

Note: I completed this paper in August 2017 and last revised it in October. Throughout this period, I tried to get it published somewhere but as usual and as always failed. After analyzing why the Theories of Intra-Elite and Civil-Military Conflicts are unviable, I have formulated a Theory of Constitutional Responsibility that prospectively shows a way forward out of the chronic political crisis that the state of Pakistan is mired in.

Conflicts, Intra-Elite or Civil-Military: A Tract in the Politics of Deception

By Dr. Khalil Ahmad

Normal is an illusion. What is normal for the spider is chaos for the fly.
Charles Addams (Cartoonist, horror-novelist 1912-88)

On June 17 (2017), the *News International* carried an article, *Intra-elite conflicts*, by Babar Sattar. I thought of writing a rebuttal but abstained from doing so. I had no idea where I could get it published. However, one friend suggested that it could be posted on the blog I run. That's no reason, in fact; the reason which influenced and exhorted me to go for a rebuttal is the significance of the issue and the unfounded theories woven around it.

Babar Sattar, a lawyer based in Islamabad, in the wake of Panama Case and the Joint Investigation Team (JIT) investigating it, assumes it to be an intra-elite conflict, and in that vein, admits that intra-elite conflicts may lead to 'shaking things up and introducing systemic changes' in the lives of ordinary people.

However, Sattar says, "It is just a reminder that intra-elite conflicts don't always promote principles or public welfare. They often expose the hypocrisy of the legal order where the more powerful elite groups use the law and its processes to entrench their power. Within the elite, some elites are more equal than others. Thus when public representatives join the elite club and relish and retain its exclusivity, they can't expect sympathy if their noses are rubbed in dirt by more powerful elite groups."

Then Sattar questions whether 'Panama' is capable of doing that, and concludes that it's not going to be so for the reasons as given in the article, one of them being that in Pakistan 'principles are selectively employed.'

That shows Sattar considers the Panama Case as an intra-elite conflict. Is it an intra-elite conflict? That's what this piece of writing aims to evaluate and judge, and refute, in the first place. And then taking this opportunity to evaluate another such theory, a proposition rather, which is always taken for granted and considered already as proved in Pakistan's political discourse, so that no one bothers ever to weigh it or validate or invalidate it, this tract treats this "fact-like-proposition" as a theory of civil-military conflict, and tries to see

and analyze how it fares vis-à-vis arguments favoring and disfavoring it, and how it may be proved or disproved.

It may also be noted here that both theories provide such paraphernalia which helps analyze the political developments and explain them accordingly. This tract also aims at trying to delineate the implications of both theories for the political system and political forces operating in Pakistan and what forces they come to help or hurt.

Here and there, Sattar in his article talks about a dominant power group:

“ . . . in this intra-elite war the dominant power group has decided to rub the three-time PM’s nose in dirt.”

“ . . . if it were up to the dominant power group, it would not like to see Nawaz Sharif as a historic fourth time PM of Pakistan.”

“ . . . how principles are selectively employed and narratives shaped in intra-elite conflicts that are about power and not principles, or the consequences such conflicts are likely to produce.”

In the end of the article, he talks of ‘military usurpers’ and about the ‘fixing of civil-military balance.’

Nowhere, Sattar counts or explains what elite groups are there operating in Pakistan, and what elite groups are fighting an internal war behind the Panama Case. He also assumes that the Panama Case is an intra-elite conflict between a dominant powerful group and a weaker group or groups, as quotes from him above show.

Keeping the Panama Case before us, let’s, for the sake of a hypothetical experiment, name these groups as judiciary and military on the one hand and political parties, or one political party, on the other. Let us hope Sattar had the same arrangement in his mind, as do so many other political analysts!

Also, other intra-elite conflict arrangements may be sorted out like this: Political parties fighting each other; political parties fighting the judiciary; political parties fighting martial law regimes; judges fighting judges; etc. It may be noted here that only the strong and comparatively organized elite groups have been taken into account here.

Before going ahead, let me make it clear here that this intra-elite conflict thesis is not new. It’s as old as the Left politics in Pakistan, and the communist politics abroad. The socialists and communists used to dub conflicts between capitalists, industrialists, landowners, etc. or

generally between exploiters, as intra-elite conflicts, and rejoiced over them (though their definition of elite could be different from the present one), since they thought that such rivalries would weaken the state allowing them to seize power at an opportune time. No wonder, a bigger chunk of their politics depended on fanning such intra-elite conflicts.

Reverting to the Panama Case. Sattar makes it clear that if something illegal has been committed, law must take its course. But he expresses his anxiety that that's not the case as far as Panama Case is concerned. As quoted above, he believes 'principles are employed selectively' or are being (or have been) employed selectively.

So far so good. My take is that the Panama Case is not an intra-elite conflict. In case, it's a true case of employing principles lawfully and not selectively, then there is no case for an intra-elite conflict behind the veil of Panama Case.

