen because after that, when the final flight left, you know, things were like, I don't know how to explain it to you but it was bad. It was bad. But I'm happy that I'm still alive.

(Podcast clip ends)

MR. WITTES: So a note of personal privilege before I turn this over to Bryce to introduce

the panel. When you create something new you have a strong desire to control every aspect of it and for me, Lawfare was something new that I created. And I've spent more than a decade with a very high degree of control over every aspect of it. I would say a loving degree of control. Others might say a neurotic degree of control.

This project was the first major podcast project that I've ever really been able to step back from and not play a significant role in. And that's owing to two things. One is the remarkable group of partners we have at Goat Rodeo, and on this project particularly Max Johnson, whom you'll hear from today.

The other is Bryce, our associate editor, who conceptualized this project and really operated as our end of the partnership in producing it. So all thanks to all of you, and Bryce in particular. And with that, I'm going to turn things over to Bryce to introduce our panel today.

MR. KLEHM: Thank you, Ben, and welcome everyone. As Ben said, we'll be discussing some of the past failures that led to a situation where tens of thousands of people like Billy who had served with the United States, were left behind. As Ben said we'll also discuss some current resettlement issues and relocation efforts for those still in Afghanistan and other third countries.

We've got a lot to get into so I'm going to try to keep the introductions brief. Today we have Shala Gafary, the managing attorney for Project Afghan Legal Assistance at Human Rights First. Shala leads the nationwide coordination of legal stakeholders responding to the evacuation. She also oversees Human Rights First pro bono program that provides legal screenings and representation to Afghans eligible for asylum, special immigrant visas, and other forms of humanitarian protection.

Colonel Steve Miska serves on the steering committee of the Evacuate Our Allies Coalition, which is a humanitarian and Veteran effort to evacuate Afghan partners from conflicts. He's also the executive director of First Amendment Voice, and he retired at the rank of colonel after serving 25 years in the U.S. Army.

Matt Zeller is a U.S. Army veteran and the co-founder of No One Left Behind. He's also an advisory board share of the Association of War Time Allies and a Truman national security project fellow.

And finally Max Johnston is the co-producer of Allies, who works at Goat Rodeo, and he

has produced a number of shows, including The Long Shadow, which details efforts after 911.

All right. So let's jump right in. Before we begin I want to remind the audience that you could submit questions via Twitter at Lawfare blog with the hashtag AlliesPodcast or email Events@Brookikngs.edu.

So that clip that we just heard, as Ben said, is featured in the sixth episode of the series. And a lot of what we witnessed last August had its roots in a struggle that has lasted for more than a decade. So to get us started I want to ask Colonel Miska to help give us the long view.

Colonel Miska, you've been involved in this issue for a very long time, since 2006 really. So what were some of the issues that you have been dealing with since 2006 that really set the stage for the events we all witnessed last year?

COLONEL MISKA: Thanks, Bryce. This is a strategic problem that does not just span current conflict. And as some of the research I've done goes way back, and as a matter of fact some of the best practices that we shared come from say Vietnam or when we evacuated the Kurds or the Kosovars more recently.

And so as I started really digging into the problem it was clear that we didn't have a lot of policy tools to insulate our soft networks, our close partners in conflict zones. But we did have a Special Immigrant Visa. And it is a bureaucratic challenge, as many have noted. So our government has struggled to really execute well even though we do have this one tool. And so really when it becomes a crisis our immigration system at larger is not suited, it doesn't function well normally, right, so in a crisis it's not the tool to go to.

So some of the things that I delved into were inner agency task forces that we used in Vietnam, which allowed somebody with presidential authority to manage an intergovernmental effort, really a whole of society effort when it comes down to it, and you can flex that authority where it's needed. So say Afghanistan or Vietnam under a Foreign Service Officer, and then bring it here to the United States when the center of gravity shifts when you've got the refugees in. Those are things that history teaches us and hopefully we can learn from in the future.

MR. KLEHM: So Matt and Shala, before we get into current issues, which we definitely will. I want to ask if you have anything in mind about failures, either political, bureaucratic, or structural in

the past decade that really led to the situation that we're facing to now. And, Shala, let's start with you.

MS. GAFARY: All right. Thank you so much, Bryce, and thank you Brookings and Lawfare for bringing attention to this really important issue.

I'd actually bring us back to the year 2020 under President Trump, the fact that the Doha Peace Agreement with the Taliban was signed without any Afghan government presence. I really want to highlight that. It was a peace agreement between the U.S. government to withdraw their troops and between the Taliban. And the only condition really was that the Taliban were not allowed off Al Qaeda's limited territories.

There was no plan about how the transition would actually work. There was no promise for a democracy or a semblance of democracy to continue. No truth and reconciliation commission for the war crimes committed by the Taliban for the past, at that point, nearly 20 years actually beyond, is when the Taliban of course had ruled that country or most of the country from part of, a good part of the 90s. And there was no commitment by the Taliban to ensure the rights of women, girls, and ethnic minorities, religious minorities.

