

THE DURAND LINE: ITS HISTORICAL, LEGAL AND POLITICAL STATUS

Abstract

Durand Line is the name of the international border between Pakistan and Afghanistan which was established in 1893 as a result of an agreement between the British Indian Government and Amir Abdur Rahman, the then ruler of Afghanistan. The treaty was confirmed in 1905, 1919 and 1930 by successive Afghan rulers. But in 1947 at the time of the British withdrawal from the Indian subcontinent and, subsequently, after the creation of Pakistan, Afghanistan began to raise objections and refused to recognize it as the international frontier between the two countries. It challenged the validity of the Durand line on several grounds. It claims that the territory up to river Indus was once part of the Afghan Empire and since their rightful dominion. However, the Government of Pakistan always repudiates its claim on every international forum. This paper aims at analysing the historical, legal and political status of the Durand Line. The objective is to examine factual evidences to prove whether it is the established international border between Pakistan and Afghanistan or otherwise.

Historical Background

Both Afghanistan and Pakistan are, comparatively late-comers to the comity of nations. During different phases of their history they remained parts of different empires. Afghanistan remained part of the Indian, Persian and Central Asian empires in different times of its historical evolution. Sometimes, it remained divided between different empires. Pakistan, for most part of its history, remained part of the successive Indian empires. Throughout the Mughal period, Pakistan remained an integral part of it while Afghan territories remained divided between Persia and Mughal India.

With the death of Emperor Aurangzeb in 1707, the vast and mighty Mughal Empire began to disintegrate. The provinces of Deccan, Bengal, Behar and Oudh became independent principalities, bearing only nominal allegiance to the Mughal Emperor in Delhi. Taking advantage of the deteriorating situation of the empire, the East India Company, basically an English trading company began to fish in the troubled waters by embarking on an adventurous imperialist policy. Through intimidation, diplomacy and alliances it became the most formidable contender for power, and from 1757 onward, within a short span of time, occupied large parts of the Indo-Pak subcontinent. The Marathas, who had been suppressed by Emperor

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Aurangzeb in his times, also became a powerful contestant for getting supremacy in India. The central authority, vested in the emperor, had remained just in name. The whole empire presented a picture of anarchy and lawlessness.

The most unbearable blow to the decaying Mughal Empire came in the shape of Nadir Shah who occupied Afghanistan in 1739 and then overran Peshawar, Lahore and Delhi. Meantime, he annexed the Mughal province west of the river Indus. His assassination in 1747¹ provided Ahmad Khan, chief of the Afghan Sadozai sub-clan of the Abdali tribe and a captain in the Persian army, to assert his independence. He took control of Kandahar with a small force, and declared it as the capital of his newly founded state of Afghanistan. He brought all the present day Afghanistan, Pakistan and some parts of India under his control. In fact, he firmly established the Durrani as the ruling tribes of Afghanistan.² However, his empire began to disintegrate even during his lifetime. Some parts of the Punjab were occupied by the Sikhs. After his death the process of degeneration increased. In 1818 Muhammadzai family of the Barakzai sub-clan of the Durrani tribe revolted against the Sadozai who bring Kashmir and Peshawar under their firm control. Later, one of the Muhammadzai brothers, Dost Muhammad, ascended the throne of Kabul in 1826.³

Meantime, the Sikhs, under Ranjit Singh, established their hold over the Punjab. Surprisingly enough, in 1804 the Afghan ruling elite sold out the strategically important fort of Attock to Ranjit Singh.⁴ In fact, this made the efforts of Sikhs much easier to extend their rule to the areas beyond the river Indus. To counter the Sikhs' intrusions, Muhammad Azeem Khan, the then Afghan Amir, sent his messengers to the Yusufzai *sardars* for mobilizing the Afghan *lashkar* against the Sikhs. However, due to his treachery and the dubious role of his brothers during the battle, the Pakhtuns were defeated at Pirsabaq (Nowshehra). The battle of Pirsabaq was fought in 1823. In March 1845 they occupied Peshawar, Kohat and Dera Ismael Khan.⁵ Later, Amir Dost Muhammad Khan of Kabul and his brothers made several attempts to dislodge the Sikhs from their occupations beyond Indus River, but did not succeed.

By this time the East India Company, in its onward march of conquests, had established their control over many parts of India. They had become the strongest military and political power on the horizon of the Indo-Pakistan subcontinent. Thus, by the close of the first quarter of the nineteenth century, the political map of the region was such; The British had acquired control over the greater part of India and had extended their power up to Sutlej River in the north-western side. Punjab, Kashmir and the trans-Indus territories up to the frontier hills were under the direct administration of the Sikhs. Beyond the frontier hills lay Afghanistan, torn with strife and feuds. At this time Sindh and Balochistan had ceased to pay tribute to Afghanistan.

The Great Game and Afghanistan

Another important dynamic had also started emerging which was to play a significant role in shaping of political events in this region. It was the struggle for mastery between the expansionist Russia and British India. The important aspect of the struggle was that Afghanistan was to serve as chess pawns in the great game

between these two imperialist European powers. Both Russia and British India were eager to influence the Afghan court to the exclusion of the other.⁶

One of the objectives of Dost Muhammad, the *Amir* of Afghanistan, was to regain the territories west of the river Indus which had been occupied by the Sikhs. He considered Ranjit Singh's control over Peshawar as a threat to his empire. However, he had failed in his attempt to get control of the city through force. He was reluctant to face them in the open battlefield. The Pakhtun population east of the frontier hills abandoned any interest in the politic of Afghanistan. After the dubious role of the Afghan ruling elites they had established a separate centre at Sitana. Therefore, without their support he was unable to deal with the Sikhs. In 1836 he sent a letter to Lord Auckland; the Governor General of British India, asking the latter's advice in dealing with the Sikhs. Lord Auckland expressed his reluctance in this respect because he did not want to annoy the Sikhs, the British allies, at that point of time. But he admitted that "he was willing to send an envoy to Dost Muhammad's court to discuss with him the possibilities of the development of the Indus Basin with a view to promoting trade with the adjoining countries".⁷

Accordingly, Alexander Burnes was sent to Kabul in September 1837. Amir Dost Muhammad Khan was desirous of entering into friendship with the British against Russia, provided he was helped in restoring Peshawar to him. When he got disgusted with British in this matter, he made overtures for an alliance to Russian, through Vitkevich, the Czar's envoy in Kabul. When the British Indian government sensed that their interests are at stake that they adopted an aggressive stand-point. The British, Ranjit Singh and Shah Shuja under a tripartite treaty invaded Afghanistan in 1838. Dost Muhammad was deposed and Shah Shuja enthroned in 1839.⁸ McNaughton was posted in Kabul as British agent. However, there was a discontent in the country against the foreign control, and in 1841 people rose in revolt and massacred McNaughton and his companions. In this way the first British attempt to get control of Afghanistan came to an end. Amir Dost Muhammad once again ascended the throne in Kabul.⁹

