

This Monitor of Civil-Military Relations covers the period of April 01, 2012 to July 10, 2012 analysing the key issues affecting civil-military relations in Pakistan during this period.

Legal Remit and Parliamentary Oversight of Intelligence

Senator Farhatullah Babar (KP, PPP) submitted a private member's bill titled **Inter-Service Intelligence Agency (Functions, Powers and Regulation) Bill 2012** in the Senate of Pakistan, As an indigenous organization led by Pakistani citizens, PILDAT has since long maintained that intelligence agencies of Pakistan must work under a legal remit and that Parliament must oversee the working of intelligence sector, just like all other sectors of Government.¹ The initiative, therefore, is a welcome step in the right direction. though it may have been better if Senator Babar had done his homework within his party and its coalition partners so that the bill could be introduced on behalf of the ruling coalition with greater chances of its passage. A broader cross-party consensus could then be evolved within the committee considering the bill. The private member's bill seeks to regulate the "*manner of functioning and exercise of powers*"² of the ISI as well as to establish Parliamentary oversight on intelligence through setting up an Intelligence and Security Committee of the Parliament. While the bill's fate may hang in balance and there are reports in the media that it may have been withdrawn by Senator Babar already,³ there is no denying the fact that a law governing the work of the intelligence agencies in Pakistan has been long over-due.

An analytical overview of the draft law proposed by Senator Babar would be needed to determine whether it requires any amendments. In United Kingdom, where a somewhat unique system of intelligence oversight exists since 1994 in the form of Intelligence and Security Committee consisting of MPs who are appointed by the Prime Minister and reports directly to the Prime Minister,⁴ there is a movement towards bringing the committee under greater control of the Parliament⁵ that any similar law in Pakistan may benefit from.

The tone of a part of the media comment on Senator Babar's proposed bill is sensational and negative; most media reporting and comment has termed the bill as an effort to "*control*" the ISI. In reality, setting legal terms of intelligence work, just like any other entity, is considered a positive and crucial aspect of defining their role and parameters. Members of the Intelligence and Security Committee of the UK informed Pakistani delegates⁶ that the UK's Security Services Act 1989 and Intelligence Services Act 1994 were enacted to place the Security Service on a statutory basis as intelligence agencies were uncomfortable with the absence of a law governing their mandate. The UK Committee also informed that building trust between the oversight committee and the intelligence agencies was the key to effective oversight.

Reaction of the Prime Minister and that of other coalition partners to the bill is also understandable given Pakistan's uneven balance of civil-military relations. However, initiative has to be taken by elected public representatives of Pakistan to bring the intelligence services under a legal remit. The ruling PPP and the PML-N must walk the talk as pledged by them in the Charter of Democracy and their respective manifestoes.⁷

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PILDAT wishes to acknowledge the support of Fredrich Ebert Stiftung (FES) Islamabad in producing this paper. The views expressed in this document, however, do not necessarily represent those of FES.

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. For details, please see the following: "Intelligence Agencies Ought to be made Accountable before Parliament: PILDAT Roundtable Concludes," November 3, 2009, <http://www.pildat.org/eventsdel.asp?detid=335>; "Making Intelligence Accountable: Legal Standards and Best Practices for Oversight of Intelligence Agencies," <http://www.pildat.org/events/09-11-02/pdf/LegalStandardAndBestPracticesForOversightofIntelligenceAgencies-Summary.pdf>
2. As quoted from the draft bill titled Inter-Service Intelligence Agency (Functions, Powers and Regulation) Bill 2012 submitted by Senator Farhatullah Babar on May 14, 2012.
3. "Babar withdraws proposed draft making ISI accountable," Daily Times, July 11, 2012, http://dailytimes.com.pk/default.asp?page=20120711\story_11-7-2012_pg7_11
4. For details, please see <http://isc.independent.gov.uk/>
5. For details, please see the Justice and Security Bill [HL] 2012-13: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0027/lbill_2012-20130027_en_1.htm
6. For details, please see: "Senior Pakistan Delegation holds interactions on National Security in London", July 8, 2012, <http://www.pildat.org/eventsdel.asp?detid=552>
7. For details, please see Comparative Analysis of Election Manifestoes, PILDAT, January 2012: <http://www.pildat.org/publications/publication/cmr/comparativeanalysisofelectionmanifestoes-cmr.pdf>

Pak-US Relations see Civil-Military Relationship on the same page

As the Defence Committee of the Cabinet decided on July 4 to re-open the Ground Lines of Communications (GLOCs) for Afghanistan-bound NATO supplies after the US issued 'sorry' - nearly 8 months after their suspension - Pakistan saw both the civil and the military relationship on the same page in re-defining Pak-US relations in this period. The newly-acquired role of the Parliament, particularly the Parliamentary Committee on National Security presenting new policy guidelines on issues pertaining to security and foreign policy is also noteworthy in this regard.

