Leaving Afghanistan

International organizations are working to evacuate Afghan women judges, who face particular peril under Taliban rule.

Aug. 15, 2021, marked the end of a nearly 20-year effort to build a democracy in Afghanistan. As Taliban forces took control in Kabul, it became clear that the people who worked hardest to create that democracy now faced the most danger. Among them were hundreds of Afghan women judges who not only feared reprisal from a new regime eager to stamp out the old judicial and legal system but also the re-imposition of strict rules forbidding girls and women to go to school, to work, or to participate in the cultural and economic lives of their communities. These women judges had worked hard to become and excel as judges; many pursued continuing education and served in cultural and civic roles. And they had sat in judgment of men. Now they feared that the work they loved would be justification for punishment or even execution.

Western forces generally did not include women judges in evacuations. That effort was left to civil society — the international organizations that had built connections to the Afghan bar and judiciary during those 20 years and now feel a deep responsibility to aid "their sisters." Thanks to their efforts, some women judges have been safely evacuated, but many others remain.

In early November, Duke Law's Bolch Judicial Institute brought together representatives from some of these organizations as well as two women judges who were safely evacuated to discuss the ongoing rescue effort. A recap of their discussion follows. For more, see *Judicature*'s new international edition at **judicature.duke.edu/intl**.

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DAVID F. LEVI: Let me start by thanking you, Judge Parsa and Judge Noori, for speaking with us. I'd like first to ask you, Judge Parsa, why you decided to become a judge and how you became a judge.

JUDGE TAYEBA PARSA: Thanks for inviting me. I'm Tayeba Parsa. I was a judge in the commercial division of the appellate court of Kabul province and communications officer of the Afghan Women Judges Association. I was interested in law and wanted to become a lawyer to protect people against violations of their rights. [I did not consider becoming] a judge because my imagination of being a judge was only a criminal judge. As there was corruption in the judicial system of Afghanistan, and the judicial and educational systems of Afghanistan are not modern or perfect, I didn't want to put people in jail without sufficient knowledge. But after I got the highest score [on the] entrance examination of the Supreme Court, I decided to use this opportunity and become more familiar with the laws and regulations of Afghanistan. And after graduation, we had the right to choose the court that we were interested in. I chose commercial court.

When I started working as a judge, I observed there were obvious violations of laws and rules for the reason of corruption. And I had the ability, even the authority, to prevent it, to protect people and implement the rule of law and justice. That was my ambition. ▸

LEVI: Thank you. Can you describe the training you went through to become a judge?

PARSA: In university, we studied Sharia law. But in the two-year judiciary trainings, we studied law in general, like Western law. In Sharia law, mostly we studied verses of Holy Quran that have legal aspects, like some verses about marriage and deals, regulations, family law, inheritance, criteria of witness and valid documents, Hadith (the prophet's sayings), and actions and judgments, including legal opinions and judgments. We studied religious jurisprudence, that is Islamic lawyers' opinions and judgments in contracts and criminal law, including special bodily punishments and some special financial punishments for murder, adultery, robbery, theft, using alcohol. And also we studied Arabic, because these texts are in Arabic. As the judicial system of Afghanistan is civil law, not common law, and its laws and regulations are adapted from other Arabic countries that adapted from France, we had to be familiar with law in general, not only Islamic law. And so we studied civil law.

LEVI: Thank you. Judge Noori, can you tell us a bit about why you decided to become a judge and how you did it?

JUDGE ZOHAL NOORI RAHIQ: I grew up in Afghanistan, in Kabul province. I also graduated from Sharia law school. Judge Parsa and I were classmates, actually. I finished two years of judicial law, practical law, all subjects that she explained. When I was child, I didn't want to become any other thing more than being a doctor. I finished high school in Pakistan, during [the first period of] Taliban government.

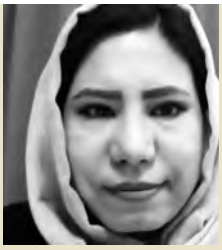
I came back to Afghanistan by the time the Taliban government overall had ended. I was working with an organization working for women's rights and the rule of law, as a shelter network assistant for one year approximately. Because I was involved in the legal system, and I saw myself that women were suffering from different kinds of violence, different kinds of injustice and inequality, I didn't want to be a doctor anymore. I changed my mind and joined Sharia school, and then I decided to become a judge to support these women, because mostly in Afghanistan, it is patriarchy.

Women didn't have access to justice. They didn't have access to education. So these factors made me change my decision and to be a protector of women and to defend their rights. So that is why I became a judge.

LEVI: Thank you. What was a day like in your life as a judge?

NOORI: There were so many concerns: security threats, unpleasant events, loss of colleagues and friends. I was so glad for what I had. I was doing my duty with enthusiasm. But of course it was Afghanistan. It is a country which was involved in battle and security problems for centuries. I was trying to become a very strong judge, being aware of all Afghan laws and having a full understanding of jurisprudence, to respect the rule of law and human rights.

Because there was not gender equality in assigning to higher positions, [people with connections might be appointed] whether they were qualified to that rank or not. The rest of judges, like me, were working for many years, but their actual positions were in the provinces, and they were working as



TAYEBA PARSA served as a judge in Afghanistan's commerical court. She holds a law degree from Kabul International University and a master's degree from Azad University in Kabul.

ZOHAL NOORI RAHIQ served as a judge in Afghanistan's public rights court. She holds a law degree from Kabul International University and a master's degree from Payame Noor University in Kabul.

SUSAN GLAZEBROOK is a justice of the Supreme Court of New Zealand and president of the International Association of Women Judges (IAWJ).

HELENA KENNEDY is a human rights lawyer, a member of the United Kingdom House of Lords, and director of the International Bar Association Human Rights Institute.

PATRICIA WHALEN has served as a family court judge in Vermont and an international judge in the War Crime Tribunal for Bosnia and Herzegovina.

volunteers in Kabul. Mostly there was no matter of having experiences in a relevant field. Suddenly a criminal judge with no experience of working in civil and financial issues was assigned in a court that heard civil, public rights, and taxation proceedings.

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LEVI: Judge Parsa, how would you describe a typical day for you as a judge on the commercial court? What were the challenges you saw?

