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National Action Plan: Formation of the Provincial Apex Committees¹

According to a Press Release issued by the Inter-Services Public Relations (ISPR) on January 03, 2015, “in a bid to coordinate the security and to implement the recently approved National Action Plan (NAP), Provincial Apex Committees have been formed in all provinces which will constitute both military and political leadership.”²

Considering that 15 out of the 20 points of the NAP are related to the Provincial Governments, some kind of arrangement for effective coordination between the civil administration and the local military commanders and intelligence heads was needed and to that extent one can understand the rationale of constituting such a Committee.

However, the formation of the Committees raises multiple questions in the context of Civil Military relations.

No circular or notification was issued either by the four Provincial Governments or the Federal Government for their formation but instead the 'official' announcement came only through the ISPR. Even the ISPR Press Release is deficient regarding crucial details such as the Terms of References and the composition of the Committees, etc. Granted that a circular or a notification may not always be required for every Committee formed by the Government, for the sake of institutional clarity and effective implementation of the NAP, the Committees and their relevant details should have been formalized through a communication by the Federal Government.

Based on the ISPR Press Releases and the media reports, it appears that the Committees will primarily act as consultation-cum-coordination forums for the civil and military leadership of the provinces regarding the NAP. The duties performed by the Provincial Apex Committees till now have included coordination and mutual review regarding the cases that are to be referred to the Military Courts. This was verified by the Home Minister for the Government of Balochistan, Mir Sarfraz Bugti, MPA, who in an interview to a local English daily stated that “the Apex Committee for

Balochistan in its first meeting recommended that the Federal Government green-light execution of 14 cases sentenced for capital punishment by anti-terrorist courts here. The Committee is also working on other cases to be tried in the Military Courts.”³

Regardless, since the ISPR's notification, the Apex Committees of Sindh and Balochistan have held one meeting each, whereas that of Khyber Pakhtunkhwa and Punjab have held 2 and 7 meetings respectively.⁴ Interestingly, the Chief of Army Staff, Gen. Raheel Sharif, attended the first meeting of the Punjab and Khyber Pakhtunkhwa's Apex Committee along with the top civilian and military leadership of the province.^{5,6,7,8}

Formation of Military Courts: 21st Constitutional Amendment and its Aftermath

In a development that could possibly have far-reaching consequences for the country's political, judicial and social system, the Parliament on January 06, 2015 adopted the 21st Constitutional Amendment Bill and the Pakistan Army (Amendment) Bill, 2015 unopposed after 247 Members of the National Assembly and 78 of the Senate voted in favour of the laws aimed to set up Military Courts.

Almost all political parties, except the ruling PML-N expressed reservations on the 21st Constitutional Amendment. Whether this dissent emanated from individual members (such as Senator Raza Rabbani's impassioned speech in the Senate) or the chiefs themselves (such as Mr. Altaf Hussain's statement that it would be better to enact Martial Law than to establish Military Courts) a general sense of foreboding engulfed the passage of the 21st Constitutional Amendment with hesitations expressed across the aisle. Lawmakers from the Pakistan Tehreek-e-Insaf (PTI) and Sheikh Rasheed, MNA also abstained from voting on the Bill. Interestingly, the PTI Chairman, Mr. Imran Khan, MNA, did not even visit the National Assembly during the passage of the 21st Constitutional Amendment even though the party had voiced its favour for establishment of Military Courts during the APCs.

