



# SPECIAL REPORT

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## ABOUT THE REPORT

This report reflects the views expressed during a conference entitled “Who Controls Pakistan’s Security Forces?” hosted by the U.S. Institute of Peace’s Security Sector Governance Center on April 19, 2011. Speakers at the event included the author, Professor Hassan Abbas of Columbia University, and Moeed Yusuf of the U.S. Institute of Peace. The report discusses the complex political landscape in which Pakistan’s civilian and military authorities operate, often vying for power and supremacy; identifies the challenges facing Pakistan’s civilian government in the face of the military’s expanding role; and suggests a realignment of roles, increased expertise for civilian officials in security matters, and better civilian-military coordination.

## ABOUT THE AUTHOR

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*Shuja Nawaz*

## Who Controls Pakistan’s Security Forces?

### Summary

- Internal militancy and insurgency are the immediate threats to Pakistan’s security.
- Pakistan’s polity is fractured and dysfunctional, allowing the military to assert greater control over Pakistan’s response to this growing internal threat.
- Civilian authorities have missed numerous opportunities to assert control over security matters. Miscalculation by the current civilian government in its attempt in 2008 to exert control over the Inter-Services Intelligence (ISI) directorate soured civil-military relations at a time when the new army chief favored keeping the army out of politics.
- The military’s interests are expanding to newer sectors, including economic policymaking, since a shrinking economy could hurt military interests and lifestyles.
- An opportunity to improve security sector governance exists in the proposed National Counter Terrorism Authority, which the government has unduly delayed.

The emerging danger to Pakistan today emanates not from its traditional external adversary to the East—India—but from homegrown insurgency and militancy. No less than the incoming head of Inter-Services Intelligence, Lieutenant General Ahmad Shuja Pasha, told *Der Spiegel* in a 2009 interview that “we are distancing ourselves from conflict with India, both now and in general,” adding concisely for emphasis, “We may be crazy in Pakistan, but not completely out of our minds. We know full well that terror is our enemy, not India.”<sup>1</sup>

The danger should shift the focus of internal security from the military to the ministries of interior and defense, the institutions that should be the backbone of security sector governance in Pakistan. This shift highlights the new, more complex environment that Pakistan’s security forces face: what a thoughtful senior military officer described to the author as “no war, no peace” with India, alongside a continuing war inside Pakistan. The author’s analysis of the situation inside Pakistan yields the strong view that its security sector is not as well equipped and coordinated as it could be to fight the wars within the country, and that the forces of militancy and terror have owned the agenda. This lack of coordination leaves the government scrambling to catch up with new threats, many of which it has created itself,

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both by its actions and inaction. More often than not, civilian authorities have outsourced internal security and policymaking on external security to the military, losing both control and legitimacy. The fault behind this does not lie with the security forces per se, but with the lack of political direction and will that is evident in Pakistan's governance today. Meanwhile, absent a serious attempt to normalize relations with India, Pakistan's security concerns remain largely focused on India, though India has not showed great interest in addressing Pakistan's fears of its hegemonic power, thus adding to Pakistan's paranoia.

Pakistan has a very dysfunctional body politic. An accumulation of decades of military or quasimilitary rule, along with the civilian sector's gradual ceding of ground to the military, have led to a very sharp division between civilians and the military, with the military capturing more bureaucratic turf than is the norm in democracies. This division has created a system that gives the military the upper hand in all matters dealing with national security policy. The civil and military hierarchies rarely work together, lacking the systems and the structures that would allow for frequent consultation and professional collaboration. Ad hoc actions rule the day. As a result, the civilian and military authorities operate on parallel tracks on many issues.

## Threats to Pakistan's Physical Security and Political Stability

Historically, Pakistan has had three major military autocracies and several civilian autocratic rulers. At the country's birth in 1947, adventurist elements in the military tried to make foreign policy, forcing the fledgling country into an unwanted war with India over Kashmir, for which Pakistan was unprepared. When that war fizzled into a less than satisfactory cease-fire, the military blamed civilians for lack of nerve to see the conflict through. In turn, the civilian system sputtered and bickered internally for years and failed to coalesce around democratic principles, relying on the military to give it heft and support. The civilian system opened the door for Pakistan's first martial law in 1958—the first of many military interventions—by bringing the serving army chief, General Muhammad Ayub Khan, into the cabinet as defense minister. The civilian authorities thus failed to establish a political base to sustain civilian governance. Most governments were enmeshed in short-term tactical politics rather than building a political superstructure to hold up civilian rule, which ended up becoming, more often than not, an interregnum between military regimes.

