

## **THE PROBLEM OF RECOGNITION OF THE TALIBAN REGIME WITHIN THE FRAMEWORK OF INTERNATIONAL LAW**

*Uluslararası Hukuk Çerçevesinde Taliban Rejiminin Tanınması Sorunu*

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### **ABSTRACT**

One of the current problems of today's IL is the legal recognition of governments that come to power illegitimately. IL, the recognition of governments is not only a legal process but also a political one. Recognition of governments is of great importance not only in the internal affairs of a state but also in its rights and obligations to take its place in the international community. Within the framework

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of the agreement signed between the US and the Taliban, they illegitimately captured Kabul immediately after the US withdrawal from Afghanistan in 2021. Former Afghan President Ashraf Ghani secretly fled the country and following this incident, the Kabul administration came completely under Taliban control. The issue of the recognition of the Taliban government within the context of IL, its legitimacy and its place in international relations has been brought to the agenda. In this study, the analytical method will be employed to theoretically examine the types of recognition under IL. Subsequently, the emergence of the Taliban and the processes through which it came to power will be discussed in detail. Finally, the extent to which the principles governing the recognition of governments align with the de facto practices of the Taliban administration will be analyzed. Within this framework, an assessment will be made regarding the recognition of the Taliban administration by the international community.

**Key Words:** Taliban, USA, International Law, Doctrines of Recognition of Governments, Legitimacy

## ÖZET

Günümüz uluslararası hukukun güncel sorunlarından biri de, meşru olmayan bir şekilde iktidara gelen hükümetlerin hukuki açıdan tanınması konusudur. Uluslararası hukukta hükümetlerin tanınması hukuki olmasının yanı sıra siyasi nitelikli bir işlem olma özelliğini içermektedir. Hükümetlerin tanınması yalnızca bir devletin iç işlerini değil, aynı zamanda uluslararası toplumda yerini alabilmesi, hak ve yükümlülükleri açısından oldukça önemli bir yere sahiptir. ABD ile Taliban arasında imzalanan Anlaşma çerçevesinde 2021 yılında ABD'nin Afganistan'dan çekilmesinin hemen akabinde gayrimeşru bir şekilde kabil'i ele geçirmiştir. Nitekim, Afganistan'ın eski Cumhurbaşkanı Eşref Gani gizlice ülkeden kaçmış ve bu olayın ardından Kabil yönetimi tamamen Taliban'ın kontrolüne geçmiştir. Bu gelişmelerin sonucunda, Taliban yönetiminin uluslararası hukuk bağlamında tanınması, meşruiyet ve uluslararası ilişkilerde yerini alması sorunu gündeme gelmiştir. Bu çalışmada analitik yöntem kullanılarak öncelikle uluslararası hukuk açısından tanıma türleri teorik olarak incelenecektir. Ardından, Taliban'ın nasıl ortaya çıktığı ve hangi süreçler sonucunda iktidara geldiği ayrıntılı biçimde ele alınacaktır. Son olarak, hükümetlerin tanınmasına ilişkin esasların Taliban yönetiminin fiili uygulamalarıyla ne ölçüde örtüştüğü analiz edilecektir. Bu çerçevede, Taliban yönetimi-

nin uluslararası toplum nezdinde tanınmasına ilişkin bir değerlendirme yapılacaktır.

**Anahtar Kelimeler:** Taliban, ABD, Uluslararası Hukuk, Hükümetlerin Tanınması Doktrini, Meşruiyet

## INTRODUCTION

Although recognition of governments and recognition of states are seen as similar legal concepts, they correspond to different outcomes and do not constitute the same.<sup>1</sup> Formation of a new state is the topic of the reality and political process not law.<sup>2</sup> It is absurd to talk about the recognition of the governments of unrecognised states.<sup>3</sup> First of all, the state should be considered as a permanent political institution, while the government should be considered as a variable political institution. Therefore, although there may be many changes of government in a recognized state, recognition, which is a unilateral transaction regarding the legal personality of the state, does not disappear.<sup>4</sup> On the other hand, some authors believe that a change of government should not be on the agenda of the international community. *For example, according to Melda Sur, "In general, taking into account the principle of non-interference in internal affairs, changes of government do not concern the international community."*<sup>5</sup>

Moreover, it is not even a question of recognising or not recognising the new government that replaces the incumbent government in accordance with the current constitutional order.<sup>6</sup> Observance

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<sup>1</sup> Malcolm N. Shaw, *International Law* (Cambridge: Cambridge University Press, 2017), 336; Haroun Rahimi and Mahir Hazim, "International Law and the Taliban's Legal Status: Emerging Recognition Criteria?". *Washington International Law Journal*, 32/3 (2023): 232.

<sup>2</sup> James Crawford, *The Creation of States in International Law* (New York: Oxford University, 2006), 4-5.

<sup>3</sup> Hüseyin Pazarıcı, *Uluslararası Hukuk* (Ankara: Turhan Kitabevi, 2015), 349.

<sup>4</sup> James Crawford, *Brownlie's Principles of Public International Law* (Oxford: Oxford University Press, 2019), 147-148; Robert Jennings and Arthur Watts, *Oppenheim's International Law: Volume I – Peace* (Oxford: Oxford University Press, 1992), 135-136; Melda Sur, *Uluslararası Hukukun Esasları* (İstanbul: Beta yayınları, 2018), 139.

<sup>5</sup> Shaw, *International Law*, 354; Crawford, *Brownlie's Principles*, 145; Sur, *Uluslararası Hukukun Esasları*, 139.

<sup>6</sup> Thomas Buergenthal and Sean D. Murphy, *Public International Law* (Minneapolis: West Publishing, 2013), 45; Pazarıcı, *Uluslararası Hukuk*, 349.

of the constitutional principles in question is sufficient to decide that the succession of the former government continues legally.<sup>7</sup> But it is today's reality that not all government changes are carried out legitimately and in line with the current order. Indeed, it is witnessed that changes of government have been made through coups, uprisings and other similar means. If this is the case, then the issue of recognition of governments is a natural and inter-state matter, at least in terms of which of the multiple governments that have emerged should be recognised.<sup>8</sup> In this respect, although the issue of recognition of governments is fundamentally tied to political discretion in the doctrine of international law, the existence of legal criteria cannot be denied.<sup>9</sup> *According to Shaw, for example, "Political considerations often play a major role in deciding whether to grant recognition. However, certain criteria have emerged covering the recognition of illegal changes in government".*<sup>10</sup>

In practice, however, recognition of governments that have come to power through legitimate means is made conditional on effective control (de facto control test).<sup>11</sup> Although the recognition of governments is a political appreciation, it is not devoid of legal principles and the basic principles of recognition are within the scope of international law. In other words, the views in question regarding the recognition of governments can be briefly categorized as follows.

## I. DOCTRINES OF RECOGNITION OF GOVERNMENTS

### A. The Traditional View

This view is one of the most preferred approaches in international practices with its pragmatic characteristics.<sup>12</sup> The view of effective

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<sup>7</sup> Selcen Erdal, "Uluslararası Hukukta Tanıma Kurumu ve Kuzey Kıbrıs Türk Cumhuriyeti Örneği". Selçuk Üniversitesi Hukuk Fakültesi Dergisi, 13/1 (2005): 158.

<sup>8</sup> Shaw, *International Law*, 337; Sur, *Uluslararası Hukukun Esasları*, 139.

<sup>9</sup> Shaw, *International Law*, 337; Sur, *Uluslararası Hukukun Esasları*, 139.

<sup>10</sup> Shaw, *International Law*, 337; Sur, *Uluslararası Hukukun Esasları*, 139.

<sup>11</sup> Buergenthal ve Murphy, *Public International Law*, 45; Pazarcı, *Uluslararası Hukuk*, 349.

<sup>12</sup> Sur, *Uluslararası Hukukun Esasları*, 140; Mesut Hakkı Çaşın, *Modern Uluslararası Hukukun Temel Esasları* (İstanbul: Legal Yayınları, 2013), 426; Pazarcı, *Uluslararası Hukuk*, 349.

control, which is frequently seen in UK practices, has been defined by Çaşın as the main basis of a regime claiming constitutionalism.<sup>13</sup> On the other hand, Shaw emphasized that citing reasons for non-recognition beyond territorial control could lead to accusations of bad faith.<sup>14</sup> For example, the recognition of the communist government that achieved effective control in China by the United Kingdom in 1950 can be considered within the scope of this perspective).<sup>15</sup> Likewise, the principles underlying the traditional doctrine can be explained as effective control, stability and continuity, the support of the overwhelming majority of the people and the ability to fulfill obligations.<sup>16</sup>

## **B. The Tobar Doctrine**

This theory, first proposed by Ecuadorian Foreign Minister Carlos Tobar in 1907, asserts that governments coming to power through unconstitutional means can only be recognized after their legitimacy has been confirmed through elections.<sup>17</sup> This perspective, which emerged as a result of the constant coups and revolutions occurring in South American states during that period, aligns with Thomas Jefferson's concept of the "will of the people."<sup>18</sup> However, although it has been associated with such sacred principles as the "will of the people," in our view, the Tobar Doctrine is not entirely free from American national interests.<sup>19</sup> Because, from the beginning, our findings that recognition is an individual political decision, with its legal criteria at a certain level, should be repeated once again in the example of the

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<sup>13</sup> Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 426

<sup>14</sup> Shaw, *International Law*, 339

<sup>15</sup> Sur, *Uluslararası Hukukun Esasları*, 140

<sup>16</sup> Barry Carter, Philip Trimble and Allen Weiner, *International Law* (New York:Walters Kluwers, 2007), 453.

