

LEGITIMACY, INTERNATIONAL RECOGNITION AND THE TALIBAN

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ABSTRACT

The Government of Taliban (Islamic Emirate of Afghanistan or IEA) has not been “expressly” recognized by any country in the world since its formation in 2021. There is no provision in International law about the recognition of the government that comes through revolutionary means and states grant recognition to a government if that suits its own national interests. The governmental recognition is often linked to the internal legitimacy of the government, measured on the basis of its “effective control” service delivery and stability. The IEA have been effective in all these areas including their efforts to give consent from the leading 4000 members Jirga that accepted their rule and requested international community to recognize the IEA as a legitimate government of Afghanistan. But still there is no state that has recognized it “expressly”. There are some states that has been engaged with the IEA, such as China, an emerging power, Iran and Turkey among others that have sought and established continuous diplomatic interaction that could be categorized as “implied” recognition. This paper primarily investigated the whether the IEA effectively control Afghanistan, whether they have stabilized the country or not. The paper argue that the IEA has not been recognized because some countries are waiting for the right times and other will decide whenever their own national interests suits the decision. Afghans, The United Nations and the countries of the world want the Taliban to make some changes in the government, accept some reasonable demands of the international community, like giving the right of education and work to the women then they will recognize their government.

Key Words: Legitimacy, IEA, Recognition of Taliban, recognition of government

INTRODUCTION

This paper is an attempt to investigate the interplay between internal legitimacy and international recognition in the new government in Afghanistan. The paper is aim at to explore how internal legitimacy is becoming a hurdle to the international recognition. The study will take assistance and guidance from the concept of recognition in the international relations and international law and literature related to political legitimacy. The primary data for the paper include the recent developments on the national level if Afghanistan that could garner more support and legitimacy for the new government

and the efforts of the Taliban government for international recognition.

Recognition manifests the extent to which the recognizing party accepts the recognized entity in foreign relations. When referring to governments, it denotes the recognizing party's readiness to start or continue formal ties with the recognized government. A unilateral act that is left to a State's discretion, the choice to recognize is a feature of State sovereignty. On the part of the government seeking recognition, there is still no obligation to recognize and no corresponding right to recognition. The choice to recognize or not recognize a

government is extremely political in nature, making it fundamentally arbitrary and ambiguous. (Schuit, 2012)

Recognition signifies that the government has the authority to enter into diplomatic and consular relations and to reach international agreements with other states. It also means that the government's executive and legislative actions will be considered the state's official acts in the courts of the recognizing state. When a government declines recognition, it loses its ability to communicate with the rest of the world, has its acts considered void, and may even be denied immunity. It also loses its ability to bring legal cases in other countries. Arguably, a non-recognized government may even lose the ability to go to war. Therefore, the question of why a government may or may not be recognized remains a very important one and yet it is one for which international law (Philipp, 2022)

Every independent State has the right to be represented in international affairs by a government that regularly receives the majority of its citizens' obedience and that wields power inside its borders, according to a fundamental principle of international law. To deny a State the right is to cast doubt on its independence. The international identity of the State is unaffected by changes of this nature, hence States are often not bothered with changes in the makeup or structure of government that take place in other nations. This applies to changes that occur both in accordance with and in contravention of the State's constitutional legislation. However, as in the latter case the replacement of one government by another is often accompanied by revolutionary upheavals in the form of civil wars of differing degrees of intensity and duration and by competing assertions of power on the part of rival authorities, outside States are frequently called upon to take a decision on the question which of the contesting parties must be regarded as being the government of the country concerned; or, after the hostilities have ceased, they may have to decide whether the authority which for the time being has triumphantly asserted itself over its opponents may properly be considered to be a government. To take a decision of this nature is to recognize-or to refuse to recognize-the government in question. Outside States are required by law to recognize that government's authority when it commands the habitual and-despite controversy-

willing obedience of the majority of the population with a realistic chance of permanence (Malik, 2021). This viewpoint, which may be referred to as the legal (as opposed to political or diplomatic) view of official recognition, is not widely held. Many contend that States are permitted to refuse recognition to a foreign government with revolutionary roots if they do so in the exercise of their political judgement and exclusively with regard to their political interests. According to that theory, a government so formed is never legally entitled to recognition (Lauterpacht, 2016).