The latest such military venture was the 1999 illegal overthrow of the civilian prime minister, Mian Muhammad Nawaz Sharif, by his army commanders acting on behalf of General Pervez Musharraf, the army chief of staff whom Sharif had wanted to replace in October of that year. Under the 1973 constitution, amended by subsequent governments, the illegal overthrow was treasonous. The complicity of pliant judges enabled Musharraf—like the previous military ruler, General Muhammad Zia ul Haq—to invoke the Doctrine of Necessity to give his overthrow of Sharif legal cover and guarantee an extended stint as army chief and head of state. In 2009, Musharraf was forced to depart under threat of impeachment by the civilian government of Asif Ali Zardari, who had come to power through a deal with former prime minister Benazir Bhutto that involved parliament passing legislation clearing Zardari and most other accused politicians of all charges of past misconduct.

Since 2007, the new army chief appointed by Musharraf, General Ashfaq Parvez Kayani, has said he wants the military to stay out of politics. Former army chiefs have said the same thing until there was a popular clamor for order and military rule was reinstated. Kayani has been true to his word, for the time being, though he continues to influence political decisions from behind the scenes, using suasion and the subtle threat of military intervention to force politicians to stay within the lines of the political coloring book. Although the results have not been pretty, Kayani is playing on a new and complex field of Pakistan politics.

On a more positive note, the political system is slouching toward an equilibrium arising from the emergence of countervailing sources of power. In the 1990s, Pakistan was governed by the famed troika: the president, the army chief, and the prime minister, with the first two often ganging up on the third. Under Musharraf, a single person ran the army, the presidency, and government with a compliant cabinet and parliament. This situation was inherently unstable and demanded a balancing skill that Musharraf lost over time. Today there seems to be less a troika than an unstable stool, even though it has four legs: the elected government, represented by the Pakistan Peoples' Party (PPP) duo of the president and the prime minister; the ubiquitous and powerful army chief; the chief justice; and the noisy and attention-grabbing media. Pakistan has a burgeoning civil society, which played a major role in persuading the army chief to force the president to reinstate the dismissed chief justice of the Supreme Court, Iftikhar Muhammad Chaudhry, on March 16, 2009.

With Pakistan's changing political landscape, the rules of the game for security management inside the country must be examined today. Since 1947, the military has maintained its traditional role of defending the borders against external enemies. It also inherited the Military Intelligence (MI) directorate at army headquarters from the British Indian Army. MI focused primarily on external military threats and to some extent monitored the activities of the army officers and soldiers to prevent unrest, espionage, or sabotage. The ISI was started by then-brigadier Syed Shahid Hamid with the help of friends and relatives immediately after independence, but is often mislabeled in popular history as the brainchild of British major general William Cawthorn.<sup>2</sup> The ISI's primary aim has been counterintelligence and espionage, especially aimed at India, where it has been fairly successful. However, over time, military rulers and then Pakistan's first civilian martial law administrator, Zulfikar Ali Bhutto, gave it a domestic political mandate, displacing the civilian Intelligence Bureau (IB) that provided domestic intelligence to successive civil and military governments up to that time.

The ISI has not looked back, using U.S. assistance during the Afghan war against the Soviets to acquire independent wealth and enlarge its footprint inside Pakistan and neighboring countries. The civilian prime minister is its titular head, but since its officer corps comes from the military, primarily the army, it reports in most cases and effectively to the army chief. When the military and civil authorities are at loggerheads, the MI directorate takes on a domestic role as a counterweight to the ISI. This has led to permanent overlaps in their operations. Today, in addition to four provincial ISI chieftains at the rank of brigadier, there are MI units in the provincial capitals; in Balochistan, the units often step on the ISI's toes and add to the confusion of who is running operations where and why. As the commander-in-chief of the armed forces and president of Pakistan, Zardari has not stepped in to halt this rampant behavior that has supplanted, over time, the nineteen civilian agencies involved with internal security functions. Confusion reigns.<sup>3</sup> As Hassan Abbas states,

There are two sets of law enforcement organizations in Pakistan: those that operate under the federal government, and the provincial police organizations. Nineteen major organizations operate directly under the federal government dealing with a variety of law enforcement responsibilities (including intelligence gathering, border and coast surveillance, and policing) and answering to different authorities. The total strength of all law enforcement and intelligence services' officials at the disposal of the federal government (with cross-provincial jurisdiction) is approximately 210,000. Rarely do these organizations coordinate their plans and activities or strategize together. The chain of command of the organizations varies, which further complicates coordination and collective policy planning. As a result, decisions are often poorly implemented.<sup>4</sup>

The nineteen agencies report to the ministries of interior, defense, railways, communications (a separate entity), and narcotics control, among others (see chart in appendix). Even if they wanted to collaborate—and they do not—coordination would be a nightmarish exercise. There has been no movement to remove redundancies or to improve the setup, which

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grew unplanned over time, acting more as a job-creation machine than as a mechanism to meet the country's urgent security needs. As a result, there is no professional challenge to the military in internal security functions.

