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# **RECOGNITION OF TALIBAN – INDIA'S DEFENSE STRATEGY**

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## **ABSTRACT**

In a fluid and ever-changing global environment, the need to rationally accept the international society as a changing entity becomes a ubiquitous feature of International Law. New governments are formed whether follows the declared domestic constitutions or not. Insurgencies occur and belligerent administrations are set up in territories hitherto controlled by the legitimate governments. Each of these events raises a significant debate revolves around the political consequences of recognition of a particular eventuality which contradicts the norms of the international law. The theory of recognition is barely an application of law to a factual situation, but a composition of both political and legal secretion. Therefore, confining the theory of recognition into the legal sphere would yield complications. The Taliban's re-accession to power in Afghanistan postulates the necessary to recognize internationally as a state becomes indispensable. However, for India, the situation stays unclear as to what diplomatic stand could be taken to deal with the Taliban? Besides, there has been a conspiracy to choke India's bilateral trade relations in Indian Ocean Region. This paper purports to examine the principles of recognition in international law in recognizing Taliban as an entity and an attempt to explicate the diplomatic relationship between India and Afghanistan. This paper further tries to examine the strategic risks to India in the context of China's belt and road initiative and silver road project. It then provides a short overview of current defense strategies of China and Pakistan and how far it irks Indian Security Officials.

## Introduction

Apart from exclusive legal factors, the theory of recognition depends more on political considerations. To shoot one example, the United States refused to recognize either the people's republic of China or North Korea, not because it did not accept the obvious fact that these authoritarian regimes exercised effective control over their respective territories but rather because it did not wish the legal effects of recognition to come into operation<sup>1</sup>. The Taliban's unopposed entry into Kabul on August 15, 2021 made the international community to think much of political considerations than the legal factors. It is reasonable for any state to show hesitation in recognizing the Taliban's government for its prior activities. Besides, the legal factors are not much imbroglio. Therefore, the questions that arise in confronting these manifold challenges can be answered on following three main aims; 1) Recognition is retroactive so that the entity can be accepted as of the date it took effective control (which is a question of fact) and not from the date when the international community begin to accept. 2) Recognizing Taliban might generate positive outcome in tackling both Pakistan and China over their Belt and Road initiative project 2) Since Afghanistan is facing huge humanitarian and economic crisis, the fundamental progress of the Taliban is to support with a flexible relationship rather disarraying by sticking to its same – old rigid governance.

This paper aims to simplify the reality of Afghanistan by assessing the potential risks and proposes schemata or ways for India to have its footprints on Afghanistan for a long time run. The objective of the paper is to examine the link between recognizing Taliban and China's domination over the Indian Ocean. This paper is purely descriptive in nature and is based on available facts and evidence.

## Incongruities in International Law

Notwithstanding the fact that there are typically two theories as to the nature of recognition – Constitutive and declaratory – it is always the eventuality that supports the status quo of an entity. For the constitutive theorist, the important aspect is that fundamentally an unrecognized state can have no rights or obligations in international law. The opposite stance is adopted by the declaratory approach that emphasizes the factual situation and minimizes the power of states to confer legal personality<sup>2</sup>. Let us say for example that the Taliban was

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<sup>1</sup> M. Kalpana and N. Katzenbach, *The Political Foundations of International Law*, New York, 1961, p. 109

<sup>2</sup> MALCOLM N. SHAW, *International Law*, EIGHT EDITION PG. 333

recognized based on the constitutive approach, if India refused to recognize the Taliban, then the latter will not be bound by the international rules of non-aggression and non-intervention. If it was based on declaratory approach, then there would be no state qualified to question the rights and the obligations that the Taliban owes to the international community. This approach purely supports the thought on the supremacy of the state's sovereignty.

The Taliban have satisfied the basic requirements to be recognized as a government. The doctrine of effective control often reiterated in many occasions and this seemed likely to continue and permanent in the case of Afghanistan. This approach was adopted by the United Kingdom in myriad incidents<sup>3</sup>, yet the British took many years to recognize states such as North Vietnam, North Korea and German Democratic Republic<sup>4</sup>. These are the incongruities in international law when the consequences of legal operation are not conspiring with the political considerations of a state. As a result, the rules of international law become incapable of producing any useful meanings. Nevertheless, the Taliban are firmly established, therefore the non-recognition by any state will not affect the legal character of the government.

