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The American Institute
of Afghanistan Studies

THE DURAND LINE: HISTORY, CONSEQUENCES, AND FUTURE

CONFERENCE REPORT

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EXECUTIVE SUMMARY

From July 11 to 13, 2007, the American Institute of Afghanistan Studies (AIAS) and the Hollings Center convened in Istanbul a conference on the history, consequences, and future of the Durand Line, the contested border between Afghanistan and Pakistan which has become among the most important borders in the world. Participants included prominent scholars, policy analysts, and former senior government officials from Afghanistan, Pakistan, Europe, and the United States.

Imposed by British India in 1893 over Afghan objections, the Durand Line divided the Pashtun tribes living in the area and gave the British control of regions that would later become Pakistan's Northwest Frontier Province (NWFP). When Pakistan became an independent state in 1947, it declared the line its international border with Afghanistan. Successive Afghan governments over the next sixty years rejected this position, even though some of Afghanistan's actions have constituted de facto recognition of the line. Making the situation more complex is the existence of the Federally Administered Tribal Areas (FATA) within the Northwest Frontier Province. These areas remain outside the direct control of Pakistan's national government and its residents cross the border without restriction.

The deployment of international troops to Afghanistan in 2001 gave this old bilateral dispute a significant international dimension. The FATA region, long the major transit route for large-scale smuggling operations from Afghan territory into Pakistan, became a safe haven for Al Qaeda leaders and a base for the Taliban to conduct cross-border attacks on Afghanistan. Disputes over who has responsibility for dealing with these Al Qaeda and Taliban forces have soured relations between Pakistan and Afghanistan and heightened their mutual distrust. Because the insurgents believe they will not be pursued or attacked across an international boundary, the line's status and location now has practical consequences for American and NATO troops deployed there. This has led to a political paradox: why should American and NATO troops give such deference to a line that the Afghan government says should not exist and that the Pakistani national government has proved incapable of controlling?

The following **key findings and recommendations** emerged from the conference discussions:

- The consequences of the status quo for both Afghanistan and Pakistan are quite negative, but at present neither country is able to resolve the border issue on a bilateral basis.
- To ameliorate this situation, Afghanistan and Pakistan should devise and implement immediate border-related confidence building measures involving trade, transit rights, and security that would reduce the level of conflict and provide tangible benefits to both countries.
- But because such measures alone are not sufficient to resolve the border issue successfully, pressure by the international community—the United States in particular—is needed to get both sides to compromise in exchange for international long-term

security guarantees and a substantial aid package. The American government and its allies must take the initiative to bring the parties together in a dialogue that is more comprehensive than what either is willing to accept now, and to provide the incentives needed to help maintain progress.

- Key to this dialogue would be an acknowledgement, at least tacit, that the existence of the Durand Line has been the basis of an internationally recognized border for more than a century, despite disputes over its status and location. Delimitation of the border would be the last step in the process, not the first.
- Any eventual agreement must respect the long tradition of unhindered cross-border movement by residents of the area that neither Afghanistan nor Pakistan has the ability to halt.

INTRODUCTION

The Durand Agreement of 1893 made explicit the demarcation of the frontier between British India and Afghanistan. Imposed over Afghan objections, the Durand Line divided the Pashtun tribes living in the area and gave the British control over what would later become the Northwest Frontier Province (NWFP) and Baluchistan. From the very beginning, the line caused controversy by dividing communities and by creating a set of territories within the NWFP that remained under British sovereignty but outside of its colonial administration.

No Afghan government ever accepted the Durand Line as an international border. This refusal has continued for more than a century under regimes of all political stripes, some of which called for the reincorporation of the territory into Afghanistan or the creation of a new state of Pashtunistan. Pakistan, by contrast, has always insisted that the Durand Line constitutes its recognized international border with Afghanistan. However, following the practice of the British, Pakistan continued to recognize the autonomy of the tribes in the Federally Administered Tribal Areas (FATA), in which the writ of normal Pakistani law and government does not run. This has created problems for both countries and for the international community. FATA is the major transit route for large-scale smuggling operations from Afghan territory into Pakistan. FATA also serves as both a haven for Al Qaeda leaders and a base for Afghan Taliban to conduct cross-border attacks on the Government of Afghanistan and the international forces assisting it. Disagreement between Afghanistan and Pakistan over who has responsibility for dealing with such forces has disrupted relations between the two neighbors and heightened their distrust of each other.

Given the seemingly intractable nature of the dispute and its negative consequences for the region, the American Institute of Afghanistan Studies (AIAS) and the Hollings Center convened a conference in Istanbul from July 11 to 13, 2007, to look at the problem afresh. Twenty-four prominent scholars, policy specialists, and former government officials from Afghanistan, Pakistan, Europe, and the United States took part. The conference, designed to combine academic perspectives with policy-relevant analysis, was composed of four panels. The first panel examined the history and politics of the Durand Line agreement, including disputes about the international status of the line, its applicability to successor governments, and problems of self-determination. The second panel probed the social, political, and economic impact of the line on the Pashtun tribes in both Afghanistan and Pakistan. The third panel explored the current political and military situation in the trans-border region, with a focus on FATA, where major conflicts have erupted among Islamist groups, traditional tribal leaders, and the Pakistani government. The fourth panel looked at the future of the Durand Line and possible resolutions to the issue.

