

## RECOGNITION OF THE TALIBAN: LEGAL AND POLITICAL ASPECTS

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**Abstract.** *This article examines the approaches of countries in the international community towards the Taliban government in Afghanistan, which came to power in 2021 – a significant event with domestic, regional, and global implications. In addressing the issue of recognizing the Taliban government, key external actors are responding with caution, guided by strategic calculations, political values, and long-term foreign policy objectives in regions adjacent to Afghanistan. States with vested interests in Afghanistan are broadly divided into two camps, each conditional. On the one hand, a group of Western states faces challenges in engaging with and recognizing the Taliban government; on the other hand, regional powers are attempting to fill the strategic vacuum left by the United States and its allies by engaging more actively with the Taliban.*

**Keywords:** *Islamic Emirate of Afghanistan; Taliban; international law; de jure recognition; de facto recognition; international community; Central Asia.*

### Introduction

Russia's recognition of the Islamic Emirate of Afghanistan has sparked considerable scholarly interest, given that this diplomatic move marks the first official recognition of the Taliban by a major world power. For Central Asia, this development presents both strategic opportunities and risks, as the Russian Federation seeks to maintain regional stability while attempting to influence the political order in Afghanistan. For its part, the Taliban – having transformed from a militarized group into a political force – has faced the need to legitimize its authority both domestically and internationally. However, progress in this direction has remained minimal. The core issue lies in the inherent contradiction between the type of political system the Taliban is constructing and its engagement with the international community.

Recognition of the Taliban as the legitimate government of Afghanistan carries serious implications under international law, as it would entail formal acknowledgment of the Taliban as the representative of Afghanistan in global affairs – triggering the establishment of diplomatic relations, conclusion of treaties, and cooperation across various domains.

At the same time, such recognition is frequently contingent upon the Taliban's adherence to international legal norms, including human rights and the protection of civilians. Accordingly, the decision to recognize the Taliban is both a legal and political matter, dependent on the specific circumstances and interests of each state.



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### **Literature Review: Legal Aspects of International Recognition**

In international law, the concept of "recognition of governments" refers to the acknowledgment and acceptance of the international legal personality of a new state or government. The United Nations (UN), as a universal international organization, has sought to codify international legal norms in key areas of state behaviour in order to bring clarity and legal certainty to international politics. In particular, in 1949, the UN International Law Commission (ILC) included recognition on its list of key areas selected for codification. The Commission concluded that state practice in the matter of recognition lacks uniformity, with recognition exercised primarily as a matter of foreign policy and political expediency rather than as a legal obligation. In other words, states are under no normative requirement to recognize a new state or government, and each state resolves the issue based on its own political interests and ideological orientation.

Experts in international law emphasize that the concepts of state and government recognition, though terminologically similar, are technically distinct. Recognition of a state refers to the acknowledgment of a state's statehood and international legal personality. According to the foundations of modern international law, all states are subjects of international law by virtue of their sovereignty. This inherent characteristic grants them the capacity to hold international rights, assume international obligations, and independently engage in international relations.

In recent decades, new states have emerged either through the dissolution of existing states or through decolonization. For example, the dissolution of the USSR and the emergence of new independent Central Asian states marked the beginning of a new chapter in their contemporary history. Possessing varying resources, demographic strengths, and economic potential, most of these states began the process of constructing national statehood.

Conversely, recognition of a government involves acknowledging and accepting a new government's authority within an existing state. When a government changes through regular political processes, recognition is typically not an issue. However, when a change in government occurs through unconstitutional revolutionary means or by force, the international community's recognition of the new regime becomes significant. Approval of such a change implies the recognizing state's willingness to engage in stable diplomatic relations with the new government. Through recognition, the authority and legitimacy of the new government are acknowledged and accepted. In this case, Afghanistan's statehood is not under dispute; rather, the issue is whether the Taliban constitutes a legitimate and representative government of Afghanistan.

Two divergent theories exist in the field of international legal doctrine concerning the recognition of states: the constitutive theory and the declaratory theory. Proponents of the constitutive theory argue that, without recognition by a group of leading states, a new state cannot be considered a subject of international law or a member of the international

community. However, this theory diminishes the importance of state sovereignty as an inherent attribute, making the emergence of statehood dependent upon the will, desire, or even arbitrariness of other states. By contrast, the declaratory theory of recognition asserts that recognition merely acknowledges the factual existence of a state and is not a condition for its existence as a subject of international law. In other words, a state exists *de facto* regardless of whether it is recognized by other states.

