



# The Role of International Law and Diplomacy in Inter-State Relations: Implications for Afghanistan and American War Relations

Netchy Christian Mbaeze 

*Department of Political Science, Enugu State University of Science and Technology, Nigeria*

Kingsley Chukwuka Ezechi  

*Department of Political Science and International Relations, Godfrey Okoye University, Enugu, Nigeria*

Felix Vincent Nnamani 

*Department of Political Science, Enugu State University of Science and Technology, Nigeria*

## Suggested Citation

Mbaeze, N.C., Ezechi, K.C. & Nnamani, F.V. (2024). The Role of International Law and Diplomacy in Inter-State Relations: Implications for Afghanistan and American War Relations. *European Journal of Theoretical and Applied Sciences*, 2(1), 513-525.  
DOI: [10.59324/ejtas.2024.2\(1\).44](https://doi.org/10.59324/ejtas.2024.2(1).44)

## Abstract:

This study examines the role of international law and diplomacy in interstate relations, with implications for American-Afghanistan relations. Specifically, the study sets out to interrogate whether US war relations on terror in Afghanistan has reduced terrorism in the country; ascertain how US counter-terrorism strategic relations in Afghanistan undermined *jus in bello* principles of proportionality and discrimination; and determine how US strategy failure in its Afghanistan's relations undermined its reconstruction and peace-building efforts. By adopting the Just War Theory (JWT), the paper analysed the dynamic nature of US-Afghanistan relations, following

the 9/11 attacks, with findings revealing that the US had an incoherent strategy in its war relations in Afghanistan, which ultimately led to its failure to restore peace, promote democracy and human rights.

**Keywords:** *International Law, Law of Armed Conflict, Diplomacy, Terrorism, War on Terror, Afghanistan, USA.*

## Introduction

Multilateralism as an approach to the promotion of international peace and security has been the bedrock of international law and diplomacy since the end of the World War II. States in their concession and realisation that no individual political entity can survive on its own, and to greater extent tackle certain problems confronting her, decided to create multilateral institutions like the United Nations (UN), to discuss and deliberate how they can achieve their individual and collective interests. Policies arising from these deliberations in such bodies creates both the *modus operandi* and *modus vivendi* for States' relations in the international system.

Resolutions, guidelines, and conventions passed become what States will rely on in their dealings with other States in the international system (Wood, 2014). To properly make effective demands on other States in the international system, States must rely on the tool of diplomacy, to achieve their objectives. Diplomacy as a tool of negotiation, is aimed at ensuring that States achieve their national and foreign policy objectives without resort to the use of force, which is frowned at in article 2(4) of the UN Charter. Diplomacy, as the application of intelligence and tact in the management of international relations by subjects of States for the purpose of achieving



their national objectives and interests by peaceful means (Satow, 1917), is undergirded by the principles of international law.

Diplomacy as State practice is highly recommended in international law because it guarantees the peaceful conduct and relations of States in political, social, cultural, and economic spheres without endangering international peace and security (Article 33 of UN Charter). However, under international law, when diplomacy fails, the use of force can be employed by comity of States to guarantee the preservation and protection of international peace and security anywhere in the world (Articles, 24(1); 42; and 57 of the UN Charter). Hence, in the words of the German Strategist, Karl Von Clausewitz, war is the continuation of diplomacy by other means.

States in the international system establish diplomatic relations for several reasons. This could be military, strategic, economic, or political. The US-Afghan relations which officially began in 1942 (Jabeen, Mazhar & Goroya, 2010), was for one of such reasons, and in this case, economic, as the Afghan government would want it to be. But the US wanted it to be for political and strategic reasons. Notable, and prior to 1942, the US cited the lack of commercial interest as reason for not establishing formal relations with Afghanistan. Thus, efforts made by the Afghan government to establish diplomatic ties with the US was not welcomed at the time. Several Afghan missions and emissaries have been sent to the US between 1919-1921 for the possibility of establishing relations with the US, but the then Secretary of State of the U.S, Charles E. Hughes, declined Afghan government requests as he sees Kabul to be under British sphere of influence (Gregorian, 1969). Other reasons were Afghanistan's friendly ties with Germany, a country viewed as an enemy by the US, especially following its attack on the US during world war I (Jabeen, Mazhar & Goroya, 2010).

This reluctance to establish diplomatic relations with Afghanistan is further corroborated by a letter written by the US State Department in 1933 thus:

*We have been naturally conservative on the subject of establishing relations with Afghanistan owing to the primitive conditions in the country, the lack of capability or the guarantees to the safety of foreigners and the absence of any important American interests” (Ma’arouf, 1990, p. 137)*

But the coming to power of King Zahir Shah as the new ruler of Afghanistan, gave new momentum to Afghanistan's foreign policy as he made special efforts to secure economic assistance and diplomatic recognition from the US. King Zahir, in a letter sent to President Roosevelt, expressed his desire for a political and economic relations with the US. In a response to the letter, President Roosevelt, accorded recognition to Afghanistan and assured them of friendly relations (Maroof, 1990). This recognition and assurances by president Roosevelt led to the signing of a formal diplomatic agreement in 1937, marking the start of official cooperation between Washington and Kabul.