The standards by which recognition is awarded are thus left to the discretion of States as recognition is a unilateral and discretionary act. To ensure that the worldwide community is uniform, efforts have been made to establish some sort of recognition policies. Effective control over land appears to be the only standard that is widely accepted. Effective control, according to the traditional definition, occurs when a power is "sufficiently established to give reasonable assurance of its permanence, and of the acquiescence of those who constitute the state in its ability to maintain itself, and discharge its internal duties and its external obligations." The concept of territorial integrity, which forbids governments from recognizing an authority that is not actually in charge to the detriment of one that is, can be used to explain it (Serralvo, 2012).

Government legitimacy is typically thought of as a domestic issue (national legitimacy of governments). In this aspect, international law is unbiased. It is obvious that the legitimacy of governments on a national level affects such governments' behavior internationally as well. The most obvious implication has to do with other States' recognition of governments. For centuries, the only standard for approving a new government was the effectiveness of State power. However, as practice demonstrates, this mindset has evolved since the Cold War. States clearly have a predisposition to recognize only "legitimate" regimes (Roth, 1999). In reality, if unrecognized nations are to exist, they must have some degree of internal and external legitimacy. In order to assure external resources, they must be able to activate troops, prevent major emigration, and get entry to the international system or obtain the assistance of an external patron (Caspersen, 2014).

No matter how they came into office, many States used to routinely recognize new administrations. Such acknowledgment was frequently made public, for example by a proclamation recognizing the new administration as the government of another State. However, since such recognition could be (and frequently was) interpreted as endorsing an unconstitutional regime or as favoring one entity over another, it occasionally caused embarrassment for the recognizing State because it was assumed that it supported, among other things, the use of violent means to seize power. As a result, many States stopped the practice of specifically recognizing new administrations towards the end of the 20th century. State recognition judgments were still made, undoubtedly, even in ambiguous situations. But increasingly, States choose to let recognition be inferred from their actions towards the relevant entity rather than making their decision explicit. Only when behavior demonstrates that a State recognizes the entity as a government, in the sense that it acknowledges the existence of a separate governmental quality, is recognition suggested. For instance, if it recognizes the entity's envoys as the State's diplomats, it will acknowledge that the entity has the authority to name diplomatic representatives on the latter State's behalf, which is a power that is only reserved for governments. Consequently, the development of diplomatic ties may signify acknowledgment of that entity (Mishra, 2020).

LEGITIMACY

'Justification of the exercise of public authority' is the definition of legitimacy. The right to control a country is what is meant by legitimacy, to put it more simply. Those who are ruled grant this right. A government is only legitimate if the people agree with it and give it their approval. The State has the capacity to make legally binding choices as long as it is respected and accepted by the populace. Legitimacy has hitherto been thought of as a national legitimacy of governments-only internal issue (Odendahl, 2015).

In regard to the acceptance of governments, the word "legitimacy" has been utilized in various ways by state practise and academics. Perhaps most significantly in the modern context, "legitimacy" can refer to either democratic legitimacy, which typically has to do with public support or representatively, or

constitutional legitimacy, which usually has to do with the legal foundation of the entity's authority, or some combination of the two. International players rarely utilize clear terminology in this context, and their remarks frequently mix up democracy with legality. However, constitutional legitimacy is the main type of legitimacy that current practise supports. Respect for international law, particularly respect for the most basic human rights of that State's own population, has also gained some support in the debate over whether or not to recognize a certain institution as the government of that State (Federica Paddeu and Niko Pavlopoulos, 2023).

