

ANOTHER KASHMIR?

The Afghanistan-Pakistan Border Dispute

Joanna Modrzejewska-Leśniewska

INTRODUCTION

Regardless of state systems or religion, the problems of borders between states are common to every culture. It is a problem as old as the state itself. Conflicts connected with this thin line on a map or, in other cases, undefined border areas, usually cause significant damage and loss of life among ordinary people. Such disputes also inevitably have a very destructive influence on relations between neighbouring countries.

Since the Second World War there have been relatively few border disputes in Europe. Most European countries are long-established states with stable, well-defined borders. Nevertheless, the case of Yugoslavia illustrates that even Europe is not free from such problems.

Problems associated with borders between countries are much more serious in Africa and Asia. In the case of Africa we are witnesses to a series of seemingly endless, bloody wars such as that between Ethiopia and Eritrea, which are caused by artificial borders created during colonial rule. Also, in Asia there are numerous conflicts, such as those between Iraq and Iran, Iraq and Kuwait, and India and Pakistan. All these cases have led to military conflicts that have caused enormous human casualties and other damage.

THE AFGHANISTAN- PAKISTAN BORDER

Although other conflicts may be more spectacular and newsworthy, the focus of this article is the Afghanistan-Pakistan border dispute, which is much less well known. This conflict is certainly not as famous as the Indo-Pakistani conflict over Kashmir. This is perhaps quite understandable because the Kashmir dispute involves two regional powers, which recently acquired nuclear capabilities. This has raised the horrific risk of this kind of weapon being used by one or both of these states and thus engaged international attention.

The roots of the Afghanistan-Pakistan conflict lie in the past, prior to the existence of Pakistan.

The roots of the Afghanistan-Pakistan conflict lie in the past, prior to the existence of Pakistan, when British imperial rule held sway in the Indian sub-continent. On 12 November 1893 the Foreign Secretary of the government of India, Sir Mortimer Durand and Abdur Rahman Khan, the Amir of Afghanistan concluded an agreement,¹ which, from the very beginning, was understood differently by both sides. The British understood the line, the so-called Durand Line, drawn on the map, to be the north-western boundary of India. For Abdur Rahman Khan the line represented the north-eastern extent of his influence. Nevertheless, this agreement caused a huge group of Pushtuns, the ethnic majority in Afghanistan, to be transferred to British rule in India.

It should be remembered that practically up to the end of 19th century the notions of 'Pushtun' and 'Afghan' was synonymous. Therefore the predominance of Pushtuns in territory under British rule provided the Emirs of Afghanistan with an argument that they were the Amirs of all Pushtuns and thus the real rulers of all this territory. It should also be remembered that in Central Asia at that time rulers were seen as exerting authority over territory by virtue of their authority over populations. This represents the basis of the present day dispute.

HISTORICAL DIMENSIONS

In 1901, during the Vice-Royalty of Lord Curzon, the Pushtun inhabited territories under British rule were taken under separate administration – up to this time they had been a part of Punjab province. The new province was named North-West Frontier Province. Internally, North-West Frontier Province was divided into two parts: the eastern part was called the Settled Districts, while the area to the north-west was named the Tribal Areas. The Tribal Areas were divided into five Agencies – Malakand, Chaibar, Kurram, North Waziristan and South Waziristan.²³ In practice, this internal division meant that North-West Frontier Province had two borders – an internal one, designated by British administration, and an external one, which was the limit of British control. Generally, North-West Frontier Province was referred to as Pushtunistan.