PARSA: As you know, for the Taliban, simply being a government judge is enough reason to be killed without a trial. Two male judges were murdered by the Taliban the moment the Taliban discovered both men were judges. But for women judges, the danger is much greater. The Taliban believe that women judges are forbidden by the rules and regulations of Islam. So it was common to receive multiple letters from the national security agency, warning us against imminent risks. We also received threatening phone calls from the parties themselves.

Threats against woman judges were always more acute and came from those who were against women being judges, and, even worse, from those who were not wanting women to be a part of the workforce at all. And the threats sometimes went beyond letters and calls. A group of attackers took over the entire courthouse and massacred every single employee in a suicide attack in front of the Supreme Court in Kabul. Two female Afghan judges were killed. We are still grieving the loss of two of our sister judges who were killed in January. Some women judges used leave at that time because the Taliban had changed the forms of their attacks and started shooting at the governmental judges and putting mines under their cars. Most continued their duties despite their family's angst, knowing that when they left each morning, they might not come home. And we were issued guns to protect ourselves. We got training to use the guns.

A problem I personally encountered might be recognized by woman judges the world over, of not being taken seriously, of being humiliated. And also I was passed over when there was an opening for a new head of my court, although I was clearly the best qualified. A young male judge was appointed instead, and then I was asked to help him. Woman were appointed as head of Family and Elimination of Violence against Women courts, symbolically.

More threatening, I was pressured to change my decision by some judges tainted by corruption, and I feared that if I did not, I would be relocated to the provinces as had happened to other colleagues. Despite feeling intimidated, ▸

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How you can help:

Support the International Association of Women Judges' rescue efforts:

AFGHANWOMENJUDGESFUND.ORG

Join International Bar Association efforts to provide legal assistance:

WWW.IBANET.ORG/APPEAL-FOR-LEGAL-ASSISTANCE-FOR-AFGHAN-WOMEN-AT-RISK

I held my ground. In Afghanistan, a panel of three judges makes the decision in a case. Once there was a judge who shouted at me and insulted me only because I disagreed with him in a court case.

LEVI: Thank you. I can tell that though you enjoyed and were committed to your work, there were many challenges. Can we talk now about what happened to each of you on the day the Taliban took Kabul and how you were able to eventually escape?

PARSA: When the provinces were falling, one by one, we decided to leave and escape. My mother and my sister could get visas for Iran. One day before, my fiancé and I conducted our religious ceremony of marriage without a wedding party. Because we wanted to leave Afghanistan, we had to marry in a hurry. We wanted to join my mother and my sister, but we needed to receive our marriage document. My mother and my sister had a flight, and at that day [as we were taking them to the airport] we observed that all the roads became closed. We found out that the Taliban took Kabul. My father called me and told me, "Do not come home for now, because there are Taliban in the checkpoints. They may search your car and discover your identity." He said, "Do not drive yourself because even if they do not search your car your driving [as a woman] may make them angry."

I asked my mother to not miss the flight, [saying], "At least you can save my sister." My mother and my sister ran on foot to the airport. I was watching them running. I thought it [might be] the last time I saw my mother, and it made me cry. Their flight had 12 hours delay, but finally they could fly. I was in the car until that night. I saw that soldiers and police took off their uniforms to hide their identity and job. I felt I was trapped, and I was afraid of not only the Taliban but also criminals and thieves who may abuse the situation. A judge from the IAWJ (International Association of Women Judges) called me and tried to make me calm, but she said, "Be careful, the Taliban opened the prisons and released all the prisoners." Finally, my husband drove me home, and we did not come out until three days. During these three days, I was in touch with the IAWJ and other Afghan women judges.

LEVI: How did you get the information that you could leave — that you would have a flight and a place to go?

PARSA: After Kabul fell, I was at home for three days. I was collecting my documents to hide them and destroying case notes to hide my identity. I was the first judge who received a call from a Polish lawyer about evacuation, because of an interview I gave against the Taliban. I never had wanted to leave the country and my job, but I was a female judge from the minority of Hazaras and the minority of Shia community, and I had been in touch with foreigners, which Taliban would consider an unforgivable crime. If I remained, I am certain I would have been killed.

But leaving was painful. I felt I had lost all I had achieved. We didn't want the Taliban to find out we were leaving. So we would not carry packages. I only picked my documents and some legal books that I love and could not leave.

There was a crowd behind the gate at the airport, and the Taliban were shooting and beating people. I was standing up behind the gate without food and sleep for 24 hours. Finally, I entered in the airport. My father and husband waited for their flights, 24 more hours. They didn't eat or sleep for 48 hours.

LEVI: And then you were able to leave and fly to Poland?

PARSA: Yes. After 24 hours, I could catch the flight. My husband and father came in different, separated flights.

LEVI: What a harrowing story. Judge Noori, what happened to you on that day, when Kabul fell to the Taliban?

NOORI: On that day, I was aware that most of the provinces were captured by the Taliban. And I had a lot of guests in my house because they just escaped, because of Taliban in the other provinces. They were in my house, and I was supporting them at home. I was not aware that Kabul was also captured. I went to the court because that last week I had made a decision, and I wanted to finalize that decision. I wanted to print it and sign it.

When I went to the court, the situation was completely different, and I was a bit shocked. But I didn't pay attention to this situation. I went directly to the division, and there were only my head of the department, and also one cleaner. They asked me, "Why did you come to the court, Judge Zohal?" I said, "Because of my cases, because of this judgment, because I want to finalize this . . ." My department head said, "No, please go home, because the situation is very bad. Women will face such problems. Go back home."

I went to the court to collect some of my documents, legal documents, and law books, but I was really crying, and it was very difficult. And after a few minutes, my colleagues came and entered the room, and they were crying. We said goodbye to each other and collected our equipment and went back home. It was

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really difficult. I was thinking that I die now, because everything was finished — all of our effort, all of our struggle — that in 20 years we were struggling, and we were trying our best to become a judge. Everything was zero. Nothing was left. It was so difficult.

The traffic was so bad on that day. All the people were running to go home. We could not find any taxi. On that day, I had planned to go to the bank and receive my salary. I went to the bank, but it was locked. There were a lot of people standing at the door of the bank, but the bank was blocked, and no one was responding to them.

Again, I went on my way. The distance that I was passing was usually about 10 minutes. On that day, it took one hour because the traffic was so bad and the driver just was changing the way until he dropped me home. And when I got home, everyone was surprised. "Why did you come back? What is happening?" I said, "I'm also like you now. I'm no more a judge, and I'll be at home like you because everything is finished."

