

## The Durand Line

About twenty-three miles south of Pillar XII, which is erected on the Saricol range of Pamir, lies the beginning of the "North West Frontier". Pillar XII is located at latitude 37°20'5"N and longitude 74°24'50"E. It was erected by a joint Anglo-Russian Commission in September 1895, on the left bank of a tributary of the Tegermen-Su river, one mile from its mouth; and it is the last among pillars, which carry the Russo-Afghan frontier from the eastern end of Lake Victoria (Wood's Lake) to the Chinese frontier.

The protocol embodying the final agreement was signed on July 22, 1887 and is known as the Pamir Agreement. The demarcated boundary according to the 'The Pamir Agreement' remains unchanged to this day. This border was internationally recognized as the border between the former Soviet Union and Afghanistan. Today this boundary is the internationally recognized border between the Central Asian countries (former Soviet republics as successor independent states of Uzbekistan, Turkmenistan, and Tajikistan) and Afghanistan.

The Afghan frontier turns west from Pillar XII and follows the northern ridge of the Sarikol Range bordering the Taghdumbash Pamir. It then curves southward over the Wakhjir Pass to join the present Pakistan-Afghan frontier, which is often referred to as the Durand line. While negotiating the Durand Line, Amir Abdul Rahman Khan of Afghanistan had received a British mission in a formal Durbar which was held in November 1893, in the Salam Khana Hall, where the civil and military officers of Kabul and chiefs of various tribes were present.

The Amir in his speech gave an outline to the audience of all the understanding which had been agreed upon and the provisions which had been signed, and urged upon them the necessity for adhering firmly to British alliance. He pointed out that the interests of Afghanistan and England were identical.

The Amir further 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.

The demarcation of the Durand Line was carried out in fulfillment of the 'Anglo-Afghan agreement' of November 12, 1893 between Amir Abdul Rahman Khan of Afghanistan and Sir Henry Mortimer Durand, Foreign Secretary to the Government of the British Raj (the former British colony in South Asia now composed of India, Pakistan and Bangladesh).

The demarcation of the Indo-Afghan frontier, as defined in the above mentioned agreement, was divided into sections and was carried out for the most part by the joint Anglo-Afghan Commission during the year 1894-1896. In 1947, the Indian sub-continent emerged as two independent dominions of India and Pakistan. West Pakistan by right of its location inherited the former North West Frontier of British India and the Indo-Afghan boundary established vide the agreement of 1893.

There are some circles who continue to spread disinformation that the agreement was signed under duress and has a validity of 100 years. It is therefore necessary to put the facts in the correct perspective as follows:

- The International Border between Pakistan and Afghanistan is based on the map attached with the original Agreement of 1893.
- Clause 6 of the Agreement clearly states that the agreement is regarded by both the parties as a full and satisfactory settlement of all the principal differences of opinion which have arisen between them. The Agreement has been reaffirmed by successive Afghan rulers.
- 1905 Treaty with Amir Habibullah Khan continuing the Agreements which had existed between the British Government and Amir Abdul Rahman Khan. Para 2 states “I also have acted, am acting and will act upon the same agreement and I will not contravene them in any dealing or in any promise.”
- Treaty of peace between the British Government and the Independent Afghan Government concluded at Rawalpindi on 8th August 1919. Article 5 states that “the Afghan Government accepts the Indo-Afghan frontier accepted by the Late Amir.”
- Friendly and Commercial Relations treaty between Great Britain and Afghanistan at Kabul on 22 November 1921. Article 2 of the treaty states that, “The two high contracting parties accept the Indo-Afghan frontier as accepted by the Afghan Government under Article V of the treaty concluded at Rawalpindi on 8th August 1919.”
- Notes were exchanged between His Majesty’s Government and Afghan Minister in London, 1930 (His Highness General Shah Wali Khan to Mr. Arthur Henderson), Afghan Legation 6th May 1930. Both parties agreed that it was their understanding that the Treaty of Kabul of 22 November 1921 continued to have full force and effect.
- On 13 June 1948, Shah Wali Khan, the Afghan envoy to Pakistan declared, “ Our King has already stated, and I, as the representative of Afghanistan, declare that Afghanistan has no claims on frontier territory and even if there were any, they have been given up in favour of Pakistan. Anything contrary to this which may have appeared in the press in the past or may appear in the future should not be given credence at all and should be considered just a canard.”

The Pak-Afghan International Border has sound technical and legal background. According to international law, treaties of the extinct state concerning boundary lines remain valid and all rights and duties arising from such treaties of the extinct state devolve on the absorbing state. Pakistan is a successor state of British India. The following is worth mentioning:

- A country to country treaty does not need any revision unless both parties desire change.
- International Agreement once finally concluded can be revoked only bilaterally and not unilaterally.

