

Civil-Military Relations in Pakistan

Effectiveness of Parliamentary Oversight on Defence and National Security in Pakistan

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Defence and National Security in Pakistan**

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PREFACE

Pakistan political history is marked by the expanded role of the military in non professional fields involving coups, direct and indirect military rule, increased involvement in the economic and business activities and influence-peddling from the sidelines. This state of affairs continues to cause serious strains in civil-military relations in Pakistan.

Since after 2008 General Election, within the 4 Parliamentary years, there have been two specific joint sessions of the Parliament in which Pakistan Military has briefed the Parliament, first on National Security issues and later on the May 2 unilateral strike of USA into Pakistan. Have these briefings, held on October 08, 2008 and on May 13-14, 2011 helped further Parliament's quest for oversight on defence in Pakistan?

Syed Zafar Ali Shah, MNA (NA-212, Naushero Feroze-II, Sindh, PPPP), a veteran Parliamentarian explores this question in writing this Issue Paper. While looking at the briefings, Syed Zafar Ali Shah, well-versed with the concept of Parliamentary oversight on defence, has also identified various other aspects that hinder democratic oversight of defence in Pakistan.

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The opinions, findings and conclusions or recommendations expressed in this paper belong to the author and do not necessarily reflect the views of the PILDAT or British High Commission.

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Introduction

Two Briefings were given by the Pakistan Army High Command to the Joint Sessions of Parliament on October 08, 2008 on National Security and on May 13-14, 2011 to consider the situation arising out of the US commando raid in Abbottabad on May 02, 2011. Resolutions were also adopted at the conclusion of the sessions over the questions of National security and sovereignty of Pakistan.

Briefing on National Security: October 2008

During the briefing for Parliament in October 2008, it was reported in the media¹ that D.G. ISI Lt. Gen Ahmad Shuja Pasha, in his briefing told Parliamentarians that so far 1,368 security personnel have been martyred and 3,348 injured in the fight against terrorism. He spoke about involvement of foreign elements in the militant activities in FATA. The ISI chief also said that it was imperative to root out militancy from the Tribal areas. The President, the Prime Minister and the Army Chief also met after the briefing.²

About the conclusion of the 15 day debate, the Parliament approved and passed a 14 point 'consensus' resolution that asked for civilian law enforcement agencies to replace Army, envisaged dialogue with all stakeholders, demanded of the Government to deal with incursions effectively and expel foreign fighters. An important point in the resolution said that a political dialogue with the people of Balochistan, the redressing of grievances and redistribution of resources shall be enhanced and accelerated. Prime Minister Yousuf Raza Gilani read out the resolution with a prologue saying that in the past dictatorial regimes made policies for perpetuating their own power at the cost of national interest and added that the House, having considered through and at great length, was of view that in terms of framing laws, building institutions, protecting our citizens from violence, eradication of terror at its roots, rebuilding our economy and developing opportunities for the disadvantaged, the Parliament had resolved thus.

Parliament Joint Session after Abbottabad Operation

After the May 2011 joint sitting, the Parliament adopted a

unanimous resolution³ calling for review of security and foreign policies. It condemned the US raid on Abbottabad compound in which Al-Qaeda chief Osama Bin Laden was killed. It said that in the event of another US operation, Pakistan would cut off the supply route for US and allied troops in Afghanistan. The resolution recommended formation of an independent investigation commission. In an unprecedented move, the country's military offered itself to the Parliament for accountability over the intelligence failure and deficiencies that came to light in the wake of cover US commando raid in Abbottabad, as newspaper reports said.

Effectiveness of Joint Briefing Sessions of the Parliament

Speaking as a matter of fact, it will be necessary to measure any steps for their effectiveness that the current Parliament has taken towards establishing its oversight on defence and national security.

The Current Parliament is seized of national issues of paramount interest of Pakistan - the issues that in the realms of security, internal and external, have not known the extremes to which they presently are. However it must be recognized that some measures of accountability by the Parliament, over the defence establishment, have been made during the term of the present 13th National Assembly.