1. PILDAT would like to appreciate and acknowledge the guidance extended by **Mr. Shahid Hamid**, Senior Advocate of the Supreme Court, Former Governor of the Punjab and **Dr. Syed Abul Hassan Najmi**, Provincial Law Secretary, Government of the Punjab, in understanding various aspects of the formation of the Provincial Apex Committees.
2. To view the complete text of the Press Release, please see the ISPR's Press Release on January 03, 2015, as accessed on February 02, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2015/1/3
3. For details, please see 'Are we children of a lesser God?', Pakistan Today, January 24, 2015 as accessed on February 02, 2015 at: <http://www.pakistantoday.com.pk/2015/01/24/featured/are-we-children-of-a-lesser-god>
4. For details, please see, National Action Plan: Sindh, Balochistan lag behind in implementation, The Express Tribune, January 22, 2015, as accessed on February 02, 2015 at: <http://tribune.com.pk/story/825626/national-action-plan-sindh-balochistan-lag-behind-in-implementation>
5. The **first meeting of the Sindh Apex Committee**, since the ISPR notification, was held on January 08, 2015. In attendance were the Chief Minister, Syed Qaim Ali Shah, MPA; Sindh Governor, Dr Ishratul Ebad Khan; Corps Commander Karachi, Lt. Gen. Naveed Mukhtar; Provincial Minister for Information, Mr. Sharjeel Inam Memon, MPA; Provincial Minister for Parliamentary Affairs, Dr. Sikandar Mendhro, MPA; Chief Secretary Sindh, Mr. Sajjad Saleem Hotiyana; Home Secretary Sindh, Dr Niaz Abbasi; DG Rangers, Maj. Gen Bilal Akbar; IGP, Ghulam Hyder Jamali. For details, please see Cantonment Areas, Military Courts planned in three Sindh districts, The Express Tribune, January 09, 2015, as accessed on February 02, 2015 at: <http://tribune.com.pk/story/819063/cantonment-areas-military-courts-planned-in-three-sindh-districts>
6. The **first meeting of the Balochistan Apex Committee**, since the ISPR notification, was held on January 09, 2015. In attendance were the Chief Minister, Dr. Abdul Malik Baloch, MPA; Commander of Southern Command, Lt. Gen. Mohammad Naseer Khan Janjua; Provincial Home Minister, Mir Sarfraz Ahmed Bugti, MPA; Chief Secretary Balochistan, Mr. Saifullah Chattha; Inspector General of Frontier Corps, Maj. Gen. Mohammad Ejaz Shahid; Inspector General of Police, Mr. Mohammad Amlish Khan; Home Secretary Balochistan, Mr. Akbar Hussain Durrani and other senior officials. For details, please see Warning issued to sellers of hate material, Dawn, January 10, 2015, as accessed on February 02, 2015 at: <http://www.dawn.com/news/1156134>
7. The **first meeting of the Punjab Apex Committee**, since the ISPR notification, was held on January 03, 2015 at Corps Headquarters, Lahore. According to the ISPR Press Release, in attendance were 'Army Chief, Gen. Raheel Sharif; DG ISI Lt. Gen. Rizwan Akhtar; Punjab Chief Minister, Mr. Shahbaz Sharif MPA; heads of law enforcement agencies, senior officials, and corps commanders from across Punjab'. For details, please see ISPR's Press Release on January 03, 2015, as accessed on February 02, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2015/1/3
8. The **first meeting of the Khyber Pakhtunkhwa Apex Committee**, since the ISPR notification, was held on January 04, 2015 at the Corps Headquarters, Peshawar. According to the ISPR's Press Release, in attendance were 'the COAS Gen. Raheel Sharif; Governor KP, Sardar Mehtab Kha Abbasi; Chief Minister KP, Mr. Pervaiz Khattak, MPA; senior Provincial Government and FATA Secretariat Officials and Peshawar Corps Commander'. For details, please see ISPR's Press Release on January 04, 2015, as accessed on February 02, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2015/1/4

Both the Jamiat Ulema-e-Islam – Fazl (JUI-F) and the Jamaat-e-Islami (JI) abstained from voting on the two Bills based on the contention that the 21st Amendment linked terrorism to religion. They also feared that under the NAP, various religious seminaries across Pakistan would also be targeted.⁹

The cause for their dissent is not without a basis as the preamble of the 21st Constitutional Amendment Bill categorically states that it is being adopted to specifically act against “*any terrorist or terrorist group, armed group, wing and militia or their members using name of a religion, or a sect.*”¹⁰

This view was also voiced by the Home Minister for the Government of Balochistan, Mir Sarfraz Bugti, MPA, who stated that “*it is a shame that the national leadership during the recently held All Parties Conference (APC) gave a clean chit to the Baloch insurgents who are being funded by RAW, Mossad and other intelligence forces and are active to disintegrate the federation of Pakistan. Though I stand by the decision taken by my party, but in my personal view, there should be no discrimination between terrorists.*”¹¹

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 Constitutional Amendment Bill was not narrowed down in the name of religion or a sect. We believe that singling out religious terrorism is not only principally wrong, but might also create a dangerous precedence of accepting and rejecting certain kinds of terrorism, a failed policy which the State has been previously by following in garb of the 'Good, Bad Taliban' distinction. Apart from compromising on national security, this may also create an irreconcilable divide in the society with unforeseeable repercussions for the future.

According to the Press Release issued by the ISPR on January 09, 2015 the “*process of establishing Military courts has been initiated. Initially, 9 Military Courts are being established across the country, with 3 courts each in Khyber Pakhtunkhwa and Punjab, 2 in Sindh and 1 in Balochistan.*”¹² The Press Release went on to say that Courts would start functioning soon. Interestingly, the Prime Minister's Office, the Ministry of Defence, or the Ministry of Law, Justice and Human Rights issued no Press Release to this effect. A pattern of sorts seems to be emerging in this case and the case of establishment of the Apex Committees where announcements by elected Governments at the Centre and the Provinces are conspicuous by their absence.