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In theory, the Tribal Areas were a British protectorate although the tribes living there did not necessarily accept this dependence. What is more, the British promised to accept their independence. A British officer described this situation thus: “*Although included in India, [the] Tribal Areas weren't a part of British India.*”⁴ The tribes living in the Tribal Areas were subject to British authority through treaties and unwritten agreements, which guaranteed that they could live in peace under British authority and with Afghanistan. In return they received subsidies from Britain and the British authorities did not interfere with internal tribal problems.⁵

The tribes rebelled against British authority from time to time.⁶ These insurrections were quite often stirred, and supported, by the Afghan government.⁷ Maintaining peace in this territory represented quite a burden for the British treasury which by the 1920s and 30s was spending two million pounds a year for this purpose.⁸

During the Second World War Pushtunistan became very valuable for Afghanistan, Germany and Italy. The Axis states tried to win the support of Afghanistan but it declared its neutrality on 6 September 1939. The Germans had hopes of stirring up a rebellion among the tribes living on both sides of the Durand Line, counting on collaboration with Haji Mirza Ali Khan alias the Fakir of Ipi.⁹ However, despite German attempts at espionage they failed to achieve their goal. The only rebellion of border tribes during the Second World War was a short-term revolt of the Afridis at the end of 1939.¹⁰

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Prior to the partition of India, the Afghan Government, on 3 July 1947, sent a note to Delhi and London, in which it demanded that the people living in Pushtunistan be given the right to choose their own future – to be part of Pakistan, Afghanistan or become an independent state. In August 1947 just before Partition, the Afghan Prime Minister received an assurance from the British Foreign Minister, Ernest Bevin, that the “*Cultural brotherhood of Afghans and Pathans of North-West Frontier Province will be not disturbed.*”¹¹

THE BORDER DISPUTE

The Afghanistan-Pakistan border dispute arose out of differing interpretations of the 1893 agreement. In Abdur Rahman Khan's opinion, the agreement did not designate a boundary between Afghanistan and British India in the meaning of international law, but only a frontier of influence of both states. Up to his death, this was Abdur Rahman Khan's point of view. The British point of view was similar at this time. In 1896 the Viceroy of India, Lord Elgin, wrote to G. Hamilton, Secretary of State for India: “*The Durand agreement was an agreement to define the respective sphere of influence of the British Government and the Amir.*”¹² Later British statements were also similar. In 1925, an official British Army publication, the Military Report on Afghanistan, stated that “*The [Durand] line was not described in the 1893 treaty as the*

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boundary of India, but as the eastern and southern frontiers of the Amir's dominions and the limits of the respective sphere of influence of the two governments, the object being the extension of British authority and not that of the Indian frontier."¹³ Many British were, in later years, of the same opinion that the Durand Line and the administrative border between the Settled Districts and the Tribal Agencies were delineating zones of influence and responsibility – "...the tribes between the administrative border and the Durand Line were a buffer to a buffer, and the line had none of the rigidity of other international frontiers."¹⁴ The Simon Commission repeated the same point of view in 1928: "British India stops at the boundary¹⁵ of the administered area."¹⁶ All these statements made it clear that the British had no intention of annexing the territory up to the Durand Line, rather its goal was to administer this territory and treat it as a sphere of influence.

Subsequent treaties between British India and Afghanistan of 1905, 1919, and 1921 did not confirm the Durand Line as an international boundary as such, but instead merely stated that the Afghans accepted the obligations of previous emirs. In consequence, the validity of the reaffirmation in later treaties depends in every case on the validity and nature of the obligations incurred in the Durand agreement of 1893, which created spheres of influence, but not an international boundary.¹⁷ One further problem complicated the situation from the point of view of international law – Point 14. The Afghan-British treaty of 1921 stated that both states had the right to repudiate the treaty within three years after a one-year notice.¹⁸ What is more, this treaty contained a supplementary letter specifically recognising Afghan interest in the trans-border tribes.¹⁹

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Sometime at the end of the Second World War, the British changed their policy and officially stated that the Durand Line was an international boundary of India, a position inherited by Pakistan on its independence. Unofficially, the British themselves were not sure how to proceed in this case. Perhaps the best illustration of their confusion is a secret document, dated 28 April 1949, which stated that in the light of law, the situation was not clear as to the status of the Tribal Areas. According to this document these areas neither belonged to Pakistan nor to Afghanistan, but at the same time this new situation did not give Afghanistan any rights to extend its territory up to Tribal Areas without the approval of the latter's population, and the same applied to Pakistan.²⁰

Despite these doubts, British politicians publicly supported Pakistan's point of view. On 30 June 1950 P. Noel-Becker, Secretary of State for Commonwealth Relations, stated in the House of Commons that: "*In His Majesty's Government opinion Pakistan is, in the light of international law, the successor of rights and duties of the former Government of India and His Majesty's Government towards those territories, and the Durand Line is an international boundary.*"²¹

Afghanistan wanted to persuade Pakistan to allow the establishment of Pushtunistan.

