



MONITOR

Civil-Military Relations in Pakistan

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Peshawar Tragedy: Responses by the Civilian and Military Leadership in the Context of Civil-Military Relations

On Tuesday, December 16, 2014, terrorists attacked the Army Public School in Peshawar leading to the death of 145 people, including 132 school-going children. As the nation mourned the unimaginable tragedy dubbed as 'Pakistan's 9/11', the Civil and Military leadership swung into action to come up with a befitting response to the incident. This section is meant to serve as an overview of these responses in the context of Civil-Military relations in Pakistan.

As multiple civil-military leadership huddles took place to draw an affective counter-terrorism strategy, an All Parties Conference (APC) called by Prime Minister Nawaz Sharif on December 24, 2014 came up with a twenty-point National Action Plan (NAP) as a response to the Peshawar Incident. This led to the formation of 20 committees to deal with various aspects of counter-terrorism, moves to choke the financial networks of terrorist organizations, activation of the 1717 hotline by the National Counter Terrorist Agency (NACTA) to report any terrorists related activities, etc.

The Peshawar incident also saw a swift response by the military leadership as Gen. Raheel Sharif visited Afghanistan the very next day on December 17, 2014 to convey to the Afghan President Dr. Ashraf Ghani, and ISAF Commander Gen. John F. Campbell, intelligence information related to the Peshawar attack and to demand increased crack-down against Mullah Fazlullah, along with reportedly increasing the intensity of Operation Zarb-e-Azb and Operation Khyber-I, according to the ISPR reports.

However, the highlight of the NAP was the proposal to establish Special Courts headed by the military officers, the way for which was later paved by the adoption of the 21st Constitutional Amendment Bill and the Pakistan Army (Amendment) Bill, 2015 by the Parliament on January 06, 2015. The establishment of the Special Courts was termed as an extraordinary solution to an extraordinary problem by the Government. Although both the Government and the military leadership lauded the 'consensus' forged by the political parties on the issue,¹ many dissident voices against the Constitutional Amendment surfaced not only in the Parliament,² but also in the media.³

Although PILDAT has released a detailed statement on the establishment of Special Courts,⁴ it believes that even though extraordinary situations call for extraordinary measures, the establishment of Special Courts, in principle, is indeed a negative development for Pakistan's nascent democracy that blurs the lines between the judiciary and the executive under the trichotomy of powers enshrined in the Constitution. Furthermore, Special Courts headed by military officers cannot possibly achieve their objectives until the investigation, prosecution and the operation branches are not reformed and protected from terrorists threats. Just replacing a civilian judge who may be more vulnerable to terrorists' threats and blackmailing with a military officer who is willing to bravely face the threats is not enough. Do we envisage replacing civilian investigators, prosecutors and the police deputed to apprehend the terrorists and their supporters with military persons?

Military Courts serve as the establishment of a parallel system of justice, albeit only for two years, that negates the credibility and effectiveness of the existing civilian judicial system. Although there has been a consistent objection to the country's superior judiciary releasing high-profile terrorists, the blame cannot solely be placed on it. The investigation and prosecution branches of the Government must also be held responsible as the judiciary has held that no person can be punished without evidence, no matter what the public perception is.

One critical development that was overshadowed by the decision to establish Special Courts was a meeting chaired by the Chief Justice of Pakistan, Justice Nasir-ul-Mulk, attended by the Chief Justices of the High Courts after which a strategy was announced to expedite the disposal of terrorism cases, including hearings on a daily basis and constitution of special benches.⁵ However, this decision becomes almost redundant in the light of the establishment of Special Courts.

Meanwhile, according to media reports, the Army has started strengthening its legal department by creating a new post of Director General Lawfare Directorate (DG LD), which will be held by Maj. Gen. Mohammad Irshad with effect from December 28, 2014.⁶

Consequently, PILDAT also believes that the continued attacks on military installations raise questions over the security personnel's