### **India's De Facto Recognition**

India and Afghanistan share a long historical connection which involves an extensive cultural exchange. Together with significant projects, India became the fifth largest donor following the U.S, UK, Japan and Germany. The Indian recognition of Taliban should be of *de facto*. There is no wonder about India's uncertainty towards the situation. By this method, India could act in accordance with political reality. To take one instance the United Kingdom recognizes the Soviet government *de facto* in 1921 and *de jure* in 1924<sup>5</sup>. This reluctance might have sufficient political reason to assess the viability of an effective permanent governance.

Taliban that has come to power in a non-constitutional fashion need not satisfy other reliable theories of recognition. The doctrines such as doctrine of legitimacy put forward by the United States and the automatic recognition of government advocated by Estrada, the Mexican Secretary of Foreign Relations are merely a political qualification of recognition. The west including the US might have different parameter to recognize Taliban, but for a state like

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<sup>3</sup> *The Morrison Statement*, 485 HC Deb., cols. 2410-11, 21 March 1951

<sup>4</sup> D. Greig, *The Carl-Zeiss Case and the Position of an Unrecognized Government in English Law*, 83 LQR, 1967.

<sup>5</sup> Oppenheim's *International law*, p. 154

India, it is always the issue of cross-border terrorism, Kashmir (especially after revoking article 370) which would fill the major space of Indo- Afghan policies.

### **International and Regional Terrorism**

The most highlighted emphasis of Joint Declaration between the U.S and the Taliban was to prevent the use of Afghan soil for any international terrorist<sup>6</sup>. The Taliban's best armed and trained faction – Haqqani group- fronted with Pakistan's ISI's war against India from within Afghanistan has recently shown attention to reconcile and readiness to work on the basis of mutual respect with international partners on long term peace building and reconstruction<sup>7</sup>.

The real threat to the Afghan region is radicalized self-proclaiming Islamic State organization – ISKP (Islamic State of Khurasan Province) - which claimed responsibility over an attack on a gurudwara in Kabul, in March 2020. The Taliban security guards fought off an attack by the Islamic State Khorasan Province (ISKP) on the Kabul gurudwara a few days before made clear that the ISKP is widely believed to be a proxy for Pakistani intelligence<sup>8</sup>. Thus, shows that the Taliban is determined to re-establish normality in Afghanistan and wants India to resume its ties.

To those who have studied the Haqqani group and ISI would confirm the relationship between them is still strong. However, present cross-border conflict shows that the Taliban has defied Pakistani intelligence by providing a haven to anti-Pakistan insurgent outfit – Tehreek –e –Taliban Pakistan. The Taliban has made little effort to conceal their support for the TTP which brings the relationship between the Taliban and the ISI on the edge<sup>9</sup>. The reason to argue that the TTP would like to have its footprints in Pakistan is the abundant ethnic amity between these two countries. Today, nearly 50 million Pashtuns count the two countries as home. There are some 15 million Pashtuns in Afghanistan, while an additional 30 million to 35 million Pashtuns live in Pakistan.

The Taliban's stand on Kashmir stays unclear when the acting foreign minister of Taliban Amir Khan Muttaqi was questioned specifically about the ties they wish to resume

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<sup>6</sup> “Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for, Bringing Peace to Afghanistan,” U.S. Department of State, February 29, 2020, <https://www.state.gov/wp-content/uploads/2020/02/02.29.20-US-Afghanistan-Joint-Declaration.pdf>.

<sup>7</sup> <https://www.nytimes.com/2020/02/20/opinion/taliban-afghanistan-war-haqqani.html>

<sup>8</sup> <https://theprint.in/opinion/global-print/hard-nosed-practical-why-india-has-revived-relations-with-kabul-and-why-taliban-is-welcoming/1015460/>

<sup>9</sup> <https://www.usip.org/publications/2022/05/pakistans-twin-taliban-problem>

with India. Any conflicts would be looked for a mutual dialog – answered by Muttaqi. This utterly seems to be sound and plausible but though in reality it is not. Yet, the Taliban is believed to be more powerful and lot more prepared for the governance ever than they have been<sup>10</sup>. Altogether, New Delhi must take precautionary calculus before fully extending their formal acceptance to resume the century old relationship.