In 1848, the British occupied the Punjab, while Russia occupied some territories in Central Asia. It was followed by the Persian occupation of Herat and Qandahar with the open assistance of Russia. Dost Muhammad Khan look for the British military and economic support to regain its two important cities. The British were in search of that opportunity and as a result the treaty of Peshawar was concluded on March 30, 1855. The treaty reopened diplomatic relations between Afghanistan and British India. The Afghan forces received supply of British arms and a subsidy of 12 lac rupees annually was granted to the *Amir*. Most importantly, Amir Dost Muhammad Khan recognized British annexation of Peshawar and in return British promised support against Persian claim on Herat.¹⁰ It can be rightly conclude that it was in 1855 that the Afghan *Amir* recognised British occupation of Peshawar in return for certain economic and political gains. The 1893 Durand Line agreement only formalized that arrangement.

With the conquest of the Punjab, Sindh and trans-Indus territories, the problem of the defence of the western frontier of the British Indian Empire emerged. The question was whether to fix their border in the foot-hills in the western limits or to

push it beyond the hills so that these hills might serve as outposts against any invaders from the north-western side. Most of the British officers associated with the frontier policies favoured the forward approach. They got control over the State of Qalat in 1876 under the treaty of Jacobabad and occupied Quetta in 1877.

In 1878-79 the second Anglo-Afghan war occurred when the British invaded and occupied Afghanistan. On May 26, 1879, under the treaty of Gandamak, the Amir of Afghanistan agreed to conduct his foreign relations according to the advice and wishes of the British Government and allowed a British representative at Kabul. Under this treaty the districts of Kurram, Pishin and Sibbi were given in the administrative control of the British Government. The British were to pay the Amir and his successors an annual subsidy of 6 lac rupees. Lord Lytton, the then British Viceroy of India, favoured a more ambitious policy of disintegrating the Afghan empire, but the home authorities did not support him in this respect. The British Government also retained all control over the Khyber and Michni passes and of all relations with the independent tribes connected with these tracts.¹¹

The Afghans were not happy with the presence of foreigners on their soils. On September 03, 1879, they attacked the British Mission and massacred personnel and chief of the Mission Cavagnari. The British forces were ordered by the Indian Government to re-enter Afghanistan under General Robert's command. Amir Yaqub Khan was deposed and Afghanistan was brought under British control. Significantly, the British could have retained their hold over Afghanistan if they wished so, but owing to constant and stubborn opposition of the people and financial constraints they did not chose this course. They handed over the crown to Sardar Abd-ur-Rahman Khan. The new Amir undertook not to have direct relations with any foreign country and the British Government assured him of assistance if necessary to repel unprovoked aggression. Thus Afghan foreign policy came under the British control and remained so for the next forty years, up to 1919 when it was revoked.

The Delimitation of the Afghan Frontiers and the Durand Agreement

In 1884, Russia captured Merv which brought the frontiers of Russia closer to Afghanistan and India. Their next possible prey was going to be Herat. But at the same time there was a desire shared by both the imperialist powers i.e. Russia and British India to avoid direct clash which could result from even a slight advance by either power. So it was deemed essential to keep their respective borders away from each other by keeping Afghanistan as buffer between the two mighty powers. But Afghanistan could serve a buffer only if its frontiers with these two powers were clearly defined. Without clear boundaries of Afghanistan on both sides it was difficult to avoid direct clash. For this purpose first work was started by a giant Anglo-Russian Boundary Commission on the Russo-Afghan border in 1884 and final protocol was signed on July 22, 1887. It agreed on a border along the Amu River.¹² In fact, in the delimitation of its frontier with Russia, Afghanistan was not consulted in the whole process. He was simply informed of all the decisions agreed upon by the commission regarding Afghanistan borders delimitation.

Durand Line Agreement and the *Amir*'s Enthusiasm

The settlement of the Russo-Afghan boundary paved the way for the settlement of the frontiers between British India and Afghanistan also. Interestingly, in this respect *Amir* Abdur Rahman himself took the initiative and wrote to Lord Dufferin, with a formal request to send some officials to Kabul to point out the limits of the frontiers in cooperation with Afghan officials. He discussed the issue beforehand with his dignitaries. The following statement reflects his desire in this regard:

Having settled my boundaries with all my other neighbours (Persia, China and Russia), I thought it necessary to set out the boundaries between my country and India, so that the boundary line should be definitely marked out around my dominions, as a strong wall of protection.¹³

The British Indian authorities were also mentally prepared for this object and “considered the time suitable for discussing a settlement about the responsibility and control of the frontier tribes between the Afghan and Indian governments”. In fact, the illness of the *Amir* and the rebellion of Muhammad Ishaq delayed the sending of the mission for some time. The Viceroy invited the *Amir* to come to India and discuss this issue personally with him but he refused apparently on health reasons.¹⁴

With the accession of Lord Lansdowne, an aggressive frontier policy was pursued by the British Government. A period of suspicion started between the two governments. In this regard the construction of a tunnel through Khojak hill and the Quetta railway further increased the suspicion of the *Amir* which was regarded a knife into the vitals of Afghanistan. Moreover, the tribes on the borderland area were also a source of anxiety for the *Amir*. British government and Afghanistan both were interested to retain their sway upon these tribes who occupied strategically important areas.¹⁵ As a matter of fact there existed unresolved issues but the *Amir* still persisted on an agreed working formula for the delimitation of border with British India. He wrote to Viceroy that a mission be sent to Kabul so that the hearts of the two governments might not be pained any longer.¹⁶ However, incursions into the tribal areas and adjoining hills from both the side continued during this period. It would be worth mentioning that major inquiries that were conducted to discuss Durand Line completely ignore the fact that it was the Afghan *Amir* who took the initiative. Neither he was forced to sign a treaty nor was it a plan of the British to occupy certain Afghan areas. It was altogether a negotiated agreement.¹⁷

Viceroy Lord Lansdowne appointed Sir F. Robert, the Commander-In-Chief of the forces of India, to lead the British Mission to Kabul for discussing the frontier issue with Afghan authorities. Apparently the *Amir* was, at that time, busy in dealing with a rebellion in the Hazara territory, so he asked the Viceroy to postpone the Mission. Probably, the real reason for the postponement was the appointment of Sir F. Robert, who had created hatred in the hearts of the Afghans since he led the British force in the second Afghan war of 1878-79. The British General was retiring soon and the *Amir* wanted to buy the time till his retirement. He wanted to settle this important issue of the delimitation of the frontier with a civilian officer or a statesman, and not with a soldier like Robert who was the

champion of the British forward policy. Then they sent another Mission under Sir Mortimer Durand for the settlement of this issue. Sir Mortimer Durand went to Kabul unarmed so as to remove the impression of the use of force or blackmailing in this respect.¹⁸