This report summarizes the major themes and conclusions of the conference.¹ The discussions immediately revealed that the Durand Line was the most divisive of a wide range of issues between Afghanistan and Pakistan that concern trade, national security, and cross-border movements. No solution to the Durand Line question can take place without resolving these

¹ This report was written by Thomas Barfield, president of AIAS, and edited by Amy Hawthorne, executive director of the Hollings Center.

other issues in the process. Hence much of the commentary and suggestions by conference participants extended well beyond the narrow issue of international boundaries. All the analyses and recommendations were multi-layered, taking into account the perspectives of the local populations most affected, the larger context of Afghan-Pakistani relations, and the global political and economic changes that have had a major impact on the region during the past thirty years.

Since the topic remains controversial and often emotional, the following summary may imply more of a consensus than actually existed. Interpretations of history, government policies, and possible paths toward reconciliation provoked debate and even disagreement because all participants had their own well-articulated positions that they expressed freely. The formulations and presentations of the conference's conclusions are therefore the responsibility of the organizers and do not necessarily reflect the views of individual participants on every issue.

THE HISTORY OF THE DURAND LINE

In 1893 Sir Mortimer Durand, the foreign secretary of the British colonial government of India, persuaded Abdur Rahman, the amir of Afghanistan, to accept a line of demarcation between Afghanistan and British India in return for a subsidy. This line, which ultimately extended 1,519 miles [see Map 1], had the immediate impact of removing from Afghan control a number of small territories historically administered by its amirs. More important, it arbitrarily divided the Pashtun inhabitants of the region between British India and Afghanistan. As an ethnic group, the Pashtuns inhabited a wide range of territory from the Peshawar Valley to Kabul in the east and from Qandahar and the Helmand Valley to Quetta in the south. Because Pashtuns had been the dominant ethnic group in Afghanistan since the mid-eighteenth century, Afghan amirs often portrayed themselves as the historic leaders of all Pashtuns even when they did not rule over them. Indeed, the terms 'Afghan' and 'Pashtun' tended to be used interchangeably during the nineteenth century. Because of long-established connections (political, economic, and cultural) among the various regional Pashtun populations, the Afghans viewed their division by the Durand Line as illegitimate. This was despite the fact that Afghanistan had failed to establish its own political authority over most of the territory that now fell under British control.

When Afghanistan became fully independent in 1919, it accepted the line as its *de facto* border with British India. But Kabul revived its earlier and more fundamental objections to the line's legitimacy when Pakistan came into existence in 1947. Afghanistan's most radical objection was that the Pashtun regions should not have had to choose between joining India or Pakistan, but should have been offered the additional options of becoming an independent state or joining with Afghanistan. Afghan leaders also argued that the various agreements between British India and Afghanistan, including the Durand Line, lapsed when the British left South Asia and were not transferable to the new state of Pakistan. And even if Pakistan were deemed a legal successor state, the Afghans argued, the Durand Line remained illegitimate because they had been coerced by the British into accepting the agreement. Although they might have agreed on nothing else, since that time successive Afghan regimes in Kabul (monarchist, republican, communist, Islamist, and democratic) have all maintained the policy of refusing to grant *de jure* recognition to the existing border with Pakistan, souring relations with that country for the past

sixty years. But Pakistan too has been less than forthcoming in dealing with the problems associated with a frontier population in its own territory that it has never been brought under direct state control and that refuses to accept the legitimacy of a border that divides local communities.

The Durand Line is far more apparent on printed maps than it is on the ground since local populations have never paid much attention to it. It runs through a rugged and arid mountainous region inhabited by subsistence farmers living in scattered villages. People cross the border at will and do not treat it as a boundary. This is hardly surprising since it is poorly demarcated in most places, and not demarcated at all in others. Because state authority has always been weak to non-existent in the area of the line, no one ever policed the border. Both Afghanistan and British India instead used indirect forms of rule that relied on *maliks*, or tribal elders, to settle problems and to ensure security by means of armed local militias. National military forces were confined to small bases and rarely ventured into the region. Pakistan retained the British policy after independence when it struck a 1947 agreement with local tribal elders not to base troops in the Khyber, Kurram, and South and North Waziristan Agencies. Pakistan's military bases elsewhere in the area consisted of isolated cantonments.

For this reason, the dispute between Afghanistan and Pakistan over the status of the border was largely theoretical and had little or no impact on the local population. Both sides worried about the ability of the other to stir up trouble in the region, but such crises tended to be episodic rather than endemic. When it came to provincial administration, trade, and establishing formal border crossings, Afghanistan's actions gave the line *de facto* recognition. Indeed, the line served to generate revenue since it became a center for marketing smuggled goods into Pakistan.

This situation changed dramatically in 2001 when the United States toppled the Taliban in Afghanistan and demanded that Pakistan take responsibility for dealing with Islamist groups who had fled into their territory. With American troops based in Afghanistan's border areas, the question of where the border was and Pakistan's responsibilities for maintaining order in its own territories has acquired international significance. The old political compromises that left the frontier region unpoliced and ungoverned by Pakistan's national government now facilitated the emergence of violent jihadists that sought to topple governments in both Kabul and Islamabad. But the urgent need for cooperation between Pakistan and Afghanistan to deal with this problem has been hindered by the long-festering dispute between the two countries over the Durand Line.

CHARACTERISTICS OF THE LINE

If Tolstoy were writing about international border disputes, he might have remarked that all happy boundaries are alike while each unhappy boundary is problematic in its own way. The Durand Line has been more problematic than most because of the nature of the frontier between Afghanistan and the British Raj at the time it was imposed. Unlike Afghanistan's international boundaries with Russia in the north or Iran in the west that were recognized as such by all parties at the time, the status of the Durand Line remained unclear. This is because the British viewed their negotiations with the Afghans as an internal colonial issue rather than as an international one. Britain was not so much interested in setting Afghanistan's eastern boundary as in reorganizing its own administration of what would later become the Northwest

Frontier Province (NWFP) [see Map 2]. With its capital in Peshawar, the NWFP was designed to provide a separate unit of administration for British India's Pashtun population.