Even if the Panama Case is a truly one of employing principles selectively, it's not a matter of intra-elite conflict. At best, it's a case of employing the principles selectively and to a selected political party, i.e. Pakistan Muslim League-N (PML-N); and not all the political elites. That presumes it's all the political parties and groups that form Political Elites (Ashrafiya) of Pakistan.

Also, in case by intra-elite conflict Sattar means to point out a conflict between the political Ashrafiya, then the question arises: Is the Panama Case a conflict between the political Ashrafiya? Apparently, the Panama Case may be described as a conflict between Pakistan Tehreek-e-Insaf (PTI) and PML-N, two parties of political Ashrafiya. Jamat-e-Islami (JI) as a party may be added to this conflict. This raises a number of issues such as: i) Is Panama Case a false case? ii) Is the nature of the conflict between PTI and PML-N political or legal? Do political parties not take advantage of the weaknesses of their rival political parties, and so on and so forth?

As to the veracity of the questions formulated above, it may be said that (i) the Panama Case is not a false case; (ii) the nature of the conflict between PTI and PML-N is inherently political, but (iii) the former party is taking advantage of legal weaknesses of the later party. Here it needs to be mentioned that in its political opposition to the ruling party, the PML-N, the means adopted by the PTI may be termed (i) inappropriate; (ii) unethical; (iii) violent; (iv) illegal; (v) un-constitutional; (vi) un-parliamentary; and (vii) fascistic.

The PTI's politics is inappropriate because it, like other political parties, moved its politics from the political arena into the courts. Its politics is unethical because it has no penchant for and no sensibility for distinguishing between its means and ends; it declares all the means, good or bad, as just to achieve its "good" ends. Its politics is violent because it makes use of violence and threats of violence not only to its rivals but the state institutions

also. Its politics is illegal because it assaulted the parliament and other state institutions and aimed at capturing the same. Its politics is unconstitutional because it tried and tries to overthrow the constitutionally elected government by hook or by crook, and has no interest in playing its due role in the parliament. Its politics is fascistic because of its exclusive claim to righteousness, not allowing any other party or politician with anything right or good.

In the final analysis, PTI's politics comprises all the seven negativities explained above and that's what tears apart not only a society's but a state's fabric also.

Let it be clarified here that politics and political opposition can never be imagined without any limits, i.e. it has to be within limits that are appropriate, ethical, non-violent, legal, constitutional, parliamentary, and completely devoid of fascistic overtones. That's what determines how political parties ought to compete and work for better resolutions of the problems facing the citizens. Otherwise, it is a brazen power struggle! And that should never be condoned.

If both of the above propositions regarding the Panama Case are to be defined as an intra-elite conflict we need evidence to declare them as valid or invalid. The first proposition, in order to be valid, needs evidence that all such cases, be it Panama Case or others, are truly cases where principles are employed lawfully and not selectively. But the political and judicial history is a witness to the fact that such is not the case in Pakistan, and that Pakistan is an Ashrafi state, and that there is one law for the Ashrafiya, and another for the ordinary souls, on the one hand; on the other, there has been targeting of this or that political party by military dictators or by the political parties now in government and now in opposition for which the same principles and laws were or are used selectively. That makes this proposition neither valid nor invalid, and strips it of its veracity.

As for the second proposition, that too, in order to be valid, requires such evidence that the Panama Case is truly a case of selective employment of principles. That has never been the case in Pakistan since not all the cases are selective and principles and laws applied selectively to them. Generally speaking, it's only the cases of such nature that impact the affairs of the state in favor of or against this or that political party that come to wear the semblance of selective employment of principles.

Why is it so? Now in this discussion we have to take into account those articles of the constitution that allow the Supreme Court, when and where it considers or deems fit, to take up the cases of "public importance." Regarding the Panama Case, the use of the article 184-3 by the Supreme Court has acquired a controversial status as there is no leave to appeal to be admitted after a case is heard and adjudicated under this article. So when the Panama Case is judged, it leaves the losing party without the right to appeal. Also, in no way is the Supreme Court a trial court, it is being argued, but it justifies its use of article 187 also,

that allows it to “have such power to issue such directions, orders or decrees as may be necessary for doing complete justice in any case or matter pending before it.”

A note of caution: As far as the interpretation of the article 184 is concerned, my understanding is altogether different. It has three clauses that form the whole of this article. Its title is: The Original Jurisdiction of Supreme Court.

The first clause states: (1) The Supreme Court shall, to the exclusion of every other court, have original jurisdiction in any dispute between any two or more governments.

The second clause states: (2) In the exercise of the jurisdiction conferred on it by clause (1), the Supreme Court shall pronounce declaratory judgments only.

The third and the last clause states: (3) Without prejudice to Article 199, the Supreme Court shall, if it considers that a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II is involved, have the power to make an order of the nature mentioned in the said Article.

This article 184 falls in the Part VII of the constitution: The Judicature, and its Chapter - 2: The Supreme Court of Pakistan. This part's Chapter – 1 concerns with The Courts.