Legitimacy is primarily a political concern. Politicians and authorities are always looking for ways to justify their choices, their acts, or the larger political power structures. If achieved, legitimacy ensures that political control is more than just the tactical force of persuasion or the sheer strength of coercion. According to Weber, legitimate politics can only be defined in terms of legitimate dominance and institutionalized hierarchically established command and obedience ties. Naturally, Weber is correct. The organization of legitimate dominance is what politics is all about. But because the issue of legitimacy and the issue of political stability are intertwined, Max Weber characterizes politics in terms of dominance. This type of fusion has a long history and is still widely used today. From this vantage point, Weber sets out to clarify why inferiors have a "inner-sanctioned duty" to submit to their superiors. Such subjective emotions, such subjective affirmation of the objective right to govern, help to explain why a political system is stable since it is not susceptible to the inefficiency of force and violence or the whims of interests and inducements. This connection between stability and legitimacy is likewise stretched, albeit it is not incorrect (Netelenbos, 2016).

Statement of the Problem

The Taliban came to power after a long 20 years of war, when they took over the Kabul and dismantled the previous government in 2021. Since then, the new government is struggling to stabilize the internal situations, ensure peace, provide services to the people and stabilize economy in order to garner legitimacy and perpetuate its rule. International community and state have not been "expressly"

recognized the new government but they have an informal interaction with them. There is no requirement in international law that binds states to recognize a government that comes to power through revolutionary means. The existing literature on recognition suggests that recognition of a government is a political act, done under the considerations of one's interests. Still, some states conditioned the recognition to things like; inclusive government, women rights and internal "legitimacy". This paper attempts to conceptually understand how legitimacy have a close relationship with international recognition and then analyses the recent international events and how much and to what extent the Taliban have maintained and accepted itself on the people and how effective they are in controlling the internal territories of Afghanistan.

International Recognition and Internal Legitimacy in Afghanistan

The Taliban seized Kabul on August 15, 2021, as the US and NATO withdrew from Afghanistan. Asserting the Taliban's victory on the ground in a statement posted to his Facebook page, Ashraf Ghani, the country's current president, left the country that day. It is unclear, as will be discussed below, whether the statement complied with the constitutional requirements for a presidential resignation. Amrullah Saleh, who served as Ghani's first vice president, later said that he was the country's "caretaker" leader, although he has since allegedly left as well. But whatever the president of Afghanistan is according to the constitution, it appears that the Taliban maintain control over a sizable portion of the country. Additionally, the Taliban stated on September 7 that it had established the Islamic Emirate of Afghanistan and that the majority of its new administration would be made up of well-known Taliban personalities (BBC, 2021). Whether the Taliban effectively controls the majority of Afghanistan's territory and population will be a key factor in determining whether it meets the requirements for governmental status in the absence of any constitutionally valid claims, such as if neither Ghani's nor Saleh's claims to be president continue. The Taliban now look to "control the entire territory" of Afghanistan following their capture of Panjshir Valley, "the last holdout of resistance forces." (Haq

Nawaz and Izzat Ullah, 2021). States will have a variety of alternatives if the Taliban is able to keep such power. They could acknowledge the Taliban as the government and maintain normal interstate relations with it, they could acknowledge the Taliban as the government but decline to entertain normal relations with it, they could acknowledge the Taliban as the government but only entertain relations if specific requirements are met, or they could deny the Taliban's status as the Afghan government. Several States have already made suggestions on which of these choices they want to follow (Tess Bridgeman and Ryan Goodman, 2021).

A number of States have stated that they won't recognize the Taliban until a number of requirements are satisfied. Hours after Kabul fell on August 15, U.S. Secretary of State Antony Blinken said: "A future Afghan government we can work with and recognize upholds the basic rights of its people and doesn't harbor terrorists." (LAKSHMAN, 2021). On the other hand, it won't happen if a government doesn't do that, doesn't defend the fundamental rights of its citizens, including women and girls, and harbours terrorist organizations with hostile intentions against the United States or our friends and partners. The American embassy in Kabul was shut down on the same day, and Doha, Qatar, has since been named as the new location for embassy activities. The U.K.'s Permanent Representative to the UN declared on August 5 that the country "would not be prepared to recognize a Taliban government that took power by force [and] that was committed to terrorism." This was before to the Taliban taking control of Kabul. On August 17, the Prime Minister of Canada declared that his country will not acknowledge the Taliban because "[t]hey have taken over and replaced a duly elected democratic government by force [and] they are a recognized terrorist organization under Canadian law." (Tess Bridgeman and Ryan Goodman, 2021). Even Pakistan, one of the few countries who acknowledged the Taliban in Afghanistan between 1996 and 2001, has not rushed to do so right away. Fawad Chaudhry, Pakistan's minister of information, appeared to lay out prerequisites for Pakistan to recognize a Taliban-led government in a news conference on August 18. These include respecting fundamental human rights and forbidding the use of Afghanistan's territory in attacks against other States