Moving outward from Peshawar, the British mapped out a concentric set of administrative territories, each under proportionately less colonial control. The 'settled zones' of the NWFP fell under direct British administration. The neighboring 'tribal zones,' which were deemed too difficult or too costly to rule directly, were divided into Tribal Agencies that fell under British sovereignty but otherwise were largely left to govern themselves internally. The Durand Line represented the outermost limit of British control, separating its territories from those areas under the authority of the amirs of Afghanistan. On this basis the Afghans have always claimed that the agreement never constituted a formal border, but rather an agreed-upon frontier between them and the British. At the time, this was a distinction without much meaning in practical terms. But whether the line constitutes a boundary or a frontier still lies at the heart of the continued legal differences between Pakistan and Afghanistan on the issue.

There is a difference between a boundary and a frontier. An international boundary marks a separation (natural or artificial) between two contiguous states. A frontier is the portion of a territory that faces the border of another country, including both the boundary line itself and the land contiguous to it. The historic Afghan position is that the formal boundary to this frontier has yet to be set. Just where it should be set has never been stated explicitly. Proponents of Pashtun ethnic unity who see the Afghan nation as extending well beyond Afghanistan itself set their boundary at the Indus River to create a Pashtunistan, an ethnic Pashtun state carved out of Pakistan's territory, that might or might not be merged with Afghanistan. Others would draw the boundary at the limits of the settled zones of the NWFP since the Frontier Agencies were never directly administered by the British. Proponents of this view note that the residents of the frontier straddling the Durand Line have never treated it as a legal border and cross it freely without restriction or hindrance. Still others would accept the existing line but only as part of a negotiation with Pakistan that extracts some quid pro quo on other issues of concern to the Afghans.

By contrast, Pakistan has always taken the position that the Durand Line is a formal international boundary and that whether or not it constitutes a frontier is moot since, as a successor state to the British Raj, it claims legal title to the lands up to the line. From Pakistan's point of view, the issue is not open to negotiation, even though Pakistan, like the British, never succeeded in establishing direct state administrative authority in the old Tribal Agencies, now renamed the Federally Administrated Tribal Areas (FATA). These included the seven semi-autonomous agencies previously created by the British (Bajaur, Khyber, Kurram, Mohmand, Orakzai, South Waziristan, and North Waziristan) as well as the NWFP tribal areas adjoining Peshawar (Kohat, Bannu, and Dera Ismail Khan) [see Map 2, inset].

It is the anomalous status of the FATA region that makes the boundary question so difficult to solve. National Pakistani law does not apply in these territories and the central government has only indirect control over its people. Men proudly and publicly bear arms, sell untaxed smuggled goods in public bazaars, and make and sell weapons. They have ignored Islamabad's demands to stop providing sanctuary for local and foreign jihadists seeking to topple the governments in Kabul and in Islamabad and plotting acts of international terrorism. In most

boundary disputes there is no room for autonomous non-state actors: the recognition of a state's legal title to a territory assumes it has both the will and the ability to exert its authority over it. Here, we have a situation in which a putative international boundary abuts a territory over which a state claims de jure title but does not exert de facto authority over the people who live there. As one participant observed of this conundrum, "Why should Afghanistan recognize a border for which Pakistan refuses to take responsibility?"

For this reason, participants agreed that the Durand Line was less a boundary dispute than a gloss for a core set of unresolved social, economic, and political relationships that affect domestic politics in each country as well as the bilateral relationship between Pakistan and Afghanistan. As a haven for Islamist non-state actors keen to disrupt the existing international political order through terrorism, the frontier region also has become a center of instability with worldwide consequences. This last problem feeds back onto the first—each country sees the developments in the frontier regions as having a direct impact on its own internal security and political stability.

Under these conditions, arguing about the historical basis of the dispute or what each party intended at the time has little current relevance. The agreement was made at a time when European powers created buffer states and spheres of influence that ensured that their respective colonial empires never shared a common border. Post-colonial nation states across the globe generally have accepted the legitimacy of such boundaries even though they were imposed by colonial rulers. The reason for this has been practical. The disputes that would arise from questioning and disputing these boundaries would be never-ending, threatening the stability of the world's existing nation-state structure. While the Durand Line is arbitrary and divides a common ethnic group, these features are hardly unique. Nor is the dispute ultimately a legal one. Even if the government of Pakistan or Afghanistan were to prevail in some international tribunal, neither nation would be able to enforce such a judgment without the active cooperation of the other and the acquiescence of the people who live in the border region.

WHO WANTS WHAT AND WHY?

Looking at the positions of the different stakeholders, the conference concluded the following:

- Pakistan's interest with regard to the Durand Line is to maintain the status quo.
- Afghanistan's intentions and desires for the line are unclear and lack uniformity, although the contradictory actions of the Afghan state have constituted a de facto recognition of the border. Such actions began with Afghanistan's acceptance of annual subsidy payments in exchange for signing the Durand Agreement. Despite its objection to the border, Afghanistan has treated it as an international boundary when dealing with international travelers and transit trade.
- The local inhabitants of the frontier are content to see the border issue remain unresolved because it makes it easier for them to reject state authority of all types. Such ungoverned territories are also attractive to foreign Islamist radicals who need a safe haven where they can base themselves beyond the reach of state authorities.

