

The National Security Policy Paradox in Pakistan: Strategic Constraints, Ramifications and Policy Recommendations

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Abstract

The people of Pakistan have always faced with the paradoxical national security policy. It has also remained a mind boggling for the security policy makers in Pakistan. They have failed to engineer a unanimously accepted national security policy so as to establish a balance between the security of Pakistan and security of its citizens. While framing security policy the strategists in different eras have underestimated the balance between the external and internal security threats to Pakistan and its citizens. Extremism in shaping security policy in either form is dangerous for the solidarity and survival of the nation. The recent establishment of military courts under 21st Constitutional amendment and accentuation on external security has severe futuristic repercussions. Instead of relying on one extreme form or the other form of security, the government with the consensus of all political and constitutional institutions needs to design a balanced national security doctrine to ensure both the security of the country and its citizens as well.

Keywords: National Security Policy, Strategy, Policy making, Pakistan.

Theoretical Framework

From both traditional (realist) and non-traditional (Barry Buzan's theory of securitisation) security perspectives, Pakistan and its citizens are confronted with threats emanating from both internal and external actors. The functional actors are foreign intervention in the domestic affairs of the country and influencing the foreign policy of the country. In addition, the non-state actors inside and outside the state are also acting as functional actors. Political and

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military institutions, being securitising agents, are accountable to counter such functional actors (Figure1).¹ Both the external and internal threats to the security of the country have turned Pakistan into a security state.²

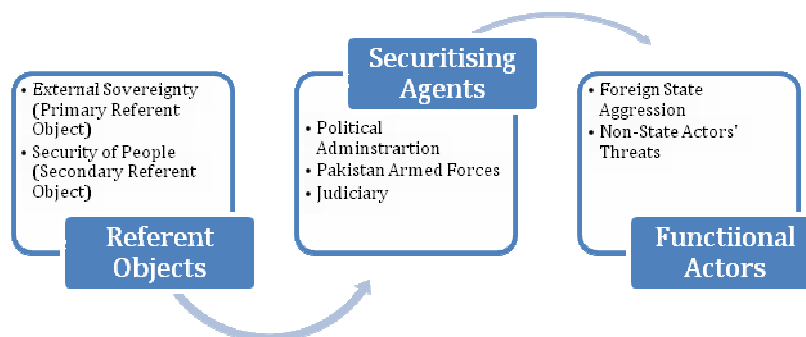
Since its inception, Pakistan has been confronted with external threats on its western border and eastern border. On its east, India posed unprecedented threats. Pakistan and India has 2912Km long Radcliff line. India has utilized all its potentials to destabilize Pakistan.³ Pakistan shares a disputed porous 2430Km Durand line with Afghanistan on its West. Afghanistan is not ready to accept this demarcation of territory. However, this British legacy has its roots in 1893. Pakistan and China has also a 523Km shared border. Similarly, Pak-Iran border is 909km long.⁴

Map 1: Borders Disputes in South Asia



Source: *The Economist*

Figure1: Securitisation of State against External & Internal threats



Geo-Strategic Constraints of the National Security Policy of Pakistan

Due to the peculiar geo-strategic, global strategic cultural components – cold war, unipolar world, Sino-US new cold war eruption, New Great Game, GWOt, South Asian regional strategic cultural components – SAARC unsatisfactory role, India's hegemonic ambitions, major powers politics in the region, and national strategic cultural components like history, political-constitutional, economic, socio-cultural, leadership crisis, and military, the traditional security has always overshadowed the non-traditional security in the Pakistan.

Since the inception of Pakistan, a comprehensive consensus-based national security policy has never been seriously considered. The security policy fused with foreign policy has always remained under the thumb of global and South Asian regional geo-strategic politics among major powers. Power politics is dynamic in nature. Power politics at global level constituted global strategic culture, South Asian strategic culture and ultimately constituted national strategic culture in Pakistan. Under the competitive global and South Asian regional strategic environment, security priorities of Pakistan have always been found dynamic and undergone through various national security priorities. There is brief evaluation of strategic constraints at each level.