During the negotiations the first thing which came under discussion was the question of the area of Asmar. Due to its strategic importance for Afghanistan, the *Amir* insisted on retaining it in his state. In return for it, the British claimed Bajaur and Dir which the *Amir* happily conceded. Similarly, he also agreed to give control of Swat to British without any reservation. In the same manner, the *Amir* relinquished his right to the rest of Waziristan in return for Birmal tract. Likewise, he surrendered his right of Chaghi and New Chaman in favour of British India. It was absolutely an agreement concluded according to the norms of give and take. The whole arrangements were formalized in an agreement which was signed on November 12, 1893 by the *Amir* on behalf of the Government of Afghanistan and Sir Mortimer Duran on behalf of the Government of British India. The next day the *Amir* received the Mission in a formal *Durbar* in the presence of all the important civil and military officers of Kabul, chiefs and *sardars* of various tribes.

To endorse the contents of the agreement Amir Abdur Rahman convened a meeting of the *Loya Jirga*. Interestingly, in his speech to the *Loya Jirga*, he pointed out to all these dignitaries that the interests of Afghanistan and Britain were identical and that the British had no evil designs against Afghanistan. He exhorted his subjects to always remain friendly to the British because their friendship would be beneficial for the Afghans. Interestingly enough, he told the audience that:

It was for the first time that Afghanistan had a definite frontier which would prevent future misunderstandings and would render Afghanistan strong and powerful after it had been consolidated with the aid in arms and ammunition which would be received from the British.¹⁹

Amir Abd-ur-Rahman was clear about his decision. His intention was to achieve long-term objectives for the reformation of the Afghan society. In fact, his vision was much progressive and he wanted to make Afghanistan a great nation. He termed the agreement of 1893 a basis for progress in Afghanistan:

It was of the first and greatest importance to mark out a boundary line all around Afghanistan, so that we should first know what provinces really belonged to Afghanistan before thinking of introducing any reforms and improvements therein. Fortunately, I have succeeded in defining the boundaries of Afghanistan with the neighbouring powers, and putting an end to their gradual moving forward. This has also removed the causes of misunderstanding and put an end to all possibility of raising quarrels between my neighbours and myself or my successors on this subject without breaking the existence treaties. *This is a great basis for progress and peace for my successors, and on this score they will have no occasion to trouble themselves in communicating with their neighbours.*²⁰ [Italic mine for emphasis].

Historical, Legal and Political Status of the Durand Line

In fact, Afghanistan lost most of its territories east of the Durand Line to the Sikhs. The foremost reasons behind the defeats of the Afghan forces against the Sikhs were the disunity of the ruling elite, treachery on the part of brothers of Amir Azeem Khan, betrayal with their cause and lack of interest to defend the Pakhtun territory east of the Durand Line. The brothers of the *Amir* even accepted the overlordship of the Sikhs and retained Peshawar as the governors under the Sikh rulers. However, when the British announced to withdraw from India in 1947, they challenged it on the following grounds.

- i. The territories between west of the river Indus and the Durand Line were once part of the Afghan empire established by Ahmad Shah Abdali in 1747.
- ii. The Durand Agreement, under which this border was established, is void according to international law because it had been signed under duress and imposed upon the Afghan state by the then mighty British Empire.
- iii. The people of Afghanistan and those between the Durand Line and west of the river Indus are ethnically, linguistically, religiously and culturally one, and therefore, constitute one nation.

The Afghans assert that these people should be given an opportunity to decide, through a plebiscite as to whether they want to remain in Pakistan or to be detached from it and either join Afghanistan or constitute a separate state of their own in the name of Pakhtunistan. Pakistan rejects this claim of Afghanistan and put forward the following arguments in support of its position:

- i. The territories between the Durand Line and west of river Indus, claimed by Afghanistan, remained part of the Afghan state for a very short period of time.
- ii. The Durand Line is an international frontier signed by *Amir* Abdur Rahman and Sir Mortimer Durand without any pressure or duress from any side and, therefore, its validity is beyond any doubt.
- iii. The Pakhtuns, both in the Khyber Pakhtunkhwa and the Tribal Agencies, and the people of Baluchistan have joined Pakistan in a democratic manner according to the then prevailing constitutional requirement, and are, therefore, integral parts of Pakistan.

To discuss this significant issue it is important to analyse its legal, historical and political perspectives to understand its various undercurrents. The analysis is significant to know that which of the two parties i.e. Pakistan and Afghanistan, is justified in its claim.

Legal Status

The most important objection of Afghanistan against the Durand Agreement of 1893 is that it was signed by Afghanistan under duress and imposed upon it by the mighty British Empire. This objection has often been raised by many Afghan intellectuals, policy makers and nationalist politicians. They assert that Durand

Agreement does not have any valid and sound basis because, according to international law, any treaty imposed by force or signed under duress is null and void.²¹ But they failed to present sound arguments or any meaningful evidence in support of this claim. All the existing evidences pointed to the fact that *Amir* Abdur-Rahman, throughout the course of this treaty remained free. In fact, no pressure or force was brought on him from the British side. As mentioned above, it was the *Amir* who had first approached the British authorities for determining the frontier between the two countries.²² It means that the initiative came from Afghanistan, not from the British Government. He not only showed his interest in determining his boundaries with the British but also democratise it by inviting all the chiefs, government officials and *malaks* of various tribes to acquired their consent and willingness of the people for the treaty.

The critics of this treaty further argue that the *Amir* was dragging his feet on this issue and was using delaying tactics but the British authorities putting pressure on him to accept the Mission sent by them. They intend to prove that the *Amir* was not prepared for discussing this issue and the Viceroy was forcing him to do so. But this is no less than distortion of the historical facts. At the time when the *Amir* approached the Viceroy to send some British officials for the settlement of the border issues some internal matters in Afghanistan such as illness of the *Amir* and a rebellion in the Hazara region precluded the Viceroy from sending the Mission proposed by the *Amir*. In 1892, Lansdowne, the new Viceroy, appointed General Robert, the Commander-In-Chief of the British India, as head of the Mission to Kabul. It was only on the specific appointment of General Robert that the *Amir* was not happy. He considered him a hardliner general because of his role in large scale massacre during the second Anglo-Afghan war. The memories of the Afghans' defeat at his hand were still fresh in their minds. The retirement of the general was due soon. The *Amir* used delaying tactics so as to buy the time and let the general get retired in the meantime.