In interpreting the clause three of this article, paramount importance needs to be attached to the following two questions:

- i) Is clause three merely a clause of an article?
- ii) Is clause three an independent article?

Obviously, clause three is merely a clause of the Article 184; nothing else, nothing more or nothing less than that. It has no independent status like the other articles of the constitution.

Let there be something that helps distinguish an article from a clause or a clause of an article from its article. If an article confers a specific power to an institution and if there is or are any clause or clauses attached to it, the existence of those clauses means that conferred power is being qualified, confined, or so on and so forth. So a clause is there to explain the power conferred and thus it enjoys no independent status.

However, as is the case with all the articles of the constitution, and here is the case with the Article 184, it's a whole consisting of three clauses, and if any clause that is part of the article is removed or not to be taken into account while interpreting that article that act is tantamount to harming the content and meaning of the whole article. That is, all the clauses

of an article combined together form the meaning of that article; no clause may separately and independently be understood and interpreted but in conjunction with other clauses.

Otherwise, in case a clause is interpreted separately and independently of other clause/clauses of the same article, that act defies the presence of that clause in that article as one of its clauses. Moreover, it may be argued that if such is the case that a clause which is interpreted separately and independently of other clause/clauses of the same article, the framers of the constitution could have put it as an independent article of the constitution. They did not do so and it should be taken as a meaningful act of them.

Under the circumstances, a question arises: How to interpret, then, an article with one or two or more clauses attached to it. First and foremost, and the logical rigor demands that, that the first clause needs to be taken as the main clause while positing meaning to the whole article, and that other clause/clauses require to be considered as helping the meaning of that article to be determined, clarified, specified, qualified, etc, accordingly.

In no way, and in no case, the second or third or other such clauses of an article may be construed to nullify the meaning of the first and the main clause, which has been the case for long with Article 184 of the constitution. The Panama Case is a case in point. The third clause of the Article 184 is being, as has been the case in the past, interpreted separately and independently of its first two clauses the first of which deals with its original jurisdiction to adjudicate in case of any dispute between governments, that is federal and provincial governments, and the second clause qualifies the scope of its judgments in such cases, i.e. it shall pronounce declaratory judgments only.

No doubt, reading the clause three of Article 184 separately and independently from the other first two clauses means to give the Supreme Court such power that it may take up the cases that it considers to be of public importance; and it is this power that has played havoc with the political set-up whatever it was or it is. That's an overriding power! And whatever judgments the Supreme Court passes under that article using that clause, there is no leave to appeal against it available. That raises questions on the use of this article and this clause by the Supreme Court, and the judgment passed thereunder.

One objection that may impede the above-discussed understanding or interpretation of Article 184 needs to be considered here. That objection may thus be described: That all the clauses of an article of the constitution, be they more than one, enjoy a separate and independent status to an extent where actually they are there to enlist this or that jurisdiction or power of an institution.

In case, that objection is admitted as valid, it will open a door for all the clauses of all the articles of the constitution to be considered anew as having and enjoying independent

status of an article, as is the case with the Article 184, the clause three of which has acquired for the Supreme Court an independent status, akin to an independent article of the constitution.

To me, the clause three of Article 184 needs to be read and interpreted in conjunction with its first two clauses, which being the first in order determine the meaning of the clause three; not that the clause three determines its own meaning independently. That is, the clause three empowers the Supreme Court only to consider cases of 'public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II, which arise due to the disputes between the governments. Or, in case any other interpretation of the clause three is to be reached at, that must conform to the meaning that the first two clauses of this article are there to intend.

Apart from the moral and legal argument, which Sattar also discussed, he holds that the nature of Pakistani politics eclipses moral argument as well as legal principle. No qualms! To me too, the moral argument has no relevance either in Pakistani politics, or in legal domain where it stands barred by the nature of law, and no disagreeing that the Panama Case be decided strictly according to the law of the land, and not under any moral strains.

As far as selective employment of principles in Panama Case is concerned, I, for one enjoy no source of knowledge or information other than what comes to the fore through newspapers, TV channels, and via social media. No doubt, that too requires strict scrutiny and rational analysis before one believes what all that intends to reveal.

Also, hatching of conspiracies can never be denied. Conspiracies do exist; and that now and then, someone resourceful or knowledgeable or who was part of a conspiracy, reveals the details, and exposes the objectives of this or that conspiracy. The case of Javed Hashmi, senior politician, who now belongs to no political party, may be cited.

Here what needs to be affirmed is that conspiracies may achieve their targets, such as killing someone, or disqualification of the incumbent PM, as is being allegedly held that there is such a conspiracy behind the Panama Case. But that allegation may be part of the politics, as is usually the case in Pakistan. How to find the truth in this matter or in such matters will be discussed hereafter.

However, what needs to be forcefully denied is that conspiracies never attain all of their intended consequences, and that the concomitant unintended consequences are always there to disfigure or lessen the impact of the intended consequences that somehow materialize.