Even so, the Taliban sends repeating signals to India about its interest for re-engagement. Following the fall of Afghan Republic, India had withdrawn all sort of diplomatic ties and projects. In June, India expressed its soft signal by paying a visit to Afghanistan and reopened the Indian embassy in Kabul. Surprisingly, the Indian diplomats found all the embassy property in Kabul—the ambassador’s residence, the new Indian chancery next door as well as the residential accommodation inside the complex—in good shape<sup>11</sup>. Following the killing of Al-Qaeda's chief Ayman Al Zawahiri in Kabul, the Taliban refused the allegations related to its ties with Al- Qaeda. In an Interview<sup>12</sup> with spokesperson for the Taliban government - Zabihullah Mujahid - firmly denied any alliance with Al-Qaeda’s chief Ayman Al-Zawahiri. The spokesperson of ministry of foreign affairs of the Islamic Emirate of Afghanistan Abdul Qahar Balkhi spoke on a variety of issues including how the Taliban helped Indian diplomats leave last year and now welcoming back to Afghanistan<sup>13</sup>.

Pertinently, the Taliban refrain themselves from involving into any alliance with terror outfits in Afghan soil, to show the international community that it deeply committed to the Joint Declaration in Doha and to win the approval of the United Nations. As a part of the agreement, verification processes are to be conducted to assure that the Taliban remain detached from Al Qaeda.

### **The Paradoxical Baluchistan – The String of Pearl – Taliban - Military Strategy**

“Whoever conquers the Indian Ocean will dominate the whole of Asia” –Alfred Thayer Mahan. The United States naval officer and historian is well known for his salient strategies and argued the influence of sea economics as a crucial position in national progress. In this context, the Gwadar Port emerged as a strategic maritime point for both Pakistan and China.

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<sup>10</sup> <https://ctc.usma.edu/have-the-taliban-changed/>

<sup>11</sup> <https://theprint.in/opinion/global-print/hard-nosed-practical-why-india-has-revived-relations-with-kabul-and-why-taliban-is-welcoming/1015460/>

<sup>12</sup> *Taliban: Religious leaders have issues with girl's schools* – BBC News, <http://bit.ly/1rbfUog> #BBCNews

<sup>13</sup> *Taliban gave safe passage to Indian diplomats last year, welcome them back: Abdul Qahar Balki* – The Print, Interview with Jyoti Malhotra.

The Port came under the control of the Chinese Overseas Ports Holding Company (COPHC) in 2013<sup>14</sup>. A deep perusal of the activities in the Port reveals that the Gwadar is highly strategic due to its location, natural depth and multi-infrastructure provision capitalized by the Chinese. Several incidents - such as a Pakistan Naval Officer had confirmed the deployment of Chinese navy alongside with Pakistan navy PNS Akram for the security purpose of the Gwadar port<sup>15</sup> - indicates that Gwadar could be converted into a 'naval harbor'<sup>16</sup>. It was then president Musharraf of Pakistan dreamt of Gwadar turning into a productive commercial center. However, it was later realized that the approval of local Balochis is required for his dream project to become true. Ever since, the Gwadar port has been subjected to immense challenges by the insurgents in Baluchistan.

Afghanistan has historically supported Balochi separatist nationalists in Pakistan as part of its Pashtunistan demands. In the 1970s, Afghanistan backed a Balochi insurrection and later sheltered the insurgents. The south-western province of Baluchistan makes up nearly half of Pakistan's 800,000-square-kilometre territory, its population (nearly half of whom are Pashtun) accounts for less than 5 percent of the country's 180 million people. Balochi separatist factions headed by young leaders are now perpetuating their fifth rebellion in Pakistan's history<sup>17</sup>.

Gwadar assumes significant reference point for people discussing the geo-politics and geo-economics of the South Asian Region. Baluchistan's long Arabian sea shore, its borders with Afghanistan, Iran and all of Pakistan's provinces make it a regional crossroads<sup>18</sup>. The current inflicted insurgencies in Baluchistan have made the province disadvantage for the Chinese investors. The unrest in the region has had several repercussions on the activities at Gwadar, such as attacks on, and killing of, several Chinese personnel and destruction of some completed projects<sup>19</sup>. In this context, Baluchistan will be a paramount investment for India politically and strategically.

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<sup>14</sup> Frederick Grare, 'Along the Road: Gwadar and China's Power Projection', European Union Institute for Security Studies, July 2018, available at <https://carnegiendowment.org/2018/07/31/along-road-gwadar-and-china-s-power-projection-pub-77217>, accessed on 4 June 2019.