1. According to a Press Release issued by the ISPR, Gen. Raheel Sharif, while chairing a high-level security meeting on December 25, 2014 to review all activities to be undertaken by the Army and intelligence agencies as part of National Action Plan, 'paid rich tribute to the national political leadership of the country for their spirit and unwavering resolve to rid Pakistan of this menace through reforms and administrative measures'. For exact text of the Press Release, please see the ISPR's Press Release on December 25, 2014 as accessed on January 08, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2014/12/25
2. Senator Raza Rabbani, while breaking in tears on Tuesday, January 06, 2015 after voting in the Senate on the 21st Constitutional Amendment Bill stated that 'I voted on the Amendment against my own conscience, and have never felt more ashamed in my life'. For details, please see Raza Rabbani in tears, Dawn, January 07, 2015, as accessed on January 08, 2015 at: <http://www.dawn.com/news/1155293/raza-rabbani-in-tears-ashamed-to-vote-against-conscience>
3. Dawn, a leading local English daily, published an editorial on January 03, 2015 titled A sad day, decrying the establishment of Military Courts, as accessed on January 08, 2015 at: <http://www.dawn.com/news/1154719>
4. For exact details of Statement, please see PILDAT's Press Release on January 03, 2015 titled Special Courts headed by Military Personnel to try suspected terrorist at: <http://www.pildat.org/eventsdel.asp?detid=726>
5. For details, please see Military courts to make judiciary irrelevant in terror cases, The News, December 26, 2014 as accessed on January 08, 2015 at: <http://www.thenews.com.pk/Todays-News-13-34905-Military-courts-to-make-judiciary-irrelevant-in-terror-cases>
6. For details, please see Army gears up for legal battles, Dawn, January 02, 2015 as accessed on January 08, 2015 at: <http://www.dawn.com/news/1154555/army-gears-up-for-legal-battles>

capacity in dealing with the threat of terrorism amidst fears of insiders' involvement in the incident. Keeping in view the alleged involvement of some military persons in such activities in the past, although their number is extremely small, we hope that some kind of institutional introspection by the military that includes developing new guidelines for combating terror and a refinement of the recruiting practices has been initiated. If there have been some concrete conclusions related to this, they should be shared with the public.

Lastly, some form of fault also lies with both the Government of Pakistan and the armed forces alleged to be playing both sides of the field, especially in the context of America's War Against Terrorism in the Afghanistan-Pakistan region. The duality of the policy against terrorism was made clear by the statement made by Prime Minister Nawaz Sharif, in light of the Peshawar Tragedy, when he stated that 'there will be no distinction between good and bad Taliban (from now on)'⁷ in Peshawar on December 17, 2014. Similarly, DG ISPR Maj. Gen. Asim Saleem Bajwa made a similar statement on November 21, 2014 that as far as the Haqqani network was concerned, 'the Pakistan Army will not distinguish (between one group of terrorists and the other) on the battlefield'.⁸

It would be better to have Martial Law in Pakistan than to setup Military Courts: Mr. Altaf Hussain

The leader of the Muttahida Quami Movement (MQM) stated on Wednesday, December 24, 2014 that 'it would be better to have Martial Law in Pakistan than to setup Military Courts' adding that he did not oppose the formation of Military Courts but thought that the COAS, Gen. Raheel Sharif, should handle the affairs of the state for two years.⁹ He made these remarks during an emergency telephonic Press Conference at the Lal Qila Ground, Karachi.

The MQM's leadership has expressed reservations that the Special Courts may take action against its workers. However, the Federal Minister for Finance, Senator Muhammad Ishaq Dar, allayed the concerns of Mr. Altaf Hussain by stating that the proposed courts would not operate against the workers of any political party, leading to MQM voting for the 21st Amendment Bill and the Pakistan Army Act 1952 (Amendment) Bill, 2015, on January 06, 2015. Therefore, the Federal Government on Monday, January 05, 2015 postponed the execution of Mr. Saulat Mirza, an activist of MQM who was sentenced to death by Anti-Terrorism Court in May 1999 for murdering the Managing Director of then named Karachi Electric Supply Corporation.¹⁰ Importantly, the last time

Military Courts were established in the country under the Pakistan Muslim League – Nawaz (PML-N) Government was in 1998 in order to quell the increasing violence in Sindh, especially in Karachi, for which the MQM workers have been often criticized.

Both Maulana Fazl-ur-Rehman's Jamiat Ulema-e-Islam – Fazl (JUI-F) and the Jamaat-e-Islami (JI) abstained from voting on the 21st Amendment Bill and the Pakistan Army Act 1952 (Amendment) Bill, 2015 based on their contention that the proposed 21st Amendment linked terrorism to religion. They also feared that under the National Action Plan, various religious seminaries across Pakistan would be targeted.¹¹ It must be noted that their contention is of relevance as the preamble of the 21st Constitutional Amendment Bill states that it is being adopted to specifically act against 'terrorist groups, including any such terrorists fighting while using the name of a religion or a sect'.¹² Although the current wave of terrorism has largely emanated from groups that claim to be fighting for religion, the Bill does not specifically mention the terrorism carried out by Baloch insurgents or land mafias operating in Karachi that are also blamed for the murder of the activists like Ms. Pareen Rehman. In view of the fact that there are so many shades of terrorism prevalent in Pakistan, it would have made much more sense if the 21st Amendment Bill was not narrowed down to include only groups acting in the name of religion or a sect.

