



Conference On

Lawfare

AND

PAKISTAN'S
RESPONSE



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Message By Chairman Advisory Board, CLAS

The Centre for Law and Security CLAS is an independent, non-partisan private sector research and policy institution dedicated to providing thought leaders, policymakers and the public with instruments to better understand today's national security issues in light of national and international laws, thereby providing the stakeholder's tools to make informed decisions on country's domestic and foreign policies

Our mission at CLAS is to engage government institutions, the private sector and non-governmental organisations to promulgate effective national security strategies. Responding to such varied stakeholders requires new bridges across the public and private divide. New legal questions accompany each of these challenges, which cast doubt on once-settled legal doctrines and thus present an opportunity for forging new areas of law, raising an array of legal and policy concerns.

The fact that real-world situations calling for national security and legal focus are themselves hard to pin down with any present-day certainty. What was once a domestic criminal matter can now be a national security concern. What was once an issue of military discipline may now have national security implications. Therefore, it is imperative that domestic and international

laws are better understood and explained in the context of Pakistan and its security.

Across all areas of its work, the Center seeks to understand and illuminate the relationship between national security law and national security strategy and examine Pakistan's approach in a global context.

We endeavour to engage policymakers and experts to shape and elevate the national security debate.

A crucial part of our mission is to inform and prepare the national security leaders of today and tomorrow.



A handwritten signature in black ink, reading 'Faisal Mushtaq' in a cursive script.

Chaudhry Faisal Mushtaq
Chairman Advisory Board, CLAS

Message By Executive Director, CLAS

Pakistan is at the forefront of a new form of warfare in the shape of lawfare today. Adversarial states are taking advantage of international law to advance their geostrategic interest. From the large disinformation campaign against the country in the form of Indian chronicles to the trial of Kulbushan Jadhav at the International Court of Justice.

In the 21st century, it is all about building narratives and using legal acumen to pursue issues of national interest. Pakistan's policymaking has to take into account the evolving order of the global world. Major state powers today have a dedicated teams of international law experts who help devise sufficient responses to any potential lawfare moves. Similarly, Pakistan must build a proactive policy that takes account of all the newest global development so that a future threat is identified well in advance.

In light of the above, The Centre for Law and Security has drafted this report titled, 'Lawfare and Pakistan'. This report has been made with the help of diplomats, international lawyers, policymakers, government officials, former military generals, and our team of research experts. The purpose of the report is to devise new and identify existing strategies that may advance Pakistan's interests in the international system. It is imperative that Pakistan evaluates existing and potential future threats from a legalistic point of view to advance its narrative and preserve its national security.



A handwritten signature in black ink that reads "Rehman Azhar". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Rehman Azhar

Executive Director, CLAS

Executive Summary

Lawfare is defined as one or more of the following characteristics: a form of asymmetric warfare using a legal system against an adversary; an instrument of state power; or a strategy that stipulates how a state should engage in international law and foreign relations.

Concerning international law, the scope, nature, and employment of lawfare focus on the perspective of a state's influence within the global system, the interests of that country, and what purpose that state seeks to achieve with the use of lawfare. In contemporary international politics, the concept of lawfare is illustrated through the diplomatic creation and signing of international laws and agreements.



Different states are increasingly using lawfare to advance their strategic interests. It has played a notable role, especially concerning Pakistan, as foreign powers and international institutions have often applied lawfare on different issues, including the economy, counter-terrorism, human rights issues, and non-proliferation. Lawfare assaults are vicious and frequent in Pakistan. The annexation of Indian Illegally Occupied Jammu and Kashmir (IIOJ&K), India's breach of the Indus Waters Treaty, and the Kulbushan Jadhav case are all examples of this. Pakistan ratified the Vienna Convention without thoroughly assessing what it meant if foreign agents engaged in terrorism. India successfully exploited this convention to get a ruling from the ICJ. Therefore, it is only a matter of time before lawfare is applied to other strategic issues, like the economy, water laws and cyber-security thus, Pakistan must be well-prepared against lawfare.

Several instances have highlighted Pakistan's challenges to international law and lawfare. To advance its strategic objectives and be prepared for lawfare manoeuvres, Pakistan must develop a counter-offensive strategy against lawfare strategies by adversarial states in the future. It has become necessary that Pakistan utilises all its resources for capacity-building concerning lawfare. Many of the disputes Pakistan is currently facing, such as the case of Kulbhushan Jadhav, are legal in nature. Therefore, a comprehensive understanding of laws is required to build a successful counter-narrative.

Furthermore, it has become imperative that Pakistan should adopt a proactive approach instead of a reactive approach. A proactive approach shall allow Pakistan to anticipate threats and vulnerabilities regarding international law and enable Pakistan to neutralise lawfare threats before they become a significant disputes. Pakistan has recently faced serious lawfare challenges such as Kulbhushan Jhadev Case, Broadsheet, and Karkey. Pakistan's response to all these challenges displayed the lack of a proactive lawfare response mechanism. These cases not only undermined Pakistan's sovereignty, but also drained millions of dollars from the national exchequer.

However, lawfare should not only be seen as a challenge. Pakistan can use lawfare to advance its strategic interests and should fully utilise the opportunities presented to it. By recognising the significance of international law and building the suitable capacity and understanding of lawfare opportunities, Pakistan should be able to create a cohesive lawfare policy. By adopting legal mechanisms such as Universal Jurisdiction, Pakistan can quickly build momentum and use lawfare to its advantage.

Findings and Recommendations



Lawfare is the use of law as a tool in the waging of war or conflict. It is the use of legal instruments, such as international treaties, international law, and domestic law, to achieve strategic ends in a conflict. It is a form of warfare that is predominantly non-violent, and often involves the use of legal strategies to try to gain a strategic advantage over an adversary. It can involve the use of a variety of techniques, such as the use of courts, international organizations, and public opinion to influence the course of a conflict. While it does require an understanding of the law, it also requires a high degree of strategic thinking and intellectual strength. Pakistan needs to realize and implement that more harm may be done with a pen stroke than a gunshot.

Developing a Lawfare Strategy

- In 2022, Pakistan adopted its first comprehensive National Security Policy. The NSP encompasses a vast array of classic and non-traditional national security concerns. Lawfare was not, however, included in the national security statement. Policymakers must be aware of the repercussions of lawfare on Pakistan and the need to prioritise Pakistan's reaction mechanism.
- Lawfare is warfare that uses legal means to achieve a political, economic or military objective. In recent times, lawfare has become increasingly popular as a tool of international relations, and it has been used by states, non-state actors, and international organisations. In Pakistan's case, lawfare has been used to challenge its internal and external policies, gain public support, exploit its legal system, and undermine its strategic interests. Lawfare has been used by Pakistan's external adversaries to challenge its sovereignty, pursue political and economic objectives, and create divisions among Pakistan's population.
- To respond effectively to lawfare, Pakistan must have a comprehensive legal strategy based on its national interests, and its international obligations inform that. The strategy should include measures to strengthen Pakistan's legal infrastructure, prevent and counter malicious legal activity, and respond to legal threats. It should also include measures to build public awareness of lawfare and foster cooperation among government, civil society, and the media to counter it.

- A lawfare strategy should generally include a detailed analysis of the legal issues and potential risks associated with the dispute; an assessment of the relative strengths and weaknesses of the parties involved; a plan of action to address the legal issues and potential risks, including an evaluation of the effectiveness of potential legal strategies; a plan to mitigate the risks associated with the dispute; a timeline for the implementation of the strategy; an evaluation of the potential costs associated with the dispute; a plan for communications and public relations to support the legal strategy; and a plan for monitoring and evaluating the progress of the strategy.
- Furthermore, it is necessary to revise the National Security Policy to include specific measures to protect Pakistan's national security interests against lawfare. These measures should include: strengthening the legal infrastructure, developing a legal strategy to counter lawfare, and creating a legal response mechanism to deal with legal threats. To ensure the effective implementation of such measures, Pakistan must also ensure adequate resources, training and capacity-building for government legal experts.

Strengthen Legal and Policy Frameworks

- Pakistan should strengthen its legal and policy frameworks to defend against lawfare.
- At the domestic level, Pakistan should strengthen its legal and policy frameworks related to the use of international law in domestic courts. This may include introducing legislation that codifies specific international law standards and principles, such as the UN Charter and international human rights treaties, into domestic law. Additionally, Pakistan should ensure that its domestic laws, such as the Constitution and administrative regulations, comply with international law requirements. This could include providing legal clarity on the role and scope of international law in domestic legal systems. Furthermore, Pakistan should create a system of judicial training and education on international law to ensure that judges and legal professionals understand and apply international law principles correctly. Additionally, it could introduce legislation to ensure greater accountability and transparency in government activities.
- At the international level, Pakistan should ratify and implement relevant international conventions. This would ensure that Pakistan complies with international standards and that its legal system adequately protects its citizens' rights. Pakistan could also develop treaties and agreements with other states to protect against lawfare. This could include bilateral agreements to protect against interference in domestic affairs and international cooperation to strengthen norms of international law. Additionally, Pakistan should strive to be a responsible participant in international forums, such as the United Nations, to ensure that its views are represented and that it supports international standards. Finally, Pakistan should establish clear guidelines for its diplomatic and legal representatives when engaging in international forums to ensure that its legal and policy positions are consistent.



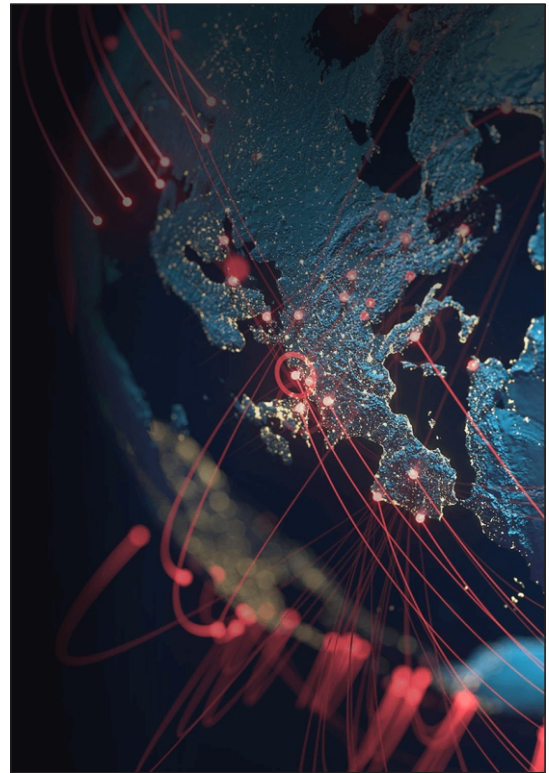
- Accordingly, Pakistan must comprehensively review its existing international obligations, including bilateral investment treaties and free trade agreements. There is a strong need to overhaul and reassess treaties, especially following the Kulbhushan Jhadav case. One must note that evaluating and approving international agreements and treaties in Pakistan is often conducted arbitrarily, i.e., without comprehensive due diligence by the Government or consultation with experts in international law. A rigorous process for international agreements and treaty approval is essential. These agreements and treaties can significantly impact the country's economy, security, and political environment, and adversaries can manipulate these for their benefit. By having a rigorous approval process for international agreements and treaties, the Pakistani Government can reduce the risk of being exploited by adversaries.
- The Treaty Implementation Cells (TICs) established under the Ministry of Commerce (MoC) must focus on the formulation of effective mechanisms for the implementation of the ratified conventions, the development of protocols for provincial Line Departments to document the implementation progress, and providing the support and guidance to the relevant Line Departments to formulate standardised reporting templates to generate and compile reporting data and the formation of a liaison mechanism with the relevant Federal Ministries (Ministry of Commerce, Ministry of Law, Foreign Office) for reporting and monitoring.



- Furthermore, Pakistan must remain cognizant of its numerous bilateral treaties and free-trade agreements, which are rarely discussed but may pose a lawfare threat. Accordingly, Pakistan needs to focus on the quality of its agreements and ensure they are mutually beneficial and in line with the changing times. The Government should revisit the existing international investment treaties to assess whether they carry any lawfare risk for the country and to renegotiate or terminate them if necessary.
- Finally, Pakistan must remain cognizant that the security environment is constantly changing and evolving. It must remain prepared to respond to new threats and revisit existing policies and strategies to ensure that they remain effective and relevant. In this regard, an open and transparent dialogue between the government, civil society, and the military is essential for ensuring that Pakistan can effectively protect its interests while also engaging with the international community and other stakeholders.