PILDAT believes that although extraordinary times call for extraordinary measures, principally, the formation of Military Courts is not a positive development for Pakistan's nascent democracy. They blur the line between the Judiciary and the Executive under the trichotomy of powers enshrined in the Constitution. Their formation raises fundamental questions and

concerns about the civil and military leadership's approach to combating terrorism.

The creation of a parallel system of justice severely undermines the credibility of the existing civilian judicial system. Although there has been a persistent objection to the country's judiciary releasing high-profile terrorists, the blame cannot solely be placed on it. The Military Courts cannot achieve their desired objectives until the prosecution, investigation and operations branches are reformed and protected from terrorists' threats. Do we envisage replacing civilian investigators, prosecutors and the police deputed to apprehend the terrorists and their supporters with military persons as well?

In this context, the remarks made by Prime Minister Nawaz Sharif and the resultant retort of two Supreme Court judges are of relevance. Regarding the formation of Military Courts, the Prime Minister stated that “*the independence of Judiciary was essential but equally important is the performance of Judiciary. The pendency of numerous cases has contributed towards law & order issues.*”¹³ Justice Jawwad S. Khawaja and Justice Asif Saeed Khosa, in an apparent rejoinder made while hearing a case, listed inefficient investigations and weak prosecutions as the primary reasons for delays and the rising backlog of cases pending in court. Justice Khawaja particularly observed that “*instead of spouting propaganda against the judiciary for delaying justice, the state should accept its own failure, seeing that the courts were meant to dispense justice and not just hand down punishments.*” Furthermore, Justice Khosa also stated that “*it is time that the Executive takes responsibility and does its duty, which is also its constitutional obligation.*”¹⁴

One of the most important questions which need to be urgently and earnestly answered is: How is the Government planning to improve the civilian justice system in two years' time when the 21st Constitutional Amendment will terminate? In light of the fact that little or no recommendations have been floated by the Government regarding the judicial and administrative reforms, it is feared that we may see the Government reverting back to the Parliament in two years' time seeking extension of the Military Courts.

Growing International Role of the COAS

Following a high profile visit of the COAS to the US in November 2014, the Chief of Army Staff undertook two high-profile international visits – to the UK and to China – during the month of January 2015.

In both the visits, the COAS was accorded warm welcome and he held high-level meetings. In addition to his meetings with his military counterparts, the COAS held interactions on the political front with the British Prime Minister in the UK and with the Chinese Foreign Minister, Chairman of the National Committee of the Chinese People's Political Consultative Conference, and the

9. 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>

10. 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

11. For details, please see 'Are we children of a lesser God?', Pakistan Today, January 24, 2015 as accessed on February 02, 2015 at: <http://www.pakistantoday.com.pk/2015/01/24/featured/are-we-children-of-a-lesser-god>

12. For the complete text of the Press Release, please see the ISPR's Press Release on January 09, 2015, as accessed on February 02, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2015/1/9

13. For details, please see SC judges respond to PM's unflattering remarks about the Judiciary, Dawn, January 16, 2015, as accessed on February 02, 2015 at: <http://www.dawn.com/news/1157341>

14. Ibid.

Secretary of the Communist Party of China.

While increased international profile of the COAS may reflect Pakistan's aspirations to rally international support in our efforts against countering extremists, two questions emerge:

1. Why the civilian leadership like the equivalent of Foreign Minister is also not active in advancing the foreign policy of the state?
2. Is the growing international role of the Army Chief a manifestation of the passiveness of the civilian leadership or it reflects the growing dominance of the Military in international relations of Pakistan?

No Meeting of the National Security Committee

Despite critical national security issues facing the country and decisions with far-reaching security and political implications taken during this period, not a single meeting of the NSC was held during the month of January 2015. The latest meeting of the National Security Committee was held more than 3 months ago on October 10, 2014. That meeting too was held after a gap of almost 6 months.

While formulation of a comprehensive National Security Policy had been declared as one of the key functions of the National Security Division,¹⁵ the secretariat of the NSC, a counter-terrorism strategy in the form of the NAP has been formed, along with the formation of forums such as the Provincial Apex Committees, without a single meeting of the NSC held on the subject. The Government is creating new institutions such as the Apex Committees but is not using existing institutions such as the NSC, established with a permanent secretariat, for the purpose of coordination.

The NSC has only held 4 meetings in almost 18 months since its formation. This is not only a hindrance in optimum utilization of this crucial institution, it stands in the way of the much-needed system of institutionalization of decision-making in national security affairs.

