

THE UGLY SCARS OF COLONIALISM: PASHTUNS AND BALOCHS STRUGGLING FOR 172 YEARS

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The colonial Durand Treaty (1893) along with its imaginary Durand Line is immoral, invalid and illegal.

INTRODUCTION

This analysis will present a well argued case that the history of British Empire has been rather callous to the fate of Pashtuns and Balochs. I hope my expose will contribute to a constructive discussion in political and intellectual arena about the future of unfortunate Balochs and Pashtuns, who are ready to be part of the vision of a fair and rule-based world order but regrettably excluded from international visibility and progress.

A dangerous potential for conflicts is continually arising in those developing countries whose borders and administrative nations were determined by the force of colonialist nations. While African borders were determined on the basis of particular longitudes and latitudes, the exit strategy from British-governed India was shaped by religious divisions. The post-colonial development in the Afghan-Indian subcontinent provides a perfect example of such a potential for conflicts. Here the British colonialism left behind a series of permanent sources of conflict: Kashmir, the creation of an entirely new state Pakistan that has no other state to inherit from, the separation of Bangladesh from Pakistan in 1971, and now the Pashtunkhwa and Balochistan problem. The last also contains the stuff of political conflict because the area is in the sensitive zone of geopolitics.

THE PASHTUN STRUGGLE FOR SELF-DETERMINATION

To defend India, Governor-General Auckland invaded Afghanistan (1839-42). After almost 30 years, Prince Shuja (the Afghan protégé of the British) was again enthroned in Kabul. This First Anglo-Afghan War (known as “Auckland’s Folly”) ended in a complete disaster. To revenge their unmitigated defeat, the British forces attacked Kabul in the fall of 1842 and burned its historic bazaar. Until this war, the British were considered invincible and supreme. But the First Anglo-Afghan war severely debilitated the British prestige. Also, the loss of Afghan life and property was followed by bitter resentment of foreign influence and modernization. The Second Anglo-Afghan war ended formally with the colonial Treaty of Gandomak (1879) through which the British gained control

over the strategically important east and southeast areas of Afghanistan, which also had to seek British advice in its foreign and defense policies. Under the pressure of these half-colonial circumstances, the Afghan King/Amir Abdul Rahman (1880-1901) had to face—for the Afghans oppressive—Durand Treaty of 1893 that provides for the division of Pashtuns and Balochs between Afghanistan and British-governed India (present day “British-Pakistan”). The Durand Treaty and the imaginary Durand Line were named after the Foreign Secretary of British-governed India Sir Mortimer Durand, who negotiated the colonial treaty.

The Afghan King Abdul Rahman in his autobiography calls a letter which he received from the reigning British Viceroy “practically an ultimatum.” (Rahmat Zirakyar, *Stammesgesellschaft, Nationalstaat und Irredentismus am Beispiel der Pashtunistanfrage*. Frankfurt/Main, Germany: Haag+Herchen Verlag, 1978, p.118). Afghan diplomat Mohammad Sarwar Rona brought to our attention the “miracle” of Amir Abdul Rahman Khan. The government of British India wrote to him to set up a commission for fixing the boundary. But the Afghan King responded with postponing tactics: He argued that if he would share the British note with the Afghan religious and tribal leaders to grant him a mandate on the matter, they would wage war against them. Mohammad Sarwar Rona had read the above note in the Afghan Ministry for Foreign Affairs. He published the text of the reminder, which the Afghan King Abdul Rahman had written on the back of the said British note: “To my successors! Until the last day of my life I would not take a step forward to determine the boundary of Afghanistan with British India. Also, I am delaying and responding to their letters to show the imposition and coercion of the [Durand] Treaty. I hope my successors in the future could have the power to defend their right and to determine the boundaries of Afghanistan through an honorable treaty.” The Afghan King pointed out in his above remarks to two Indias: “I believe that in the near future the people of India and Muslims will awaken to defend their right to freedom, and most probably two Indias will emerge: Indian India and Muslim India. Muslim India will border on our country, and probably it will become a headache for my people and my children.”(Original Persian text published in *Lapa* magazine in Pashto and Persian, No.6, January-March 2007= Winter 1385 solar A.H., pp. 64-74; also, see Rahmat R. Zirakyar, *Examining Durand Agreement within Law and Politics*. Electronic version, May 19, 2010, pp. 36-37).