So I would really bring us back to that date and for us to really contemplate as to how much of all of this is really a surprise considering the terms in which this peace agreement was signed.

MR. KLEHM: Great. And Matt.

MR. ZELLER: Everything Shala said is spot on. I think the only thing I would add to that is in the Doha deal there was a particular provision that required us to pull all of our contractor support to the Afghan military. And this harkens back to a decision that was made, you know, almost 20 years ago at this point, which was what would the Afghan military look like, how were we going to train and build a force that was ostensibly supposed to be able to replace us and outlast us? And we decided to build a modern technologically dependent military, a military in our own image, a military that, quite frankly, could not function without those contractors. Which is why the Taliban insisted that those contractors be removed.

And you have to see is the degree to which the country began to collapse as soon as they were gone. I've talked to many members of the Afghan military who would tell me that they'd be, you know, as of July and August of last year they would be in the middle of battles and all of a sudden

their air support was just gone, their radios suddenly didn't work anymore. And it was because the contractors that we had paid to support them and make sure that their military functioned, were no longer there.

And I think that's a big learning lesson for our country going forward if we're ever going to find ourselves in a similar conflict. A force that we're building needs to be able to sustain itself without our own, you know, constant basically lifeline.

MR. KLEHM: So last August and really since then, all of you have been working on some different aspects of resettlement and relocation efforts and, Colonel Miska, I want to start with you. You've been working with the Evacuate Our Allies Coalition as I mentioned earlier.

So tell us about that work and really how the group was created and some of the challenges that you've faced since then.

COLONEL MISKA: Sure. The coalition started very quickly after the announcement to withdraw in April. And the steering committee began meeting on a routine basis, but then as we saw things getting urgent, because most of the work was advocacy, to try to offer best practices to the Biden Administration to get ahead of what we knew was going to happen to our allies.

As we saw things start to unravel that coalition started meeting twice a day. Another coalition stood up, started meeting twice a day. And I ended up going to LA and standing up an operation center that was running 24/7 to support both of those coalitions. Because the distress calls that were coming in were just so unrelenting and it was really, really rough.

So that work continues, Bryce, it has not stopped, we're still seven days a week. And I mean just last month we had over 860 requests come in to the ops center. We're working on getting people out and we get them through all the partners in the ecosystem, but that's what they do, the partners who we support. We basically connect, we're business to business enterprise, right, we connect the different partners in the ecosystem so they can collaborate well.

And I would point out that, you know, Shala's organization is what I would call the anchor species in that ecosystem or one of the main organizations, you know, leading the charge from the Evacuate Our Allies and then all the work that the different teams do has just kept the attention on in a way that at least we're getting some people out. It's hard, it's difficult, but we keep at it every day. And I'll

just leave it there.

MR. KLEHM: Well give us, you know, you don't have to use any specifics, but maybe give us some examples of what you're facing to some audience members who might not know what it's like.

COLONEL MISKA: Sure. So because we cover the entire ecosystem, we could get calls that come from Afghanistan. Routinely we get calls from an American who is advocating on behalf of Afghans who are still trapped. And they might be in harm's way or they might just need food and some sort of shelter. And so we work with different partners that way. We also get calls from people stuck in third countries. And if need be we work with different partners in the coalition to advocate either through the State Department or different consulates in order to see if we can get safe passage for them.

And lastly, here in the United States we will get calls for people who have been paroled in, which affords no legal status so they don't qualify for any benefits. And they are relying on just the goodwill of whoever they happen to have come into contact here in the United States and are having a hard time transitioning or might not be able to get a case with a resettlement agency. And so we try to find the organizations that might have capacity to help those cases and then make the referrals.

MR. KLEHM: So, Matt, I want to move to you. The Association of Wartime Allies released I think it's second report from this year that has some updated numbers on the amount of applicants, SIV applicants specifically, in the pipeline and also some feedback on those still in Afghanistan.

I was wondering if you could sort of walk us through some of the findings of that report.

MR. ZELLER: Sure. So this is going to be something that the Association of Wartime Allies will be doing quarterly going forward. The report is quite illuminating. So AWA has the unique ability to survey the left-behind Afghan population. They run a private Facebook group that has been curated over three, four years now that has some 30,000 Afghans in it. They've all been vetted, they've had to prove that they've applied for the Special Immigration Visa Program, etcetera.

And through that survey what they've learned is that, you know, Afghanistan has really become hell on earth for women. It's, you know, everything that we learned that this was the same evil Taliban, just better equipped, has come to fruition. They're right back to where they were, you know, in

July of 2001 and in August of 2001, before September 11.

Women have no place in Afghan society outside of the home. They fundamentally and functionally do not have any rights. And are living under a type of oppression that is just, as a father of a daughter it sickens me. I mean you read statistics like a third of all women surveyed had reported that they had been sexually molested by the Taliban since being taken over, propositioned in a way that they didn't want to be.