The *Amir* succeeded in his object. General Robert got retired and the government of India appointed Sir Mortimer Durand, the then Foreign Minister of the British Indian government, to lead the Mission to Kabul. Durand was cordially and warmly received by the *Amir* himself.²³ So, the real purpose of the dragging of legs and procrastination on the part of the *Amir* in delaying the Mission was to let General Robert get out of scene. Surely the Viceroy would appoint another person, a civilian official or a statesman, for the important task of fixation of border. He was neither against the appointment of any Mission nor was against the delimitation of the frontier. If the Afghan authorities were against delimitation of the frontier, first they would not have proposed it to the Viceroy themselves, and second, they would not have received the Mission led by Mortimer Durand as warmly as they did in Kabul.

There is no evidence in existence to prove that the British Mission ever used force or threat of force. Mortimer Durand and his delegation had gone to Afghanistan unarmed. The whole process of negotiation was held in Kabul so as to dispel the slightest impression that they were blackmailing, in any form and method, the Afghan authorities. During the negotiations, both sides presented their maximum demands, as in negotiations everywhere leading to treaties, and the resulting treaty was a compromise formula between the two sides based on give and take. Both

sides expressed their full satisfaction over terms of the treaty arrived at. This satisfaction over contents of the treaty was incorporated in the treaty itself. Article 6 of the treaty states thus:

The above articles of agreement are regarded by the Government of India and His Highness the Amir of Afghanistan *as full and satisfactory settlement of the principal differences* of opinion which have arisen between them in regard to the frontier.²⁴ [Italic mine]

If it had been imposed upon the Afghans against their will, they would not have expressed their satisfaction in the contents itself. No one could have forced them to express their satisfaction against their will.

Then the way the *Amir* convened his *Durbar* and *Loya Jirga* in order to get it ratified from his civil and military officials and representatives of the people is another proof of the fact that the *Amir*, his courtiers and tribal chiefs were happy with the contents of the treaty. That is why they eulogised it and expressed their hope that it would further strengthen the bonds of friendship between Afghanistan and Britain. The foregoing discussion establishes without any doubt that the treaty of 1893, establishing the Durand Line as the international border between Afghanistan and British India, had been signed by the Afghan *Amir* on his free will and with full support of his officials and tribal chiefs, not under duress. It was concluded in a democratic manner when the Afghan *Amir* sought the support of his people through their tribal *malaks*, civil and military officials. If the Afghan people, officials and tribal chiefs were against the treaty and it had been imposed upon the *Amir* by the British, then surely they would have risen in revolt against the *Amir* and the result would have been a civil war in the country. Besides, if it was a matter of coercion from the British side then what was the need of convening his tribal and military chiefs.

The treaty was recognized by the successive governments in Afghanistan i.e. during *Amir* Habibullah Khan in 1905; King Amanullah Khan in the Treaty of Peace of Rawalpindi of November 1919; the Anglo-Afghan Treaty of 1921, the Trade Convention of Kabul in June 1923 and lastly during King Nadir Shah in May 1930. These Afghan governments accepted the Durand Line as valid international frontier between the two countries. The ratifications of 1921 and 1930 are most significant in the sense that in 1920 after the third Afghan war, Afghanistan had completely become independent and succeeded in getting its foreign relations completely out of control of Britain. So if they could desire to repudiate this treaty, England could not have forced it to revise its stand just as they resisted the British and fought with them on many issues bravely, they could have fought with them on this issue also. But they did not do so which proves that they were not against this treaty and the resultant frontier. All these developments indicated that not the slightest nature of controversy emerged about the clauses and contents of Durand Line agreement at the time of the British rule in India. In fact, any government in Afghanistan never challenged its validity even when it was at war with British Indian government.

It was only when the British Government announced its plan of relinquishing their control over India and transferring power to successor authorities that the Afghan Government raised the issue of regaining the territories which they had handed

over to the British authorities under the terms of the 1893 Durand Line agreement. The British Government refused to accept this position of the Afghan Government and took up the stand that the territories claimed by the Afghan Government were integral part of India and that the British Government could deal with the situation only as it existed at the time of the transfer of power. It meant that any successor authority/authorities (state/states) would inherit all rights and obligations of the British India in these territories. This remained position of the British Government even after the creation of Pakistan. After the creation of Pakistan, Novl Backer, the Secretary of States of Common Wealth Affairs, further clarified this position in a speech to the House of Commons on June 30, 1950 in the following words:

It is His Majesty's Government's view that Pakistan is in the international law the inheritor of the rights and duties of the old Government of India, and of His Majesty's Government in the United Kingdom, in these territories and that the Durand line is the international frontier.²⁵

This has always been England's position with regard to the Durand Line. In this respect, Ahmar Bilal Sufi, President Lahore Based Research Society of International Law, states:

According to Article 62 of the Vienna Convention of the Law of Treaties, it is accepted by all that whenever a new state of country is carved out of an existing colonial domain, all international agreements and undertakings that the previous rulers of the regions had entered into, are transferred to the new independent nationals' government. So, after independence in 1947, Pakistan is rightly the party which succeeded the British Indian Government and inherited the Agreement.²⁶

About the legal position of the Durand Line and the approach of the international community towards such issues Arif Ayub has quoted a number of examples:

Article 62 of the Convention on the Law of Treaties between States and International Organizations (1986) provides likewise that a fundamental change of circumstances may not be invoked, as a ground for terminating or withdrawing from a treaty between two or more states and one or more international organizations, if the treaty establishes a boundary. The principle of succession to colonial borders was underlined by the international court in the Burkina Faso vs. Republic of Mali case, as well as by the Arbitration Commission opinion on Yugoslavia with respect to the status of the former internal boundaries between Serbia on the one hand, and Croatia, Bosnia and Herzegovina on the other, concluded that except where otherwise agreed, the former boundaries become frontiers protected by international law.²⁷

Clarifying the legal aspect of the Durand Line, Arif Ayub further mentions Article 11 of the Vienna Convention on Succession of Treaties. A successor state cannot as such affect a boundary, obligations and rights established by a treaty. For instance, the International Court gave its verdict in the case of Libya vs. Chad case through which it was established beyond an iota of doubt that once agreed upon, the stability of boundaries will remain on permanent basis. Interestingly, the court gives its emphasis that a boundary established by a treaty, thus achieved permanence which the treaty itself does not necessarily enjoy. The treaty can cease

to be in force without in any way affecting the continuance of boundary when a boundary has been the subject of agreement; the continued existence of that boundary is not dependent upon the continuing life of the treaty under which the boundary is agreed.²⁸