Global Strategic Constraints

Pakistan and its citizens are always faced with global strategic constraints due to geo-strategic location and global real politics. At present the country has confronted with the following strategic constraints.

Cold War and Pakistan's Security Priorities

Pakistan has caught in strategic competition between two opposing ideologies – capitalism and communism. Taking into account meager financial resources, weak defense capability and external threats from the neighboring states on East and West of Pakistan, the then leaders tended to support former ideology and entered into various defense pacts – South East Asia Treaty Organization (SEATO) and Central Treaty Organization (CENTO) – with America and its allies. During that period the external security remained a dominant discourse in Pakistan's foreign policy. This along with incapability and short-sightedness of the political

leadership, the internal threats to its security remained unnoticed which were germinating and multiplying with the passage of time. They could not design a doable national security doctrine for the country.⁵

During Cold War, with the invasion of the former Soviet Union's invasion of Afghanistan turned the geo-strategic scene at the global and south Asian regional levels. The international strategic culture also affected Pakistan. Pakistan had to design its national security policy in such global and regional strategic environment. The then military dictator, General Zia-Ul-Haq sided with America against former Soviet Union. America and Kingdom of Saudi Arabia used Pakistan as a proxy and frontline state against former Soviet Union. They supported Gen. Zia's regime financially and militarily against former Soviet Union.⁶ Dennis Kux regarding the America and Pakistan partnership against Soviet says:

“Ronald Reagan administration proposed a five-year \$3.5 billion assistance package. Zia did not turn it ‘peanuts’. Washington and Islamabad established close partnership to oppose the Soviet presence in Afghanistan. Unlike the 1950s, there was no formal alliance. Pakistan took the lead in mobilising diplomatic pressure, especially among Muslim countries, against the Soviets.”⁷

Pakistan spy agency – Inter-Services Intelligence (ISI) and American spy agency – Central Intelligence Agency (CIA) trained the students of religious seminaries (Madaris), indoctrinated Muslim youth from across the globe with the spirit of holy war (jihad), and provided arms and money to them against infidels (communists).⁸ Hillary Clinton in her interview to Fox News stated:

“America is responsible for assisting in the creation of these fighters against Soviet Union. America also equipped them with sophisticated weapons to chase and target Soviet troops in Afghanistan. The US administration withdrew itself from Afghanistan leaving Pakistan and Afghanistan with these trained militant group at the end of cold war.”⁹

Post -Cold War till 9/11 episode & Pakistan's security priorities

The United States withdrew from Afghanistan after the collapse of former Soviet Union. Washington left its bad-weather friend – Pakistan – during cold war and buried the Pakistan's loyalties and cooperation.¹⁰ William Blum quoted an American diplomat in Pakistan in 1996 and said:

“America did not pay heed to the repercussions for pouring billions of dollars to its trained non-state actors and moulding global public opinion for jihad against Soviet Union.”¹¹

Benazir Bhutto, the former prime minister of Pakistan conveyed her government reservations about the cold war inherited "Kalashnikov culture" to America in 1996. William Blum quotes Benazir as:

“The people of Pakistan have left single-handedly with the remnants of Soviet-Afghan war encompassing trained militants, drug mafias, smuggling of weapons, and religious zealots who patronised war against commies.”¹²

With the withdrawal of American troops and lack of any post-Soviet Union defeat strategy, Afghanistan was turned as a battle ground and civil war broke out among various factions of the society.

Post 9/11 Incident & Pakistan's security priorities: Phase Three

The 9/11 incident and subsequent Global War on Terror (GWOt) have drastically changed the security priorities of Pakistan. The citizens of Pakistan and particular of Federally Administered Tribal Areas and Khyber Pakhtunkhwa province faced with problems like insurgencies, US drone attacks, military operations, bloodshed, suicide bombing, etc. The insurgencies and counter-insurgencies military operations in tribal and Khyber Pakhtunkhwa have severely intensified the health security threats.