<sup>17</sup> Sur, *Uluslararası Hukukun Esasları*, 140; Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 427; Carter, Trimble ve Weiner, *International Law*, 454.

<sup>18</sup> Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 427

<sup>19</sup> Control over the Panama Canal by the United States was achieved through intervention in the internal affairs of countries like Guatemala and El Salvador, utilizing the Tobar Doctrine. For further details, see references. Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 427.

Tobar doctrine. The most objectionable aspect of the doctrine in question is that it gives a green light to attempts to circumvent the prohibition of interference in internal affairs.<sup>20</sup>

### C. The Estrada Doctrine

The relevant approach, also known as the automatic recognition theory, put forward by Mexican Foreign Minister Genaro Estrada, is not well accepted in current international legal doctrine.<sup>21</sup> The main reason why the Estrada doctrine, which disregards the concept of recognition of governments, is not accepted is that it does not work in practice and does not provide a solution to de-facto situations.<sup>22</sup>

For example, determining which of the two rival governments should be recognized is an impossible question to answer according to the Estrada Doctrine.

### D. Hayes Doctrine

According to the doctrine put forth by U.S. President Rutherford Birchard Hayes in 1877, a government that has come to power through unconstitutional means must declare its commitment to the state's international obligations in order to be recognized.<sup>23</sup> The Hayes Doctrine, which embodies a rational perspective, emphasizes the importance of safeguarding the interests of the recognizing state. Similarly, the primary reason the United States and the United Kingdom refrained from recognizing the communist government of the USSR for many years was the communists' unwillingness to assume responsibility for the debts of the previous regime.<sup>24</sup>

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<sup>20</sup> Pazarıcı, *Uluslararası Hukuk*, 350.

<sup>21</sup> Shaw, *International Law*, 339; Sur, *Uluslararası Hukukun Esasları*, 140.

<sup>22</sup> Philip C. Jessup, "The Estrada Doctrine". *American Journal of International Law*, 25/4 (1931): 719-723; C. L. Cochran, "The Estrada Doctrine and United States Policy". *University of Miami Inter-American Law Review*, 5/2 (1973): 27-31; Seha L Meray, *Devletler Hukukuna Giriş* (Ankara: Ajans-Türk Matbaası, 1959), 222-223

<sup>23</sup> Sur, *Uluslararası Hukukun Esasları*, 140; Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 429; Buergenthal ve Murphy, *Public International Law*, 46.

<sup>24</sup> Carter, Trimble ve Weiner, *International Law*, 454; Sur, *Uluslararası Hukukun Esasları*, 14.

### **E. Stimson Doctrine**

The theory, known for the persistent declarations of then U.S. Secretary of State Stimson regarding the non-recognition of the Manchukuo government established by Japan's occupation of China, rejects the recognition of governments that have been established in violation of international law.<sup>25</sup> Indeed, the refusal of the United States to recognize the government established in Afghanistan through the use of force by the Soviet Union and the Samrin government imposed on Cambodia by the Vietnamese armed forces can also be evaluated within the framework of the Stimson Doctrine.<sup>26</sup>

### **F. Kelsen's Views on Recognition**

Kelsen divides the institution of recognition into two types: political and legal. In his own words, "*It can be said that the term recognition consists of two quite different acts: a political act and a legal act.*"<sup>27</sup> According to Kelsen, recognition as a political act reflects the recognizing party's intent to engage in political and other forms of relations with the recognized party as a state or government.<sup>28</sup> According to Kelsen, who believes that recognition as a political act is not a founding element for states or governments, political recognition only assumes the legal existence of states or governments, it does not confirm them.<sup>29</sup>

Recognition cannot be divorced from the political process, since the establishment of political relations is an inherent function of states and often reflects broader strategic interests. This may explain why the International Court of Justice, in its 2010 advisory opinion on Kosovo, refrained from making any pronouncement regarding recognition.<sup>30</sup> The Court limited its analysis to the legality of Kosovo's dec-

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<sup>25</sup> Çaşın, *Modern Uluslararası Hukukun Temel Esasları*, 430.

<sup>26</sup> Carter, Trimble ve Weiner, *International Law*, 455

<sup>27</sup> Hans Kelsen, "Recognition in International Law: Theoretical Observations". *The American Journal of International Law*, 35/4 (1941): 605.

<sup>28</sup> Kelsen, "Theoretical Observations", 605.

<sup>29</sup> Kelsen, "Theoretical Observations", 605.

<sup>30</sup> International Court of Justice, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion,

laration of independence under international law, deliberately avoiding the politically sensitive question of whether recognition should follow.

Nevertheless, many states had anticipated a more explicit statement from the Court, hoping that such guidance could legitimize or delegitimize Kosovo's status in the international arena. In practice, recognition remained a matter of political calculation: some states extended recognition swiftly, viewing it as a means of strengthening their geopolitical position or supporting the principle of self-determination, while others withheld recognition due to concerns over separatist movements within their own borders or the potential destabilization of established international norms.

Thus, the Kosovo case illustrates how recognition, though framed in legal discourse, ultimately operates within the realm of political bargaining and strategic interest.

According to Kelsen, recognition as a legal act is a determination of what already exists, left to the discretion of states under international law. Thus, the authority to decide whether a state or government meets the necessary conditions to qualify as such under international law rests with the existing order, that is, with the state, known as the principal subject of international law.<sup>31</sup> The fundamental feature that differentiates international law from domestic law is precisely the absence of a single authoritative and central authority responsible for assessing facts from a legal perspective. Indeed, deciding whether social facts are legal or not should be decided by procedures and principles determined by law, and by authorities determined by law. For this, it is essential that the competent authority is known in advance. Therefore, due to the lack of a single decision-making mechanism in international law, the decision-making authority is left to the states.<sup>32</sup>

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I.C.J. Reports (22 July 2010), p. 403, <https://www.icj-cij.org/sites/default/files/case-related/141/16010.pdf>, (Eriřim Tarihi: 27.09.2025).

<sup>31</sup> Kelsen, "Theoretical Observations", 607.

<sup>32</sup> Kelsen, "Theoretical Observations", 607.

According to Kelsen, since the recognition process, which is a legal act from a scientific perspective, has certain bases, the definitions regarding the process in question should not vary from state to state.<sup>33</sup> Recognition in the political sense is known to vary from state to state.

When approached from a Kelsenian perspective, recognition as a legal act is nothing more than a determination of the situation, while recognition as a political act is merely a declaration of intent.<sup>34</sup> Therefore, according to Kelsen, the legal recognition of states or governments is a legal approval process that must be based on objective legal conditions. Because the approval process has been entrusted to the authority of states under international law. Subsequently, in his own words, recognition as a legal act is “more about knowing than merely recognizing.” (It is cognition than re-cognition.)<sup>35</sup>

Kelsen does not differentiate between the legal recognition of states and the legal recognition of governments as distinct acts.<sup>36</sup> Furthermore, considering that one of the most fundamental criteria put forth by international law for the existence of a state is the possession of a government, the perspective articulated by Kelsen gains even greater significance. Moreover, if a state does not have a government, then it means that it has lost its state status.<sup>37</sup> On the other hand, it is not possible to speak of the existence of a government without a state. Likewise, the view put forward by Kelsen on the inseparability of state and government is extremely meaningful in terms of the institution of recognition. In particular, Kelsen’s observations that a state is free to enter into or not enter into political relations with any government, but that this freedom does not constitute a legal

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<sup>33</sup> Kelsen, “Theoretical Observations”, 607.

<sup>34</sup> Kelsen, “Theoretical Observations”, 608.

<sup>35</sup> Kelsen, “Theoretical Observations”, 608.

<sup>36</sup> Kelsen, “Theoretical Observations”, 615.

<sup>37</sup> Sibel Akgün, “The Relationship between the Turkish Republic of Northern Cyprus and the Organization of Turkish States in the Framework of the Concept of Recognition in International Law”. *Sakarya Üniversitesi Türk Akademi Dergisi*, 2/1 (2023): 50-51.

consequence, are extremely important for us to make legal assessments regarding the Taliban administration.<sup>38</sup>

Therefore, states have the freedom to enter into political relations with another government or not. However, this situation does not necessarily correspond to legal recognition or non-recognition. Indeed, although legal recognition is seen as a unilateral act in relations between both states and governments and cannot be considered as an obligation in any way, recognizing a government that does not fulfill the conditions according to international law as a legal act constitutes a violation. Likewise, in order to avoid all these responsibilities, states generally choose the political recognition method and do not want to deal with legal complications. Because according to international law, it is not an obligation for a society that meets the conditions of being a state or government to be recognized by other states. Therefore, the non-recognition of a society that meets the conditions in question by a state cannot be considered a violation of international law.<sup>39</sup> On the other hand, recognizing a society that does not meet the conditions for becoming a state is seen as a violation of international law.<sup>40</sup>

Ultimately, according to Kelsen, states may reject governments of other states that they find unacceptable and may choose not to recognize them politically; however, this act of political non-recognition does not have any legal consequences.<sup>41</sup> According to Kelsen's approach, two governments that do not get along or do not share common political and philosophical ideals may distance themselves politically and refrain from engaging in relations; however, this does not equate, at the legal level, to any act of non-recognition. Likewise, it is similar to the following; Two people can be at odds with each other. However, the relevant upset does not and cannot indicate the denial of the existence of people as legal persons. Applying this to the Taliban, the United States engages in political relations and cooperation with the Taliban, activating the institution of political recognition, yet

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<sup>38</sup> Kelsen, "Theoretical Observations", 615.

<sup>39</sup> Kelsen, "Theoretical Observations", 610.

<sup>40</sup> Kelsen, "Theoretical Observations", 610.