You know, one of the other things that we've learned is that the food insecurity is just tremendous in Afghanistan. There is food available, there's just not enough money for anybody to purchase it. So people are so demonstratively poor because of the collapse of the Afghan economy that there's an ongoing active famine. We did our first survey back at the beginning of the year and we asked questions about food insecurity. What was illuminating then was that 98 percent of respondents had reported skipping at least one meal in the last 10 days. That number increased to skipping more than one meal, not just in the last 10 days, but basically missing a third of all meals over each month now. So they're food intake, what we fear has been reduced by on an average a third per person.

And given the ongoing, you know, global food crisis because of the war in Ukraine, the food aid that normally would be reaching Afghanistan is not. And it's also not reaching it because the Taliban simply don't have very good relationships with the global community on this and they have been quietly trying to circumvent the World Food Program and its distribution of food aid. Simply put, the Taliban have also run out of money and so they pay their fighters in 10-kilogram bags of wheat flour. They get a 10-kilogram bag of wheat flour each week.

The last thing, which was really illuminating was, and this is the thing that we have quite frankly been arguing with the State Department since the evac on, which was how many Afghan Special Immigrant Visa applicants truly still remain in Afghanistan. And the survey is quite clear, it's the vast majority of them. It's some 160,000 people at this point. Simply put, we did not evacuate the vast majority of the SIVs last August. They did not make it to the airport, they did not make it onto the planes.

MR. KLEHM: So, Shala, I was wondering, as the only lawyer here on this panel, if you could sort of help us go through some of those issues with, you know, differentiate SIVs from other forms of humanitarian parole for those in the United States or those eligible to apply.

MS. GAFARY: Sure, I'd be happy to. Just a little bit about some of the work that Human Rights First does with respect to our coalition building. We have about 300 members of our coalition. These are different legal service providers, resettlement agencies, law firms, law schools, solo practitioners, everyone who has come together really around the time that the Colonel Miska had identified. People, and really for the purposes of our program starting September, August and September when the very first evacuees were brought to the U.S. And everyone's come together to kind of answer one question, right? And that is what next?

Exactly as was identified that the parole that Afghans were permitted to enter into the U.S. with a two-year parole, it does not afford any permanent rights in the U.S., right. So in the two years that they're here they have a work permit, Social Security Card, and, you know, the right to live in the U.S., frankly without fear of deportation. But what happened after those two years.

And so it's really the legal community that's come together with I have to say all pro bono partners, right, no one really here is making a dime off of this population in particular. And everyone's trying to figure out what the best use of our resources this year.

Absent an Afghan Adjustment Act, which I'm sure we'll touch upon a little bit later, which would be a law that would grant permanent residence to all Afghan evacuees here. Absent that law we've got to now get creative and make sure that all the 85,000 Afghan Nationals that are here apply for the legal ramifications they're eligible for and apply in a timely manner.

So the two biggest application that we're seeing among this population is a Special Immigrant Visa and asylum. To put it really sort of broad, it's Special Immigrant Visa that was created in 2006 for Afghans in 2009. And it was meant for interpreters who served alongside U.S. troops in Afghanistan who'd served a certain period of time. Those conditions have been relaxed, thankfully, over the decade that's been a reality.

And now it requires one that has served one year of faithful service to a U.S. government entity in Afghanistan. And you have to have the requisite documents to prove your time there. So we've come upon a number of challenges, a lot of which the podcast covers really well, Bryce, with respect to the human resources letter, the supervisor letter, the fact that a lot of organizations and companies there disappeared without a trace. And so getting all those documents is really critical. And for those folks that

were not able to or are not able to locate their supervisors, it's become a near impossibility to become eligible for SIV.

Everyone else then would be eligible for asylum, and asylum law applies to all nationals of all countries in the U.S. And for that you have to demonstrate a reasonable fear of persecution should you be returned back to your home country on a variety of bases. And among Afghan evacuees we're seeing the most common reasons for applying for asylum is in fact political opinion. You're got ethnic and religious minorities that are evacuated here, folks that are members of particular social groups. In particular those that were Afghan military, Afghan pilots, Afghan police, judges, lawyers, members of the Afghan government, human rights activists, you name it. You've got, you know, all of civil society really that's from Afghanistan, those that, you know, are really the lucky ones, those that could and are here and they're all absent law that would enable them to apply for a Green Card have to individually apply for asylum.

The asylum system is incredibly backlogged. We've got 600,000 cases just at the asylum office right now. And if you include those cases that are in the immigration ports you've got a million and a half.

So again, you know, to think about, especially in light of the information just shared by Matt about how the overwhelming majority of SIVs were actually left behind, our legal community is utilizes our resources in the best way, right? It wouldn't even make sense for us to come together and work on those applications for those folks that are not yet in the U.S. instead of doing all of this for those folks that are, but here we are still, we've got to work on those until the law's passed.

