



APPROACHES OF AFGHANISTAN AND PAKISTAN TO THE DURAND LINE

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Sardor Rahimov

Student Tashkent State University Of Oriental Studies Uzbekistan

ABSTRACT

This article discusses the approaches of Afghanistan and Pakistan to the Durand Line, and the arguments of both sides in support of their positions. Also, the views expressed by the official circles of Afghanistan and Pakistan, foreign and local scientists in this regard are described in detail.

KEYWORDS

Durand Line, The Big Game, Pashtunistan, Baluchistan, Durbar, Taliban movement, FATA, Khyber Pakhtunkhwa.

INTRODUCTION

After the establishment of the state of Pakistan in 1947, new challenges arose regarding the demarcation of the border between Afghanistan and Pakistan, which has continued for almost a century. The Durand Line marked by Great Britain has been the main source of the border problem between the two countries. It should be noted that this border conflict is not only a territorial problem between two countries, but also causes ethnic conflicts and separatism to escalate. Therefore, solving this problem and finding an acceptable solution is important for both sides, but also for ensuring the security of the entire region. After all, the two neighboring countries have several reasons for their position on this issue. At this point, it

is necessary to cite the analysis of the Afghan scientist Suhrob Boronov in this regard, in particular, the separation of the approaches of the two sides according to historical, legal and ethnic factors.

Afghanistan Approach:

Historical factor. The first reason that Afghan politicians, scientists and experts do not recognize the Durand Agreement is that it was concluded with the British government and not with Pakistan. Hence, in essence, the transaction can be considered invalid (Brad, 2011). This is also confirmed by the words of Aziz Arianfar, an Afghan diplomat and the director of the Afghanistan Research Center in Germany: the “Durand

Line” agreement was concluded with British India, not with independent Pakistan, and this factor will cause the cancellation of all previous agreements (Buranov, 2020). In the early years after the establishment of Pakistan, Afghanistan opposed the recognition of the Durand Line as an international border, even the then Afghan government voted against Pakistan’s accession to the UN in September 1947 (Mohapatra, 2021).

After Pakistan gained independence and became a full member of the UN, the Afghan representative Hussain Aziz explained the official Kabul approach to the current situation at the UN General Assembly as follows: “We will not recognize the North-West Frontier Province as the territory of Pakistan until we are given the opportunity to be free” (Boranov, 2021, p. 32-33). On July 26, 1948, the Afghan government formally abrogated all treaties on the Afghanistan-British India border (Mohapatra, 2021). In 1949, after a bomb was dropped on an Afghan village by the Pakistan Air Force, the Afghan government immediately convened the Loya Jirga (Grand Council) and declared that it would not recognize the Durand Line and any previously signed agreements (Boranov, 2021, p.33). This position has remained unchanged regardless of who is in power in Afghanistan (Shekhawat, 2022). Therefore, Kabul's official position on the Durand Line is that Afghanistan does not recognize the Durand Line as an international border (Omrani, 2018).

In 2017, the former President of Afghanistan, Hamid Karzai, also announced that Afghanistan will “never accept” the Durand Line as an international border between the two countries (Aqdas, 2019). According to this position, the Durand Line is a “disputed border demarcation”. The one-sided border barriers initiated by Pakistan have caused strong official protest of the

Afghan government. Afghanistan’s Vice President Amrullah Saleh writes about this on his personal Twitter page: “No Afghan politician can ignore the problem of the Durand Line”. This is an issue that requires discussion and resolution. It is unrealistic to expect us to simply pull it off. Peshawar was the winter capital of Afghanistan (Mohapatra, 2021). It can be noted that Salih revealed the true intentions of the Afghan political elite through these comments. In general, neither the Taliban movement, which ruled the country from 1996 to 2001, nor the post-Taliban governments of Hamid Karzai and Ashraf Ghani accepted the Durand Line as a legal border (Kaura, 2019).

Legal factor. The Afghan government claims that the Durand Line was established under duress (Khawar, 2005-06). According to Article 52 of the Vienna Convention, a contract is void if it is concluded by the threat of force or the use of force in violation of the principles of international law. The term “force” usually includes economic and political pressure. According to this provision, the Durand Agreement was considered invalid by Afghan sources (Hayat Khan, 2005, p.185). In addition, Article 50 of the Vienna Convention clearly states that any contract accepted after bribery or corruption is invalid. The Amir was to receive £60,000 a year in royalties and military support after the treaty was signed (Dhaliwal, 2020). Another noteworthy aspect of the matter is that after the signing of the agreement, Amir Abdurahman sent many letters about the invalidity of the “Durand Line” agreement and tried to cancel it (Reshtia, 1953, p.62). A well-known Afghan scientist, Professor Hasan Kokar, informed that the “Durand Line” agreement, signed in 1893, lost its validity after 100 years, that is, in 1993. Afghanistan also claims that the Anglo-Afghan Treaty of 1921 has also lapsed since the British government in India ceased to exist (Khawar, 2005-06).