## A Case Study of Incompetence

Soon after the civilian government established itself in 2008, it took a sudden action on Saturday, July 26, to put the ISI and IB under the Ministry of Interior. As columnist Nasim Zehra described it:

The matter was not discussed in any Cabinet meeting, it was not put before the Parliament or any Parliamentary or Senate Committee and none of the coalition partners were consulted. Similarly, the justification to alter the reporting line was not discussed with the Ministry of Defence or the three services chiefs or the Chairman Joints Chief of Staff Committee who are directly involved in the operations and the output of the ISI.<sup>5</sup>

The decision came a couple days after a meeting on security issues and coordination of intelligence inside the government. Near the end of that meeting, the interior minister commented that better coordination was needed and asked the army chief, General Kayani, if he agreed. Kayani assented to the idea in principle. But no specific plans were discussed, nor was the subsequent action presented to or confirmed by the army chief.<sup>6</sup> Then, as the prime minister headed to London, a notification was issued late in the evening in his name, effecting the change of reporting responsibility for both the ISI and IB. It was unclear if the prime minister had been informed of the notification in advance. Members of his entourage learned of the decision from the minister of interior, who announced the change to a small group on the plane to London, including the national security adviser, Major General (retired) Mahmud Ali Durrani, who reacted with alarm to this idea and asked if General Kayani was aware of the change. It was suggested that Durrani call Kayani to gauge his reaction.

Kayani and other senior military officers meanwhile were gathering at an army officers' mess to celebrate the wedding of the daughter of one of their senior colleagues at army headquarters. Unbeknownst to the minister of interior, an impromptu meeting of the army high command ensued at this wedding. Kayani's first reaction was to wait for the prime minister to return, but his military colleagues advised him that the matter would become a *fait accompli* and harder to overturn. Subsequently, Kayani huddled with a few confidants and decided to oppose the decision. This was conveyed among others to Durrani.<sup>7</sup> Within hours, the civilian government issued a fresh notification putting the earlier orders in "abeyance."

The incident illustrated the civilian government's lack of understanding of the nature and role of security organizations, especially those under the military's jurisdiction. Only one of the ISI's six wings actually deals with domestic political issues. Most of the rest of its operations deal with military matters at home and abroad. In addition to the three-star-general head of the ISI, there are six two-star major generals responsible for each of the wings of the agency, more than even in a corps headquarters of the regular army. The overwhelming majority of the staff at senior levels is from the army. The idea that such an organization would report to a civilian entity with a narrow remit of law and order inside Pakistan was never examined or tested in debate or discussion, even if it had merit in the context of strengthening the civilian role in an emerging democracy. But for that to happen, the civilian establishment would need to prepare itself with knowledge and experience to handle high-level decision making related to the military and especially to intelligence—as in India and the United States, among others, and as intended in Pakistan's 1973 constitution.

## The National Counter Terrorism Authority: Another Opportunity Missed

As the battle against domestic terrorism grew in size and intensity, it became obvious that the government needed to create a structure to handle the competing demands for resources and to come up with a practicable strategy for fighting the mounting threat. To that end, the idea of the National Counter Terrorism Authority (NACTA) was born in 2008. Tariq Parvez, a seasoned police officer, was brought in to help launch this entity, which was to be the focal point for decisions at the national level (see appendix for draft NACTA bill). Comprising senior members of the government, provincial leaders, and the military, NACTA was to effectively fill the gap in the national system of security governance left by the abolition of the National Security Council.

But the plan foundered on a bureaucratic shoal. Disagreements between the interior minister and Parvez, about whom NACTA would report to and where it would be located, created a stalemate. Parvez favored NACTA under the prime minister. The interior minister favored its location under his own ministry. Parvez resigned. The draft law for NACTA was amended to make the prime minister NACTA's titular chair with the interior minister as deputy chair but designated to chair the meetings in the prime minister's absence. This provision was a nonstarter for the provincial chief minister and military leadership. As a result, the draft lies dormant.<sup>8</sup> An opportunity for civilian governance of this important security sector mechanism was missed, leaving provincial governments to come up with their own approaches, or in some cases, to do nothing at all.