- The international community, through its actions in the ‘Global War on Terror,’ has implemented a de facto recognition of the border. The United States instructs its troops not to cross into Pakistan, even in hot pursuit of armed insurgents, and gives deference to Pakistani assertions of sovereignty even in regions beyond Islamabad’s control. It sees the ongoing dispute between Pakistan and Afghanistan as an undesirable distraction to bringing stability to the region.

Pakistan and Afghanistan: Exploring Their Divergent Views

The discussion contrasted Pakistan and Afghanistan as states with different strengths and weaknesses that affect their willingness and ability to settle the border issue. Afghanistan today can be described as a strong nation but a weak state, while Pakistan is a strong state with no strong sense of nationhood. Each therefore has different sets of vulnerabilities and different constituencies it must satisfy.

Afghanistan’s current central government is institutionally fragile, but this weakness is counterbalanced by a strong sense of national unity that has developed among its people over the past thirty years. Despite the collapse of central authority and the rise of ethnically based militias in the 1990s during the Afghan civil war, the country never experienced the threat of partition because none of the factions saw this as a useful outcome. Each wanted a stronger position within the Afghan polity, rather than independence from the Afghan state or amalgamation with co-ethnics in neighboring states. This was because Afghans’ sense of national unity, particularly after their success in the anti-Soviet war, was rooted less in ethnicity than in the will to persist together, united by common experience. Even in the absence of a state administration in Kabul, Afghans never feared that their country might disintegrate.

By contrast, Pakistan never developed a secure national identity. It has been preoccupied throughout its history by fears of internal disintegration. West Bengal seceded from Pakistan after a bloody civil war to become Bangladesh in 1971. Baluchistan and the NWFP have been periodic sites of violent revolts against Islamabad’s rule. To counteract such divisive forces, strong central governments in Pakistan have fallen back on the powerful military and bureaucratic institutions inherited from the British to impose their will on the country’s regions. But as long as Pakistan is held together by force rather than through the consent of its people, the country’s underlying identity issues will remain unresolved and a continuing source of internal tension.

These different weaknesses have had a direct impact on each country’s willingness and ability to address the question of the Durand Line. Because the Afghan state is so unstable internally, its leaders are unwilling to negotiate for fear that their domestic political opponents will use the issue to topple them. It would be easy for them to portray any compromise as a national betrayal because the issue is so laden with emotion and driven by nationalistic interpretations of history. These interpretations have deep roots. Afghan nationalists still see Peshawar, Afghanistan’s old winter capital, as having been stolen from them by the Sikhs in 1834. They argue that the country’s nineteenth-century amirs were too willing to compromise with the British to maintain their own power and therefore allowed the Pashtun nation to become divided rather than fight to defend it. Even today, most Afghan maps do not label the territory across the border as Pakistan, but as Pashtunistan. On such maps, Pakistan (if it even appears at

all), begins at the Punjab [see Map 3]. Indeed, Pakistan has been so readily blamed for problems in Afghanistan (some real, some imagined) that politicians fear being labeled soft on the issue. For this reason, governments in Kabul historically have avoided even raising the possibility of compromise in public discussions. The government of President Hamid Karzai has proved no exception.

As leaders of a strong state administration, Pakistani regimes do not fear that the outcome of any agreement would jeopardize their political stability. Instead, they are concerned that by agreeing to enter into any discussions with Afghanistan on the border they would open up other issues about which Pakistan remains acutely sensitive internally: its lack of national integration and fear of separatism. Any flexibility toward Afghanistan might be seen as a sign of internal weakness that could be exploited by separatists who have long argued that Baluchistan and the NWFP are colonies of Pakistan rather than equal partners in a federal union. A strong Pakistani state with a weak sense of nationhood therefore asserts its sovereignty along the Durand Line as a symbol of state power that cannot be challenged. The intended recipient of this symbolic message is less the Afghans than Pakistan's own Pashtun population in the FATA region. They may be free to cross the line at will, but the existence of a non-negotiable border means they will always remain an intrinsic part of Pakistan and should have no illusions that they will ever be independent or join with Afghanistan.

The rivalry over who represents the Pashtuns is tied into this problem because the Durand Line divided their communities between two states and made the definition of Pashtun identity a political issue. Even in the late nineteenth century, there was a significant distinction between Pashtuns who historically lived under strong governments in places like Qandahar and Peshawar and those who lived in self-governing communities in regions beyond the reach of state administration. Those in the self-governing areas tended to assert that they were the only true Pashtuns since they included political autonomy as a key aspect of Pashtun identity. The majority of Pashtuns who lived in areas under state administration focused on a broader definition that declared an ethnic unity based on Pashtun descent and speaking Pashto. Ethno-nationalists gave these internal divisions little importance because they defined Pashtuns by contrasting them with other ethnic groups such as Punjabis, Tajiks, Sindhis, or Turks.

Over the past sixty years, however, the national division between Pashtuns in Afghanistan and those in Pakistan has undermined the ethno-nationalist assertion of common unity among all Pashtuns. This historical experience is often downplayed by ethnic nationalists, but it has become very significant. For example, Pashtuns in Afghanistan are members of the dominant ethnic group that controlled the government there for more than two centuries. Pashtuns in Pakistan are a minority group in a much larger population that sees itself as disadvantaged politically. The levels of economic development have also diverged considerably. The standard of living for Pashtuns in the settled regions of Pakistan is higher than for those residing in Afghanistan. During the Soviet war many millions of Pashtuns sought refuge in Pakistan's NWFP and Baluchistan, but their common ethnicity did not transcend the national divisions. The differences have had an impact on Pashtun nationalism, particularly on the desire to create an independent Pashtunistan. It appears to be growing less significant in Afghanistan but more significant in Pakistan's NWFP, where such nationalism is set in opposition not only to Islamabad but to radical Islamists as well. Islamists have undermined ethnic and tribal unity

through their emphasis on a global pan-Islamic identity. But Pashtun nationalists have always noted that Pashtun identity is rooted in traditions older than Islam.

