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This Monitor of Civil-Military Relations covers the period of July 11, 2012 to October 10, 2012 analysing the key issues affecting Civil-Military relations in Pakistan during this period.

Senate's Defence Standing Committee brainstorms Defence Policy Strategy

The Senate Standing Committee on Defence and Defence Production, in a major first, discussed and debated the State's security issues, charting a way to prepare national defence strategy document.¹

Informed analysis certainly contributes towards right policy decisions. The meeting's deliberations will help the Senators to understand the nuances of the security debates.

PILDAT is also glad to note that the initiative to convene the meeting was taken by none other than Senator Mushahid Hussain Sayed, Chairman of the Standing Committee, who has also authored papers for PILDAT on Civil-Military relations. In his recent policy brief on a blue print for creating think tanks in political parties, Senator Mushahid stressed that given historical context in which the Civilians and Military players have wrestled over security issues, *"the need for a Defence and Security Policy think tank focus amongst Pakistani political parties becomes all the more imperative."*²

The Need for a Counter-Terrorism Law

A strong view exists in the country that the country's anti-terrorism law that dates back to 1997 does not neatly tackle the acts of non-state terrorists, engulfing the region after 9/11. Legal experts argue that the existing laws often benefit the militants. Many a times, the Courts release the arrested suspected terrorists on the grounds of "insufficient evidence."

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PILDAT and its staff have made their best efforts in ensuring the accuracy of the facts and events presented in this document. PILDAT, however, is not responsible for any error or omission as it is not deliberate.

1. "Senate body's rare foray into military matters," Dawn, September 29, 2012, <http://dawn.com/2012/09/29/senate-bodys-rare-foray-into-military-matters/>
 2. Mushahid Hussain Sayed, A Blue Print for Creating Think Tanks in Political Parties of Pakistan, September 2012, PILDAT, <http://www.pildat.org/Publications/publication/CMR/BlueprintforCreatingThinkTankinPoliticalPartiesinPakistan.pdf>

The Military too is, therefore, desirous to have an effective legislation to tackle terrorism. In his August 14 speech, Chief of Army Staff (COAS) General Kayani spelt that *“since 2001, many countries in the world have formulated special anti terrorism laws. Unfortunately, our progress towards such legislation, remained very slow.”*³

On September 5, 2012⁴, the Federal Cabinet approved the Anti-Terrorism (Amendment) Bill which concerns the issue of terrorism financing and Investigation for Fair Trial Bill which *“authorise the use of modern techniques to investigate crimes like terrorism and against national security.”*⁵ Of these, so far, the Investigation for Fair Trial Bill 2012 has been presented on October 8, 2012 in the 46th session of the National Assembly. The bill dealing with terrorism in general has still not been produced in the same session which commenced on October 5, 2012.

Understanding the needs of various segments of the society, PILDAT has called on the Government to introduce a law that maintains a balance between human rights and national security. PILDAT also feels that Pakistan needs to study the system of an 'Independent Reviewer' established by the British Government to monitor and report on the application of their Anti-Terrorism law.

The present Government, which has hurriedly passed many laws such as the now-defunct Contempt of Court Act on June 8, 2012⁶ in a matter of minutes, lacks credible justification for the slow pace on amending the anti-terrorism law.

General Kayani on 'What Constitutes Terrorism'

More than a decade to Pakistan's alliance with the

United States on war against terrorism and yet the country remains divided if it really is Pakistan's war. Pakistan's Chief of Army Staff, General Kayani, on the occasion of Independence Day of Pakistan on August 14, 2012, articulated that yes, it is! He built his case by arguing that if *“any person who believes his opinion to be the final verdict is an extremist” and if “one tries to enforce his opinion through use of gun, it becomes terrorism,” then “the war against it is our own war, and a just war too.”*⁷

General Kayani's ownership of the war apparently offers a paradigm shift in the country's approach towards terrorism. That it has come from none other than Chief of the Army which is long blamed for its selective approach towards terrorism, makes it all the more important.

Many believe that the divide on terrorism is a Civil-Military divide, arguing that while the Civilians want to confront the *jihadi* groups, the Military sees in them strategic allies and assets. Divide over the issue of terrorism, however, is reflection of a social divide which needs to be addressed at a much broader scale and in a more serious and effective manner involving all segments of the society. A national consensus on the subject is extremely important and the Parliament and its security-related committees must lead the effort.