The exactitude of a treaty’s contents is usually taken in international law as evidence of validity. But in the case of the Durand Treaty it is not clear from its contents what the counterparts wanted. Out of the vague formulation of the central concepts of the treaty’s text it is manifest that clarity of exposition is missing. The ambiguous concept “frontier” (further elucidation of which cannot be obtained from the individual stipulations of the treaty) does not correspond so much with the phrase “respective spheres of influence” in the preamble as with concept of “border” in the sense of border area. Firstly it can mean a one-dimensional “border” in the sense of “border-line” and secondly “border” in the sense of “border-area”. In order to denote a border-line, the English language possesses the word “boundary” or better “boundary-line”. In the Durand Treaty, the word frontier is mentioned five times, and frontier-line, border, boundary and boundary-line each once. There is also no further explanation ascertainable in the stipulations of the treaty for the concept of reciprocal “interference” (Article 2). The Afghan government understood

under this concept “armed interference” but not the work of political agitation which was necessary for the continuation of their influence on the other side of the so-called Durand Line. It becomes clear through the connection of Article 11 of the Kabul Treaty of 1921 with Appendix no. 4—which is considered an integral part of the Treaty—that the British concession of a legitimate Afghan interest in the frontier Pashtuns supplies the legal basis for Afghan interference and Afghan participation in these areas.

The question of the demarcation line of the Durand Treaty is also unclear. The imaginary Durand Line refers to a “line shown in the map attached to” that treaty (Article 1) which, however, was “not reproduced.” (This comment is to be found in: C.U. Aitchison, ed., *A Collections of Treaties, Engagements and Sanads relating to India and Neighbouring Countries*, in 14 vols, Calcutta 1929-33, vol. 13, p. 256f.). Harris writes in his Ph.D. dissertation: “In fact the only evidence of an agreement to divide the tribe was the line drawn on the [Durand] Convention map, and this map the Amir[Abdul Rahman: 1880-1901] had not signed.” (L. Harris, *British Policy on the North-West Frontier of India, 1889-1901*, Ph.D., London 1960, p. 239). Also, in Lord Curzon Collections we can read: “...the rough line drawn upon the map, in this quarter, which he [Durand] presented as an official record to the late Amir [Abdul Rahman] is of the most haphazard, careless, and unscientific description.” (India Office Library, London, MSS. Eur. F.111, vol 162, No. 24, 13.4.1903=Curzon to Hamilton).

Were the imprecise and vague contents of the Durand Treaty of 1893 modified in any way in the treaties which followed? The opposing legal standpoints of the parties with regard to the concept of “renewal” and “continuance” in the title of the Treaty of March 21, 1905 were resolved by omitting the heading altogether in the English translation of the treaty (See German historian: H. Jaeckel, *Die Nordwestgrenze in der Verteidigung Indiens 1900-1908 und der Weg Englands zum russisch-britischen Abkommen von 1907*. Cologne: Opladen, 1968, p.86). In all the written agreements (1905, 1919, 1921, 1930) there is no alteration discernable with respect to the evaluation of the Durand Line because all the subsequent treaties refer ultimately to the Durand Treaty without however establishing its substance again (F. Moeding, *Nationalitaeten- und Grenzfragen in Suedasien: Das Problem der Pashtunen*. Hausarbeit in Geschichte, 1969, p.17).

After the British withdrawal from “Afghan-Indian” subcontinent, Pakistan claimed the British heritage. But “an entirely new state has no other state to inherit from”—thus the “no doubt ingenious” argument of Afghanistan from U.S. scholar L.B. Poullada’s perspective (“Some International Legal Aspects of Pashtunistan”, 1969). Prior to the independence of Pakistan on August 14, 1947, the British government as the predecessor state revoked (“lapse”), in conformity with the ‘Indian Independence Act’ of July 18, 1947, “any treaties and agreements”, etc. made with the authorities of the “tribal areas” (Article 7, Clause C). This fact along with the circumstance that Pakistan emerged as a completely new state out of (as representative for the whole) colonial India disqualifies Pakistan’s claim as the legal successor to British India.