<sup>41</sup> Kelsen, "Theoretical Observations", 615.

simultaneously declares that it does not legally recognize them. However, even if the US does not enter into political relations with the Taliban, and on the other hand, it declares that it does not recognize the Taliban, the relevant attitude does not lead to the Taliban not being a government legally. If the Taliban are not to be regarded as a government, the sole reason should be their failure to meet the criteria established by current international law.

## **II. PRINCIPLES OF RECOGNITION OF GOVERNMENTS**

Based on the information compiled in the previous section, it is essential to clearly state the principles of recognition within the scope of the principles in the recognition doctrines. Likewise, if we do not consider the automatic recognition view supported by the Estrada Doctrine as a principle, it can be said that there are three established principles (conditions) regarding the recognition of governments in international law doctrine.

### **A. Principle of Legitimacy**

The criterion in question is supported by the Tobar doctrine. Legitimacy, a political concept, is used in modern law in response to the principle of “national sovereignty”. The principle of “sovereignty unconditionally belongs to the nation” is exactly the explanation of legitimacy in modern law. The approach, primarily characterized by U.S. practices and historically linked to the Wilson principles, is known mainly for its political content.<sup>42</sup> According to this view, in summary, a political power that does not derive its authority from the people and comes to power against their will is not legitimate.<sup>43</sup> It is not coincidental that, influenced by U.S. hegemony, nearly all contemporary governments, regardless of whether they have received it or not, proclaim that their political power is granted by the people. On the other hand, it is also seen that the principle of “sovereignty unconditionally belongs to the nation” is approved by modern nations as a custom. Moreover, in terms of recognition, states, especially the US, see

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<sup>42</sup> Shaw, *International Law*, 338.

<sup>43</sup> Sur, *Uluslararası Hukukun Esasları*, 140; Pazarıcı, *Uluslararası Hukuk*, 350.

legitimacy as one of the main factors. Indeed, it can be stated that a principle has developed among modern states that rejects the recognition of de facto powers that disregard the people and continue their political authority through the use of force against them. However, in an environment where there remains ambiguity regarding the determination of whether a government has come to power through democratic or undemocratic means, it does not appear easy to ascertain who is legitimate and who is not. For this reason, legitimacy, which is the product of the Tobar doctrine, is not one of the criteria accepted especially by the eastern group countries in terms of recognizing governments.

### **B. Principle of Undertaking International Obligations**

It is extremely important to recognize the main governments in question, which can be exemplified simply by the Soviet government's renunciation of the Tsarist period.<sup>44</sup> The act of avoiding obligations that can also be interpreted as a refusal to recognize existing international law serves as a barrier to the recognition of a government. In particular, adherence to the United Nations Charter, respect for fundamental human rights and freedoms, and compliance with critical international obligations are indispensable requirements.

### **C. The Principle of Sufficient Authority–Effective Control**

The ICJ articulated the “effective control” test for attributing the acts of irregular forces to a State. The ICJ held that the mere financing, organizing, training, and equipping of the Contras by the United States did not suffice to attribute all of their conduct to the U.S. government. Instead, attribution required proof that the State had “effective control of the military or paramilitary operations in the course of which the alleged violations were committed.”<sup>45</sup>

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<sup>44</sup> Shaw, *International Law*, 339; Sur, *age*, s. 140.

<sup>45</sup> *Nicaragua v. United States of America case (Military and Paramilitary Activities in and against Nicaragua, Merits, Judgment, I.C.J. Reports 1986, p. 14*, <https://www.icj-cij.org/sites/default/files/case-related/70/9973.pdf>, (Erişim Tarihi: 27.09.2025).

Fulfilling the conditions of effective authority and ensuring that the government governs the society over the overwhelming majority is one of the important factors that ensure the recognition of governments.<sup>46</sup> In other words, since elements such as ensuring stability, ensuring that administrative functions are ready, and providing public services show that the government is acceptable to the people at a certain level, its recognition by the international community is not without foundation. The basic meaning of sufficient authority is to rely on the consent of the nation (mostly not to encounter objections from the majority), to undertake international obligations, and to be competent enough to fulfill the obligations undertaken.<sup>47</sup> In Akipek's words, it can also be expressed as having state power.<sup>48</sup> Likewise, it is necessary to have sufficient authority to fulfill the obligations rather than to undertake them. However, when we look at international practices, we see that the state's actual power over its country is not recognized by governments that have more or less managed to maintain it. For example, the long-standing recognition of the Formosan government by the US as the official government of China can be cited as an example.<sup>49</sup> In this context, the requests made by the People's Republic of China for recognition as the official representative of the United Nations were also rejected.

Indeed, the objective criterion for the recognition of governments, the requirement of sufficient authority, is not limited entirely to the provision of actual realities or power. In addition to ensuring actual sovereignty, principles such as obtaining the approval of the

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<sup>46</sup> Meray, *Devletler Hukukuna Giriş*, 221; Ramanand Mundkur, "Recognition of Governments in International Organizations, Including at the International Monetary Fund", *Current Developments in Monetary and Financial Law*, (Washington: International Monetary Fund, 2005), 81-82.

<sup>47</sup> Today, this approach is known as the "Effective Control" doctrine and is generally invoked by states in relation to the subject matter. For more detailed information, see references Shaw, *International Law*, 337-338; Hüseyin Pazarıcı, *Uluslararası Hukuk Dersleri*, II Kitap (Ankara: Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, 1989), 17-18.

<sup>48</sup> Ömer İlhan Akipek, *Devletler Hukuku*, II Kitap (Ankara: İstiklal Matbaası, 1964), 88-89.

<sup>49</sup> Meray, *Devletler Hukukuna Giriş*, 222; Sur, *Uluslararası Hukukun Esasları*, 140.

country's society, behavior in compliance with international law, protection of human rights, and ensuring the rule of law should not be ignored.<sup>50</sup> Therefore, failure to fulfill the legal conditions in question may constitute grounds for non-recognition even if the state has actual power over its territory.

The Tinoco Case (Tinoco Claims Arbitration) is a landmark international law arbitration that established the doctrine of effective control in state recognition, asserting that a de facto government's validity and the binding nature of its acts, such as contracts, depend on its actual control over territory, not solely on formal diplomatic recognition by other states.<sup>51</sup> The case confirmed that while recognition may affect interstate relations, non-recognition by other powers does not negate a government's de facto existence or its ability to create valid legal obligations.

### **III. THE TALIBAN AS AN ACTOR IN AFGHAN POLITICS IN GENERAL AND ITS PRACTICES**

#### **A. The Emergence and Rise to Power of the Taliban in Afghanistan**

The Gulf countries, especially Saudi Arabia, have established a number of Islamic schools in Pakistan, close to the Afghan border. These schools were under the control of the two Islamic party forces in Pakistan, the Jamaat-e-Islami, headed by Ghazi Hussain Ahmed, and the Jama'at Ulema al-Islam, headed by Fadlur Rahman. During the presidency of Ziya ul-Haq, Jamaat-e-Islami received support from the Pakistani army, while the Islamic Scholars Group, which has conservative Islamic ideas, was closely linked to the Saudi group led by Fazlur Rahman.<sup>52</sup>

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<sup>50</sup> Pazarıcı, *Uluslararası Hukuk*, 349.

<sup>51</sup> The Tinoco Case of 1923 (Great Britain v. Costa Rica), <https://www.ilsa.org/Jessup/Jessup12/Tinoco%20Claims%20Arbitration.pdf> (Erişim Tarihi: 21.09.2025).

<sup>52</sup> Syed Ismail Yosufi, "The Strategic Dimensions of American–Afghan Relations 2001–2014", (Yayınlanmamış Yüksek Lisans Tezi, Middle East University, 2014), 24.

The Soviet invasion of Afghanistan in 1979 led to the emergence of groups known as mujahideen groups. One of these religious groups is the Taliban Movement. The Taliban Movement emerged in 1994 in the Kandahar province, located in southwestern Afghanistan, by Mullah Mohammed Omar Mujahid near the Pakistani border.<sup>53</sup> The Islamic movement known as the Taliban derives its name from the plural form of the word “student” in Pashto, referring to the students of religious schools. Most members of the Taliban movement are Pashtun, with many coming from the eastern and southern regions of the country.<sup>54</sup>

After the end of the war and the withdrawal of the Soviet Union from Afghanistan, the People’s Democratic Party led by Najibullah came to power in Afghanistan. This regime managed to remain in power for more than two years until it was overthrown in 1992 under the pressure of the Mujahideen groups entering the capital, Kabul. These groups engaged in a violent civil war to seize control of the government and power. This war primarily erupted between “Gulbuddin Hikmetyar” and the leader of the Afghanistan Council Party, “Burhanuddin Rabbani”. It continued until 1996 when the Taliban movement emerged and took control of the situation in Afghanistan.<sup>55</sup>

The emergence of the Taliban movement, along with the participation of many extremists, dates back to the early 1980s of the last century. Those who joined the Taliban movement were taught the arts of carrying weapons, organizing, and infiltration by Sultan

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<sup>53</sup> Marwa Hamed Al-Badri, Warda Hashem Ali and Aya Ahmed Mohamed Mahmoud, “The Appearance and Evolution of the Jihadist Groups: Taliban, AL Qaeda and Islamist state”. *The Journal of Research and Business Studies*, 34/1 (2020): 1-73; Göktuğ Sönmez, Gökhan Bozbaş and Konuşul Serhat, “Afgan Talibanı: Dünü, Bugünü ve Yarını”. *Necmettin Erbakan Üniversitesi Siyasal Bilgiler Fakültesi Dergisi*, 2/2 (2020): 67.