<sup>15</sup> 'Chinese Navy Ships to be Deployed at Gwadar: Pak Navy Official', The Times of India, 25 November 2016, available at <https://timesofindia.indiatimes.com/world/pakistan/Chinese-navy-ships-to-be-deployed-at-Gwadar-Pak-navy-official/articleshow/55622674.cms>, accessed on 6 June 2019.

<sup>16</sup> Claude Rakisits, 'A Path to the Sea: China's Pakistan Plan', *World Affairs*, Vol. 178, No. 3, 2015, p. 68.

<sup>17</sup> *Sources of Tension in Afghanistan and Pakistan: A Regional Perspective*, Afghanistan's Ethnic Divides, Abubakar Siddique, January 2012. pdf

<sup>18</sup> *ibid*

<sup>19</sup> [https://www.idsa.in/jds/15-1-2021-strategic-salience-of-the-gwadar-port#footnote19\\_hus1z6x](https://www.idsa.in/jds/15-1-2021-strategic-salience-of-the-gwadar-port#footnote19_hus1z6x)

The reason to highlight the unrest in Baluchistan is to tackle the China's string of pearl's defense strategy. The Chinese have gradually shifted the traditional pattern of strategic culture to focus more on economics, ecology, environment and renewable source of energy<sup>20</sup>. The implementation of string of pearl's theory is to expand Chinese naval presence throughout the Indian Ocean Region by building massive infrastructure and mounting investments in friendly states. During a visit of the Chinese president Xi Jinping to Kazakhstan in 2013<sup>21</sup>, he initiated the OBOR (One Belt One Road) project, expected to be a promising linkage connecting China to 146 nations including Saudi Arabia, the Europe and Russia to increase China's global influence. Unsurprisingly, Pakistan in 2003 allotted 16.7 billion for the construction of road that connects the port of Gwadar to the rest of the World<sup>22</sup>.

Both China and Pakistan portrayed themselves as the forerunner of peace by providing humanitarian aids to Taliban. The Chinese foreign ministry spokesman Lijian Zhao remarked on Twitter on June 29: "Two military planes showed up at Kabul airport, one taking life and the other carrying hope. This is perhaps the biggest difference between China and the US<sup>23</sup>." The US's isolation of Taliban resulted in favor of China to embrace Taliban with open arms. Unlike China, India is resisting these multiple challenges steadily on stealth mode by deploying its own unique defense strategy with global partners.

### **India's Broder Diplomatic and Economic engagement.**

The Afghanistan's economy has witnessed straight decline for the past couple of years. With the Taliban's take over the administration, it furthers to see dire position than ever it was. The ongoing crisis was driven by the cessation of economic aids, freezing the foreign funds, collapse of private sector and banking system and finally enormous humanitarian crisis.

The status of Afghanistan is stark and faces higher rates of poverty and more limited economic opportunities for the 600,000 Afghans reaching working age every year.<sup>24</sup> Smooth and improvising economic policies were on the play to mitigate the 23.9%<sup>25</sup> of country's unemployment (2017 Estimated). The economy of Afghanistan heavily relied upon the

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<sup>20</sup> Gowtam Sen, "Developing strategic cultural role of Institutes of Higher Education and Think Tank" Manekshaw Papers, (2014)

<sup>21</sup> Tian Shaohui, "Chronology of China's Belt and Road Initiative" Xinhuanet, March 03, 2015.

<sup>22</sup> The Economic Intelligence Unit (EIU), *Country Report: Pakistan (2003–2004)*, London, United Kingdom (UK): Economic Intelligence Unit Limited, August 2003, p. 19.

<sup>23</sup> <https://thediplomat.com/2022/07/china-takes-full-advantage-of-talibans-isolation/>

<sup>24</sup> <https://www.worldbank.org/en/country/afghanistan/overview>

<sup>25</sup> *The World Factbook*. Central Intelligence Agency. Retrieved 2020-10-11.

agriculture exporting \$1 billion worth of fruits and nuts. It imported \$6 billion worth of goods from its major donor countries. India imports 21.6% of fruits, vegetables, Afghan rugs, wool and cottons while exports 12.9% of its goods to Afghanistan.