Because of these difficulties, the conference concluded that the time is not yet ripe for achieving an agreement, even though the border's status remains the key irritant dividing Pakistan and Afghanistan. Afghanistan retains an entrenched sentiment of opposition that has been stoked by decades of hostile rhetoric. No government there has been willing to take a political position that was not extreme. Breaking this pattern would require a much stronger government than now exists in Kabul willing to challenge this sentiment. Even opening the debate in a country that has barely established new political institutions might prove too risky in the short run. In the long run, however, because its national cohesion would not be threatened by recognizing the existing boundary with Pakistan or making other compromises, Afghanistan actually has considerably more flexibility than Pakistan in seeking alternative outcomes. In line with past practices, an Afghan government would attempt to share the responsibility of accepting any agreement by demanding it be ratified by a national *loya jirga*, or grand assembly, that would be harder for rejectionists to declare illegitimate.

For Pakistan, the main difficulty is that its own house is not in order. The central government's growing problems in controlling the FATA region and Baluchistan only entrench its suspicions that discussions about trans-border issues are just a smokescreen designed to empower separatists there. Far from acting confidently as a powerful nuclear-armed state, Pakistan continues to display a 'psycho-political insecurity,' as one participant termed it, that makes even a weak Afghanistan appear a threat. This manifests itself over issues that appear relatively minor to outsiders (such as the number of Indian consulates in Afghanistan) and in more fundamental ones (such as the degree of influence Pakistan has a right to expect in the internal politics of Afghanistan and its willingness to turn a blind eye to Taliban activities along the border).

Thus, if Afghanistan's problem is lack of a government strong enough to compromise, participants suggested that Pakistan's problem was the opposite. It was suggested that no fruitful negotiations will be forthcoming until Pakistan can evolve into a federal democratic state that willing to accept the possibility of a softer border policy without seeking to influence the future of Afghanistan. This is least likely under a military regime. But it could result if Pakistani politics take a more democratic turn in which settling the border issue would be linked with internal reforms to better integrate the FATA region into Pakistan's body politic.

The People of the Frontier

Participants agreed that the status of the FATA region and its people constitutes a core issue that hangs over the binational aspects of the Durand Line. The main elements include the political status of the FATA region and its people, their historic disregard for the boundary, and their ties to the broader world.

Drawing the Durand Line began a process that resulted in an unusual system of administration in which the peoples on the British side of the line retained stateless autonomy within an imperial system that declared sovereignty over their lands. The British system maintained this indirect control by appointing clan leaders as chiefs of their local communities under the supervision of British tribal agents. Special laws under the Frontier Crimes Regulations (1901)

gave the colonial administrators sweeping powers to deal with individuals and whole groups outside of the normal judicial process. They could and did burn houses, ban people from the region, stop trade, and impose large collective fines or other punishments without right of appeal.

When Pakistan became independent, it chose to maintain the anomalous status of the FATA region rather than to incorporate its people into the new state with the same rights and responsibilities as other Pakistani citizens. Thus even today Pakistan cites the Frontier Crimes Regulations as its legal justification for imposing collective punishments that apply not only to residents within FATA but also to members of their tribes living outside it. In addition, Pakistan maintains the same system of tribal agencies and indirect rule established by the British. This makes it very difficult for Pakistan to deal with the border question without first tackling its internal administration of the frontier. No international settlement can be expected as long as Pakistan continues to treat the people in the FATA region as colonial subjects rather than as full citizens.

For the people who live along it, the Durand Line has never constituted an international border. They act as if it does not exist, crossing freely from one side to another as they please wherever they please, in part because in many places the line's location is only vaguely known. There are villages located in Pakistan that have their farmland in Afghanistan and vice versa. Governments recognize this fact by not demanding papers from local people even at formal border crossings. In this regard, one participant familiar with police issues noted that about half the population of the Pakistani border town of Chaman on the road to Qandahar crosses the border daily into Afghanistan. This includes the Afghan police employed at Spin Boldak border crossing a kilometer away who commute to their post from homes in Pakistan.

Given this history, the conference concluded that even if there is a bilateral agreement between the Afghan and Pakistani states, at the local level it must include a soft border provision that permits regular travel, work and trade by local residents. Afghanistan's vehement opposition to a 2006 Pakistani proposal to fence the border is recognition of this fact. The difficulty here is that such a soft border requires strong states on either side to prevent security problems or criminal activity. Neither side is yet in a position to secure the region in a way that would allow this.