One may hope that the Government makes serious and consistent efforts to develop a national consensus on the questions relating to various aspects of terrorism and the effective ways to address terrorism not only at the Government level but at the level of the society. In the short and long run, however, nothing less than an across-the-board political consensus on this issue will help the country and its people tackle the challenge in unison. One must commend the COAS for articulating the issue of

3. COAS Speech, Inter-Services Public Relations, August 14, 2012: http://ispr.gov.pk/front/main.asp?o=t-press_release&latest=1

4. "Law to control terrorism financing soon, says Nayar," Nation, October 05, 2012, <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/islamabad/05-Oct-2012/law-to-control-terrorism-financing-soon-says-nayar>

5. Raja Asghar, "Drafts referred to NA committee: Accountability, investigation bills introduced," Dawn, October 9, 2012, <http://dawn.com/2012/10/09/drafts-referred-to-na-committee-accountability-investigation-bills-introduced/>

6. "Despite opposition, Contempt of Court Act passed in NA," Express Tribune, July 9, 2012, <http://tribune.com.pk/story/405905/despite-opposition-contempt-of-court-act-passed-in-na/>

7. COAS Speech, Inter-Services Public Relations, August 14, 2012: http://ispr.gov.pk/front/main.asp?o=t-press_release&latest=1

terrorism and the ownership of the war against terrorism in a concise, simple and effective manner.

UN Working Group discusses Missing Persons in Pakistan

A two-member delegation of the United Nations Working Group on Enforced and Involuntary Disappearances (UNWGEID) visited Pakistan for 10 days from September 10-20, 2012 to “assist the relatives of disappeared persons to ascertain the fate and whereabouts of their disappeared family members.”⁸

The Group, however, had to face adverse reaction in both Civil and Military leadership. The visit was severely criticised on the grounds that by allowing the UNWG to visit Pakistan, the Government has facilitated an infringement upon the State's sovereignty. Parliamentarians also lambasted the presence of the Working Group, terming it a conspiracy against the State. The Parliamentary Committee on National Security (PCNS) also expressed reservation on the visit.⁹ The Chief Justice of Supreme Court and the Provincial High Courts declined to meet the UNWG, underlining that a *sub judice* matter cannot be discussed.¹⁰ That the meetings “requested” with Inspector General of Frontier Corps (FC) and Directorate of Inter-Services Intelligence (ISI) did not take place¹¹ also cemented the impression that the Military was uncomfortable with the invitation to the Working Group in the first place.

It is now clear that the Group visited Pakistan at the invitation of the Government of Pakistan represented by the Ministry of Foreign Affairs. However, this is a rather delayed admission and the Government should have publicly shared a clear reason behind its

invitation to the Working Group earlier. Media reports also suggest, reflecting the Foreign Office's view, that Pakistan wanted to “counter the propaganda”¹² of the world about the appearance of enforced disappearance cases in the country.

The speculated discomfort in the Military may have been caused by the fact that the Military and its organizations have been blamed by a number of individuals and entities for the Missing Persons issue in the country. In Balochistan, it is the FC, an organization manned by the Military, which is allegedly blamed for ignoring, if not conducting, the abduction of citizens.

Contrastingly, Pakistan's Foreign Minister, Ms. Hina Rabbani is reported to have said that the UN's Working Group visited Pakistan with the “consent of the armed forces.”¹³ This, to some, validates the conjecture that Pakistan may not really have had the luxury to turn down the invitation in order to prove its human rights credentials and get on the seat at the Human Rights Council. If that is the case, questions may be asked as to why such choices are not limited to many other countries including the neighbouring India with reported cases of human rights violations including enforced disappearances.

