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The 'Great Game' & the US-Afghan Strategic Partnership Agreement

JURIST Guest Columnist **Kevin Govern** of the Ave Maria School of Law says that determining the impact of the recently announced Strategic Partnership Agreement between the US and Afghanistan requires a look into the many interests vested in the region...



As immortalized in Rudyard Kipling's novel **Kim**, the nineteenth century "Great Game" was a bilateral military, diplomatic, and economic competition between the British and Russian empires in Afghanistan. One hundred and eleven years after the publication of Kipling's book, a monumental confluence of events has occurred: a signed **bilateral agreement** between the US and Afghanistan, a presidential speech describing the engagement between the two nations, the US Department of Defense's latest **Report on Progress Toward Security and Stability in Afghanistan** [PDF] and

the first strategic meetings between Afghan and Indian diplomats under their shared October 2011 **bilateral agreement**. All of this came on May 1, 2012, the first anniversary of Osama bin Laden's **targeted killing** — an operation which was launched from Afghan soil into Pakistan. Yet, this coincidental convergence describes only a small fraction of the growing "Great Game" moves amongst many nations across the twenty-first century Afghan playing board.

After more than a year of talks and 23 drafts, Afghanistan and the US came to an agreement governing the next phase of their tempestuous relations. This Strategic Partnership Agreement (SPA) is one of only about 100 bilateral and multilateral agreements addressing the status of US armed forces while they are present in foreign nations. These agreements are commonly called Status of Forces Agreements (SOFAs)

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because, as I have previously **noted**, they are legal frameworks that define how foreign militaries operate in a host country. SOFAs may delineate, among other things, who is subject to the criminal and civil jurisdiction of the host country, as well as civil liabilities such as taxation.

This is merely the latest of many US-Afghan agreements following the terrorist attacks of **September 11, 2001**, and the ensuing Operation Enduring Freedom combat operations. In 2002, there was an exchange of notes under the **Foreign Assistance Act of 1961** for economic grants and the providing of defense articles, services, and related training pursuant to the **United States International Military and Education Training Program**. Later, in 2004, there was an Acquisition and Cross-Servicing Agreement, followed by a 2005 **joint declaration** outlining a prospective future agreement regarding security, governance and development penned between the two countries, preceding a similar **agreement** [PDF] with the European Union (EU).

The US-Afghan dynamic dramatically changed in August 2008, after US airstrikes caused civilian casualties in Afghanistan, prompting Afghan President Hamid Karzai to call for the conclusion of formal SOFAs governing the forces operating in the nation. The US considered, but did not actually establish such a SOFA for another two years. Curiously, the major impetus for a SOFA might have come had the **United States-Afghanistan Status of Forces Agreement Act of 2011** moved beyond committee.

With the recent signing of the SPA, the US committed to the sovereignty, territorial integrity and national unity of Afghanistan, and to support Afghanistan's social and economic development, security, institutions and regional cooperation. This was matched by Afghan commitments to strengthen government accountability, transparency, oversight and to protect the human rights of all Afghans — men and women. The SPA commits Afghanistan to provide US personnel access to and use of Afghan facilities through 2014, while providing for the possibility of US forces in Afghanistan after 2014 for the purposes of training Afghan forces and targeting the remnants of al-Qaeda. It further commits the US and Afghanistan to initiate negotiations on a bilateral security agreement to supersede the current SOFA.

What of other nations involved in the "Great Game?" Central Asian states like Kazakhstan, Uzbekistan, Tajikistan, Kyrgyzstan, and Turkmenistan have *de facto* and *de jure* arrangements to provide the Northern Distribution Network (NDN) with multiple ground and air transportation routes into and out of Afghanistan for commercial carriers and US military aircraft. Neighboring Iran concluded its first Joint Defense Commission meeting with Afghan officials in Tehran in December 2011 for fuel and food exports, along with civil, military and cultural exchanges. This does not include Iran's investment of approximately \$500 million in reconstruction and development efforts in

Afghanistan, the arrangement of trilateral summits with Pakistan in Islamabad on counter-narcotics and refugee cooperation or the suspected continued equipping and training of Taliban and other insurgent groups. Within a week of the Afghan-US agreement, Iranian foreign ministry spokesman Ramin Mehmanparast publicly denounced it. Mehmanparast hinted that the agreement would imperile Iranian aid to Afghanistan and casted doubt on its efficacy, claiming that:

[N]ot only will the strategic pact not resolve Afghanistan's security problems, but it will intensify insecurity and instability in Afghanistan.