During world war II, the US had an international policy of neutrality and isolationism which was contained in its 1930s foreign policy. However, this changed as it began framing political roles in world affairs through a new policy of interventionism. Following this, the US diplomatic mission was established in Kabul on the 6<sup>th</sup> of June, 1942, with the appointment of Ambassador W. H. Van Engert as the first Ambassador representing US in Kabul. While Muhammad Naim became the first to be sent to US to represent Afghan interest (Hornibrook, 1990, cited in Jabeen, Mazhar & Goroya, 2010). After world war II, the US and Soviet Union competed to maintain influence in Afghanistan, using modest levels of military, technical, political and economic assistance (Dormandy & Keating, 2014).

After the invasion of Afghanistan by the Soviet Union in 1979, the US sought to undermine this invasion by supporting the *Mujabideen*, using Pakistan as its base. Following the exit of the Soviet Union in 1989, US activities in Afghanistan ebbed as the country dropped off its radar. But this soon resurfaced after the Taliban takeover of Kabul in 1996. Not certain

of the intentions of the new Islamic government of the Taliban in Kabul, the US had little support for and were ambivalent in their relations with the Taliban regime as they engage the regime through intermediaries like the UN, International Committee of the Red Cross/Crescent (ICRC), encourage private sector in a pipeline across the country and support for women's right. But all these will drastically change after the infamous 9/11 attacks in Washington (Dormandy & Keating, 2014).

In the aftermath of the attack, US-Afghan relations took a new turn, a kind that was characterised with increased and intense diplomatic pressure from the US, demanding handing over of terrorist responsible for the 9/11 attacks. The refusal on the part of Kabul to yield to the US request further strained the diplomatic relations between the two countries, thus, leading to US declaration of war on Kabul (Connah, 2021). The military intervention of the US effectively deposed the Taliban regime in Afghanistan and enthroned a US backed Afghan government.

This declaration of war on Kabul by the US have placed both countries relations under intense scrutiny in recent times. Scholars have x-rayed these relations under the lenses and principles of international law and modern diplomatic practice. Questions asked are: was the declaration of war on terror in Afghanistan, just? Was it the last resort? Were the principles (discrimination and proportionality) guiding the conduct of war, followed? Were there post-war reconstruction and peacebuilding programmes? Did the US government achieve its aim of going to war with Afghanistan?

The US invasion of Afghanistan in 2001, in concert with North Atlantic Treaty Organisation (NATO) and over 40 countries (Connah, 2021), has transmogrified into 20years of war, costing the US \$2trillion in both direct and indirect costs, with over 157,000 deaths of both civilians and soldiers (Maizland, 2020). Thus, this paper focuses on the role of international law and diplomacy in the US-Afghanistan relations post-9/11, and how activities within this period have

shaped key international law and diplomatic principles and practice, especially in relation to the Laws of Armed Conflict and International Humanitarian Laws.

In specifics, however, the study sets out to:

1. Interrogate how the US war relations on terror in Afghanistan reduced terrorism in the country
2. Ascertain whether US counter-terrorism strategic relations in Afghanistan undermined *jus in bello* principles of proportionality and discrimination
3. Determine how US strategy failure in its Afghanistan's relations undermined its reconstruction and peace-building efforts

## Methodology

The ex post facto research design was adopted for this study. The reason for the adoption of this design is because events discussed and analysed have already occurred. The method of data collection for the study was mainly documentary from secondary sources. This helped in putting together relevant for the study, which was analysed using descriptive method and content analysis. According to Bailey (1994), documentary research method deals with the analysis of relevant documents having information on a particular phenomenon or subject matter a researcher wishes to study. The research material used was drawn primarily from academic sources, especially from the works of influential authors on the subject of US-Afghanistan Relations, the use of force in international law, laws of armed conflict, just war theory and diplomatic practice. Scholars like Connah, Dormandy and Keating, Maizland, Gregorian, Jabenna, et al, Cordesman, UN documents and reports, etc., readily comes to mind. The Just War theory was used by the researcher to analyse the recent relations between US and Afghanistan following the events of 9/11.

## Theoretical Framework

The study was anchored on an international law theory known as the Just War Theory (JWT). Although it has evolved over time, the Just War Theory has its roots in the writings of Christian fathers such as St. Thomas Aquinas and Augustine of Hippo. Such writings of both clergymen dealt with issues regarding 'holy wars' and 'religious pacifism' (Waltzer, 2004; Ramsbotham et al, 2011). Contemporarily, JWT has been described as an ethical framework used to determine when it is permissible for States to go to war in their international relations within the international system. Previously, the theory was known to have two broad principles which States must adhere to when engaging in any form of military hostility. They are: the *jus ad bellum* (justice before a war or the right of a State to engage in war) and the *jus in bello* (justice during the war or the rules to be observed by States during the conduct of war). However, a third principle has been added: *jus post bello* (justice after the war).

When leaders debate on whether to engage in a war or not, the JWT of *jus ad bellum* enjoins them to think along the following principles, such as: was the war for a just cause or in self-defence? was the war for the right motive, which is to restore peace? Will it be approved by a legitimate authority? was it the last resort? (Raines, 2002). If the above questions are answered in the affirmative, then a State can go to war with other States in the international system. However, when the war is declared, the priority of States will be to ensure that there is justice during the conduct of the war. The JWT of *jus in bello* prescribes that States must ensure that principles of discrimination, proportionality, necessity, and humane treatment are strictly observed to ensure justice during the conduct of war. Then after the war has ended, the JWT of *jus post bello* looks at the ramification and implications of individual and State actions during the war. It also looks at the peacebuilding and reconstruction efforts after the war (Ledwidge, 2013).