MR. KLEHM: So one other thing, Shala, that I've heard you speak about is really the lack of international coordination. You just covered some of the more domestic legal issues. But I was wondering if you could speak to that because a lot of people flee Afghanistan and then are left to try and apply from somewhere else, like Pakistan. So I was wondering if you could talk about that.

MS. GAFARY: Sure, I'd be happy to. So again, we're speaking about folks that have legal pathways to come to the U.S. These would be SIV applicants, their derivatives, both those that are abroad and those that are here, as we're processing the 85,000 applications. Applications for 85,000 folks that are here, we are thankfully getting approvals. Just to give folks an idea, and there's a 99

percent asylum grant rates for Afghan evacuees currently, which again speaks to the fact that is this whole operation futile at this point if everyone basically is being granted asylum.

But nonetheless, for those folks that have legal mechanisms to come to the U.S. by in large the only way out of Afghanistan is through Pakistan, right? And that's really contingent on the Pakistani government issuing visas. Pakistani law requires all folks who exit the country legally to remain in lawful status in the entire time. And what that means right now is reissuing 30-day visas. And not all folks who are requesting visas, by the way, are being granted visas. For those folks who are lucky enough they're getting visas and they'd better renew them in 30 days.

Ordinarily UNHCR operates out of Pakistan to register Afghans, they've been doing so since the 80s. As we know, the country's been in pretty much constant conflict since the early 80s. But right now that's also been at a standstill. So Afghans cannot register themselves with UNHCR. A benefit of that would have been as long as you're registered with UNHCR you're in legal status because you're in the process of applying for asylum protection under UNHCR. But that's no longer a reality, right? So visas are number one, not guaranteed, number two, not renewed.

Additionally, you've got a lot of Afghans that are being attacked on the street in Pakistan for a variety of reasons. Think about again the kinds of groups of folks that are fleeing. You've got LGBT persons, persons that have perhaps abandoned Islam or espouse secular views. Secular, whether that be personal secular views or political secular views. And those folks that, frankly, have political opinions that are contrary to the status quo in Pakistan. So you've got a lot of individualized sort of risks to Afghans that are in Pakistan right now.

And the processing time is just simply I would say unacceptable. You've got folks that have been waiting since literally the start of the evacuation, with valid, again valid, ways of processing to the U.S., of coming to the U.S. that still have no movement on their cases.

It's really I would say the equivalent of imagine North Korea and South Korea at war with each other, right? And then we ask the South Koreans to come to process in China, right? It's a lie. It's how safe do you feel as an Afghan going to Pakistan to apply for a visa to come to the U.S., the Pakistan that's overtly and covertly funding the Taliban and have done so for decades?

Really what I think this really shows us is not only to make the U.S. embassy and asylum

work better and work for our allies and for, right, the family members of U.S. citizens and other folks who are vulnerable, but really to create a new system, right, to designate a conflict somewhere in the world whose job would be to just process Afghans. And I would really propose here we have some really strong and reliable allies in the Balkans, in particularly Albania and Kosovo, right. Both of those states right now do processing for evacuees. There's talk about expanding some of those operations. You know, I think it would be a really win/win situation not only for those countries to really move forward with, we have a lot of goodwill in the Balkans as compared to a lot of places in the world. And we found that they've been quite eager to assist the U.S. and U.S. allies there.

And really a safe place where Afghans can go, complete their consulate processing, do the interview, do the background checks, do the medical exams, do everything we all need to do to make sure that they enter the country lawfully with the right status and they're able to remake their homes here.

MR. KLEHM: And, Colonel Miska, how is that lack of international coordination effected the Evacuate Our Allies Coalition's work?

COLONEL MISKA: It's been challenging in a lot of ways. And I don't have a lot of specifics in this area but what happened early on was there were a lot of well-meaning organizations that stepped up and helped get Afghans out into third countries. And then what happened was there was no follow-on destination. And so there really hasn't been a coordinated effort internationally to try to resolve just that issue alone, let alone the other things that Shala was just bringing up, right?

And so it's a challenge and especially when the world is distracted as, you know, they are very distracted by, we are distracted by Ukraine. And that has drawn the media attention, it has drawn the political attention of our European partners who were very much a part of NATO. And so what I would love to see and that we've got partners in Germany and France and some of the other European countries who have really advocated for protecting our soft networks, right, for helping those who serve alongside of us in conflict zones. But the systems are very uneven. The responses are uneven as well. And so you'll see certain countries, as Shala pointed out, that are very receptive and help within their capacity. And then other countries don't have that level of warmth and so you end up with a really uneven playing field out there. But international cooperation could go a long way.

MR. KLEHM: So I just want to take a second to remind our viewers that they can submit

questions for the panelists by emailing Events@Brookings.edu or via Twitter @Lawfareblog and using the hashtag AlliesPodcast.