The Abdul Qadeer Khan's episode led the West and India to let no stone unturned to target Pakistan's nuclear programme. Pakistan has made both legislative and institutional arrangement to ensure the security of the nuclear weapons in all respects. It has laid the foundation of 'Strategic Plan Division' and formulated National Command Authority Ordinance, 2007 and later National Command Authority Act, 2010.¹³

UNO Pessimistic Role

United Nations Organisations (UNO) has been established for conflict resolution among the nation-states. The inherited structural and functional weaknesses of UNO hinder its role to resolve all the outstanding global and regional issues. The half-century old burning issues of Kashmir and Palestine are the glaring examples in this connection. In addition the dominant role of P-5 (USA, UK,

Russia, China, and France) has also made UNO a toothless global institution.

New Great Game

The New Great Game (NGG) is centred on to establish control over the trade routes along with the natural resources in Central Asia. This struggle for capturing and exercising monopoly over these resources has brought the cold war rivals again at daggers drawn against each other. Pakistan has caught once again in the quagmire of this game of major world politics players. It has direct impact on Pakistan.¹⁴

Regional Strategic Constraints

Pakistan since its birth has inherited some regional strategic constraints. These have always designed its security priorities because of its enfeeble economic and defence base. Some of the regional strategic constraints are enumerated as below.

Indian factor, Kashmir Issue and Militancy

Kashmir is a disputed issue between Pakistan and India resulted due to notorious Redcliff Award. Pakistan has supported the indigenous freedom movement in Indian occupied Kashmir started in 1989 against Indian atrocities.¹⁵ Various freedom fighting groups like Harkat-Ul-Mujahideen, Jaish-i-Muhammad and Lashkar-i-Tayba started guerrilla warfare against the Indian troops.¹⁶

After the September 11, 2001 India found an opportunity to start propaganda against the indigenous movement for self-determination in Kashmir and equate it with terrorism. It succeeded to declare the various freedom fighting groups in Kashmir as terrorist groups particularly Jaish-e-Mohammad and Lashkar-i-Taiba.¹⁷

Cold Start Doctrine: Indian Offensive Defense Policy

Cold Start Doctrine is the brain child of the Indian Army Chief Padmanabhan. The ultimate designs behind this doctrine were the use of offensive or pre-emptive strikes¹⁸ against Pakistan under the shadow of nuclear weapons. He introduced it on April 28, 2004.¹⁹ The special forces of all three armed services will launch an integrated strike against the adversary without employing nuclear weapons.²⁰ Indian offensive war doctrine was seriously taken into account among the policy makers and military leadership in Pakistan.²¹

The Instability in Afghanistan

The unstable Afghanistan has serious ramifications for Pakistan's security and regional security as well. As earlier stated that America used Afghanistan as a proxy state against Soviet Union and after collapse of the latter, it was left in rubbles without taking any practical steps for its reconstruction. It has become a land for proxy war against regional powers. India is trying to use Afghanistan as a proxy state against Pakistan through its spy agency, Research and Analysis Wing (RAW). Being an immediate neighbour of Afghanistan, Pakistan cannot remain as silent spectator to witness the damages of its national interests. It has been pushed to involve in proxy war against India in Afghanistan through its spy agency, Inter- Services Intelligence (ISI).²²

National Strategic Constraints

In addition to global and regional strategic constraints, Pakistan has some domestic historical, socio-cultural, political and constitutional constraints too.