The local disregard toward the Durand Line is only one aspect of the region's resistance to state penetration of all types. Although this is most pronounced in the FATA, such resistance also characterizes the Pashtun tribes on the Afghan side of the frontier as well. Pashtuns in the region take great pride in asserting their autonomy and declare that their *Pashtunwali* tradition and tribal *jirgas* supersede state law codes and courts. *Pashtunwali* is both a code of honor and a code of conduct that structures individual and group behavior in a way that allows communities to govern themselves in the absence of formal government. In political terms they see themselves as members of stateless societies that owe little or nothing to the national governments that now declare sovereignty over them. Their identity is not constituted in terms of states but in terms of tribes and localities. Even 'tribe' may be too concrete a gloss for *qawm*, or solidarity groups that change from situation to situation. In such a system who you are is what your individual interests are, and these may diverge from the people you have allied with

(or opposed) in the past. Such groups of people act together in ways that are improvised and compromised and in which personal motivations rather than fixed ideologies define differences. Success means picking your way through a complex world to gain advantages where you can and then moving on. While such groups have an enormous ability to act collectively on a temporarily basis they find it all but impossible to make these ad hoc alliances permanent. There is no promise that what happens today will be replicated tomorrow. For this reason, their explanations of events often appear rooted in the particulars of persons, places, actions or moments of history. State actors have a hard time appreciating the dynamics of such a system. They see regularities where they do not exist, attribute to tribes a greater degree of unity than they actually possess, and find themselves ill-equipped to deal with personality-driven politics that may be as changeable as the weather.

The conference concluded that it would be a great mistake to treat the Pashtuns residing in the frontier as members of timeless communities isolated from the modern world. In reality, they are far from isolated: they have networked successfully into globalization, though sometimes in ways that have had a negative impact. For example, the region would not have become a center for Islamic radicalism without funding from other parts of the Islamic world and ties among international jihadists that have attracted groups with origins far from Pakistan's borders (Chechens, Uzbeks, Arabs, Indonesians, British, and others). What often is described as a timeless and unchanging way of life is to a large degree an illusion created by the persistence of subsistence agriculture, indigenous styles of clothing and architecture, and a 'traditional tribal organization.'

In fact, the region's subsistence agriculture has never created a viable economy and historically forced its residents to seek economic opportunities elsewhere. This is a pattern that has existed for centuries, but is at a much higher level today as residents find work in Pakistan's cities and abroad, particularly in the Persian Gulf. Remittances from such workers constitute a major and growing part of the FATA economy because of the lack of economic development within FATA. Pakistani governments have persistently failed to invest in education, health, and development for the region; Afghan governments have never had the means to do so. Because of this, the FATA economy in terms of infrastructure and education more closely resembles Afghanistan than other regions of Pakistan. It should come as no surprise, then, that that a multi-billion dollar trade in untaxed goods from Afghanistan into Pakistan remains one of the largest sources of income for groups living astride the Durand Line.

The wars in Afghanistan also have brought about many changes over the past thirty years. They encouraged the development of new social, political, and economic links on both sides of the frontier that drew communities on both sides of the Durand Line together, blurring the boundary rather than hardening it. War-driven improvements in ground access across difficult terrain, such as the construction of at least twenty roads from FATA into Afghanistan during the Soviet era, facilitated cross-border integration.

The other major changes were political: the rising importance of religious leaders and parties coupled with a significant increase in foreign money and influence that competes directly with Islamabad for control and influence. Previously, religious leaders had only limited political influence because Pakistan maintained the British policy of subsidizing tribal maliks and of

reinforcing the importance of tribal groups as the key political units. This changed when subsidies began to be funneled to religious leaders and Islamist political parties during the anti-Soviet war and has continued with Pakistan's support of the Taliban. This undermined the traditional authority of the clan leaders that the British and Pakistanis had historically used as their agents for dealing with local communities. In the process, Islamic identity began to supersede tribal differences and make them less relevant. In the era following the attacks of September 11, 2001, the international financial support that Al Qaeda and the Taliban have received from the Arab world, particularly from Islamists in Saudi Arabia and other Gulf states, has allowed these groups to set their own agenda and has made them rivals to Islamabad for influence in FATA. Such foreign influences mean that security in the frontier is no longer a regional binational issue but a global one.

It was the conclusion of the conference that the influence of Al Qaeda and other radical Islamist groups is not a passing phenomenon. Their call for a caliphate system in which there are no national states appeals to the Pashtuns who have long rejected such states for their own non-religious reasons. Such a stateless structure also provides sanctuary for foreign jihadists, many of whom have now been in the region for decades and have established deep connections with their Pashtun hosts through marriage alliances. Relationships between these foreign groups and local Pashtuns vary considerably. Uzbeks buying land in Waziristan recently appear to have alienated their Pashtun hosts and provoked conflict, but many Arab and Chechen groups have integrated themselves into Pashtun society.

The International Perspective

There is no formal international position on the Durand Line, simply a de facto one that recognizes it as a real border. No other state has accepted Afghanistan's position that it is not such a border. So why should there be any international pressure on Pakistan to negotiate about an issue that other governments see as just an irritation and a distraction?

The reason is that since September 11, 2001, FATA has been viewed as a site of global insecurity that can be controlled only when Pakistan takes responsibility for its territory and extends the structures of the state into the region, particularly through expanding opportunities for economic development and education in the FATA region. This is quite difficult because the security situation is currently poor, which makes launching large development projects there difficult. The Durand Line also exacerbates the problem because it prevents such development from occurring simultaneously in FATA and in neighboring Afghan provinces. Afghanistan's refusal to give de jure recognition to the border therefore stands in the way of a comprehensive development program that would have much more impact than would parallel developments in each country.

Having driven the Taliban and Al Qaeda from Afghanistan, the United States and its allies are particularly keen to end FATA's (and to a lesser extent Baluchistan's) ability to serve as center of Islamic radicalism that promotes international terrorism and seeks to destabilize Afghanistan. The presence of U.S., NATO, and Afghan combat troops along the Durand Line gives the border issue some practical urgency as well since the insurgents they fight retreat back into Pakistan in the belief that they will not be pursued or attacked across an international boundary.

This U.S. respect for a boundary that the Afghan government says should not exist throws the problems of the Durand Line question into sharp relief.