Going by the first strand of the JWT of *jus ad bellum* principle of asking if going to war was just and if it was the last resort? The US government

declaratory war on terror was seen as just because it had the complementary objectives to root out al-Qaeda and weaken the Taliban on one hand, and to bring the perpetrators of 9/11 attacks to justice on the other (Cortright, 2011). Furthermore, in the wake of the 9/11 attacks, there were negotiations with the Taliban to give up suspected terrorists within their ranks (Misra, 2004). But this proved abortive. President George Bush in an address to a joint session of Congress, demanded the Al-Qaeda leaders be handed over to the US and that all terrorist training camps in Afghanistan must be permanently closed. A refusal of this US request meant that the Taliban will be vicariously held accountable for the terroristic actions of Al-Qaeda and for allowing the group to use Afghanistan as a base to launch attacks on US soil leading to the 9/11 incident. This, invariably led to the declaration of war by the US on the Taliban in Afghanistan. This further underscores the principle that when negotiations fail, war tends to be inevitable in international relations. And on the part of the US, cooperation with terrorist was also not an option, given the devastating effects of the attack on the twin towers.

On the principle of whether the war was in self-defence, and for restoration of peace, and whether it was declared by a legitimate authority, the US sought the approval of the United Nations Security Council (UNSC), who in turn legitimised US war declaration on terror through resolution 1368 (United Nations Security Council, 2001). The UNSC was of the opinion that the war was to be waged against terror, which is a threat to international peace and security (Newport, 2014). Thus, they were confident that a successful prosecution of the war by the US led NATO military intervention will decimate terrorist and eliminate any threat to international peace and security and guarantee the protection of members of the international community (Misra, 2004). Also, a further legitimisation of US actions on the war on terror, came from the 107<sup>th</sup> Congress of the US that issued a joint resolution known as Authorisation of the Use of Military Force (AUMF). The resolution demanded that the US government to



deploy all necessary force against all nations, persons or organisations that may have been involved in the planning, authorisation, aiding or the commission of the terrorist attacks on 9/11 (US Congress, 2001)

Regarding the principle of discrimination and proportionality, which hinges on the JWT of *jus in bello*, it was observed by Misra (2004), that the US military objectives and strategy in the war against the Taliban in Afghanistan lacked proper definition. One of the incoherent strategies adopted by the US was its alignment with the Northern Alliance in Afghanistan, which constituted a united military front, bearing arms together in war against the Taliban, including providing troops for them on the ground (Misra, 2004, Rodgers, 2004). The erroneous nature of the decision to align with the Northern Alliance was laid bare when members of the international community discovered that the group has little or no respect for the principles of human rights. They were as deadly as the Taliban the US government has come to destabilise (Waltzer, 2004). According to Connah (2021) and Bird and Marshall (2011), engaging in a counter-terrorism strategic with a network of criminals was a bad idea that is prone to risks and doomed to fail. Thus, prosecuting a war in accordance with the JWT of *jus in bello* will be largely unrealistic.

The JWT of *jus post bello* has also commenced following US withdrawal of its troops from Afghanistan and the 2020 signed peace deal with the Taliban. Four basic components of the peace deal include: US foreign troops withdrawal, a cease fire, counter-terrorism assurances that Afghanistan will no more be a refuge for terrorists and an intra-Afghan negotiations. In another light, there was the setting up the Special Inspector General for Afghanistan Reconstruction (SIGAR) early in 2008 for the purpose of rebuilding and the reconstruction of Afghanistan along the lines of peace and entrenchment of democratic values. Other reasons for setting up SIGAR was to assess, evaluate and note lessons to be learned from the US involvement and engagement with Afghanistan over the past 20 years (SIGAR, 2021).

## US War Relations on Terror in Afghanistan Failed to Reduce Terrorism in the Country

In the periods before 9/11, terrorism, through a melange of suicide attacks and bombings were a rare occurrence in Afghanistan. In fact, Al-Qaeda was responsible for the first suicide attack in Afghanistan as its operatives disguised themselves as journalists when they assassinated Ahmad Shah Massed on the 9<sup>th</sup> of September, 2001. Stemming from this incident, suicide attacks terrorism became a norm as it rose to prominence in Afghanistan mid-2005 (United Nations Assistance Mission in Afghanistan [UNAMA], 2007), following US declaration of war and invasion in 2001. This invasion was codenamed Operation Enduring Freedom (2001-2014) and Operation Freedom Sentinel from 2015 to the time of its final withdrawal (Connah, 2021)

Despite US war campaign on terror in Afghanistan, terrorism-related activities have not abated. Instead, it has flourished. This stands to reason thus: of what use was the intervention and war campaign on terror in Afghanistan if the Taliban have successfully carried out series of terror attacks leading to series of civilian casualties and multiple deaths. Instructively, terror-related deaths in Afghanistan since 2001, has been on the increase. After the five suicide attacks that occurred between 2001-2004, it escalated up to 17 attacks by the end of 2005 (UNAMA, 2007). In 2006, there were about 123 attacks and in 2007, 77 attacks were recorded between 1<sup>st</sup> of January and 30<sup>th</sup> of June. Consequently, suicide bombings and missions became an important aspect of the Taliban strategy (UNAMA, 2007). Although, the bulk of these suicide missions targeted both Afghan and international military forces, the greatest impacts have been felt by civilians and the Afghan people as a whole. Following this, about 183 Afghans and 121 other civilian persons died through suicide bombings between January and June 2007 (UNAMA, 2007).