Zia's Legacy of jihadist policy

Defensive jihad was waged to resist all those forces attacking Islam, its believers and its fundamental principles.²³ The inherited and deeply rooted General Zia-Ul-Haq's policy of jihad against communist Soviet Union institutionalised the role of religious seminaries in the political system of country. This promoted sectarian terrorism, religious extremism, and Kalashnikov (militant or violent) culture in the society. His domestic policy of Islamisation has further aggravated the situation and divided the society.²⁴ Khaled Ahmed states:

*"Islamic extremism in Pakistan was at its pinnacle during 1980s. General Zia consolidated his power and prolonged it through triangular force – the military, the religious elites and the industrial class. His policy of Islamisation has engraved the role to religious elites in the political system of the country."*²⁵

Now they have been termed as terrorists and names of many of them have been placed on international terrorist list. Zia's regime is famous for human rights violation in the political history of Pakistan. Dr. Iqbal S. Hussain termed Zia's era as 'era of falsehood, deceit and treachery'.²⁶

Both the political and military leadership in Pakistan could not foresee the repercussions of using students of religious seminaries on Pakistani society. They could not design any post-

cold war strategy to tackle with these brainwashed trained militant groups. These fighting groups were left without knowing their future objective except to establish an Islamic regime in Afghanistan and across the globe. These fighting groups reorganised themselves, opened training camps and also established a global network. The people who trained against former USSR were proved strategic threats to Pakistan and its people.²⁷

Musharaf's slogan of Global War on terror

President Musharaf took U-turn on the islamisation and jihadist policy of Zia. He introduced a new concept of enlightened moderation. He started to target once the Afghan war freedom fighters and militant groups under the pressure of USA.²⁸ It was to sagacious for General Musharaf to go through the interview of former Libyan president Moammer Qaddafi, before taking step to throw the people of Pakistan in unending civil war erupted between the local populace and their army. In a 1999 interview to a London-based Arabic newspaper, Libyan leader Moammar Qaddafi stated:

*"His government had crushed an Islamic militant movement of 'Afghans'. They returned desperate and destructive and adopted killing and explosives as their profession, according to the training they received from the American intelligence."*²⁹

Holding several referenda, emergencies, weakening federation, targeting political politicians through fascist policy, weakening of political institutions, attacks of the independence of judiciary, fuelling militancy and insurgencies in various parts of the country are the legacies of the ex-Gen Musharaf's regime. He could not design a comprehensive national security policy. He banned several militant groups. However, these militant groups were emerged with new nomenclatures.

Militant wings of The Political parties

The militant wings of the political parties – secular and religious – are one of the major national security issues. The registration and monitoring of the religious seminaries is an alarming issue. Twenty thousand such seminaries are recorded in the country to impart education to students enrolled in them. The Dar ul Uloom Haqqania of Akora Khattak, Ganj Madressah of Peshawar, and the Jamia Binoria of Karachi are known for nursing jihadists for Afghan-Soviet war. Later on, these are said to be turned up as the

major sources of militancy.³⁰ The incumbent premier of Pakistan, Mr. Nawaz Sharif stated:

*“Militant wing of the various political parties is one of the major causes of crimes in the country. Seventy percent of crimes in the society can be controlled provided stringent actions are taken against these militant wings.”*³¹

Insincere Political Leadership

After the demise of Muhammad Ali Jinnah and assassination of Liaquat Ali Khan, sincere political leadership vacuum was created. The political leadership is found in self-aggrandizement, corruption, character assassination, and mud-slinging. Their role in the formulation of a feasible national security doctrine is found unsatisfactory.³²

Pseudo Democracy in Pakistan

Democracy could not take roots in the weak political system of Pakistan since its independence. The political leaders could not spare their time to formulate a concrete national security policy for the country. Their non-serious attitude provided opportunities to military leadership to impose martial law in the country several times.³³ It may also be termed as ‘Capital Democracy’ because the owners of the capital or money are the ruling elites. The parliament of the country is flooded with the feudal and industrial classes of the society. Change of political loyalties or defection is a common practice in Pakistan.³⁴ Such type of democracy may rightly be termed as a ‘Corrupt Democracy’ flourished on corrupt practices and promotes malpractices instead of ensuring and promoting welfare of the rank and file. In short, pseudo-democracy prevails in Pakistan.