<sup>54</sup> Nuray Ekşi, “Milletlerarası Hukuk Açısından Dünden Bugüne Taliban ve Taliban’ın Hükümet Olarak Tanınıp Tanınmayacağı Meselesi”. *Public and Private International Law Bulletin*, 42/1 (2022): 6; Saavar Akbar, Rahmatifar Samaneh and Zarneshan Shahram, “The Legitimacy of Taliban Government: Viewe Point of International Law”. *Journal: Recent Developments in Public Law*, 2/5 (2023): 84.; Lawrence Azubuiké, “Status of Taliban and Al Qaeda Soldiers: Another Viewpoint”. *Connecticut Journal of International Law*, 9/1 (2003): 127-128.

<sup>55</sup> Al-Badri, Ali and Mahmoud, “Taliban, AL Qaeda and Islamist state”, 21.

“Emir,” one of the Pakistani intelligence officers, in one of the camps in the city of Peshawar. So much so that some of the fighters he trained during that period became the core of the Taliban movement, in addition to the flow of millions of dollars sent to the anti-Soviet Taliban by the CIA for arms and training purposes.<sup>56</sup>

Pakistani journalist Ahmed Rashid, who studies the Taliban, expresses the emergence and rapid progress of the Taliban as follows: *“The Taliban is a group that emerged when Afghanistan was struggling with internal unrest, and most of them were orphaned children who grew up in madrassas in Pakistan during the occupation. They have achieved significant success in a short time in their goals of bringing peace to Afghanistan, disarming the people, implementing sharia and defending the unity and Islamic character of Afghanistan.”*<sup>57</sup>

A significant portion of the Taliban’s human resources consists of over three million Afghan refugees living in difficult economic conditions in refugee camps in Pakistan. Additionally, due to structural violence elements such as widespread injustice, social inequality, high unemployment, and the functional disintegration of society in Afghanistan, a group referred to as the “war generation” has also joined the ranks of the Taliban.<sup>58</sup> In addition, it is necessary to mention the existence of thousands of foreign fighters who wanted to join the Taliban. Between 1982 and 1992, approximately 35,000 radical Muslim fighters from 43 Islamic countries came to Afghanistan to participate in the resistance. This number has exceeded 100,000 over time. The camps established by these fighters and the madrassas where they received training in Pakistan laid the groundwork for the emergence of Islamic violent movements that would later have a global impact.<sup>59</sup>

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<sup>56</sup> Al-Badri, Ali and Mahmoud, “Taliban, AL Qaeda and Islamist state”, 22.

<sup>57</sup> Zabihullah Dashti, “ABD’nin Afganistan’dan Çekilmesi İle Taliban’ın Yeniden İktidara Gelmesi”. *Asya Araştırmaları Uluslararası Sosyal Bilimler Dergisi*, 5/2 (2021): 198.

<sup>58</sup> Akbarshah Ahmadi, “Dinsel Şiddetin Sosyo-Politik Kaynakları: Taliban Örneği”. *Uludağ Üniversitesi İlahiyat Fakültesi Dergisi*, 26/1 (2017): 126.

<sup>59</sup> Ali Rıza Kuğu, “Afganistan’da İktidar Mücadelesi ve Dış Müdahale Sorunsalı: Uluslararası Toplum İçin Yeni Bir Yol Haritası”, (Yayımlanmamış Doktora Tezi, İstanbul Üniversitesi, 2020), 177.

Most of the Taliban are from the southern parts of the country, especially the Pashtun ethnic groups.<sup>60</sup> During the Taliban period, the Pashtunism concept came to the forefront. Since Pashtun nationalism was widespread, the Tajiks, Uzbeks, Hazaras and Turkmens in Afghanistan were approached with the words “Go to your own countries, this is the place of the Pashtuns”.<sup>61</sup> Although the Taliban do not openly advocate for an ethnic group, the ethnic policies they follow show that they reflect the values of the Pashtunwali tradition. For example, among the twenty-nine members of the Taliban’s leadership cadre, only two belong to non-Pashtun ethnic groups, while the rest are all Pashtuns. Additionally, during the Taliban administration, Pashto was declared the official language of Afghanistan, and other languages were neglected. The capital was also moved from Kabul to Kandahar, from where the administration was run.<sup>62</sup>

The Taliban initially emerged as a small group and, when they captured the capital Kabul, they were greeted with joy by the people as if they were the “long-awaited Mahdi,” as noted by Rashid. Therefore, in just four short years (1996-2000), the Taliban took control of 90% of the country and gained strength with both domestic and foreign support, especially the support of Pakistan. The Taliban brought together former mujahideen groups that could not share power and were in conflict. However, the Taliban’s torture and execution of Najibullah, Afghanistan’s last communist president who was living under UN protection, has revealed that in the eyes of both the Afghan people and the world, the Taliban are no different from the former mujahideen who turned into warlords.<sup>63</sup>

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<sup>60</sup> “The Taliban in Afghanistan”, 19 January 2023, (Erişim Tarihi: 06.04.2024), [https://www.cfr.org/backgrounder/taliban-afghanistan#!/taliban?cid=marketing\\_use-taliban\\_infoguide-012115](https://www.cfr.org/backgrounder/taliban-afghanistan#!/taliban?cid=marketing_use-taliban_infoguide-012115).

<sup>61</sup> Ruhullah Begzad, “11 Eylül Sonrası Afganistan’da Demokratikleşme ve Taliban Örgütü”, (Yayımlanmamış Yüksek Lisans Tezi, Gazi Üniversitesi, 2014), 95; Hossein Khani Elham, “Afghanistan Security and The Problem of Taliban Power Regaining”. *Political Science Quarterly*, 16 (2011): 16.

<sup>62</sup> Dashti, “Taliban’ın Yeniden İktidara Gelmesi”, 198-199.

<sup>63</sup> Dashti, “Taliban’ın Yeniden İktidara Gelmesi”, 125.

Pakistan was the first country to recognize the Taliban government after it came and took over the capital Kabul. It is no secret that the US supports Pakistan so that the Taliban movement comes to power.<sup>64</sup> Thus, US Secretary of State Blinken announced that the Taliban will be recognized as the de facto government.<sup>65</sup> Additionally, the Taliban regime was recognized as the legitimate (de jure) government of Afghanistan by Pakistan, Saudi Arabia, and the United Arab Emirates (UAE). The Taliban was removed from power in 2001 as a result of the military invasion of Afghanistan by US-led coalition forces on the grounds that it was protecting Osama bin Laden, whom the US sees as the main perpetrator of the September 11 attacks. Since that time, Taliban militants have continued to engage in “guerrilla” warfare against foreign forces and the Afghan government.<sup>66</sup>

### **B. The Situation and Practices of the Taliban During Its Rule Prior to September 11, 2001**

The Taliban movement is classified among actors with ideological dimensions. They are united by radical, extremist ideas and a commitment to spreading their own ideology. The Taliban has played a direct role in confronting the Afghan government to achieve various local goals in Afghanistan, such as establishing an Islamic state on the path to the Caliphate, eradicating ethnic and tribal prejudices, focusing on legal head coverings for women and making them mandatory, promoting virtue and preventing immorality, Islamizing the national economy while emphasizing development in all sectors, selecting a comprehensive Islamic curriculum for all schools and universities, and preparing the Islamic army.<sup>67</sup>

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<sup>64</sup> Al-Badri, Ali and Mahmoud, “Taliban, AL Qaeda and Islamist state”, 31.

<sup>65</sup> Amanda Macias, “Secretary of State Blinken calls Taliban ‘the de facto government of Afghanistan’”, 13 September 2021, (Erişim Tarihi: 06.04.2024), <https://www.cnbc.com/2021/09/13/secretary-of-state-blinken-calls-taliban-the-de-facto-government-of-afghanistan.html>.

<sup>66</sup> Ahmadi, “Sosyo-Politik Kaynakları: Taliban Örneği”, 125-126; Sattar Azizi, “The Recognition of the Islamic Emirate of Afghanistan (Taliban) from the Perspective of International Law”. *International Studies Journal*, 18/2 (2021): 13.

<sup>67</sup> Al-Badri, Ali and Mahmoud, “Taliban, AL Qaeda and Islamist state”, 25-26.

The Taliban imposed the strictest Islamic regime within twenty-four hours of seizing Kabul. Despite managing a quarter of Kabul's public services, the entire primary education system, and most of the health system, they prohibited all women from working. The closure of girls' schools and colleges affected over 700,000 female students. The Taliban banned all games, including television, video devices, chess, football, and paper kites. Kabul Radio was renamed Sharia Radio, and all forms of music broadcasting were prohibited.<sup>68</sup>

Over time, the Taliban movement became more rigid and oppressed the people, especially young men and women. Faced with an increasing number of casualties, the Taliban began to experience a shortage of manpower. The Taliban began to recruit young men from Kabul as conscripts, and thousands of volunteers from Pakistan joined the Taliban movement. Some Pakistani clerics closed their schools, which led to students joining the Taliban movement. Thousands of Afghan students and Pakistanis living in refugee camps began arriving in Kandahar and Kabul every day in buses chartered by Pakistani Islamic parties. Pakistan assisted with all passport and exit visa requirements. Trusting this new support, the Taliban launched an offensive in western Afghanistan and captured the ancient city of Herat in 1995. Herat was a trade center and the seat of the administration of Ismail Khan, one of the most important leaders of the Afghanistan Mujahideen who faced the Soviet occupation in the eighties of the last century and who improved the situation of Herat, especially economically. Hoping to establish a national government free from various influences, he called for a conference of all powers and also invited about four thousand Afghan intellectuals residing abroad to attend the conference. He invited the heads of some of the country's military organizations to this conference held in July 1993. However, some decisions of this conference did not receive the approval of many Mujahideen parties, nor did they gain the support of the Taliban and neighboring countries. Herat was under the rule of Ismail Khan, and every side, especially the Taliban, who received a lot of aid from abroad, was seeking to expand their control. There were