## Constitutional Relationship

Article 245 of the 1973 constitution deals with the relationship between the civilian authority and the armed forces (see appendix for text of Article 245 and related articles). It says the government has the right to call in the military in times of crisis. It also cross-references Article 199, which states that nothing the military does can be challenged in the high courts.<sup>9</sup> This amounts to blanket immunity for the entire military. Periodically there is debate within Pakistan on this issue. In the 1990s, Prime Minister Benazir Bhutto requested the army chief to mount an offensive in Sindh, and he said he would not do it without express allowance under Article 245. This refusal delayed the action.

In October 2008, during the early days of the current government, there was an attempt to get a joint resolution in parliament to fight terrorism within Pakistan. After much arm twisting and cajoling, members of parliament across the political spectrum consented to create the resolution, even if they disagreed politically with the government. The joint resolution they produced essentially ceded all powers to the army chief, even though martial law had not been declared in the Northwest Province or the Federally Administered Tribal Areas (FATA). More recently, in June 2011, the president signed a new law that provided judicial and executive authority as well as immunity to the military for operating in FATA. The military also reserves the right to detain persons until it finds civil authority capable of taking detainees over. In effect, a quasimartial law exists.

Thus the civilian government has ceded control to the military. It retains some semblance of involvement with administration in the insurgency-prone areas: Recently the Apex Group brought together civilians and military personnel at the highest levels in the province of KP. However, the military has more or less determined and approved the group's agenda. The military has a wider national stance than during earlier civilian regimes. Beyond the traditional areas of India and Kashmir, the military has exerted control over national policy concerning Afghanistan, nuclear weapons, and U.S. relations.

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As civilian governance deteriorates in Pakistan, the military is being drawn into new areas of influence. Increasingly, the military has become interested in economic policy as the civilian government has failed to undertake the necessary economic reforms to ensure sustainable growth. With the current government's failure to muster support for reforms—even within the governing party, let alone the political opposition—Pakistan could be on the path to economic failure if things do not change in the near future. The enormous spending on defense is a major burden on the exchequer, in addition to debt servicing, but the military budget is not subject to the detailed scrutiny or cutbacks that could give the government some breathing room.

In addition to the civilian leadership's failure to execute economic reforms, the army's worries about the economy include the following:

- *The army suffering if the economic pie shrinks.* The army cannot rely entirely on foreign assistance, and given the budget debates in the United States, free-flowing aid will not continue forever, especially once U.S. military operations cease in Afghanistan. The U.S. Congress will have little desire to continue to finance Pakistan military operations under the coalition support funds.
- *The military having to look after its own retirees.* Its salary and pension costs are mounting, and to finance some of these activities off-budget, it has become involved in real estate, banking, and import substitution in defense production on a fairly large scale. Pakistan is worried it will lose its ability to produce defense materials, so protective tariffs are levied on foreign suppliers.
- *Pakistan perceiving its history through a prism of bad experiences with foreign aid.* The famous case of France pulling the plug on the transfer of nuclear technology is the kind of narrative that haunts Pakistan's military. Another example is the F-16s that the United States first sold to Pakistan, withheld under sanctions laws, then would not sell to Pakistan. "The Pakistanis have never forgotten that betrayal," wrote Bruce Riedel in *Newsweek Pakistan*.<sup>10</sup> The recent U.S. withholding of \$800 million of military assistance has added to the negative Pakistani narrative of this relationship.

Adopting an import substitution policy to retain autarky in military equipment has its price. Pakistan is producing washers for the army's standard G3 rifle at five times the cost of readily available imports from Malaysia, according to a former head of the Pakistan Ordnance Factories. There are no effective controls or public scrutiny over military budgets or financial operations. The military controls the security-related agencies of the civilian government through surrogates. The Ministry of Defence, the titular superior institution in the defense establishment, is controlled by retired military officers. The defense secretary is a retired general, as are most of the other senior officials. The once-powerful finance adviser at the ministry, who decided military budgets and financial operations, has been reduced to a rubber stamp.

## What Does the Future Hold?

In the next three to five years, the military's influence over Pakistan's polity will likely increase. The economy will not improve quickly. Politics are in a stalemate. The election in 2013 is not likely to produce a powerful civilian government with a strong mandate, so the military will remain the strongest institution. One countervailing factor to the military's growing pervasiveness, however, is the personal predilection of General Kayani—if, and only if, he maintains his current behind-the-curtain stance. Kayani and his team want to focus on military operations, but if civilians do not take charge, the military will take a larger role in civil affairs. Perhaps in the long term, civilians could take back some of their proper roles

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and functions. Civil-military relations are more nuanced than many believe. It behooves leaders of both establishments to recognize those nuances and the importance of creating a knowledge base among civilians to better understand and manage the military under the rubric of the constitution.