In addition, lack of democratic culture, prevalence of dynastic politics and pseudo-elections within the political parties also promoted such militant culture in Pakistan. Dynastic politics is the major hindrance in the way of an effective and actual participatory democracy.³⁵

Uncertainty in Baluchistan

Baluchistan has the strategic importance the country. Its geo-strategic significance cannot be sidelined. The Gwadar Port has furthered its significance and given an internationalized strategic importance. Many external hands are involved to destabilise Baluchistan. These are also found to exploit the sentiments of the dissident groups in Baluchistan.³⁶

Pakistan's Nuclear Capability: A Thorn in eyes of USA

The conventional preponderance of India and discriminatory global nuclear non-proliferation regime left the strategic policy makers with no option except to acquire nuclear weapons to strengthen its defense capability and to ensure minimum nuclear deterrence capability. Through constitutional amendments, Washington has always targeted Pakistan's nuclear programme. The well-known US Constitutional Amendments are Pressler amendment and Brown Amendments. American Congress passed a constitutional amendment popularly known as Pressler Amendment coined with name of Senator Larry Pressler in 1985. In October 1990, America suspended all economic and military sales to Pakistan as retaliation against Pakistan's nuclear programme.³⁷

The Uneven Geography, administrative and Judicial systems of Pakistan

In addition to many other security constraints, the uneven geographical distribution with absolutely heterogeneous legal, administrative, and judicial system is main impediments in the way of formulation and execution of a national security policy. Article 247 of the 1973 Constitution of Pakistan has become the supreme and high courts toothless to exercise jurisdiction in the tribal areas.³⁸ The country is divided into Federally Administered Tribal Areas (FATA), Frontier Regions (FRs) semi-tribal areas, Provincial Administered tribal Areas (PATA), settled areas. Bureaucracy, politicians and establishment are regarded as the main obstacles in the way of formulation of doable reforms and their implementation in FATA. Senator Afrasiab Khattak said:

*"The establishment is happened to be the main hurdle in the way of implementation of reforms and making the FCR more effective. Judicial system in FATA is lacking. The Constitution of 1973 bars Supreme Court and High Court to extend their jurisdiction in the FATA region. The reforms introduced by ex-President Asif Ali Zardari have been thrown in cold storage. The political agent has happened to be a viceroy in federal area who can punish the whole tribe for an offence committed by an individual."*³⁹

The civil bureaucracy in the country is also showing resistance to administrative reforms in FATA as this will break its monopoly of powers. Senator Hilal ur Rehman said:

"Civil bureaucracy is creating obstacles in the implementation of FCR reforms with view that it will lose its uncountable powers"

in federal areas. Justice is absent in federal areas. Bureaucracy is the custodian of justice. Political agent is the complainant, lawyer and also a judge. Drastic reforms need to be introduced in federal areas."⁴⁰

The judiciary in Pakistan is happened to be helpless in dispensing justice pertaining to the tribal areas.⁴¹

Counter-Terrorism Legal Codes

The concept of terrorism and special courts (military courts) are familiar in Pakistan since 1970s. First popularly elected government during 1970s has the credit to introduce the nomenclature of 'terrorist' and passed 'the *Suppression of Terrorist Activities (Special Courts) Act, 1975*' in the country to target its political opponents and political parties mainly in two federating units, former North West Frontier Province and Baluchistan.⁴² General Zia regime introduced two amendments in the Suppression of Terrorist Activities (Special Courts) Act (STAA), 1975 and empowered the Special Courts to try the offenders in the scheduled offences. It is also noteworthy that STAA, 1975 was applicable to the whole Pakistan.⁴³ However, it is worth to mention that both the civilian government of Mr. Bhutto and military rule of General Zia used that law to target their opponents and used as a tool of victimisation. In 1997, a comprehensive Anti-Terrorism Act was introduced to prevent terrorism, sectarian violence and ensure speedy trial of gruesome crimes.⁴⁴

