



RCAS Commentary

Durand Line: A Perpetual Bone of Contention between Pakistan and Afghanistan

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February 21, 2024

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Sher Muhammad Abbas Stanakzai; the Deputy Foreign Minister of Afghanistan and the then top interlocuter of Taliban during Afghan Peace Process, pronounced that “Afghanistan will never accept Durand Line as permanent official border between Afghanistan and Pakistan.” He made this announcement while addressing a huge gathering for commemorating 35th anniversary of withdrawal of Soviet Union from Afghanistan in Logar province of Afghanistan.



▲ The Durand Line is the 2,640-kilometer (1,640-mile) border between Afghanistan and Pakistan.
(National Geographic)

While responding to the claim made by Mr. Stanzakzai, Pakistan’s Foreign Ministry has rejected his statement and stated that it is a “Self-serving and fanciful claim because the legitimacy and sanctity of the Pakistan-Afghanistan border are firmly grounded in Geography, History and International Law.”

Pakistan and Afghanistan both face many issues, that are persistently disturbing their mutually beneficial relationships. Blame Game related to cross border terrorism and irredentist claims have always dominated the news regarding their relationships. Regardless of the government system in Afghanistan, border management and legality of the border has time and again brought both the countries at bull’s eyes situations. Pakistan has been facing cross border terrorism and infiltration since the NATO invasion that has augmented the instability inside Pakistan. Although, Pakistan

covered majority of the border with barbed wire, yet due to hard mountainous terrain it becomes impossible to cover the whole border. Thus, the blame game between the two states remains intact.

Since Pakistan's independence in 1947, Durand Line-the internationally recognized border between Pakistan and Afghanistan-has been a point of tension in their ties. Even though both Afghanistan and British India, the two states at the time, had mutually agreed to, but Afghanistan refused to recognize Pakistan, because of this border. But because of incorrect information and a misinterpretation of the relevant document, this problem persists.

The majority of Afghans think that this agreement was only intended to last for a century. In the event that this was accurate, the contract would have ended in 1993. The prominent members of the mainstream in Afghanistan are likewise unwilling to dispute this fact. However, no explicit evidence or testimony has yet been provided by the Afghan government or the activists to support their claims.

But initially, the agreement's legality was limited to the lives of the Afghan kings who approved it. Amir Abdur Rahman and Sir Henry Mortimer Durand, the British India's foreign secretary, initially signed the pact in 1893. Following Abdur Rahman's demise, Sir Louis Dane and his son King Habibullah Khan signed the accord when they subsequently came in Kabul in 1904 carrying the draft of a new one. March 21, 1905, saw the signing of the "Dane-Habibullah agreement" between the two states. This arrangement lasted until 1919, when the Third Anglo-Afghan War broke out.

On August 8, 1919, after the Anglo-Afghan War, Afghan Interior Minister Ali Ahmad Khan signed a "peace agreement between Great Britain and Afghanistan" in Rawalpindi with a peace delegation. "The Afghan Government accepts the Indo-Afghan Frontier accepted by the late Emir" (Habibullah Khan), according to Article 5 of this treaty.

Thus, the King released the Durand Line from any personal undertaking for the first time. On November 22, 1921, the "Kabul Agreement" reaffirmed this understanding. As to the Rawalpindi agreement of 1919, Article 8, the "Respective Parties recognize the Indian Afghan Border."

Moreover, on July 30, 1930, King Nadir Khan approved the agreements with the British Government via a diplomatic instrument. "I am proud to officially confess that our position about both the agreements [the 1919 agreement and the June 1923 trade agreement] enjoy complete validity and are enforceable with full force," the statement reads.

At a later meeting with the British Secretary of Foreign Affairs on July 31, 1947, Afghan Prime Minister Shah Mehmood Khan proclaimed that all border agreements between the Afghan and British governments would be void upon the former's abdication of control over British India. As a result, the border dispute caused Pak-Afghan relations to deteriorate from the moment of its foundation. Since then, Afghan consulates and embassies have made a concerted effort to spread this official perspective throughout the globe.

International law, however, disagrees with the Afghan government's position. The Vienna Convention on the Succession of States in Respect of Treaties (VCSSRT) of 1978 addresses state succession difficulties on a global scale. Once this treaty was ratified by a large number of states, it came into effect in 1996. "Succession of states cannot impact international borders agreed upon as a result of an agreement and rights and obligations concerning international borders created through an agreement," the VCSSRT's Article 11 makes very clear. Therefore, the legality of the Border is unaffected by Pakistan's establishment as the successor to British India.

Pakistan is among the several states that have ratified the Treaty, despite Afghanistan not being a signatory. Furthermore, the VCSSRT preamble specifies that matters outside of its purview will be resolved in line with international customary law. Since customs are the source of law, Afghanistan's position about the Durand Line is nullified in light of Pakistan's existence. Even in the unlikely event that the Parties take this matter to the International Court of Justice, it does not appear that the Afghani position regarding illegitimacy could be validated and supported.

The fact that Afghanistan's borders are shared by countries other than Pakistan is also cause for concern. Without Afghanistan's assistance, these borders were drawn by the Great Powers, namely, Britain and Russia and Britain and Iran. With the exception of the Durand line, which is the only boundary that both states have mutually agreed upon, Afghanistan has not yet questioned the legitimacy of these borders.

With the Taliban's taking control of Kabul administration in August 2021, it was firmly believed that most of the issues including border management, between the countries will be resolved now. But the hopes were in vain, as the Taliban administration is not cooperative as was thought earlier. Cross border attacks have been increased during the last two years and the safe havens of Pakistani militants in Afghanistan are still operating against Pakistan.

Many incidents in this year are reported to have been controlled from Afghanistan. The incident of Peshawar police mosque attacks in January, and D. I Khan incident in December are reportedly controlled from Afghanistan. The militants are operating from Afghan land with full impunity and support of Afghan Taliban that brings

Pakistan to a position where it will eventually decide to target the safe havens across the border.

Soon after the D. I Khan incident, Pakistan's army chief visited United States of America with the aim to take US administration into confidence so that American defense mechanism and drone technology present in Afghanistan may be used against the militants' hide outs.

In light of the above facts and figures, it is high time for Afghanistan to accept the reality and embrace the Durand Line as permanent legal border between the countries so that both the states may move ahead for resolving many other issues that are still unresolved. Pakistan is second home for Afghans and in hard times Pakistan has always supported Afghans, so Afghanistan should not turn their second home into an enemy just because of its unjustified claims and hollow jingles.

Cited as: Mairaj ul Hamid Nasri, "Durand Line: A Perpetual Bone of Contention between Pakistan and Afghanistan", *RCAS Commentary*, Feb. 21, 2024.

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