Pakistan's Prosperity linked with that of Balochistan's: COAS

Addressing the passing out parade of new recruits in the Army from Balochistan at the Electrical and Mechanical Engineering (EME) Centre in Quetta on Tuesday, December 16, 2014, Gen. Sharif stated that the country's prosperity was linked with the development of Balochistan.¹³

According to the text of the COAS' speech released by the ISPR, Gen. Sharif said that 'every Balochistan citizen was the country's pride and the people of the province had realized that their future was linked with the country'.¹⁴ The Chief Minister of Balochistan, Dr. Abdul Malik Baloch, was also present on the occasion.

Gen. Raheel Sharif also shared the details of development activities being carried out by the Pakistan Army in Balochistan that included the establishment of Sui Education City, medical and

7. For details, please see No discrimination between 'good' and 'bad' Taliban: PM, The Express Tribune, December 17, 2014, as accessed on January 08, 2015 at: <http://tribune.com.pk/story/808258/no-discrimination-between-good-and-bad-taliban-pm-nawaz>

8. For details, please see Pak army efforts acknowledged; goodwill gained: DG ISPR, Dawn, November 21, 2014 as accessed on December 26, 2014 at: <http://www.thenews.com.pk/Todays-News-13-34235-Pak-army-efforts-acknowledged;-goodwill-gained-DG-ISPR>

9. For details, please see Martial law better than army courts: Altaf, The News, December 24, 2014 as accessed on January 08, 2015 at: <http://www.thenews.com.pk/Todays-News-13-34882-Martial-law-better-than-military-courts-Altaf>

10. For details, please see Saulat Mirza's execution postponed, Dawn, January 06, 2015, as accessed on January 08, 2015 at: <http://www.dawn.com/news/1155085>

11. For details, please see 21st Amendment delayed due to JUI-F, JI concerns, Pakistan Tribune, January 06, 2015, as accessed on January 08, 2015 at: <http://paktribune.com/news/21st-Amendment-delayed-due-to-JUI-F-concerns-272893.html>

12. For the exact text of the 21st Constitutional Amendment Bill, please visit the National Assembly of Pakistan's website at: http://www.na.gov.pk/uploads/documents/1420547178_142.pdf

13. For details, please see Pakistan's prosperity linked to Balochistan's development, Dawn, December 17, 2014 as accessed on January 08, 2015 at: <http://www.dawn.com/news/1151373/pakistans-prosperity-linked-to-balochistans-development>

14. For exact text of the COAS' speech, please see the ISPR's Press Release on December 16, 2014, as accessed on January 08, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2014/12/16

technical institutions in Sui and Chamalang areas besides under-construction roads in Sohrab, Bisima, Shahdatkot, Mastung, Gwadar and Chaman areas.

Under the National Action Plan formulated by the Government, the Army will also assist with efforts for political reconciliation in Balochistan, a challenge that has constantly plagued the Government of Dr. Abdul Malik Baloch.

Premier – COAS Interactions

During the month of December 2014, although the COAS exclusively called on Prime Minister Nawaz Sharif only once, both of them met for a total of five times. According to the Press Releases by the ISPR, the Prime Minister's Office, and various media reports, the Federal Minister for Defence, Khawaja Muhammad Asif, MNA, was present at only one of these five meetings.

- i. Firstly, they met on December 09, 2014 when Prime Minister Nawaz Sharif chaired a meeting at the Prime Minister House to discuss 'formulation of a comprehensive strategy for the rehabilitation of IDPs and reconstruction of areas in which Operation Zarb-e-Azb is going on.' According to the Press Release issued by the Prime Minister's Office, the meeting was attended by the COAS, Gen. Raheel Sharif; Federal Minister for Finance, Senator Muhammad Ishaq Dar; the Governor of Khyber Pakhtunkhwa, Sardar Mehtab Ahmed Khan; Federal Minister for States and Frontier Region, Lt. Gen. (Retd.) Abdul Qadir Baloch, MNA; Advisor to the Prime Minister on National Security and Foreign Affairs, Mr. Sartaj Aziz, and Special Assistant to the Prime Minister, Ambassador Syed Tariq Fatemi.¹⁵
- ii. The Premier and the COAS met for the second time in the month of December 2014 when Gen. Sharif called on the Prime Minister on Wednesday, December 17, 2014 and briefed him about his meetings with the Afghan President and the ISAF Commander during his visit to Kabul on the same day.¹⁶ No Press Release was issued either by the ISPR or the Prime Minister's Office for the meeting.
- iii. The third meeting was held on December 19, 2014 when the Prime Minister chaired a meeting on national security and sought updates on Operation Zarb-e-Azb in the light of the Peshawar tragedy, at the General Headquarters (GHQ), Rawalpindi.¹⁷ No Press Release was issued for the meeting either by the ISPR or the Prime Minister's Office.
- iv. The two met for a fourth time when the Prime Minister chaired a meeting on developing a counter-terrorism strategy at the Prime Minister House on December 23, 2014.