In the case of Afghanistan, India is among its largest trading partners. As per World Bank's data, exports to India formed 47% of the total exports of Afghanistan in 2019, making India the largest export partner of Afghanistan. In the case of imports, India is the 8th largest import trading partner of Afghanistan. These numbers highlight the importance of trade with India for Afghanistan<sup>26</sup>. In 2020, India exported \$855M to Afghanistan. The main products exported from India to Afghanistan were Raw Sugar (\$174M), Synthetic Filament Yarn Woven Fabric (\$113M), and Packaged Medicaments(\$70.7M). During the last 25 years the exports of India to Afghanistan have increased at an annualized rate of 16.4%, from \$19.4M in 1995 to \$855M in 2020<sup>27</sup>. In 2020, Afghanistan exported \$499M to India. The main products exported from Afghanistan to India were Tropical Fruits (\$132M), Insect Resins (\$111M), and Grapes (\$96.9M). During the last 25 years the exports of Afghanistan to India have increased at an annualized rate of 18.1%, from \$7.87M in 1995 to \$499M in 2020<sup>28</sup>.

During 2020-21, the total value of imports from Afghanistan was Rs. 3.75 thousand crores. Despite this increase in the total value, the imports from Afghanistan are still only a meagre 0.13% of India's total imports as is the case with India's exports to Afghanistan. Since all these bilateral trade relations were paused tentatively due to the deranged administration formed in August 2021, the Taliban had to act swiftly to figure out a way for smooth and unwrinkled trade policies to resume the ties. Considering the ongoing crisis, it would be reasonable to hypothesize an amiable and more companionable call or engagement required from the part of Taliban to save its citizens from leaving to extreme poverty and hunger.

### **India's Soft Power**

There is a common rule in art of debate, one should know how to win the debate by winning the hearts and minds. India, has always acquired, exercised and extended its influence through soft power significant. To acquire valuable image among the global powers, India believes that it must extend soft power to its Neighbours through art, art, culture, music, films

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<sup>26</sup> <https://factly.in/data-what-is-indias-trade-with-afghanistan-like/>

<sup>27</sup> <https://oec.world/en/profile/bilateral-country/ind/partner/afg>

<sup>28</sup> <https://oec.world/en/profile/bilateral-country/ind/partner/afg>



etc. Like debating, India's soft power engagement involves winning the hearts and minds of Afghanistan by strengthening its political and cultural relationship.

The Afghans considered the cricket in a big way and a profitable platform for the internal development. India's contribution to the development of Cricket in Afghanistan has been one of its paramount means of soft power influence. Due to hurdles and unfavorable political climate, the Afghan team is keen to choose India as their home base<sup>29</sup>. The Bard of Bengal Rabindranath Tagore 's famous fascinating navel Kabuliwala displayed cultural links between the two nations. More important, the Bollywood has always portrayed Pashtuns as the good guys. The Indian Cinema picturized Afghans as the great friend of Indians. Many Bollywood films such as Dharmatma, Kabul Express, Khuda Gawah have been shot in Afghanistan further increasing the popularity of Indian cinema in the nation<sup>30</sup>.

## Conclusion

India and Afghanistan before 15<sup>th</sup> of August 2021 had diplomatic engagement which brought these two countries to calibrate policies for counter - terrorism and other multi-facility infrastructure projects. However, Taliban's re-accession to Afghanistan has changed the atmosphere. A reasonable hesitation in recognizing the Taliban has made a fissure in trade relations affecting the life of millions of Afghans. The Chinese on the other hand, established fully on-board relation with Taliban by assuring the stability of Taliban's governance internally and internationally. One could possibly argue that the Chinese open arm acceptance of Taliban as a set of tactics for a firm establishment of political clout in Indian Ocean Region and any hindrance to the completion of BRI project. India might dawdle and deliberately assess every feasible way to extend its formal acceptance of Taliban because of the sordid distasteful history of its allies.

The schools of Confucius and Sun Tzu, and the uncompromised goal of national reunification are the hallmark of Chinese security doctrines<sup>31</sup>. India has fair robust neck uneasy to strangle by the strategies of string of pearl's theory, but that does nothing to assuage the concerns of Indian Security Officials.

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<sup>29</sup> <https://www.orfonline.org/expert-speak/indias-soft-power-advantage-in-the-great-game-of-afghanistan-52624/>

<sup>30</sup> <https://www.orfonline.org/expert-speak/indias-soft-power-advantage-in-the-great-game-of-afghanistan-52624/>

<sup>31</sup> [https://www.jstor.org/stable/48537578?read-now=1&refreqid=excelsior%3A5bede1f28b53eccd8d124192190a061f&seq=2#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/48537578?read-now=1&refreqid=excelsior%3A5bede1f28b53eccd8d124192190a061f&seq=2#page_scan_tab_contents)