The government issued Anti-Terrorism (Amendment) Ordinance 1998. The new amendment changed the tenure, method of appointment and dismissal of judges of Anti-Terrorist Courts. Chief Justice High Court had a say in their appointment and dismissal.⁴⁵ Coping with the deteriorating law and order situation in the provincial capital of Sindh and assassination of Hakim Muhammad Saeed (ex-Governor of Sindh) led the federal government to proclaim emergency in the province on Oct 17, 1998 and to promulgate Pakistan Armed Forces (Acting in Aid of Civil Power) Ordinance (PAFO). This Ordinance curtailed the rights of citizens by giving military a legal cover to restore law and order. Besides this, the military courts could try civilians in lieu of the special courts.⁴⁶

In the post September 9, 2001, plunging into GWoT, the various dimensions of security in Pakistan have been placed at stake. The external security of Pakistan cannot be separated from

the internal security. Both are the two separate faces of the same coin. The recent *Anti-Terrorism (Amendment) Ordinance, 2013*, was introduced on March 19, 2013. The current Protection of Pakistan Ordinance, 2013 is also the outcome of the prevailing anarchical situation in the country extended to the whole Pakistan.⁴⁷

Ramifications

In the Global war on terror, military regime under General Musharraf extended generous logistic support to America on September 17, 2001.⁴⁸ Pakistan has faced the brunt of its being a frontline ally of America in the shape of violation of its external sovereignty by the American drones in FATA. The divergence of Pak-US interests is greater than their convergence of interests in FATA.⁴⁹ Pakistan needs not to revisit the Cold War and 9/11 strategic blunder. Due to lack of strategic thinking and post-collapse Soviet Union withdrawal strategy, Pakistan was left in extremely volatile situation. Additionally, neighbouring countries and other states started to seek their objectives in Afghanistan. Prof. Dr. Taj Muharram Khan in this connection says:

*“The power politics at global level and Pakistan’s struggle for seeking defence of traditional security, several non-traditional security threats came to surface. This gave rise to militancy, drug-mafia, and influx of Afghan refugees in Pakistan, exploitation of religion for ulterior motives, unemployment, poverty, residential issues, environmental issues, and health issues. All these threats have revisited by taking side of US against the September 11, 2011 war against terrorism.”*⁵⁰

The strategic miscalculation of the Government of Pakistan led to affect the non-military security which does not feature at all in the security doctrine. In this connection Muhammad Amir Rana says:

*“The failure of the civilian regimes to protect the justifiable rights and provision of basic necessities of life generates discontentment among the general masses and also a space for non-state actors, mainly militant organisations, who have regularly showed keen interest in the void left by the failure of state’s institutions.”*⁵¹

The grey areas and inherent weaknesses in the political system of the country and failure of both political and security institutions in Pakistan have led to the uprising of insurgents and militancy in different parts of the country particularly in FATA. The militancy and counter military operations have severely jeopardised the

human security particularly health security in FATA and settled areas.⁵² Anar Abbasi says:

“The existing flawed, ineffective, bungling and unresponsive judicial system speaks the incompetency and non-seriousness of the politicians. These factors led to the creation of military courts. The Dec 16, 2014 gruesome Army Public School incident forced political leadership to kneel down before the military leadership in the establishment of military courts despite politicians’ reluctance and confession of their failure in streamlining the existing criminal justice mechanism in the country. The military courts and democracy are two contradictory phenomena. However, these are laid down under the doctrine of necessity.”⁵³

Despite all the above discussion, the anti-terrorist legislation in the country particularly 21st amendment has the following implicit and explicit ramifications. First, the current 21st Amendment in the Constitution of Pakistan has divided the nation again. The religious political parties have raised their reservations on it. There are apprehensions with respect to its use, powers of the military officials, scope of the courts, and time-frame of the military courts in the country. It is perceived that these courts will be used for victimisation by the military junta. The religious political parties have objected on the inclusion of words ‘religion and sect’.