In the face of British policy the Afghans tried to make a deal with Pakistan. Talks were held in December 1947 in Karachi during which Afghanistan demanded that the Durand Line be scrapped. According to Najibullah Khan, the Afghan representative, Afghanistan wanted to persuade Pakistan to allow the establishment of Pushtunistan; to allow Afghanistan free access to the sea; and, to guarantee mutual neutrality in case of attack on either party. Zafarulla Khan, Pakistan's Foreign Minister, made Pakistan's stand on the Durand Line clear when he stated that Afghanistan had not understood the constitutional position of the provinces and that the tribes of the North-West Frontier Province had contributed in a great measure to the achievement of Pakistan. He did however, offer assurances that the Pushtuns of the frontier would enjoy equal and autonomous status within Pakistan.²²



In March 1949, Governor-General Khawaja Nazimuddin of North-West Frontier Province announced, that the Province was an integral part of Pakistan. The Afghan authorities protested. They stated that people living in the North-West Frontier Province should have a chance to choose. On 26 July 1949 the Afghan National Assembly nullified all treaties signed with Great Britain including the Durand Line.²³ In this instance they based their actions on Point 14 of the Afghan-British treaty of 1921, which gave both states the right to repudiate treaties.

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The attitudes of Afghanistan and Pakistan allowed virtually no room for dialogue. From almost the first day of Pakistan's existence as an independent country, relations between the two states were strained. The first sign of this was a vote in the United Nations on 30 September 1947. The Afghan mission voted against Pakistan's membership, on the grounds of Pakistan's refusal to

give the people of NWFP the right to decide their own future. Hosayn Aziz, the Afghan representative in the UN at the time stated that: “*We cannot recognise the North-West Frontier Province as part of Pakistan so long as the people of North-West Frontier have not been given an opportunity, free from any kind of influence, to determine for themselves whether they wish to be independent or to become part of Pakistan.*”²⁴

At the end of 1949 and the beginning of 1950 the situation worsened. Pakistan decided to stop Afghan trade going through Karachi and closed the border for oil products going to Afghanistan. These restrictions cut Afghanistan off from the outside world and created great difficulties in the country because of the economic dependence on imported goods, especially oil.

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The Soviet Union immediately took advantage of the situation and supplied Afghanistan with the most urgently needed goods.²⁵ This led to the trade agreement, signed on 17 July 1950,²⁶ which contained provisions for the import by Afghanistan of oil products, sugar, steel and iron goods, and the export to the Soviet Union of wool and cotton. Furthermore this trade was duty free. The volume of the trade grew swiftly, doubling over the next two years. At the same time the trade agreement gave the Soviets the means with which to interfere in Afghanistan's internal affairs. For example, the Soviet Union successfully protested against American and Western European specialists working in Afghanistan, especially in the northern part of the country.²⁷

In 1953 relations between Afghanistan and Pakistan improved slightly. The United States played a very important role in this improvement, connected with an American plan to build up a Middle East Defence Organisation. But cordial relations did not last long. On 27 March 1955 Pakistan decided to introduce administrative reform – the so-called “*One-Unit Act*”, which involved the reorganisation of West Pakistan into a centralised state.²⁸ This led to protests by Afghanistan fearing that Pushtuns in Pakistan would be assimilated into that state. This led to the so-called “*flag incident*”,²⁹ and in effect to the breaking off of diplomatic relations and the closing of the border between the two countries.