Ethnic factor. Most Afghans insist that all Pashtuns around the Durand Line and in the NWFP are Afghans, not Pakistanis, and cannot distinguish between them as Afghans or Pakistani Pashtuns. Rhea Abraham, a researcher at the Center for Air Power Studies in New Delhi, makes an important reference to focus on the ethnic factor in her article: Pashtuns follow a “Pashtunwali” code. It is a code of ethics that takes precedence over any state law. For Pashtuns, despite changes in politics, ethnicity is more important than religious beliefs (Buranov, 2020).

According to this factor, Afghanistan encourages Pashtuns in Pakistan to use the principle of self-determination of peoples or nations of international law. In particular, it can be seen from the map below that the population of Pashtuns is significant not only in Afghanistan, but also in Pakistan. Consequently, in the lower part of the Durand Line, in Afghanistan and especially in the southern regions of Pakistan, the Baloch are also the majority. Most Pashtuns try to unite around the idea of an independent “Pashtunistan” and the Baloch “Free Balochistan”.

Based on the above, it should be emphasized that all the forces in Afghanistan, in particular, the former Presidents of the Islamic Republic of Afghanistan and government representatives, especially the representatives of the Taliban movement, which has close ties with Islamabad, The period of first and re-establishment of power in Afghanistan: 1996-2001 and from August 15, 2021 until now, the Durand Line is not officially recognized as the border between Afghanistan and Pakistan, even the fact that the parties who fought each other in Afghanistan between 2001 and 2021 are in the same position on this issue clearly shows the attitude of the entire Afghan society towards the border problem.

Pakistan Approach:

Historical factor. Evidence provided by Pakistani expert Muhammad Jamil also makes us ponder. According to his arguments, Pakistan, as the successor state of British India, has full sovereignty over the territories east of the Durand Line and its people and has all the rights and obligations of a successor state. Pakistan denies claims that the treaty was coerced because it was signed in Afghanistan and ratified in subsequent pacts in 1905, 1919 and 1921. Moreover, according to Muhammad Jamil's writing, nowhere in the contract was it stated that it was concluded for 100 years (Buranov, 2020). In fact, a number of sources mention that official Islamabad defends its position on the Durand Line based on four agreements signed in 1905, 1919, 1921 and 1930 after the Durand Agreement (Boronov, 2021, p.33). The international community also approves Pakistan's approach to the Durand Line. In particular, British officials have repeatedly supported Pakistan's position. For example, in 1950, the British Secretary of State for Commonwealth Relations, Philip Noel-Baker, quoted the views of the King of Great Britain and declared that Pakistan was the successor in international law to the rights and obligations of the Government of British India, and that the Durand Line was an international (Vijayan, 2021) reported that the limit is calculated. Shamsad Ahmed, the Foreign Minister of Pakistan in 1997-2000, speaking about the position of the Pakistani elite on the Durand Line issue, said that this agreement marked the border between British India and Afghanistan, and it was internationally recognized. emphasizes recognition. According to Muazzam Khan, the spokesperson of the Ministry of Foreign Affairs of Pakistan, after the independence of Pakistan and India in 1947, the Durand Line issue was resolved in the eyes of Pakistan (Ponka, Dkhar, Dkhar, 2017).

According to historian Lutfur Rahman, the Treaty of Durand Line was intended to be permanent and

already established the border between Afghanistan and British India. Therefore, according to international laws, it cannot be unilaterally canceled. Amir Habibullah, who succeeded Amir Abdurrahman, also signed an agreement with the British Raj in 1905, which defined the “sphere of influence” at that time. L. Rahman, using copies of rare original maps in Pakistan, emphasizes that the entire Pakistan-Afghanistan border, except for the 22-mile area, was determined by the border commissions established after the signing of the agreement (Afghan-Pakistan Relations., 2020).

Legal factor. Pakistan’s official position on the legal status of the Durand Line is based on the assessment that this line is an international border separating the sovereign territories of Afghanistan and Pakistan. This position is even expressed in the Constitution of Pakistan (Pakistan const. art. 1, § 2). Pakistan’s approach is supported by international law and practice (Brad, 2011).