Second, history witnessed military courts as beyond any transparency and accountability. Media was disallowed to cover trial. Suspicions about transparency and accountability are still associated with the current military courts. The military leadership overwhelmed over the political leadership in establishing military courts by making capital out of Army Public School and College, Peshawar APSC’s gruesome incident. The military courts cannot succeed in dispensing justice due to the lack of an efficient investigation and prosecution system. There is no iota of doubt that judicial officers, judges, lawyers, and witnesses are faced with extreme security threats. However, military courts are not the permanent panacea for this. Fair trial is the justifiable right of every individual on this planet.⁵⁴

Third, the establishment of these courts are considered the reversal of marginal civilian supremacy that it has gained over the military in the post-2008 general elections in the country. The failure of civilian government and other political forces to address the issues of terrorism, extremism, and militancy in the country led to adopt this short-term policy.⁵⁵ Fourth, in politico-judicial history of Pakistan, the civilian governments have established military

courts during 1977 and 1998. Supreme Court has already declared the trial of non-military person by the military courts under the Pakistan Army Act, 1952 as not contradictory to constitution in *F.B. Ali v The State*, PLD 1975. The Supreme Court declared the decision of military court as valid.⁵⁶ The civilian government of Zulfikar Ali Bhutto also attacked on the independence of superior judiciary that is high courts under Fourth Amendment in the 1973 Constitution of Pakistan. Hamid Khan says, “The powers of prevention of detention and granting of bail to any person by the high courts were curtailed. The high courts have become toothless to give relief to politically victimised people”.⁵⁷

In addition when the law and order situation in the country, especially in Karachi was getting deteriorated the then prime minister Nawaz Sharif government introduced military courts. For this, the Pakistan Armed Forces (Acting in Aid of the Civil Power) Ordinance, 1998 was promulgated. The Muttahida Qaumi Movement (MQM) leadership challenged this Ordinance in the apex court under Article 184(3) of the Constitution of Pakistan, 1973. Hamid Khan says, “The Supreme Court by striking down the law for establishment of military courts for civilian offences did a great service to the nation. Undoubtedly the step taken by the government in this behalf was inherently unconstitutional”.⁵⁸

Fifth, the establishment of military courts is considered as the military penetration in the judicial system of the country. The lawyers have already given sacrifices for the restoration of constitution and judicial independence. The Pakistan Bar Council has already given an ultimatum to the federal government to roll-back the idea of military courts. It has also filed a writ petition in the apex court of the country to challenge 21st amendment in the constitution.⁵⁹ Former army General Jehangir Kiramat has condemned the role of army and states:

*“The army has been inherently aggressive and interventionist.... Because of the politicians’ weaker position, though constitutionally secured, the army could manipulate the situation by further subjugating the judiciary and extracting forced approval from its benches. When the judiciary submitted, the army could always legitimise its seizure of power and prolong its stay until some natural or foreign disaster overtook them....A strong constitutional and judicial system is imperative for safeguarding the sanctity of the rule of law and rights of people. People should be allowed to live like human beings and not like animals.”*⁶⁰

Sixth, the establishment of the military courts in the country under the umbrella of civilian democracy gives the impression of dichotomised democracy. It is against the spirit of democracy to involve armed forces in the judicial trial of the civilians. It will also give impression of mini-martial or de jure martial.

Seventh, it will tarnish the public image of armed forces. In simple words, it will alienate army from the public. Today the political pundits in the country are in favour of establishing military courts in the country to prevailing military pressure. But tomorrow the same pundits will criticize the same courts.

Eight, it will pave way for establishing wrong constitutional precedents. The citizens of Pakistan witnessed in their constitutional and political history the notorious doctrine of necessity. In reality, doctrine of necessity in itself is neither good nor bad. However, it was notoriously interpreted and used in the country by the military junta with the collusion of judicial pundits.⁶¹

Lastly, the establishment of military courts no doubt given constitutional cover are against the essence of the Constitution of the country. It is also in clash with provision of the Objective Resolution, 1949 which ordains for judicial independence of the civilian courts in the country.⁶²

Recommendations

There is a silver lining to counter all such strategic challenges. However, it is needed to take sincere and consistent steps.