Inter-agency Task Force to coordinate efforts to Counter-Lawfare

- Pakistan should establish an inter-agency task force to coordinate efforts to counter lawfare across multiple government departments and agencies. The inter-agency task force should comprise representatives from government departments, agencies, and institutions responsible for security, intelligence, law enforcement, legal affairs, cyber security, public diplomacy, and public health.
- The task force should have a clear mandate to develop and implement a comprehensive strategy to counter lawfare. The task force should also identify and assess emerging trends in lawfare, analyse the legal and policy implications of using lawfare, and assess the effectiveness of current Government efforts to counter lawfare. In addition, the task force should provide recommendations for legislation and executive action to help counter lawfare.
- The task force should also develop effective collaboration and information-sharing strategies among government agencies and other partners, such as NGOs and international organisations. Furthermore, they should have the authority to seek assistance from international experts and organisations to understand the legal dimensions of lawfare better and develop international partnerships to counter the threat. This could include exchanging information and expertise on the use of lawfare and its potential implications, as well as the development of collaborative strategies and initiatives.



Institutionally Separate Lawfare Department

- Pakistan must focus on offensive and defensive strategies rather than being reactive towards lawfare tactics. It is necessary that the practice of international law and lawfare aspects need to be determined and housed separately. Accordingly, Pakistan may also consider establishing an institutionally separate government department for lawfare. The primary inspiration for such a department can be derived from the National Command and Operations Centre (NCOC) established on an emergency basis to control the spread of COVID-19.

- The proposed department should be a permanent structure responsible for formulating Pakistan's response and strategy to the various legal challenges it faces in the international arena. The department should work closely with the Ministry of Foreign Affairs, the Ministry of Law, the Ministry of Defence and other relevant government departments. The department should have a team of experts with expertise in international law, international relations, international trade, international finance, and other relevant areas.
- The team should monitor and analyse the international legal environment, identify potential threats and vulnerabilities, and develop countermeasures. The team should also be responsible for proactively engaging in international legal dialogues and negotiations with other countries.
- The department should also have a research wing responsible for researching international law and international relations and producing relevant publications to benefit the government and the public.
- Finally, the department should also have a public relations wing, which should be responsible for informing the public of Pakistan's legal challenges and highlighting the government's efforts to tackle them. This wing should also be responsible for engaging in public diplomacy and advocacy activities.

Building the Capacity of State Institutions

- Pakistan should strengthen its human resource and organisational ability to wage a powerful lawfare assault rather than acting passively or reactively in an increasingly polarised international context where rival coalitions led by China and the US anticipate conflictual regional dynamics. Due to Pakistan's lack of capacity in international law, Pakistan faced numerous lawfare challenges, particularly with the grey-listing in FATF. Pakistan should use caution when adopting responsibilities under international law that it cannot meet and focus on strengthening its capabilities.
- Accordingly, the State must allocate sufficient resources to strengthen legal, diplomatic, and political capabilities, increase research and development of international law, and develop a network of lawyers, scholars, and politicians to further Pakistan's interests in the international arena.
- International law can be a powerful tool for the government of Pakistan to protect its interests, promote its foreign policy, and ensure its sovereignty. Legislators need to understand how international law can be used to protect the country from external pressures and threats. Understanding international law can help them craft policies to protect the country from any kind of aggression or interference.
- The Members of the Parliament of Pakistan must also understand how international law applies to the country regarding its interactions with other countries. This can help legislators create laws and regulations to protect the country's interests. Understanding international law can also help legislators understand the importance of maintaining a good relationship with other countries and how to negotiate with them to ensure the best possible outcome for the country.
- The Government should consider investing in training and capacity building for its legal and diplomatic professionals. This includes providing opportunities for Pakistani legal and diplomatic professionals to learn from the experiences of other countries in the international legal and diplomatic arena. This can be done through internships, fellowships, and exchange programs with other countries.
- Pakistan should also explore opportunities to strengthen its legal and diplomatic infrastructure. This includes creating a network of legal advisors and professionals, setting up research centres to study international law, and establishing a system of international legal and diplomatic protocols.

These measures will help ensure that Pakistan is prepared to defend its interests in the international arena and make its voice heard.

- Pakistan should ensure its legal experts are adequately trained and qualified in international law and its application. The Government should provide financial incentives and support to the legal industry, such as providing access to the latest legal developments and resources, as well as providing resources and funding for legal research.
- The Government, particularly the Ministry of Foreign Affairs, the Ministry of Law and Justice and the Ministry of Defence, should invest in training and developing its officials' expertise in international law and increase collaboration with domestic and international legal institutions. This would aid the state in better understanding international legal issues and their implications and develop a better strategy to counter lawfare.
- The Government must consider introducing lawfare courses in the curriculum of military academies. This will provide officers with the necessary knowledge to understand the importance of lawfare. The Government must also ensure that the legal departments of the military are properly staffed and provided with adequate resources. This will ensure that legal disputes about lawfare are handled effectively and efficiently. Finally, the Government must ensure that the legal departments of the military are regularly updated on the latest developments in international law and lawfare. This will ensure that the military is well-informed and can effectively deploy lawfare during conflicts.

Dedicated Research Program to study lawfare and its implications

- Pakistan should create a dedicated research program to study lawfare in its various aspects, including its legal and policy implications, strategic importance, and impact on international relations and national security. The research program should bring together scholars and practitioners from law, international relations, and security studies to analyse and discuss the implications of lawfare in detail. The program should include fundamental research on the nature and scope of lawfare and applied research on the strategies and tactics used. The research program should also produce reports and policy recommendations that can inform decision-makers in Pakistan about the implications of lawfare for the country's security and international relations. Finally, the research program should strive to engage with the international community, particularly through academic and policy networks, to ensure that Pakistan's perspectives and experiences are shared and understood.

Engagement with Think Tanks

- The Government should take active steps to engage with think tanks on lawfare and encourage them to conduct research and provide analysis and policy advice on topics related to international law, defence, security and national planning. Think tanks provide a valuable service in helping governments develop and implement effective strategies to counter legal tactics for political purposes, such as lawfare. Furthermore, think tanks can help governments understand their actions' legal implications and develop strategies to counter legal challenges. They can also provide policy advice on how to best address legal issues, such as providing legal advice on how to respond to legal challenges, drafting legislation to address legal issues, and advocating for legal reforms. Engaging with think tanks can help governments to build the capacity to counter lawfare and to develop effective responses to legal challenges.
- The think tanks should also support the Ministry of Defence and the Judge Advocate General (JAG) Branches in formulating and implementing policy. The think tanks should be staffed with experts in the fields of defence, security, planning, human rights, counterterrorism, international trade and finance, and economic development. They should be given adequate resources to conduct comprehensive and reliable research.

- Additionally, these think tanks should be given access to the latest and most up-to-date information and data to ensure their advice is based on the most current information.
- The Government should invest in think tanks and institutions to ensure that the latest research and insights are considered when making decisions. The think tanks and institutions should be established to provide the government with independent, evidence-based advice, analysis, and research.

Invest in New Technology and Tools to Identify and Counter Lawfare Tactics

- Pakistan can invest in new technology and tools to identify and counter lawfare tactics by investing in big data analytics and artificial intelligence. Big data analytics and artificial intelligence can be used to analyse large amounts of data to identify patterns of behaviour and activities related to lawfare tactics. This can help Pakistan to identify and counter lawfare tactics quickly and efficiently.
- Pakistan should invest in blockchain technology and machine learning technologies to identify and counter lawfare tactics. These technologies can analyse large data sets and detect suspicious activities.
- Moreover, Pakistan should invest in specialised personnel to monitor and analyse the use of lawfare tactics and develop strategies to counter them. This personnel can be trained on the latest technology and tools to identify and counter lawfare tactics.

Public Awareness of Lawfare and its implications through Public Outreach and Education

- The development of lawfare as a discipline is essential, and research on the subject should be promoted, particularly at law schools. Accordingly, the Government should establish partnerships with local law schools and other educational institutions to create curricula and seminars on lawfare, its implications, and strategies for countering it. Entities like the Higher Education Commission (HEC), which provides massive funding for education, consistently opt to forego investing in international law and lawfare. The Government must create incentives for research into lawfare. Such incentives could include providing grants to universities and research institutes to finance the research.
- The Ministry of Foreign Affairs should set up a dedicated program to evaluate and make recommendations of top law graduates from Pakistan to the international community. There are over 50,000 international organisations, each with a legal wing where young lawyers may be encouraged to apply.
- The Government should also provide incentives to law students to encourage them to pursue a career in international law. This could include increased access to scholarships, internships, and fellowships for law students interested in pursuing international legal practice. Moreover, the Government should set up a dedicated support system for law students interested in the field, such as mentorship programs tailored to law students' needs and access to resources and information about international law.
- Furthermore, fresh law graduates' should be encouraged to participate in various international conferences, summits, and forums, where they can present their views and increase their international legal exposure. Law firms and governments should consider offering internships, residencies, and scholarships to young international lawyers to ensure they can participate actively in such forums.

- Furthermore, the Government should establish a comprehensive public outreach strategy to educate the public on lawfare and its implications. This includes introducing and implementing a nationwide comprehensive campaign to increase public awareness about lawfare. This will require the Government to provide adequate resources and to work closely with established media houses to create awareness on the subject.
- Media is a fundamental pillar of modern states as it can shape public opinion and is the primary vehicle for promoting national narrative. There is a lack of sensitisation on lawfare regarding Pakistan's electronic, print, and social media. Accordingly, the media can create awareness by providing information and analysis. Moreover, the media can also highlight the legal cases that are related to lawfare to raise public awareness about the issue.

Strengthen International Partnerships to better coordinate responses to lawfare.

- Pakistan should pursue bilateral and multilateral partnerships with countries that share the same interests in preventing the misuse of lawfare. These partnerships include joint task forces, information-sharing networks, and cooperative research initiatives.
- Pakistan should also leverage existing international organisations such as the United Nations, the International Criminal Court, and the International Court of Justice to coordinate responses to lawfare. It should also seek collaboration with international organisations such as the United Nations Office on Drugs and Crime (UNODC) and the International Criminal Police Organization (INTERPOL) to develop and share best practices in countering lawfare. Pakistan should also work with other countries to establish new legal frameworks and strengthen existing ones to ensure that lawfare is not misused.
- Additionally, Pakistan should share its experience and expertise on lawfare with other states to promote cooperation and collaboration in tackling the threat. It should actively participate in international forums and conferences to enhance awareness of the dangers of lawfare and to encourage states to take proactive measures to prevent its misuse.

Diplomatic Dialogue with Countries that use Lawfare Tactics

- Pakistan should engage in diplomatic dialogue with countries that use lawfare tactics to reduce the likelihood of conflict. Pakistan should use diplomatic dialogue with countries that use lawfare tactics to de-escalate tensions and reduce the likelihood of conflict. It is important to engage in dialogue and build relationships with these countries to better understand the motivations behind their lawfare tactics and find ways to address the issues cooperatively and peacefully. Pakistan should also use international forums, such as the United Nations, to present its case and work together with other countries to find solutions to the issues that are causing conflict. Moreover, Pakistan should use diplomatic channels to build trust and cooperation with countries that use lawfare tactics to foster peaceful solutions to conflicts.



Pakistan's Existing Lawfare Mechanisms



by **Syeda Zahra Shah Subzwari**
CLAS Research Associate

Pakistan has yet to establish a functioning mechanism to tackle its lawfare challenges. War theory has become an important and contentious issue with the rising concerns of nuclear, biological, and chemical warfare capable of destroying the globe in the aftermath of two world wars. "Lawfare" is a weapon meant to destroy the opponent by utilising and manipulating the laws and the media to incite public outrage against that enemy. Lawfare is also an intelligent play on words, a pun, and a neologism that requires deconstruction to comprehend the term's linguistic and political clout. Lawfare creates interesting parallelisms between law and war and has become a key weapon of modern warfare in recent times.