So I want to move to the Afghan Adjustment Act that Shala mentioned. And it would really touch on, if that legislation were to pass, which we'll get into the status of in a second, but it would really touch on a lot of the issues that you have all been speaking about here today.

So my first question, and Matt I'm going to hand this to you is, you know, what is the status of the Afghan Adjustment Act, and for Shala, what would it do? What would it do to affect all of this and what are some of the proposals that people are seeing?

So I guess let me flip that around. Let's start with Shala. What would it do, and then we'll go to Matt with the status.

MS. GAFARY: I'm happy to answer that. So the Afghan Adjustment Act, as it's being proposed, would allow all Afghans who were evacuated here by the U.S. government to be able to apply for a Green Card after being here for one year. So on the one-year anniversary of their entry they could apply directly for a Green Card.

All applicants for a Green Card have to go through what they call biometrics, so they run fingerprints to make sure that you don't have any, you know, outstanding criminal records or, you know, just generally a law-abiding person in the U.S. Of course they're already gone through background checks, right, in order to come here in the first place, the evacuation, lengthy background checks.

But really what it would do is it would cut out the middle man, it would cut out the need to apply for asylum, for them to show an individualized harm, an individualized threat. It would cut out the need to try to locate supervisors for folks that were SIV eligible, try to locate these firms and companies that existed and maybe haven't existed for over a decade or so. And it would just allow folks to apply for a Green Card and really be sure of the fact that they can continue their lives or start their lives here in the U.S. without any additional legal barriers. It would eliminate the need for, the fear really, for being deported back to Afghanistan and potentially back in harm's way in the hands of the Taliban.

MR. KLEHM: And Matt, the status, what is the status of the Afghan Adjustment Act, and what had been the hopes a couple months ago for the Afghan Adjustment Act?

MR. ZELLER: Sure. Well I guess I'll start off with the hope had been that we were going

to get it passed in what's called the Ukraine Supplemental. So that the law that Congress passed about a month ago that funded our aid efforts to Ukraine. So this is a lot of inside political baseball here, but in an election year Congress really doesn't get a whole lot done. A lot of people don't like being put on the record in election year for votes because they feel that it might make voters mad at them. And it's not something I'm a big fan of by the way, but that's just the way our system of government works.

So there's a couple of must-pass bills or that Congress has to pass every year. These are spending bills. One's called the Omnibus Bill, it's sort of the wallet funds, the government for a fiscal year. The other is the National Defense Authorization Act, it funds the military. There's the Senate Foreign Ops Bill which runs the State Department. And in this case Congress decided because of the war in Ukraine that they had to pass a must-pass bill to give the President the authority to spend billions of dollars in Ukraine.

So we tried to get the Afghan Adjustment Act attached to that. It failed because of Chuck Grassley of Iowa. Senator Grassley, for whatever reason, hates immigration. And he does not like this population of people and he feels that the Biden Administration illegally used humanitarian parole to bring the Afghans who were evacuated last August into the United States. He believes that the Biden Administration did it as political top cover for its failures in Afghanistan.

And I really don't care what his reasonings are for voting against it. I wish he would understand that by refusing to allow this bill to come up for a vote. Unfortunately in the Senate an individual Senator can do that. They can put what's called a hold on a bill and by in large prevent it from ever coming to a vote, which he has all but done. He's hurting American national security in the future. He's hurting our credibility. He's hurting our ability to recruit future allies.

You know, we've already done just about as much damage as we can to our credibility around the world by abandoning these people in the first place, but the fact is that we were able to get some out. And the idea that we would now put them in jeopardy and potentially one day even deport them, is abhorrent to me. And if it would come to pass, I don't know any ally in the future could ever look to us and trust us and take us at our word when we said that we're going to have their back if needed.

So the current status is this. There is a bipartisan group of Senators and House Representatives, Republicans and Democrats on both sides, that want to vote on this thing. And if it

came up for a fair vote I think it would pass. The problem is that right now Senator Grassley has his objections and it seems to be until he can be mitigated and brought into the fold, there is a hesitancy to even bring it up, to try to bring it up and introduce it formally into Congress because they don't, the last thing anyone wants to have happen is that it gets introduced for a vote and then it goes nowhere and dies on the vine, right?

People really only want this thing to be officially put on the record when it's going to be a must-pass bill. And so to that end we've really been letting our counterparts, the staff and the members of the United States Senate who have been leading this, really lead on that process. And we've been following their guidance, which is why you don't have a bill number attached to this thing, why there's no legislative text. Because the reality is that they're still trying to figure out what is going to be the acceptable text that everyone can agree to pass. And they don't want to introduce anything until they have that solidified.

What I will tell you, I would be remiss if I didn't bring this up. One other thing that the bill does do, and this for me is a massive important thing, and it was illuminated in the AWA report, and forgive me, I didn't mention it. There is a coming crises in the SIV application program right now. Simply put, applicants are running up into the provision that requires them to have an in-person interview at the U.S. Embassy in Kabul in order to be given an SIV. There is no more U.S. Embassy in Kabul so these in-person interviews cannot take place. And so every application in the SIV program is eventually going to run into a problem where their application can advance no further.