Verdict on India Beverly Nichols (London, 1944) was a political treatise written in a strong conservative language. In this book Gandhi was depicted as a Nazi, who hated the British, while Jinnah was characterized as a dynamic and peace-loving leader of India’s Muslim population. British Prime Minister Winston Churchill (1940-45) was influenced by this book. Alex von Tanzelmann, a young Oxford-trained historian, quotes Churchill in her book about the drama of the British Raj’s final months: “I [Churchill] agree with

the book [Verdict on India] and also with its conclusions-Pakistan.” Von Tanzelmann adds that Churchill’s “vocal support” of Pakistan was “instrumental in creating the world’s first modern Islamic state and in sabotaging any last hopes of Indian unity.” She points to Jinnah’s close relations with Churchill in December 1946. Jinnah was mailing his letters to a secret female name in London selected by Churchill himself. Von Tanzelmann reveals the secret name: Elizabeth Gilliat, who was Churchill’s secretary. If Jinnah was considered as the father of Pakistan, “Churchill must qualify as its uncle, and therefore, as a pivotal figure in the resurgence of political Islam”, Alex von Tanzelmann concludes in her book (*Indian Summer: The Secret History of the End of an Empire*. New York: Henry & Holt, 2007, pp. 126-128). According to von Tanzelman, Churchill “trusted” Jinnah the upcoming leader of Pakistan “to run it [Pakistan] in a way that would serve British interests.” (Ibid., p.180)

The purpose of the treaties which had been made with Afghanistan originated in England’s interest in shielding the British Indian Empire from the feared Russian invasion. This observation is linked with the consideration in international law that a treaty is regarded as null and void “when its impact is exhausted and its goal is achieved” (“wenn sich seine Wirkung erschöpft hat und das Vertragsziel erreicht ist”. Fr. Berber, *Lehrbuch des Voelkerrechts*, 1975, vol.1, p. 252). As a result of this consideration it would be reasonable to think that with the departure of the British from the Afghan-Indian subcontinent the Durand Treaty would automatically be seen as having been fulfilled because one of the partners ceased to exist (and with him his interests which made the treaty necessary). Hence it follows that the validity and legality of the so-called Durand Line and the questions of Pashtun and Baloch self-determination and territorial dispute were open once again.

Since 1993, when the vague and abrogated Durand Treaty completed a century, Pakistan is trying to revive the sanctification of the imaginary “Durand Line”. To that effect, Pakistan is bound to use the “religious” garb for its three major national interests, namely: territorial integrity, strategic depth and control of international trade route through Afghanistan. For the realization of these interests, Pakistan will take all steps to secure a more docile and anti-national government in current Afghanistan.

Out of the, in colonialism built-in contradiction (to begin in the name of one’s own nation and at the same time to cause the negation of the national existence of the colonized) grew the impulse for Afghan nationalism. Just as the Afghan people on their side of the wretched colonial and imaginary Durand Line rejected the colonial policy of partition so too did the Pashtuns and Balochs on their side of the practically non-existent Durand Line. In 1897 a revolt broke out in Waziristan whose significance determined the development in the frontier areas for a year. The British reacted with the creation of “North-West Frontier Province” (NWFP) in 1901, a misnomer designed to deprive Pashtuns from their identity with Afghanistan. It took 109 years for Pashtuns to change this misleading term in March of 2010 to “Khyber-Pashtunkhwa” (Khyber-Pashtun Country). In addition to the above spontaneous uprising, the anti-colonial opposition of the Pashtuns also took an organized form: So, for example: ‘Majlas-e Watan’ (Alliance for the Fatherland) which was organized at the beginning of the 20th century by Mirajan Kaka-Khel, the establishment of a center for enlightenment in 1914 through Badsha Khan (Abul-Ghafar Khan, the “nonviolent soldier of Islam”), the foundation of ‘Anjoman-e Eslahol Afaghena’ (Reform Alliance of the Afghans) in 1921 by ‘Fakhr-e

Afghan' (Honour of the Afghans, Abdul-Ghafar Khan/Badshah Khan), and in 1928 the foundation of the 'Nawjawan-e Sahard' (Yourth of the Border Areas). Badshah Khan and his close friends started in 1928 a journal in Pashto language, called "Pashtun" (the Pashtun Nation). Its title page carried a Pashto poem by Badshah Khan's fifteen-year-old son Abdul Ghani, "already an aspiring and impassioned writer" (Easwaran, *Nonviolent Soldier of Islam: Badshah Khan*, 1999, p. 105):

If I a slave lie buried in a grave
 under a dazzling tombstone,
 respect it not; spit on it!
 O mother, with what face will you wail for me
 if I am not torn to pieces by British guns?
 Either I turn this wretched land of mine
 into a Garden of Eden
 or I wipe out the lanes and homes of Pashtuns!