The power shared by both law and war is precisely what forms the basis of the use of lawfare as a weapon. The Pakistani government has only occasionally dabbled with lawfare, responding when needed—lacking a strategy or philosophy and an office or interagency mechanism for methodically developing and coordinating Pakistan's offensive lawfare or defences against lawfare. Pakistan must operate concerning vital international lawfare features that must be established and maintained someplace; thus, this is not just the task of the Foreign Office (MoFA) but also the Armed Forces, Ministry of Law and Justice (MoLJ), the National Security Division, Attorney Generals (AG) Office and the General Head Quarters (GHQ). There is a dire need for a focal point or focal coordination department committee that can streamline, acquire, and educate our leadership, whether political, military, or civil society, regarding these positions and Pakistan's state policy relating to lawfare.



Pakistan has been grappling with external powers employing lawfare against the country since its inception. The United Nations Security Resolution No. 47 passed in 1948 called on India to withdraw its forces so that Kashmiris could choose which country to side with. Still, India, realising that it would not favour them, manipulated through various legal methods, both available to Pakistan and India, were used to prolong the occupation of Kashmir. Resulting in the further expansion of the disputed territory up to Gilgit Baltistan, Pakistan could have utilised numerous UNSC Conventions and Resolutions as legal weapons against India and the rest of the world. Still, somehow it was unable to do so.

Decades later, India used its legal aggression to repeal Articles 370 and 35A, removing the special status of Jammu and Kashmir (J&K) and bringing them under Indian control. However, J&K has its constitution



and Resolution 47 of the UNSC of 1948 is still in effect. Despite this, Pakistan is yet to persuade the UN of the illegality and injustice and could have taken action under various ambits of international law. Moreover, it could have used the International Court of Justice (ICJ) judgement against Myanmar on the abuse and violation of human rights against the Rohingya Muslims as a precedent.

Given Pakistan's previous failure to respond to lawfare attacks, it has begun to try and cope with the recent lawfare attacks launched by India against Pakistan. The Pulwama and Balakot narratives were tested and used by India to use international law relating to terrorism and to turn the world's perception against Pakistan, whereas Pakistan was prosperous in being responsive. The actions led by India were proven to be malicious. Nevertheless, Pakistan continues to not act against India's breach of the UNSC resolution and violations of Art 73 and by choosing not to move to the UN under the threat of peace under Art 76(a). Pakistan, under various resolutions, could have defined India as an aggressor and moved for war crimes under those violations. Pakistan has yet to invoke Articles 4, 10, and 32 of the Geneva Convention.

The case of Kulbushan Jadhav. Jadhav, a serving Naval Officer in India, was a spy in Pakistan. He confessed to planning and carrying out anti-Pakistan activities in custody under his pseudonym, clearly indicating India's state-sponsored terrorism in Pakistan. To deflect attention and gain politically, India chose to take the case to the ICJ. Pakistan was portrayed as the aggressor, while Jadhav was described as a "kidnapped Indian" who was trialled and sentenced to death in a military tribunal that violated due process. Both parties' retorts during the arguments were full of abuse about the adversary's nefarious motives and objectives. Each side employed lawfare to the most significant degree possible through its legal counsel to trash the opposing party's legal arguments before the ICJ's 16 judges.

Pakistan's lawfare enforcement sought to identify flaws in India's lawfare argument. Pakistan drew the ICJ's attention to the fact that India had sought the court from the outset for political theatre. Pakistan reiterated that India's options had been limited since it was left crimson and unclear what to do when one of its RAW spies, a serving Commander in the Indian Navy, was seized by Pakistan. India's request for consular access was an attempt to strengthen the victim narrative while preserving the cover India had built to disguise its state-sponsored terrorist acts in Pakistan. However, they kept perpetuating the concept that Pakistan is a state sponsor of terrorism. India did not react to Pakistan's critical inquiries, including queries about Jadhav's passport and how Pakistan reportedly kidnapped him from Iran.

The ICJ recognised Pakistan's sovereignty and issued a ruling stating that Pakistan's laws would continue to apply, following which India attempted to cause turmoil by saying that there was a lack of appointment of a counsel for Jhadav. However, Pakistan passed a law for appointing a counsel for Jhadav, thus preempting India from manoeuvring this round of lawfare.

The withdrawal of Pakistan from the Financial Action Task Force's (FATF) greylist does not signify the end of Indian lawfare against Pakistan. Pakistan's experience with the FATF demonstrates this. FATF has imposed a slew of subjective requirements on Pakistan over the years, with the backing of the US and India, the cumulative impact of which has required Pakistan to shoulder the burden of demonstrating its 'clean hands.' Pakistan is entangled in a dark web of never-ending mandates as the FATF acts as judge, jury, and executioner. It is handed over a new list of demands each time Pakistan's progress is up for evaluation at FATF.

Beyond simply acknowledging the concept, Pakistan must build a strategy (including tactics, techniques, and processes) to optimise the appropriate use of the law and oppose adversaries' efforts to use it to their advantage. It is bringing constant challenges to Pakistan. Pakistan needs to develop its capacity and take up this matter urgently. It needs to take every opportunity to tackle new challenges of varying natures. Pakistan has a lot to do to match the well-developed lawfare strategies of its opponents, so it is time to get to work. The state must learn from global players and past mistakes to develop its lawfare strategy.

Pakistan has struggled with lawfare challenges over the years, including national and international ones. Lawfare is not a very old term, it was introduced in 2001, but the concept it holds is as earlier as the formation of the state. We get to see a series of events in the last ten decades of Pakistan that have played as the lawfare challenges for Pakistan. These events have shaken the roots of Pakistan's national security and, at times, have played a significant role in setting trends for the rest of the world.

PAKISTAN'S PERFORMANCE AT A GLANCE



The Question of Universal Jurisdiction and **How It is Connected to Lawfare**



by **Rabia Sohail Paracha**
CLAS Research Officer



For many years, nations such as Jammu Kashmir and Palestine have faced inhumane operations at the hands of India and Israel, resulting in numerous murders of innocent people. The use of universal jurisdiction in lawfare gives an international forum for such nations to express their concern so that international organisations end such crimes by taking action against the governments engaging in such criminal activities.

The establishment of Kashmir and the repressive administration of its leaders were crucial to the state's future. The Kashmir dispute began with the partition of the British Indian Empire in 1947. Because of religious differences, the newly established India and Pakistan competed for authority over the state. This became the focal point of the Indian-Pakistani conflict, with both nations taking proactive steps to seize Kashmir's land, and the matter has yet to be settled. Pakistan, in 2021, represented the Indian army's cruel acts in Kashmir but failed to utilise lawfare as a tool. Current developments demonstrate that genocide and torture are still occurring in Kashmir.

In 2001 Charles Dunlap founded the term "lawfare", which describes the growing use of international law claims, usually factually or legally meritless, as a tool of war. The aim is to gain a moral advantage over your adversary in the court of world opinion and a legal advantage in national and international tribunals. The word lawfare has been further divided into different types: media lawfare, cyber lawfare, economic lawfare, and aviation lawfare. This is a vital instrument of statement and a dogma used for other countries' national security of foreign policy embedded. Lawfare comprises international systems such as the UN, international influence, coalitions, and international forums. Their combinations mean adversities (the country can pressure their enemy using lawfare). There are different examples of lawfare, like hybrid lawfare, also referred to as a 5th generation lawfare, where a country can put pressure on adversity by using other avenues and bringing the issue to different international forums.

The concept of universal jurisdiction proposes so-called international crimes are so dreadful that each state has an interest and a right to prosecute such an adversary for all humankind. The most significant

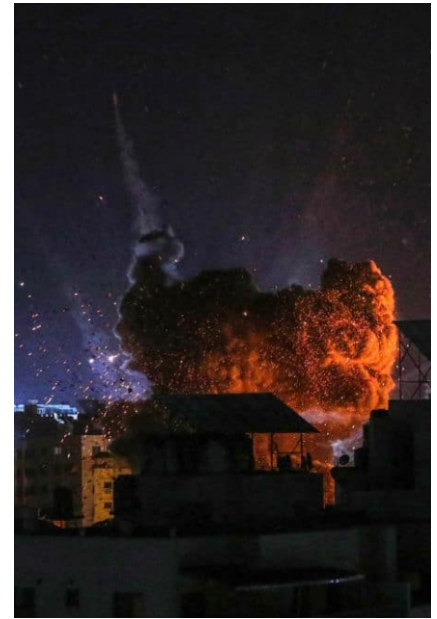
debate on universal jurisdiction is to be found in and was a result of the trial of Adolf Eichmann (Attorney General of Israel v Eichmann). Universal jurisdiction does not include Private international law cases, also known as Conflicts of laws, because it focuses on the issues of the individuals like Libel and defamation cases. Universal jurisdiction has two approaches: the "global enforcer" and the second "no safe haven". The Global enforcer mentions the usage of Universal Jurisdiction as an active way of preventing and punishing international crimes committed anywhere. At the same time, "no safe haven" takes on a more passive tone, referring to this principle's usage to ensure that the particular country is not a territorial refugee for any accused of international crimes.

These methods are intertwined with lawfare. The concepts of universal jurisdiction and lawfare are inextricably linked. For example, when a country raises a piracy-related matter to international forums, the law relevant to that issue will be international law. States can ratify national legislation under international law allowing national courts to investigate. Suppose there exists adequate admissible evidence for the same. In that case, the state can take legal action against any person who enters their territory and is alleged of certain crimes, irrespective of where the crime was committed or the nationality of the accused and the victim. Genocide, crimes against humanity, torture, apartheid, and slavery are among the crimes which are usually considered in the scope of the universal jurisdiction of national courts. Using lawfare gives the country the prospect of bringing an issue internationally by applying universal jurisdiction to it. Over 125 countries have enacted universal jurisdiction laws.

Pakistan's record in lawfare is far from desirable as it has been unsuccessful in holding countries like India that infringe international law accountable. India has unlawfully occupied Jammu & Kashmir (IIOJ&K) or Occupied Kashmir. Some of the weaknesses are the lack of proper expertise, inadequate resources, and the absence of a central hub coordinating national lawfare efforts. Actions like using pellets by Indian security forces in Kashmir are a grave breach of human rights law, equivalent to a war crime; the Indian army's forced entry into private residences, detention of victims, and torture are classified as war crimes. As per Article 427 of the UN International Covenant on Civil and Political Rights (ICCPR) and Human Rights Watch (HRW), state-sponsored militias should abide by International Humanitarian Law (IHL), the Anti-Terrorism Act 1990, the International Criminal Court (ICC), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984. With India violating the law in Occupied Kashmir, Pakistan can certainly use lawfare as a tool to hold India accountable.

As an offensive lawfare option, Pakistan must collect evidence of Indian human rights violations and document them to be characterised and presented as war crimes in international fora like the UN Human Rights Council and General Assembly. Kashmiris should be helped in invoking the 'universal jurisdiction' clause of the domestic laws of countries like the US, UK, Argentina, Australia, Germany, Belgium, Canada, Norway, and Sweden. The evidence collection efforts should be instituted under a legal statute through multiple channels, such as a university, and the vice-chancellor can notify a committee as a statutory entity for collection and documentation of evidence which could be funded as a project by the Ministry of Finance.

Jammu and Kashmir is not the only country dealing with criminal actions perpetrated by another government. Palestine has been a notable example of genocide or a crime against humanity since the beginning of the mid-twentieth century, as evidenced on May 11, 2022, when Israeli troops shot Shireen Abu Akleh in the head while she was on duty in Jenin, the occupied West Bank. Israeli troops disrupted Shireen Abu Akleh's burial, resulting in another outburst of violence against humanity. Both nations should use Lawfare, where universal jurisdiction applies under IHL, the Anti-Terrorism Act of 1990, and the Torture Act of 1984 and bring these horrific actions against humanity to an end.



For many years, Muslim countries have brought the issue of the genocide being perpetrated in Gaza and Palestine to the international stage via social media and newspapers for universal jurisdiction crimes such as the August 6th, 2022, bombardment in Gaza, which killed 51 persons and injured many more. For several years, Muslim nations had brought the problem of Israel committing universal jurisdiction crimes. Furthermore, all evidence gathered by Pakistan against India, such as the 7th August 2022 incident where scores of people were injured, and many more were arrested after government forces attacked Muharram processions in the Indian-controlled Kashmir's capital city Srinagar. Pakistan should bring these incidents to the forefront through media lawfare, building a solid case to present the ongoing issues in Kashmir. Projecting these issues globally will pressure India to stop such crimes against Muslims in Kashmir.