(Shehzad, 2021). (The British media reported that Pakistan's national security adviser Moeed Yousuf had recommended the "immediate" recognition of the Taliban; however, on August 30, his office refuted this (Lamb, 2021). These claims have several possible interpretations. If certain requirements are not completed, which are not officially recognized standards for governmental status under international law, they might be seen as signaling an intention to reject the Taliban's governmental legitimacy. They may instead just indicate a refusal to formally recognize the Taliban (leaving open the prospect of a tacit or implicit recognition) or a refusal to engage in regular diplomatic ties with a Taliban administration unless a set of prerequisites are met.

Despite the fact that all these states have shown their positions regarding the recognition of IEA, some states not only welcomed the Taliban but established a continuous interaction as well. China, a neighbor of Afghanistan with substantial investment in the region, was being watchful of the possible security risks posed by the Taliban's sudden comeback after the US pullout in August 2021. Chinese authorities have since emphasized stepping up their cooperation with Afghanistan and other neighbors in the area on matters like counterterrorism, "economic collaboration," and fostering "regional stability and development." At a meeting of the foreign ministers of the three nations in Islamabad in May 2023, China, Afghanistan, and Pakistan pledged to expand trilateral ties on security and counterterrorism. The three parties agreed to work together on China's Belt and Road trade and infrastructure programme, through which China has extensively invested in the area, as a significant outcome of the summit. The China-Pakistan Economic Corridor (CPEC) will be extended to Afghanistan as part of their agreement to establish stronger economic relations in order to "promote connectivity, improve cross-border trading, enhance the economic integration of the three countries, and achieve sustainable development." (Alex Stambaugh and Helen Regan, 2023).

The Taliban have also indicated their desire for China to increase investment in the nation's abundant resources, which are worth an estimated \$1 trillion US. The Xinjiang Central Asia Petroleum and Gas Company (CAPEIC), a division of China National Petroleum (CNPC), and the Taliban inked their first

contract in China in January of this year. The \$251 million pact gives the Taliban a 20% interest for no investment, engagement, or risk in the oil extraction from more than 1,700 square miles of Afghanistan's Amu Darya basin (Briefing, 2023). China has named a new representative to Kabul. After the tenure of other states' ambassadors expired, charge d'affaires were appointed. China, however, made the decision to propose a new ambassador. There are previous diplomats in Kabul with the rank of ambassador, but they all assumed their positions before to 2021, when the Taliban took control following the withdrawal of US and NATO forces after 20 years of conflict and occupation (ALJazeera, 2023).

Since the Taliban took control, Turkey's engagement with Afghanistan has increased. Turkey has been engaged on several fronts as the sole NATO member with diplomatic ties to the nation. The Turkish firm 77 Construction, which invested \$160 million in the project, finished the second phase of the Kajaki hydroelectric dam in the province of Helmand in 2022. The Taliban are not publicly recognized by Turkey. Turkey does not desire to initiate this first due to "some reputational costs." Amir Khan Muttaqi, the Taliban's acting foreign minister, was welcomed by Turkey for high-level discussions in October and the Antalya Diplomacy Forum, which was put on by the Turkish Foreign Ministry, in March 2022 (Sahinkaya, 2022). The Turkey minister also said that countries should offer diplomatic recognition of the Islamic Emirate as well—the first time a foreign political leader has publicly called for this step (Zelin, 2022).