From the perspective of the international community, negotiations between Pakistan and Afghanistan can resolve the problems between them only if they tackle them as a set of interrelated issues. Discussions limited to recognition of the Durand Line as a *de jure* international boundary would not bring stability in the region even if they succeeded. And no government in Afghanistan would be willing to pay the political price for accepting the border unless such an agreement were part of a broader package designed to make the country more secure. At a minimum, such a package would include trade, security, and non-interference in each other's domestic affairs. In particular, as a landlocked country, Afghanistan has long-standing concerns about its access to trade through the port of Karachi and obstacles to its transit trade with India.

But Pakistan also has much to gain from broader negotiations. Pakistan's economy and tax base is distorted by the billions of dollars in goods smuggled into the country through Afghanistan. The drug trade also transits the region. An agreement on trade with Afghanistan would be the only way to begin getting control over this problem. Pakistan also has its own security concerns that could be addressed, such as the fear that India may attempt to use Afghanistan as a base to 'encircle' it. While Afghanistan is concerned about Pakistan's support of the Taliban, in times past it has been Pakistan that has been concerned about Afghanistan's tacit support of Pashtun and Baluch separatists that a hostile Afghan government could harbor. It would be in the interests of both countries to cooperate and to expel foreign elements in the region that threaten the security of both. Given the high level of distrust between the two countries, the international community must take the lead in bringing them together and in guaranteeing the implementation of the results.

The international community is also needed to strengthen regional security. As noted earlier, the conference concluded that only a soft border solution would work in a region where local people have historically had right of free passage. But it was also observed that soft boundaries require strong states to maintain them. That is, to make its interior borders invisible locally (such as European Union borders are), cooperating states must maintain harder external borders through effective regional security cooperation. To note that such security is currently absent in Pakistan and Afghanistan is to engage in understatement.

It would be much easier to maintain security, however, if the Durand Line was not a disputed boundary between two antagonistic states but rather the center of a regional cooperation scheme that enforced similar levels of authority on both sides of the frontier and cooperated in preventing activities hostile to each other. This is particularly important for Afghanistan because it lacks the economic capacity to provide for its own internal security without massive foreign subsidies. In order for Afghanistan to sustain a smaller military without a subsidy or foreign presence, it will require a reduction in the regional threat environment that only such a cooperative agreement with Pakistan could bring about. Specifically, it needs Pakistan to end its covert support of the Taliban and to stop its territory from being used as a base for attacks on Afghanistan. But some participants suggested that Pakistan may be manipulating the situation in the FATA region to achieve a continued strategic relationship with the United States that

provides it with military and financial assistance. It was noted that the United States ended its aid to Pakistan soon after the Soviet Union withdrew from Afghanistan and resumed aid only after it returned to dislodge Al Qaeda from Afghanistan after the attacks of September 11, 2001. Under this pessimistic scenario, if peace and stability were to be restored, the aid would end; thus continued trouble along the frontier generates a greater benefit to Pakistan than does seeking accommodation with its neighbor.

CONCLUSION: MOVING FORWARD

The conference reached a general consensus that while the status quo is not likely to change soon, the consequences of that status quo must change. It is in the interest of both Afghanistan and Pakistan to reduce the current tensions between them and to seek settlement of the broad range of issues that divide them. A successful solution will also require the consideration of the needs of, and participation from, the people who actually live in the border regions. Because neither Afghanistan nor Pakistan has displayed the will or the capacity to move toward a quick resolution of the border question, the process should begin with confidence-building measures that would be easier to achieve and would at least reduce tensions. At a minimum, these would include the end of the reflexive resort to hostile rhetoric that each government directs at the other. Some participants suggested that a series of Track II dialogues would be the best next step. Others contended that such dialogue would be largely ineffective unless each side was convinced the other was serious about seeking a resolution. Smaller-step measures were therefore recommended as most practical and as providing a better starting point. These could include discussions on easing conditions for trade and transport, creating a commission to consult the border communities, and forging closer security ties on problems of common interest. The ‘peace jirga’ held by the Afghans and Pakistanis in Kabul in August 2007 offers a beginning to such a forum.

All participants agreed that this very complicated situation would not be resolved simply by generating good feeling: the issues that divide the two countries are too serious. Many participants believed that only considerable outside pressure from the United States could bring the parties together as part of a dialogue that would be more comprehensive than either party is willing to accept now. This framework would involve the following:

1. Acknowledgment, at least tacit, that the Durand Line has served as an internationally recognized border for more than a century, whatever the ‘truth’ of its past status. Debates on the history of the agreement and its status during various historic eras have impeded rather than facilitated a settlement. While some changes might be desirable and subject to land swaps, any resulting border is likely to follow the current line very closely and will not result in wholesale transfer of sovereignty.
2. Because of the existing cross-border ethnic ties and difficult topography of the region, any agreement would have to recognize the rights of the local population to cross the border freely as they do today. For such a soft border to be truly functional, however, Afghanistan and Pakistan must demonstrate their ability to control their respective territories. The current lack of governance in these territories is unsustainable. This will require Pakistan to regularize the political status of the FATA region and Afghanistan to respect the choices of the people there.