The Afghan Adjustment Act would grant the State Department the authority and the ability to conduct these interviews elsewhere, in other embassies around the world, potentially online in some sort of secure Zoom, or while we don't have an embassy in Taiwan, we have an U.S. interest section at somebody else's embassy. We would, ostensibly they could set up a U.S. interest office at the embassy of Qatar, for example, or the United Arab Emirates, which has formally recognized the Taliban as the legitimate government of Afghanistan.

All of this is to say is that my friend Shawn VanDiver has a really good point that he likes to sort of browbeat members of Congress with and I would be remiss if I didn't say it now. Which is that, you know, a year ago last August it seemed to be just about everybody in this country really cared about

Afghans and the lives of Afghans. And that make sense. We've had for 20 years successive Presidents and Administrations from both sides of the aisle tell us, the American people, that we should really care about Afghans and their lives. And you know what, the messaging worked. Americans really seemed to care about Afghans and their lives, and they don't like what they're seeing right now.

I wish then that the goodwill that was expressed last August would be allowed to carry over to the Afghan Adjustment Act. Because I don't think that anybody who was involved in the evac last summer was doing it with the belief that the people that they were helping get to safety might one day have that safety taken away from them and the rug pulled out from underneath them. And that's why the Afghan Adjustment Act is so critically important. Because if we don't pass it there is a future, there is a future nightmare scenario where a new administration comes to power that doesn't feel as the Biden Administration and doesn't see these people as welcome in this country and moves to deport them.

MR. KLEHM: All right. Let's move to audience questions. Melissa from the Global Advocacy Group says she would appreciate hearing how dramatically different the humanitarian parole situation between Ukrainians and Afghans is. So, Shala, let's start with you.

MS. GAFARY: Sure, be happy to. I'll start off explaining a little bit about what humanitarian parole is and the numbers specific to Afghan.

So the humanitarian parole has been around for quite a while. It's again open to persons of all different nationalities. And it's for the use of emergency situations for allowing emergency really entrance permit into the U.S.

It was actually encouraged following the events of August of last year, August 2021, with the collapse of the Afghan government and the takeover by the Taliban. It was encouraged by members of Congress and the administration as a pathway for U.S. citizens to petition for their family members, friends, loved ones, right, American citizens that worked, for example, alongside Afghans in Afghanistan as a way to get them to safety.

To date about 45,000 humanitarian parole applications were filed for Afghans, and that was at \$575 per application. And you needed an application for every single man, woman, and child that wanted to apply for humanitarian parole. And that's starting of course since about August of last year.

Of those 45,000 only about 5 percent have been decided. And of those 5, 85 percent

have been denied. So we've got really appalling numbers, you know, the requirements by which one had to even satisfy to be eligible for a humanitarian parole for an Afghan again, were that you had to have shown individualized harm. So really a harm that is well beyond what's required in asylums, it would be Matt Zeller is wanted by the Taliban and his name had to have been published in a U.S. government report, in the New York Times, NAS International, a really reputable source, as being, you know, a person of interest and would be persecuted by the Taliban, again by name, right? That is not the requirements that even asylum requires.

The person also needed to have left Afghanistan to begin with. So they were not processing any cases for Afghans that were still stuck in Afghanistan, no reason given. But it was again because they needed a consulate process and there's no U.S. Embassy in Afghanistan at the moment.

Compare that to the You for You Program for United Free Ukrainians. For that program the U.S. government has promised 100,000 slots. They believe they're assigned about a third of those already, and that's just through about two months since the programs were rolled out. There's no fee for that application, no need to be outside of Ukraine, everything can be done through a website on your telephone. You don't need to show any individualized harm, just that you've been displaced by the Russian conflict. No consulate processing, no interview, everything's again done on line and a travel app is emailed right to your phone. We are hearing reports of folks who have filed humanitarian parole under the You for You Program and within eight days have arrived in the U.S. So again, comparing to over, what is it now, 10 months, 10 months for Afghans. The vast majority have not even been decided.

So it's really I think illustrated to us that we did need and we do need a better processing to bring more of those people to the U.S. safely and very quickly. And we need to do the same for Afghans, right? There's no reason why we can't learn from the You for You program and that will implement that to the Afghans who by the way, we've had a number of clients who have literally have died or be killed waiting for the outcome of humanitarian parole. So to say that they are in harm's way really an understatement here. I think, I don't see any reason why we can't have implemented the You for You Program directly to the Afghan population.

MR. KLEHM: And we've got about 12 minutes left. So just we've got three or four more audience questions that we're going to get through today.

But Kristin asks a question that is somewhat difficult to answer but I think is important as we go forward. Which is, how could we have moved more efficiently to get SIV holders out of the country faster without causing the Afghan government to collapse even faster?