The case of the Gambia v Myanmar shows how Gambia approached ICJ regarding the genocide committed by Myanmar and the law relating to universal jurisdiction applied by the ICJ, showing how the countries can approach the international courts about war crimes. The Gambia, an African nation located more than 11,500 kilometres from Myanmar, filed a case at the ICJ claiming that a conflict exists between it and Myanmar regarding the interpretation and application of the Convention based on how the government of Myanmar was treating the Rohingya population, which the Gambia claimed rose to the level of genocidal acts. On 22nd July 2022, the decision by the International Court of Justice (ICJ) to reject Myanmar's preliminary objections in the case concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) is of great importance not just to the people of Myanmar, but also to the development of international law and to define the obligation of States that have signed the Convention on the Prevention and Punishment of the Crime of Genocide.

While these cases are proceeding at the ICJ, it is worth pointing out the legal initiatives at other fora. Not all these are a matter of state responsibility and are focused on individual responsibility. This "accountability matrix", as it were, encompasses multiple legal initiatives, and the implications of these other initiatives must be factored into legal strategies. The matters relating to universal jurisdiction should be brought up at international forums, such as the case of Gambia v Myanmar tank the genocide in Gaza by Israel, which may pave the way to end these atrocities by using lawfare and universal jurisdiction.

Disinformation Campaigns and Lawfare



by **Ammad Khan**
CLAS Research Officer

The use of 'disinformation' as a tool in statecraft dates back to the era of world wars. It is a contemporary lawfare strategy for states to gain various geopolitical objectives. States have used it to manipulate the adversary state's public to stand against their institutions. The United States Department of Defence defines it as an "incisive instrument of state policy". Moreover, the European Union (EU) defines disinformation as "creating misleading information to achieve economic and political goals or intentionally deceiving the public which may cause public harm."

Lawfare is an instrument to challenge the legality of the enemy's policy related to an issue. Meanwhile, it helps a state target a rival state's economic, political, social, and military strengths by misusing existing international legal norms. The spread of misinformation is enabled without legal regulations for social media, which is a primary source for creating and spreading deceptive content to mislead the public. Most social media platforms are not existing as legal entities in a state and are not regulated by laws, thus enabling everyone to build malicious narratives among the people. Legal mechanisms hardly work to be applicable for such platforms, while banning them altogether is countered as inappropriate. In this respect, states need to analyse and sort out lawfare strategies to prevent their territories from such perils.

Disinformation is not only manifested to counter a policy or manipulate the public. Sometimes it's just used to boost support for an existing position, such as supporting opposition or a minority group. A US-based firm presented its big-picture analysis, which shows that about 72% of the Russian disinformation targeted the United States, Israel, Saudi Arabia, and the UK. For example, the allegations levelled against



the Russian disinformation campaign regarding their interference in the 2016 US elections. According to a report, around 7,000 accounts were created on various social media platforms to support Donald Trump in the polls. They also sent anonymous messages through messaging platforms such as WhatsApp, LINE, and Telegram to build a narrative supporting Trump. These platforms efficiently spread disinformation because they cannot be tracked without law enforcement, becoming more time-consuming.

European DisInfo Lab in 2019 exposed a disinformation campaign launched by India against Pakistan. This massive scandal revealed a matrix of disinformation subject to the operation of fake news outlets on social media and

mainstream media worldwide. According to the report, the built network comprised over a thousand media outlets, operating mainly from India. It involved multiple Indian media groups in running the campaign. Reportedly, it mentions Delhi-based Shrivastava group and one of India's wire service companies, Asian News International, promoting the anti-Pakistan narrative since 2005. They were steering 256 websites to influence international opinion and civilians against Pakistan. Various humanitarian groups and social organisations correlating with the United Nations were mentioned in the report as a part of the matrix.

For almost 15 years, India successfully used disinformation as a lawfare tool to create more challenges for Pakistan in domestic and international arenas. This cyber disinformation campaign played its part in categorising Pakistan into FATF grey lists. It took India almost a decade to build a false narrative about Pakistan's irregular financial activities. Consequently, FATF charged Pakistan with severe offences for financing terrorism and other extremist movements. Since then, Pakistan has struggled to find a way out



of these hefty charges and allegations by bringing reforms that could meet the FATF's requirements.

India achieved many strategic advantages through disinformation by exerting pressure on Pakistan through FATF. New diplomatic and economic forums were created, forcing Pakistan to align its strategic choices with Indo-US interests. Also, India successfully built pressure on Pakistan by discouraging other countries from investing in Pakistan. They forced the international market actors to avoid transactions in a grey-listed economy. It negatively affected Foreign Direct Investment in Pakistan, resulting in the devaluation of the country's economy.

FATF has gained strategic advantages through its lawfare by putting impediments in the way of the IMF program. Threats of black-listing the country that could bankrupt the economy were also one of the dangers. Such factors resulted from disinformation as a lawfare strategy that holds responsibility for Pakistan's economic challenges. These lawfare strategies acquired by India involved isolating Pakistan internationally to achieve its strategic goals. Notably, under Modi's regime, India has been maligning Pakistan by all means necessary.

Despite the harm to the economic aspects caused by disinformation through FATF, India spared nothing to bring civil unrest within Pakistan. Even after the EU Disinfo lab unveiled the matrix of cyber-meddling, India did not stop operating their disinformation campaigns. During the protest of “Tehreek-e-Labbaik” in April 2021, the hashtag #CivilWarinPak ran on top trend in Pakistan. There were also other controversial topics capturing attention on social media which presented a desperate image of the ongoing situation in Pakistan. Lately, after the situation got normal, these trends were analysed to trace the origin of the campaign. The analysis exposed 61% of the total Twitter hashtags stemming from India. It also disclosed that seven out of ten cities where this hashtag was trending were Indian cities, including Mumbai, New Delhi, Lucknow, Hyderabad, Bangalore, Pune, and Jaipur.



The malicious campaign revealed and exhibited many complexities regarding the direct involvement of the Indian Government since the report does not mention anything that could state the direct implication of the Indian Government in the campaigns. At the same time, the nature of the campaign shows that such movements are not possible without the involvement of a state. Also, Pakistan has provided enough evidence that has sought attention from the international community and brought challenges to the functionality of the United Nations and the European members. NGOs and media outlets named in the report still perform their functions. The impact of international actions on the situation is still yet to be seen.

Lawfare can be more dangerous than it's being considered due to its complex nature and detection issues. It can be problematic for countries to find evidence against countries using disinformation as a lawfare tool. The consequences of using disinformation as a lawfare tool can effectively be negative for democracies and the manifestation of international law. Therefore, it is essential to draw a line that could differentiate between such cases, or any country would use it as a justifiable act due to the absence of legal regulations.



EU DISINFO LAB



India's 15-Year fake information warfare targeting the EU and UN to isolate Pakistan.

INDIA TARGETS EUROPEAN UNION, UNITED NATIONS WITH FAKE MEDIA, DEAD NGOS FOR ANTI-PAKISTAN PROPAGANDA

Lawfare as a Tool for Deterrence



by **Asfand Yar Khan**
CLAS Research Associate

Lawfare is not only a tool of world powers but of weaker states as well. In the contemporary age, conventional military superiority is not the only way to deter the adversary state. War and weapons, the primary means to achieve geopolitical goals, became deadlier and deadlier as the years passed. The cost of war has gone up with the advancement in weaponry. Instead, waging a legal battle is less costly and can be equally effective. States that have realised the significance of lawfare are using it to their advantage.



International politics keeps changing its course with time. History has always backed the 'Clausewitzian' discourse, which revolves around the thought that 'there are no permanent friends or enemies, just interests'. It is not just the alliances and loyalties that evolve with time, but also the means to achieve them. By the mid-twentieth century, the concept of deterrence emerged as an essential component of strategic doctrines. As the evolution continued, secondary means such as, lawfare came to the limelight.

Lawfare is a present-day weapon of war, often used by international actors to pursue their geopolitical objectives. It is used as an alternative or as a support to the kinetic action against a rival state. A glaring example of the efficacy of lawfare is the imposition of sanctions by the United States on Iraq in 2003 that prevented it from

acquiring new aircraft and spare parts. This weakened the Iraqi Airforce to the extent that coalition forces faced no resistance from them. No aerial combat could have ensured such a comprehensive defeat.

Lawfare was not considered an effective means to pursue political objectives before the information age. It is due to globalisation and its manifestations, like the information technology revolution and economic interdependence, that the significance of lawfare has witnessed an unprecedented rise. Other reasons for the increasing significance and impact of lawfare include the rising outreach of international laws and tribunals and the new role of non-government organisations (NGOs) in global politics.

The most significant application of lawfare is its ability to prevent the escalation of a dispute into an armed conflict. Using law as a 'weapon of war' does not cross any conventional threshold that may warrant a military response, but it may well achieve a military objective. The most relatable incident is the use of lawfare by the United Kingdom to stop the Syria-bound Russian ship 'MV Alaed' carrying helicopter gunships for the Assad regime. The UK persuaded the ship's insurer, 'The London Standard Club' to withdraw the insurance. As a result, the ship and its deadly cargo turned around and returned to Russia.

Lawfare is used as a tool for deterrence by great powers. This avoids not only the use of conventional military but also the international outrage over a strong world power trying to suppress a weaker country. The United States keeps on extending its arm-twisting tactics through lawfare to meet its geopolitical objectives. The Financial Action Task Force (FATF) has often been used against Pakistan to deter it from taking steps at the international stage that may not favour US's interests. Washington has also made stringent use of sanctions regime to cripple the economies of states they label as 'rogue states'.

Contrary to the widely understood belief, lawfare can be used by a weaker state to deter a stronger adversary. As well as the intelligent use of International Investment Law by Ukraine to apprehend Russia for the annexation of Crimea and its recent invasion shows that lawfare can protect weaker states against any aggression by the powerful country. The Investor-State Dispute Settlement (ISDS) platform empowered Ukrainian private investors to file lawsuits against Russia for breaching treaty protections to Ukrainian investments.

Another example is the use of lawfare by the Palestinian Authority against Israel after the former's recognition by the United Nations. The recognition enabled PA to join a few treaties and many international organisations. The PA collaborated with allied organisations to file lawsuits against private companies supplying weaponry and construction material to Israel. Most of the lawsuits successfully compelled private companies to halt their ongoing businesses with Israel. Hence, PA began to achieve what it could not through lawfare through countless negotiations and years of armed struggle.

In recent years, Pakistan has been a victim of Lawfare waged on it by hostile powers, primarily India. Yet it is a neglected concept in Pakistan. If due attention is paid, Lawfare will provide Pakistan with opportunities to deter Indian aggressions at the diplomatic level. Like the Palestinian Authority, Pakistan can partner with international organisations to find legal options against India for its repeated human rights violations in the Indian Occupied Jammu and Kashmir territory. Moreover, Pakistan can actively pursue lawfare over a number of other issues, such as, violation of the Indus Water Treaty, cease-fire violations at the LOC, the spread of disinformation, and any possible trade restrictions in future imposed on Pakistan by India.

A Timeline of Pakistan's last two decades of **Lawfare Challenges**



by *Umme Ruqgia,*
CLAS Research Officer



1999 The Islamic Republic of Pakistan submitted an application on September 21st, 1999, to start legal action against the Republic of India over the destruction of a Pakistani aircraft on August 10, 1999. The court held that it had no jurisdiction to adjudicate upon the dispute brought before it by Pakistan against India. Still, the lack of jurisdiction by the court does not relieve both states from settling their conflicts peacefully.

2012 Tethyan Copper Company sought international arbitration through the World Bank's ICSID in 2012 after the Balochistan government denied the company's request for leasing. The legal battle went on for seven years. Following frantic efforts by the AGP office and the security establishment, Pakistan avoided paying an \$11 billion fine in March after striking an out-of-court settlement on the Reko Diq project in the Chagai province of Balochistan.

2013 Karkey (a Turkish energy company) submitted an arbitration request in January 2013 alleging that the Bilateral Investment Treaty (BIT) between Pakistan and Turkey had been broken. Karkey presented a \$1.5 billion claim. On August 22, 2017, an ICSID panel ruled in the Pakistan-Turkey BIT case. The panel had mandated Pakistan to abide by its international responsibilities at the provisional measures stage. In the end, the tribunal dismissed Pakistan's suit against Karkey and gave it about \$800 million (including \$5.7 million each month in interest)



2014 The Republic of the Marshall Islands accused nine States, including Pakistan, of failing to uphold their commitments to nuclear disarmament and an early end to the nuclear arms race in applications filed against them on April 24, 2014. In each case before the Court, the Court believed neither side had provided sufficient evidence to establish a conflict between the two States. According to Article 36, paragraph 2 of its Statute, the Court lacked the authority to consider the merits of these cases; hence it could not do so.