In cases where a new state does not arise, and the existing state continues to exist, the issue of recognizing its new government may arise – particularly when the government comes to power through unconstitutional means or when the form of governance changes (e.g., from monarchy to republic). In such cases, recognition is not always necessary, and maintaining normal diplomatic relations may suffice. However, the issue of recognition becomes acute when a new government is formed following a social revolution or a national liberation war. In this context, recognition of the new government essentially implies recognition of a new state as a subject of international law.

Regarding the interpretation of state behaviour toward the recognition of new governments, two competing political doctrines exist in international law: the Tobar Doctrine and the Estrada Doctrine. The doctrine, presented in 1907 by the former Minister of Foreign Affairs of Ecuador, C. Tobar, advocates that a new government should be recognized only if it has come to power through democratic, constitutional means and enjoys popular support.

In contrast, the Estrada Doctrine, formulated in 1930 by Mexico's Foreign Minister G. Estrada, has gained wide acceptance and treaty-based recognition. It posits that the criteria for recognizing new regimes should be based on their stability and control over the state rather than their democratic credentials. This doctrine opposed the use of recognition as a tool of interference in the domestic affairs of Latin American states by the United States and other powers.

The Estrada Doctrine aligns with the declaratory theory of recognition and is consistent with the generally accepted principles of international law. For instance, Article 12 of the Charter of the Organization of American States states that "the political existence of a state is independent of recognition by other states." Even before being recognized, a state has the right to defend its integrity and independence, ensure its security and well-being, organize itself as it deems appropriate, enact laws on matters concerning it, and establish the jurisdiction and competence of its courts.

In the matter of recognizing the Taliban government in Afghanistan, Western states operate largely under the Tobar Doctrine, whereas Russia and China adopt principles from the Estrada Doctrine. For example, Western governments emphasize women's rights, government inclusivity, and the Taliban's relations with international terrorist networks in their stance toward recognition.

### **Core Issues: Approaches of the International Community to Taliban Recognition**

Following its rise to power, the Taliban abandoned the existing political system and the Afghan constitution, which provided a foundation for governance. Instead, the group began to construct a political system rooted in its own worldview and strict interpretations of Islam. The Taliban's understanding of an inclusive political system, responsive to the interests of Afghan society's diverse groups, has not included significant concessions on key issues, despite their interactions with regional and international actors.

Demands for an inclusive government and respect for the rights of women and religious and ethnic minorities are viewed by the Taliban as interference in Afghanistan's internal affairs. This perception stems from the psychological view among Taliban leaders that complete control over political power and the country's resources is a major victory after decades of struggle, creating significant barriers to compromise and reform. From a political science perspective, this approach contradicts systems theory, which holds that political systems unable to adapt to their environment risk losing functionality and stability. Proponents of this theory cite the fall of the previous Afghan republican regime as an example.

In its approach to terrorist organizations in Afghanistan, the Taliban declares a commitment to stability and security, suggesting a willingness to counter terrorism. However, the group maintains ties with certain terrorist entities and has shown limited readiness to act decisively against them. Analysts identify two overlapping domains of current terrorist activity in Afghanistan. The first includes long-standing Taliban affiliates such as Al-Qaeda, the Islamic Jihad Union, the Islamic Movement of Turkestan, and Jamaat Ansarullah – groups the Taliban claims to be controlling under previous commitments to eliminate threats from Afghan soil to Central Asian states. The second is represented by ISIS-Khorasan (IS-K), the Taliban's principal rival and current source of internal security threats.

One form of recognition is the establishment of diplomatic relations, including the opening and exchange of embassies. However, the diplomatic presence of foreign states in Kabul primarily serves as a channel of communication, driven by the need to maintain consular and humanitarian activities, protect national interests, and coordinate on various issues – rather than as evidence of intent to recognize Taliban authority. Presently, there are 18 diplomatic missions operating in Afghanistan—from Uzbekistan, Tajikistan, Turkmenistan, Kazakhstan, Kyrgyzstan, Azerbaijan, Pakistan, Iran, China, Russia, Turkey, the European Union, Indonesia, Qatar, the UAE, Saudi Arabia, and Japan – as well as a technical group from India. Moreover, in Afghanistan, there are functioning consular representations. In Balkh Province, the consulates of Uzbekistan, Turkmenistan, Iran, Pakistan, Russia, and Turkey are operational; in Herat Province, the consulates of Turkmenistan, Iran, and Turkey; and in Nangarhar Province, the consulate of Pakistan.