The fact that in the past two briefings, for the first time, the Parliament did directly pose questions and received answers in a presentation by the army heads, gave suggestions for policy formulation and monitoring and appointing parliamentary commission for following the points in the resolution in the 2008 briefing, are certainly a way forward.

It is, however, by any imagination a distant hope that the civilian supremacy of the army operation and working in peace and war times can be realized. For this we need to look into the reasons and events in historical background from the early period of Pakistan history.

Weak Parliamentary System in Pakistan

The weak parliamentary structures and semi

1. October 09, 2008, MPs apprised of enemy within' The News, <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=17708&Cat=13&dt=10/9/2008>
2. October 09, 2008, PM, President, Army Chief met after joint sitting, Daily Times, http://www.dailytimes.com.pk/default.asp?page=2008/10/09/story_9-10-2008_pg1_1
3. May 14, 2011, Parliament condemns US raid, Dawn <http://www.dawn.com/2011/05/15/parliament-condemns-us-raid.html>

representative character of Constituent Assembly established in 1947 and of those, who were elected in 1946 and dragging feet in preparing and finalizing constitution of the new country, was the main obstacle in strengthening democratic system in Pakistan. An oligarchy of non-representative, albeit in name elected houses, was created and fostered whereby central and the provincial governments were run in whimsical manner and no participatory system of decision making could be evolved. We need to consider the facts that major decisions concerning important issues were made without consultations with stakeholder and proper democratic process was ignored.

Declaring Urdu as the only State language was announced by Quaid-e-Azam at a rally in early 1948 in Dacca and put it to vote in the Constituent Assembly without thorough consultative process. Creation of separate federal territory of Karachi was also carried out in a similar manner.

Appointment of Governor General after the death of Quaid-e-Azam was made by Prime Minister Liaquat Ali Khan. The decision to nominate new Chief Minister of East Bengal (East Pakistan) in 1948 in a vacancy caused by appointment of Khwaja Nazim uddin as Governor General was made against the decision of the majority of members of East Pakistan Assembly who had elected Hamid ul Haq Chaudhry as the new Leader of the House.

Two Chief Ministers Dr. Khan Sahib and Mr. M. A. Khukro of NWFP (now Khyber Pakhtunkhwa) and Sindh respectively were dismissed on the orders of the Governor General though they enjoyed the confidence of their respective Assemblies. But in order to ascertain the wishes of the electorate, no elections were held to confirm if the action of dismissal had the backing of the people.

The list of transgressions against democratic system is quit long. It has almost become a fashion to take decisions in an autocratic manner due to lack of real democratic bent and non-empowering the electorate as well as absence of political parties. Consequently democracy could not take roots much less flourish in Pakistan. Rank opportunism began to take root and politics became its first casualty. Bureaucracy, that was pivot of the administrative structure in the British model considered it their duty to provide justice to the natives, proverbially called the white man's burden, and became the all powerful body of learned men who reached higher positions by a system of competition on merit. Corruption and misuse of public funds for

personal gains became common. Institution like the defence establishment and the judiciary got involved in politics and thus became prone to ills that made it impossible to control the damage. Of special mention here should be recurring imposition of Martial Laws in Pakistan. This paralyzed the rule of law in Pakistan. To question arbitrary decisions of the Governments and recourse to judiciary became increasingly difficult and somehow infructuous. Self-aggrandizement, loot and plunder became order of the day. Rhetoric replaced governance.

The situation obtaining in early 1950s was not that worse but it started to deteriorate after imposition of Martial Law of 1958. But there came a time that early trends of authoritarianism were briefly interrupted by highly conscious electorate of East Pakistan. This shook the oligarchs who saw their doom in real democracy. In 1954 General Election to East Bengal Provincial Assembly, the governing Muslim League was wiped out and many of its candidates lost even their deposits at the ballot. United (Jugtoo) Front formed the new government. Dawn newspaper captioned its editorial with the words "Awful Majesty of the peoples will" epitomizing the peoples free choice. This was a sea change from dictatorial to democratic order. I recall a welcome party given in Karachi to Hussain Shaheed Suhrawardy whose component had won the landslide victory in East Pakistan Election. Khan Abdul Ghaffar Khan and G. M. Syed addressed Suhrawardy as their deliverer: "Aajyay hamen Nijat dilaney waley." It had become a fashion to brand opponents of the Government as traitors of Pakistan and imprison them. Use of Islam for political gain and crush India became a rallying cry for the rulers and their henchmen.