That's how human actors come to create a jumble of events and circumstances which none of them is able of controlling in toto but only to a certain extent depending on his/her position in the hierarchy of the society and state! Of course, none is as omnipotent as to bring in whatsoever change it may wish, be it America, or Inter-Services Intelligence (ISI)!

But, as far as the intent of the conspiracies is concerned, that's not so important. What is important is their impact and consequences; and that can never be known through any "revelations" or "spilling the beans." Thus it's the consequences that matter for the purpose of political analysis. That means intentions need not be attributed to any of the conspirators known or unknown, but only for the purpose of bringing them to book and for the sake of trial, and this has its own due process to reach out for the culprits and punish them.

Let it be known here that it's not in human power to know the intention of any person other than himself/herself until and unless he or she discloses it; and even then, it may not be trustworthy. And, certainly, there is a logical and legal relationship between the intention of a person and the consequences of his corresponding act, and that's what brings the point home that it is consequences that matter, not the intention.

Moreover, in case an intention is attributed to a person in a definite manner that attribution may do injustice to him, because not all the consequences of his act based on that attributed intention may be ascribed to him. That sets aside the case of intention not to be considered especially in matters legal and political. In such matters, what needs to taken into account and investigated is the specific act or acts that cause the specific consequences be they intended or unintended.

Once again the Panama Case. What came to the fore and put question marks on the Panama Case JIT inquiry include things such as (i) "whatsapp-call"; (ii) "facetime call"; (iii) "photo-leak"; (iv) photo-leak-inquiry"; (v) concealment of the name of the photo-leaker and the department he belonged to; (vi) Some of the JIT members' signing the reports without being given time to read them before they were submitted to the Supreme Court's implementation bench, as reported in The News International (July 02 , 2017); and (vii) Supreme Court's taking aid of the ISI for the security issues related to the working of the JIT.

One thing needs to be added to it: (viii) Moral strains and moral overtones the judgments by two dissenting judges in the Panama Case are permeated with.

Out of the things mentioned above, the (iii) has no significance so far as the lawfulness of the Panama Case is concerned; but at least that gives a clue to the thinking behind the security arrangements for the ongoing JIT sittings. Also, whatever was the intention of the leaker doesn't matter; what is important in this case too are the consequences that materialized in addition to the humiliation that picture brought to the Sharif family.

It needs an explanation here to the effect that presenting oneself before a court, or a court-like commission, committee or a JIT involves no humiliation for a law-abiding citizen. However, while such presentations by any citizen may be made to execute in such a manner that humiliates or inflicts psychological or physical torture on him, as is the case in all the courts from lower to the highest in Pakistan, is a burning issue that the courts must address and resolve at the earliest.

So the above-formulated seven issues are of such nature that deprives both of the above-formulated propositions of their validity; if not completely, then undoubtedly partially, at least. However, as if one counter-example is considered sufficient to invalidate a generalization, all the case for the Panama investigation stands marred by the seven unanswered questions and that puts its credibility on hold.

Notwithstanding that does not allow the presence of a conspiracy behind the Panama Case to confirm, and cautions us to wait for the day the judgment is announced; only then, will come to light the consequences manifesting gains and/or losses for this or that entity or party; and no doubt, it will take enough time to reveal the consequences of the judgment that has already disqualified the Prime Minister Nawaz Sharif.

In short, in a sense, whether the Panama Case is a conspiracy or not is not the issue; the issue is to whom the conclusion of it benefits or harms. Whether it brings the good news of the dawn of long-awaited rule of law to Pakistan's citizens, or whether it ends up again in selective implementation of law, that's the issue!

So much for the Panama Case and its credibility. Now let's face the issue whether it presents a case of intra-elite conflict or not.

In Pakistan, the composition of the Ashrafiya is not very complex. Its core consists mainly of four sections, military; politicians; judiciary; and bureaucracy. Other sections also form part of this Ashrafi network that includes industrialists; traders; religious ulema; journalists; intellectuals, etc. For details, see my Urdu book, *Pakistan Mein Riyasati Ashrafiya Ka Urooj* (The Rise of State Aristocracy in Pakistan, 2012).

The military is a unified Ashrafi class. Likewise, judiciary is an organized section of Ashrafiya. But the bureaucracy has lost its verve, that is, its legal and moral duties, and has been transformed into a Servant to the Master, legally constitutionally to the ruling politicians and otherwise to the military dictators. It is the political class that's the most disorganized Ashrafi class in Pakistan, though it is they whom the constitution of the country invests with all the power and authority, when they win the mandate of the people and come to rule by forming a government.

The political Ashrafiya has got itself tangled in an unending power-politics and power-struggle; and not only during the elections days but during the normal periods also it continues its “internecine wars” that bleed it to a comatose condition, as noted above.