What are current trends? There is much more debate on the role and size of the military within Pakistan than there has been in the past. Opposition politicians appear to have decided that they are not going to ask the army chief for political help, which is a positive development. Sharif has of late been the army's major critic and, for that reason, some question whether he would be allowed to return to power. But in a divided coalition, that position may change, and if it does, the old politics of the 1990s may reemerge. Another major change is the military's realization that it has an interest in a strong economy; it is also aware of the negative effects of excessive military spending. A newly vibrant judiciary and judicial activism are serving as brakes on the unfettered power of the government and the military. Suo moto actions by the judiciary are becoming frequent and civil society has become more vocal against governmental highhandedness.

On the other hand, there are reasons for pause. Since 2008, the actions of the military have not indicated that it is trying to restrain its sphere of influence. Adding to this are the government's actions that betray the abdication of security sector control to the military. Rising violence inside Pakistan may portend a greater military role, even if political decisions more than military actions may be needed to restore calm to the country's fractured polity.

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## **Conclusion**

In Pakistan's current political stalemate, one cannot be too optimistic about democratic outcomes. The military is not going away, nor can it because of its crucial role in protecting the borders of Pakistan and braking civilian excess. The civilian government, however, needs to take back the space the military now controls in determining policy toward extremism and militancy, and policing the FATA and troubled areas of Balochistan and KP. Such actions mean that civilian authorities need to gather more expertise in defense matters, refrain from asking the military to intervene, and strengthen civilian institutions to perform democratic duties. If these basic initiatives are taken, the public will likely become more vested in maintaining a democracy.

Lastly, there needs to be more public and parliamentary discussion on the National Security Council and other mechanisms for bringing civilians and military officials together. Lessons from other countries, such as Turkey, indicate that the military usually steps back when regional conflict subsides and the absence of external threat reduces its importance. In Turkey, there is a constitutional mechanism for the military to have its say. A similar mechanism needs to be formalized in Pakistan. Anything that the United States and other friends of Pakistan can do on that front would be beneficial.

An increase in civilian authority over the military would also result from the following institutional reforms:

- Civilian authorities expanding their knowledge and experience in the security sector.
- The military better coordinating its antimilitancy and antiinsurgency activities with the civil administration.
- The military studiously reducing its footprint in the government and the economy.
- Government enacting and implementing the NACTA under the prime minister's direct control and bringing the military units dealing with terrorism under its umbrella.
- Improving transparency in governance to garner public support for better management of the security sector.

The path to democracy and greater civilian control of the security sector in Pakistan is not going to be easy, but it is worth the effort—for the civilian government to better inform itself about security issues and lead in decision making, and for the military to give civilians space, even to make mistakes. Friends of Pakistan and neighbors in this highly volatile region may be able to help by reducing tensions and assisting in Pakistan's economic stability and expansion. In this regard, normalization of Pakistan's relations with India would be a key foundation for stability in the region.

# Appendix

## *Excerpts from Pakistan's 1973 Constitution:*<sup>11, 12, 13</sup>

### **243. Command of Armed Forces.**

- (1) The Federal Government shall have control and command of the Armed Forces.
- (2) Without prejudice to the generality of the foregoing provision, the Supreme Command of the Armed Forces shall vest in the President.
- (3) The President shall subject to law, have power—
  - (a) to raise and maintain the Military, Naval, and Air Forces of Pakistan; and the Reserves of such Forces; and
  - (b) to grant Commissions in such Forces.

[258G] The President shall, on advice of the Prime Minister, appoint—

- (a) the Chairman, Joint Chiefs of Staff Committee
- (b) the Chief of the Army Staff;
- (c) the Chief of the Naval Staff; and
- (d) the Chief of the Air Staff,

and shall also determine their salaries and allowances.

### **244. Oath of Armed Forces.**

Every member of the Armed Forces shall make oath in the form set out in the Third Schedule.

### **245. Functions of Armed Forces.**

[259] (1) The Armed Forces shall, under the direction of the Federal Government, defend Pakistan against external aggression or threat of war, and, subject to law, act in aid of civil power when called upon to do so.

[259A] (2) The validity of any direction issued by the Federal Government under clause (1) shall not be called in question in any court.