It was out of all these groups with their socio-political aims that in 1929 the organization of the nonviolent "Servants of God" (Khodai Khidmatgar) under the leadership of Badshah Khan ("the nonviolent soldier of Islam": 1890-1988) developed. Badshah Khan (Abdul-Ghafar Khan) established Azad (Free) Schools to educate and enlighten his people. Pashto was the medium of instruction in these schools. In 1946, Abdul Ghani founded the "Zalmay Pashtun" organization (the "Young Pashtun") to educate the young Pashtuns about the instructive experiences of their national rulers and intellectuals: Sher Shah Suri (1540-1555), Khoshal Khattak Baba (1613-1690), Mirwais Hotaki (Grandfather Mirwais: 1707-1715), and Ahmad Shah Baba (Father Ahmad Shah: 1747-1772).

"Jarga" or "Jirga" (Council) is the backbone of Pashtun/Afghan political culture. Like Badshah Khan, his elder brother Dr. Khan Sahib was a champion in the Pashtun national independence movement (British sources falsely called him Abdul Jabar, and others repeated this mistake). Based on the grant of limited self-government and announcement of provincial elections in 1937, as well as again in 1946, Dr. Khan Sahib's party (Frontier National Congress=Servants of God) won elections with a large majority: thirty out of fifty seats in the Provincial Legislative Assembly. Consequently, Dr. Khan Sahib became chief minister. In the words of Badshah Khan, these elections in the North-West Frontier Province "had been fought on the issue of India or Pakistan [Congress Party against Muslim League]", and "we had won and Muslim League had lost. It was as simple as that." (*My Life and Struggle, Autobiography*. Delhi, 1969, p. 204). As we can see Pashtuns have mature cultural and political institutions. Their party Servants of God (affiliated with the Indian National Congress) had won the elections, and at the time of the partition of the Afghan-Indian subcontinent Dr. Khan Sahib was chief minister. Thus there was no need for new elections in the Pashtun province (current Khyber-Pashuunkhwa). In addition, several weeks before the creation of Pakistan ("The Land of the Pure", August 14, 1947), the Pashtuns proclaimed their desire for a state of their own on June 21, 1947, in which their egalitarian and democratic mentality would achieve explicit expression:

THE BANNU RESOLUTION OF 21 JUNE 1947 FOR AN INDEPENDENT PASHTUN STATE

“The Pashtun have decided for their own free state. The Pashtuns do not want either India or Pakistan.

On 21 June 1947 under the chairmanship of Khan Amir Mohammad Khan [President of the NWFP Committee of Congress Party/Khudai Khidmatgars=Servants of God] a general assembly of the province’s Jirga [Council], of the members of the assembly, of the functionaries of the Khudai Khidmatgars[Servants of God] and of Zalmay Pashtun Jirga [Young Pashtun Council] was held. This assembly decided unanimously to establish in this country an independent, free, state of all Pashtuns, whose constitution should be based on Islamic and republican principles as well as on equality and national justice. This assembly calls on all Pashtuns unitedly to strive for this high purpose and not to subject themselves to any other power than that of the Pashtuns.

This was decided by the Grand Council [“Loya Jirga”] of the North-West Frontier Province.

The original text of the historic Bannu Resolution.”

(For facsimile of the original text in Pashto, see Rahmat Zirakyar, Stammesgesellschaft, Nationalstaat und Irredentismus, Frankfurt/Main, Germany, 1978, p. 332).

BALUCH STRUGGLE FOR SELF-DETERMINATION

“If you see sun red.....any redness in flowers,

These must be the blood of my people.” Baluch poet, Ghulam Rasool Mulla (1939-)

To better understand the rightful cause of the Baluch people and their political organizations struggling for unity and independence, it is necessary to reflect on the historical Kalat State that existed for centuries in Balochistan. It had treaty relations with the British in the second half of the 19th century, but its special status was different from that in the princely states in the Indian subcontinent as the Kalat State’s treaties were concluded with Whitehall, not New Delhi.