It was only rare that the last civilian government (2008-2013) completed its tenure under such circumstances that witnessed the death knell of it announced every other day! Similarly, it was only rare that in the wake of Islamabad Dharna by the PTI and Pakistan Awami Party (PAT), all the other political parties present in the parliament showed unity and saved democracy and the PML-N government!

There is another aspect to the intra-political-Ashrafiya conflicts, and it has nothing to do with their internal fights but only to the extent which serves their purposes. This or that section of political Ashrafiya makes alliance or bonds with the Military Ashrafiya. This is what has come to be known in Pakistan as proxy-politics. Fortunately or unfortunately, this type of politics is not limited to the smaller political parties; the larger political parties also indulge now and then in proxy-politics.

What’s proxy-politics? It may be defined in many ways, but the results remain the same. The one way is when a political party or its leader or a group is blamed to be formed or to be brought into existence by the military Ashrafiya. Who knows what the truth is! How to come to a conclusion who’s who and who brought whom into being and into politics! That’s all blame-gaming and a politics that has no political content. One of the many uses of it is that political leaders think they are satisfactorily befooling the people, and admit no responsibility for anything. It’s they who are in a fool’s paradise actually, not the people!

Another way of defining proxy-politics is when a political party takes up or adopts such a position that is in no way different from the one or ones that come to support the non-civil Ashrafiya or their interests. For this to know it is important that the garb in which that position is clothed doesn’t matter at all; but what matters is the real content of the position taken up and the consequences it unleashes.

That’s why, so far as the proxy-politics is concerned, it makes no difference whether one political party openly opts for proxy-politics or not; whether it owes its existence to the benefice of the non-civil Ashrafiya; the point of the fact is that when its politics serves the position of, here in this case, the non-civil Ashrafiya and strengthens its interests, its politics fall under the scope of the proxy-politics. That may be juxtaposed to such politics which strictly happens within a domain defined at least by the constitution.

That formulation has an advantage: it does not care to blame this or that political party to be working as a proxy for any other Ashrafi class, such as the non-civil Ashrafiya, or as doing

proxy-politics. It is the politics of any political party or any politician that this formulation helps designate as proxy-party or not as proxy-politician. Also, as discussed above, it focuses on the consequences of this or that political party's position or politics, and not their intentions. That leaves no room for the blame-game Pakistani politics is chronically afflicted with.

In view of the above analysis of the Pakistani Ashrafiya, it may not be appropriate to conclude that the Panama Case (a case not going to die soon!) is an intra-elite conflict. Leave aside the courts (Judicial Ashrafiya), and leave aside the military also. Nothing is known, as analyzed above, that there exists a conspiracy on the part of the non-civil Ashrafiya; or on the part of the judiciary; except the seven issues enlisted above that too provide no cogent evidence as to the existence of such a conspiracy.

That leaves us with but the political Ashrafiya alone fighting itself. Does it mean that the Panama Case is an intra-political-Ashrafiya conflict? Is that what the writer of *Intra-elite conflicts* means to say? No! He meant to say something altogether different from this; he had no such intra-political-elite conflict in his mind or in his article. Or in case he had such an arrangement in his mind, he would not talk of selective employment of principles!

As such, the intra-political-Ashrafiya conflict amounts to a fighting between this or that political party. On the face of it, the composition of this conflict may have, or has this arrangement: Pakistan Mulsim League-N (PML-N) supported by Jamiat Ulama-e-Islam-F (JUI-F), Awami National Party (ANP), on one side; while Pakistan Tehreek-e-Insaf (PTI) flanked by Jamat-e-Islami (JI), Pakistan Peoples Party (PPP) on the other side; and the Panama Case is a conflict between these parties of Political Ashrafiya. Is it so?

But the question is: Under the circumstances, how to operationalize that conflict? The Panama Case is not a political fight; it's a case of legalities or illegalities, committed or not, and it's for the court to adjudicate the issue or issues.

Let it be clarified here, whatever is the fate of the Panama Case, or any other such cases; or as the PM Nawaz Sharif has already been disqualified, is not important. What is important is the way this case is analyzed, i.e. by attributing intentions to this or those actors or by foreseeing the consequences it would result in. And as my analysis above provides an example of an analysis that exposes the weakness of conspiracy theories in explaining events authentically, I have used the Panama Case purportedly to show how conspiracy theories, among other things, try to shape the configuration of the events to come. For instance, the present politics of the PML-N is all but an attempt to influence the future politics in its favor by making use of an imagined theory of conspiracy against its prime minister; though its other targets include the institution of the judiciary also.

To an extent, the Panama Case may be termed a political fight where it touches the politics revolving around it. But that's always the case in Pakistan: all the cases with political implications see politics being played around them. Even if the warring political parties had agreed to resolve the issue in the parliament or on the table, as the example of the Panama Case shows, ultimately they will have to put it before the court because of its legal nature, though it was not for the Supreme Court to adjudicate in the manner it did.

Also, to this extent it is political where all the political parties have focused their politics on the ever newer developments taking place daily regarding the Panama Case by endorsing their political position or by discrediting the political position of their opponents.