It is noteworthy that Western countries have not formally closed their embassies in Kabul, nor officially severed diplomatic relations, but they do not maintain diplomatic personnel in the country to the extent they did during the Soviet occupation of Afghanistan in 1979–1989, when many either withdrew their staff or downgraded relations to the *chargé d'affaires* level. Most Western interactions with officials of the Islamic Emirate of Afghanistan take place in Doha, Qatar, where diplomats below the ambassadorial level represent their countries in meetings.

Until recently, only two countries had ambassadors who presented credentials to the authorities of the Islamic Emirate. In November 2024, the new Ambassador of Uzbekistan to Afghanistan, O. Usmanov, presented credentials to the Taliban's Minister of Foreign Affairs, A. Mottaki, and one year earlier, China's new ambassador similarly presented credentials to the Taliban leadership. Other ambassadors were accredited under the previous republican regime, or the embassies are headed by *chargés d'affaires*.

Meanwhile, Uzbekistan, China, the UAE, and Pakistan have accredited new ambassadors appointed by the Taliban to those countries. For example, in August 2024, the Taliban appointed a new ambassador to Uzbekistan, who is Abdul Gafar Tiravi, an ethnic Uzbek. According to experts of the European Society of International Law, given that the sending or acceptance of an ambassador is widely understood as a sign of recognition, one can assert that these states have indirectly recognized the Taliban as the government.

In other words, when a state recognizes the existence of another state or government through indirect acts that indicate recognition, this is, in international law, implied recognition or *de facto* recognition. At the same time, a recognizing state may avoid explicit recognition by declaring that none of its actions should be understood as an act of recognition. Furthermore, establishing and maintaining non-formal relations with new *de facto* authorities without officially recognizing them is considered entirely normal and sometimes necessary. An example is the current engagement of states with the Taliban government to address the humanitarian crisis in Afghanistan.

According to various observers, the first state fully *de facto* recognize the Taliban may be considered Turkmenistan, which never included the Taliban on its list of prohibited terrorist organizations. In addition, Turkmenistan, in its negotiations with Afghan representatives on Turkmen territory, was the first state to use the flag of the Islamic Emirate of Afghanistan. Being a permanently neutral state under international law, Turkmenistan was able to take this step precisely because it never prohibited the Taliban, and no legal obstacles existed. Meanwhile, in official media, Ashgabat refers to the country simply as Afghanistan.

By contrast, Moscow's announcement on 3 July 2025 of its decision to formally recognize the Islamic Emirate of Afghanistan was preceded by the removal of the Taliban from Russia's list of proscribed terrorist organizations in April of the same year and the elevation of Russia's level of representation in Kabul to an embassy. The culmination of the process

was the acceptance by Russia's Deputy Foreign Minister, A. Rudenko, of a copy of the credentials from the newly appointed Ambassador of the Islamic Emirate to Russia, Gul Hassan Hassan; the raising of the Islamic Emirate of Afghanistan's flag over the Afghan embassy building in Moscow; and the Russian Ministry of Foreign Affairs' statement regarding the act of official recognition of the Islamic Emirate government of Afghanistan. Thus, Moscow's action may be considered the first explicit, de jure recognition of the Taliban government – that is, Russia became the first state to make a public legal recognition after the removal of all internal prohibitions.

Analysts believe that China, driven by its economic interests tied to Afghanistan's mineral resources, the Belt and Road Initiative, and concerns regarding Uyghur separatism in its western borders, as well as leading Arab monarchies of the Persian Gulf interested in ensuring regional stability and protecting investments, will likely follow Russia's example in the near future. As American expert M. Kugelman suggests, such developments reflect a weakening of the consensus among world powers that countries could pursue their interests in Afghanistan only through diplomatic engagement, without establishing official relations. Some countries are now concluding that formal, public engagement may be more effective.

Several other analysts view Moscow's recognition of the Taliban government as part of a broader trend – namely that governments controlled by insurgents or deemed terrorists, as in Afghanistan or Syria, are gradually gaining legitimacy owing to geopolitical considerations. In their view, this trend conflicts with international norms regarding the legitimacy of states and may encourage militant groups in other regions to attempt to seize power by force, expecting that geopolitical advantage will lead to official recognition.

Thus, one may conclude that both regional and international initiatives concerning Afghanistan face serious challenges, the chief among them being polarization. As Afghan expert A. Kamel notes, there is an evident conflict of interests between Western countries and regional powers concerning Afghanistan's future. Specifically, the participants in the "Doha process," led by the United States and the UN, place greater emphasis on human rights, education for girls, and counterterrorism, even though among Western states there is no unified approach to engaging with the Taliban.