First, close, regular and indiscriminate monitoring of the existing religious seminaries is essential. Special intelligence bureaus or wing in both civil and defence intelligence agencies of the country so as to avoid an iota of lapses should be established. These special wings should share their mutual reports and observations so as to arrive on a concrete conclusion. This will facilitate the policy makers to design a concrete security policy and will enable them to keep apart the good seminaries from the anti-state and anti-social religious seminaries.⁶³

Second, parliament must guard against the distinct and disastrous possibility of total militarisation of the criminal justice system.

Third, a single and uniform legal and judicial system in country needs to be introduced across the country to eliminate multi-legal and judicial systems in the country. The civilian judicial system needs to be reformed so as to restore public trust on it.

Fourth, the justice system in FATA should be overhauled on urgency basis. The people of tribal belt should be given freedom from the colonial draconian law of Frontier Crimes Regulations, 1901 and also colonial mind-set bureaucracy which resists reforms so as to maintain their unbridled supremacy in these areas. Akhunzada Chattan, ex-MNA, said:

*“Tremendous homework is done on FCR but it has faced with the problem of execution. FCR is the colonial heritage and against the human rights and the spirit of the constitution of Pakistan. It should be replaced with new law in conformity with the constitution of Pakistan.”*⁶⁴

Fifth, diverse schooling systems – the religious madaris education system, government controlled education system, private sector controlled education system, education institution affiliated with foreign academic institutions, etc. – need to be abolished. The education sector should also be reformed in such a way that uniform, public-spirited, and patriotic citizens are produced free of ethnic, sectarian and religious bigotries and prejudices. Education system should be the federal government prerogative.⁶⁵

Sixth, economic base of the country should be strengthened by eliminating all sorts of exploitative means in the society and to ensure social welfare democracy in the country where there is no room for the concept of ‘haves and have not’. Seventh, the ongoing insurgency in Baluchistan and existence of resentment among the people of Baluchistan should also be addressed through political means instead of handling them with iron hands. The justifiable grievances should be addressed on priority basis so as to erode the vacuum which can be cashed by the anti-Pakistan elements.

Eight, Kashmir issue should be raised on UNO platform. Composite dialogue with India should be re-initiated at the earliest. Indian ploy of equating it to terrorism should be countered on various regional and global fora.

Ninth, efforts should be made for a stable Afghanistan. The trust deficit between Islamabad and Kabul should be eroded to an optimum level. Stable Afghanistan means defueling insurgency and diminishing militancy in the tribal areas and other parts of the country.

Conclusion

The strategic constraints led to formulation of stringent anti-terrorism laws in the country. Through these counter terrorism

legislation and institutional arrangement, terrorism cannot be eliminated once for all. However, it can be diffused for a short period. Following traditional security path is the one-way approach to eliminate this menace. Guns, bullets, sharp blades, stringent laws, heavy budgetary allocation for countering terrorism are the partial efforts to cope with both internal and external traditional security threats.

There is earnest need of the hour to handle the looming traditional security threats by addressing the non-traditional security threats. The policy makers need to take into account the promotion of a true democratic culture, transparent electoral system, symmetrical growth of constitutional and political institutions, strengthening public institutions, allowing and strengthening local bodies institutions in the country, ensuring public accountability, alleviating poverty, ensuring good health governance, and promoting uniform education system free from ethnic and sectarian biases.

Any negligence in countering non-traditional security threats will lead to jeopardise the traditional security measures taken for countering traditional security threats in the country. In simple words, it will fan traditional security threats in the country. The failure of the political leadership to streamline and introduce effective modern methods in the judicial system of the country has paved the way for establishing military courts.

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