For one week, I was in Kabul. I was afraid to go out at all. I couldn't go to the bank to receive some money because I was very afraid. And all the time, me and my husband, we were applying for visas to many countries. I was working with German organizations, with German government and French people, with United States organizations. I was trying to send as many letters, as many documents to as many countries as I can. All the night, all the day, we couldn't sleep. At night, we were awake. We had a WhatsApp group among the judges. All the time, our hope was only that WhatsApp group — what will happen to that group, and when we will receive a good news, and we will be out of this situation.

It was the 15th of August when the Taliban captured Kabul Province. And on the 21st of August, I received a phone call from the Ministry of Foreign Affairs of the UK. They asked me for my passport and all of my family passports. And after one day, I received the invitation letter from the UK. They told me to arrive in 12 hours to the airport.

So, we left our house. Everyone had a small bag or a back sack. We went to the airport. The situation was very terrible. The Taliban really were dangerous, and they were beating people.

When we went to the gate that was specified where we should go, they told us that the people who have UK passports can come and enter this gate, but the people who have received emails, you are not allowed to come. "Go back to your house and come after four days." But we didn't accept that, and we went to another place. There was another way as well, there was a river. It was not a river — it is like a small river, but [it was] pollution and the water coming from toilets, used water, which is very bad conditions.

We had to cross that water, with three children and my husband. It was so difficult. But we spent three nights [outside] the airport of Afghanistan. We never went back to home. We spent day and night on the dust, in the pollution. It was a really tough situation, but we tolerated, and we tried to just reach the airport, because it was a one-way street. There was no choice to go back home. At the end of third night, we succeeded in entering the airport.

At the time, there was a bus to go into the airport, but there was an explosion inside the airport. Again, they took us off from the bus, and we just sat down for a long time behind the walls because of the security. Every street in the airport was empty because it was not certain what was going on. They were thinking that maybe Taliban or this group are attacking inside the airport. All the people were very shocked and they had to wait for a long time until the situation got back to normal. Then, we moved, and we finally got to the airport and to the plane. We went to Dubai first, and after that, we came to Birmingham, in England, then we came to Manchester.

Still, I dream of those situations all the time. When I dream, I think that I'm in the same situation, and I really cannot control my senses. I mostly try not to visit social media like Facebook, Twitter, because all the time, they're about the news of murdering, killing, kidnapping, and people who are in Afghanistan, my families who are behind there. I am really upset about them and about my colleagues, the judges still in Afghanistan, and I'm trying to do my best. We will never forget those situations. It was the awful trip of my life. It was like hell.

LEVI: It is hard to comprehend what you've been through. What are you hearing from your colleagues who are still in Afghanistan now? ▸

PARSA: The first day the Taliban took Kabul, we were in Kabul and I received a message from the IAWJ. I was the [Afghan judges'] contact person for the IAWJ. I was receiving many, many messages from judges who were in Afghanistan, who were worried about their lives. They were afraid of [Taliban] searching their homes. They were trying to hide their identities, they were changing their homes, and they were so worried. They were asking for good news about evacuation. I received many, many messages, many, many emails, but I'm so sorry because I couldn't answer all the messages. It wasn't safe for them to be in touch with someone who is out of Afghanistan, and I must regard the security concerns.

And they're really in danger. Some of them whose husbands were judges as well, their houses were searched and some of the male judges were arrested. They were so worried. I hope they can leave. I hope, one day, in Afghanistan, again democracy will govern.

NOORI: Our colleague judges are really in danger, and they are hiding themselves — not even in their houses, they are going to their friends' house, relatives' houses, neighbor houses. So it is really dangerous. And besides the women who are at high risk, the male judges also are at risk.

LEVI: We all share the hope that your colleagues will be able to evacuate and the situation will stabilize. In that vein, can you talk about your hopes for the future — for yourselves and for Afghanistan?

PARSA: I believe no one can endure the cruelty of the Taliban, and lack of democracy, and rule of law. One day, Afghans will take back their country, and again, democracy will govern. And I want to get prepared for that day by learning and studying to build our society. I believe all the adversities in Afghanistan come from lack of knowledge.

I love to work in law. It is my profession. We have many years of judicial experiences and worked on serious cases. We do not want to lose our career. We hope to get a scholarship and be able to study and work in legal areas and use other countries' experiences for rebuilding our country. But I need to be in an English-speaking country. I want to study, and I would lose too many years if I had to learn a new language.

LEVI: Thank you. Judge Noori?

NOORI: I really wish and pray for God that one day, our country will be in peace and security, and that we can go back to hold our home, our homeland, and support our poor and needy people. I'm really seeking to support those people. But we're here now, so I want to improve my English knowledge, my English skill.

Before, in Afghanistan, I was elected as an administrative and financial officer of Afghan Women Judges, and I was working there. After getting membership in the IAWJ and by the time I came to the UK, I was assigned as a liaison officer between IAWJ and the Afghan Women Judges Association. Furthermore, I was an active member of several women activist groups in Afghanistan and an alumni of the United States Judicial System and Public Administration Fellowship Program. As a result I was implementing several projects in Afghanistan, like rule of law, freedom of speech. And during COVID, I implemented some projects to distribute necessities and food items for needy families.

I really love to work in my field. I really love being a judge. I would still love to work at the same position if there is a possibility. And if there is no possibility, of course, in another part of the judicial system, or at least to enter into a law society or any other department related to the law and the legal system. I will be very helpful and very happy to succeed and to support people. We should be active, not inactive, to support the countries [that we move to]. Of course, while we are living in a new country, we could be lecturers in university in Islamic law. If we build our skill and do a master degree and receive a scholarship to [continue our studies], we will have very good impact in the future.

I appreciate your cooperation, your help from the international societies, from all the countries that support people and Afghan women judges, that are trying their best. We are grateful that they are working day and night to support us.

LEVI: Thank you both for sharing your remarkable stories. Your courage, your commitment to your work, and your hopes for the future are so inspiring.

We have a number of distinguished guests from around the world joining us now. I'll introduce everyone briefly.

Justice Susan Glazebrook is a justice of the Supreme Court of New Zealand and the President of the International Association of Women Judges.

Baroness Helena Kennedy is a leading barrister and expert in human rights law and civil liberties, a member of the House of Lords, and the director of the International Bar Association (IBA) Human Rights Institute.