– Unless otherwise provided in the concluded treaty about its duration, the treaty becomes of a permanent nature. This is applicable to the 1893 Treaty Agreement.

– International Law does not lay down the maximum life period of one hundred years for an internationally concluded border agreement between the two states, when fixed border validity has not been mentioned in its text.

It goes beyond doubt to say that the international border between Pakistan and Afghanistan is a settled matter and is globally accepted. It is supported by International Law and the treaty of 1893 has been ratified several times by successive Afghan governments.

#### Durand Line / Treaty

As long as Afghanistan refuses to accept the Durand Line as the permanent international boundary between Pakistan and Afghanistan, there is no reliable way to combat extremism and terrorism in the region.

Durand Line – the present border between Afghanistan and Pakistan – was agreed to as official boundary line between the British Raj and Afghanistan on 12 November 1893. Sir Henry Mortimer Durand from the British side and Amir Abdul Rahman Khan from the Afghan side signed the historical document.

Pakistan and Afghanistan, as successor states, are bound to honor this agreement.

The present spread of religious intolerance and extremism in the region is, in great part, attributable to the fact that the successive and successor governments of Afghanistan have declined to accept the Durand Line as permanent boundary between the two countries. Uncertainty of the boundary rules and impermanent nature of the physical border are playing in favour of extremist elements on both sides of the dividing line.

Moreover, there was a whisper campaign a while ago that the Durand Line agreement was valid for 100 years and after that the document is legally null and void now. The original text shows that there is no time-expiry clause in the agreement.

Here is the complete text of the agreement:

Agreement

between

His Highness Amir Abdul Rahman Khan, G.C.E.I

Amir of Afghanistan and its Dependencies, on the one part,

and

Sir Henry Mortimer Durand, K.C.I.E., C.S.I.,

Foreign Secretary to the Government of India,

representing the Government of India, on the other part

Whereas certain questions have arisen regarding the frontier of Afghanistan on the side of India, and whereas both His Highness the Amir and the Government of India are desirous of settling these questions by a friendly understanding, and of fixing the limit of their respective spheres of influence, so that for the future there may be no difference of opinion on the subject between the allied Governments, it is hereby agreed as follows:

1. The eastern and southern frontier of His Highness's dominions, from Wakhan to the Persian border, shall follow the line shown in the map attached to this agreement.
2. The Government of British India will at no time exercise interference in the territories lying beyond this line on the side of Afghanistan, and His Highness the Amir will at no time exercise interference in the territories lying beyond this line on the side of India.
3. The British Government thus agrees to His Highness the Amir retaining Asmar and the valley above it, as far as Chanak. His Highness agrees on the other hand that he will at no time exercise interference in Swat, Bajaur or Chitral, including the Arnawai or Bashgal valley. The British Government also agrees to leave to His Highness the Birmal tract as shown in the detailed map already given to His Highness, who relinquishes his claim to the rest of the Waziri country and Dawar. His Highness also relinquishes his claim to Chageh [now, Chagai. Ed.].
4. The frontier line will hereafter be laid down in detail and demarcated, wherever this may be practicable and desirable, by Joint British and Afghan Commissioners, whose object will be to arrive by mutual understanding at a boundary which shall adhere with the greatest possible exactness to the line shown in the map attached to this agreement, having due regard to the existing local rights of villages adjoining the frontier.
5. With reference to the question of Chaman, the Amir withdraws his objection to the new British Cantonment and concedes to the British Government the rights purchased by him in the Sirkai-Tilerai water. At this part of the frontier, the line will be drawn as follows:

From the crest of Khwaja Amran range near the Pasha Kotal, which remains in British territory, the line will run in such a direction as to leave Murgha Chaman and the Sharobo spring to Afghanistan, and to pass half way between the New Chaman Fort and the Afghan outpost known locally as Lashkar Dand. The line will then pass half way between the railway station and the hill known as the Mian Baldak, and, turning southwards, will rejoin the Khwaja Arman range, leaving the Gwasha Post in British territory, and the road to Shorawak to the west and south of Gwasha in Afghanistan. The British Government will not exercise any interference within half a mile of the road.

6. The above articles of agreement are regarded by the government of British India and His Highness the Amir of Afghanistan as a full and satisfactory settlement of all the principal differences of opinion which have arisen between them in regard to the frontier; and both the Government of British India and His

Highness the Amir undertake that any differences of detail, such as those which will have to be considered hereafter by the officers appointed to demarcate the boundary line, shall be settled in a friendly spirit, so as to remove for the future as far as possible all causes of doubt and misunderstanding between the two Governments.

7. Being fully satisfied of His Highness's good-will to the British Government, and wishing to see Afghanistan independent and strong, the Government of British India will raise no objection to the purchase and import by His Highness of munitions of war, and they will themselves grant him some help in this respect. Further, in order to mark their sense of the friendly spirit in which High Highness the Amir has entered into these negotiations, the Government of British India undertake to increase by the sum of six lakhs of rupees a year the subsidy of twelve lakhs now granted to His Highness.