Most Afghans are of the misplaced belief that the Durand Line Agreement of 1893 was meant to be valid only for hundred years from the date of its ratification. They say that it expired in 1993. This perception is so deep seated and pervasive among the Afghans that even some of the imminent personalities of the Afghan politics uphold it. But they do not have any evidence to produce in support of this claim. In this respect Ahmar Bilal Sufi states; “the Durand Line Agreement has no expiry limits and the interpretation of a hundred years limit is not legally tenable. Neither the text of the 1893 Agreement nor subsequent treaties of 1919 and 1921 which affirmed the said agreement mention any time limit.”²⁹ Afghanistan’s position is also weak from the point of view of Customary International Law which is derived from:

The continuous, persistent and uniform behaviour of states in respect of issues of the same kind over a period of time. Thus how Afghanistan views its borders with other states, and how the majority of states with border similar to Durand Line behave would be considered legal norms or principles in the light of which the credibility of Afghanistan’s moral criticism of the Durand Line may be measured.³⁰

In fact, Durand Line is the only border of Afghanistan in the demarcation of which the state of Afghanistan acted as an active and competent party. Its borders with Czarist Russia and China were determined by way of dialogue between Britain and Russia in which Afghanistan was not even consulted. Similarly, Afghanistan border with Iran was determined by Russia and Britain. If Afghanistan accepts its frontiers with these states despite the fact that at the time of its demarcation it had not been involved and consulted in any way, morally it does not have any *locus-standi* not to accept the Durand Line as the border between itself and Pakistan. Its boundaries with Russia and Iran have also divided the people of the same race, language and culture just as its border with Pakistan has done. If with the withdrawal of Britain from the scene, the Durand Line Agreement could terminate, then with the disintegration of the former Czarist Russian and the Soviet Union, and the emergence of Central Asian Republics as independent states, the agreements between Russian and Afghanistan must also get expired and Afghanistan should hand over the Tajik, Uzbek and Turkmen dominated territories to their parent states. But Afghanistan will not accept this logic.³¹

So far as other states’ practices in this respect are concerned, there are several instances of borders between states that divide people of the same race, culture and language. If such boundaries are to be challenged on this ground, the result would be the collapse of the established international order. There are enumerable instances in the world where persons speaking the same language and belonging to the same race or culture are divided into more than one nation. Any attempt to redraw boundaries of states according to cultural, racial or linguistic considerations would create more problems at the international level than it would solve. It was due to the overwhelming importance of maintaining the boundaries

of the colonial period intact that the members of the Second Non-Aligned Nations Conference in their communiqué from Cairo on October 10, 1946 pledged themselves to respect frontiers as they existed when states gained independence.³² Thus, in the light of international law and practice of states, the Durand Line is the valid international frontier between Pakistan and Afghanistan.

Historical Status

Afghanistan and Pakistan are relatively new entrants to the committee of nations. Before 1947 and 1747 there was no independent and sovereign existence of Pakistan and Afghanistan respectively. Throughout history both remained parts of different empires of the Indian, Persian and Central Asian origin. In 1747 when Ahmad Shah Abdali established Afghanistan, almost the entire territories of present day Pakistan became its parts. Punjab was lost to the Sikhs in the lifetime of Ahmad Shah Abdali. In the period between 1818 and 1823, the territories of present day Khyber Pakhtunkhwa had come under Sikhs' occupation. Sindh and Balochistan had also ceased to pay tribute to the Afghan rulers. Thus from 1823 to 1893, in all the Pakhtun territories of the present day Pakistan, Kabul's writ ran, although nominally, only in the tribal areas. Dir and Swat had for all practical purposes become independent of the control of Afghanistan. It means that these territories of Pakistan claimed by Afghanistan remained part of the latter for a very short period of time, around sixty years.

The fact that these territories remained part of the Afghan Empire for a short period of its history cannot become a base for the latter's claim that these territories historically belonged to it. This cannot be a sound base for claiming territories of other states. Most parts of Afghanistan remained part of the Mughal Empire for hundreds of years of its history. By this logic will Pakistan, as successor state of the Muslim Empire of India, be justified to claim these parts of Afghanistan? Would Iran be justified in claiming the rest of the Afghan territories as they remained part of the Persian Empire for centuries? Similarly Mexico might feel justified in claiming the Mexico and some other southern states of the United States of America which the latter had occupied in its war with the former. This will let open a Pandora's Box at the international level. This logic of Afghanistan is very weak and might lead to disruption and anarchy in the international relations.

Interestingly enough, at the time of the rising of Sikhs' power in the Punjab, the ruling elite of Afghanistan were divided and disunited. They exhibited an attitude of utter disregard to defend the Pakhtun areas east of the Durand Line and west of river Indus. In fact, in 1804 the strategically important Attock fort was sold by Jahandar Khan to the Sikhs on 1 lac rupees which made the Pakhtuns of the present day Khyber Pakhtunkhwa very much vulnerable to the Sikhs' invasions.³³ The Afghan ruling elites were so much fearful of the Sikhs' power that in 1809 Shah Shuja, when banished from Afghanistan, visited the court of Ranjit Singh. He was treated with humiliation and *Koh-i-Nur* diamond was snatched from him. In 1818 Ranjit Singh attacked Peshawar and occupied it for a brief time. Dost Muhammad Khan and Yar Muhammad Khan, brothers of Amir Azeem Khan, both fled from the area towards Khyber in the tribal areas.³⁴

The Amir of Afghanistan and his relatives were never interested to defend the areas of the nowadays Khyber Pakhtunkhwa against the Sikhs, rather actively collaborated with them to occupy the land. Contrary to the Afghan ruling elites' betrayal, the Pakhtuns west of the river Indus rose against the Sikhs. On the one hand, Azeem Khan, Amir of Afghanistan, sent his special envoys to mobilize them while on the other hand his brothers i.e. Yar Muhammad and Sultan Muhammad collaborated with the Sikhs by taking amount from Ranjit Singh. Hence, they sold their Pakhtun brothers to the Sikhs. The objective of Azeem Khan was to arise the Pakhtuns sentiments through propagation of *Jihad* against the Sikhs. In fact, he avoided confronting the Sikhs directly and wished to defeat them through the Pakhtuns tribal *lashkars*. Thousands of the Yusufzais, Muhammadzais, Khattaks and other Pakhtuns took arms when the Afghan Amir sent his special envoy for help against the Sikhs.³⁵

At Pirsabaq (Nowshehra) a contested battle was fought in which thousands of the Pakhtuns were martyred in 1823. Azeem Khan, along with his contingent, fled from the field. After the Sikhs' occupation Yar Muhammad Khan and Sultan Muhammad became the governors of Peshawar as their vessels.³⁶ That meant an extreme kind of insult to injury by the hands of the Afghan ruling elites to their Pakhtun brothers. How can they now claim these territories as their ancestors' land?