According to the Institute of Economics and Peace [IPE] (2018), about 4,653 persons died in a terror-related assault by the Taliban between

2016 and 2017, making terrorism the leading cause of death in Afghanistan and the country with the highest record of deaths in the world attributable to terrorism. For instance, in May 2017, 93 persons died in a suicide attack. Similarly, in August of the same year, 72 persons died in a police attack and in October, 2017, another 74 persons died in a suicide attack (IEP, 2018). In May 2020, 24 persons were killed, including new-borns, following an attack in a maternity ward of Kabul's Dasht-e-Barchi hospital (BBC News, 2020). Annually, a minimum of 3,000 persons died in terror-related attacks in Afghanistan. Between 2001 and 2018, some 32,074 persons have died in terror-related incidents (UNAMA, 2019), even in an environment of US-led international military intervention in Afghanistan.

The number of those injured during these terrorism-related activities are also a serious cause for concern. The reported numbers of those injured more than doubled that of the deaths recorded. A UNAMA report of September 2018, documented that there were 5,252 injuries and 2,798 deaths, bringing all civilian casualties to 8,050. Recently, in August 2021, a suicide attack crippled activities in Kabul airport, whose responsibility was claimed by the newly formed Islamic State of Afghanistan, led to the death of 13 US Servicemen and 95 Afghans, with over 100 persons injured in the blast, including 18 US servicemen (Associated Press, 2021).

Beyond the above horrible statistics of death and injuries caused by terrorism, it is pertinent to note that these multiple incidents in Afghanistan points to the futility of the war campaign on terror by the US in the country. In fact, they also reveal the problematic nature of the intervention in Afghanistan (Connah, 2021). To show that the war on terror has any success, there should be corresponding decline in terror-related activities in Afghanistan. But unfortunately, what has been witnessed is the opposite. This goes to show further, that the objectives of the US government in their war campaign on terror in Afghanistan has not been achieved.

## US Counter-Terrorism Strategic Relations in Afghanistan Undermined *Jus in Bello* Principles of Proportionality and Discrimination

The principles of *jus in bello* of the JWT focuses on how military gendarmes should act in war times. Primarily, the principles under scrutiny here are proportionality and discrimination, which asserts that actions by members of a State's armed forces that likely to be excessive, and thus leading to civilian deaths and injuries, should be avoided. Unfortunately, this was not the case with US engagement in Afghanistan, as there were multiple deaths of civilians, most of whom were women and children. Allied military forces such as Pro-government Afghan and International military forces, failed to properly distinguish between military targets and civilian population.

One contributory factor that prevented the proper discrimination between civilian population and military targets was the unholy alliance between the US and some militia groups. With the benefit of hindsight, it has been observed that the US strategy of aligning with militia groups were erroneous because, unknown to the US then, that they were as vicious and violent as the Taliban regime (Misra, 2004), not caring about civilian population and their safety during their operations. Thus, pursuing a counter-terrorist strategy with this crop of individuals will definitely be a risky, doubtful adventure (Bird & Marshall, 2011). It would somewhat be antithetical and illogical for the US to put faith in such a group if it hopes to have a successful outcome, and end the war without contravening the principles of proportionality and discrimination. Nonetheless, and even though the US realises know this, it still continued its alignment and support with this group because it helped them to retrieve and repossess some of the territories under Taliban control (Connah, 2021).

The militia groups in Afghanistan are a notorious set of rebels backed by the Central Intelligence Agency (CIA) of the US to help fight the Taliban Islamist. Their conscription by the CIA came after the invasion of Afghanistan

in 2001 (Suhrke & Lauri, 2019). Two decades later, the CIA is still running these local militias to fight the Taliban and other radical Islamists. Reportedly, these armed militia groups known as the CIA Army have carried out series of human rights abuses including extra-judicial killings of civilians (Suhrke & Lauri, 2019). Their actions, sponsored by the CIA, have been shrouded in secrecy and are not within the chain of command of regular US forces present in Afghanistan (Thomas, Schmitt & Goldman, 2017). These militia groups formed two broad distinct units under the control of the CIA.

The first is known as the Khost Protective Force (KPF). Operating out of the CIA's camp Chapman, the KPF is well known as being powerful in the north-eastern province of Khost (Clark, 2017). It is an illegal armed group because there are no statutory laws in Afghanistan establishing it and also, it has no statutory budgetary allocation from the Afghan government to run it (UNAMA, 2019). The second unit is called the National Directorate of Security (NDS). This unit has four main organs numbered from 01 to 04, with each having its regional area of operation. NDS-01 operates the Central Region, NDS-02, the Eastern Region, NDS-03, the Southern Region, and NDS-04, the Northern Region (UNAMA, 2019). According to UNAMA, the NDS works closely with international military actors that are outside official governmental chain of command. These were known as '*military actors*', which includes the CIA. This should however, be distinguished from US Military Forces. Generally, there are not sufficient information regarding the two militia groups funded by the CIA (UNAMA, 2018; Clark, 2017; Raghavan, 2015).