In sum, the Panama Case is neither an intra-elite conflict between this or that political party of political Ashrafiya on the one hand, nor between this or that political party of the same Ashrafiya and non-civil Ashrafiya, on the other.

What is it then? Is it not a civil-military conflict? But this theory is as difficult to prove as to disprove, and no doubt it is in vogue since long, since the day one, so to say.

As has been discussed above, for the purpose of political analysis, it is only the acts and their consequences that help sort out the political affairs into various categories, such as proxy-politics or no-proxy-politics, which is our purpose here. Intentions or blaming or conspiracies never count here. That is, this theory of civil-military conflict may be tested against such directly or indirectly relevant acts and their consequences only which strengthen or weaken it.

Or as in the case of Islami Jamhoori Ittehad (IJI - 1988) various actors from the military establishment admitted its formation at their hands in order to achieve certain goals. Whether such "conspiratorial planning" succeeds or not, or to what extent achieves its objectives, or fails completely is immaterial to the purpose of political analysis; it is only the consequences of certain acts of certain actors from the military establishment who openly confessed their involvement in the making of that alliance. It may be added here that since in some cases such "conspiratorial planning" may or do fail completely, that's why confessions of this nature should not be taken into account. Of course, that does not preclude the act of these actors' investigation and prosecution (which the political Ashrafiya never allows to happen since that leaves a lot of room for it to play its politics!).

Hence not only this theory of civil-military conflict but for that matter all such theories also, in order to test their validity, require consequential evidence only. This evidence is needed to be made available in the form of certain consequences of certain acts of corresponding actors, and not the intentions of those actors. Then, this evidence needs to be juxtaposed to

the scheme that the constitution of the country puts in place and see and judge how the consequences under consideration fare vis-à-vis that scheme.

If the consequential evidence under consideration defies the scheme put by the constitution, be it in letter or in spirit, it is to fall under such doings that break, or weaken, or obstruct the smooth functioning of any of the constitutionalities or the constitutional rule. That means such consequential evidence goes against the constitutional dictates to run the scheme of the state and thus such evidence not only defies the rule of the constitution, but weakens the set-up which the constitution puts in place, i.e. the civilian set-up.

Now in order to strengthen the theory of the civil-military conflict, this rule requires to be applied to all the situations without any prejudice let alone to the military establishment. No doubt, there may be found such instances in which non-military Ashrafiya, i.e. politicians and judiciary, happens to be involved in acts the consequences of which defy the constitutional dictates, and there are very many such examples available. To show that this is so, and that too for both types of cases, one where the politicians acted against the constitution and one where the judiciary did so, all the judgments passed by the high and supreme courts against the civilian and military governments may be cited. It does not preclude those civilian or military acts that went unnoticed and unrectified.

However, this fact speaks for itself that non-military Ashrafiya, especially political Ashrafiya, never suspended the constitution but in accordance with the dictates of the constitution, e.g. when emergency was imposed, and that was always subject to the judicial review. Also, non-military Ashrafiya never ever abrogated the constitution.

In the case of political Ashrafiya, one exception needs to be allowed here. As a matter of fact, there is one civilian ruler (if he could only be declared to be belonging to the political Ashrafiya) who trashed the constitution of the time. That's the first constitution which was prepared by the first constituent assembly of Pakistan and was going to be enforced on December 25, 1954, and was "abrogated" in the nick of time by the then Governor-General Ghulam Mohammad along with the first constituent assembly that stood dissolved with it.

And so far as the judicial Ashrafiya is concerned, there are a good many number of cases where not only did they allow the military usurpers to suspend the constitution but also endowed these usurpers with the powers to amend the constitution. No citations needed because had there been no such extra-constitutional orders emanated from the Supreme Court there would have been no military governments ruling the country for decades. Also, likewise, had there been no political party and politicians standing in queue to aid the military usurpers no military coups would have succeeded.

No doubt, it's no more than indulging in wishful thinking; however, it highlights the significance of the role of non-military political and judicial Ashrafiya. Imagine if they had worked in tandem how different the history of Pakistan would have been now!

So how come that the role of both political and judicial Ashrafiya is condoned and their unconstitutional, anti-constitutional and extra-constitutional acts are allowed to be constitutionalized behind the hue and cry against the military Ashrafiya's such acts!

To me, the theory of civil-military conflict is an artificial construct. Whoever conceived and formulated this theory of civil-military conflict rendered a great service to the politicians of Pakistan. He helped them evade their political and constitutional responsibility. He gave in their hands a shield that would deflect all the arrows coming from any direction and that would prove them invincible.

Now with this theory on their side, they were the innocent victim; and it is this innocence and victimhood of theirs around which a narrative was developed; and it is this narrative which is being enriched to this day. Pick a newspaper; give ear to any Radio-TV analysis; open any book on Pakistani politics, the theory of civil-military conflict is there to absolve the politicians of all the responsibilities that the constitution of the country invests them with. Instead they are presented as the weaker lot whom a stronger lot subdued and continues subduing, as Sattar too mentions.