Moreover, traditionally the Pakhtun east of the Durand Line had always looked to Peshawar, Kohat, Bannu, Mardan, Abbotabad and Dera Ismael Khan as centres of their commercial and political activities. Whereas Afghans west of the Durand Line had always looked to Kabul, Ghazni and Kandahar as their centres for such activities.³⁷ So, the Durand Line did not divide the Pakhtuns. They had already evolved, due to geographical and political imperatives, their orientations in these directions. The rebellions of Yusufzai tribe against Akbar and his successors in the Sixteenth Century were Indian centric. Likewise, the dynamics of the movements led by Bayazid Ansari against Akbar and Khushal Khan Khattak against the Mughal central authority in the Seventeenth Century had their following and activities limited to the territories in the Pakistani side of the Durand Line. In this regard, the Afghan side remained least affected by these important events of the Pakhtuns' historical evolution.

Similarly, the establishment of the Persian Empire by Ghilzais and Afghan Empire by the Durranis had their nerve centre in the territories to the west of the Durand Line. The eastern parts were only marginally affected by those epoch making events. In recent times one can observe the centre of activities of Abdul Ghaffar Khan and Abd-us-Samad Achakzai, the two prominent Pakistani Pakhtun nationalist leaders, were on the eastern side of the Durand Line. Both these great Pakhtun nationalists largely influenced the Pakhtuns east of the Durand Line. The people of Afghanistan were very slightly affected by the movements initiated by these two leaders. During the freedom struggle both of them affiliated their respective organizations with an Indian centric political party i.e. Indian National Congress. After independence they recognized Pakistan on many occasion and made it a centre of their political activities. However, they retained a strong bond of relationship with Afghanistan which indeed is very much important for the people of both the countries.

Moreover, Sher Shah Suri who was hailed by majority of the Pakhtuns as one of their national heroes viewed that the future of the Pakhtuns lay in their settlement in the Indus valley region. This testifies that how future of the Pakhtuns was viewed by that great monarch who occupied the throne of Delhi. Once during the court proceedings the courtiers observed unusual grieves on his face. He was asked by one of his nobles that despite excellent order in the state, what can be the reason of his grief. To which Sher Shah replied that he wants to make waste the territory of *Roh* and shift its Pakhtun inhabitants in the plain areas from Indus to Lahore.³⁸ In this way they would be in a better position to check any Mughal attempt of invasion from Central Asia or Persia. It would infuse into their mind the liking of civilized life in the plains. This seems quite significant as far as the future of the Pakhtuns on the Pakistani side of the Durand Line was concerned. This point was quite vividly elaborated by Olaf Caroe in the following passage:

In his [Sher Shah] first and most striking design for the frontier tribes he is pursuing the train of thought which made him think of Lahore. He had realized the strength and the weakness of the mountaineers of Roh. From them he had drawn the soldiers in whose company he had marched to the throne of Delhi, but he knew only too well that the disorganized tribal societies in their homelands, rent with faction and the blood-feud provided no adequate shield for the protection of the kingdom against further invasion...*He divined also that the Pathan future lay with the Indus Valley region, and not with the vague and shifting principalities in the direction of Central Asia.*³⁹ [Italic mine]

It is quite clear from the above examples that natural geography and separate historical developments had set their orientations and interests in two different directions. The Durand Line institutionalized, but by no means acted as a catalyst in the formation of, these orientations. The people on both sides of the Durand Line have, no doubt, commonality of race, religion and language. But these factors can serve as dynamics for nation building only in conjunction with other factors such as mutual interests, easy communication and interaction, sense of unity and identical experiences. These latter factors have always been absent or rare among the Pakhtuns on both sides of the Durand Line due to which they could never develop a common approach to the developments affecting them. It is not correct to say that the Durand Line created divisions among the Pakhtuns. Nature had already drawn division lines between them in the shape of rugged terrain and impassable valleys and insurmountable mountains. Cordially relationships between the two people are essential for making strong bond of friendship.

The successive Afghan governments, who raised the controversy of the Durand Line, were aware of these imperatives of history. They knew that Pakhtuns of Pakistan did not have any desire for joining Afghanistan and if given a choice between Pakistan and Afghanistan, They would prefer the former. So, they put forward the concept of an independent Pakhtun state to be consisted of the territories between west of river Indus and the Durand Line, a state which never existed in history. It meant the detachment of these territories from Pakistan and their constitution into a new state. But the Pakhtuns and other inhabitants in the east of the Durand Line have never identified themselves with this concept.⁴⁰

Political Status

Besides the legal and historical aspects, the more important issue with regard to its legitimacy is the verdict of the people who are supposed to have been affected by it. There is no doubt that the people in east of the Durand Line never accepted the British rule from their heart. Whenever occasions rose, they rose in revolt against the foreign rule. Especially in 1897 there were wide spread rebellions in Malakand, Swat, Dir, Mohmand, Afridi and Waziristan territories. Similarly there were uprising in Waziristan in 1919-20 and then in 1936-38.⁴¹ But these revolts had nothing to do with any longing or desire on the part of the people of these territories to join Afghanistan. They detested foreign rule, especially by non-Muslims. These rebellions were mostly the result of the Jihad Movement with a religious spirit started by Syed Ahmad Shaheed of Bareilly against the non-Muslim rule over Muslim India, and not of any racial or linguistic bond with Afghanistan and a desire to be ruled by this state. What mattered with them was their tribal sense of independence and bond of unity with the Muslim world. By this logic, given a choice between Muslim Afghanistan and British India, their preference would, surely, have been the former. On the other hand, the choice of the Pakhtun nationalist leaders was also to play their politics within the framework of British India. For that matter the direction of their political activities during British period was towards Delhi not Kabul.