(Signed) H. M. Durand

(Signed) Amir Abdul Rahman Khan

Kabul, the 12th November 1893

Note: Original agreement is available in the national archive of Pakistan. This report has been produced from the copy available at the Area Study Center, Peshawar University.

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One Lakh = 100000

Views on the issue of Pak-Afghan border:

– Following independence, the NWFP voted to join Pakistan in a referendum in 1947. However, Afghanistan's loya jirga of 1949 declared the Durand Line invalid as they saw it as *ex patre* on their side since British India ceased to exist in 1947 with the independence of Pakistan and the Republic of India. This had no tangible effect as there has never been a move to enforce such a declaration. Additionally, world courts have universally upheld *uti possidetis juris*, i.e, binding bilateral agreements with or between colonial powers are "passed down" to successor independent states, as with most of Africa. A unilateral declaration by one party has no effect; boundary changes must be made bilaterally. Thus, the Durand Line boundary remains in effect today as the international boundary and is recognized as such by nearly all nations. Despite pervasive internet rumors to the contrary, U.S. Dept. of State and the British Foreign Commonwealth Office documents and spokespersons have recently confirmed that the Durand Line, like virtually all international boundaries, has no expiration date, nor is there any mention of such in any Durand Line documents. (The 1921 treaty expiration refers only to the 1921 agreements.)

– Afghanistan was created in 1747 AD by the Punjab-born (city of Multan in present-day Pakistan) Pashtun named Ahmed Shah Abdali. The fact is Abdali conquered the Tajiks, Hazaras, Uzbeks, Turkmens, Balochis, Punjabis, etc. This was a forceful occupation of various lands/peoples subdued to the Abdali monarchy. Per Encyclopedia Britannica, "Ahmad Shah began by capturing Ghazni from the Ghilzai Pashtuns, and then wresting Kabul from the local ruler. In 1749 the Mughal ruler ceded sovereignty over

Sindh Province and the areas west of the Indus River to Ahmad Shah in order to save his capital from Afghan attack. Ahmad Shah then set out westward to take possession of Herat, which was ruled by Nadir Shah's grandson, Shah Rukh. Herat fell to Ahmad after almost a year of siege and bloody conflict, as did Mashhad (in present-day Iran). Ahmad next sent an army to subdue the areas north of the Hindu Kush. In short order, the powerful army brought under its control the Turkmen, Uzbek, Tajik, and Hazara tribes".

– Now many people can argue that Afghanistan's creation was illegal because the land belonged to Persian-based Safavids/Sassanians/etc and South Asian-based Mughals/Mauryas/etc until Abdali's creation in 1747 AD. But the fact of the matter is people and its lands constantly evolve to new geo-political environments changing boundaries and nation-hoods. Prior to 1747 AD, the region of Afghanistan was ruled by Persian Achaemenians and Sassanians, Greeks, Scythians, Hephthalites, Arabs, Turks, Mongols, and many others (currently by NATO). Mauryas and Mughals ruled a large portion of present-day Afghanistan (almost all of Pashtun areas). By the way, the Muslim rulers of South Asia were mostly Turko-Mongols originating from Central Asia who also ruled the Pashtuns.

– Afghanistan's creation was legal in the same way Pakistan, Tajikistan, Uzbekistan, etc. were created later on. The boundaries between Iran and Afghanistan, Afghanistan and Pakistan, Afghanistan and Tajikistan/Uzbekistan/Turkmenistan, etc were created by the British and Russians. So the few Afghans beating the drum of Durand Line (Pak-Afghan boundary) is pointless. By the same token, all boundaries of Afghanistan are questionable. Why should only Pashtun areas of Pakistan be merged to Afghanistan? Afghanistan is a multi-ethnic country like Pakistan. Should Tajikistan lay claim to Tajik lands of Afghanistan, Uzbekistan to Uzbek lands in Afghanistan, Turkmenistan to Turkmen lands in Afghanistan, etc.?

– The mostly ethnicity-based countries like Tajikistan, Uzbekistan, & Turkmenistan have much more stronger claims to Tajik, Turkmen, & Uzbek lands of Afghanistan because Afghanistan is a multi-ethnic country like Pakistan, so a multi-ethnic Afghanistan has no right to claim only Pashtun lands of Pakistan. How about Pakistan claiming Pashtun lands of Afghanistan instead since Pashtuns are being oppressed in Afghanistan, Pashtuns in Pakistan are comparatively much more prosperous, and Afghans are desperate to flee to Pakistan. By the way, Pashtuns are not the only ethnic group divided between two countries, e.g. Azeris are divided between Iran and Azerbaijan, Tajiks between Afghanistan and Tajikistan, Uzbeks between Afghanistan and Uzbekistan, Turkmen between Afghanistan and Turkmenistan, Baloch between Pakistan, Iran and Afghanistan, Kurds between Iran, Turkey, Iraq and Syria, Arabs between many different countries, etc.