Overall, Western states maintain a restrained position toward recognition of the new government in Afghanistan, limiting themselves to diplomatic or humanitarian contacts, while awaiting tangible progress in governance and human rights by the Taliban. For instance, UN Special Rapporteur on human rights in Afghanistan, R. Bennett, has stated that normalization of relations with the Taliban is impossible without tangible and sustainable improvements in human rights. Moreover, he welcomed the decision of the International Criminal Court to issue arrest warrants for the leader of the Taliban movement, H. Akhundzada, and for the chief justice A. Hakkani, for "crimes against humanity" – namely the systematic suppression of the rights of women and girls in Afghanistan.

Among Western countries, the United States continues to adopt a firm stance regarding Afghanistan. From 2022 until July 2024, the U.S. has sent approximately USD 21 billion in various forms of assistance to Afghanistan. Meanwhile, U.S. official institutions play a key role in moderating or expanding financial and liquidity restrictions against the Taliban regime. The U.S. also holds leverage through voting in the UN Security Council, which, among other roles, actively supports the UN Assistance Mission in Afghanistan (UNAMA) mandate, and imposes sanctions, travel bans, and other restrictions on the Taliban.

The administration of D. Trump highlights certain progress in relations with the Taliban, including the recent release by the Taliban of several American citizens, and the lifting of the USD 10 million reward for information about the whereabouts of S. Hakkani, the leader of the Hakkani network, which is part of the Taliban. At the same time, the White House wishes for greater openness by the Taliban in cooperation on countering Al-Qaeda. It is not excluded that in the near future the U.S. might reassess the current status of the Taliban – from “Special Global Terrorist” to “Foreign Terrorist Organization” – which would influence the Trump administration’s policy toward Afghanistan toward easing anti-Taliban sanctions.

Concerning the European countries, the United Kingdom, Germany, and Italy continue to take steps aimed at normalizing relations with the Taliban, taking into account the necessity of humanitarian interaction and coordination on migration and security issues, whilst governments of countries like Austria and France maintain a hardline position, supporting sanctions against the Taliban regime. Despite multiple appeals by the Taliban to reopen European embassies in Kabul and to hand over Afghan diplomatic missions in Europe, most EU countries show restraint. Collectively, this approach underscores the duality of European policy on Afghanistan, oscillating between condemning the regime and maintaining limited channels of engagement.

On the other hand, the priorities of regional powers such as Russia and China include the development of Afghanistan’s economic connections, the fight against ISIS and other terrorist organizations, preventing the re-establishment of U.S. and NATO military presence in the country, as well as forming an inclusive government and ensuring the rights of ethnic and religious minorities and women in Afghanistan. At the same time, they acknowledge that without the West's participation, a sustainable solution to the Afghan crisis is impossible, as some interests overlap.

For the Taliban, engagement with Western states poses significant difficulties due to fundamental differences in values and governance approaches, whereas their actions indicate a preference for developing relations with regional states and Afghanistan's neighbours. This can be explained by cultural and civilizational proximity, as well as lower pressure regarding human rights and democratic reforms. For example, the Afghan and Uzbek peoples have lived for centuries in a shared cultural civilizational space, and these historical ties cannot be ignored.

With regard to the role of the UN, the Taliban continue to engage with the organization, as this reduces pressure on the government regarding humanitarian aid, facilitates a degree of dialogue with the international community, and brings in funds to the struggling Afghan economy. Experts assert that refusing to recognize the Taliban government provides Western politicians little beyond moral impetus as defenders of Afghan women. The belief that the Taliban will collapse under international pressure remains a spectre of illusion; therefore, more transparent relations with the Taliban authorities will increase the UN's ability to exert positive influence in the country, particularly in the medium and long term.

In international legal doctrine, recognition of a new state or government constitutes a unilateral act of a state and does not require approval by the UN, including its principal organ, the Security Council. Nevertheless, the Taliban leadership understands that its endorsement is necessary for admission to the UN General Assembly, which would constitute formal recognition of international legitimacy and the global community's readiness to work with them. The Credentials Committee of the UN General Assembly, consisting of nine member states, plays a special role in this process. While Russia, China, and the United States have held permanent seats on the Committee since its establishment in 1947, the other members rotate annually.

This Committee reviews annually the lists of delegations accredited to participate in General Assembly sessions, and in recent years has rejected recognition of seats at the UN for the Taliban government of Afghanistan, effectively denying international recognition of the Taliban at the UN level. According to specialists, although the decisions of the Credentials Committee do not carry formal legal weight as acts of recognition or non-recognition, they do, politically, send a first-order signal to other states. Thus, many countries adhering to a policy of collective decision-making, including countries of Central Asia, will be guided by the UN's signal.