Judge Patricia Whalen was formerly a family court judge in Vermont and then was an international judge in the

War Crime Tribunal for Bosnia and Herzegovina. She is a founding member of the Afghan Judicial Education program, which, in partnership with the International Association of Women Judges, brought many Afghan women judges to Vermont.

Judge Allyson Duncan served for 15 years on the United States Court of Appeals for the Fourth Circuit. She is a regional president of the International Association of Judges and also a member of the advisory board for the Bolch Judicial Institute.

David Rivkin is past president of the International Bar Association, a partner at Debevoise & Plimpton, and a member of the council of the American Law Institute.

Dr. Mark Ellis is the executive director of the International Bar Association. He previously was the executive director of CEELI, the Central and Eastern European Law Initiative of the American Bar Association.

I thought we could begin with Justice Glazebrook. Can you tell us about the International Association of Women Judges and what it was doing in Afghanistan to help women judges before, during, and after the fall of Kabul?

JUSTICE SUSAN GLAZEBROOK: I'm speaking today in my capacity as president of the International Association of Women Judges, or as we call it the IAWJ. This is an organization of over 6,500 members from all levels of the judiciary and from over 100 countries and territories around the world that is dedicated to the promotion of the rule of law, gender equality, and equal access to justice. And its primary means of achieving these goals is through education. Given this, it might seem an unlikely organization to be assisting with evacuation efforts in Afghanistan. That it had to be so heavily involved is due to the almost total failure of the international community, and in particular the Western nations, to evacuate women judges and other women involved in democracy-building efforts in Afghanistan. Not only that, but there's been an almost total failure to offer these women a final destination where they can begin to rebuild their lives.

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These are highly intelligent, dignified, and courageous women, as you will have seen from the two judges who've already spoken here. Any nation would be enriched by offering them sanctuary. These women have, for years, been risking their lives because they believe in the rule of law. They believe in gender equality, and they value human rights. Since the Taliban took over and emptied the prisons of even the worst criminals and terrorists, these women have been in danger of death because they did their best to uphold their values, and because of the mere fact that they're women and dared to step outside what the Taliban and others considered to be their proper role.

And to briefly mention yet another failure on the part of the international community, these women judges, even when they've managed to escape Afghanistan, remain desperately worried about the fate of their families. And rightly so. The Afghan conception of family is much wider than the definition of family used for visa purposes and in most Western nations. In many cases, this means that even if they reach a final destination, these women will be deprived of the support of their whole family in what will be a difficult transition period. But what is worse — the Afghan conception of family is also shared by the Taliban and the other groups in society out for revenge. If their primary target has left the country, the wider family left behind are also in mortal danger.

Just to say a bit about the IAWJ involvement with Afghanistan. This comes in three parts. Judge Whalen will talk more about the first period of education and institutional support for the Afghan women judges since 2000. Suffice to say that everything changed for the very small IAWJ Afghan women support committee as the Taliban entered Kabul. Then the risk became intolerable for our judges. The only option was evacuation. Overnight, the focus of our committee changed, and we made a solemn promise to the women judges of Afghanistan that we would do all we could to ensure their rescue, and that we would forget no one. This was a promise made somewhat naively given what we now know. It was not something our training or experience prepared us for. But we had ▸

> These women were actually protecting the rule of law and human rights and furthering access to justice in Afghanistan, and they did so with our encouragement. So there has been a sense of responsibility in all of this, because we encouraged women to come into the profession.
>
> — HELENA KENNEDY

no choice. These are our colleagues, our sisters, and in many cases, our friends, and the values the IAWJ espouses would have seemed empty indeed if we were not prepared to live them.

It's fair to say that the period up to withdrawal of the foreign troops was chaotic and frustrating. Only military evacuation flights were available. And no matter how hard we tried, no matter how many lists we did, our judges always seemed to miss out. It really did seem as though it was women and children last. We had some limited success with a small number of judges being evacuated to Poland, Romania, Spain, and the United Kingdom, and a handful to the United States. Even these evacuations were hard. As you've already heard from the two judges, to get to the entry gates to the airport took some 20 to 30 hours on average, through dangerous crushes of desperate people in searing heat, past checkpoints where tear gas was deployed, rifles fired in the air, and beatings administered, and finally wading through a sewer to reach the airport entry gate. All this time, our committee members and our wonderful interpreters were there with the judges, on the phone messaging, encouraging them, and guiding them to safety. I can still almost smell the sewer, and I still feel the heartbreak of those, usually those with young children, who got so close, but who in the end just could not make it any farther and had to turn back.

Since the foreign troop withdrawal, the danger to our members has increased, and the threat to our judges and other vulnerable groups escalates daily. We understand that there have been evacuations conducted by governments, but again, our judges have largely not made these lists. We've been reliant on bringing the plight of women judges to the attention of the world and to the NGOs organizing evacuations and trying to make sure our judges are accorded the level of priority their level of risk requires.

We have had some success, and we are grateful to all those who've helped our judges. Most have to remain anonymous for operational security reasons, but I can acknowledge the assistance of the Aleph Institute and the International Bar Association. To keep going we tell ourselves to celebrate each successful rescue. We tell ourselves that to save one life is to save the world. But truth be told that's not enough for us. We want all our judges rescued. Indeed, we want all those at risk of death in Afghanistan rescued and in safe and final destinations. We want to keep our promise to leave no one behind, and time is rapidly running out.

LEVI: Thank you. The work that you and the International Association of Women Judges have done is just heroic.

Let me turn to Baroness Kennedy. You've also had some success with the International Bar Association Institute of Human Rights in evacuating women judges. Could you tell us about the Institute and how you've been able to accomplish so much?

BARONESS HELENA KENNEDY: Thank you, David. I've worked closely with Susan Glazebrook, and what she has described so poignantly echoes everything that I've experienced. And she really is speaking about the importance of providing solidarity to these women. We really did encourage them to protect the rule of law. We encouraged them to take on these roles in the administration of justice in Afghanistan. And so we do have a duty of care to them in my view.

The International Bar Association of course has existed since 1948. It's a large organization of lawyers, essentially commercial lawyers from around the world. But for the last 25 years, it's had an Institute of Human Rights. Those lawyers from around the world make contributions for us to be in existence and to do work on human rights globally. One of our key goals is to, of course, be promoting the rule of law imbued with respect for human rights in all of the nations in which we are engaged. We do this for the whole of the globe.