(3) A High Court shall not exercise any jurisdiction under Article 199 in relation to any area in which the Armed Forces of Pakistan are, for the time being, acting in aid of civil power in pursuance of Article 245:

Provided that this clause shall not be deemed to affect the jurisdiction of the High Court in respect of any proceeding pending immediately before the day on which the Armed Forces start acting in aid of civil power.

(4) Any proceeding in relation to an area referred to in clause (3) instituted on or after the day the Armed Forces start acting in aid of civil power and pending in any High Court shall remain suspended for the period during which the Armed Forces are so acting.

## *18th Amendment Pertaining to the Military:*<sup>14</sup>

### **90. Substitution of Article 243 in the Constitution.-**

In the Constitution, for Article 243, the following shall be substituted, namely:—

### **“243. Command of Armed Forces.**

- (1) The Federal Government shall have control and command of the Armed Forces.
- (2) Without prejudice to the generality of the foregoing provision, the Supreme Command of the Armed Forces shall vest in the President.
- (3) The President shall subject to law, have power-
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and shall also determine their salaries and allowances.”

### ***Military Oath of Office: Members Of The Armed Forces***

#### **Article 244**

(In the name of Allah, the most Beneficent, the most Merciful.)

I, \_\_\_\_\_, do solemnly swear that I will bear true faith and allegiance to Pakistan and uphold the Constitution of the Islamic Republic of Pakistan which embodies the will of the people, that I will not engage myself in any political activities whatsoever and that I will honestly and faithfully serve Pakistan in the Pakistan Army (or Navy or Air Force) as required by and under the law.

May Allah Almighty help and guide me (A'meen).

### ***Oath for Chief Justice or a Judge of the Federal Shariat Court substituted by the Constitution (Eighteenth Amendment) Act, 2010:***<sup>15</sup>

#### **Article 203 C (7)**

(In the name of Allah, the most Beneficent, the most Merciful.)

I, \_\_\_\_\_, do solemnly swear that, as the Chief Justice (or a Judge of the Federal Shariat Court, I will discharge my duties, and perform my functions, honestly, to the best of my ability and faithfully in accordance with law;

And that I will not allow my personal interest to influence my official conduct or my official decisions.

May Allah Almighty help and guide me (A'meen).

### ***Excerpts from The Draft: National Counter Terrorism Authority Pakistan Ordinance 2010:***<sup>16</sup>

#### **An Ordinance**

**WHEREAS**, the menace of terrorism and extremism is becoming an existential threat to the state and needs to be responded to and addressed comprehensively;

**AND WHEREAS**, in order to eliminate this menace, a focal institution to unify state response by planning, combining, coordinating, and implementing the Federal Government's Policy through an exhaustive strategic planning and necessary ancillary mechanism is needed;

**AND WHEREAS**, the President is satisfied that circumstances exist which render it necessary to take immediate action to set up such an institution in the country;

**NOW, THEREFORE**, in pursuance of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance, namely:

#### **3. Establishment of the Authority.**

(1) As soon as may be, but not later than 30 days after the promulgation of this Ordinance, the Federal Government shall, by notification in the official gazette, establish an Authority to be known as the National Counter Terrorism Authority Pakistan for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with powers, subject to the provision of this Ordinance, to acquire and hold property, movable and immovable, and to sue and be sued by its name.

(3) The headquarters of the Authority shall be at Islamabad, and it may set up offices at such place or places in Pakistan, with the approval of the Federal Government.

#### **4. Functions of the Authority.**

The Authority shall have the following functions, namely:

- (a) to receive and collate information/intelligence and coordinate between all relevant stakeholders to formulate threat assessment with periodical reviews to be presented to the Federal Government for making adequate and timely efforts to counter terrorism and extremism;
- (b) to coordinate and prepare comprehensive National Counter Terrorism and National Counter Extremism Strategies, and review them on a periodical basis;
- (c) to develop Action Plans against terrorism and extremism and report to the Federal Government about implementation of these plans, on a periodical basis;
- (d) to carry out research on topics relevant to terrorism and extremism, and to prepare and circulate documents;
- (e) to carry out liaison with international entities for facilitating cooperation in areas relating to terrorism and extremism; and
- (f) the Authority shall have administrative and financial powers as approved by the Federal Government.