In the use of these two militia groups, the US adopted a strategy known as 'search operations' which involves night raids in residential areas suspected to be harbouring terrorists (Suhrke & Lauri, 2019). These raids have often resulted in mass civilian casualties. UNAMA (2019) reported various human rights abuses that involves the intentional killings of civilians, illegal detaining of individuals, intentional damaging and burning of civilian properties, etc., by the KPF during their search operations and

night raids (UNAMA, 2019). The above deployed strategy of using local brutal militia groups, who have little or no regard for the rule of law, to help fight against the Taliban Islamist clearly contravenes the principles of discrimination and proportionality under the *jus in bello* doctrine, following their intentional killing of civilians.

Similarly, the US allied forces action in 2010 further undermined the twin principles of discrimination and proportionality. In 2010, a US military strike led to the death of 23 civilian persons. The operators of the drone in Nevada erroneously thought that the three minibuses targeted had insurgent militants on board (Medeiros, 2013). Even though there were earlier report categorically stating that hinting on the fact that there might be children and other civilians on board, yet the operators were given the go ahead order to strike (Filkins, 2010). Although, one might argue that collateral damage is seen sometimes as an inevitable eventuality in times of armed conflict, the above 'inevitability' of collateral damage of civilians, especially children, can only be tolerated if the soldiers had observed the twin principles of discrimination and proportionality (Medeiros, 2013). Poor decision-making however, and a clear lack of the application of the principle of discrimination was quite visible in this case since no Taliban extremists died in the strike (Filkins, 2010). Unfortunately, and sadly so, a minimum of 14,000 Afghan civilian persons have been killed between 2006 and 2013 (Downes & Monten, 2013).

The CIA's drone programme conducted in Afghanistan undermines the premise and takes no consideration of the fact that use of force must be discriminate and proportionate in the field of armed conflict. The US, however, defends such drone usage as its top priority was the annihilation of terrorist, leading it to justifying the actions of its troops on the ground. Blanket authorisations were also given to operator to conduct such airstrikes (Yousaf, 2017). However, the United Nations Charter frowns against the use of drone strikes in the fields of armed conflict because of its inability to properly distinguish between civilian military

targets and civilian persons (Yousaf, 2017), rendering such strategies questionable and disproportionate.

Between January and November of 2018, the US had dropped an indiscriminate 6,823 bombs in Afghanistan (Al Jazeera, 2019). The casualties at the time were mostly caused by aerial operations of US soldiers and complemented ground forces engagements (UNAMA, 2019). The adoption of these two tactics by American soldiers explain why 63 per cent of those badly affected were women (UNAMA, 2019), while the deaths of children were caused by aerial operations have doubled in the same period. In 2019, airstrikes from the US-Afghan Air Force became nightmarish. Deaths arising from the air assault were over 700, majority of whom were civilians. This became the highest number of civilian deaths since 2001 when the war started (Crawford, 2020).

Specifically, in April 2018, one of the bombs released aiming for Taliban terrorists and officials in Kunduz led to the tragic deaths of 50 persons (Gossman, 2018). In a related development in July 2018, another bomb was dropped in Kunduz, a largely residential area, led to the death of 14 persons, all being women and children (UNAMA, 2019). Such attacks is a clear aberration of the just war theory and principle as they are illegitimate attacks from the onset considering the fact that they fail to adhere to the core principle of discrimination between civilians and soldiers (or terrorists in this case) (Connah, 2021).

## US Strategy Failure in Its Afghanistan's Relations Undermined Its Reconstruction and Peace-Building Efforts

The body responsible for post war reconstruction oversight and monitoring in Afghanistan was the Special Inspector General for Afghanistan Reconstruction (SIGAR). As a creation of the US Congress, its remit was to focus majorly on the mission in Afghanistan and its attendant reconstruction issues. SIGAR is remarkably different from previous inspectors

general who were allowed to have jurisdiction only on operations within their respective agencies or departments. However, in the case of SIGAR, its jurisdiction encompasses all programs and operations that are duly funded with U.S. funds provided for such reconstruction purposes for the last 20 years. SIGAR was further empowered to supervise the entirety of the reconstruction efforts and funds to the tune \$145. With this, SIGAR is strategically positioned to assess progress made so far and to also, address all of government lessons learnt through policy prescription for future reconstruction efforts (SIGAR, 2021).

The first issue pointed out by SIGAR was that U.S. government incessantly grappled with the development and implementation of a coherent and sound strategy for what it intended to achieve in Kabul. According to SIGAR (2019), over the 20-year campaign, there were several complaints by U.S. scholars, commentators and even officials that there was no strategy. For instance, when Vice President Joe Biden got back from his trip in 2009 to Afghanistan, he briefed President Obama thus, "If you ask 10 of our people what we're trying to accomplish here, you get 10 different answers. This has been on autopilot." (Stewart & Knaus, 2011; Woodward, 2010). With this, it was quite challenging to resolve complaints relating to lack of strategy in view of the fact that subsequent U.S. governments had always articulated policies and strategies on how to succeed in Afghanistan (SIGAR, 2021).