Senate's Standing Committee on Defence Visits North Waziristan

In a laudable pro-activeness which is somewhat new for any Parliamentary Committee, and has become somewhat of a hallmark of the Senate's Standing Committee on Defence under the chairpersonship of Senator Mushahid Hussain Sayed, the Committee visited the Army Public School Peshawar, North Waziristan and what the Committee Chairman termed as the "*Temporarily Displaced Peoples' (TDP)*" camp in Bannu on January 25, 2015.¹⁶ According to media reports, during the Committee's visit to Miranshah, Senators were also shown the destroyed and captured militants' hideouts, IED factories, suicide bombers' training centres

and the ammunition recovered from terrorists.

It is worth appreciating that a Parliamentary body undertook to show solidarity to our troops. The Committee had also undertaken a similar trip to Siachen in the beginning of October 2014 to express solidarity of the Parliament with the soldiers defending Pakistan's boundaries.¹⁷

Premier – COAS Interactions

For the month of January 2015, Prime Minister Nawaz Sharif and the COAS, Gen. Raheel Sharif interacted for a total of three times.

1. Their first interaction was during the All Parties Conference (APC) called by the Prime Minister on January 02, 2015 to address the concerns of various political quarters regarding providing constitutional cover for the establishment of Military Courts. According to media sources, Gen. Raheel Sharif, DG ISI and DG ISPR attended the meeting along with the top political leadership of the country.¹⁸
2. The second interaction of the COAS and the Prime Minister was on January 21, 2015 during a meeting called by the latter at the Prime Minister House to review the progress on the NAP. Along with the importance of following-up and implementing the NAP emphasized by the Prime Minister, Gen. Raheel Sharif also briefed the participants about establishment of Military Courts and other measures being taken to implement the NAP. According to the media reports, the meeting was also attended by the Punjab Chief Minister, Mr. Muhammad Shahbaz Sharif, MPA; Sindh Chief Minister, Syed Qaim Ali Shah, MPA; Khyber Pakhtunkhwa Chief Minister, Mr. Pervez Khattak, MPA; Balochistan Chief Minister, Dr. Abdul Malik Baloch, MPA; Khyber Pakhtunkhwa Governor, Sardar Mehtab Khan Abbasi, Federal Minister for Interior, Chaudhry Nisar Ali Khan, MNA; Federal Minister for Defence and Water and Power, Khawaja Muhammad Asif, MNA; DG ISI and other army officials.¹⁹
3. The third interaction between the two was when they attended the passing-out parade of the first batch of the Counter-Terrorism Force (CTF) at the Elite Police Training School, Lahore. According to media reports, the batch, comprising of 421 corporals, including 16 females, passed out after completing their nine-month-long training course. In this regard, around 1,182 personnel are being trained by Pakistan Army's Special Services Group (SSG) and the Turkish Police Force to act as an effective counter terrorism outfit. The ceremony was also attended by the Punjab Chief Minister, Mr. Muhammad Shahbaz Sharif, MPA; the Federal Minister for Interior, Chaudhry Nisar Ali Khan, MNA; acting Governor Punjab, Rana Muhammad Iqbal, MPA and Lahore Corps Commander, Lt. Gen. Naveed Zaman.²⁰

15. Memorandum on Allocation of Functions to the National Security Division, April 09, 2014, Cabinet Secretariat, Government of Pakistan

16. For details, please see the ISPR's Press Release on January 25, 2015, as accessed on February 02, 2015 at: https://www.ispr.gov.pk/front/main.asp?o=t-press_release&date=2015/1/25

17. For details, please see Senate Defence Committee visits Siachen, The News, October 01, 2014, as accessed on February 02, 2015 at: <http://www.thenews.com.pk/Todays-News-13-33241-Senate-Defence-Committee-visits-Siachen>

18. For details, please see Govt., not Army, to decide who will be tried in the Military Courts, The News, January 03, 2015, as accessed on February 02, 2015 at: <http://www.thenews.com.pk/Todays-News-13-35050-Govt-not-army-to-decide-who-will-be-tried-in-military-courts>

19. For details, please see Terrorist and abettors will be targeted: PM, Pakistan Herald, January 22, 2015, as accessed on February 02, 2015 at: [http://www.pakistanherald.com/article/3977/22-01-2015/terrorists-and-abettors-will-be-targeted\(col\)-pm-nawaz-sharif](http://www.pakistanherald.com/article/3977/22-01-2015/terrorists-and-abettors-will-be-targeted(col)-pm-nawaz-sharif)

20. For details, please see Existential threat: Survival hinges on battle against terror, says PM, the Express Tribune, February 01, 2015, as accessed on February 02, 2015 at: <http://tribune.com.pk/story/830992/existential-threat-survival-hinges-on-victory-against-terror-says-pm>