#### **5. Board of Governors.**

(1) The Authority shall have a Board of Governors comprising the following, namely:

- (a) Prime Minister—Chairman
- (b) Minister for Interior—Deputy Chairman
- (c) Chief Ministers of 4 Provinces and Gilgit/Baltistan—Members
- (d) Prime Minister of AJK—Member
- (e) Minister for Finance—Member
- (f) Minister for Foreign Affairs—Member
- (g) Minister for Education—Member
- (h) Minister for Information—Member
- (i) Minister for Defence—Member
- (j) One Senator (recommended by Chairman Senate)—Member
- (k) One MNA (recommended by Speaker National Assembly)—Member
- (l) Secretary, Ministry of Interior—Member
- (m) DG ISI—Member
- (n) DG IB—Member
- (o) DIG Special Branch (4 Provinces, AJK and Gilgit/Baltistan)—Members
- (p) DG FIA—Member
- (q) National Coordinator—Member
- (r) Any person can be invited by special invitation.

(2) The National Coordinator shall act as the Secretary to the Board.

#### **6. Procedures of the meeting of the Board.**

(1) The members of the Board shall participate in the meeting, and 50 percent of the members would form a quorum to hold a meeting.

(2) The Board may meet as and when required, but it shall meet at least twice a year.

(3) In the absence of the Chairman of the Board, the Deputy Chairman shall preside over the meeting.

(4) No act or proceedings of the Commission shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

#### **7. Powers and functions of the Board.**

(1) The Board's powers and functions shall include, but would not be limited to, the following, namely:

- (a) The Board shall exercise all the power and functions of the Authority;
- (b) To provide strategic vision and oversee activities of the Authority;
- (c) To make rules and regulations and approve policies and manuals in order to carry out the purposes of this Ordinance;
- (d) To approve the annual budget of the Authority.

(2) The Board may, through a majority decision of its Members and subject to such conditions as it deems necessary, delegate any of its functions and powers to the Chairman and National Coordinator. All actions taken in the exercise of all such delegated functions and powers shall be submitted to the Board for information in the subsequent Board meeting.

#### **8. National Coordinator.**

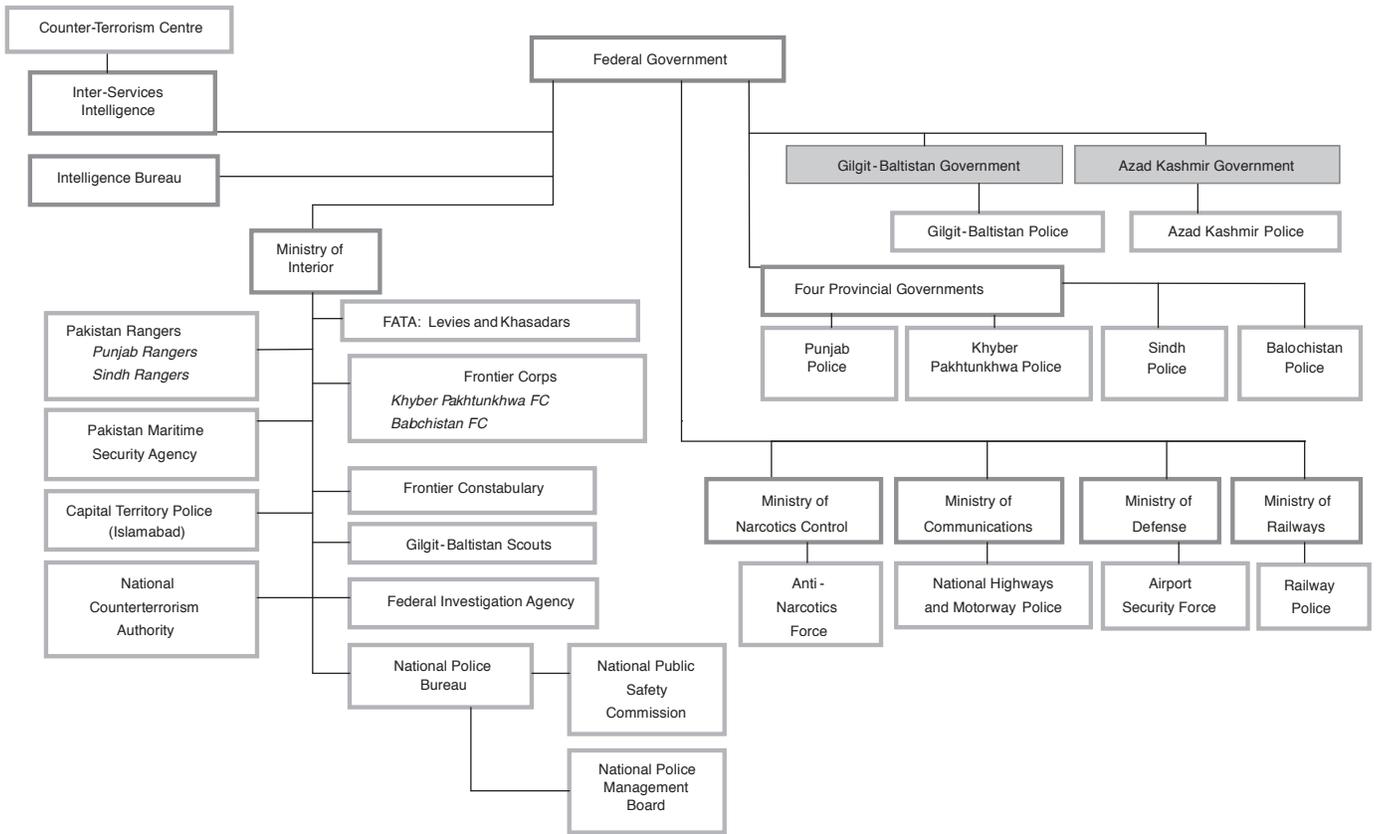
(1) There shall be a National Coordinator of the Authority to be appointed by the Federal Government, on the recommendation of the Ministry of Interior.