But the prospects of the creation of Pakistan, in latter 1940s, fundamentally changed the situation. Under the 1946 elections, a Congress ministry led by Dr. Khan Sahib had come to power in the former North-Western Frontier Province (Khyber Pakhtunkhwa). After the elections people of this province began to switch over to the Muslim League's demand for Pakistan in large numbers. The provincial Muslim League demanded re-election in the province and refused to accept the verdict of the then existing provincial assembly for joining either Pakistan or India. The provincial assembly, according to the Muslim League, had lost its representative character. But the Congress, both at the provincial and central levels, was against re-election and removal of the provincial government. So, Lord Mountbatten, the Viceroy of India, in consultation with the Congress leadership, provided for referendum in the province for deciding its future. It was a compromise formula between Muslim League demand for re-election and that of the Congress to let the existing assembly decide the future of the province. Now the assembly and the provincial government led by Dr. Khan Sahib would stay intact and the people would decide whether to join India or Pakistan.⁴²

The Provincial Congress, despite its government in the province, boycotted the referendum on the plea that beside the choices of Pakistan or India, a third option of an independent Pakhtunistan state be also provided for. But the Pakhtuns knew that the demand for the third option had been raised by the Provincial Congress after their expectations of the province becoming part of India had been shattered because they could not convince the people of the province to join India. To be very accurate, the boycott decision was also against their cherished policy of Indian nationalism. They deemed it fit to play politics on the demand of Pakhtunistan. Only through the rules of an independent Pakhtun state could they succeed, they thought, in switching the loyalties of the Pakhtuns from Pakistan. They had an understanding with Jawaharlal Nehru that if they succeeded in getting

an independent state of their own, they would in a later stage re-integrate it with the Union of India.⁴³

During the referendum people of the province gave their verdict in an overwhelming majority in favour of Pakistan. They gave this verdict in favour of Pakistan despite the fact that the Congress was in power both at the centre and in the province. According to Leonard Moseley the people of the North West Frontier Province have made manifest their choice, in the most democratic manner possible, is an established, historical fact. If the people of the province were not interested in joining Pakistan or if they cherished any idea of a separate state of their own, they would not have given this verdict in favour of Pakistan in such absolute terms.⁴⁴

As there was no provincial assembly in the tribal areas and no voter list for ascertaining the wishes of the people with regard to the future of these areas, no referendum or plebiscite could be held for this purpose. Each tribe had its own *Jirga* for deciding issues to general importance to the tribe. British colonial authority also dealt with these tribes through *Jirgas*, so it was for these *jirgas* to decide the future status of their tribes and territories. Under the partition plan of June 03, 1947, the existing agreements of the tribes were to expire on August 15, 1947 and fresh agreements with the tribes would have to be negotiated by the appropriate successor authority. The Governor of former N-WFP, Sir George Cunningham who dealt with the tribes on behalf of the Governor General, met *Jirgas* of all the big tribes in this respect. All these *Jirgas*, through their verbal and written statements, expressed their wishes of joining Pakistan. This agreement was ratified by the Government of Pakistan.⁴⁵ The rulers of the frontier states of Dir, Swat, Chitral and Amb also acceded their states to Pakistan according to the wishes of their people as required by the Indian Independence Act of 1947.

Similar was the case in Balochistan. There was no electoral body for the whole of the province. It was left to the *Shahi Jirga* and elected members of the Quetta Municipality to decide the future of their province who gave their verdict in favour of Pakistan. The rulers of princely states of Qalat, Lasbela, Kharan and Makran also acceded their states with Pakistan. In this way Balochistan also became part of Pakistan.

After the creation of Pakistan, an all-Tribal *Jirga* was held at Peshawar on April 17, 1948 which was also attended by Quaid-i-Azam. In this *Jirga* 200 *malaks* pledged their allegiance to Pakistan and reiterated their determination to win Kashmir for their country. They also requested that they be placed under the direct control of the centre.⁴⁶ The Quaid-i-Azam, as a gesture of good will, removed all the armed forces from the tribal areas which the British Government had stationed for keeping them under control.⁴⁷

Pakistan's position with regard to the accession of Khyber Pakhtunkhwa, Federally Administered Tribal Areas (FATA) and Balochistan is that they have become part of Pakistan in a democratic and constitutional manner and are now its integral and inalienable parts. Pakistan is not ready even to discuss their status with any outside entity because accession, once it is affected in a duly constituted manner, remains forever and is not open to questions or controversy.⁴⁸ Pakistan has always considered Afghanistan's stand on the Durand Line as interference in

its internal affairs.⁴⁹ In fact, Pakistan is hosting about two million Afghans on its soil for so many decades. Not a single Afghans among them wants to return to their home country. So how the Government of Afghanistan would convince the Pakhtuns of Pakistan to live in Afghanistan. There are more Pakhtuns living happily in Pakistan than Afghanistan.

Conclusion

In a nutshell, the Durand Line is established international frontier between Pakistan and Afghanistan. It legalized, formalized and institutionalized the arrangement that was already accepted by the Afghan ruling elites from the days of the Sikhs and then British government. The claim of Afghanistan with regard to its validity is totally baseless from historical, legal and political points of view. Pakistan and the international community have never accepted this stand of Afghanistan. This is based on the *mala fide* intentions of Afghanistan to get an access to the Arabian Sea and Indian Ocean. That is why they have also laid claims on Baloch territories of Pakistan. This stand of Afghanistan is contrary to legal norms and practice among nations. This has always been the root cause of tense relationship between these two neighbourly Islamic countries. It was mainly due to this factor that Pakistan and Afghanistan adopted opposite lines in the cold war between the United States and Soviet Union. This opened way for the Soviet penetration and interference in the internal affairs of Afghanistan so much so that in 1979 it committed a naked aggression against this landlocked country. The present turmoil and civil war in Afghanistan is direct result of the Soviet aggression.

Afghanistan needs to adopt a realistic, honest and good neighbourly attitude towards Pakistan on this issue. These two neighbouring countries need to improve and develop their relations in the spirit of good neighbourliness. It is the need of the hour for Afghanistan to bring a positive change in its attitude towards the Durand Line and accept it as the international boundary between the two states. This step will go a long way in burying hatchet between them and bringing them closer to each other. After the coming of new administration under President Ashraf Ghani, Afghanistan needs to understand the dynamics of the politics in the region. Both the states need to adopt a realistic and principled stand on terrorism and extremism.

¹ James W. Spain, *The Pathan Borderland* (Karachi: Indus Publications, Karachi, 1985), p. 35.

² *Ibid.*, P. 36.

³ *Ibid.*, p. 41.

⁴ Gopal Das, *Tarikh-i-Peshawar* (Lahore: Global Publishers, n.d.), p. 120.

⁵ The battle of Pirsabaq is one of the eventful wars between the Sikhs and the Pakhtuns. On the request of Azeem Khan, the Afghan ruler, the Pakhtuns tribes particularly the Yusufzais mobilized huge tribal *lashkar* to confront the Sikhs. It is stated by many scholars that such bravery was displayed by the Yusufzai Pakhtuns that Sikhs generals fled from the battlefield. One of their general Pahola Singh Akali was killed. At the end,

however, due to the treachery of Azeem Khan's brothers i.e. Sultan Muhammad Khan and Yar Muhammad Khan the Sikhs got the upper hand. Azeem Khan was much interested to save his family and treasury rather to confront the Sikhs. He left the scene and fled in hurry to his camp at Michanay. Thousands of Pakhtuns belonging to tribes east of Durand Line particularly Yusufzais sacrificed their lives. Afterwards, they never looked to the Afghan ruling elite for their future political survival. And a separate center was established at Sitana. For all these details see Pir Muazzam Shah, *Tawarikh Hafiz Rahmat Khani: Afghan Qabail aur inki Tarikh* (Peshawar: Pashto Academy, 1977) and Qazi Attaullah, *Da Pukhtanu Tarikh* (Peshawar: University Book Agency, 2004).