2017 India submitted a request to start legal action against Pakistan over alleged violations of the Vienna Convention. The proposal was made about the arrest and trial of Mr Kulbhushan Sudhir Jadhav, an Indian national whose military court had given the death penalty in Pakistan. The Court concluded that it was impossible to support India's arguments. To ensure that the impact of the violation of Mr. Jadhav's rights as outlined in Article 36 of the Vienna Convention was fully considered, the Court also found that Pakistan was required to provide an adequate review and reconsideration of Mr. Jadhav's conviction and sentence.

2018 An international arbitration court is currently hearing a legal dispute between Pakistan and the Al-Tuwairqi Group of Companies in Saudi Arabia. Saudi Arabia has claimed \$500.00 million. The case is still pending.

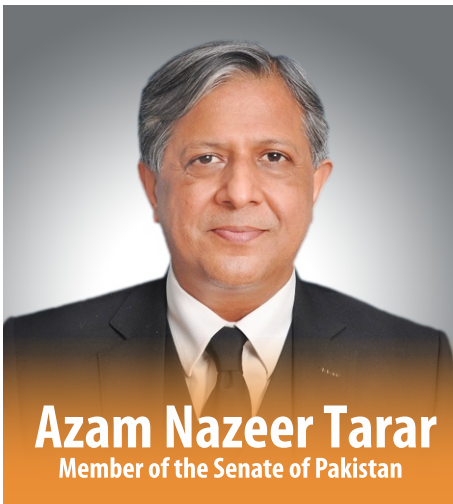
2021 Malaysian authorities confiscated a PIA aircraft on January 15 after a court allowed an application by the plane's lessor, Peregrine Aviation Charlie Limited, to keep it grounded until the outcome of a \$14 million lease dispute with PIA in a United Kingdom court. After a settlement between parties over the dispute involving the two planes leased to PIA, The Kuala Lumpur High Court ordered the immediate release of the aircraft.

2022 USA accused NBP of facilitating the transfer of funds allegedly used to plot and carry out attacks on a US military base in Afghanistan. Pakistan won the terror-financing case against the National Bank of Pakistan (NBP) in a federal court in New York. This victory also spared Pakistan potential issues it could have faced in the FATF.



Comments by **Azam Nazeer Tarar** - The Future of Lawfare

The only way to address the difficulties of the changing times is to adapt our way of thinking. This is modern warfare. Pakistan is fortunate to be a Nuclear Weapon State. This status protects the country against military misadventures and conventional war.



Pakistan needs to prepare the next generation for the ground realities where it is lacking. Pakistan cannot only move ahead by manufacturing textile products or growing rice. Nations that have relied on limited outputs have been halted and are falling behind. The time is to think wisely and act smartly. The youths are the visionaries and the future of Pakistan. If they wish to represent their nation, they should pursue a career and serve as ambassadors for their country. The new generation will contribute to the country's economy in various ways.

A lawyer must be a bright thinker with a library of literature to be effective in the field. Lawyers are a unique species in that while dealing with an anti-craft matter, you must wear an engineer's cap

on your head by detailing road conditions like compaction, etc. If you're going to defend a doctor, you'll most likely have to go through medical topics like physiology, anatomy, and so on. This is a challenging occupation. The same is true for the current issue, the scope of conventional conflict. Our path towards peace and humanity should be accomplished with a pen rather than a sword.

Kashmir's legal case will be one of the most serious if this mission is carried out. We need tenacity; we must move forward and take the lead. Indeed, lawfare is a new endeavour, but even new initiatives have progressed in many countries.



Comments by **Ahmer Bilal Soofi** - Significance of Lawfare for Pakistan



We have been hearing about lawfare and international law, but one thing is evident; the importance and significance of international law are understood and acknowledged by everyone now. Everyone as a stakeholder is beginning to appreciate and recognise that Pakistan's profile and role in global affairs will depend on its expertise in international law. On a day-to-day basis, some developments are taking place. Similarly, international conventions are held in all major capitals of the world. These conferences, bilateral arrangements, and multilateral forums are where the country's needs and interests are battled out. So, it depends if you are ready for that opportunity; sending quality delegations to ensure that your country's interests are being watched will be the defining moment.

Well-prepared delegations should be sent to multilateral cities like Geneva, Vienna, and New York, where international law is being formed and developed, is the need of the hour. Likewise, we should encourage important think tanks like the Center for Law and Security and the Research Society of International Law that can contribute to getting accreditation through ECOSOC. Hence, they have the right to an audience in all international gatherings, and you have an additional voice from Pakistan to argue your position academically.

Pakistan needs serious research on all aspects of international law, whether related to telecommunication, transit, Kashmir, or any other factor. The provincial and federal laws put together about 15,000, only that you can look through the Pakistan code, but the treaties in which Pakistan's interests are engaged are over 50,000. Likewise, the number of international organisations is also in the thousands. We cannot close our eyes to the risk we are exposed to; we must be prepared for that. When serving as the Law Minister, an effort was made in a short time to seek sanctions for a few posts for a few young international lawyers. Again, an effort was made that the ministry of foreign affairs should also have six to ten young graduates who can go into the ministries and give their input to the political representatives who can then make policies in the right direction. We term the entire apparatus lawfare since warfare occurs only infrequently. You do not go to war to attain your aims; it occasionally happens and may have become outdated. There is a need for military forces for self-defence and competence in international law to gain global influence.



The Quran speaks of creating "an influence" or "Ghalba" that will be given to you. It certainly isn't restricted to territorial influence, but many people make the fatal mistake of thinking so. In today's time, ghalba means one's influence through his legal footprints. For instance, if one gains a grip over the WTO treaty by understanding the mechanics of imports and export mentioned therein, also understanding the advantages it gives in certain areas, and eventually bringing trade policies in line with it, he will end up opening a lot of doors for his entrepreneurship as a vast global market opens up. China has gained influence by understanding the WTO and international treaties that belong to the trade of congress. Through their help, they developed complete expertise on the matter, be it transit or any other form of trade rules. Now see, if one has to take his country's goods and deliver them to Russia, Turkey, or England by road, how will that happen as long as he is not aware of the conventions that relate to transit?

In reality, lawfare means opening opportunities for oneself. We advise foreign investors that come to us privately; we say the law is a window of opportunity for you. For example, if you look at the provincial regulations for almost every province, you see an opening; you can see what the provincial government provides and compare it to what CDA and LDA provide you. Similarly, international conventions are windows of opportunity for each treaty, and each convention is a window of serious opportunity.

If you can understand it, reward it well, and, most importantly, participate in it and take advantage of it, you can leverage it. In today's time, continental shelf, i.e. conquering territories, is not an option since the UN charter has clarified that title has gained finality and any takeover here onwards will be illegal. What must Pakistan do to achieve a continental shelf in such a case? The continental shelf of the UN charter gives me the authority to claim territory at three aeronautical miles. With such a claim, you have acquired territory through the help of law and not through force. Acquiring territory through force has ended, and we must make our Ulemas understand that territorial ghalba is obsolete now. A new method of obtaining ghalba is through a firm grip and excellence in law.



As you may have seen, India also took over Kashmir on August 5, 2019, by producing a legal instrument that is around 20-30 pages long and took approximately 6-7 months to complete. A group of Indian MPs and attorneys went down to prepare a legal document that widened the power of the Indian constitution to enable it to take over Kashmir. They created a worldwide controversy. A legal instrument was constructed as a foundation for them to assert title to Kashmir. Pakistan needs to fight back on that plane and demolish that agreement by arguing that this cannot be done for these legal reasons. So, therefore, there is a need for investment in young lawyers. Thirty years ago, speaking about international law and incorporating those in

our national laws, people were not listening to us; they thought we were discussing some very fancy idea. Everybody spoke about domestic law thinking international law was something very farfetched. Gradually, people came to recognise the significance international law has had on a global and regional level as an instrument of influence.

To all young attorneys, the contemporary values and institutions of international law invite you to join them a chance for a career. Please do not disregard international law because there are no employment chances; indeed, there are few in Pakistan, but there are over 50,000 international organisations, and each one has a legal wing to which you may apply through their website- through their legal division. Ministries and leadership should consider institutionalising a system via which young attorneys may suggest these organisations.

To all young attorneys, the contemporary values and institutions of international law invite you to join them a chance for a career. Please do not disregard international law because there are no employment chances; indeed, there are few in Pakistan, but there are over 50,000 international organisations, and each one has a legal wing to which you may apply through their website- through their legal division. Ministries and leadership should consider institutionalising a system via which young attorneys may suggest these organisations.

Law ministries could thoroughly evaluate top graduates from any institution and then make recommendations to the ministry of foreign affairs or the entity in Geneva, such as the Pakistani missions in Geneva, Vienna, and New York, to actively push these names in the international system so that Pakistan's capability improves. Young attorneys should not be afraid to seek out these international organisations because of several opportunities. We all need to do our bit and play our innings, but the effort needs to be continued. Once you have done that, we can translate Pakistan's natural advantage and convert it into an influencing instrument, something that today's Indians have. They have it in the area of IT we struggle to compete; we can't; let's do it in law. Given the mushroom growth of law colleges nationwide, let's convert this into an advantage. Toppers from these law colleges should be allowed to be connected with employment opportunities in international organisations. We all want to do something for our country; the way to do this is now through digital platforms. Everyone should be encouraged to launch a blog in the area of international law they find interesting causing a multiplier effect in the short and long run



Comments by **Barrister Ahmad Pansota**

Disinformation, Defamation and Pakistan's Legal System



Disinformation has burst onto the world stage as a substantial dynamic. However, lies, deception, and perfidy are centuries-old phenomena, but the contemporary age has facilitated the amplification and manipulation of false information (disinformation) to an unparalleled scope.

Disinformation is fabricated or manipulated audio/visual content that intentionally creates conspiracy theories or rumours. Disinformation campaigns can be private individuals oriented or state/institution oriented. Disinformation, simply put, is false information that is purposely/intentionally created or disseminated with the precise purpose of causing harm. Fabricators and producers of disinformation typically have

political, financial, psychological, or social motivations. The other kind of information disorder is misinformation and mal-information. Misinformation is false information that is not intended to cause harm; for example, false information may be spread on social media to be helpful. However, mal-information is a piece of genuine information shared to cause harm. This includes private or revealing information spread to harm a person or reputation. Disinformation campaigns include social, economic, political, legal, and technological influences.

In Pakistan, fewer legal and judicial ways are used to deal directly with disinformation, fake news, mal-information, and/or misinformation. Legal provisions available include defamation laws. If fake/false news or information harms someone's reputation, they can approach a Court of Law to seek redress in damages. Defamation law includes libel (published statement) and slander (verbal statement). Civil and Criminal Defamation laws are Section 499 - Section 502 of the Pakistan Penal Code, Section 20 of the Prevention of Electronic Act 2016, and Sections 3 - 14 of the Defamation Ordinance 2002.

Civil and criminal defamation

The principal distinction between civil and criminal defamation is that it is only under civil defamation that the aggrieved/ injured party can seek damages. There is no such relief available in criminal defamation. However, there are no considerable differences other than damages, which can only be sought under a civil suit and not under criminal proceedings. Over the past, efforts have been made to debunk the spread of false and fake news. Some organisations gradually expose fake news/disinformation with the help of fact-checking initiatives such as AFP, which has only one partner in Pakistan. AFP is a part of Facebook's third-party fact-checking programme. It probes and investigates stories flagged on Facebook and receives direct support through Facebook's program. Along with AFP, another fact-check initiative launched by Pakistan-based non-profit Media Matters for Democracy

(MMfD) counters rising instances of online disinformation and misinformation. MMfD, in 2019, made a Twitter handle to flag online false news.