– If Durand Line of boundary is artificial then how valid are the boundaries between Afghanistan and Tajikistan, Uzbekistan, Turkmenistan, Iran, etc.... or all countries of Middle East (Sykes-Picot treaty).. created by former European colonialists such as the British, French, and Russians. Let's not forget the "Great Game" on how the Brits and Rusks created Afghanistan's boundaries as a buffer zone between them. We know how the Soviets created Tajikistan, Uzbekistan, and Turkmenistan... "In 1886 a Russian army fresh from its conquest of the Oasis of Merv, in today's Turkmenistan, occupied the Panjdeh Oasis near Herat. It was also the time of The first Great Game. Britain immediately warned Russia that any

further advance towards Herat would be considered as inimical to British interests. As a consequence of the May 1879 Treaty of Gandamak after the Second Afghan War, Britain took control of Afghanistan's foreign affairs. After the Panjdeh incident a joint Anglo-Russian boundary commission, without any Afghan participation, fixed the Afghan border with Turkestan, which was the whole of Russian Central Asia, now Tajikistan, Uzbekistan and Turkmenistan (though Tajikistan being part of Turkestan is questionable since Tajikistan is not a Turkic-speaking country). Thus as a consequence of the competition between Britain and Russia, a new country, the Afghanistan we know today, was created to serve as the buffer." .....Now on the Afghan-Iran boundaries created by the British/Russians, according to Encyclopedia Britannica, "In 1863 Dost Mohammad retook Herat from Iran with British acquiescence.... The boundary with modern Iran was firmly delineated in 1904, replacing the ambiguous line made by a British commission in 1872".

– In 1947 and beyond the Congressite followers of Badshah Khan continued to ask the Gandhi question "The Pathans should have had a choice between Afghanistan, Pakistan and India". The Muslim League had correctly argued that the British had no right to ask that particular question, since they did not ask Nagaland if it wanted to join Burma, nor did they ask Tamil Nadu if it wanted to join Sri Lanka. Thus the Durand Line became the border between Pakistan and Afghanistan.

– Knowing the bitter enmity between Tajiks/Hazaras and Pashtuns in Afghanistan, Tajiks/Hazaras will never allow Afghanistan to become 75% Pashtun (from 40%) by only integrating Pashtun areas of Pakistan.

– The word Afghan in the past might have referred to a Pashtun tribe(s), but that meaning evolved to another one. Today, an Afghan is defined as only a citizen of present-day Afghanistan regardless of ethnicity. There are countless other examples on how a word's meaning evolves to a different one over time.

– NWFP of Pakistan is not all Pashtun, large areas of this land are Hindkowi, Shina, Khowari, Gujjar, etc. most linguistically related to Punjabi. Majority of Balochistan is Baloch who also have bitter rivalry with the Afghans and do not want to be part of Afghanistan.

– Millions of Pakistani Pashtuns inhabit in the provinces of Punjab and Sindh such as cities of Karachi, Lahore, Islamabad... not to mention millions of Afghan refugees in Pakistan. Since the 1980s the Durand Line has been a porous line for men and material. During the Soviet occupation of Western/Northern Afghanistan, some portions of Eastern/Southern Afghanistan (at least the Pashtun portions) literally became part of free Afghanistan, a satellite of Pakistan. 6 million Afghans came to Pakistan as refugees. More than one million Afghan children were born in Pakistan.

– Pashtuns have much more in common with Pakistanis than with Afghans plus there are much more Pashtuns in Pakistan than in Afghanistan. Pashtuns are linguistically Indo-Iranic. Linguistically, Pakistanis are 99% Indo-Iranic, whereas Afghans are only 84% Indo-Iranic. Punjabi, Sindhi, Balochi, Kashmiri, Urdu (Hindustani), Pashto, & Dari are all Indo-Iranic languages which means they are related to each other and have a common origin. About 16% of Afghans are linguistically Altaic such as the Uzbeks, Turkmens, etc. These Altaic Afghans are linguistically distinct and unrelated to the Indo-Iranic peoples. Additionally,

Pashtuns are racially mostly Caucasoid as the rest of Pakistanis are also mostly racially Caucasoid (slightly mixed with a little Dravidoid, Mongoloid, Negroid and other few foreign bloodlines). On the other hand, Afghans are only 66% Caucasoid. Hazaras, Turkmens, Uzbeks, (and some Tajiks) etc. are mostly Mongoloid by race.

-Despite the Hazaras being **linguistically** Indo-Iranic, they share a common Altaic background with Uzbeks, Turkmens, Mongolians and other racially Altaic peoples.