⁶ *Ibid.*.

⁷ Azmat Hayat Khan, *The Durand Line: Its Geo-Strategic Importance* (Peshawar: Area Study Centre, University of Peshawar and Hans Seidal Foundation, 2000), p. 59.

⁸ For all these details see the original British documents *Indian Papers Relating to the Wars in Afghanistan*, presented to Parliament by Her Majesty's Command (Printed by the House of Commons, 1840).

⁹ *Ibid.*, p. 91.

¹⁰ Dr. Imrana Begum, Durand Line: A Legacy of Colonial Rule 1893-1970, *Journal of Pakistan Historical Society*, October-December 2015, Vol. LXIII, No. 4, p. 40.

¹¹ *Ibid.*, p. 106-114.

¹² *Ibid.*, p.

¹³ Imrana Begum, *The Durand Line*, p. 43.

¹⁴ *Ibid.*, p. 128.

¹⁵ *Ibid.*, p. 131.

¹⁶ *Ibid.* p. 140.

¹⁷ No comprehensive work with regard to the history of Durand Line is available. While discussing the issue many writers ignore the proper historical context. It has often been mentioned that it was imposed by the British on the Afghan *Amir* which is no more than distortion of the evidences. See, for instance, *The Durand Line: History, Consequences and Future*, Report of a conference organized in July 2007 by the American Institute of Afghanistan Studies and the Hollings Center in Istanbul, Turkey.

¹⁸ Khan, *The Durand Line*, p. 106-111.

¹⁹ *Ibid.*, p. 147.

²⁰ S. Fida Yunas, *Afghanistan: A Political History, The Afghans and the Rise and Fall of the Ruling Afghan Dynasties and Rulers* (Peshawar: Author himself, 2000), p. 1.

²¹ Probably the objective to interpret it as imposed by the British Empire is to provide legal cover to the claim through the Vienna Convention of 1969. Article 52 of the Vienna Convention provides that a treaty is invalid if it has been concluded by the threat or use of force in violation of international law. See Multilateral Vienna Convention of the Law of Treaties Concluded at Vienna on 23 May 1969.

²² Mir Munshi Sultan Muhammad Khan, *Life of Ameer Abdur Rahman* Vol. 2, p. 125. It is pertinent to mention here that when Russian and Britain decided to fix the borders of Afghanistan with Persia and Russia, they did it without even consulting Afghanistan. However, the idea of demarcating its border with British India initiated by Afghanistan itself. The *Amir* signed it with his own free will, and accepted happily military and financial benefits out of it. But still they are challenging it which shows that

- Afghanistan is playing politics on the issue of Durand Line with Pakistan. The stand of the Afghan government is much weak and with no logical arguments.
- ²³ Khan, *The Durand Line*, p. 33.
- ²⁴ <http://www.khyber.org/history/treaties/durandagreement.shtml>. The website was visited on 14.05.2014.
- ²⁵ S. M. Burke “*Pakistan’s Foreign Policy: An Historic Analysis*”, P. N, pp. 68 – 90.
- ²⁶ Vienna Convention, 1969, Also see <http://www.pashtunforum.com/social/political-issues/4959-durand-line-agreement-1893-pact-had-no-expiry-limit.html>. The site was visited on 14.04.2014.
- ²⁷ Arif Ayub, *The Nation*, November 03, 2010.
- ²⁸ *Ibid.*.
- ²⁹ *Ibid.*.
- ³⁰ Burke “*Pakistan’s Foreign Policy*”, p. 88-89.
- ³¹ *Ibid.*.
- ³² Communiqué of the Second Non-Aligned Nations Conference, Cairo on October 10, 1946.
- ³³ Gopal Das, *Tarikh-i-Peshawar*, p. 120. The fort of Attock was like a back-bone as far as the defense of the Pakhtuns’ areas was concerned. At that time the Afghan ruling elites were so jealous of each others that they hatched conspiracies against each others. They were totally ignorant of the Sikhs’ rising tide looming on their eastern frontier. By their dubious role they facilitated the occupation of Sikhs on modern Khyber Pakhtunkhwa.
- ³⁴ *Ibid.*, p. 123.
- ³⁵ Bahadur Shah Zafar Kakakel, *Pukhtana da Tarikh pa Ranra ke* [Pashto] (Peshawar: University Book Agency, 1999), p. 750-755.
- ³⁶ Attaullah, *Da Pukhtanu Tarikh*, p. 222.
- ³⁷ H. V. Hudson, *The Great Divide: Britain-India-Pakistan*, (Karachi: Oxford University Press, 2001), p. 34.
- ³⁸ *Ruh* is the old name of the mountainous territory of the Pakhtun region. The region is situated probably on the north-western side of the Pakistani frontier along with the Durand Line.
- ³⁹ Olaf Caroe, *The Pathans*, p. 149.
- ⁴⁰ As a matter of fact the Government of Sardar Muhammad Daud provided shelter to Ajmal Khattak in Afghanistan during Zulfiqar Ali Bhutto’s regime. Ajmal Khattak crossed into Afghanistan after the Liaqat Bagh incident on March 23, 1973. He was provided with massive funds and support by Daud to launch Pakhtunistan movement. But the Pakhtuns on the eastern side of the Duran Line did not show any interest in the movement.
- ⁴¹ Olaf Caroe, *The Pathans*, p.
- ⁴² Muhammad Shafi Sabir, *Tarikh-e-Suba Sarhad* (Peshawar: University Book Agency, 1986).
- ⁴³ H. V. Hudson, *The Great Divide: Britain- India- Pakistan* (Karachi: Oxford University Press, 2001), p. 93.
- ⁴⁴ Leonard Moseley, *The Last Days of the British Raj* (London: Weidenfeld and Nicolson, 1962), p. 132.

- ⁴⁵ Iqbal Ahmad, *Statement before the UN General Assembly, October 09, 1974*, UNGA 29th Session, P. V. R, 2263rd Meeting October 09, 1974.
- ⁴⁶ *Pakistan Affairs*, 23 June, 1949.
- ⁴⁷ Spain, *The Pathan Borderland*, pp. 104-105.
- ⁴⁸ *Ibid.*, p. 238.
- ⁴⁹ Syed-ud-Din Ahmad Dar, ed. *Selected Documents on Pakistan's Relations with Afghanistan 1947-85* (Islamabad: National Institute of Pakistan Studies, 1986). p. 178.