Facebook is trying to maintain community standards and has involved fact-checkers in limiting false, problematic, and untruthful stories. Before the general elections in 2018, Facebook tried to prevent the spread of misinformation or fake news. However, the concept of fake news is still ambiguous. The boundary between the definition of fake/false news and other relative concepts, such as news satire, yellow journalism, junk news, pseudo-news, hoax news, propaganda news, advertorial, false information, fake information, misinformation, disinformation, mal-information, alternative fact, and post-truth is blurred. Thus, our legislative and judicial systems should work harmoniously to produce an achievable solution.



Government should restrict people's access to the internet while observing their Constitutional right to Freedom of Speech. Ministries and Media regulatory authorities should work in harmony to curb the spread of disinformation and misinformation

Comments by Justice Ali Nawaz Chowhan

Need for a Comprehensive Lawfare Strategy



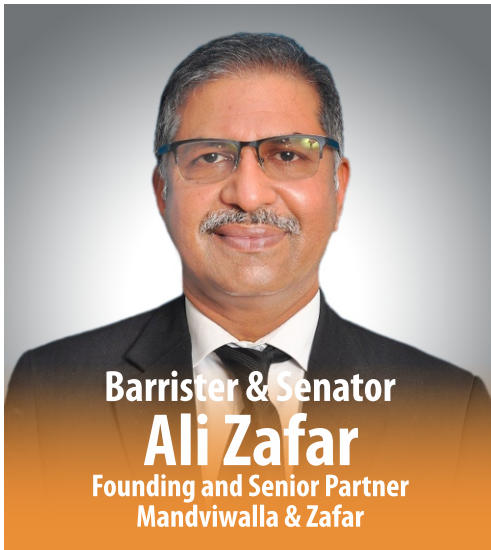
Pakistan needs to devise a mechanism concerning lawfare that includes adopting a lawfare strategy that develops interest and a counter of forensic strategy that addresses the forensic lawfare strategy of the administrative state in the future. The idea is to identify new strategies and mechanisms that have been found of interest. Then we colour out the essentials to make the report which will be helpful to the ministries, the security bodies and so on. In developing this concept further, this is a great contribution that a debate is held through this centre which is doing a good job.

Now, the very important thing where lawfare is required is the Kashmir question, which has been a sort of indolence regarding the role of the authority which was supposed to agitate. The five basic crimes against humanity committed within the community are rape, genocide, ethnic cleansing, and crimes against humanity. In the light of control, innocent civilians, including women and children, are killed, and soldiers are martyred while in defence. In the vocabulary of international law, it is an international conflict involving a disputed territory. The constitutional change and executive order while the assembly of the state was not in session are false and a bluff.

Jimmy Carter of the United Nation stated while addressing the General Assembly in 1977, "It is no wonder the UN can claim that maltreatment of its people is solely its responsibility". The Declaration called for a revisit. Otherwise, crimes like genocide and ethnic cleansing committed in the Balkans would have gone unnoticed. The UN Resolution 1647 affirmed the security council to act and protect the civilian population in armed conflict. It had already given its report on Gaza, Lebanon conflicts, etc. It even hosted a meeting. So the mechanism was established.



Comments by **Ali Zafar**



Pakistan needs to build the capacity of different organisations and the kind of opportunities that exist in this respect. So, the first thing is offensive and defensive lawfare which may be available to Pakistan on the ongoing international dispute that needs to work on, whether it's the Kashmir issue on which there were a lot of discussions related, there are conferences, national security division has worked a lot, and one should highlight the fact that Pakistan's first proper national security policy is a very comprehensive national security policy. It not only talks about Pakistan's territorial bodies' security but also fulfils economic security. So, while talking about lawfare, it is essential to distinguish and determine that it is not only about the Kashmir dispute but also other related lawfare issues, as many dimensions are present.

The Indus Water Treaty is also considered in Pakistan's issues, like the Kashmir Issue. India is making dams on Pakistan's water streams, which will impact Pakistan's agricultural economy in the future. Pakistan needs water not only for domestic issues but also from the perspective of livelihood, which is why there is a need to take strict and immediate action. So in this regard, the work that needs to be done related to lawfare is to determine a strategy to overcome these issues as a country.

Pakistan needs to focus on offensive and defensive strategies around some of these matters. Then, Pakistan must practice key international law lawfare aspects that need to be determined and housed somewhere, so this is the work of the Foreign Office and the Armed Forces. Lawfare is already present and growing. The war has spread throughout the territory. Regarding the social media aspect of cyber-related issues, Pakistan needs a focal point or focal coordination department committee that can access the most sensitive information and then inform the leadership, whether political, military, or civil society, about Pakistani state policy on lawfare.

So, one of the most pressing needs in Pakistan is to create law offices ranging from attorney generals to advocate generals to assistant additional deputy law offices. There is a very high opportunity for students who specialise in this field to learn and work in this field, both academically and intellectually.

Furthermore, climate change-related challenges and others are evident. As a result, it must be recognised that, as a developing country, Pakistan cannot enter the acknowledged economic policy realm about the continued existence of a power shortfall. It must consider the climate change challenge and internal necessities and, under these circumstances, must define policy because, at the end of the day, what lawfare weapons are used against the country and can hinder economic and industrial progress. So there may be an entire discussion on this subject.

Anti-Pakistan slogans and advertisements for public transit were seen throughout the United Kingdom and Europe. The jurisprudence of the International Court of Justice and the International Criminal Court is evolving. What are the themes featured in it related to Pakistan and its surrounding nations' lawfare difficulties, and how can we interpret interpretations in it and utilise them? As a result, this is an



interesting point to consider. Then come to Asia-specific groupings and occasionally OECD-related operations, which many claims are lawfare actions against Pakistan, including the completion of neighbouring nations' banking sectors, which are much more regulated and controlled, but Pakistan is on the grey list.

Pakistan has made commendable efforts, and the authorities should be praised for forming multi-disciplinary and multi-inter-ministerial committees and following the FATF action plan. They worked on the action plan and brought on compliance, which was not an easy feat, but the ramifications of lawfare in Pakistan are increasing. Because new laws are made under the anti-money laundering regime rules and regulations, there are increased obligations on stockbrokers, banks, insurance companies, and even law firms. The result is that the obligations are being increased customarily related to ongoing compliance-related obligations on these organisations and institutions, which means that some people are discouraged from doing some work. It is increasing the cost of doing business. So, these items should not be viewed as paperwork or bureaucratic jobs since they have serious consequences, such as the country's economic situation, and this should be opposed.

Many of these things are present, and then there are Pakistan's bilateral investment treaties and free trade agreements, which Pakistan has signed more than fifty, many of which are inactive. The largest bilateral deal was negotiated in the 1950s between Germany and Pakistan. The largest arbitration awards were made against Pakistan, and the whole team rescued the country from those awards. When things settled, those awards were brought under the investment arbitration treaty, so Pakistan needs to revisit the existing international investment treaties and keep a check on whether to renegotiate or terminate it, why it needs to be done and should take it forward and assess its true impact. It will have a direct influence on the ordinary man. Must fight that war. Then there are the OIC, SCO, SARC, and other organisations that have resolutions because they are the local blocks and have a lot of importance from a legal standpoint.

There was a dispute among a few middle eastern Muslim countries for a few years as their people could not visit the countries. Even their airlines could not fly to those destinations, trade was suspended between them, and not a single bullet was fired for many years. This had direct economic and other implications for all three countries, and the war was entirely fought by lawfare tactics. It is crucial to determine how to handle any difficulties or queries. Pakistan has spoken out strongly in support of

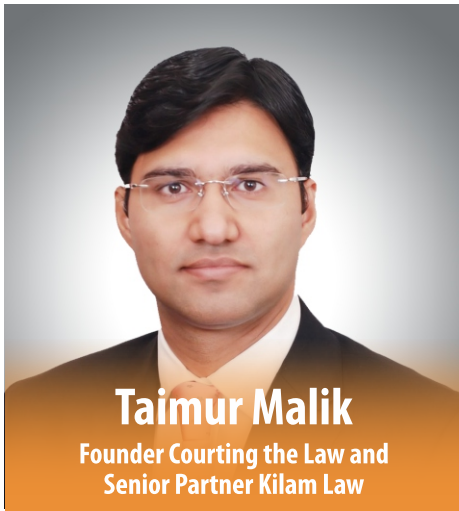


Kashmiri independence leader Yasin Malik, although he was convicted in a dual procedure on Indian accusations. This is legal warfare, and it impacts the country's ongoing diplomatic strife.

How should Pakistan cope with the IEA and the OPW, and how should it address FFC treaties, views, and lawfare? These are all law enforcement-related concerns that cannot be considered separately. A judge who lacks a comprehensive viewpoint cannot work on it. As a result, Pakistan must improve its capabilities across the board. The international awards are coming against Pakistan, and the danger linked with them is the risk season and attachment risk about Pakistan's assets abroad; this is also a legal issue. Therefore there should be some sort of response.

Concerns about law enforcement in Kashmir, our nuclear capabilities, Afghanistan, or India. The vision is vast, and this is not a little task. It is not even the work of a single group. One hopes that there will be more in the future throughout Pakistan, that more people will take interest and initiative, that new scholars and practitioners will emerge, and that key civilian and military organisations will establish full-time capacity because the ad hoc external through advisory service the lawfare strategy will not work.

Comments by **Taimur Malik**



The future of warfare is lawfare. Until the Russia - Ukraine crisis didn't start, it seemed like lawfare could be considered the future of warfare in the world. So all the hypotheses have been challenged in the international sphere. The offensive and defensive lawfare options available to Pakistan concerning ongoing disputes need further improvements.

One should highlight that Pakistan's national security is very comprehensive. It doesn't only talk about border security but keeps economic security at the forefront. Likely, talking about the lawfare, it's important to distinguish and determine that it is not only Kashmir dispute and FATF-related law but has many other dimensions. The current issue is Kashmir, including the

most heard Indus water treaty. As India is building dams on the water streams on which Pakistan depends, what should Pakistan be doing related to this? Pakistan already has a scarcity of water. How will it impact its agricultural economy in the future? Forget about domestic use in respect of water, but livelihood need for water should immediately be taken into notice. Most of its work is related to lawfare to determine the country's strategy. Unfortunately, most of the issues are at stake because of domestic politics. Likely, Durand line matters come repeatedly where a dispute exists. There are other matters, such as Siachen, which are status quo, and Pakistan needs to focus on defensive and offensive lawfare strategy around some of these matters.

Pakistan state practice regarding fundamental international law and lawfare aspects must be determined. It is not only the job of the foreign office; there are lawfare divisions in our armed forces. Lawfare divisions now exist and are being established, but other ministries must also do that. Now the domain of war cannot only be seen through the traditional lens. In the aspect of social media, or relevance to cyber security, Pakistan needs a sort of focal coordination department or committee which can streamline and then assess and inform our key stakeholders about Pakistan's lawfare policy position as a state, whether its political, military or of civil society. One's view has to be in the stated circle, or if someone has a different view, it should be addressed at the relevant forums. Civilians and military leadership should determine such policies in this national security committee. Hence, there is a need to do these things. There is a need to develop 100-200 lawfare officers, from Attorney General to the Advocate General to the assistant, additional, and deputy. It is impossible for senior speakers such as Ahmer Bilal Soofi, and Barrister Ali Zafar to take these positions.

Furthermore, there are other climatic issues facing Pakistan as well. Pakistan is a developing nation and is still in the phase of industrialising its economy and isn't in the domain of an acknowledged economy. There is also an electricity shortfall; therefore, climate change challenges and domestic requirements must be considered. Pakistan's policy should be determined because lawfare tools can be used against a country and can keep it limited in terms of economic and industrial growth. A whole conference can be organised to discuss this topic.

There is again a debate, particularly after the Russia-Ukraine crisis began that the UN security council should restructure its policies. India has had the position for a very long. Given its size and scale, it should have a position at UNSC. They're a challenge for Pakistan in that respect, and they should not accept that position. Pakistan is a Muslim country and a platform for OIC, so Pakistan is one of the largest

countries in the world in terms of population size. Also, as a nuclear-armed state, it is Pakistan's right to be on that platform if any restructuring occurs.

A narrative should be built for that purpose. Not only the government but it's also a civilian responsibility they should discuss these things on international forums. For example, the issue of Kashmir should be raised repeatedly that you're not implementing the right of self-determination according to the UNSC resolution. The illegal constitutional changes done by India to amalgamate the demographic of Kashmir are against the UNSC resolution. What is Pakistan's lawfare strategy, and how is it preventing those steps from being cemented in terms of the Indian legal jurisdiction?