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<sup>68</sup> Yosufi, "American-Afghan Relations 2001-2014", 25-26.

many battles between the Taliban forces and Ismail Khan's forces, with some centers being destroyed and then recaptured. Eventually the Taliban gathered large forces and attacked Ismail Khan's exhausted forces and succeeded in capturing Herat in September 1995.<sup>69</sup>

### **C. US Intervention in Afghanistan and the Taliban Following September 11, 2001**

Al Qaeda claimed responsibility for the events of September 11, 2001, and Al Qaeda leader Osama bin Laden came out and explained the reasons for these events. He declared that America supported Israel and that his organization was ready for a long war of attrition with the United States. The anticipated war against terrorism began on the evening of October 7, 2001. Thus, Washington opened a conventional military front in its war on terror when it began bombing military and communications centers belonging to al-Qaeda and the Taliban government in Afghanistan.<sup>70</sup>

The Security Council declared that the Taliban, which controlled Afghanistan, was the global center of international terrorism and demanded the extradition of bin Laden. However, the Taliban responded angrily and said they would never deport Bin Laden. As a result, events escalated, and the September 2001 attacks motivated the administration of U.S. President George W. Bush to mobilize its allies and supporters for military operations against Afghanistan.<sup>71</sup> Additionally, on September 28, 2001, the Security Council adopted Resolution 1373 concerning the individual and collective right to self-defense as outlined in Article 51 of the UN Charter.<sup>72</sup> In the decision, it

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<sup>69</sup> Yosufi, "American-Afghan Relations 2001-2014", 26-27; Kuğu, "Afganistan'da İktidar Mücadelesi", 141-142.

<sup>70</sup> Yosufi, "American-Afghan Relations 2001-2014", 58; Begzad, "11 Eylül Sonrası, 5-8; Hüseyin Şeyhanlıoğlu, "18. Yüzyıldan Günümüze Kadar Afganistan'ın Jeostratejik Önemi". *Avrasya Etüdleri*, 34/2 (2008): 79.

<sup>71</sup> Yosufi, "American-Afghan Relations 2001-2014", 47.

<sup>72</sup> United Nations Security Council, 28 September 2001, S/RES/1373, [https://documents-](https://documents-dds-)

was stated that terrorism threatens international peace and security and that it is ready to take all necessary measures to combat all kinds of terrorism.

The war in Afghanistan has ended by implementing the measures specified in United Nations Security Council resolution 1378.<sup>73</sup> This resolution provided a framework for the Bonn Agreement negotiations, signed on December 5, 2001, aimed at reaching an agreement among various Afghan parties on a new government. It affirms that the United Nations should play a significant role in supporting the urgent efforts of the Afghan people to establish this new transitional administration in preparation for the formation of a new government.

The legitimacy of the US war against the Taliban and the legality of sending peacekeeping forces to Afghanistan should be evaluated in terms of international law. On December 12, 2001, the Security Council issued Resolution 1368. This decision shows the reference and legitimacy of the military attack that the USA is preparing. In its decision, the Council evaluated the terrorist acts committed on 22 September 2001 as “*a threat to international peace and security, like any other international terrorist act*”.<sup>74</sup> After the overthrow of the Taliban regime in Afghanistan, the United Nations committed to providing international peacekeeping forces. After the overthrow of the Taliban regime in Afghanistan, the United Nations committed to providing international peacekeeping forces. This force was tasked with assisting the Afghan authorities in maintaining security in the capital Kabul and its surroundings. Known as ISAF, this force has been subjected to violent attacks from remnants of the Taliban and Al-Qaeda. This has affected its effectiveness in carrying out its assigned duties. This

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ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement, (Erişim Tarihi: 06.04.2024).

<sup>73</sup> United Nations Security Council, 14 November 2001, S/RES/1378, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/638/57/PDF/N0163857.pdf?OpenElement>, (Erişim Tarihi: 06.04.2024).

<sup>74</sup> United Nations Security Council, 12 September 2001, S/RES/1368, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>, (Erişim Tarihi: 06.04.2024).

led to the selection of the North Atlantic Treaty Organisation (NATO) to lead peacekeeping forces in the capital Kabul in August 2003, instead of the joint command assumed at the time by Germany and the Netherlands.<sup>75</sup> Later, on 6 October 2003, NATO decided to expand the scope of its international peacekeeping forces to include areas outside the capital Kabul for the first time.<sup>76</sup> On October 13, 2003, the Security Council issued Resolution 1510, permitting the expansion and deployment of ISAF's operations in Afghanistan. This resolution included other urban areas outside of Kabul to ensure a secure environment for the work of local and international personnel involved in reconstruction and humanitarian efforts.<sup>77</sup>

Following the military intervention that began on October 7, 2001, the Taliban regime was overthrown in a short period of two months. However, the Taliban and Al Qaeda tried to maintain their existence by retreating to Pakistan in small groups. Although the operation in Afghanistan quickly ended the Taliban regime, security problems in the country continued to increase. By 2007, the Taliban had regrouped and was able to launch attacks against the government in most provinces of the country. Despite the presence of U.S. and NATO forces, the Taliban regained strength, particularly in rural areas. Despite the new government established at the Bonn Conference and the support of the international community, security issues remained unresolved. The government established under the leadership of Hamid Karzai was not successful in ensuring stability, ending ethnic conflicts, or forming a broadly inclusive administration.<sup>78</sup>

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<sup>75</sup> Kuğu, "Afganistan'da İktidar Mücadelesi", 194.

<sup>76</sup> Yosufi, "American-Afghan Relations 2001-2014", 64.

<sup>77</sup> United Nations Security Council, 13 October 2003, S/RES/1510, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N03/555/55/PDF/N0355555.pdf?OpenElement>, (Erişim Tarihi: 06.04.2024).

<sup>78</sup> Dashti, "ABD'nin Afganistan'dan Çekilmesi", 201.

## **D. The Path to the Taliban's Return to Power Following 2001**

In recent years, the situation on the ground in Afghanistan has shifted in favor of the Taliban. During these years, the Taliban not only renewed its military and political strength but also gained a significant social base among the Afghan people. According to official U.S. government estimates in 2019 and the quarterly report<sup>79</sup> submitted to Congress by the Special Inspector General for Afghanistan Reconstruction, approximately 12.3% of Afghan territory was under Taliban control. Meanwhile, 53.8% was under the control of the central government, and 33.9% was a matter of dispute between the Taliban and the central government.<sup>80</sup>

There are several factors that led to the Taliban's return to power. These include the inability to establish a strong, high-morale army; the high costs of war expenditures and casualties in the United States after 9/11; the failure to cut off the Taliban's financial resources; strategic mistakes by the U.S. during the war; corruption within the Afghan government; ethnic biases within state institutions; unemployment; and the disregard of Afghanistan's realities in the establishment of a government system. For example, the legal and political order established based on the Afghan constitution, its incompatibility with the concrete realities of Afghan society, the changes made in the Taliban war tactics and ethnic policies, the support given to the Taliban by regional countries under the title of fighting against ISIS, and the changing of enemies in US foreign policy and the pursuit of a "policy of appeasement" against the Taliban have all led to the Taliban coming to power in Afghanistan again.<sup>81</sup>

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<sup>79</sup> For the report see, "Special Inspector General For Afghanistan Reconstruction", (Erişim Tarihi: 20.09.2024), <https://www.sigar.mil/pdf/quarterlyreports/2019-01-30qr.pdf>.

<sup>80</sup> "Taliban Fast Facts", 15 March 2024, (Erişim Tarihi: 20.03.2024), <https://edition.cnn.com/2013/09/20/world/taliban-fast-facts/index.html>.

<sup>81</sup> For more information on this subject, see: Ahmad Khan Dawlatyar, "The Factors that Led to the Taliban's Return to Power and the Future of Afghanistan". *Journal of Regional Studies*, 5/2 (2021): 433-455.

The US has decided to withdraw after failing to achieve the desired success in Afghanistan, the longest war in its history, where it has lost more than 2,400 soldiers. After fighting the Taliban for nearly 20 years, the US and NATO have sought to reconcile with the Taliban in order to conceal their failures. After lengthy negotiations between the Trump administration and the Taliban, the Peace Agreement was signed in Doha on February 29, 2020. According to the agreement, in exchange for the Taliban's commitment to prevent groups recognized as terrorist organizations by Al-Qaeda and the U.S. from operating in Afghanistan, the Trump administration decided to withdraw all American troops from the country by May 2021. However, the new U.S. President Joe Biden announced that the troops would be withdrawn in September 2021, on the 20th anniversary of the September 11 attacks. While the Taliban, having signed<sup>82</sup> an agreement with the U.S., continued peace talks with the Afghan government in Doha, they simultaneously escalated attacks across the country, quickly gaining control of 85% of Afghanistan.<sup>83</sup>

Following news that the US would withdraw its last troops from Afghanistan on July 22, 2021, the Taliban advanced rapidly within two weeks, capturing Herat province in the west, then Balkh province in the north, and arrived at the gates of the capital Kabul on August 15. As the Taliban approached Kabul, former Afghan President Ashraf Ghani secretly fled the country, and following this event, the Kabul government fell under the Taliban's control. When Abdullah Abdullah, the head of the Afghan Peace Council, confirmed that Ashraf Ghani had left the country, there was widespread panic in Afghanistan. Russia's embassy in Afghanistan claimed that Ghani fled with four cars and a truck. On August 16, Reuters reported, based on sources from Russia's embassy in Kabul, that Ghani left the country with four cars

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<sup>82</sup> For the text of the Agreement, see, "Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and the United States of America", (Erişim Tarihi: 10.04.2024), <https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>.