United front wanted to get new Constituent Assembly to be elected after new election had been held in the province. But that was not to be. The Constituent Assembly was based on parity between the East Pakistan on one hand and the West Pakistan on the other. However, the demand for new Constituent Assembly was not accepted by Governor General Iskandar Mirza. Constitution of 1956 was passed on the parity basis to which East Pakistan members were signatories too. In October 1958, the first Martial Law was imposed by Gen. Ayub Khan. Constitution was abrogated, Assemblies were dissolved and the country was run by martial law orders.

Ayub Khan started his experimentation with constitutional framework of his own which he claimed was close to 'genius of our people.' Basic democrats were to be elected

and they would be the Electoral College for elections to the Assemblies and later on became electors for the Presidential Election held at the end of 1964. Ayub Khan was declared elected as the President. In that election, Ms. Fatima Jinnah (sister of the founder of the country Mohammad Ali Jinnah) was the opposing candidate to Ayub Khan. If adult franchise had been the basis, I am sure Ms. Jinnah would have won the election. She was loved by the people and she had declared that federal Parliamentary system would be restored in the country. If that would have happened, it is generally believed that Pakistan would have remained intact and would not have lost East Pakistan.

Deceleration of Development of Democracy

The most debilitating harm done to Pakistan has been deceleration of the development of democracy. Gerrymandering the elections that have been held in Pakistan are both cause and effect. An exception could be said of election to East Pakistan of 1954, but, election results were made ineffective by the central government's dictatorial actions. Such was the case of 1970 General Election whose results were nullified by the imposition of Martial Law by Gen. Yahya Khan. That resulted in dismemberment of Pakistan and creation of Bangladesh.

One has to search for honest answers as to how and why present Pakistan has gone down the hill whereas it has more natural resources and more important geophysical position in South East Asia and other SAARC countries with exception of India. Our strategy must have to be wrong and for that the governing class of post-1970 period has to be made answerable. Here, one cannot overlook omnipresent and omnipotent role of the Establishment. Making and breaking of political parties pre and post elections and during the poll rigging and use of pressure tactics are a common occurrence in elections in Pakistan. In Pakistan, therefore, holding of fresh elections creates more problems than it is meant to resolve whereas in democratic countries opposite is true as exemplified generally in elections in India.

If and when, the Establishment would give up its interference in politics of the country and electoral processes voluntarily and wholly, democracy will start to flourish in its true sense. This in itself will answer the questions and will be main factor to realize the aspirations of the people for which Independence was desired by the Muslims of the Sub-Continent. Rule of law and good governance impinges on that alone. Only then extremism,

terrorism and all form of violence - religious, sectarian and ethnic will have been removed. The progress and prosperity of Pakistan will be ensured as we will abide by the oath of allegiance that the holders of public office are to make at the time of entering upon an office or duty in letter and spirit.

Weak Structure of Political Parties

Weather Parliamentary supremacy is a fiction or exaggeration it has yet to be translated into a fact by all the people. The political parties are the most important tool to achieve this all-important goal by training the people by their example of true faith in democracy, honesty and to the best of their ability. This is a tall order.

Parties which have so far not come out of the power-at-all costs syndrome and have hardly made performance goals as their test, may have to learn by difficult process. Though the two main political parties' leaders made agreement called the *Charter of Democracy* some six years ago, yet except in small measure, nothing much tangible has been achieved as a result of that. Gen. Musharraf's martial law made impact over the minds of the people in general and politicians in particular making them realize that they have to make the people the real repository of power in real terms. Parties have suffered in terms of loss of faith and suffered privations and sometimes injustices at the hands of arbitrary rule. Political parties, thus, have to bring democracy in their own system of working and decision making.