Civil-Military Disconnect on Balochistan Issue

In a latest development on Balochistan issue, a key Baloch nationalist leader, head of the Balochistan National Party – Mengal (BNP-M) and former Chief Minister of Balochistan, Mr. Akhtar Mengal briefly ended his self-imposed exile by appearing before the Supreme Court to submit his statement on the question of Missing Persons in Balochistan. He criticized the Government and Military but expressed

8. See: "Mandate," Working Group on Enforced or Involuntary Disappearances, <http://www.ohchr.org/EN/Issues/Disappearances/Pages/DisappearancesIndex.aspx>
9. "UN working group's visit annoys PCNS," Daily Times, September 25, 2012, http://www.dailytimes.com.pk/default.asp?page=2012%5C09%5C25%5Cstory_25-9-2012_pg7_5
10. "CJP refuses to meet UN experts," Pakistan Today, September 12, 2012, <http://www.pakistantoday.com.pk/2012/09/12/news/national/cjp-refuses-to-meet-un-experts/>
11. The Working Group on Enforced or Involuntary Disappearances concludes its official visit to Pakistan, United Nations Human Rights, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12549&LangID=E>
12. "UN working group's visit annoys PCNS," Daily Times, September 25, 2012, http://www.dailytimes.com.pk/default.asp?page=2012%5C09%5C25%5Cstory_25-9-2012_pg7_5
13. "UN body visited Pakistan with consent of armed forces: Khar," The News, October 06, 2012, <http://www.thenews.com.pk/Todays-News-13-17977-UN-body-visited-Pakistan-with-consent-of-armed-forces-Khar>

his confidence in the Supreme Court as the 'last hope'. He offered a "six points" formula for ending the Balochistan problem.

His points, mostly of immediate nature, included a call for ending the covert and overt death squads, returning the Missing Persons and stopping delivery of the mutilated bodies. To the Parliament's and Federal Government's credit that introduced far-reaching reforms through the 7th NFC Award, 18th Amendment to the Constitution as well as the Balochistan package, most of Mr. Mengal and his party's earlier demands on provincial autonomy have been more than met already.

While both the political leadership of the Government and the Military acknowledge the gravity of Balochistan situation, both flatly deny any involvement in the enforced disappearances. The Government of Balochistan, responding to a sectarian attack on September 2¹⁴ assigned police powers to the Frontier Corps (FC) for two months.

What has Mr. Mengal's visit resulted in continues to be a bleak scenario. The outright rejection of Mr. Mengal's points by the Government and the Military reflects the typical mindset that has continued to hamper prospects of any meaningful progress on resolution of Balochistan's issues and grievances. It is not just Mr. Mengal's demand but citizens, citizens groups and political parties have also continued to demand that the Government must take charge to resolve the issues in Balochistan.

PILDAT's Democracy Assessment Group recommended in April 2012 that the *Federal Government should ensure that civil and military intelligence agencies operate strictly under the discipline of law and officially-declared policy and*

*only for lawful action in support of internal and external security and that a code of conduct for the FC as also the Police and the Levies to govern their dealings with the general public should be developed and its implementation should be ensured by the Provincial Government.*¹⁵ While both Baloch nationalists and some opposition political parties such as the PML-N demand the withdrawal of FC from Balochistan, further enhancement in the powers of the FC indicates a widening gulf between the positions taken by the Government and the Military on the one hand and the nationalist forces and the opposition parties on the other. Despite opposition to FC, the opposition parties have failed to suggest an alternative mechanism to address law and order issues in Balochistan at least in the short term. The FC, not necessarily justifiably, has become the focus of criticism by the nationalist forces and some opposition parties.

The State's policy responses, oscillating between Military operations to offering State apology, have so far come to a naught. As if dispelling the impression that the Military is somehow against any political process to resolution of Balochistan crisis, the Military Chief, before leaving for Russia, issued a three-liner press release stating that "*Army fully supports any political process in Balochistan, as long as it is within the constitution of Pakistan.*"¹⁶

The troubles of Balochistan are exacerbated by the lack of ability of the elected Governments both in the centre and in Balochistan to take charge of the province. They are afraid that if they pursue any political solution, they may undercut the Military's means of handling the insurgency. Weak political Governments do not have the courage of conviction and a sense of responsibility that the issues must be resolved by public's elected representatives. Military,

14. "FC gets police powers in Quetta," Daily Times, September 02, 2012, http://www.dailytimes.com.pk/default.asp?page=2012%5C09%5C02%5Cstory_2-9-2012_pg1_1

15. "PILDAT's Democracy Assessment Group recommends 13 Priority Actions to improve the Balochistan Situation," PILDAT, April 24, 2012, <http://www.pildat.org/events/del.asp?detid=542>

16. See: No PR220/2012-ISPR, Inter-Services Public Relations, http://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2012/10/3

on the other hand, can only deal with Balochistan through the Military means. The gulf in these Civil-Military perspectives can be bridged if the Federal Government is serious in resolving the issues. In 4 ½ years, however, this disconnect has helped spread and deepen the unrest.