The Afghanistan Chamber of Commerce reports that two-way trade has risen significantly over time and now exceeds \$1 billion USD. Tehran has relied on trade with Kabul to avoid the crippling effects of US sanctions, which have occasionally been in place since 2005 and have fueled Iran's "resistance economy." The use of Iranian Rials in the Afghan border town of Zaranj and the prevalence of Iranian goods on store shelves are two examples of how intimately interwoven border regions are. But although trade has grown, difficulties in other areas have continued (Agency, 2023). In 2023, Iran's increased cooperation with Afghanistan will mark the beginning of a gradual shift in its foreign policy from antagonism to cooperation. On February 26, 2023, Iran formally handed over control of the

Afghan embassy to Taliban representatives, formalizing and cementing their ties (News, 2023). These engagements indicate that these countries want to establish a durable engagement with the IEA. The Chinese agreements and nomination of new Ambassador to Kabul indicates that China is “impliedly” recognizing the IEA. The country has consistently been engaged in economic diplomatic and political interaction since 2021. The Turkey’s case is also interesting, as it not only maintained its relation with the Taliban but it has advocated the cause of IEA recognition in international forums. Although they claim to have not been recognized the Taliban government. In the case of Iran, they have high level diplomatic engagements and a surge in the trade between the two countries that led the Iranian government to decide handing over the Afghan embassy in Tehran to the representatives of IEA. The case of Iran is necessary as the “implied” recognition has a requirement of Embassy’s handing over. Despite the diplomatic, economic and political engagements of these few countries, no one among them has expressly recognized the government of Taliban. Other, the majority of states has either no engagements with the IEA or did not recognize the government of Taliban due to their “conditions” such as inclusivity and internal legitimacy. As mentioned above, the legitimacy is requirement of international recognition for some theorists. The next section investigates the effectiveness of the Taliban government in controlling and governing the country that ultimately contributes to the internal legitimacy.

Legitimacy and Effective Control of IEA

The Taliban had support for years after losing power in 2001. An American nonprofit organization called The Asia Foundation discovered in 2009 that 50% of Afghans, largely Pashtuns and rural Afghans, sympathized with armed opposition organizations, primarily the Taliban. Afghan dissatisfaction with state institutions was a contributing factor in the country's support for the Taliban and its allies (Maizland, 2023). In its first year in power, the Taliban has been steadily expanding as it solidifies its hold on the nation. Major accomplishments of the present acting or interim (sarparast) administration include putting an end to a war that lasted more than 40 years, implementing a significant increase in security, and establishing stable, centralized control

over the whole country of Afghanistan. The first two are accurate in that there was no longer any insurgency or counter-insurgency-related bloodshed because the United States withdrew its troops, the former government's armed forces disintegrated, and the Taliban took command. Since the foreign aid and international activities that financed the majority of the corruption were stopped, the Taliban assert that government corruption has decreased. The argument that corruption in revenue collection has diminished is often supported by reports on tax and customs collections reported by the United Nations. The amount of money the government brings in has grown. Given the country's current economic crisis, the rise is more likely the result of remitting a higher percentage of revenues to the central government than it is of higher collections (Rubin, 2022). Additionally, there are indications that the Taliban's ban on the planting of drugs has significantly decreased poppy output in what was once the world's largest producer of opium (ALJazeera, 2023). Since assuming control, the Taliban have faced several domestic challenges while stabilizing the nation. The Taliban have been able to integrate surprisingly successfully into the Afghan state after fighting for twenty years. The rebuilt Islamic Emirate of Afghanistan (IEA) has successfully assimilated the Afghan administration. The majority of lower and middle-ranking public employees have retained their employment for the time being and are getting their pay, albeit at reduced rates, with the exception of those employed in the court and the security sector. The World Bank, UN organizations, and the IEA have come to an agreement to maintain the delivery of health services at pre-August 2021 levels notwithstanding the tumultuous transition. Given the limits on the Afghan banking industry, the UN is also providing regular shipments of \$40 million in cash under an arrangement with the IEA in order to be able to function in the nation. The majority of this money is used to provide basic healthcare services and much-needed nutritional assistance. Additionally, it prevents a full economic collapse and indirectly stabilizes the Afghani currency (Rahimi, 2023).