So far there appears to be a one person show in current main parties. This will and should not go on any further. It will rebound if not changed and make matters worse for the very leaders who are running the parties in that given fashion.

The 18th Constitutional Amendment has further strengthened hold of the Party heads over their parties. Usually sycophancy has been evident in running the parties and short term answers are traded for obtaining long term results. This must change for a better conditioning of minds and future of the parties themselves and their hierarchy. That will improve the situation of basic rights of the people through the later suggested change in working of political system whether the parties are in government or opposition. Chief Justice of Pakistan was recently reported to have remarked as per a press report that monarchy rules supreme in political parties. That is

essentially true of the present dilemma.

Parliamentary Oversight on Defence-A Long Way Ahead

The briefings by the Military to the Parliament are a beginning for a more stable and institutionalized oversight over defence. In order to make it acceptable to the Army establishment as course of normal governmental functioning, and not only during the crisis that arose after May 2011, incident a framework has to be devised acceptable to all relevant quarters and the interaction be meaningful and worth the effort and expense. I

It will be in the interests of political stability, economic development and security of Pakistan if and when actions of the Army have approval of the Parliament. For that purpose, the country needs to have good governance through transparent working of democracy, of elections being truly free, fair and impartial as Article 218 of the Constitution requires. The words of Abraham Lincoln that democratic governments are *government of the people, by the people and for the people* should be given real meaning. Once, while addressing us, the students of Sind Muslim College at Karachi, Mr. A. K. Brohi, renowned jurist said that *democracy was like a tree. You cannot ask a tree to stop growing or else it will die.*

Much of serious problem the country has been beset with has roots in giving democracy a theoretic cloak and using it for selfish purposes by legitimate and illegitimate rulers. In other words, it is false application of letter and not following the real spirit of democracy. The people in general get disappointed and lose faith in the government and have no respect for such rulers who violate the spirit of the Constitution.

Rule of law is the first causality of these phenomena. Extremism, terrorism and desperate activities become order of the day. Corruption, lack of merit and inefficiency hit the poor sections of the society the most. People take recourse to approach the courts which is time consuming and expensive. Eventually, people lose faith in the state structures and despondency becomes all pervading. This is due to poor quality of political leadership, which usually thrives through bogus process of elections, pre and post and during the poll rigging, using of illicit money to subvert the elections, appointing cronies to major positions so that they can do the bidding of their patrons and in the course line their pockets too, in a nut shell, all that is to the

detriment of the country. This is what we have seen before and are seeing today in Pakistan.

Committee System in the Parliament

Committee system in the Parliament has to be strengthened. The Public Accounts Committee (PAC) of National Assembly has made tremendous contribution in making the Government accountable. This became possible due to not only individual efforts of its past chairman but also because he was from the opposition. This practice should be made part of the rules of procedure. All decisions of committees should be implemented and not shelved as has happened in cases of NLC, etc. Formation of committee on national security representing all parties in parliament is also a step in the right direction. It is a recent development. We can wait with expectation that much desired accountability of defence matters can materialize. But without a legal basis, the committee in question may not go beyond certain issues such as 'memogate' crisis.

Transparency should be hallmark of all including defence matters of the government. With regard to briefing to the Parliament over May 02 Abbottabad incident, it can be said that wisdom demands that more information be provided on issues pertaining to national security than what is barely needed in times of crisis. Such sessions should be directed in the manner that all pros and cons are discussed and the impression that *all is not well in the Kingdom of Denmark* can be removed.

In historical perspective, therefore, it can be opined that 13th National Assembly seems to have inched forward to assert itself over defence matters in respect of incidents of widespread terrorism in the country and the May 02 incident.

The world has drastically changed since 9/11. Foreign and defence related issues are now being openly discussed in Pakistan over electronic and the print media. Their role has become exceedingly important. Pakistan can benefit from such developments if democracy is given a real chance to flourish on the basis of social contract turning the present state of the electorate to that of more maturity of thought and action as well as that of the other stake holders.