Whether the collaboration between the civil and the military relationship has resulted into better policy options for Pakistan is a separate question on which all kinds of analysis are put forward. That Pakistan eventually agreed to resume NATO supplies without signing any formal memorandum of understanding or agreement is a cause of concern.

What is of equal concern is the continuous secrecy over the new terms of agreement over resumption of NATO trucks. Despite PCNS's guideline for engagement on NATO that "*no verbal Agreement regarding national security*"⁸ shall be entered, the existing agreement that resumed NATO supply lines is as much hidden from the public eye as the one that brokered the deal in the first place. It remains to be seen that the apparent unanimity of views of both civil and military holds. If and when the public dissatisfaction with the manner of reopening of GLOCs manifests on the streets.

Supreme Court, Frontier Corps and Balochistan: Where is the elected Government?

Admirably, Supreme Court is the only institution that continues to question the agencies on the case of missing persons in Balochistan. The Court's direction to Inspector General Frontier Corps to appear before the court⁹ to answer accusations against the FC for either conducting or ignoring 'kill and dump' policy in Balochistan are noteworthy. Notwithstanding IG's appearance in the Court, his subsequent press conference somewhat reflects the typical behaviour of security agencies in the context of Pakistan's civil-military relations. Although the Court took notice of the press conference, there is often ambiguity on the role of

oversight of the FC.

Former Prime Minister Gilani and his Cabinet had announced multiple times that the FC has been placed under the Provincial Government of Balochistan but Balochistan Chief Minister has complained about lack of control. Whether the Provincial Government itself is interested in resolving the problems in Balochistan is a big question given the performance, or lack thereof of the Provincial Government. That the Court pointed out Chief Minister Balochistan was in the provincial capital for only 7 days in the past six months¹⁰ is a testimony to the seriousness the Honourable Chief Minister attaches to running the Provincial Government.

More important than the allegation that agencies are running the affairs of Balochistan is the question whether what they are doing is outside of the control and contrary to the dictates of the elected Government. Is the elected Government shy of taking an unpopular position publicly or has it abdicated its responsibility to the military?

Concluding its fact-finding mission to Quetta in April 2012, PILDAT's Democracy Assessment Group reiterated that there is a need for a more explicit and candid articulation by the Federal Government of its approach to dealing with the unrest in Balochistan; that the 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. The Group also concluded that elected Provincial Government of Balochistan has far failed to fulfil its mandate and it should acknowledge its own share of responsibility and ensure effective governance in Balochistan.¹¹

Memo Commission Report reinforces civil-military perception of mutual Distrust

If there was one major issue that defined the 'mistrust' in civil-military relations in the past year, it was what came to be known as the Memo Scandal.¹² Now the Commission, set up by the Supreme Court to investigate the issue, has reported that it finds former Ambassador Husain Haqqani guilty of writing the memo and agrees with Mansoor Ijaz, a Pakistani-born American businessman, for acting as intermediary between Haqqani and US Admiral Mike Mullen.

8. Ibid.

9. "FC IG summoned in missing persons case", June 20, 2012, Express Tribune, <http://tribune.com.pk/story/396228/fc-ig-summoned-in-missing-persons-case/>

10. Saleem Shahid, "Apex court hearing on Balochistan CJ speaks of emergency to restore sanity," Dawn, May 24, 2012, <http://dawn.com/2012/05/24/apex-court-hearing-on-balochistan-cj-speaks-of-emergency-to-restore-sanity/>

11. For details, please see: "PILDAT's Democracy Assessment Group recommends 13 Priority Actions to improve the Balochistan Situation", April 24, 2012, <http://www.pildat.org/eventsdel.asp?detid=542>

12. The scandal pertained to a memo, allegedly written by Pakistan's then Ambassador to the United States, Husain Haqqani, to the then US Chairman Joint Chief of Staff, Admiral Mike Mullen, to use his office in supporting Pakistan's democracy and warning against any military adventure.