And this is a question that a lot of people on this panel have tried to answer. And maybe I'll start with Matt, which is, you know, what were advocates saying a year ago in order to try to answer that question?

MR. ZELLER: So in the alternate universe that I wish I lived in.

MR. KLEHM: And I will cut you off if we're going over.

MR. ZELLER: In the alternate universe that I wish I lived in, where we were listened to, the following occurred. We wrote a report, we being Kim Stiferi (phonetic) and myself and Chris Purdy of Best of American Ideals, over the winter of 2020 into January of 2021, that we quietly delivered to the administration. In which we recommended that they begin the immediately evacuation of every single SIV applicant, regardless of where they were in the processing line. And that they begin moving them to Guam where we could use Guam as a Lily pad from which we could then figure out how we were going to resettle them in the United States.

We based this on the evacuation of Saigon in 1975, which used Guam as a Lily pad. We recommended that it begin immediately for the following reason. In January of 2021 we had 2,000 U.S. military troops in Afghanistan and we controlled every single airfield. We had the ability because it was also not fighting season at that point, and the Afghan military wasn't actively engaged in a running gun battle in most places with the Taliban. We had the ability to then quietly begin going out into the hinterland, into the villages where most of these people lived, bringing them back to these smaller bases, and we could have done this in a methodical orderly way that, quite frankly, we're talking about a population of under 200,000 people here. You wouldn't have noticed it if it had been done in secret and quiet we would have been able to move these people out without most of the Afghan people getting wise to it, without creating or inciting a panic. I'm convinced of it.

But there wasn't political will in our White House to do that. And that's why it didn't take place. It wasn't that we didn't have the capabilities, it wasn't, and trust me, in talking with the folks I know in the U.S. military, they wanted to do this. It was a lack of the political will at the highest levels of our

government to get this done.

MR. KLEHM: Colonel Miska, do you have anything to add to that?

COLONEL MISKA: Yeah. I would just offer that the entire, well not the entire Veteran community, but a large majority of the Veteran community really rose up as we saw the train wreck coming, and partnered with organizations like Human Rights First and Humanitarians at Large, which, you know, were not usual bedfellows in advocacy, right? And we were really strongly recommending to do something, right. And I didn't want to get around to saying exactly what it should be. I know our military if tasked can plan for contingencies and do that.

But it really, the writing was on the wall when, as Matt noted, we pulled out the anchor species, right? But the anchor species in that ecosystem was really the U.S. military, of which the contracting community rose around it. The contracting community was traumatized by what happened. They were coming to our coalition asking what can we do to get our Afghan employees out.

And so it's just, it's something that we've got to get better at in the future. We can, I know we can, there are policy options out there that we can pursue and hopefully we'll have the political will to do that.

MR. KLEHM: And our next question comes from Walter, who asks. Did we do any better in the Vietnam departure, which that's a complicated question. And I would recommend the book *Honorable Exit* by Thurston Clark to Walter if he wants to learn sort of more about how that went.

But, Colonel Miska, you've studied this issue, I mean you not only worked on it but you studied it academically. Maybe sort of help us, give us a sense of how we did in Vietnam, and you mentioned the Kurdish evacuation earlier.

COLONEL MISKA: So it's hard to make comparisons like this because there is always trauma, right? Every single Afghan case that has got here to the United States is still associated with trauma. They weren't able to bring their adult children, they weren't, you know, and so the same applies to Vietnam.

But what I would say is there were some major distinctions. 80 percent of the Vietnamese refugees went by sea. This was a point we kept making back in May, June, and July that, name the seaports in Afghanistan and I will, you know, go get my ticket. Because it's going to be bad

when we lose the airfields. And when that happened it really precluded a lot of options that we could have exercised.

And so it went from a comparison to Vietnam at least to many people feeling it was worse, as we watched the zombie apocalypse outside the gate of Hamid Karzai International Airport, as we saw people cling to wheel wells. And so it was really, I would just say that for the Veterans that I know who were involved in this, for me personally it was harder in many ways than when I was in combat in Baghdad.

MR. KLEHM: So our last audience question before some closing thoughts comes from Fritz who asks. What can the U.S. learn from various allied nations about how they handled their partners, whether Afghans or other conflict zones who needed evacuation and resettlement.

And before we jump into some answers I will say that the University of York came out with a report last week or maybe two weeks ago that just sought to answer this exact question. And it had a number of metrics that compared the U.S. to a bunch of different allied nations. So I direct you to that report.

But maybe Shala, or Matt, if you have any quick thoughts on that.

MR. ZELLER: I think the Aussies do it best in terms of resettlement after the fact. But you can get in Australia and you're not sent to their immigration prison islands that they run. And you're absolutely welcome in Australia society. They do a really wonderful job with housing, employment, etcetera.