More so, SIGAR equally noted the US consistent underestimation of the time needed to restructure Afghanistan, because of the staccato and improbable timelines and expectations that encouraged quick spending. These choices increased corruption as it reduced the effectiveness of programs (SIGAR, 2021).

Beyond this, the military employed strategies and tactics of propaganda which gave the impression that the US was winning the war in Afghanistan; whereas this was the opposite. One of such military tactics adopted by the US was the 'kill or capture' tactics. The reason for this tactics lies in the assumption that killing or capturing the



terrorist leader of an organisation would shorten the time of military operations in terrorist ridden state like Afghanistan. However, an important point and issue raised scholars like Raines (2002) is that: will the killing of the leader of a terrorist cell end the activities of the group? By way of answering, Rodgers (2004), asserts that the killing of Osama bin Laden in Pakistan, resulted in the rise of scattered leadership in Al Qaeda's organisation, leading to the exacerbation of terrorist activities rather than a reduction. According to Simon and Stevenson, other targeted high profile killings included al Qaeda's explosive expert (Abu Al-masri), its intelligence chief (Jihad al-Masri), its commander in Afghanistan (Abu al-Libi) and, finally, Taliban leader in Pakistan (Baitullah Mehsud) (Simon & Stevenson, 2009).

On this note, the US could however, argue that the benefit and reward of the Kill-or-Capture tactics were worth whatever cost incurred (Wilner, 2010). Although, the death of terrorist leaders merely helps to uphold the narrative of US presumed successes on the War on Terror (Kaldor, 2013), it does not however, get rid of terrorism itself. In a bid to gain and secure the trust of Afghan peoples and that of the various factions within the country, the US built infrastructure like schools and clinics to strengthen and bolster the capacity of the state during the war in order to begin its reconstruction efforts. But, the rising number of civilian casualties and deaths, termed as 'collateral damage' dampened and undermined any hope of winning civilian hearts and minds (Barry, 2017). This made reconstruction efforts of the US much difficult.

Furthermore, excess civilian casualties and deaths caused by the US disproportionate force, seriously question and undermined the ethical nature of the intervention, as it challenged the war's moral foundation (Cortright, 2011). Several occasions of strategic decision-making were flawed and replete with unreliable management and implementation of said strategy (Barry, 2017).

In the light of this, Mitchell and Banks (1996) once argue that distasteful methodologies or

approaches in themselves often makes situations worse. Strategies such as disproportionate and indiscriminate use of lethal force, widespread detention, and enhanced interrogation used to extract information, destruction of terrorist dens and night raids (Kaldor, 2013), seriously undermines the belligerents dignity of their human person; and thus, serves as a motivation for their retaliation. Granted, terrorist organisations and States fight differently with contrasting and divergent tactics. This, however, does not imply that the US should adopt immoral tactics simply because of the immoral Taliban tactics. This made the civilian population to view the US as not being different from the Taliban they have come to decimate (Montero, 2009).

Furthermore, in order to increase public support its intervention in Afghanistan, the US embarked on the defence and protection of women's right. Doing this in war-torn country like Afghanistan will no doubt be seen as a just cause, because innocent women deserve protection in such circumstance (Connah, 2021). But protecting the rights of Afghan women does not in any way justify the continued armed conflict and military intervention. Instead, the sustained military intervention will more likely put Afghan women in harm's way where their rights will certainly be abused, than protected, because of the extent of destabilisation in the state. Political dialogue and not asymmetric or guerrilla warfare would have been the best way to guarantee the protection of women's rights in Afghanistan. This is because incessant increase in civilian casualties are quite problematic, which suggests US strategy failure to fulfil its pledge of protecting citizens, as the Taliban takes advantage of the weariness of the war to wax stronger and stay resilient (Connah, 2021).

One of the aims of the US forces in Afghanistan was to train and retrain the Afghan forces to be able to withstand the Taliban and secure the territorial integrity of Afghanistan. According to an external expert report of January 2021, the Taliban had a better and strong advantage over the Afghanistan National Defence and Security Forces (ANDSF) in cohesion and force mobilisation, recruitment and deployment. In

the author's conclusion of his assessment, the Taliban had a slight advantage over the government (Shroden, 2021), with the Taliban having some form of significant territorial control of Afghanistan. The last time the US made such data available publicly was in October 2018. During this time, the Taliban had control of over 40% of Afghanistan, with incremental gains being made in subsequent years (Congressional Research Service, 2021). With this, reconstruction and peacebuilding were almost impossible.

In August 2021, the Taliban finally took over control of the whole of Afghanistan, immediately after taking over the capital, Kabul. This action will definitely erode whatever gains the US have made to rebuild and reconstruct Afghanistan. By 30<sup>th</sup> of June 2021, the US had allocated nearly \$36.29 billion in dollars for "governance and development assistance" in Afghanistan since 2002, which represents 25% of all U.S.-provided reconstruction assistance (SIGAR, 2021). The purpose of such funds were aimed at supporting various developmental goals like empowering the girl-child and women, promotion of good governance, support for civil societies, combatting corruption, etc. Also, several assistance packages and reliefs have been provided and distributed by nongovernmental organisations. Most of these are non-profit organizations, multilateral entities, educational institutions, and actors from private sectors. In the few days the Taliban took over, policies coming from Kabul suggest that women will only be allowed to school only if they went to female-exclusive institutions. Co-education is outlawed and there might be a rebirth some barbaric policies as allowed by Sharia. Sharia laws and rules have always been what the Taliban have advocated as the primary law the Afghan people must follow to lead their lives (Trifimov et al, 2021).