The Institute has a sort of quasi-autonomous role so that it allows a certain amount of deniability for the IBA, because sometimes we have to criticize what's happening in countries and the bar associations get very alarmed and concerned. So we have to have that level of independence, and I have to pay tribute to the IBA that

they really allow the Institute to have that kind of autonomous position and to decide on the issues that it takes up. For us, an essential part of our work is to protect lawyers and judges around the world. You can't have human rights protected unless you have independent judges and lawyers who are taking on the cases and prosecuting cases and defending and so on.

When this issue arose, I, too, like Susan, was hearing from judges. They contacted me because before I became the director of the Institute of Human Rights, I've been well known in Britain and internationally as a human rights lawyer. And so I started receiving calls from lawyers who were saying, "I have a friend," "I've been contacted by a judge," and so on. And then judges were put directly in touch with me. This was just before that horrible moment when the bombs went off. Because I'm in the House of Lords, I was able to speak to ministers in the Foreign Office and to ministers of government about getting some messaging to certain women, to direct them to a place where they actually could get onto flights that would bring them to the UK.

We did that for five women judges who are now or will arrive in the United Kingdom, having been evacuated in some of the evacuations that we put together. But after that, other people couldn't get onto the flights. I then was put in touch with Susan about the efforts that we wanted to put together. And then with a small team of the lawyers in the Institute, we started making contact with different people that we thought might help, and to cut a long story short, we were put in touch with people who were evacuating religious minorities. We found out how they were doing it. And so we were able to access the companies that they were working with in order to get flights put together. I need to be very clear, so that everybody knows, flights cost an incredible amount of money — £800,000 [approximately $1,076,244].

Putting together flights, making sure the women got into safehouses, collaborating with people who could provide protection there — it all costs money. And of course, it's one of the things that people never ask the question about, who pays for the planes? So a lot of my time then had to be spent raising money. The International Association of Women Judges doesn't have very much in the way of money. They've done a bit of fundraising, but it's taken a long time to come through, and we were talking about each plane costing £800,000. I just want you to listen to that sum of money, £800,000. The plane has to go out empty. They're very worried about the Taliban impounding a plane. And so raising money has been very fundamental to the evacuations.

The first evacuation we did was from Mazar-i-Sharif on the 30th of September. And that brought out 26 women judges and all their families. It was 130 people, quite a number of them, of course, children. We originally had hoped to get them into Doha, Qatar, but Qatar had received a lot of the religious minorities in the first flights they took, and they really didn't want to become overwhelmed. So by the time we were trying to get our flights Qatar said they wouldn't take any more.

So I had to find somewhere for them to be able to set down, and that became possible because a wonderful woman, a lawyer who then became a judge, is now the president of Greece. We made contact with her, and she interceded with the government in Greece in order to get the first flight in. The Greek government took on those first 26 women and gave them accommodations and provided for their sustenance.

I kept then hearing about more and more, and quickly we were collaborating with Susan about the list and about how we would try to get some more of these women out. And the women were in constant touch. And my team of young women were talking to them regularly. They were all in hiding. They were desperate. They were still receiving threats and members of their family who were not in hiding with them were receiving threats, too. As Susan had said, this goes to the wider family in Afghanistan. So we then tried to get another flight put together, and getting the money for that was particularly hard. And I then flew out to Athens, and I saw the Minister of Immigration, because Athens was saying they couldn't take another plane.

And so I'm afraid that I had to do a sort of Faustian pact with the immigration minister, that we would get another plane. If he would let us have another flight land there as a lily pad — that's the expression that's used for a temporary place of accommodation until you find final destinations — he agreed to that on the basis that we would pay all their costs and for their accommodation and food. Again, these are huge sums of money we're talking about. So the big burden is to raise the money. It's hugely expensive.

On the second operation, which was just two weeks ago, we got 77 families out. Seventy-seven judges and all of their families; so it was 373 people. All in all, we've managed to get out in the flights that we've done approximately 500 people, including 103 women judges. Some prosecutors, and one or two defense lawyers, a couple of MPs, but the vast majority were women judges. Now we're seeking to get them final destinations. And as Susan has said, that's one of the big pieces of this. If there are lessons to ▸

be learned in all of this, it's the failure of the international community to really do what it ought to have done. These women were actually protecting the rule of law and human rights and furthering access to justice in Afghanistan, and they did so with our encouragement. The International Bar Association had set up the bar association in Afghanistan back after the Taliban fell the last time. So there has been a sense of responsibility in all of this, because we encouraged women to come into the profession. We got into universities and encouraged the universities to make sure that there were spaces and places for women and so on. We had a relationship, and Mark Ellis can tell you this, with Afghanistan for really quite a number of years. That relationship brings with it duties, too, but the real failure has been the international community. And I just hope that we might in turn learn lessons about what we owe to the people who have held things together in the past and how you go forward.

Yes, we've had some success, but before I could ever do another flight, I would have to raise the money in advance, because raising money afterwards has been very hard. We still owe money for different things and we are still trying to feed and sustain this whole population of people in Athens, because they are our responsibility collectively and not the people of Greece who have their own challenges in dealing with huge numbers of refugees.

LEVI: Thank you very much. You've done so much in a short period. It is remarkable. Judge Whalen, let me go to you. You've been involved in education and outreach, both before this disaster and now during it. Can you share your perspective and experiences?

> We do not talk enough to these women judges. We don't get enough intelligence from them. And my suggestion to the U.S. is to use them specifically for that, because I think this is a group of people that can answer the question, "What went wrong?"
>
> — PATRICIA WHALEN

JUDGE PATRICIA WHALEN: I was a member of the International Association of Women Judges, and in 2003 I had been a judge for a little over 10 years. I was attending a conference in Washington, D.C., which was a combined conference of the IAWJ and the National Association of Women Judges. And I just happened to strike up a conversation with Marzia Basel, who was the judge that was invited to the conference from Afghanistan. We got to talking about what the needs were and how we could actually be really helpful. She talked to me about bringing judges to the United States and the kind of education program that would benefit them. With her help, and with help from talking directly to the judges in Afghanistan, I designed a program based on what would they like to see. How could they learn, what would be the most beneficial thing for them?