According to the Press Release issued by the Prime Minister's Office, while lauding the sacrifices made by the people of Pakistan in the fight against terrorism, a resolve was expressed 'to ensure swift and effective implementation of the approved action plan. Various short term and medium term steps required to be taken for eliminating terror networks in every nook and corner of the country also came under discussion'.¹⁸ The meeting was attended by Federal Minister for Interior, Chaudhry Nisar Ali Khan, MNA; Federal Minister for Finance, Senator Muhammad Ishaq Dar; the COAS, Gen. Raheel Sharif; DG ISI Lt. Gen. Rizwan Akhtar; DG Military Operations; DG Military Intelligence and DG ISPR Maj. Gen. Asim Saleem Bajwa.

- v. The fifth meeting between the Prime Minister and COAS took place on December 30, 2014 when Prime Minister Nawaz Sharif chaired a follow-up meeting to review progress on the implementation of National Action Plan (NAP) at the Prime Minister House. According to the Press Release issued by the Prime Minister's Office, 'the meeting reviewed actions being planned to block terror financing and breaking the terror communication network. Progress on action against illegal SIMS was also came under review'. Important to note is that the Prime Minister stated at the meeting that only those cases will be referred to the Special Courts that relate to activities of hardcore terrorists.¹⁹

The meeting was attended by the Federal Minister for Defence, Khawaja Muhammad Asif, MNA; Federal Minister for Finance, Senator Muhammad Ishaq Dar; Federal Minister for Information, and National Heritage, Senator Pervaiz Rashid; Federal Minister for Interior, Chaudhry Nisar Ali Khan, MNA; Federal Minister for Planning, Mr. Ahsan Iqbal, MNA; Federal Minister for States and Frontier Regions Lt. Gen. (Retd.) Abdul Qadir Baloch, MNA; Governor of Khyber Pakhtunkhwa, Sardar Mehtab Ahmed Khan; Advisor to the Prime Minister on National Security and Foreign Affairs, Mr. Sartaj Aziz; the COAS, Gen. Raheel Sharif; Special Assistant to the Prime Minister, Barrister Zafarullah Khan; DG ISI, Lt. Gen. Rizwan Akhtar and DG Military Operations.

For 2014, the attendance of the Federal Minister for Defence, Khawaja Muhammad Asif, MNA remained low during the interactions between the Prime Minister and the COAS. As per PILDAT's monthly monitors on Civil-Military Relations, the Prime Minister and the COAS interacted for a total of 39 times during the year 2014. However, the Federal Minister for Defence was present for only 9, i.e. 23% of the meetings.

15. For exact text of the Press Release, please see the Press Release issued by the PMO on December 09, 2014 titled PM briefed on Zarb-e-Azb, IDPs, as accessed on January 08, 2015 at: http://pmo.gov.pk/press_release_details.php?pr_id=705

16. For details, please see Gen. Raheel dashes to Kabul, The News, December 18, 2014, as accessed on January 08, 2015 at: <http://www.thenews.com.pk/Todays-News-13-34738-Gen-Raheel-dashes-to-Kabul>

17. For details, please see PM chairs high-level security meeting at the GHQ, Daily Times, December 19, 2014, as accessed on January 08, 2015 at: <http://www.dailytimes.com.pk/national/19-Dec-2014/pm-chairs-high-level-security-meeting-at-ghq>

18. For exact text of the Press Release, please see the Press Release issued by the PMO on December 23, 2014 titled PM chairs meeting on counter-terrorism, as accessed on January 08, 2015 at: http://pmo.gov.pk/press_release_details.php?pr_id=716

19. For details, please see the Press Release issued by the PMO on December 30, 2014 titled PM chairs meeting on implementation of National Action Plan, as accessed on January 08, 2015 at: http://pmo.gov.pk/press_release_details.php?pr_id=721