(2) The National Coordinator shall have the following powers, as delegated by the Board, and instructions issued by the Federal Government from time to time:

- (a) To execute the policies and plans approved by the Board and instructions issued by the Federal Government;
- (b) To determine terms and conditions of the employees and to grant additional allowances or any other incentives to them by making rules and regulations to that effect in accordance with the Federal Government policies;
- (c) To take appropriate measures for effective administration of the Authority;
- (d) To engage any person or entity on a contract basis with the approval of Ministry of Interior to carry out assignments, or for the consultancy in accordance with the acclaimed best practices;
- (e) To establish administrative structures at the field level for the efficient implementation and accessibility of the Authority.

Source: Shuja Nawaz, *Learning by Doing: The Pakistan Army's Experience with Counterinsurgency* (Washington, DC: Atlantic Council, 2011).

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## Notes

1. Lieutenant General Ahmad Shuja Pasha, interviewed by Susanne Koelbl, "Terror is Our Enemy, Not India," *Der Spiegel*, January 6, 2009.
2. Author's numerous conversations with Major General (Ret.) Syed Shahid Hamid.
3. See the excellent survey of this civilian security agency landscape in Hassan Abbas, "Reforming Pakistan's Police and Law Enforcement," United States Institute of Peace Special Report no. 266, Washington, DC, 2011, <http://www.usip.org/files/resources/sr266.pdf>.
4. Abbas, "Reforming Pakistan's Police."
5. Nasim Zehra, "ISI Flip Flop: Anatomy of Defective Decision Making," *The Khaleej Times*, August 2, 2008.
6. Kayani's recollection, as shared with a retired senior army officer.
7. Conversations with Major General (Ret.) Mahmud Ali Durrani and other senior military officers.
8. Shuja Nawaz, *Learning by Doing: The Pakistan Army's Experience with Counterinsurgency* (Washington, DC: Atlantic Council, 2011), 20, 29–31.
9. "An order shall not be made under clause (1) on application made by or in relation to a person who is a member of the Armed Forces of Pakistan, or who is for the time being subject to any law relating to any of those Forces, in respect of his terms and conditions of service, in respect of any matter arising out of his service, or in respect of any action taken in relation to him as a member of the Armed Forces of Pakistan or as a person subject to such law."
10. Bruce Riedel, "Pakistan Plays Hardball," *Newsweek Pakistan*, April 18, 2011.
11. Zartash Uzmi and Shehzaad Nakhoda, "The Constitution of the Islamic Republic of Pakistan," <http://www.pakistani.org/pakistan/constitution/>.
12. "5" substituted for "3" by the Constitution (Eighteenth Amendment) Act, 2010 (Article 100(i)), effective April 19, 2010, <http://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>.
13. "130(5)" substituted for "131(4)" the Constitution (Eighteenth Amendment) Act, 2010 (Article 100(ii)), effective April 19, 2010.
14. Substituted by the Constitution (Eighteenth Amendment) Act, 2010 (Article 100(iii)), effective April 19, 2010, for the words "I will discharge."
15. Oath for Chief Justice or a Judge of the Federal Shariat Court substituted by the Constitution (Eighteenth Amendment) Act, 2010 (Article 100(iv)), effective April 19, 2010.
16. Selected excerpts from the draft National Counter Terrorism Authority Pakistan Ordinance 2010.
17. Hassan Abbas, "Reforming Pakistan's Police and Law Enforcement," United States Institute of Peace Special Report no. 266, Washington, DC, 2011, 5.

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