This latter consequence was the worst, because it again cut Afghanistan off from the outside world,³⁰ and pushed Afghanistan into the arms of the Soviet Union once more. On 28 July 1955 Afghanistan and the USSR signed a transit agreement.³¹ On 15-19 December 1955 Nikita Khrushchev and Nikolaj Bulganin visited Afghanistan during their trip to India and Burma. One of the effects of this visit was a US\$100 million loan from the Soviet Union to Afghanistan on very favourable terms, the first of many.³²

Another marked effect of the breakdown in bilateral relations was a growing Afghan dependency on Russian military supplies. In July 1956 the USSR granted Afghanistan a loan of US\$32.4 million for military purchases.³³ From 1956 on Russian became the technical language of the Afghan Army and most of its armaments came from the Soviet Union and other communist bloc countries. These close ties were also the result of America's refusal to sell arms to Afghanistan.³⁴

Soviet support in relation to the Pushtunistan case was also very important for Kabul. On 15 December 1955 Soviet Prime Minister Bulganin stated that the USSR supported the Afghan point of view and that a plebiscite should be conducted in the area where the Pushtuns live: “*...The demand of Afghanistan that the population of neighbouring Pakhtunistan should be given an opportunity of freely expressing their will is justified as well ground. The people of this region have the same right of self-determination as any other people.*”³⁵

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In the late 1950s, Egyptian, Iranian, Saudi Arabian and United States mediation led to improved relations between Afghanistan and Pakistan, and to the re-opening of the border. It also led to many high level meetings – for example in August 1956 Pakistani President, Iskander Mirza, visited Afghanistan, and in February 1958 King Zahir Shah visited Pakistan. In May 1958 Afghanistan and Pakistan signed a transit agreement which provided for improved access for a range of imports to Afghanistan.³⁷

Yet again however, this period of good relations did not last. There were two basic reasons for the breakdown in bilateral relations. One was the change, in 1960, in Pakistani government policy towards the Pushtun tribes. This was connected with the fact that some of these tribes disregarded state authority. A second reason was related to the fact that American U-2 aircraft were based in Pakistan and that two Pakistani aircrafts violated Afghan air space. On 18 May 1960 the Afghan Minister of Foreign Affairs, Naim, protested about this and warned that if Pakistan did not change its policy, Afghanistan would divert the Kabul River. On 13 May 1960 two Pakistani aircraft again violated Afghan air space and were forced to land in Afghanistan. Diplomatic notes were exchanged and on 17 September the pilots and aircraft were returned.³⁸

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In September 1960 some friction occurred on the border. Lashkars and detachments of the regular Afghan Army invaded some six miles into Pakistan territory, but were subsequently ejected by the Pakistani Army. Between March and May 1961 many more such border skirmishes took place.³⁹ Continuing frictions and tensions caused the Afghan-Pakistan border to be closed once again in September 1961. During this crisis the Soviet Union gave moral support to Afghanistan. On 2-5 March 1960, Nikita Khrushchev paid a visit to Kabul, and after his return to Moscow stated, that: “...*Pushtunistan always was a part of Afghanistan*”. A bilateral statement was also published which stated that Pushtuns in Pakistan have the right to self-determination.⁴⁰ Once again the Soviet Union took advantage of Afghanistan’s difficult situation, and under Soviet pressure Afghanistan signed three agreements – in October 1961, January and April 1962,⁴¹ further strengthening the ties between the two countries. The Soviet Union went so far as to offer to finance the entire second five-year development plan, for 1960-1965, albeit with one condition attached, that Soviet advisers be placed at the highest level in all Afghan ministries. This time Prime Minister Daoud turned down the Soviet offer.⁴²

The border between Afghanistan and Pakistan was re-opened in May 1963, when the Shah of Iran mediated between the two states.⁴³ A new agreement was made possible because of changes in the Afghan government. After 10 years as Prime Minister, Daoud lost this post. He was well known for his irreconcilable standpoint on the Pushtunistan case. For him there were only two options – Pushtunistan should be a free and independent country or should unite with Afghanistan. An improvement in relations between Afghanistan and Pakistan led to the preservation of neutrality by Afghanistan during the second Indo-Pakistani conflict in Kashmir in 1965, and in 1971 when Bangladesh gained independence.