Overall, by now, the international community faces a dilemma regarding the recognition of the Taliban government. While some states recognize the effective control of the Taliban over Afghan territory, others adopt a cautious position, awaiting further developments and prioritizing human rights concerns. In particular, among a certain portion of the international community, there exists a widespread perception of the Taliban as religious fanatics hostile to women and thus deserving categorical rejection. However, such rhetoric by no means improves the condition of Afghan women. Moreover, it complicates the work of international agencies on Afghan soil, leaving them in an ambiguous position: on the one hand, compelled to publicly repudiate the Taliban government, and on the other, relying on its protection and hospitality while engaging in delicate negotiations with it to achieve concrete outcomes.

Nevertheless, international cooperation with Afghanistan is crucial to resolving global challenges, particularly in climate change adaptation and the prevention of forced climate migration. On the other hand, in the

contemporary interconnected world, the Taliban will not be able to resolve Afghanistan's numerous problems alone, without official interaction with the international community. In reality, contemporary Afghanistan contributes almost nothing to climate change, yet suffers gravely from its effects. If desertification in this country of approximately 40 million people continues, one may expect waves of migration into neighbouring, more affluent states with temperate climates.

The Islamic Emirate of Afghanistan is concerned with the threat of climate change and could become an effective partner for climate adaptation, but only conditional on participation in international forums and access to funding, such as those agreed under the UN Framework Convention on Climate Change in 2024, more commonly known as COP29, because of its focus on expanding financial solidarity programs.

### **Executive Summary**

Today, the Taliban leadership is also targeting the establishment of peaceful relations with regional states as a means to expand and strengthen its ties, as well as to obtain broader regional support. For example, the stabilization and strengthening of diplomatic relations between Kabul and the capitals of Central Asia not only reduces tension among neighbouring states but also projects a more positive image of the Taliban government in the region, thereby encouraging greater regional support. The Central Asian states, in turn, envisage Afghanistan as an independent, neutral, united, and peaceful state, free from terrorism, war, and narcotics, with an inclusive government and participation of representatives of all ethnic, religious, and political groups of Afghan society.

Although these conditions of recognition mostly remain, diplomatic engagement between Central Asian countries and the Taliban is steadily expanding, transforming interaction with the Taliban into a "new norm." Thus, part of the international community, represented by regional states, responds to the recognition of new regimes primarily through default policy, in which recognition entails certain engagement without a formal declaration. Such engagement is justified to ensure regional security and stability and to promote economic development.

In this sense, contrary to initial assumptions, the behaviour of the Taliban over the past four years indicates a gradual departure from ideological idealism and a decision to refrain from interference or escalation of tensions in neighbouring states. Statements by Taliban leadership prohibiting jihad by Taliban militants outside Afghanistan reflect the adoption of such an approach, sending a clear signal of goodwill to regional states.

Meanwhile, the absence of official recognition of the Taliban government remains the principal obstacle to Afghanistan's reintegration into the regional and global system. This situation exerts significant pressure both on the Afghan population and on Taliban leadership, which over time may lead to erosion of their legitimacy internally. Moreover, it impedes the realization of Afghanistan's potential as a regional transit hub.

By virtue of its geographic position, Afghanistan lies at the crossroads of routes from Central Asia to Pakistan and India, and following the cessation of large-scale hostilities with the Taliban's taking power, favourable conditions are emerging for the development of transport infrastructure. One possible transit route envisages movement of cargo from Russia and Kazakhstan via Termez to Mazar-i-Sharif and Kabul, with further exit via Peshawar to the Pakistani port of Karachi and onward into India.

For successful integration of the country into international transport networks, political agreements will be required between regional states and the Taliban, large-scale investment in infrastructure – especially in railway connectivity along the Termez-Kabul-Peshawar route – reliable guarantees for the security of freight flows, as well as easing of the existing sanctions regime concerning the Taliban, which complicates international cooperation. If these conditions are met, Afghanistan has a chance to transform from a zone of chronic instability into a promising Eurasian transit hub, capable of offering an alternative to traditional routes amid their growing vulnerability.

The international community, in turn, must find a balance between exerting pressure on the Taliban and constructive engagement, so as to foster positive change in the country and prevent it from becoming a bastion of instability and terrorism. The long-term interests of regional states and the international community require that the Taliban government become official, effective, and accountable in the near future. This appears to be a vital condition, since an unrecognized government cannot provide a convincing and rational response to the issues that concern the countries of the region and the international community.

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