We began to bring judges in 2004. One of the first judges we brought was Judge Anisa Rasooli. She was a young judge at the time. She now is the only woman to have been appointed to the Supreme Council twice, once under President Karzai, and once under President Ghani. The first nomination failed by a few votes. The second time, Parliament did not act on her nomination before Kabul fell to the Taliban. But she's been my friend since then. The program lasted for 10 years. It was a three-week course each year. The judges spent two weeks in Vermont, which was really a perfect laboratory for it, and one week in Washington, D.C.

For any of you that are interested in judicial education, I'll just explain that we sort of did things in Vermont in pretty basic ways. Marzia had been a guest of the federal courts in D.C., and she felt that they would be intimidating for a first exposure. And they had a lot of technology at the time, which of course we in Vermont did not have. Also, being a rural court in a smaller state, we didn't have the kind of docket pressures that some of the big cities have. It turned out to be a perfect laboratory. No matter what area of law they wanted to be exposed to, we could get them a hearing to watch. We had the time to talk with them. But what was really crucial, I think, was the need to really develop their leadership skills. And what we found is Afghan women are natural leaders. If you've ever been to dinner at their home, they have the ability to cook 12 courses with one burner. I mean they can organize! They have everything it takes to be successful as a leader. We also wanted to talk about the responsibility that they had to women in their country. And we wanted to expose them to women in the United States. The judges stayed in our homes and saw how we lived. Every night, we held a different group dinner, with women in medicine, women in religion,

women in education, so they could meet as many diverse women as possible.

In 2007, I was invited to go to Afghanistan. It was the first Afghan women judges' conference, held in Kabul. There were 100 women judges in Afghanistan, and 92 of them made it to the conference, in the winter. It was pretty impressive. I was fortunate to be able to give the keynote speech there, and I think the visit solidified my friendship with many of the women. Through the United States, through the Department of State, through USAID, there were many programs, lots of money got put into the judiciary, not just with the women, but in general, building their judiciary up to capacity.

Many of the courts such as those Judges Parsa and Noori talked about earlier were funded primarily by the U.S. and the U.K. And there were courts that were not organic to the Afghan legal system. Their narcotics court, the anti-terrorism courts, the corruption courts, and particularly the courts to eliminate violence against women — these are clearly "imposed" courts. Our responsibility to them is great. And the women judges rose to that occasion; many sat on those courts, and they were difficult courts to be on. When you look at the progress in 20 years with women, the judiciary almost tripled the amount of women judges; 40 percent of girls were in secondary school; 27 percent of the Parliament was women.

In one day, that got wiped out.

We are moving the judges out of Afghanistan, but we're also erasing them from Afghanistan. And I can't even begin to tell you how painful it was, as Susan said, during that time of the airport. I just want to tell you one story. We started a 24/7 hotline that's been running since August 15th. And at one point, when we were trying to get the Polish soldiers to recognize the women judges, to help them get into the gate at the Kabul airport, they decided they needed a symbol of something so they could find the women. The Polish soldiers said, "Have them write a sign with a code word." And we said, "Okay, what code word should that be?" And they said, "Kraków. Because we don't forget."

And that moment, it became one moment of history that we are all experiencing in different ways. I sat on genocide trials, the Srebrenica trials. And, from that moment forward, I realized what it was that we were watching. The killings in Afghanistan perhaps have not reached that depth, and we hope that never happens. But culturally, what is happening is genocide. Thank you for just letting me explain that.

I was also asked to talk a little bit about what American judges are doing and what they can do. It was interesting because Judge Parsa, she was talking about the U.K. program, which was a mentor program where they were matched one to one. I've been involved in resettlement issues here; we're hoping to get Judge Anisa Rasooli here in my community. And that resettlement project takes a tremendous amount of effort from a community. But it struck me that this is what needs to happen: At least in the United States, every legal person [should] adopt a judge, adopt a lawyer, adopt a prosecutor, adopt someone who's been involved in rule of law, and help that family resettle. It's going to be complicated, just doing a transfer of education and reeducating people so they can be practicing attorneys. I think we all know what that's going to take; everybody's not going to be able to do it. Clearly, the judges you've seen today, they're young. They have that ability. They have that energy. They will be able to retrain. They'll be able to go to law school. They'll be able to become licensed and practicing attorneys. The older judges, and because I've been with them since 2003, I know we have a lot of older judges — we need to tap into their expertise. We hope universities will sponsor them as lecturers or bring them on as resident scholars.

I lived in Bosnia for seven years. I still don't understand how the U.S. Foreign Service works. I still don't understand the way the United States goes about making foreign policy decisions. But one thing I do know is we don't listen enough. When Judge Rasooli came in 2003, she asked me this question. She said, "Do you have a lot of influence with your government?" And I said, "Well, I have one vote. That's pretty much the American way." But she said, "Can you tell the President that he should not put money into our country? He is about to put a lot of money into this country, and we can't handle that. We're not ready for that, with the system of warlords, the system of what was happening in Afghanistan." She said, "You put that money in and corruption will kill us. We have to learn ourselves how to fight and change the system." And everything she said has come true today. She had a vision of hope, and she had a vision of her country that was truly inspiring, but she also saw its downfall.

We do not talk enough to these women judges. We don't get enough intelligence from them. And my suggestion to the U.S. is to use them specifically for that, because I think this is a group of people that can answer the question, "What went wrong?"

LEVI: Thank you, Judge Whalen. Let's go to Judge Duncan. Allyson, you are president of a region of the International Judges Association. Can you discuss the response of the international judicial community and your own efforts during this time of crisis? ▸

JUDGE ALLYSON DUNCAN: The International Association of Judges differs from the IAWJ in that it is composed of associations or groups of judges from a number of countries, over 90 to 95 now, and it functions a little differently. It does tend to operate primarily through regions, and my region includes Afghanistan and some places in the world that are particularly challenged at the moment. So before the government fell, I was getting emails from women in Kabul saying that if the Taliban takes the government, we will die. We immediately went to the leadership. We do not generally successfully operate nearly as granularly as some of the efforts that I've heard Baroness Kennedy and Justice Glazebrook describe. I am in awe of what you have been able to accomplish. Vanessa Ruiz, I think, was still president of the IAWJ, and we immediately issued a joint statement between the IAWJ and the IAJ condemning the lack of effort and saying that governments had to prioritize the rescue and relocation of women judges from Afghanistan. I contacted a number of other associations to which I belong, for example, the International Institute for Justice Excellence. I also reached out to the United Nations Global Judicial Integrity Network.