A rapid deterioration in relations between Afghanistan and Pakistan occurred in 1973, after Afghanistan became a republic, with Daoud as its President. He tried to convince China to support Afghanistan’s point of view in the Pushtunistan case, while at the same time Pakistan tried to convince other countries that

Afghanistan, in alliance with the Soviet Union and India, was going to crush Pakistan.⁴⁴ In the winter of 1974/1975 both countries started to mobilise troops in the border area.

The situation appeared to be very serious and it was commonly believed that war was imminent. But Daoud, seeing that Pakistan was ready to fight over Pushtunistan, decided that his forces were too weak and started talks with Zulfikar Ali Bhutto. By the end of 1975 the situation had gradually improved. It seems that Daoud felt that Soviet influences in his country had become too strong for his liking and that he was not prepared to play the part of a Soviet puppet. Therefore, he was quite eager to reach some sort of understanding with Pakistan. Dialogue between Bhutto and Daoud was cordial and brought some benefits such as the restoration of air communications and renewed transit of consumer goods. Even the *coup d'état* in Pakistan in 1977 did not disturb these positive trends in mutual relations. The new head of Pakistan, Zia ul-Haq paid a visit to Afghanistan in October 1977 and met with Daoud. In turn Daoud went to Pakistan in March 1978. As a result of these visits, Daoud abandoned his vision of an independent Pushtunistan, and Zia ul-Haq offered some form of autonomy for Pushtunistan. However, due to the *coup d'état* in Afghanistan in 1978⁴⁵ these proposals never materialised.

The new regime used the old arguments: "Pushtunistan's problem should be resolved with regard to the historical facts." President Hafizullah Amin¹ claimed "...unity [for] all Afghans from [the] Oxus to [the] Indus. What is more, he stated, "We can not leave our brothers on the opposite side of Khajbar."

The communist coup d'état complicated the situation, because the new regime tried to use the Pushtunistan case as a diversion to distract Afghan public opinion. The new regime used the old arguments: "*Pushtunistan's problem should be resolved with regard to the historical facts.*"⁴⁶ President Hafizullah Amin⁴⁷ claimed "...unity [for] all Afghans from [the] Oxus to [the] Indus."⁴⁸ What is more, he stated, "*We cannot leave our brothers on the opposite side of Khajbar.*"⁴⁹ After he became President, Amin's stand in respect to the Pushtunistan question became much more decisive. In his opinion Pushtunistan belonged to "*Great Afghanistan*". Similarly Amin's successor Babrak Karmal⁵⁰ called for the re-unification of all Pushtuns under Afghanistan's guidance. He named the North-West Frontier Province, which had been under British colonial and its successors rule, as the "*the sacred land.*"⁵¹

At the same time the status of Pushtunistan changed – from being territory lost to Afghanistan to a destination for emigration. Migration from Afghanistan to Pakistan increased considerably after the Soviet intervention in December 1979. Most of the emigrants found a place to live in North-West Frontier Province. For example, in Baluchistan there were 500,000, in Punjab 100,000, and in North-West Frontier Province 1.8 million refugees from Afghanistan.⁵² This caused many side effects, notably in demographic composition with changes to the proportion of different ethnic groups in the area and it also influenced the local economy – emigrants from Afghanistan monopolised transport in the northern part of Pakistan, and formed the largest group in the carpet industry.⁵³

The border problem between Afghanistan and Pakistan returned to prominence during the Geneva negotiation⁵⁴ following the Soviet withdrawal from Afghanistan at the end of the 1980s. The subject continued to cause discussion and controversy. The solution adopted at this time did not resolve any of the problems – the Durand Line was not confirmed as the international border between the two countries – and the questions remained open for further discussion. Article II, point 3 of the Accords arising from the negotiations stated that both countries were "*to refrain from the threat or use of force in any form whatsoever so as not to violate the boundaries of each other, to disrupt the political, social or economic order of the other High Contracting Party, to overthrow or change the political system of the other High Contracting Party or its Government, or to cause tension between the High Contracting Parties.*"⁵⁵

...the Taleban was not ready to acknowledge the validity of the Durand Line.