You know, I think the big frustration I heard from folks who were over there amongst the American military was again the frustration that they had in watching other allied militaries be able to leave the airport and go out and physically move people through Kabul beyond past Taliban checkpoints onto the airport and provide that level of security that they wanted to be able to do for their citizens.

A lot of people don't realize the American military was forbidden from leaving the compound. They could not leave the airport during the evacuation. We were wholly dependent on other nations' military either moving our own citizens or our Afghan allied partners who were still in uniform, still showing up for duty. Meaning soldiers of the Islamic Republic of Afghanistan, who are still doing their jobs for us, helping to move people through Taliban lines and stuff to get them to the airport.

By the way, those people were amongst the people that we evacuated, who now are in desperate need of the Afghan Adjustment Act to pass. Let's be clear. In the evac it wasn't just civilians, we got out members of the Afghan military who continued to function in their jobs all the way up until the very last moment. And the idea that we would one day turn our back on them is just abhorring to me.

But, you know, I think a lot of lessons learned. I agree the report is fantastic, I highly recommend folks give it a read.

MR. KLEHM: And, Shala, do you have anything to add to that before our final closing thoughts?

MS. GAFARY: Yeah. I would just add, you know, Canada has a private sponsorship program for immigrants and I think this is really a time to bring something like that out, right, because of all the reasons that were highlighted by my co-panelists. There's a lot of goodwill and a lot of interest by every-day Americans to bring Afghans to safety, and I think a program like Canada's that would allow a certain number of Canadian businesses to come together and petition their local representatives for specific immigrants, I think would do wonders and literally save lives here.

MR. KLEHM: All right. So for our final question, something that Max and I have found while we were making this show is that a lot of private citizens, such as yourselves, really stepped up and tried to fill the void in a lot of senses that U.S. Immigration bureaucracy and the government have really left wide open.

So my question to all the panelists is, you know, if you're someone who's watched this, whether they're lawyers, civilian, Veteran, and they want to get involved in some way, do something about this, you know, what would you tell them to do. And I'll start with Colonel Miska and then we'll go to Shala, and then we'll close out with Matt.

COLONEL MISKA: So this is a great question, Bryce, because it's really, I think a lot of Americans struggle with how to thank their Veterans. And because this resonated so strongly with the Veteran community, if you want to really help us, help us welcome our Afghan partners who served in the conflict with us, who are fleeing violence. And you can do that in a lot of different ways. You can, if you know a Veteran, reach out, see if they're in touch with anybody, and assist along those lines.

But the resettlement agencies have local affiliates throughout the country in many

different areas. You can just Goggle how can I help an Afghan refugee. Figure out where the resettlement agencies are in your neck of the woods and give them a call. Because they all need help, whether it's through volunteering, resources, or if you're fortunate enough to be involved in some sort of sponsorship program.

MR. KLEHM: And, Shala, you know, if there are any attorneys watching or law students or something like that, what would you tell them?

MS. GAFARY: Sure. Human Rights First would love to have more pro bonos involved in our humanitarian efforts to not only do screenings for Afghan individuals who are in the U.S., but also assist with application preparation. That's applications for a Green Card, we now have TPS available, Temporary Protected Status, and other forms of relief not only for the individual who's here but God willing when they soon to make a petition for some of their family members who are still stuck abroad.

And lastly, for direct representation with asylum applications. You can find us on the We the Action platform and look up Human Rights First and Welcome Legal Alliance, and look up for opportunities there.

MR. KLEHM: Great. And, Matt, the final word.

MR. ZELLER: I've been involved in this work since 2013. And what I've learned is that the fundamental difference between somebody really truly integrating and being properly resettled in this country or ending up in endemic poverty is the degree to which and the speed at which we can pair an Afghan with a Veteran. That is the, as Steve has called it, the anchor species, in this relationship is the Veteran. There is not a better advocate for an Afghan to help come into the American community and, you know, start their new lives here in a productive and fruitful way.

I would also argue, you know, we touched on a little bit. Veterans have suffered a tremendous moral injury with the end of the Afghan war and how it ended. The best way that I have found to address and heal from that moral injury is to assist in the resettlement of these people. In a way if you served with them overseas, we're clipping the script where they were our cultural ambassadors and guides for us overseas, we now get to do that for them here. And there is just something that is deeply healing about that relationship.

So to that end, I am actively involved in a process right now of the Iraq and Afghan

Veterans of America, IAVA. We're building out a national program where we're going to partner Veterans with all the Afghans who have been resettled. And try to just give them a person within the community who can be someone who not only answers questions but more on the point the resettlement services that are provided these Afghans only go so far and they're limited. What we're trying to do is build relationships that will last a lifetime.

So to that end if you are a Veteran who is interested in being involved in this, I encourage you that you can email me, it's Matt.Zeller@IAVA.org and we'd love to get you involve with this effort.

Thanks.

MR. KLEHM: All right. We're going to have to leave it there. Thank you so much to our panelists.

MR. ZELLER: Thanks for having us, Bryce.

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