In this backdrop, the Supreme Court's repeated warnings to the provincial administration and the country's security sector appear to fall on deaf ears. While FC, the Military and the Civilian Government all deny any Military operation in Balochistan, many of the observations made by the Honourable Judges of the Supreme Court are laced with the suspicion of involvement of FC and other law-enforcement agencies in the case of Missing Persons.

To an extent, Mr. Mengal's BNP-M, even though it has tales of serious suffering, cannot be absolved of its responsibility. The party made its representatives resign from the Parliament after Mr. Bugti's murder and boycotted the polls in 2008. This has resulted in the election of representatives that neither enjoy public trust nor have been able to effectively address the unrest in Balochistan. BNP-M's absence from electoral politics left a vacuum that has not been filled by people who have been able to demonstrate their seriousness or effectiveness in bringing Balochistan to normalcy. This has also meant that at the time of serious crisis, the BNP-M did not and does not have a seat at the table to seriously address Balochistan's issues. Looking ahead, however, the only way forward for the BNP-M is to take part in the General Election.

The positive signals to Mr. Mengal and his party by the political leadership of Pakistan must be developed into a workable framework for his return and participation in electoral politics. It is up to the Election Commission, Federal and the Provincial

Governments to take special measures to ensure that all political parties and stakeholders are facilitated for their unfettered participation in the forthcoming Election in Balochistan.

The Need for Consensus on Military Operation in North Waziristan Agency

It is up to the Government of Pakistan, to decide whether or not to conduct a Military Operation in North Waziristan Agency. It is obvious that any such decision by the Government of Pakistan will be taken after the input is received from all the concerned state organs like the Ministry of Defence and Foreign Affairs. The situation on the ground as monitored by the Civilian and Military agencies will also weigh heavily on such a decision.

The month of July was rife with speculations that Pakistan and the United States might launch a joint Military operation in North Waziristan. These speculations were at its peak when the Director General of Inter-Services Intelligence (ISI), Lt. General Zaheer-ul-Islam, was on a visit to the US.¹⁷

The Inter-Services Public Relations (ISPR), the Military's Information Wing, however, was careful in its choice of words, stating that there is a difference between "coordinated effort" and "joint operation;" whereas the former involves "*Pakistan Army and ISAF conduct[ing] operation on respective sides of Pak-Afghan border*", the latter implies that "*two forces are physically employed jointly on either side of the border*" – which is "*unacceptable to the people and Armed Forces of Pakistan*."¹⁸ The possibility that a coordinated effort may be undertaken cannot be denied.

In Khyber Pakhtunkhwa, Provincial Minister Mian

17. "Pakistan, US agree on joint raids: WSJ", Express Tribune (via APP), August 5, 2012, <http://tribune.com.pk/story/417788/pakistan-us-agree-on-joint-raids-wsj/>
18. Press Release, ISPR, August 17, 2012, http://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2012/8/17

Iftikhar Hussain dispelled the rumours of an operation, stating that the KP Government has no such information about any Operation.¹⁹

Instead of leaving the decision to one or two departments of the Government, the Government should opt for institutionalized decision-making such as through forums like the Defence Committee of the Cabinet (DCC), which comprises of all relevant stakeholders.

A parallel example of Swat is reflective of how all the players, inclusive of Political and Military leadership, continue to laud their success in routing out the militants in that area. Needless to say, the success was made possible through people's support which was facilitated by public backing of the political representatives. There is a need to build national and societal consensus on the issues relating to terrorism in general and the question of specific actions aimed at establishing the writ of the state in the North Waziristan Agency.

Parliament's Role in Pakistan-United States Deal on Resumption of NATO Supply Line

The months-long deliberation in the Parliamentary Committee on National Security (PCNS) that advised against any "verbal agreement [between Pakistan and United States] regarding national security" will go down in the history as an instance of strengthening the Parliament's role in Pakistan on security decision making.