## Conclusion

Although the principles of the Laws of Armed Conflict were in play during US war on terror in Afghanistan, there were some lacunas regarding its observance, which the US government must

address in future military interventions and engagements. However, it must be pointed out that the war on terror has done serious damage to the moral reputation of the West, owing to unsavoury tactics and strategy deployed during its intervention in Afghanistan. For the US, it paid a high price in its attempt to weaken al Qaeda leaders and their counterparts amongst the Taliban (Jacobson, 2010, SIGAR, 2021). Evidently, the US two decades long operation in Afghanistan and its failure to attain its set objectives greatly reduced the West's urge for any form of military intervention in the near or distant future (Barry, 2017). In addition, US public has opposed any interventionist idea of a military nature, having now been aware of the atrocities wrought by its military in previous wars (Newport, 2014).

But now that the Taliban is in-charge, the US must find a way to pressure them into upholding and fulfilling the contents of the February, 2020 agreement, especially the one that has to do with not allowing its territory to be used as a launch pad for terrorist activities against US interest anywhere in the world. Also, whether the US like it or not, it must find a way to recognise the Taliban government. But this recognition must be used as a tool to get some compromise and concession from the Islamic State of Afghanistan. To do this, the US should propose recognition in exchange for promoting and upholding human rights in Afghanistan. If this goes through, then a formal and cautious diplomatic relation will be opened between the US and the newly formed Taliban government.

## Recommendations

The US in future war relations, must ensure that its strategy must exclude the inclusion of elements (like the Afghan militia groups) who have no respect for the rules of war (particularly, proportionality and discrimination), and are likely to carry out human rights abuses on a large-scale during war relations

Corruption has been identified as one of the major reasons that US faltered in its war relations with Afghanistan. Several corrupt acts led to

ineffectiveness of Afghan forces and International Military Groups, as they performed abysmally, leading to the upsurge of terror attacks and the subsequent deaths of many civilians. It must however, ensure that proper accountability and transparency during future war relations must be strictly adhered to.

For proper reconstruction and peacebuilding efforts to take place in line with the February, 2020 agreements, the US must endeavour to recognise the Taliban government and craft out ways to pile on diplomatic pressure, to ensure that its territory is not used as a launch pad for future terrorist activities and attacks, and to respect human rights (particularly that of women and children).

## References

- Bailey, K. D. (1994). *Methods of social research*. New York: The Free Press,
- Barry, B. (2017). *Harsh Lessons: Iraq, Afghanistan and the Changing Character of War*. London: Routledge.
- Bird, T., & Marshall, A. (2011). *Afghanistan: How the West Lost its Way*. New Haven: Yale University Press
- Byman, D. (2006). Do Targeted Killings Work? *Foreign Affairs*, 85(2), 95–111. <http://dx.doi.org/10.2307/20031914>
- Carati, A. (2015). No Easy Way Out: Origins of NATO's Difficulties in Afghanistan. *Contemporary Security Policy*, 36(2): 200–18. <https://doi.org/10.1080/13523260.2015.1061753>
- Congressional Research Service (2021). U.S. Military Withdrawal and Taliban Takeover in Afghanistan: FAQs. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46879>
- Connah, L. (2020). US intervention in Afghanistan: Justifying the Unjustifiable? *South Asia Research*, 41(1). <https://doi.org/10.1177/0262728020964609>
- Cortright, D. (2011). *Ending Obama's War: Responsible Military Withdrawal from Afghanistan*. Boulder: Paradigm.
- Dormandy, X., & Keating M. (2014). *The United States and Afghanistan: A Diminishing Transactional Relationship*. The National Bureau of Asian Research, Seattle, Washington. Retrieved from <https://www.chathamhouse.org/sites/default/files/public/Research/Asia/0114DormandyKeating.pdf>
- Downes, A. B., & Monten, J. (2013). Forced to be Free? Why Foreign-Imposed Regime Change Rarely Leads to Democratization. *International Security*, 37(4), 90–131. [https://doi.org/10.1162/ISEC\\_a\\_00117](https://doi.org/10.1162/ISEC_a_00117)
- Filkins, D. (2010). Operators of Drones are Faulted in Afghan Deaths. Retrieved from <https://www.nytimes.com/2010/05/30/world/asia/30drone.html? r=0>
- Gossman, P. (2018). Another Airstrike in Kunduz, and More Civilian Deaths. Retrieved from <https://www.hrw.org/news/2018/04/11/another-airstrike-kunduz-and-more-civilian-deaths14thApril2018>
- Gregorian, V. (1969). *The Emergence of Modern Afghanistan: Politics of Reforms and Modernization*. Palo Tolo: Stanford University Press.
- Hassan H. (2021). What the Global War on Terror Really Accomplished. *Newlines*.
- Institute for Economics & Peace (2018). *Global Terrorism Index 2018: Measuring the Impact of Terrorism*. Retrieved from <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018-1.pdf>
- Jabeen, M., Mazhar, M. S, & Goroya, N. S. (2010). US Afghan Relations: A Historical Perspective of Events of 9/11. *Journal of South Asian Studies*, 25(1), 143-173
- Jacobson, G. (2010). A Tale of Two Wars: Public Opinion on the U.S. Military Interventions in Afghanistan and Iraq. *Presidential Studies Quarterly*, 40(4), 585–610. <http://dx.doi.org/10.2139/ssrn.1458041>