Not a single soul ever questioned this theory of civil-military conflict let alone contradicted and refuted it. Either you believe in this theory or you believe in nothing as far as the politics in Pakistan is concerned. Or you favor the non-civil Ashrafiya.

I fear that my refuting this theory may earn me the ire of the believers who hold that opposing this theory directly favors non-civil Ashrafiya and strengthens their position in the game-plan. Or they may blame my refutation to be in complicity with non-civil Ashrafiya, acting indirectly, behind the scene. And all through the last decade, I have faced difficulties in contesting this theory of civil-military conflict and putting in its stead a new theory that outrightly declares the politicians as the only culpable entity of political Ashrafiya.

One may as an objection say: why not add to it the judicial Ashrafiya, since I have already argued how significant their role has been in jeopardizing the constitutional rule in the country. Let the things be straightened and argue for themselves. While a constitution stands enforced in the country, why should any unconstitutional act be tolerated? How come those two things are reconciled to each other? There is a constitutional rule, or there's no constitutional rule! Certainly smaller deviations, now and then, with little implications, could be overlooked, but when things like putting the substantive parts of the constitution in abeyance, or suspending certain sections of the constitution, or simple

abrogation of the constitution are ignored with alacrity by the politicians, especially those in power when such acts take place, that's absolutely intolerable!

As to the above-cited objection, and as stated above, in case certain judges condone the unconstitutional, anti-constitutional, or extra-constitutional acts of military usurpers (or even politicians) and allow them to amend the constitution at will, such judges commit high treason and it is for the government to make them accountable, and after an amendment in the constitution during the last tenure of the Pakistan Peoples Party (2008-13), it is for the parliament to try those judges. Did any government or any parliament do that? Likewise, when the politicians in the parliament condone such acts of the usurpers and make the amendments wrought by them part of the constitution, they do commit high treason for which they must be tried. Did any government or any parliament do that? Isn't that what the constitution of the country requires them to do?

In the light of above-discussion, it is quite logical and rational that a martial law, or an emergency imposed by a military usurper can never be interpreted as a clue to the existence of civil-military conflict. It is high treason, according to the constitution. It is no civil-military conflict; it is suspension, or putting in abeyance, or abrogation of the constitution as the case may be. It is high treason, not a conflict.

Moreover, in case any of the armyman puts pressure on any civil official, as may be stipulated, for the sake of any task, it is for the civil administration to take up the issue and deal with this interference in accordance with the law. If the civil administration does not respond to any such interference, at whatever level it takes place, it needs to be termed as willful negligence or complicity which is liable to be dubbed as a crime in itself.

So where does the civil-military conflict exist? In the political sphere? In the constitutional sphere? In the parliament? Or where, then? In the foreign ministry, as they say? Or in the ministry of defense, as they allege? That's not a naive question: It is the most serious question, I think, ever asked in Pakistan?

Let me ask here another simple question: Why do politicians while in power not assert and exercise the powers that the constitution endows them with? Why do they take no responsibility for their omissions and commissions?

I know I would be ridiculed for asking such childish questions and be retorted that did I not know how the non-civil Ashrafiya make you toe its line and follow its policy! There may be quoted examples of Syed Saleem Shahzad, the slain journalist; Umar Cheema, another journalist presently working with The News International, and finally maybe the case of General Parvez Musharraf (retired) that how he was saved and sent abroad. I am trying to

use the words that would most likely be used by my retorters. Or on the political side, the hanging of Zulfiqar Ali Bhutto may be evidenced.

No wonder, not only in Pakistan the dominant narrative is based and derived from the same theory, i.e. the theory of civil-military conflict, foreign press especially American, and New York Times as one example buy and endorse the same narrative. Let me try to find the point of time when this civil-military conflict narrative penetrated the political discourse in Pakistan; but I can't. Surprising is the amount of literature that has been and is being produced around this theme and theory in Pakistan. From academics to the Urdu newspaper columnists, from Leftist to the Rightist intellectuals, almost all subscribe to this theory, and repeat the refrain.

That squarely puts the blame on the "Army," "Security Establishment," "Establishment," for most of the ills Pakistan is suffering from, and with one stroke absolves the politicians as innocent. All this narrative is not uniform, of course, with one point to be focused on. There is a difference of opinion that comes to merge in the argument that finds its inspiration in the formulation that in case politicians start delivering the conflict will evaporate by itself. It means the holders of this opinion admit the existence of the conflict, and for its resolution suggest the politicians to go for good governance.

Another strand comprises those who have a penchant for analytical approach and take recourse to historical analysis vis-à-vis nature of the colonial state and how the nature of the present Pakistani state is determined by the former whence the Pakistan Army struggles to continue enjoying the same status the colonial army used to enjoy. This argument offers no resolution of the civil-military conflict and relaxes in its own intellectual esotericism by unraveling the nature of the Pakistani state and thus showing no interest in changing it.