<sup>83</sup> Dashti, "ABD'nin Afganistan'dan Çekilmesi", 202.

and a helicopter full of money, but had to leave some money behind because there was no space left.<sup>84</sup>

### **E. Taliban's Practices Following Its Rise to Power in 2021**

Western political and media circles' expectations for Afghanistan's future can be summarized in two main directions. Internally, it is believed that the Taliban will work to re-establish the system of the Islamic Emirate, which will revert to the policies of oppression against women, minorities, and dissenters that it adopted during its previous control of Afghanistan from 1996 to 2001. Externally, there are expectations that Afghanistan will become a sphere of influence for both China and Russia, as both countries successfully established communication channels with the Taliban several years ago. Or the Taliban will need urgent foreign aid that it will not be able to find or seek in the Western countries it has been fighting for two decades. In reality, at the domestic level, there are reassuring signals sent by the Taliban during the first week of its control over Kabul. However, these signals do not seem to have reached a level of positive impact on the West's perception of actions and the expected governance system in Afghanistan.<sup>85</sup>

Despite friendly messages about what is hoped for after the Taliban's recapture of Afghanistan, what has been proven after a year of Taliban rule is a sharp deterioration in the human rights situation in Afghanistan and a serious humanitarian crisis. While violence has decreased in some regions of the country, ongoing challenges from national resistance areas and ISIS's Khorasan Province limit this. The overall dreadful human rights situation under Taliban rule is particularly harsh for women. The Taliban largely excludes women from public life, restricts their rights to travel independently outside their cities, and prevents girls from attending middle and high school. Taliban leader Hebatullah Akhundzada has ordered women to wear veils

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<sup>84</sup> Dashti, "ABD'nin Afganistan'dan Çekilmesi", 202.

<sup>85</sup> "Tahavvul İstratiji: Avdet Taliban Lihukum Afganistan ve Tedaiyatıha", Aljazeera Center For Studies, 24 August 2021, 5, (Erişim Tarihi: 10.04.2024), <https://studies.aljazeera.net/sites/default/files/articles/documents/2021-pdf>.

in public. The Taliban has made it clear that they prefer women to wear burqas, but will tolerate other forms of veiling that only reveal the eyes. It is worth noting that the restrictions imposed by the Taliban on women's fundamental rights have negatively affected not only their rights but also their participation in the development of the state. The Taliban has severely restricted the right to expression, and Taliban militants have violently dispersed demonstrations demanding women's rights to work and education, using rifle butts and bullets. On the other hand, the humanitarian crisis is unbearable. The World Bank reports that Afghanistan's gross domestic product decreased by 34% in 2022 compared to 2020, and the prices of essential commodities have risen. UN data shows that 90 percent of all Afghans suffer from malnutrition.<sup>86</sup>

Another issue is the incompetence of Taliban officials. Taliban government consists of religious figures who have no economic experience. Some Taliban fighters claim that the joy of victory overshadowed the economic crisis. At the international level, analysts fear that Afghanistan may once again become a safe haven for terrorists and a breeding ground for organized crime networks. According to a UN intelligence report, there are warnings that Afghanistan could again be a source of international terrorism originating from both Al-Qaeda and ISIS's Khorasan Province.<sup>87</sup>

On August 20, the International Amnesty Organization published a report stating that Taliban members brutally killed nine Hazara civilians after seizing control of Ghazni Province. Amnesty International Secretary General Agnes Callamard stated, *"These targeted killings demonstrate that ethnic and religious minorities under Taliban control in Afghanistan are still at special risk. We urge the UN Security Council to adopt an emergency resolution calling on the Taliban to respect international human rights law and guarantee the safety of all Afghans, regardless of their ethnicity or religious beliefs"*. Furthermore, she

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<sup>86</sup> "Afganistan Bade Ameyn min Hukum Taliban: Avde Karitiyye ve Tehdidat Emniyye Mutasaide", 5 Eylül 2022, (Erişim Tarihi: 10.04.2024), <https://www.qposts.com/>.

<sup>87</sup> "Afganistan Bade Ameyn min Hukum Taliban".

expressed, The UN Human Rights Council should establish a robust investigative mechanism to document, collect, and preserve evidence of ongoing crimes and human rights violations across Afghanistan. *“This will be critical to ensuring the international community makes informed decisions and combating the impunity that continues to fuel serious crimes in the country”*.<sup>88</sup> In addition, during the Taliban’s rule, Hazaras became targets due to the fatwas that Hazaras should be killed because they are Shia. It is claimed that the Taliban killed 5-6 thousand civilians, mostly Shia Hazaras, as a result of their vengeful and sectarian policies.<sup>89</sup>

On August 24, the UN Human Rights Agency announced that it had received credible information that the Taliban was carrying out extrajudicial killings. UN Human Rights Commissioner Michelle Bachelet said that it had received credible reports of extrajudicial killings and severe restrictions on women in areas under Taliban control. UN Human Rights Commissioner Michelle Bachelet said that it had received credible reports of extrajudicial killings and severe restrictions on women in areas under Taliban control.<sup>90</sup>

On the first day of seizing Kabul, the Taliban stated that an inclusive and broad-based government would be established in Afghanistan. However, the interim government announced on September 7 is composed almost entirely of Taliban members. This situation indicates that, despite their promises, the Taliban have no intention of sharing power with other ethnic groups. Furthermore, although the Taliban claim to be acting differently and more moderately than they did 20 years ago, it is evident that the announced interim government shows little difference from their previous rule, even amid efforts to

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<sup>88</sup> “Afghanistan: Taliban Responsible for Brutal Massacre of Hazara Men–New Investigation”, Amnesty International, 19 August 2021, (Erişim Tarihi: 10.04.2024), [https://www.amnesty.org/en/latest/news/2021/08/afghanistan-taliban-responsible-for-brutal-massacre-of-hazara-men-new-investigation/?utm\\_source=chatgpt.com](https://www.amnesty.org/en/latest/news/2021/08/afghanistan-taliban-responsible-for-brutal-massacre-of-hazara-men-new-investigation/?utm_source=chatgpt.com).

<sup>89</sup> Rahimullah Farzam, Tarihsel ve Güncel Boyutlarıyla Hazara Toplumu (Ankara: İram Yayınları, 2020), 29-30.

<sup>90</sup> Dashti, “ABD’nin Afganistan’dan Çekilmesi”, 205.

form an “inclusive government” to gain international political legitimacy.<sup>91</sup>

UN Secretary-General Antonio Guterres stated at the 76th UN General Assembly meeting held on September 22 that the five permanent members of the Security Council called for the establishment of an inclusive government in Taliban-led Afghanistan. According to Guterres, the permanent members of the UN Security Council—the United States, Russia, China, France, and the United Kingdom—emphasized to the Taliban the necessity of including all ethnic groups. Furthermore, these countries warned the Taliban to respect women’s rights and to prevent Afghanistan from becoming a safe haven for terrorists.<sup>92</sup>

Nicholas Bishop, Afghanistan Emergency Officer of the International Organization for Migration (IOM), emphasized that there has been an increase in external migration along with the process of foreign migration from the country, and stated that “*before May 1, when the US and NATO forces began to withdraw from Afghanistan, 750 thousand to 1 million people migrated to Iran, Turkey and Europe, and with the Taliban advancing across the country, Afghans were forced to migrate with their families.*”. According to an IOM report, at least 1.5 million Afghans are expected to migrate to Western countries by the end of 2021 due to increasing security and economic concerns.<sup>93</sup>

The lack of recognition of the Taliban administration by other countries implies that they will lack international legitimacy and remain isolated. As the Taliban attempts to govern independently, it has become likely that the National Resistance Front, led by Ahmad Massoud, the son of Ahmad Shah Massoud, will strengthen in Panjshir and potentially expand into other regions of the country. If the conflict continues, there are concerns that Afghanistan may once again become a safe haven for terrorist groups and that drug production will increase. Furthermore, it is anticipated that if broad-based political

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<sup>91</sup> Dashti, “ABD’nin Afganistan’dan Çekilmesi”, 206.

<sup>92</sup> Dashti, “ABD’nin Afganistan’dan Çekilmesi”, 207.

<sup>93</sup> Dashti, “ABD’nin Afganistan’dan Çekilmesi”, 209.

consensus cannot be achieved between the Taliban and other local actors, Afghanistan could be drawn back into civil war.<sup>94</sup>

From the perspective of international legal doctrines, it is evident that the Taliban's rise to power and subsequent practices after 2021 do not satisfy the legitimacy criteria under the Tobar Doctrine. Their accession to power occurred not through democratic election but means of armed force; and despite rhetorical commitments to an inclusive government, appointments have remained largely confined to Taliban cadres, without any genuine, competitive, and free expression of popular consent. Under the doctrine of effective control, it is true that the Taliban exercises de facto authority over a wide geographical area. Nevertheless, the limited provision of public services, the lack of adherence to the rule of law, the systematic violations of fundamental rights and freedoms, and the absence of protection for minorities weaken the dimension of effective control that requires not merely coercive dominance but also a lawful and functioning administrative capacity. Accordingly, even classical and pragmatic approaches fail to provide a solid legal foundation for the full recognition of the Taliban regime.