- Kaldor, M. (2013). *New and Old Wars: Organized Violence in a Global Era*, Hoboken, NJ: Wiley Publications
- Khalilzad, Z., Byman, D. (2000). Afghanistan: The Consolidation of a Rogue State. *The Washington Quarterly*, 23(1), 65–78. <https://doi.org/10.1162/016366000560746>
- Ledwidge, F. (2013). *Investment in Blood: The Real Cost of Britain's Afghan War*. New Haven: Yale University Press
- Ma'arouf, M. K. (1990). *Afghanistan and Super Powers*. New Delhi: Common Wealth Publishers.
- Maizland, L. (2020). U.S.-Taliban Peace Deal: What to Know. Council on Foreign Relations. Retrieved from <https://www.cfr.org/backgrounder/us-taliban-peace-deal-agreement-afghanistan-war>
- Misra, A. (2004). *Afghanistan: The Labyrinth of Violence*. Cambridge: Polity.
- Mitchell, C., Banks, M. (1996). *The Handbook of Conflict Resolution: The Analytical Problem Solving Approach*. New York: Pinter.
- Montero, D. (2009). Use of Drones in Pakistan and Afghanistan: Deadly but Legal? *Christian Science Monitor*. Retrieved from <https://www.csmonitor.com/World/terrorism-security/2009/0812/p99s01-duts.html>
- Newport, F. (2014). More Americans Now View Afghanistan War as a Mistake. Retrieved from <https://news.gallup.com/poll/167471/americans-view-afghanistan-war-mistake.as>
- Patterson, E. (2012). *Ending Wars Well: Order, Justice and Conciliation in Contemporary Post Conflict*. New Haven: Yale University Press.
- Raines, J. (2002). Osama, Augustine, and Assassination: The Just War Doctrine and Targeted Killings. *Transnational Law & Contemporary Problems*, 12(1), 217–43.
- Ramsbotham, O., Woodhouse, T., & Miall, H. (2011). *Contemporary Conflict Resolution: The Prevention, Management and Transformation of Deadly Conflicts*. Cambridge: Polity.
- Satow, E. (1917). *A Guide to Diplomatic Practice*. Longmans, Green & Co. London & New York.
- Schroden, J. (2021). Afghanistan Security Forces Versus the Taliban: A Net Assessment. *CTC Sentinel*, 14(1).
- SIGAR (2021). Quarterly Report, p. 25. According to SIGAR, other reconstruction assistance includes security assistance, humanitarian aid, and agency operations.
- Simon, S., Stevenson, J. (2009). Afghanistan: How Much is Enough? *Survival*, 51(5), 47–67. <https://doi.org/10.1080/00396330903309857>
- Strobel, W., & Volz, D. (2021). Extremists Celebrate Taliban Takeover of Afghanistan on Social Media. *Wall Street Journal*.
- UN News (2020). Afghanistan: Civilian Casualties Exceed 10,000 for Sixth Straight Year. Retrieved from <https://news.un.org/en/story/2020/02/1057921>
- UNAMA (2018). Quarterly Report on the Protection of Civilians in Armed Conflict: 1 January to 30 September 2018. Retrieved from [https://unama.unmissions.org/sites/default/files/unama\\_protection\\_of\\_civilians\\_in\\_a\\_armed\\_conflict\\_3rd\\_quarter\\_report\\_2018\\_10\\_oct.pdf](https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_a_armed_conflict_3rd_quarter_report_2018_10_oct.pdf)
- UNAMA (2019). Afghanistan Protection of Civilians in Armed Conflict Annual Report: 2018. Retrieved from [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_final\\_24\\_feb\\_2019\\_1.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019_1.pdf)
- United Nations (1945). Charter of the UN. Retrieved from <https://www.un.org/en/academic-impact/un-charter>
- United Nations Security Council. (2001). Resolution 1368: Adopted by the Security Council at its 4370th Meeting. Retrieved from <http://www.un.org/Docs/scres/2001/sc2001.html>
- US Congress (2001). Public Law 107-40: 107th Congress Joint Resolution. Retrieved from <https://www.congress.gov/107/plaws/publ40/PLAW-107publ40.pdf>



Walzer, M. (2004) *Arguing About War*. New Haven: Yale University Press.

Walzer, M. (2006). *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.

Wilner, A. (2010). Targeted Killings in Afghanistan: Measuring Coercion and Deterrence in Counterterrorism and Counterinsurgency. *Studies in Conflict & Terrorism*, 33(4), 307–29.  
<https://doi.org/10.1080/10576100903582543>

Wood, M. (2014). The Role of the UN Security Council in relation to the Use of Force against Terrorists in L. van den Herik, N. Schrijver, note 38; L. Sievers, S. Daws, *The Procedure of the UN Security Council* (4th ed., 2014)

Yousaf, F. (2017). *CIA Drone Strikes in Pakistan: History, Perception and Future*. Islamabad Center for Research and Security Studies. Retrieved from <https://crss.pk/wp-content/uploads/2010/07/CIA-Drone-Strikes-in-Pakistan.pdf>