So there was a lot of focus on it and there were a lot of pronouncements. We were less successful than you at actually moving people on the ground except in a couple of instances. Judge Walter Barone of Brazil, who is head of the Ibero-American region of the IAJ, was able to successfully relocate five or six judges and their families to Rio de Janeiro. Recently, I learned that the government of Kazakhstan has arranged for transport through Nur-Sultan to other points to facilitate that.

One of the things that struck me most forcefully is that I don't believe this isn't going to happen again. I may be cynical. The International Association of Judges was trying very hard to find boots on the ground in Ankara and other places to help with the movement of women inside Kabul. But our relationships there and with other potential allies are frayed because of other issues that have arisen. The President of Turkey has called the International Association of Judges a terrorist organization because we have provided financial support to the judges who are imprisoned following what some suspect was an orchestrated coup there. And people that we all knew are still in prison as a result, and there are individual members of the IAJ who have continued to support them and their families.

> One of the things that struck me most forcefully is that I don't believe this isn't going to happen again. . . . There are assaults to the independence of judges all over the world. There are threats to their physical well-being for doing what they are supposed to do. And Afghanistan was one of the most horrifying and painful to watch because it was so graphic.
>
> — ALLYSON DUNCAN

Right now we're looking with grave concern at what is going on in Lebanon, and the judge who was tasked with investigating an explosion at the warehouse district there and whose life appears to be in danger. There are assaults to the independence of judges all over the world. There are threats to their physical well-being for doing what they are supposed to do. And Afghanistan was one of the most horrifying and painful to watch because it was so graphic.

What I would hope that we can do, and one of the things I would like to see grow out of this meeting, is to develop a network so that, for instance, when I hear about what's going on in Nur-Sultan I can immediately share that. The more people who are involved and know, I think the better able we will be to establish connections and support each other in efforts to make changes. I would like to see discussions like these recur and continue even when there are not immediate threats to deal with. There will always be ongoing concerns and always ongoing reasons to share resources, best practices, and support.

LEVI: Thank you, Judge Duncan. David Rivkin, you were a past president of the International Bar Association and you and your firm have been very involved in evacuation efforts. Could you talk about the role that you've played and how you see the situation?

DAVID RIVKIN: Thank you, David. There were actually many partners at Debevoise & Plimpton who were immediately involved in many different ways in helping these efforts. Many of us were coordinating with the IBA, with the IAJ, with the IAWJ, with the Committee for the Protection of Journalists, and other organizations, prior to the withdrawal of foreign troops, working to get people to the gate, working to get people out. We were indeed working with many of you in those efforts. Because of work we have done with governments we have acted for and other connections, we also tried to coordinate with many governments, both in the Middle East and with potential host countries, to facilitate the exit and to give assurance to countries that might be temporary landing spots that there would be more permanent homes for anyone who they would temporarily take in.

We were working on many different fronts. I should mention that, just as Baroness Kennedy spoke on the floor of the House of Lords, so did our partner, Lord Goldsmith, particularly speaking about the plight of women judges and encouraging the British government to work to remove as many as possible. Since the withdrawal of foreign troops, we have been working with many of those who have been able to get out to help them find a permanent home. We're currently representing 10 Afghan women judges and 54 of their family members in seeking immigration paths to the United States. And we're also working with some others in forging immigration paths in the United Kingdom. All of these judges and their families were able to escape Afghanistan, but many are now in third countries where they have no connections and do not want to stay.

We're applying for humanitarian parole or other forms of humanitarian immigration relief for them where appropriate. In addition, and I think Judge Whalen mentioned this, we are working with law schools to try to bring some of them to the United States on academic or employment visas. I certainly hope that Duke is going to be able to help in that regard. And we are also trying to conduct congressional advocacy on their behalf. In one instance where Judge Whalen's persistence resulted in an explicit commitment from the State Department to a Congressional staff member, our clients still could not yet get relief, though we yet remain hopeful. So there are a lot of barriers that we as lawyers are working to try to remove. As you know, the women judges are at particular risk in Afghanistan because of their work, which included sentencing Taliban members to prison, granting divorces and protection to wives of Taliban members who were survivors of violence, but also because of the Taliban's general feeling that no woman should stand in judgment of a man.

It's very frustrating that these judges who were crucial allies of the United States and working to create a civil society and to create respect for the rule of law, don't meet the formal criteria for special immigrant visas, SIVs or P2 status, because they worked for the government of Afghanistan and not for the U.S. military or U.S.-based organizations. That's why we're using the humanitarian parole route in trying to find ways to bring them into the United States. That's why finding employment for them, whether it's with law schools or others, could be enormously helpful.

So far we haven't yet had any such applications granted, but we've received some favorable comments on some and are continuing to press them. We are representing nearly 200 Afghans total — in Afghanistan, in third countries, and in the United States — representing them all, of course, pro bono in order to find them permanent homes and to get them proper immigration status. That is very much a role that private lawyers can play, and Debevoise & Plimpton in particular because of our connections to these many outstanding organizations. I worked with both the IAJ and the IAWJ when I was president of the IBA, for example. That's how I got to know Judge Duncan.

And through that work and through the work of others — like Catherine Amirfar, a Debevoise partner who is President of the American Society of International Law — private lawyers, using those connections, can help bring people together. We can help find routes out, but also then we can ▸

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do the work that's needed once people are out in order to get them properly settled. We are going to continue to fight for that.

LEVI: Thank you. Dr. Ellis, you're the director of IBA, which is obviously very important in this story. I think one question for you might be how can we motivate law firms and lawyers around the world to contribute to pursue these very important efforts?

MARK ELLIS: As I was listening to Susan, Helena, and others talk, one major issue bears repeating and emphasizing: The fact that the international community, as defined by nation-states, has, in essence, stepped away from assisting vulnerable Afghans is quite extraordinary and depressingly sad. I have worked in many post-conflict situations throughout my life. I don't remember when states have abandoned their responsibility of evacuating vulnerable people from conflict environments like Afghanistan and refused to address the issue of resettlement. The fact that civil society has stepped in to undertake these efforts in the Afghan crisis is, again, quite extraordinary. When you listen to somebody like Helena Kennedy, who's on her own, is raising money to hire actual airplanes, I shake my head and say, "that should not be the role of civil society." And yet, that's where we are. I think it's an extraordinary testament to civil society worldwide, particularly in the United States and Europe, that have come together to help in this crisis.