As a follow-up on the recommendations, on July 31, 2012, Pakistan and United States finally inked the deal over Afghanistan-bound NATO supply lines²⁰ which were shut down in response to NATO's

unilateral attacks on Pakistani check posts in November 2011. The new deal established "principles and procedures for the quick and efficient transit of U.S. cargo to and from Afghanistan through the territory of Pakistan for the purpose of supporting international efforts for ensuring the security, stabilization, and reconstruction of Afghanistan."²¹

Although entering into a formal, written MOU on the question is commendable, it was somewhat strange that the supply line was restored much before the formal deal was signed.

It is true that the MoU does not entirely correspond to the Parliamentary Resolution. Nonetheless, it is important to note that the role of the Parliamentary Committees is only to make recommendations; policy making in a democracy remains the prerogative and responsibility of the elected executive.

The PCNS deserves accolades for forging consensus on the contentious and deeply fissiparous issue. This committee was formed for the first time in the Parliament as a special committee of the Parliament by a joint Parliamentary Resolution and it will stand dissolved once the National Assembly completes its term. In view of the critical nature of the mandate of the committee and the excellent job it has performed, the suggestion of Senator Raza Rabbani (PPP), Chairman of the PCNS, to give the Committee a permanent status as a Standing Committee²² is a welcome suggestion and must be accepted by the current Parliament.

Intelligence Agencies' Role in Mehran Bank Scandal

The trust in the Intelligence Agencies of the country is

19. "Panic in North Waziristan : K-P minister quashes 'rumours' of operation," Express Tribune, August 28, 2012, <http://tribune.com.pk/story/427152/panic-in-north-waziristan-k-p-minister-quashes-rumours-of-operation/>
20. "Pakistan, US ink NATO supply deal," Daily Times, August 1, 2012, http://dailytimes.com.pk/default.asp?page=2012\08\01\story_1-8-2012_pg1_6
21. See: "Memorandum of Understanding Between the Islamic Republic of Pakistan and the United States of America for the Transit of U.S. Cargo to and from the Islamic Republic of Afghanistan through the territory of the Islamic Republic of Pakistan."
22. "Political Parties should establish policy think tanks: PILDAT Forum," PILDAT, September 19, 2012, <http://www.pildat.org/eventsdel.asp?detid=568>

severely dented when they are found engaged in political wheeling and dealings. The Supreme Court of Pakistan is hearing the petition of Air Marshall (Retired) Asghar Khan in which the central issue is the admission by the former ISI Director General, Lt. Gen (Retd.) Asad Durrani, of disbursement of funds by the Intelligence Agencies in 1990.

As per the details of affidavit submitted by Gen. Durrani, a total of PKR 70 million, lent by the then COAS,²³ was disbursed among favourite politicians and another PKR 70 million was transferred into ISI's account. The money itself was originally lent by owner of the now-defunct Mehran Bank.

The Mehran Bank Scandal shows how the Intelligence Agencies were misused to affect political outcomes. By engaging Intelligence Agencies on domestic political fields, their resources are not spent on their primary task: gathering information against external and internal threats. In the end, no one comes forward to defend the Agencies, leading to an impression that they are operating beyond someone's diktat.

There is also confusion if the much-quoted political cell in the ISI is still operational or not. The SC had rightly asked for confirmation if its order, dating back to July 2009, asking to abolish the cell was even implemented. Meanwhile, the SC has also made the President of Pakistan a respondent in the petition related to the issue of distribution of money,²⁴ observing that the President's office should not be used for political activities. The Prime Minister of Pakistan, who is constitutionally responsible to oversee the ISI, must ensure that the Agencies are not misused under his watch.

Securing the National Assets

Two recent terrorist plots brought into limelight the successes and failures of the country's defense preparedness:

First, in the early hours of August 16, 2012, in one of the high-profile security breaches, militants infiltrated into Minhas Air Base located in the city of Kamra.²⁵ The exchange of fire that lasted for five hours ended with the death of seven militants; one soldier also lost his life.