The Taliban convened a sizable group of people in order to get their endorsement and legitimacy for their planned rule in 2022. More than 4,000 male clerics and tribal chiefs gathered in Kabul for a large

conference that concluded on July 2 with a statement endorsing Afghanistan's Taliban rulers and urging the international world to recognize the as-of-yet unrecognized administration. The religious academics pledged their loyalty to the supreme commander, Mawlawi Haibuatullah Akhundzada, as the gathering came to a close (Azadi, 2022). After receiving pledges of allegiance from participants raising their hands, Akhundzada praised the Taliban's victory last August, which marked the end of a 20-year struggle to overthrow a Western-backed government and drive U.S.-led forces out of the country (Charlotte Greenfield and Mohammad Yunus Yawar, 2022).

Afghanistan is experiencing peace for the first time in years. There is no substantial opposition that might bring down the Taliban. By following their ideologically rigid leader, they have avoided internal strife. Even while the international world withholds official recognition, they have managed to keep a faltering economy afloat, in part by pursuing investment negotiations with capital-rich regional nations. They claim to be tackling corruption and opium cultivation and have improved internal security by cracking down on armed organizations like the Islamic State. There is no political or armed opposition with sufficient internal or international backing to overthrow the Taliban. North of Kabul, a combat unit that defies Taliban control is being ruthlessly exterminated. Protests in public are uncommon. Although the Islamic State has carried out devastating bombs on prominent targets, including two government ministries, the insurgents lack the fighters, the funds, and other resources necessary to launch a serious offensive against the Taliban (Butt, 2023).

The Taliban government has been consistent in its rule to ensure peace, stability and social cohesion. The above discussion indicates that they are going upwards in their journey towards their ultimate goals. Despite these things there are some reservations like the women education, inclusive government that is actually inclusive, according to the IEA, more inclusive than the one world want, and security threats from the ISIS. The Taliban government still has a sort of "crisis" of legitimacy but they have done better and unexpectedly great in their journey since 2021. If they solve the problem of terrorism, women education and an inclusive government they can

eradicate much of their hurdles in recognition, at least theoretically. As mentioned above, recognition is often granted on the basis of the recognizing party's national interests. The western states would not recognize the IEA until they suit their own interests. Although there are other states that have been engaged since 2021, including China, Iran and Turkey among others. The Iranian position could be categorized a implied recognition, as they allowed IEA's representatives to take the control of Afghan Embassy in Tehran. The Chinese position is also strong on this regard as they have signed agreements with IEA, the first country to do so.

CONCLUSION

International recognition is often linked to the internal legitimacy of a government. Internal legitimacy is measured on the basis of "constitutionality", mean that a government came to power through the established rules and regulations. But these government may face the crisis of legitimacy is it is not controlling the state territory, if there is any other party with popular support that contest its rule, or if there is widespread instability and violence. On the other hand, a party comes to power through revolutionary means; it is difficult to understand how legitimate the new government is. For that, effective control, services delivery, peace and stability are the measures that are theoretically highlighted to argue for the legitimacy. The Taliban government do not have "constitutional" legitimacy, as they came to power through revolutionary means and abolished the previous system but they have control over the large swaths and about all territories of Afghanistan, they have ensured peace and stability and doing well in service delivery. Despite these positive signs, the international community has been resistive to recognize their government, except China, Iran, Pakistan and Turkey, who have a sort of "informal" but they also have not expressly recognized the IEA. This paper argue that despite the effective control, service delivery and stability, the IEA has not been recognized because the international community and states give recognition of the basis of their own interests, not on the basis of how much a government is legitimate.

The government of Taliban must be in close contact with the world and United Nations, accept some changes in their government, accept some reasonable

demands of the international community, like giving the right of education and work to the women and girls then their government will be recognized by the United Nations and countries.

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