By no means can the briefings to the Parliament of 2008 and 2011 be termed as a watershed for a systematic and institutionalized Parliamentary oversight over defence

establishment in times of peace and war. Can one think that the Prime Minister was not aware that the Army Chief (Gen. Musharraf) was conceiving and even had started Kargil expedition. It can, however, be safely said that it is tangible progress in that direction.

Much, however, would depend on future events and what course they take. All the organs of the state, i.e., Legislature, Judiciary and the Executive should function on the universally-accepted basis of checks and balances and separation of powers. Judiciary should be totally independent and above approach and reproach and the Supreme Court should have the last word of interpretation of Constitution and laws of the country. Then alone one can say for sure that Pakistan has a great opportunity to change for the better as a civilized, progressive and prosperous nation in not a too distant future.

Conclusion

I venture to propose some institutional changes that in my view would act for improvement of the system of governance and turning the tide in favour of good health of the system and resultantly for happiness of people of Pakistan and their future as democratic and a civilized polity:

1. Senate should have direct elections.
2. Women special seats should be reduced to the minimum as it was before the 17th Constitutional Amendment. More seats may be reserved for women but through the constituencies carved out in each province and through a direct vote.
3. Parliamentary committees on Finance, Economic Affairs Division, Defence and Foreign Affairs should be headed by members from the opposition benches.
4. Parliamentary Committee on National Security should be institutionalized in rules of procedure of the respective Houses of the Parliament.
5. There should be election from the primaries to the national level in political parties and their parliamentary boards should reflect wishes of party members from the primaries level on-wards.
6. Election to Assemblies and the Local Governments should be made actually free, fair and impartial in letter and spirit.

With these issues in view, I conclude my paper and hope that it will be of some help to policy makers and democrats and help them draw some beneficial conclusions at relevant forums.

Appendix A

Consensus Resolution at the Conclusion of the In-Camera Joint Sitting of Parliament (October 08-24, 2008)

This in-camera joint session of Parliament has noted with great concern that extremism, militancy and terrorism in all forms and manifestations pose a grave danger to the stability and integrity of the nation-state. It was recalled that in the past the dictatorial regimes pursued policies aimed at perpetuating their own power at the cost of national interest. This House, having considered the issue thoroughly and at great length is of the view that in terms of framing laws, building institutions; protecting our citizens from violence, eradication of terror at its roots, re-building our economy and developing opportunities for the disadvantaged, we all commit to the following:-

1. That we need an urgent review of our national security strategy and revisit the methodology of combating terrorism in order to restore peace and stability to Pakistan and the region through an independent foreign policy.
2. The challenge of militancy and extremism must be met through developing a consensus and dialogue with all genuine stakeholders.
3. The nation stands united to combat this growing menace, with a strong public message condemning all forms and manifestations of terrorism, including the spread of sectarian hatred and violence, with a firm resolve to combat it and to address its root causes.
4. That Pakistan's sovereignty and territorial integrity shall be safeguarded. The nation stands united against any incursions and invasions of the homeland, and calls upon the government to deal with it effectively.
5. That Pakistan's territory shall not be used for any kind of attacks on other countries and all foreign fighters, if found, shall be expelled from our soil.
6. That dialogue must now be the highest priority, as a principal instrument of conflict management and resolution. Dialogue will be encouraged with all those elements willing to abide by the Constitution of Pakistan and rule of law.
7. That the development of troubled zones, particularly the tribal areas, and NWFP, must also be pursued through all possible ways and legitimate means to create genuine stakeholders in peace. New economic opportunities shall be created in order to bring the less privileged areas at par with the rest of Pakistan.
8. That a political dialogue with the people of Balochistan, the redressal of grievances and redistribution of resources shall be enhanced and accelerated.
9. That the state shall maintain the rule of law, and that when it has to intervene to protect the lives of its citizens, caution must be exercised to avoid casualties of non-combatants in conflict zones.
10. That the federation must be strengthened through the process of democratic pluralism, social justice, religious values and tolerance, and equitable resource sharing between the provinces as enshrined in the Constitution of 1973.
11. That the state shall establish its writ in the troubled zones, and confidence building mechanisms by using customary and local communities (jirga) and that the military will be replaced as early as possible by civilian law enforcement agencies with enhanced capacity and a sustainable political system achieved through a consultative process.
12. That Pakistan's strategic interests be protected by developing stakes in regional peace and trade, both on the western and eastern borders.
13. That mechanisms for internal security be institutionalized by; paying compensation for victims of violence; and rehabilitate those displaced from their homes as soon as possible; that spill-over effects of terrorism be contained throughout the country and that public consensus be built against terrorism through media and religious participation.
14. That a Special Committee of Parliament be constituted to periodically review, provide guidelines and monitor the implementation of the principles framed and roadmap given in this Resolution. This House authorizes the Speaker to constitute the said Committee in consultation with the parliamentary leaders of both Houses. The Committee will frame its own rules upon meeting.