THE HISTORICAL KALAT STATE

Mir Chakar Rind is the “first nation builder” in Baluch mind. He founded the Baluch tribal union (1487-1511), which was destroyed by an intertribal war between Rinds and Lasharis. The origin and the continuation of the Kalat State can be traced back to the Kalat Confederacy (probably from 1666), which was created as a central instance by the Ahmadzai leader, Mir Ahmad of the Pashtun heritage: “The Kalat Confederacy...was established by Ahmadzi rulers, who were ironically Pathans or Pashtuns, but later adopted the language, life style and tribal mores of the Brahui speaking people who were more numerous in the terrain named after Balochis.”(Balochis of Pakistan: On the Margins of History. Foreign Policy Centre, London, November 2006, pp. 10-11). A prominent Baluch nationalist, Dr. Naseer Dashti writes that Mir Ahmad, “the leader of a

Brahui tribal confederation founded the Ahmadzai Khanate [state] of Kalat” (A Brief History of Balochistan, 2004, Balochwana). During the early 18th century, Abdullah Khan was the 4th leader of the Kalat Confederacy. He commanded the allegiance of the Baloch tribes and established a far-flung realm stretching from current southern Afghanistan across the Makran (now in southern Balochistan) to Bandar Abbas (now in Iran at the strait of Hurmoz). In the southeast, his jurisdiction encompassed the Dera Ghazi Khan district on the edge of Punjab province (now in Pakistan). These realities prevailed upon the Baloch historians to believe that the Dera Ghazi Khan belonged to the Kalat Confederacy under Abdullah Khan and most of his successors. Giving attention to the size of his domain, Abdullah Khan seems to have neglected the chance to integrate the wide-stretching areas under his military control into a unified state. The dynamic Naseer Khan (the 6th Khan of Kalat), who ruled for more than half century, beginning in 1741, could cope with this task. Known as Naseer Khan I, he created a unified army of some 25000 men and 1000 camels, as well as established a proto-centralized administration. The bureaucracy was headed by a Wazir (prime minister), who was responsible for the internal and foreign affairs of the state. For these services, Naseer Khan needed a Vakil, who collected revenue from crown lands and tribute from loosely affiliated principalities or chieftains. Since Jirga is the major institution of Baloch political culture, Naseer Khan might have used Consultation Councils (Jirgas) coming closer to a legislative assembly. All these developments witnessed to the maturity of the Baloch nation for self-determination. Balochistan’s largest city is Quetta, which is derived from the Pashto word “Kwatta” meaning fort. This important district was held in turn by neighboring powers: the Afghan Ghaznavids and Ghorids, the Indian Moghuls, the Iranian Safavids, only to be reclaimed by the Indian Moghul Akbar in 1595. Baloch leader Naseer Khan I, who paid tribute to the Iranian ruler Nader Afshar, repudiated this tributary status following Nader Afshar’s assassination by a non-Afghan in 1747. A power-gap was created. Before Naseer Khan could take advantage of the situation, the Pashtun/Afghan Ahmad Shah Abdali stepped into the resulting vacuum: This 25-year old commander under the Iranian Nader Afshar was selected by the Loya Jirga (Grand Council) in Kandahar according to the principle of “primus inter pares” (first among equals) as the leader of Afghanistan with the honorific title “Dur-e Dauran” (Pearl of the Time) or “Dur-e Duran” (Pearl of the Pearls). Henceforth, he became “the Father of the Afghan Nation” (Ahmad Shah Baba). Ahmad Shah Baba defeated Naseer Khan but reinstated him as the ruler of Kalat. After 11 years Naseer Khan fought back the Afghan forces in 1758. While remaining an ally of Afghanistan, Balochistan commanded a greater degree of autonomy until the British battled with Balochs for the first time in 1839, when they advanced through the Bolan Pass toward Afghanistan. Above 400 Balochs were slain, including their leader Mehrab Khan himself, and 2,000 prisoners were taken. His son Mir Naseer Khan II was recognized by the British in 1841 as the ruler of Kalat, and in 1842, consequent upon the British withdrawal from Afghanistan, the occupied districts were returned to the Baloch ruler.