Within the framework of the Kelsenian distinction, it can be observed that some states have established limited de facto relations with the Taliban, primarily for purposes of humanitarian assistance, security, and diplomatic necessity. However, such interactions are confined to practical arrangements and do not amount to legal de jure recognition. According to the Hayes-Stimson approach and other relevant doctrines, legal recognition requires the assumption of international obligations, substantial progress in the protection of human rights and women's rights, binding commitments in the fields of counterterrorism, and conduct consistent with the broader international community. At present, the Taliban regime does not fulfill these criteria, making the prospect of widespread recognition under international law highly unlikely. Consequently, while practical and limited engagements may be feasible for the international community, full and enduring de jure recognition remains contingent upon the Taliban

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<sup>94</sup> Dashti, "ABD'nin Afganistan'dan Çekilmesi", 208.

undertaking concrete reforms in legitimacy, compliance, and adherence to the rule of law.

#### **IV. COMPATIBILITY OF THE PRINCIPLES OF GOVERNMENT RECOGNITION WITH THE ACTUAL PRACTICES OF THE TALIBAN GOVERNMENT**

##### **A. Assessing the Taliban in Terms of legitimacy**

Although the legitimacy principle outlined within the framework of the Tobar Doctrine has not been widely accepted<sup>95</sup>, it continues to hold significant importance in the mechanism of government recognition in current international law. As detailed in the first part of the article, legitimacy is the principle that determines whether the ruling power reflects the will of the people. Furthermore, legitimacy is the principle that signifies that power can only be assumed as a result of the people's clear and independent will, serving as a criterion established by international law to attain the status of a legitimate government.

When evaluating the Taliban administration within the framework of the principle of legitimacy, it is first necessary to examine how they came to power. As explained in the second part of the article, which addresses the history of the Taliban, their ascent to power in Afghanistan, both initially and in their second takeover, was not achieved through any form of election. On both occasions, this group seized control of the government through the use of military force, taking power after removing the elected administration by means of revolution.<sup>96</sup> Therefore, when the Taliban came to power in Afghanistan, there was an established official government with a President at the head of the state. However, the official government could not resist the military force used by the Taliban administration after the

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<sup>95</sup> Thomas Galloway, *Recognizing Foreign Governments: The Practice of the United States* (Washington: American Enterprise Institute for Public Policy Research, 1978), 10.

<sup>96</sup> Kenneth M. Holland, "Pakistan's National Interest and Recognition of Afghanistan's Taliban Regime". *Journal of Security and Strategic Analyses*, 7/2 (2021): 8.

withdrawal of US forces from Afghanistan and collapsed. The President fled the country. Furthermore, after seizing control in Afghanistan, the Taliban made no attempt to hold any form of election. They also did not pursue any other action that could be considered a reflection of the national will. On the contrary, the people were intimidated by using brute force and attempts were made to maintain power through unofficial means.

### **B. Assessing the Taliban in Terms of Fulfilling International Obligations**

Fulfilling international obligations, as we discussed in detail in the first section, is an extremely important criterion for the legal recognition of governments. This criterion should be assessed concerning the Taliban administration in relation to two fundamental areas. The first is the administration's practices regarding fundamental human rights and freedoms. The other refers to obligations that the Afghan state has undertaken that will not cover the first area. For example, obligations acquired through commercial and economic agreements can be given. When the Taliban administration is evaluated within this framework, there are not many positive results observed. In regard to the first area mentioned above, there is not much difference between the Taliban's rule up to 2001 and their rule after 2021. In both periods, the Taliban not only disregarded fundamental human rights and freedoms but also implemented practices that violated women's rights in particular.<sup>97</sup> The compulsory wearing of veils and similar garments, the denial of the right to education, restrictions on freedom of movement, and Sharia-based mandatory measures concerning marriage and other aspects of family life can be cited as examples of the violations mentioned.<sup>98</sup>

It is not possible to say that the Taliban have acted consistently with respect to obligations beyond fundamental rights and freedom. The Taliban's refusal to uphold these obligations undertaken by

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<sup>97</sup> Sebghatullah Qazi Zada and Mohd Ziaolhaq Qazi Zada, "The Taliban and women's human rights in Afghanistan: the way forward". *The International Journal of Human Rights*, 28/10 (2024): 1694-1703.

<sup>98</sup> Qazi Zada ve Qazi Zada, "The Taliban and women's", 1708-1710.

Afghanistan as a state, along with their adoption of actions and attitudes contrary to international law, serve as examples of these points.<sup>99</sup>

### **C. Assessing the Taliban in Terms of Ensuring Effective Control**

The concept of effective control includes fundamental elements such as ensuring stability, establishing administrative functionality, and delivering public services. Similarly, controlling the entire country does not necessarily mean that the condition of effective control has been met. In other words, it is not possible to claim that a political power has met the requirement of effective control to be recognized as a government if, despite seizing power or exerting control through brute force, it fails to establish administrative functionality and ensure the provision of public services. Furthermore, in addition to establishing actual control, principles such as obtaining the approval of the nation's society, adherence to international law, protection of human rights, and upholding the rule of law should also not be overlooked. When evaluating the Taliban administration within the framework of all the mentioned criteria, a uniform outcome is not reached. On one hand, it should be emphasized that the Taliban has captured the vast majority of Afghan territory, but on the other hand, it should not be overlooked that they have failed in areas such as delivering public services, ensuring administrative functionality, protecting human rights, complying with international law, and upholding the rule of law. It cannot be said that there is complete equality among the criteria in which they have failed. Therefore, although the Taliban may be able to deliver public services to a reasonable extent and may have established administrative functionality, they have failed to protect human rights, comply with international law, and uphold the rule of law. Talking about human rights in an environment where women's

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<sup>99</sup> Although, when the Taliban first came to power, their official leaders' statements were about fulfilling international obligations, subsequent practices have been quite the opposite. See details, "The Taliban wants to be recognised by the world. Should Western countries engage with it?", 26 Aug 2021, (Erişim Tarihi: 14.08.2024), <https://www.abc.net.au/news/2021-08-27/should-the-west-engage-with-the-taliban-afghanistan/100393560>; Qazi Zada and Qazi Zada, "The Taliban and women's", 1693-1694.

rights to education and learning are suspended, and freedom of movement is restricted, would be purely futile. It is impossible to align extrajudicial executions with the rule of law. Rejecting the UN Charter and advocating for a caliphate instead of the concept of the nation-state are also aspects incompatible with international law. Indeed, when these details are collectively considered, it becomes clear that the Taliban administration is also not legitimate in terms of the principle of effective control. Although some conditions of the aforementioned principle may have been met inadequately, the existence of ultimate effective control is not in question.

#### **D. Significant Resolutions Adopted by the UN General Assembly and the Security Council Regarding the Taliban Regime**

After the Taliban took power in Afghanistan in August 2021, the Taliban administration sought to distance itself from the diplomatic representatives of the former government at the UN and to have its their own representatives recognized.<sup>100</sup> However, the UN General Assembly's Credentials Committee has not yet reached a decision regarding the list of representatives submitted by the Taliban administration. Consequently, the Taliban's request to alter Afghanistan delegation to the UN has not been formally approved.<sup>101</sup> This situation causes uncertainty as to who is authorized to appoint the delegation, while the former representative from the Islamic Republic period technically remains registered with the UN.<sup>102</sup> The UN General As-

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<sup>100</sup> "Aljazeera, Taliban Asks to Address UN After Afghanistan Takeover", 22 Sep 2021, (Erişim Tarihi: 20.09.2025). <https://www.aljazeera.com/news/2021/9/22/taliban-asks-to-address-un-after-afghanistan-takeover>; "The Guardian, Taliban Ask To Address UN General Assembly After Afghanistan Takeover", 22 Sep 2021, (Erişim Tarihi: 20.09.2025). <https://www.theguardian.com/world/2021/sep/22/taliban-ask-to-address-un-general-assembly-after-afghanistan-takeover>.

<sup>101</sup> Becky Maz, "The Legality of Denying a U.N. Member State's Delegation Credentials: A Debate Reignited". Michigan Journal of International Law, 43 (2022), (Erişim Tarihi: 18.09.2025), <https://www.mjionline.org/the-legality-of-denying-a-u-n-member-states-delegation-credentials-a-debate-reignited/>.

<sup>102</sup> "Afganistan Analysts Network, Whose Seat is it Anyway: The UN's (non)decision on Who Represents Afghanistan", 07 Dec 2023, (Erişim Tarihi: 20.09.2025), <https://www.afghanistan-analysts.org/en/reports/international->

sembly has postponed the transfer of Afghanistan's seat at the UN to the Taliban administration. Consequently, the Taliban has not been recognized as Afghanistan's official representative at the UN.<sup>103</sup>

on July 7 2025, the UN General Assembly overwhelmingly adopted a new resolution concerning the situation in Afghanistan. The resolution called upon the Taliban to lift its restrictions on women and girls and demanded the removal of limitations on fundamental rights, including education, employment, and participation in public life. It further urged the Taliban administration to take effective measures against terrorist organizations operating in Afghanistan and to put an end to their activities.<sup>104</sup> The UN General Assembly has expressed deep concern over the worsening humanitarian, economic, and human rights situation in Afghanistan and has called upon the Taliban to reverse its repressive policies and establish an inclusive system of governance.<sup>105</sup> Accordingly, the UN General Assembly has not adopted any resolution formally recognizing the Taliban administration.

Shortly after the Taliban took control of Afghanistan, the UN Security Council adopted a series of resolutions concerning the situation in the country and its leadership. In its resolution of 30 August 2021, the Security Council addressed several key issues. In particular, it underscored the necessity of preventing Afghanistan's territory from being used by terrorist groups, especially Al-Qaeda and the ISIS-Khorasan branch. It further urged the Taliban to ensure that Afghanistan does not become a base for attacks or threats against other states. With respect to humanitarian assistance, the Council called for safe and unhindered access for the UN and other humanitarian organizations. The resolution also stressed that the Taliban must respect the human rights of women, children, and minorities, and it requested

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engagement/whose-seat-is-it-anyway-the-uns-nondecision-on-who-represents-afghanistan/.