Another point is about institutions. Helena mentioned the International Bar Association's role in creating the first Independent Bar Association in Afghanistan. It was an extraordinary institution, feverishly defending the rule of law, rights of women, human rights, and the independence of the judiciary. And for Afghan society to now have this institution disappear suggests the dramatic challenges the country faces in the future; it also shows our failure, the international community's failure, to uphold the types of institutions that defend these ideals.

> Governments *have* to re-engage and re-engage at the same level and with the same compassion as civil society. I don't think civil society should bear the burden of this crisis. It's not possible.
>
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The International Bar Association looked at this crisis as two sides of the same coin. We felt that we needed to assist the leadership of the Afghan Bar Association, both women and men, who played such an extraordinary role in Afghanistan during these past 20 years. And so our effort was to secure support from the International Bar Association's member bar associations, to provide financial support to these individuals and their families while they were in Afghanistan. These individuals were not identified as sufficiently vulnerable to the United States to be evacuated, even though they were frontline defenders of the principles we fought for and tried to uphold there.

I'm happy to say that the majority of the bar leadership are now out. There's still a small number who are still in Kabul, and we continue to provide the necessary support so that they can survive. Our expectation and hope are that they, too, will be evacuated. That's very challenging now because the situation changes daily, so that it will be a real uphill battle.

Now we're in this position of looking at resettlement, and this requires a firm commitment by states and civil society. As David mentioned, his firm, and many other firms, are assisting, and I hope this will continue. I've had recent meetings with general counsels of two major corporations, and they will also play their role. But I'm fearful that without government backing, without government financial backing, this will be such a challenging mountain to climb. And suppose you can imagine taking 1/20th, 1/30th of the amount of money that has been spent in Afghanistan over the last 15 to 20 years and allocating it now to a resettlement program. In that case, we could ensure at least some positive legacy.

Finally, from the IBA's perspective, I would like to see institutions like the Afghan Independent Bar Association continue to exist, even if it's in exile. This could be the same approach taken with women judges — to re-create institutions outside Afghanistan to uphold their efforts and the principles adhered to in their struggle. This is a priority for me because it will create a better opportunity to secure ongoing financial support when these institutions are still functioning. This will be a catalyst for continued support to the Afghan women judges, for Afghan human rights advocates, and for so many who have focused on creating a country based on the rule of law and judicial independence. We need to resurrect these efforts, and I think the best way of supporting these individuals is to continue outside Afghanistan.

LEVI: Thank you all so much for your extraordinary efforts in this difficult

situation, and for taking time to share your experiences. I would like to hear from each of you any closing thoughts.

PARSA: I say that in this disappointing situation, it's very great that I see that really honorable and educated persons are working for us and are working hard for us. It makes me very happy. I really appreciate your efforts. I cannot express my feelings by words only. I say thank you. Thanks a lot.

NOORI: I am really happy to see and hear you all. We are really grateful of what you have done and what you are doing. We appreciate your support and cooperation. On behalf of all the judges, I would like to thank you.

And I see that Judge Patricia Whalen, Justice Susan Glazebrook, still at night they don't sleep. We know you have a big responsibility, and being a judge is not easy work. So still during the day you are doing your official job, but at night you are working for Afghan people, for Afghan women judges, for Afghan judges. I really want to, from my heart, say thank you to all, and God bless and have a good reward for you. Thank you very much.

GLAZEBROOK: I may sound like a broken record, but: visas, visas, visas. That's what we need. One tragedy of all this, however, is that Afghanistan is losing the people in Afghan society who, if they had been able to stay, would have been able to contribute positively to the rebuilding of their nation.

I'd also just say that we at the IAWJ are absolutely in awe of the courage and dignity of the Afghan women judges, not just in the period since August 16th but long before that, in circumstances where just going to work and upholding the rule of law was to risk their lives. We salute you all. I salute the two who are here today. I salute all of your sisters, and we just want to save you all.

KENNEDY: I want us all to remember that this year started with two judges of the Afghan Supreme Court being assassinated by the Taliban, and their killings were basically a forewarning to Judge Parsa and to Judge Noori and to other women judges that this is what was waiting for you. That's why we know that there's a target on these women. We know what the real impact of that is. On our flights we've taken out two sons of one of those judges, because they couldn't continue their life there because they, too, had been threatened after their mother's death.

So the horror of this continues, and I'm with Susan in that we still have to get some of the women out, because we still are receiving calls from them and their anguish is terrible. We really need visas. We need people to lean on their governments around the world to help us to get visas. I'm afraid the United Kingdom has not been very good on this. I'm here based in the U.K. and I can tell you that we took out five judges in the evacuation before the end of August and I've got five women judges who were in Athens arriving this Friday, but we are really needing other countries. We need countries to step up, and we need Britain to step up more, and we need the United States to step up. We've got to carry on with the pressure.

And we need lawyers to help with visa applications, because different systems have different ways of making applications. And as David has said, some of the particular aspects to the American immigration system will not work for our women. I want you all to know that most of the women judges are married to terrific men, men who are themselves professionals, many of them lawyers and judges, too. So you're getting whole cohorts and families of really clever, smart, wonderful people, really wonderful people. We really need to bring all pressure to bear. Lawyers out there could be helping to fill in visa forms, application forms, and to make themselves available.

WHALEN: One very quick thing I will add is that any of our successes, and especially the small successes in the beginning, were dependent on cooperation from governments *that were not my own*. And I will never forget that.

RIVKIN: I want to not repeat what others have said. I would add this is going to be a long haul and all of the organizations that are represented here and private lawyers like ourselves need to stay at it, need to remain dedicated. It's going to take some time for governments to find ways to resettle and, as Helena said, to work around the very strict immigration requirements that they have to deal with in this very unusual situation. If governments are not going to provide money, as Mark was saying, they should provide this support and recognize the extraordinary situation it is. We're certainly committed to this for the long term, and we look forward to working with all of you on a continuing basis.

ELLIS: Governments *have* to re-engage and re-engage at the same level and with the same compassion as civil society. I don't think civil society should bear the burden of this crisis. It's not possible. I also think we should be working toward maintaining the Afghan Bar Association in exile. This will strengthen our long-term goal of maintaining cohesiveness with the women judges and the lawyers being evacuated out of Afghanistan through a bar association in exile.