The Memo Commission's conclusion has endorsed the statements made by the Army Chief and the then-DG ISI. The Court has yet to decide on the case¹³ but the Commission's findings add to the air of mistrust that permeates civil-military relationship in Pakistan. More so, the elected civilian leadership and to an extent the military watches over its shoulders that the 'other' is plotting against them. The Commission's findings, unfortunately, serve to reinforce that feeling.

For his part, Mr. Husain Haqqani did not come through as he promised initially. He refused to share his data with the Commission as he committed. He refused to appear in person before the Commission. In this entire saga, the elected Government led by the PPP did not step aside and let the investigation take its course. It acted very protective of Mr. Haqqani who was lodged at the Presidency and then the Prime Minister's House.¹⁴

Perhaps an accurate depiction of the civil-military relationship in Pakistan is that each one is thinking the other is out to get one. The Memo Commission's conclusions have served to reinforce and strengthen that perception.

Dr. Arsalan Iftikhar vs Malik Riaz Hussain: What is the role of Intelligence Agencies?

In a rather shocking turn of events, the property tycoon of Pakistan Malik Riaz Hussain accused the son of Chief Justice of Pakistan, Dr. Arsalan Iftikhar, for promising him a '*favourable verdict*' in return of transfer of money and favours by Malik Riaz Hussain.

Whether Dr. Iftikhar is guilty or not will be evident after a thorough investigation but larger questions are being raised about the timing of the scandal. Where on the one hand, it is being said that Malik Riaz Hussain timed the breaking of this scandal to save Mr. Gilani, former Prime Minister, from a possible conviction from the Court, there have been more sinister news that intelligence agencies, especially the ISI, may have something to do with this whole saga. The assertive Supreme Court, led by the Chief Justice, has lately come down harsh, among others, on the intelligence agencies also. Intelligence agencies have been grilled to answer accusations of their role in illegal abduction and

detention of people in Balochistan and Khyber Pakhtunkhwa (KP). All this have led to a speculation that the agencies might have resorted to using their old manipulative tactics this time, against the Chief Justice by targeting his son, Dr. Arsalan Iftikhar.

This is a serious allegation on the role of the agencies. Pakistan Army must thoroughly investigate the issue and make the investigation findings public. If it is not the institution of the ISI and the doing of only some individuals also, those individuals must be brought to justice.

Asma Jehangir accuses security apparatus for plotting her assassination

It has been decided "*at the highest level of the security apparatus*" to assassinate Asma Jehangir, as she told the news media in June. "*This is not a threat*," she said. "*This is a straightforward plan to kill me.*"¹⁵

Ms. Jehangir is very well-known for her open criticism of the intrusion of the military in politics. She is also very well-known for her outspoken stance on many other issues including human rights. Death threats may not be something new for her but perhaps this is the first time that she has announced the "*assassination plan*" has been made to eliminate her by the "*security apparatus*."¹⁶

This is of course a serious allegation against the military or intelligence agencies. However, what is unclear, if one takes Asma Jehangir's word on the death plot against her, is that why would military wish to eliminate Ms. Jehangir and why would it hatch up a plan to do so now? Neither has Ms. Jehangir taken any new, out of the ordinary position against the military nor is the military posture threatening against those who criticise it openly. If anything, at least apparently, the military has been on a retreat of sorts.

While every life is precious and the state must protect the lives of all citizens, given Ms. Jehangir's accusation the Government must investigate it fully while providing security to Ms. Jehangir.

Civil society's response to Ms. Jehangir's press announcement has been mixed. While some have resorted to

13. A press release on Supreme Court's website can be accessed at: <http://www.supremecourt.gov.pk/web/page.asp?id=1086>

14. "Hussain Haqqani might be taken into protective custody", Daily Times, July 6, 2012, http://www.dailytimes.com.pk/default.asp?page=2012%5C01%5C06%5Cstory_6-1-2012_pg7_22

15. "Assassination plot: Asma vows she won't leave in face of threat," Express Tribune, June 6, 2010, <http://tribune.com.pk/story/389403/assassination-plot-asma-vows-she-wont-leave-in-face-of-threat/>

16. *Ibid.*

protest rallies against death threats to Ms. Jehangir, others have asked pertinent questions as to why Ms. Jehangir, a lawyer herself, did not pursue the legal course. Whatever proof Ms. Jehangir has, she should take these to the Government and follow these up legally.