Appendix B**Resolution on Unilateral US Forces Action in Abbottabad on May 02, 2011 (May 14, 2011)**

The Senate of Pakistan and the National Assembly, in a Joint Session held on 13-14 May 2011, considered the situation arising from the unilateral US forces action in Abbottabad on 2 May 2011. After an in-depth discussion, including presentations made on the relevant issues by the Director General, Inter-Services Intelligence, Director General (Military Operations) and Deputy Chief of Air Staff (Operations), the Joint Session of Parliament resolved as under:

Condemned the US unilateral action in Abbottabad, which constitutes a violation of Pakistan's sovereignty;

Strongly asserted that unilateral actions, such as those conducted by the US forces in Abbottabad, as well as the continued drone attacks on the territory of Pakistan, are not only unacceptable but also constitute violation of the principles of the Charter of the United Nations, international law and humanitarian norms and such drone attacks must be stopped forthwith, failing which the Government will be constrained to consider taking necessary steps including withdrawal of transit facility allowed to NATO/ISAF forces;

Determines that unilateral actions cannot advance the global cause of elimination of terrorism and the people of Pakistan will no longer tolerate such actions and repeat of unilateral measures could have dire consequences for peace and security in the region and the world.

Reaffirmed the resolve of the people and Government of Pakistan to uphold Pakistan's sovereignty and national security, which is a sacred duty, at all costs;

Affirmed the resolve of the people and state institutions of Pakistan to safeguard Pakistan's national interests and strategic assets and, in this context, underscored that any action to the contrary will warrant a strong national response;

Expressed its deep distress on the campaign to malign Pakistan, launched by certain quarters in other countries without appreciating Pakistan's determined efforts and immense sacrifices in combating terror and the fact that more than thirty thousand Pakistani innocent men, women and children and more than five thousand security and armed forces personnel had lost their lives, that is more than any other single country, in the fight against terror and the blowback emanating from actions of the NATO/ISAF forces in Afghanistan;

Called upon the Government to ensure that the principles of an independent foreign policy must be grounded in strict adherence to the principles of policy, as stated in Article 40 of the Constitution, the UN Charter, observance of international law and respect for the free will and aspirations of sovereign states and their peoples;

Further Called upon the Government to re-visit and review its terms of engagement with the United States, with a view to ensuring that Pakistan's national interests are fully respected and accommodated in pursuit of policies for countering terrorism and achieving reconciliation and peace in Afghanistan;

Affirmed the importance of international cooperation for eliminating international terrorism, which can only be carried forward on the basis of a true partnership approach, based on equality, mutual respect and mutual trust;

Affirmed Also full confidence in the defence forces of Pakistan in safeguarding Pakistan's sovereignty, independence and territorial integrity and in overcoming any challenge to security, with the full support of the people and Government of Pakistan. Reaffirmed the Resolution passed by the Joint Sitting of the Parliament on National Security held on 22 October 2008 and the detailed recommendations made by the Parliamentary Committee on National Security in April 2009.

Called upon the Government to appoint an independent Commission on the Abbottabad operation, fix responsibility and recommend necessary measures to ensure that such an incident does not recur. The composition/modalities of the Commission will be settled after consultations between the Leader of the House and the Leader of the Opposition.



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