The British perception to block Russian advances southward caused the Great Game, which, in turn, drew Balochistan into the vortex of power politics. Twelve years later the British defeated the then Baloch ruler in 1854 and enter into a treaty with him. According to this treaty, Naseer Khan II promised to cooperate with the British army against its enemies, as well as to prevent his subjects from plundering British merchants. In return,

the Baloch leader was to receive an annual subsidy of fifty thousand rupees. After his death his successors were unable or unwilling to fulfill the terms of the treaty, and consequently British relations with the Kalat State came to an end in 1874. Quetta was permanently occupied in 1876 by the British army. This town and its surrounding territory (Nushki, Naseerabad, and Bolan) were leased from the then ruler of Kalat according to the new treaty of 1876. This treaty renewed the previous treaty of 1854 in many particulars, but in matter of non-intervention the clauses were changed: The British reserved the right to settle disputes between the Khan of Kalat and the Sardars (native chieftains), which was earlier the privilege of the Baloch rulers. To please the Afghan and Persian rulers against the Russian ambitions, the British gifted away some portions of the Baloch territory to Iran (1871) and a stripe of it to Afghanistan (1896). While the border commission of 1871 headed by Major General Goldsmith was named the Perso-Baloch Boundary Commission, the border commission of 1896 headed by Captain (later Sir) Henry McMahon was called Anglo-Persian Joint Boundary Commission. The Kalat National Party was formed in 1920, which was influenced by the progressive Afghan King Amanullah (1919-1929) and remained underground until 1931. To protest against the partition of his country, Mir Abdul Aziz Kurd published in 1933 the first map of Greater Balochistan. The moment an entirely new state Pakistan (which had no other state to inherit from), was created on August 14 of 1947, it claimed the British heritage, and the Baloch Shahi Jirga, "a remnant of the British system of patronage, consisting of collaborative sardars [chieftains] and feudal overlords, immediately veered around Pakistan and supported Balochistan's accession to Pakistan. The rulers of [the princely states of] Kharan and Makran were also too timid to support the Khan [of Kalat]." (Baloch and Balochistan Through History. The Foreign Policy Centre, London, 2006/Balochis of Pakistan, *ibid.*, p. 16).

BALOCHS STRUGGLING FOR INDEPENDENCE FROM PAKISTAN

In view of the foregoing considerations, the relations of the Kalat state with the colonial power were governed by the treaty of 1876, and consequently with the termination of that treaty the Kalat state will revert to its pre-treaty position of independence. The British Cabinet Mission was created in 1946 to discuss and finalize plans for the transfer of power from the British Raj to Indian leadership. Mohammad Ali Jinnah was legal advisor to the then Kalat ruler Mir Ahmad Yar Khan. Distinguished legal experts prepared the case in the form of a memorandum, which after examined by Jinnah himself was submitted to the Cabinet Mission in March 1946. Herein the Khan of Kalat focused on the special status of his state. He asserted that the treaty relations of the colonial government in New Delhi apply to those states only that succeed the British Raj, not to those states who maintained treaty relations with Whitehall in London. In addition, the memorandum stated that the state of Kalat "will become fully sovereign and independent in respect to both internal and external affairs, and will be free to conclude treaties with any other government or state....The Khan [of Kalat], his government, and his people can never agree to Kalat being included in any form of Indian union." (Qtd. in Selig S. Harrison, *In Afghanistan's Shadow: Baluch Nationalism and Soviet*

Temptations, 1981, p.23). The British Cabinet Mission left the issue unresolved—most probably because it could not identify legal shortcomings of the demand.