3. All participating parties, including international ones, should seek to devise and implement border-related confidence building measures between Afghanistan and Pakistan, including trade, transit rights, and security measures that reduce the level of conflict between the two countries and provide benefits to both. The de jure recognition of the border should not be a starting point of discussion but a final status issue that will ripen over time as other problems are addressed.
4. The American government and its allies must be willing to take the initiative in bringing the parties together and provide the political incentives needed to help maintain progress once they have started the process. Pakistan needs assurances from Afghanistan that it will not contribute to Pakistan's security problems (particularly in Afghanistan's relationships with India). Afghanistan needs free access to ports, particularly Karachi's, help with its economic security, and an end to Pakistan's interference in its domestic politics.
5. In a region where political outcomes depend so much on perception, demonstrating concrete progress will be key to any successful outcome. International long-term security guarantees and a substantial aid package that benefits both Pakistan and Afghanistan may be necessary to achieve these goals.

ABOUT THE AMERICAN INSTITUTE OF AFGHANISTAN STUDIES

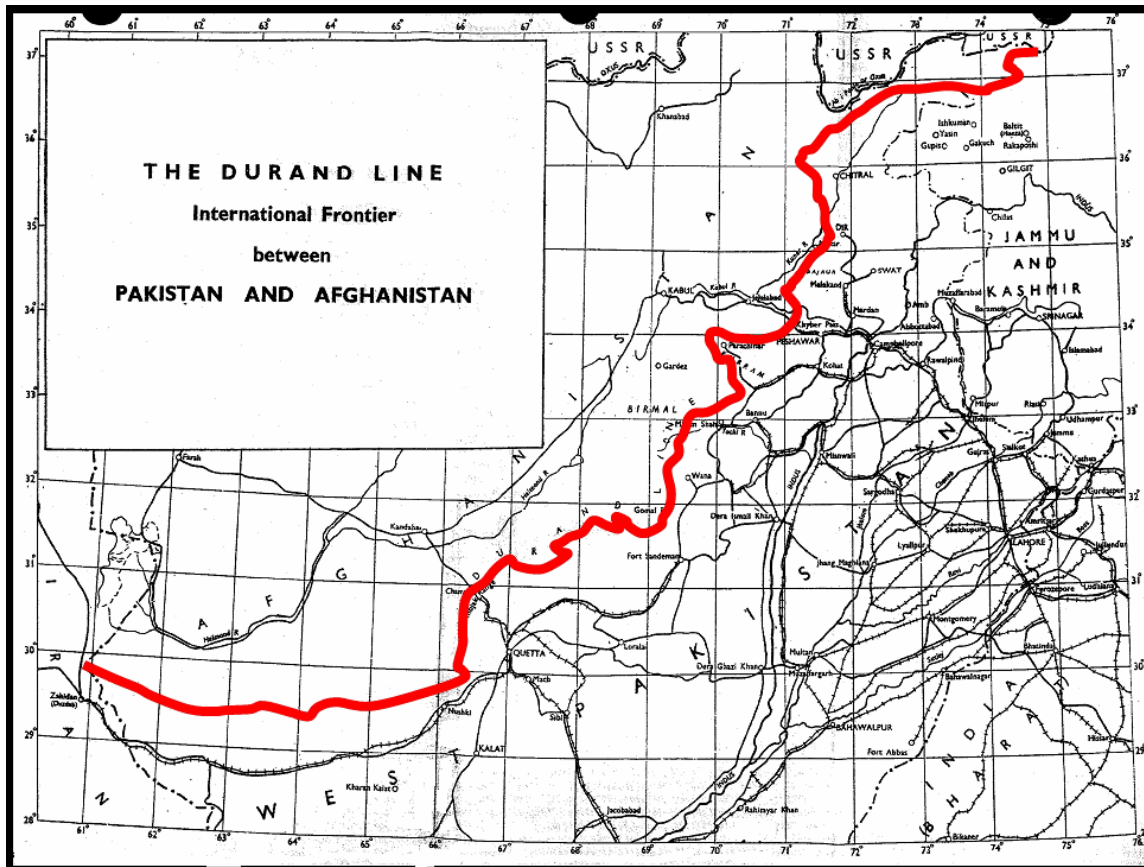
The American Institute of Afghanistan Studies (AIAS) is a private, nonprofit organization run by scholars with the aim of promoting and encouraging the systematic study of the culture, society, land, languages, health, peoples, and history of Afghanistan and to promote scholarly ties between Afghanistan and the United States. Founded in 2003, AIAS is especially concerned with increasing the numbers of scholars in the United States who have expertise in and understanding of Afghanistan as well as with assisting in the rebuilding of academic institutions and the advanced study of Afghanistan by Afghan scholars. AIAS maintains a center in Kabul and offices at Boston University in the United States. For more information, please see www.bu.edu/aias.

ABOUT THE HOLLINGS CENTER FOR INTERNATIONAL DIALOGUE

The Hollings Center promotes dialogue between the United States and predominantly Muslim countries, opens channels of communication, deepens understanding, expands people-to-people contacts, and generates new thinking on important international issues. The Center was established as an NGO through legislation enacted in 2004 and 2005 by the U.S. Congress, particularly through the efforts of Senator Ernest F. Hollings; its official name is the International Center for Middle Eastern-Western Dialogue. The Center convenes conferences, typically in Istanbul, on a wide range of contemporary issues involving opinion leaders and experts in a variety of fields, and provides small grants and fellowships to selected program participants for collaborative projects that build on conference recommendations. For more information, please see www.hollingscenter.org

APPENDICES

Map 1



Percy Sykes, Sir Mortimer Durand (London: Cassell and Company, Ltd., 1956), 200-217. The map was reproduced from the booklet by Professor Ralph Braibanti, Durand Line, Duke University Library.

Map 2



Pashtunistan would lay claim to more than half of Pakistan's current territory.

Map 3



The Pakistan-Afghanistan border with inset of the FATA territories.