The People's Republic of China pursues trade and natural resource exploitation in Afghanistan, and has committed more than \$180 million in development aid to that nation, with another \$75 million committed through 2014. Yet, there is no indicated clear intention regarding security arrangements in the future. As the dominant partner in bilateral arrangements with Pakistan, one cannot consider China's influence in Afghanistan isolated from its influence in Pakistan. As I have **previously written**, Pakistan is important to a trilateral power play not just for influence in Afghanistan but in opposition to India. Pakistan remains an important foothold for coalition forces in the region, and offers vital logistical lines of communication. Pakistan's egregious domestic human rights abuses, removal of top US military trainers from its soil, limiting of visas for US personnel and aiding and abetting of insurgent and terrorist elements make Pakistan a difficult case at best.

Just as China's influence in Afghanistan cannot be considered in isolation from its influence in Pakistan, India's influence in Afghanistan cannot be considered in isolation of its opposition to China and Pakistan. As mentioned earlier, bilateral relations between Afghanistan and India commenced the same day as the SPA. Foreign ministers Zalmai Rassoul of Afghanistan and S.M. Krishna of India met in the first session of meetings set up under an October 2011 strategic agreement between the two countries — purported to be Afghanistan's first with any country. The Afghan minister is also slated to meet Indian Prime Minister Manmohan Singh and finance and security officials. As the US-led coalition plans to withdraw forces from Afghanistan in 2014, there comes an Afghan shift in regional alignments toward India after Karzai chastised Pakistan for failing to act against Taliban-led insurgents based in Pakistan. The arrangement comes at the same time as relations between India and Pakistan have strained even further over attacks I have **previously chronicled**, which were purportedly sponsored by Pakistan on Indian soil. The October 2011 Indo-Afghan pact also outlined areas of common concern including trade, economic expansion, education, security and politics, as India plans to increase its participation in Afghanistan development.

The six members of the Gulf Cooperation Council intend to provide financial support to stabilize Afghanistan, and provide vital airbase, port,

overflight and transit arrangements with coalition forces operating in Afghanistan, while at the same time unofficially funding Taliban and other terrorist groups operating in Afghanistan and Pakistan.

Erstwhile occupier of Afghanistan, Russia, continues to play the "Great Game" to combat the flow of Afghan narcotics into its homeland, while supporting stability and security efforts in that nation and facilitating the flow of logistics via the NDN.

In his May 1, 2012 speech at Bagram Air Base, President Obama said:

This time of war began in Afghanistan, and this is where it will end. ... With faith in each other, and our eyes fixed on the future, let us finish the work at hand and forge a just and lasting peace.

This is an ambitious, if not optimistic, outlook as Afghanistan has long been called the "graveyard of empires," given the failed incursions of Alexander the Great, the Persians, Genghis Khan, the British Empire (twice) and the Soviet Union. In July 2011, Zalmay Khalilzad, former US ambassador to Afghanistan and Iraq, suggested ways in which the US should be offering "more carrots along with the sticks" in the multilateral relationships with Afghanistan and the nations influencing and influenced by it. Considering the complex relationships between players in this twenty-first century version of the "Great Game," it is easy to see the difficulty inherent in deciding how many "carrots" and "sticks" to offer in these relationships, especially when one is doing so with an eye toward "forg[ing] a just and lasting peace."

Kevin Govern is an Associate Professor of Law at Ave Maria School of Law. He began his legal career as a US Army Judge Advocate. He has also served as an Assistant Professor of Law at the United States Military Academy and has taught at California University of Pennsylvania. Unless otherwise attributed, the conclusions and opinions expressed are solely those of the author and do not reflect the official position of the US government, Department of Defense or Ave Maria School of Law.

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