Another important point is the legal mechanisms of countering anti-Pakistan action in foreign countries. These are lawfare-related things. Suppose cases are filed against the Former, and current civil/military officials in the outer jurisdiction or other FIR equivalent actions are taken. In that case, interrogate our strategy and position should be interrogated as a state whether we'll defend, tolerate or counter the case. There are media campaigns against Pakistan. It is right that there will be freedom of speech in some countries, but to what extent are Pakistan-related slogans and ads on Public transport permissible in the UK or Europe? These things should be considered. How could one apply the interpretation to one's relationship with the neighbouring countries through the evolving prudence of the international court of justice and the international criminal court?

Then come the FATF, Asia Pacific group, and OECD-related legal action group, which is said to be lawfare action against Pakistan. Pakistan is one of the countries with a way more organised and regulated banking sector, but still, Pakistan is on the grey list. They also say that Pakistan has taken many actions, and those who worked on completing 24 out of 27 tasks should be appreciated. The consequence of those lawfare actions is increasing the cost of doing business in Pakistan. Their increased obligations are on stock brokers, banks, insurance companies, audit firms, and law firms because all the laws made against the money laundering regimes and all the rules and regulations have the outcome of increasing regulations. This means that most people are getting discouraged due to the increased cost of doing business.

The rights delegation that is going on for the use of a trademark for Basmati rice is also lawfare and has an impact on export potential about rice in particular. Other things, such as Pakistan's bilateral treaties and more than 50 free trade agreements, are not usually discussed. The first bilateral investment treaty in the world was between Pakistan and Germany in the 1950s. All the arbitration awards that are against Pakistan where all our institutions have worked hard to prevent Pakistan from those awards. They need to revisit Pakistan's need to overview the existing international agreements to decide whether they should be renegotiated or terminated, why they should be, and how to move forward. If Pakistan has to pay off 6-7 billion dollars, that's equivalent to the total anticipated IMF program. It has a direct impact on the commoner on the street. There is warfare through lawfare. So, this should also be gotten rid of. Then there are OIC, SEO, SAARC, and other organisations having resolutions and local blocks more relevant to the lawfare perspective.

In between two orphan Muslim countries, there has been a fight for a few years that banned citizens and airlines from both countries from crossing the borders. There was no trade, but still, there was not a single bullet fired. All that happened for a few years had direct economic and other implications for all three countries and was entirely lawfare-based. There is a need to sort out how things move forward. Pakistan's domestic judiciary has an important role in the sphere of lawfare. Particularly its affiliate court Judges need this awareness through the judicial academy and otherwise to tackle such issues.

Pakistan has raised its voice many times, but the Kashmir Independence leader Yasin Malik was convicted last week without proper proceedings by the Indian court. There are other topics as well, such as being a nuclear-armed state; Pakistan has other international treaties where it needs to clarify its position. How should Pakistan deal with IIEA, OPWP, and its position and lawfare strategies?



If mutual legal assistance and international judicial cooperation are discussed, it's lawfare. Should someone be brought back to the country, or should someone be sent back to other countries after being arrested? These are things that need to decide, and these are lawfare strategies related matters. We cannot isolate it. The capacity across the spectrum of Pakistan must be built in this regard.

Today's purpose of this discussion was to highlight that lawfare is not just limited to Kashmir, nuclear capabilities, or the Afghan-India issue, but the horizon is vast. An individual or an institution can't do it. Our fundamental institutions, i.e., civilian and military, must build full capacity in themselves because not all lawfare strategies can be carried out with external advisory services.

Comments by Hassan Aslam Shad

Towards Pakistan's First Lawfare Strategy



The development of Pakistan's first Lawfare Strategy, specifically looking at the last two to three years; we have seen several scholars in Pakistan come forward and penned their thoughts on what lawfare stands for, what the various challenges that Pakistan faces, and what steps Pakistan needs to take to overcome those challenges. One of the key drivers behind the proposal for an institutionalised lawfare architecture for Pakistan is the fact that the country recently released its first national security policy, which not only encompasses Pakistan's specific posture toward international disputes like Kashmir but also lays out a roadmap for the state in terms of how it should approach various issues such as human development and other countries.

Similarly, when it comes to lawfare, the state must now develop a robust lawfare strategy based on an assessment of the challenges that Pakistan faces, allowing the country to transition from an ad hoc approach to a more coherent and well-articulated strategy that allows the state to overcome challenges in the lawfare domain. Pakistan should go toward institutionalised lawfare. Back over Pakistan's 75-year history, some constants will have to be dealt with, one of which is the Kashmir problem. The other challenges faced from time to time include costly arbitrations that have been entangled and depleted Pakistan's financial resources. If Pakistan had a lawfare strategy in place around the time the mining concession was granted to a foreign investor in Balochistan, it would have been in a far better position to understand the legal landscape and the various challenges that were going to be foreseen in the future.

When it comes to institutionalising lawfare, the first thing that springs to mind is to recognise the need for a whole-of-state strategy; it cannot be piecemeal; a method that focuses on specific issues and sectors of law enforcement rather than a state-wide approach strategy in the sense that we need to grasp Pakistan's international pain points. Need to focus on international pain points first diagnose the disease, which means going into every area where Pakistan has faced international law and lawfare challenges and identifying those international pain points, and then understanding what needs to do to overcome or neutralise the losses that may face as a result of those international disputes.

The approach should be based on the desirability of specific results regarding law enforcement strategy. International law is a rule that applies between equals, yet certain nations are more equal than others, owing to a disproportionate geopolitical cloud that they wield against other countries. So, to use or battle those enemies, we need to understand how the international system affects us and, to do so, identify the pain spots in the international context and should have certain results in mind to achieve. The desirability of such goals should be the primary point of departure for Pakistan's quest for an international lawfare strategy. In addition to the worldwide pain spots I've described, we must consider the reality that certain issues have long-term consequences, such as those in Kashmir, and must assess, through a lawfare approach, our short-term and long-term goals. Suppose India and Pakistan have a

disproportionate power balance. How can we either maintain the status quo and ensure that the rights of the people of Kashmir are not infringed beyond what they are today, or what needs to challenge India in international forums? These are some of the questions we must ask ourselves when developing an international lawfare strategy.

The second important point to remember is that you must identify the adversaries. Unfortunately, Pakistan as a state and focus has been India-centric. One of the arguments that Pakistan's lawfare policy should focus on India is that India is the proverbial gorilla in the room that cannot be ignored. That is perfectly fine; we must remember that India's focus has been on Pakistan, also broadening its lens and looking beyond India because India is only one of the layers in the system and dealing with several countries, particularly western countries, which may or may not agree with Pakistan's stated position on certain issues. One example is FATF, which grey-listed Pakistan in June 2018; if it had recognised the antagonists, we would have been in a better position to combat this lawfare against Pakistan. So, when it comes to opponents in this scenario, it is no longer just India but a collection of like-minded nations that have understood international law to compel countries like Pakistan to adopt a specific posture to comply with certain criteria under the UN Security Council decision.

If we had a lawfare plan, we would have fared better. We would have been able to ready ourselves swiftly if we had been equipped to grasp the altering landscape. As a result of our failure, we remain on the FATF grey list despite meeting 26 of the 28 standards. Another critical element of Pakistan's law enforcement approach is that it must take two postures simultaneously. One is a defensive posture, which means being prepared to fight or respond to international challenges, such as Reko Diq. Still, we also need a regressive posture, which means we respond in advance rather than being reactive, become proactive, anticipate the challenges, and look at the big picture instead. So that Pakistan would have to walk down the route of knowing how the world system works, even creating facts favourable to Pakistan. As we all know, the international system comprises a network of laws that must be comprehended to be a part of Pakistan's first lawfare plan. The final point is to develop a bottom-up system for understanding how the lawfare strategy will be implemented in Pakistan; because it has not kept up with the requirements of changing international law, it is past time for stakeholders, the administrators, and military commanders, to be educated in the specific lawfare discipline that must be applied to their areas. To accomplish so, considerable capacity building is required to grasp how the plan would incorporate all departments and individuals in Pakistan's administrative system.



Comments by **Dr Salma Shaheen**

Highlighting the Nuclear Deterrence Factor and its Key Talents exhibited by different Nuclear Arms states and Deterrents Policies and Postures



In general nuclear deterrence applies to clear intentions to use nuclear weapons in case thresholds specified in the state's nuclear-armed states deterrence policies are crossed. What it requires is a credible capability that is a position of a deployable nuclear force and a political veil to use this force. Clear communication of the wheel to unless capability in case certain specified thresholds are caused but not necessarily to communicate the consequences of thresholds. The key objective of deterrence could not want to prevent a war between nuclear-armed states, aiming to achieve a certain understanding that prevents military actions even during the crisis. It is not solely dependent on nuclear weapons.

The key talents of the nuclear deterrence exhibited in the nuclear deterrence policies and postures of different nuclear-armed states with varying intensity attached include; firstly, whether a state keeps the policy to use nuclear weapons straight away or maybe has to absorb a first nuclear strike of an adversary and then strike back that is called the 'second strike'. Second, a deterrent stance might be based on credible minimum deterrence, as Pakistan had previously, or integrated deterrence, as most nuclear weapons are. Including the U.S. moving forward or the full spectrum deterrent that Pakistan presently maintains. This incorporates both conversion and military nuclear concerns. Thirdly, the aspect is the response, A state's response might be proportionate and build gradually with their oscillations, or it could be tremendous retaliation. Another skill not directly connected to nuclear deterrence but is necessary to highlight here is the unilateral monitoring of nuclear testing, which is now practised by all nuclear-armed governments.

Highlighting the key principles of international nuclear law, including customary and conventional, that are relevant to the debate on nuclear deterrence. First, we must remember that there are nine nuclear-armed states, of which five are de jure, the UK, the US, Russia, China, and France. They have certain nuclear arms states, a legal or de jure status because of their nuclear non-beneficial treaty. That treaty has given these five states the status of recognised nuclear-armed states. The other four are de facto, which include Israel, India, Pakistan, and North Korea

International nuclear law is derived from two basic sources. Conventional treaties include the Geneva conventions and the nuclear-armed force pact, as well as another treaty and the ICJ's advisory judgement from 1960. It is an advising opinion, but it is extremely significant to nuclear deterrence or even the general nuclear weapon since it has been widely covered and asserted as proof. The usual



includes the lengthy usage of nuclear weapons; we haven't seen any nuclear shoots since 1945, which is the habit of nuclear-armed governments. Third, it is the positive and negative security that nuclear-armed nations have provided to other states, namely that we will not strike certain states under certain conditions.

Before assessing the main principle of international nuclear law, consider the legality of the threat or use of force. Article 204 of the UN Charter refrains states from the threat or use of force against any state's territorial integrity or political independence. Then we have the ICJ advisory opinion of 1996. That extracts the idea of the use of force, including nuclear weapons, by loading the threshold when it's stated that the motions of the threat and use of force under article 204 of the UN charter stand together in the sense that if the use of

force, itself, in a given case is illegal, for whatever reason the threat to use of force would be illegal. But at the same time, the opinion in paragraph 2B states that in the absence of any customary or an international conventional law providing any comprehensive and universal prohibition of the threat of the use of nuclear weapons and thereby rejected the claim that nuclear weapons are unlawful by analogy with the meteorological warfare.

Then we have the UN General Assembly Resolutions, for instance, 1653, that did not outlaw the threat of nuclear force. It is important to consider that the UN General Assembly Resolutions are not legally binding compared to the UN Security Resolutions. But this still holds certain legal significance because there are rich sources of evidence in international law. The key here is article 51 of the UN Charter. Under that article, states are permitted to use nuclear weapons.

Force in self-defence and this right of self-defence entitles nuclear-armed states to decide the nature of their defence forces, even if that force includes nuclear weapons. Article 51 renders legality to the use of force, including nuclear weapons in self-defence, until a conventional or a customary international law develops to outrightly proscribe the use of nuclear weapons, now having established the legality of nuclear deterrence.