Tahsin Usman cites the Vienna Convention as an international legal argument. After 1947, the Kabul government appealed to Pakistan to change the Durand Line in order to prevent the partition of the Pashtun tribes. This proposal was rejected by Pakistan on the grounds that the boundary could not be redrawn or abolished, as the Vienna Convention on the Succession of States by Treaties unanimously endorsed “uti possidetis juris” in which colonial powers with or by The right to bilateral treaties between them shall pass to their successor sovereign states. Therefore, Afghanistan cannot rebuild or change the Durand Line (Buranov, 2020).

This position of Pakistan was supported by its allies in the international arena, such as the members of the Southeast Asia Treaty Organization (SEATO) in 1956. In the Council of the Organization, the member states announced that they will continue to recognize the

Durand Line between Pakistan and Afghanistan as an international border (The Durand line..., 2018).

Ethno-religious factor. In addition to the Pashtuns, other tribal ethnic groups live along the border with Afghanistan and Pakistan. Besides, both Afghanistan and Pakistan are Islamic countries. Professor Azmat Hayat Khan pays special attention to Pakistan's attitude to the ethnic-religious factor through some official information on the border of the two countries. The former Foreign Minister of Pakistan, Mr. Hussain, stated that religion was the main factor in the integration of Pashtuns into Pakistan (Afghan-Pakistan Relations., 2020). According to Juma Khan Sufi, Peshawar Valley, not Kabul, was the center of Pashtun culture and history (Buranov, 2020). Officials in Islamabad argue that Afghanistan's use of the principle of self-determination under international law against the Pashtuns can be counterproductive. There are more Pashto speakers in Pakistan than in Afghanistan. According to estimates, the number of Pashtuns does not exceed half of the total population of Afghanistan, the rest are Afghan Tajiks, Hazaras, Afghan Uzbeks, and Afghan Turkmens. However, if this rule is applied to Afghanistan itself, it will threaten its statehood, because in this case it will have to present its territories to neighboring countries (Buranov, 2020).

The Durand Line plays a very important role for Pakistan, as it covers more than 60% of its border with neighboring countries and serves as a factor of territorial integrity of the country (Ponka, Dkhar, Dkhar, 2017). From this point of view, the Pakistani government is trying to implement several practical measures, including the installation of a fence along the Durand Line, to reduce the tension on the border. In 2006, the government of Pakistan proposed to Kabul to install fences and barriers on the mountainous border, but Islamabad’s proposal was rejected

(Belokrenitsky, Sikoev, 2014, p.172). Fencing Pakistan's Afghanistan-Pakistan border with a barbed wire fence has been a central project of Pakistan Army Chief General Qamar Bajwa's security policy on the country's western border. Although this project was very expensive for Pakistan, about 532 million dollars were spent on the project, there were two main political goals of Pakistan's actions: 1. to control the flow of migrants and the movement of goods across the border; 2. to propose the demarcation of the border, which was rejected by the previous Afghan governments;

Although the movement of illegal goods has not slowed, the movement of civilians and migrants has largely been restricted to authorized border crossings (Asfandyar, Olson, Watkins, 2022). Pakistan began building a border wall along the Durand Line in 2018 to combat terrorism and the cross-border flow of drugs. According to Pakistan, the barrier will improve the security environment in Pakistan and Afghanistan. A senior Pakistani army officer commented that "the wall will go a long way in stopping the cross-border movement of terrorists" (Akbari, 2019). In 2019, approximately 900 km of this wall was completed (Trade, livelihoods..., 2019). Even during the pandemic, work on the fence continued without interruption for five years. It seems that Islamabad's approach was to build around 1,000 forts along the border and fences manned by armed garrisons to reinforce the Durand Line and, most importantly, contain all Pashtun threats (Rahul, 2022).

After the border fire on October 27-28, 2019, Pakistan's Ministry of Foreign Affairs issued the following statement: "We consider the Pakistan-Afghanistan border to be an internationally recognized official border between the two countries in accordance with all relevant international laws and conventions.

Afghanistan's position in this regard is baseless" (Kaura, 2019). According to the well-known Russian scientist Vyacheslav Belokrenitsky, the complexity of regional and bilateral balance of power does not allow to predict how the "Durand line" problem will develop. For a long time, the legality of this border may remain a controversial issue (Ponka, Dkhar, Dkhar, 2017). Another main reason for the strained relations between Pakistan and Afghanistan is that the "Durand Line" divides the Pashtun tribes into two parts. Pashtun tribes in both countries see themselves as representatives of the same ethnic group. Any military-political move to unify all Pashtun tribes creates a risk for Pakistan to be separated from a number of its territories (Boronov, 2021, p.33).

CONCLUSION

Historical facts testify that the Durand Line remains a problem in general, and that this line has caused serious consequences not only for the security of Afghanistan and Pakistan, but also for international security.

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