After the Soviet withdrawal from Afghanistan, civil war erupted between different groups of Mujahideen. Unexpectedly, nearly all groups of Mujahideen were defeated by a new power the Taleban. What was the connection between the Taleban and the Afghanistan-Pakistan border dispute? Pakistan hoped, among other things, that it would be easier to reach an understanding on Pushtunistan with a Taleban government. They also hoped for the repatriation of Afghan refugees in Pakistan, which had caused a great deal of trouble for their administration to date,⁵⁶ and that the Taleban would finally acknowledge the Durand Line as the international boundary between the two states. But as it transpired they were mistaken in their hopes, despite the close ties between these two regimes, the Taleban was not ready to acknowledge the validity of the Durand Line.⁵⁷

At the present time (December 2001), after the fall of the Taleban regime the question of Pushtunistan remains in limbo. The new Afghan interim government has more pressing responsibilities than the border controversy with Pakistan. First of all, there is a question of rebuilding the state, achieving peaceful reconciliation between various ethnic and tribal groups, and the creation of a new political order. The interim government is by definition short-lived, and whatever its ideas concerning Pushtunistan, it does not have scope for them. What is more, Pakistan's friendly neutrality is vital for the success of this new government. Secondly, the recent events in Afghanistan – the struggle with al-Qaeda and the hunt for Osama bin Laden – have led to the deployment of Pakistani regular forces in the Pushtun Tribal Areas, for the first time in fifty years (certainly in such strength). In this situation it may be assumed that the Pakistani hold on Pushtunistan is strengthened. Therefore it is likely that, for time being, the whole question of Pushtunistan will be put aside.

CONCLUSIONS

To summarise the consequences of the border dispute several points should be stressed. Firstly, every time the Afghanistan-Pakistan border was closed the Soviet Union gained an opportunity to extend its presence and interests in Afghanistan, influencing government policy, the economy and the army. This border became, metaphorically speaking, a Soviet gateway to Afghanistan. Up to the beginnings of the conflict with Pakistan, one of the main goals of Afghan policy had been to keep Soviet influences as far as possible from Afghanistan and to maintain equal distance with the two powers bordering Afghanistan. What is more, every crisis in Afghan-Pakistani relations meant further estrangement between Afghanistan and Western Europe and the United States. This in turn inhibited access to Afghanistan by specialists and technicians from international organisations and agencies such as the UNHCR and fostered the conviction in the United States and Western Europe that Afghanistan was not a stable country, resulting, it could be argued in stronger US support for Pakistan. Afghanistan's ties with the Soviet Union were seen as a proof that the country, in theory neutral, was in fact pro-Soviet.

As to the future of the dispute, it should be borne in mind that formally the question remains unsolved. It is still possible that in future, after rebuilding of the state, that Afghanistan can return to the Pushtunistan debate. It might then be used, once again, to divert Afghan public opinion from internal problems – the struggle for power between different political groups. Equally some other player might emerge who will try to use this dispute for his own goals.

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A version of this paper was presented at the IBRU/CMEIS conference 'Borders, Orders and Identities of the Muslim World', Durham 12-14 July 2000.

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- 27 The best example of this interference was the situation which arose shortly after Afghanistan signed an agreement with France connected with the exploration of oil fields in Northern Afghanistan. On 23 August 1952, the Soviet Union protested, pointing out that this agreement would be contrary to the Soviet-Afghan Agreement of 1926. See Fletcher, A. (1965): 244; Franck, P. G. (1955) 'Technical Assistance through the United Nations. The UN Mission in Afghanistan, 1950-1953', in Teaf Jr., H. M. and Franck, P. G. (eds.) *Hands Across Frontiers. Case studies in Technical Cooperation*, Ithaca, NY, Cornell University Press: 33.
- 28 Although reorganisation was carried out (September 30, 1955) and the North-West Frontier Province was liquidated, the Tribal Areas kept their autonomy. What is more, one more Tribal Area was created. Dupree, (1997): 490.
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