Later, in early September, a high alert was sent at a nuclear site at DG Khan to protect nuclear installation sites,²⁶ fearing that the militants may carry out a Kamra-style attack. Forces from both Army and Punjab Police were deployed to avert any such incident.

While the DG Khan case proves success over intelligence reports, the Kamra case offers a rather dismal picture of the country's defence readiness. The preliminary report of the inquiry into the attack set aside the notion of any insider help.²⁷ But the ease with which militants got through and identified the precise location of the assets – aircrafts in the first case – requires closer inspection. The incident took place despite the advance intelligence reports that such an attack was expected on one of the Air Force installations.

A thorough enquiry, not only within the defence forces, but also at the level of the Parliamentary Committees on Defence, is in order.

23. "Asghar Khan petition: Ex-ISI chief to reveal money distributors," Express Tribune, July 27, 2012, <http://tribune.com.pk/story/413671/asghar-khan-petition-ex-isi-chief-to-reveal-money-distributors/>

24. "Asghar Khan petition: President made respondent," Dawn, October 4, 2012, <http://dawn.com/2012/10/04/asghar-khan-petition-sc-resumes-hearing-2/>

25. Shaheryar Popalzai and Nabil Ansari, "Tehreek-i-Taliban claim 'revenge' attack on Kamra airbase," Express Tribune, August 16, 2012, <http://tribune.com.pk/story/422821/attack-on-paf-airbase-live-updates/>

26. Abdul Manan, "Taliban threat: Nuclear site in DG Khan cordoned off," Express Tribune, September 6, 2012,

27. "Kamra attackers didn't get inside help: report," Daily Times, August 26, 2012, http://www.dailytimes.com.pk/default.asp?page=2012%5C08%5C26%5Cstory_26-8-2012_pg7_7

INTERNATIONAL FOCUS: Civilian Assertion over Military in Egypt and Turkey

Some recent instances in the Muslim World, where the Civil-Military equation has been corrected or, to be more precise, is undergoing a transformation, are of relevant to Pakistan.

In Egypt, the freshly-elected President Muhammad Morsi removed the country's Defence Minister and Chief of Staff from their posts and revoked the constitutional amendment that gave the Military wider powers.²⁸ The move came a week after the death of 16 soldiers by militants in the Sinai Peninsula.²⁹ The elections in Egypt itself were held after a popular movement in February 2011 forced Hosni Mubarak, ruling for thirty years, to step down. In June 2012, the newly-elected Egyptian President

Muhammad Morsi annulled the Supreme Court's dissolution of Parliament.³⁰

In Turkey, the apex court, in a landmark verdict, jailed "325 Military officials"³¹ for plotting to overthrow the Government of Recep Tayyip Erdogan back in 2003 when he first swept into power. The Sledgehammer trial, named after the coup's codename, ran for 21 months culminating in the verdict on September 21, 2012.

In the same country, Turkey, two surviving leaders of a 1980 coup have, for the second time, refused to testify before the parliamentary panel terming it an unconstitutional call.³²

All these examples are in line with the global trends in Civil-Military relations, which strongly favour Civilian authority over their Militaries.



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28. "Egypt president Mohamed Morsi forces top generals to retire," The Guardian, 12 August 2012, <http://www.guardian.co.uk/world/2012/aug/12/mohamed-morsi-orders-generals-retire>
29. Hamza Hendawi and Sarah El Deeb, "Egypt President Mohammed Morsi Orders Defense Minister Field Marshal Hussein Tantawi Retirement," Huffington Post, August 12, 2012, http://www.huffingtonpost.com/2012/08/12/egypt-president-orders-retirement-defense-minister_n_1770181.html
30. Phoebe Greenwood, "Egypt: Mohammed Morsi annuls dissolution of parliament," July 8, 2012, The Telegraph, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/9385101/Egypt-Mohammed-Morsi-annuls-dissolution-of-parliament.html>
31. Ayla Jean Yackley, "Turkey clips military's wings in landmark verdict," Reuters, September 23, 2012, <http://www.reuters.com/article/2012/09/23/us-turkey-military-trial-idUSBRE88MOA120120923>
32. "Coup Heads Refuse Panel Call Again," The Journal of Turkish Weekly, 8 October 2012, <http://www.turkishweekly.net/news/143170/coup-heads-refuse-panel-call-again.html>