<sup>103</sup> United Nations General Assembly, 6 December 2023, A/78/605, <https://docs.un.org/en/A/78/605>, (Erişim Tarihi: 16.09.2025).

<sup>104</sup> United Nations General Assembly, 27 June 2025, A/79/L.100, <https://docs.un.org/en/A/79/L.100>, (Erişim Tarihi: 16.09.2025).

<sup>105</sup> United Nations, UN Calls on Taliban to End Repressive Policies, 7 July 2025, <https://news.un.org/en/story/2025/07/1165342>, (Erişim Tarihi: 16.09.2025).

that the Taliban to facilitate the safe departure of foreign nationals and Afghans at risk.<sup>106</sup> On 22 December 2021, the Security Council adopted a significant resolution specifically addressing humanitarian assistance in Afghanistan. The resolution acknowledged the scale of the humanitarian crisis and stipulated that the UN, international organizations, and NGOs be exempted from sanctions that could hinder humanitarian activities. The Council made clear that the existing sanctions regime should not impede the delivery of humanitarian aid. It further that the provision of humanitarian assistance and basic support in Afghanistan would not constitute a violation the sanctions regime imposed on the Taliban administration. The resolution also emphasized that the UN and other humanitarian actors must be able to operate independently, impartially, and without obstruction for a period of one year. In addition, it requested the UN Secretary-General to monitor and report to the Security Council to ensure that aid is not misused by the Taliban. As with the previous resolution, this resolution reaffirmed the importance of respecting the rights of women, children, and minorities.<sup>107</sup>

On 27 April 2013, the Security Council adopted a resolution reaffirming the international obligations of the Taliban administration under human rights and humanitarian law. The resolution condemned the Taliban's decision to prohibit Afghan women from working with the the UN and emphasized that such restrictions seriously undermine the rights and fundamental freedoms of women and girls. It further stressed that banning women from UN work would negatively affect the operations of the UN and humanitarian organizations and would harm the essential services provided to the people of Afghanistan. Accordingly, the resolution called for the immediate lifting of these bans and urged the Taliban to ensure the full and equal participation of women and girls in society.<sup>108</sup> Subsequently, on 16 March 2023,

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<sup>106</sup> United Nations Security Council, 30 August 2021, S/RES/2593 (2021), [https://docs.un.org/en/S/RES/2593\(2021\)](https://docs.un.org/en/S/RES/2593(2021)), (Erişim Tarihi: 18.09.2025).

<sup>107</sup> United Nations Security Council, 22 December 2021, S/RES/2615 (2021), [https://docs.un.org/en/S/RES/2615\(2021\)](https://docs.un.org/en/S/RES/2615(2021)), (Erişim Tarihi: 18.09.2025).

<sup>108</sup> United Nations Security Council, 27 April 2023, S/RES/2681 (2023), [https://docs.un.org/en/S/RES/2681\(2023\)](https://docs.un.org/en/S/RES/2681(2023)), (Erişim Tarihi: 19.09.2025).

the Security Council adopted a resolution directly addressing the Taliban government. In line with previous resolutions, it reaffirmed the importance of Afghanistan's sovereignty, independence, territorial integrity, and national unity. The resolution further emphasized the continuation of the mandate and the institutional role of the UN Special Political Mission in Afghanistan (UNAMA). It also addressed a wide range of issues, including human rights under Taliban rule, security and terrorism, narcotics trafficking, socio-economic challenges, and the situation of ethnic and religious minorities, with particular emphasis on the rights of women and girls. The resolution requested the development of a comprehensive and forward-looking framework covering these areas, specifically focusing on the protection of women's and girls' rights, the status of minorities, security and counterterrorism, narcotics control, development and socio-economic concerns, political dialogue, governance, and the rule of law.<sup>109</sup> Finally, on 17 March 2025, the Security Council adopted another resolution, largely consistent with its predecessors. The resolution reiterated the expectation that the Taliban uphold fundamental human rights standards, respect the rights of women and girls, establish inclusive governance, and take an active role in combating terrorism.<sup>110</sup>

Looking at the Security Council resolutions mentioned above, there is neither a provision nor an implication regarding the formal recognition of the Taliban government. These resolutions set out the expectations and obligations of the Taliban but leave the question of legitimacy or diplomatic recognition entirely outside the Council's scope. Instead, they are limited to matters concerning security, sanctions, humanitarian assistance, and human rights. Accordingly, within the UN framework, there is no mechanism through which "recognition" could technically translate into a formal decision of recognition by the General Assembly. Diplomatic recognition remains within the sovereign discretion of individual states. While the UN General As-

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<sup>109</sup> United Nations Security Council, 16 March 2023, S/RES/2679 (2023), [https://docs.un.org/en/S/RES/2679\(2023\)](https://docs.un.org/en/S/RES/2679(2023)), (Erişim Tarihi: 20.09.2025).

<sup>110</sup> United Nations Security Council, 17 March 2025, S/RES/2777 (2025), [https://docs.un.org/en/S/RES/2777\(2025\)](https://docs.un.org/en/S/RES/2777(2025)), (Erişim Tarihi: 20.09.2025).

sembly or the Security Council may adopt political or declaratory resolutions, the act of recognition itself is both a political and legal decision that is ultimately made by individual states.<sup>111</sup>

## CONCLUSION

The issue of recognizing the Taliban government within the framework of international law is an extremely complex and sensitive issue. The debates that started after the agreement between the US and the Taliban on whether the government in question is legitimate or not are still ongoing. The issue that will cause debate is whether the Taliban administration is legal, including the contract in question. Furthermore, the question of whether the relevant contract or other transactions require the Taliban to be recognized as a government in the international legal sense has not yet been answered. As we have examined throughout our article, the recognition of the Taliban government has not been examined from a political perspective or in light of political principles, but from a legal perspective. Therefore, political recognition, which is a political act, does not mean the legal recognition of any government and does not lead to the legitimacy of the Taliban government. Political recognition only serves the purpose of managing and establishing bilateral de facto relations with the Taliban administration. On the other hand, legal recognition, as Kelsen also stated, is achieved by fulfilling certain legal criteria. Moreover, fulfilling these principles already reveals the legal existence of the government. The recognition of this legal situation does not represent any obligation from the point of view of international law. However, although the legal criteria in question are not met, the legal recognition process that is carried out in order to put the official government coat on an administration that lacks legal basis also brings with it responsibility. When the Taliban administration is considered in light of what has been said, it has been evaluated within the framework of 3 principles that provide recognition of governments that have been concretely put forward. Although the Taliban administration's ability

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<sup>111</sup> For further discussion on this matter see, Seyfullah Hasar, "Recognition of Governments and the Case of the Taliban". *Chinese Journal of International Law*, 23/1 (2024): 73-122.

to oversee almost the vast majority of Afghanistan, the provision of certain public services, the establishment of bilateral contacts or attempts to establish them, even if they are uniform in terms of regional cooperation, have shed a small light on the fulfillment of the principles related to recognition, they still trigger serious question marks in terms of legal existence. Likewise, the relevant administration has neither made a choice that will provide the basis of legitimacy, nor has it displayed an attitude that will fulfill its international obligations and take international obligations as a basis in their entirety, nor has it been able to ensure complete effective control. Therefore, while it is clear that there is positive progress in becoming an official government, it is not possible to say that the principles of becoming a government as a whole have been fulfilled. Moreover, the legal absence approach regarding the Taliban government is not directed towards Afghanistan as a state. Afghanistan continues to exist as a UN member state.

The criteria for a government to be recognized by the international community are usually legitimacy, popular consent, and respect for human rights. The Taliban administration lacks broad support from the Afghan population and faces serious criticism regarding human rights violations. This is one of the primary reasons for the international community's reluctance to recognize the Taliban. The political force that came to power in 2021 through undemocratic means, without the mandate of the Afghan people and outside their will, is not legitimate. Since the Taliban took control, Afghanistan has witnessed a sharp deterioration in human rights and a severe humanitarian crisis. Manifesting societal injustice, the regime has engaged in actions that violate fundamental human rights, including structural violence, social inequality, unemployment, and restrictions on women's rights to work and education. The UN and other international organizations play a decisive role in the recognition of their members' governments. This situation is another factor that complicates the Taliban's recognition in the international community. The recognition of the Taliban is also considered within the framework of regional and global policies. While some neighboring countries and regional powers may choose to develop pragmatic relations with the Taliban based on their secu-

rity and political interests, many countries and international organizations like the UN do not recognize the Taliban, adhering to principles of human rights and democracy.

The recognition of the Taliban administration under international law will be a complex process shaped by the common values and norms of the international community. Currently, the Taliban's ability to gain widespread international recognition depends on the steps it takes regarding human rights and democratic governance. The international community will continue to consider these criteria when determining its relations with the Taliban. Otherwise, the international community will not recognize the Taliban administration within the framework of international law.

YAZAR BEYANI	
Mali Destek/Teşekkür Beyanı:	Bulunmamaktadır.
Yazarların Katkıları	Eserin yüzde % 50'si ilk Yazar, % 50'si ikinci yazar tarafından kaleme alınmıştır.
Çıkar Çatışması/Ortak Çıkar Beyanı	Yazar tarafından herhangi bir çıkar çatışması veya ortak çıkar beyan edilmemiştir.
Etik Kurul Onayı:	Gerekmemektedir.

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