Moving on to discuss the main relevant principles of international nuclear law derived from the law of armed conflicts. These are the principle of proportionality, the principle of military necessity, the principle of humanity, and the principle of distinction and precaution. These doctrines are also considered when we talk about nuclear deterrence. So all these principles are related to nuclear deterrence in international law. So it is important that the threatened use of force is proportionate to the military objective. It is also important that the use of force is imperative to achieve it swiftly, directed at military or counterforce targets, based on information available to the leader or the commander of that time. Military necessity is related to the principle of humanity that forbids states from using force to inflict destruction, suffering and injury unnecessary or not proportionate to achieve a legitimate military objective. Military necessity can't justify actions not supported by the military principles of humanity. In the context of nuclear force, the intended military objective can be achieved swiftly by engaging counterforce targets based on time-specific information while limiting the destruction, suffering and injury. In this case, the low yield of nuclear weapons could be the principles of military necessity and humanity.

To further state an example from a legal paradigm, the famous shamed case of the Tokyo district court in 1963 gave its ruling stating that the US's decision to bomb Hiroshima and Nagasaki in August 1945 was a direct violation of IHL. Principles of indiscriminating military necessity and unnecessary suffering. There are some standards on which these principles can be applied in the case of nuclear context. The principle of distinction obligates state parties to combat ends refrain military targets and infrastructure such as protected property and places during a conflict while using force. This is related to the principle of proportionality controlling accidental and collateral damage. This distinction is also related to the principles of humanity and military necessity introducing, rather than controlling sufferance, injuries and damage will establish military necessity by engaging only military targets. Several legal judgements spoke these principles, as discussed in detail in the research paper. How does this legality of nuclear deterrence and principles of international nuclear law are applicable to position nuclear deterrence in the lawfare domain?

To position nuclear deterrence in the lawfare domain, three aspects are important. First is the motion of persistent objection. It means that the state persistently objects to a certain practice, giving rise to a rule of customary law that will not be barred by the new law yet is widely accepted as customary international law. However, if a state persistently being objecting, then that law binds the state. So in this context, it is important that all nuclear-armed states have served nuclear practice but turning it into a national obligation or a treaty, all nuclear power states have to work hard for it and bind themselves in such law or a treaty. This is mainly to keep their options open, which structures their deterrence posture. However, globally, nuclear-armed states should develop this practice and custom into an international treaty for nuclear deterrence. This will dwell to a great extent and nuclear deterrence from this lawfare domain with the laws can be used for manipulative purposes or to justify your positions in a certain conflict.

Next is the notion of special effect, which means that the development of customary international law could require the sport of certain states that are especially affected by the rule regardless of their persistent objection from those states. This is especially relevant to any UN resolution or treaty regarding the nuclear issue. For instance, it is important that a certain UN General Assembly Resolution is passed by the majority of votes in favour. However, the strength of the opposition, including nuclear-armed states voting against the Resolution, can not be ignored, especially in the context of the importance of those states for that law or resolution. An example of this is the treaty on the prohibition of nuclear weapons that aims to ban all nuclear weapons and all non-nuclear weapons. That state supports them in a way, but all nuclear-armed states have reservations about this treaty. With this, the fact is questionable.



Similarly, it can be said that the CTPT that passed on nuclear testing, and was negotiated back in 1996, however, can not come into force because although it requires 9 ratifications within those 9 states, the key states are China, North Korea, India, Israel, Pakistan and the U.S. These countries need to be there. The third part is the ambiguity in nuclear deterrence. Nuclear-armed states have intentionally maintained ambiguity regarding their nuclear deterrence posture, whether they want to keep a first-use



or no-first-use option. For example, in the case of India, it maintains the law, but it is questionable because it also says that it can retaliate massively against any forces in the world. Nuclear-armed states have also been ambiguous regarding the target engagement, the number of weapons even the new UK integrated defence or proposes ambiguity in deterrence posture. There is also ambiguity about the integral bend of conventional and military domains in deterrence. This ambiguity, to a great extent,

strengthens the states' nuclear posture. However, at the same time, it pledges nuclear deterrence to the lawfare domain. This, in turn, makes it difficult for the above-mentioned five states.

In conclusion, the present state of affairs can establish the legality of nuclear deterrence according to international nuclear law, both conventional and customary. However,, the persistent objection affected states and the ambiguity associated with the nuclear-armed states enforced towards nuclear-armed states are pushing nuclear deterrence into the lawfare domain and to refrain from that, nuclear states need to be less ambiguous in their nuclear postures.

Comments by **Imtiaz Gul**

The Evolving Global Order and the Disinformation Campaigns



The evolving global order and the disinformation campaigns are linked together. Regarding the global world order, there's the USA and its big allies in NATO versus China and its ally, Russia, and a cold war has infused this. All this is rooted in the US sense of insecurity in the face of an economically ascendant China because China is catching up gradually with the USA. It will take some more time, but the trend is very obvious. In the past hundred years, the international order has been changing. China is the new villain and its regional allies in the new global order.

William Burns, the director, announced that the China machine centre would address the global challenge and that it cut across all of the American agencies' mission areas. So it is a more comprehensive expression of how the USA and its allies want to

counter China. He also said the China machine centre would bring together officers to recruit and intelligence analysis, including more Chinese language speakers, technology experts, and specialists in the single unit. This is the overall idea of the China machine centre, which defines the new global order. Now the final target of China, the secondary target of this order, is the countries affiliated with China. That is countries like Pakistan and Bangladesh.

So how is all of this linked with Pakistan? India has conducted long massive disinformation campaigns on Pakistan and, at the same time, kept its focus on structural reforms and economic progress. On the other hand, Pakistani leadership remained headed to the idea of heart security based on the country's strategic location and the challenges that come from this strategic location.

So why are we focusing on hard security? What we listed down here was the damage that this hard security focuses on our soft security. Soft security is our perception, is our ability to economically ascertain as a state, to focus on the economy. And this is what the Chinese leaders have been advising Pakistan to focus more on the economy to become more relevant to everybody in every country. Let's look at the difference between the soft and hard security approaches. The Indian economy is galloping at nearly 7 per cent, while Pakistan may have 5 or 6 per cent had it not been for the vote of no confidence on April the 9th and the conditions before and aftermath. So we are struggling, you know, just around 6 per cent, less than 6 per cent, and we are still struggling.

Even one billion dollar instalment from IMF sees what has happened to the economy. Having said that, it is imperative to underline that Pakistani leadership as a whole did not pay attention to the challenges coming from the disinformation campaign that the Indians launched and all the Americans wrapped up; they also benefited from the Indian campaign against us. However, our cause was Kashmir, but the reality that was a monster for us was that we were stuck in making missiles and making our defence system good. Pakistani Army has worked well, but we remained focused on this and neglected our soft security.



If we compare Pakistan with Dubai, they are also in difficulties because of Israel and Palestinian issues, but the leaders there are truly focused on economic conditions they employ private consultants and get their advice and brutally implement based on performance. The traditional government era included trembling and approvals. Look at Bangladesh, it has 48 million dollars, it is a country surrounded by water, they constructed a 20 km metro, underground metro. And with its borders, China and Japan, both are a sort of its rescue because China is on this side and they are getting 2.5 billion dollars from Japan, and the rest 25 per cent is coming from other courses. There is more democracy in Bangladesh, but it focuses on the economy, and in the last 15 years, Bangladesh has made tremendous progress. Turkey has seen tremendous growth ever since President Ertogen has taken office.

All of these countries have had to deal with strategic problems and issues. They also faced discrimination at the hands of the Europeans and Americans but never lost their focus on the economy. Thus, we must realise that without an economy, handling any strategic issue will be futile. All our leadership institutions must undertake smart approaches with the support of young and talented individuals to put together an advisory committee and council to address the new and more advanced challenges Pakistan faces today.

Comments by Mohsin Kamall



The law has evolved into a science in which new law students train in certain areas where they want to establish a career. So, what are the implications of international law and lawfare? International law is the future of legal practice in Pakistan. Experts are needed, particularly those who practise international law and those who can assist them in directing international deeds, resolving disputes with magistrates, and understanding the transnational environment in which they operate so that they can act as commanders in this field.

Over some time, like every other established practised area, international law has started settling itself into different law modules. Students now are studying private international law

and conflict of laws, as well as public international law. These are quite different and vast areas and separate from each other. International law is mainly associated with the conflict of law and dispute resolution between multinational cooperation, companies, and individuals.

In the context of diplomacy and politics, many states in the last ten to fifteen years have especially spent a lot of their resources on developing expertise in using international law for their diplomatic and political objective, for example, China. Before the cultural revolution in 1976, China wanted to open its economy to international investors but couldn't find any lawyer who was competent enough to help reach that goal. China was determined to correct this and showed immense seriousness in correcting its path. They started with training programs introducing the subject of international law to students and further sent their students to learn English and French while promoting their values. Progression was made, and China has significantly contributed to different aspects of international law.

Israel has been a significant contributor to the game of international law. Before they realised the brilliance of using lawfare in their arsenal, they would resort to their traditional weaponry of choice. The U.S. has been recruiting and employing personnel with specialisations in international law to further strengthen their grasp and employment of lawfare, New York, Washington DC being the hub of vast potential. Students and attorneys will have a bright future in the worldwide market if Pakistan expands its capability. Pakistan must train diplomats and attorneys who understand lawfare threats and can counter them quickly and effectively. The importance of international law is more significant than ever, and we must think accordingly.



Conclusion



Pakistan must prioritise developing a legal strategy to protect its interests against lawfare, including strengthening its legal infrastructure and frameworks, ratifying and implementing international conventions, and establishing clear guidelines for its diplomatic and legal representatives. Pakistan must comprehensively review its existing international obligations, including bilateral investment treaties and free trade agreements. The government must create a rigorous process for approving international agreements and treaties to reduce the risk of being exploited by adversaries using lawfare against Pakistan.

Pakistan's external adversaries have used lawfare to challenge its sovereignty, pursue political and economic objectives, and create divisions among Pakistan's population. It is necessary to revise the National Security Policy to include specific measures to protect Pakistan's national security interests against lawfare. To respond effectively to lawfare, Pakistan must have a comprehensive legal strategy based on its national interests, and its international obligations inform that. The strategy's multifaceted approach should include strengthening Pakistan's legal infrastructure, preventing and countering malicious legal activity, and responding to legal threats. It should also include measures to build public awareness of lawfare and foster cooperation among government, civil society, and the media to counter it.

Pakistan must also ensure adequate resources, training and capacity-building for government legal experts. At the domestic level, Pakistan should strengthen its legal and policy frameworks related to the use of international law in domestic courts, such as introducing legislation that codifies specific international law standards and principles, such as the UN Charter and international human rights treaties, into domestic law. Additionally, Pakistan should ensure that its domestic laws, such as the Constitution and administrative regulations, comply with international law requirements. This could include providing legal clarity on the role and scope of international law in domestic legal systems.

Pakistan needs to take action to establish an inter-agency task force comprising representatives from various government departments and institutions responsible for security, intelligence, law enforcement, legal affairs, cyber security, public diplomacy, and public health. It should develop and implement a comprehensive strategy to counter lawfare. The proposed lawfare department should work closely with relevant government departments and have a team of experts responsible for researching international law and producing relevant publications to benefit the government and the public. Pakistan needs to enhance its international law human resource and organisational capabilities and invest in training and capacity building for legal and diplomatic professionals.

Pakistan should create a system of judicial training and education on international law to ensure that judges and legal professionals understand and apply international law principles correctly. This would ensure that Pakistan complies with international standards and that its legal system adequately protects its citizens' rights. Introducing lawfare courses in the curriculum of military academies and ensuring that the legal departments of the military are adequately staffed.

Pakistan should take steps to develop treaties and agreements with other states to protect itself against lawfare. This could include bilateral agreements to protect against interference in domestic affairs and international cooperation to strengthen norms of international law. Additionally, Pakistan should strive to be a responsible participant in international forums, such as the United Nations, to ensure that its views are represented and that it supports international standards. Finally, Pakistan should establish clear guidelines for its diplomatic and legal representatives when engaging in international forums to ensure that its legal and policy positions are consistent.

Pakistan must comprehensively review its existing international obligations, including bilateral investment treaties and free trade agreements. One must note that evaluating and approving international agreements and treaties in Pakistan is often conducted arbitrarily, i.e., without comprehensive due diligence by the Government or consultation with experts in international law. A rigorous process for international agreements and treaty approval is essential. These agreements and treaties can significantly impact the country's economy, security, and political environment, and adversaries can manipulate these for their benefit. By having a rigorous approval process for international agreements and treaties, the Pakistani Government can reduce the risk of being exploited by adversaries.

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