On June 3, 1947, the last viceroy (1947) and governor-general (1947-48) Lord Mountbatten announced the partition plan for the British India, which he had prepared in consultation with the British Government. Mohammad Ali Jinnah the leader of the Muslim League party and the governor-general of upcoming Pakistan reminded Mir Ahmad Yar Khan that the position of his state was different from the other Indian states. Also, Jinnah advised him that on behalf of his state a direct representation to the viceroy in Delhi was necessary to address the future position of his state along with the return of Baloch regions hitherto controlled by the British. Accordingly, the Chief Secretary of Kalat State took to Delhi a draft of the new position of his state as prepared by legal experts. This led to a round table conference, held on August 4, 1947. Lord Mountbatten, Jinnah, Liaqat Ali Khan, Chief Minister of Kalat, legal expert Sir Sultan Ahmed, and the ruler of Kalat Mir Ahmad Yar Khan participated in the deliberations of the round table conference. This resulted in the agreement upon the following points: “Kalat State will be independent on August 5, 1947, enjoying the same status as it originally held in 1838, having friendly relations with its neighbors. In case the relations of Kalat with any future government got strained, Kalat will exercise its right of self-determination, and the British Government should take precautionary measures to help Kalat in the matter as per the Treaties of 1839 and 1841.” As a practical consequence of the round table conference at Delhi, another agreement was signed between upcoming Pakistan and the state of Kalat on August 4, 1947, and the following points agreed upon were broadcast a week later on August 11, 1947: “The Government of Pakistan agrees that Kalat is an independent state, being quite different in status from other states on India.; and commits to its relations with the British Government as manifested in several agreements..... In the meantime, Standstill Agreement will be made between Pakistan and Kalat by which Pakistan shall stand committed to all the responsibilities and agreement signed by Kalat and the British Government from 1839 to 1947.....In order to discuss finally the relations between Kalat and Pakistan on matters of defense, foreign relations, and [communication,] deliberations will be held in the near future in Karachi.” Following this agreement, the Agent to the Governor-General Jinnah notified the rulers of Kharan and Lasbela that the control of their regions had been reassigned to the Kalat State. Subsequently, the Marri and Bugti tribal regions were turned over to Kalat. This new Baloch suzerainty of the Khan of Kalat, Mir Ahmad Yard Khan, resembled the Baloch tribal Confederacy founded by Mir Ahmad/Ahmadzai in 1666-67—eighty years before modern Afghanistan was established by Ahmad Shah Baba in 1747.

Pakistan was created on August 14, 1947. The next day the Khan of Kalat declared his state's independence but offered to negotiate special arrangements with Pakistan in matters of mutual defense, foreign affairs and communications. Immediately, the Khan of Kalat dispatched a delegation comprising his prime minister and foreign minister to Karachi, the then capital of Pakistan. Its purpose was to reach an honorable settlement with Pakistan in light of the Standstill Agreement, which was mutually endorsed on August 4 and broadcast on August 11, 1947. Mohammad Ali Jinnah as the governor-general of Pakistan suddenly antagonized his previous legal argumentation in support of the special status of the Kalat State. He bitterly opposed the independence of Kalat and “coarsely persuaded” the ruler of Kalat to “expedite” the merger with Pakistan. The

shock-and-grief-stricken Mir Ahmad Yar Khan, who did not understand Jinnah's sudden anti-Baloch stance, could not do but to reply in a way that by implication pointed to the ultimatum he had received from Pakistan's ruler. Listen to Ahmad Yar Khan's reply: "I have great respect for your advice...but Balochistan, being a land of numerous tribes, the people there must be duly consulted in the matter prior to any decision I take; for, according to the prevalent tribal convention, no decision can be binding upon them unless they are taken into confidence beforehand by their Khan[leader/ruler]." After this provisional arrangement, Mir Ahmad Yar Khan could not do but to immediately return to Kalat, hastily hold election and promptly summon the Kalat State Houses of Parliament, which met for a week in early September 1947 and again in mid-December. The Kalat ruler requested from the assembly to grant him a mandate on the matter of Kalat's amalgamation with Pakistan. Members of the assembly rejected the merger with Pakistan for these reasons: It contradicted against the spirit of the earlier agreement between the Kalat Government and the spokesmen for the upcoming Pakistan on August 4, 1947, as also against the round table conference declaration and the Independence Act of the same year. An American authority on Balochistan, Selig Harrison, observes that "Although most members clearly desired an alliance with Pakistan, an overwhelming consensus favored independence as a precondition for such a relationship." He continues that "Speaker after speaker argued that Pakistan had shown malice toward the Baluch by perpetuating the separate status of the three 'leased' Baluch principalities detached from Kalat by the British." Harrison goes on that "If a unified Baluch identity had been recognized within the framework of Pakistan, several members said, it might have been possible to consider accession. But Pakistan had shown its true colors. Formalizing the dismemberment" of Kalat in the words of the ruler of Kalat Mir Ahmad Yar Khan, "was 'tantamount to political castration of the Baluch'." (Harrison, pp. 24-25). The crisis between Kalat and Pakistan reached its climax on April 1, 1948 when Pakistan's army invaded Kalat and arrested its ruler Mir Ahmad Yar Khan, who under duress signed the merger document in his personal capacity. The Khan of Kalat capitulated, but with his "tacit approval" his younger brother Prince Abdul Karim declared the first guerrilla revolt against Pakistan and sought support from Afghanistan. After the end of World War II, the British strategic thinking about the defense of the Persian Gulf shifted from Balochistan to Pakistan. They believed that "instead of locating a base in a weak Balochistan, such a base could be established in Pakistan which was more than willing to accommodate the British. Hence, it was in British interests to ensure that Balochistan was kept within Pakistan and did not become an independent entity." (Balochis of Pakistan, op. cit., pp 21-22).