Senator Mushahid Hussain Sayed becomes Chairman Senate Defence Committee

After the Senate election, Standing Committees of the Senate have been reconstituted and Senator Mushahid Hussain Sayed (ICT, PML) has been elected as the Chair of the Senate Standing Committee on Defence and Defence Production.

A prominent politician and an acclaimed academic, Senator Mushahid Hussain's election to chair the Defence Committee means we should expect a professional, thorough and authoritative oversight of the defence sector from the committee. In his previous tenure as Senator, Senator Sayed chaired the Foreign Relations Committee which set new records of responsible activism. In a policy paper that he wrote for PILDAT in 2010, Mushahid Hussain Sayed laid down the roles of committees in strengthening parliamentary oversight of the defence.¹⁷ In a short span since the constitution of the Committee on June 4, 2012, the committee's first report is in the press and it has already approved a plan of action for 2012 which, among other things, has stressed the need to bridge what Senator Sayed called the "*khaki-mufti gap*."¹⁸ It is worth mentioning here that during 2008-2012, the Senate Standing Committee on Defence and Defence Production had failed to table even a single report.¹⁹

COAS urges institutions to remain within their Constitutional domains

Speaking at the Martyr's Day Ceremony at the GHQ on April 30, Army chief Gen Ashfaq Parvez Kayani urged "*all organs of the state to adhere to their roles defined by the Constitution*" and stressed "*equal justice for all*."²⁰ In addition, the COAS ventured to comment on foreign policy and the goals of the democratic order.

The Army chief's prepared remarks were significant given the controversy that had been generated by the Supreme Court verdict about the future of the then Prime Minister.

Some questioned whether the COAS be discussing the issues of democracy and constitutional domains but others thought that too much should not be read into these comments.

Some believe that Gen. Kayani's support to democracy should be welcomed but in reality, he is only doing his job. In Pakistan's peculiar civil-military relations, our hopes should not be pinned on individuals' conduct but on institutional policies that should deter individuals holding the COAS post from a misadventure into politics.

Parties call for Military Operation in Karachi

Very often as security and law and order situation in Karachi goes out of hand, we hear some political quarters making a call for a military operations. The Awami National Party (ANP) is the latest addition to make such a call.²¹ But is it the job of the military to maintain law and order in Karachi and inside Pakistan?

Karachi's continuous carnage is often described as a turf war between the leading political forces in Sindh: PPP, MQM and the ANP. With the PPP in government at the centre and in the province, and MQM as its junior partner in both places, is it not admission of failure on the part of political forces when they ask for military to cleanse Karachi of the cyclical waves of violence? Constitutionally, elected government can, at any point, seek military to come in aid of the civilian set-up. However, military operation is considered as the last option. In Pakistan's context, bringing military in has often resulted in the proverbial camel in the tent.

A more plausible way to deal with the law and order situation is strengthening civilian law-enforcement agencies. A comparison case is the recommendation by Sindh Assembly's Standing Committee on the Home Affairs, asking for cutting funds to Rangers, a paramilitary organization, and building capacity of the police.²² The police can be further enhanced to make an effective outfit for dealing with crime-related incidents in a city like Karachi.

17. See: Parliamentary Oversight of Security Sector in Pakistan, PILDAT, October 2010:

<http://www.pildat.org/Publications/publication/CMR/PILDATBPParliamentaryOversightoftheSecuritySectorinPakistanOctober2010.pdf> October 2010

18. Shakil Shaikh, "Senate body backs armed forces' efforts for defence of country," The News, June 14, 2012, <http://www.thenews.com.pk/Todays-News-13-15347-Senate-body-backs-armed-forces%20-efforts-for-defence-of-country>

19. Please see: Performance of the Senate Standing Committee on Defence & Defence Production, PILDAT, March 2012,

http://www.pildat.org/publications/publication/cmr/performanceofthesenatestandingcommitteeondefenceanddefenceproduction_report_march2012.pdf

20. 'Kayani wants continuity of democratic system,' Daily Times, May 01, 2012, http://dailytimes.com.pk/default.asp?page=2012\05\01\story_1-5-2012_pg1_1

21. Manzoor Qadir, 'ANP demands military to rescue Karachi,' Daily Times, April 02, 2012, http://dailytimes.com.pk/default.asp?page=2012\04\02\story_2-4-2012_pg7_30

22. Imran Ayub, 'House body proposes cut in Rangers budget,' Dawn, May 15, 2012, <http://dawn.com/2012/05/15/house-body-proposes-cut-in-rangers-budget/>