



Dear Independent Expert on the enjoyment of all human rights by older persons

The Center for Peace and Reconciliation Studies' input is relevant to question 2 on Afghanistan : The right to adequate housing of older persons for Afghanistan.

Question 2:

“What are the **existing local and national action plans, development plans and support programmes** for advancing the right to adequate housing for older persons? If available, please specify the budget allocated for their implementations.”

The United Nations Assistance Mission in Afghanistan and the United Nations Refugee Agency are acting together for years¹ for the prospect of secure home as cited by Afghan refugees in Iran and Pakistan as one of their primary requirements before making a decision to return. This work includes securing homes for also the internally displaced persons. The most vulnerable among refugees are the elderly. The Afghan refugee problem is a problem of the World.

The United Nations Assistance Mission in Afghanistan and the United Nations Refugee Agency housing programme is a local plan of action. The UN local plan of action requires the budget necessary for its implementation. The Afghanistan Central Banks assets, illegally frozen by the United States of America can be used through the UN legal system to achieve this

The Illegality of Using Afghanistan Central Bank Assets through Domestic Jurisdiction by the United States of America and Its Use for housing programme for the older persons in Afghanistan by the United Nations Assistance Mission in Afghanistan and the United Nations Refugee Agency

The UN issued an appeal for nearly \$5 billion for Afghanistan, its largest ever appeal for one country, estimating that nearly 90% of the country's 38 million people were surviving below the poverty level of \$1.90 a day. The UN also warned that upward of 1 million children risked starvation.

The US had frozen \$7 billion Afghanistan Central Bank reserves held in the US bank accounts, blocking the Taliban from accessing billions of dollars after the Taliban took control over Kabul in 2021 with the President's Executive Order 14064. The legal background of the US Executive Order 14064 is the US Executive Order 13224 in 2001. The Executive order 13224 mentioned its own legality subject to the UN Security Council (UNSC) resolutions, in its preamble as:

“By the authority vested in me as President by the Constitution and the laws of the United States of America, and in view of United Nations Security Council

¹ <https://unama.unmissions.org/unhcr-builds-200000-houses-afghanistan>



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Resolution (UNSCR) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein, and UNSCR 1363 of July 30, 2001, establishing a mechanism to monitor the implementation of UNSCR 1333,”

The UNSC resolution 1333 is a binding resolution taken under Chapter VII of the Charter of the UN. In Article 5 (a) of the resolution 1333, a reference had given to a Committee established (1267 Committee) pursuant to the UNSC resolution 1267 which is also a binding resolution taken under Chapter VII of the Charter of the UN. The 1267 Committee is responsible of monitoring the sanctions against the Taliban, including to monitor the obligation of the States to freeze the funds that controlled directly or indirectly by the Taliban.

The Executive Order 13224 prohibited “any transaction of funds by any US person or within the US related with the Taliban” subject to UNSC resolution 1267. The UNSC resolution 1267 gives the responsibility of freezing to the States for the funds related with the Taliban but does not give the ownership of these funds to the States when they do freeze the funds, on contrary as written in the operative paragraph 4 (b), it is the 1267 Committee is to decide for the usage of the funds on case-by-case basis on the grounds of humanitarian need.

The Afghanistan Central Bank funds, frozen by the US, on the other hand does not enter the definition of the funds of the Taliban but enters to the definition of the legal assets of the UN recognized Afghanistan government who had lost control over its territory including the central Bank. The de facto government status of the Taliban in Afghanistan does not change the sanctions posed on the Taliban by the UNSC resolution 1267 on the legal assets of the UN recognized Afghanistan government. The US government had the obligation to freeze the funds on the day the Taliban took control over Kabul and became the de facto government.

To freeze of the funds that can be used on the benefit of the Taliban is different than to claim of the ownership of the funds that are frozen subject to Article 4 (b) of the UNSC resolution 1267. The usage of the assets and funds of the UN recognized Afghanistan government that are frozen by the US can only be possible with the authorization of the 1267 Committee on a case-by-case basis on the ground of humanitarian need in Afghanistan.

It is an international wrongful act of a state for the US to carry out the Executive Order 14064 against the UNSC resolution 1267 by using \$3.5 billion to finance payments from lawsuits filed on behalf of US victims of terrorism under domestic jurisdiction against an international responsibility. The Executive Order 14064 of the US is null and void subject to Article 103 of the UN Charter.

Based on the above facts and conclusions, we strongly appeal to:

1. All stakeholders should abide by the relevant UN resolutions on Afghanistan and call on the international community to strengthen humanitarian support for Afghanistan so as to alleviate the humanitarian situation and severe poverty in Afghanistan including Special Rapporteurs of the OHCHR.

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2. The unilateral freezing of the assets of the Central Bank of Afghanistan by the US government through domestic law and executive order violates the relevant resolutions of the UN Security Council, which have the force of enforcement. The failure of member states to comply with the Resolutions is a serious and illegal act that challenges international rules.
3. The UN Security Council should urge the US to immediately cease and correct its wrongful acts and immediately transfer the frozen assets in full to the UN humanitarian Fund for use in humanitarian assistance operations under international supervision.
4. The \$3.5 billion frozen reserves of the Afghanistan Central Bank can be well used for in Afghanistan with the decision of the 1267 Committee of the UN Security Council by the The United Nations Assistance Mission in Afghanistan and the United Nations Refugee Agency's housing programme.

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