CONCLUSIONS

The colonial Durand Treaty of 1893 was imposed on the then Afghan King Abdul Rahman. It refers in its first article to the imaginary "Durand Line" as follows: "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." But Harris in his Ph.D. dissertation (London, 1960) wrote that this map the Afghan ruler "had not signed." Although the Durand Treaty did not mention Balochistan or the Afghan-Baloch

boundary, its so-called Durand Line—running from Wakhan in the northeast to the Persian border in the south—divides Pashtun and Baloch tribes and subtribes. None of the treaties between the British-governed India and Balochistan permitted the colonial power to demark Baloch boundaries without the consent of the Baloch rulers. In reality, the Durand Treaty was a trilateral treaty among Afghanistan, Balochistan and the British India. As such, this treaty legally should have required the participation and signatures of all three states. But actually, the Durand Treaty was presented as a bilateral treaty between the Afghan King Abdul Rahman (1880-1901) and Sir Henry Mortimer Durand only. This way, the British-governed India intentionally excluded Balochistan. Because of this failure to demark the boundaries of all three states with their participation, the Durand Treaty was null and void as soon as it was written. The British circumvent the truth by possibly assuring the Afghan rulers that Balochistan were part of the British India—and, consequently, the colonial power did not need to have the consent of any Baluch ruler on matter of demarking their boundaries. As you can remember from the previous discussion, the border commission of 1871 headed by Major General Goldsmith was named the Perso-Baloch Boundary Commission, while the border commission of 1896 headed by Captain (later Sir) McMahon was called Anglo-Persian Joint Boundary Commission. In this misnomer the names Afghan and Baloch were evaporated. Pashtuns and Balochs may not forget these acts of deception.

To avert any dilemmas, the British withheld information from the Baloch rulers about the Durand Treaty. This way, the colonial power kept Afghanistan and Balochistan in ignorance and apart from each other to unmask the wretched Durand Treaty of 1893, which divided the tribes and subtribes of both nations. In view of the above considerations, the Durand Treaty and its imaginary boundary line were an art of legal deception par excellence. The Secretary General of the Government of Balochistan in Exile, Mir Azaad Khan Baloch specified in his analysis an important issue published in May of 2006 : “Once Balochistan was secured, the Pakistani deceptively used” the legal concept of *uti possidetis juris* “to their advantage and continued occupation of territories belonging to Afghanistan.” In his expose, Secretary General Mir Azad Khan Baloch suggested this solution: Afghanistan and Balochistan “should form a legal team to challenge the illegal occupation of Afghan territories and Balochistan by Pakistan in the International Court of Justice.” (Durand Line Agreement is Illegal, in: governmentofbalochistan.blogspot.com; Afghanland.com; also, see Dr. Dipak Basu, Professor of International Economics, Nagasaki University, Japan: “Durand Line: The Line of Evil”, October 1, 2006, in: balochrise.com [March 15, 2009].

London, Washington and Islamabad have been ignoring the Pashtun and Baloch national question. They should use their energy positively to help a just and viable solution emerge for all sides involved.

All Afghan nation is tired of being nothing more than fodder for corporate goliath. Empires come and go. All have coveted the territory and treasure of others. All have shed the blood of innocents and all have been relegated to the dustbin of history. All Afghan nation had all along fought against British private imperialism and Soviet social imperialism. All Afghan nation has all along demanded the return of its territories situated on the British-Pakistani side of the Sir Mortimer Durand line of 1893. All Afghan nation deserves full legal, political, territorial and social integrity of All Afghanistan stretching from Oxus to Indus and Baloch Sea. March 17, 2011