Now so far as the good governance argument is concerned, one may ask how it will work if pursued. They say by improving the governance it will bring people to support the civil government and thus widen the space for the civil government to act and regain its lost authority. That may happen and better the image of the politicians among the people. But how will it extend the boundaries of the space where civil government may act and assert its authority is not clear.

In fact, as the argument goes, what the civil government will have to do, after it delivers and achieves a good amount of good governance and wins people on its side, is to have the courage to challenge the establishment in order to use its due constitutional authority. A question that may duly be asked here why can't it do the same right now? Having courage later to challenge its challengers means the things depend on its having courage which it may have right now too. But the analysis makes it easier for the politicians when they enjoy the support of the people by winning them through good governance.

However, the premise of people's support is misleading. After politically barren 70 years it may take another 70 years for the image of the politicians to improve in the eyes of the people, and even if it is not the case, people may not come out to support the politicians in extraordinarily large numbers. The number may be moderate or large but how will it pressurize the establishment to abandon the space it presently enjoys, as the argument purports to show, is not revealed by the believers. Also, that the support of the people may backfire if violence is resorted to from both sides is not out of question. Another fact weakens the argument of the people's support: as is admitted, and argued, the establishment has already created a good-sized support-base both in media and the people at large and it's not possible to destabilize that support within a short span of time even if good governance comes to make miracles.

All the more, there is hardly any hope that the cabal of Pakistani politicians that they may deliver and go for good governance with a long-term view; they are already adept at and accustomed to extracting political capital in shorter terms.

The crux of my argument lies not in such conundrums and their precarious effectuality but in the fact that the state of Pakistan exists by virtue of a constitution that brings it into existence and that therein has duly been presented a scheme of things to run the affairs of the state with powers clearly defined and invested in. It is with this fact and from this vantage point that I have been arguing and I want to argue now. It is this fact on the basis of which I am inclined to propound a Theory of Constitutional Responsibility. This theory aims at putting responsibility where the powers endowed by the constitution of the country reside. Not only does it clear the confusion created by theories such as the theory of intra-elite conflicts, or the theory of civil-military imbalance as the theory of civil-military conflict has lately come to be known, it has inbuilt mechanism to demand accountability from those whom the constitutional authority is delegated.

Against the theories of intra-elite conflicts and civil-military imbalance, which are inherently analytical and explanatory, the theory of constitutional responsibility is, additionally, prospective and forward-looking. Most of all, it strives to fix the issue by fixing the issue of fixing responsibility also, and that's what the two above-discussed theories lack.

As far as the tenability of these theories is concerned, the theory of constitutional responsibility is like an open book, i.e. it derives its force from the constitution; whereas the theories of intra-elite conflicts and civil-military imbalance are not tenable. Their arguments are based on the intentions of the imagined actors as has been elaborated above, whether these intentions are attributable to them or not, or provable or not that's another issue.

Furthermore, it may be objected that so far as the explanatory power of a theory is concerned, theories of intra-elite conflicts and civil-military imbalance are far superior in comparison to the theory of constitutional responsibility. No doubt, that's true. But again the force and explanatory power of a conspiracy theory can never be questioned or denied; that's because a conspiracy theory is so popular with almost every class of thinking individuals; otherwise, who would be naïve enough to believe in them! Certainly it's its conspiratorial nature that makes a conspiracy theory successfully explaining away a case or a situation or a phenomenon.

Also, a conspiracy theory is never the part of a case or a situation or a phenomenon; it sits outside of what it tries to explain. The same is the case with the theories of intra-elite conflicts and civil-military imbalance. Like a conspiracy theory, they skillfully and comfortably explain what they need to explain. For it, nothing is complicated; nothing is beyond its reach; it is always in an omniscient mode. In its lap, nothing remains problematic; it's always relaxed. Likewise, it leaves no problems un-resolved; it solves and resolves them at one stroke. That's the way with the intra-elite and civil-military conflict theories. They have already solved and resolved everything related to the issue or issues. Probably that's why both of the theories, especially the one of civil-military imbalance, were never questioned. Nor any thought was given to the resolution of the issues these theories try to resolve!

In contrast, the theory of constitutional responsibility explains the nature of the issue prospectively and in an authentic manner by referring to a document called the constitution of the country which demands every affair of the state be run in accordance with its dictates. Thus, this theory brings order into the chaos that the two theories critiqued above gave rise to; and these theories absolutely fail to ameliorate the crisis facing the people of Pakistan since day one, so to say.

One may ask here the proponents of the theories of intra-elite and civil-military conflicts or any other such theories: What else is the function of a constitution, in the first place, other than bringing order from disorder? Why and how did it happen that the document that is there to bring order in a society has failed in bringing the proposed order? Rather it caused disorder and anarchy to prevail! So, is it the constitution that's the culprit? No Sire! As the constitution is a book of rules and laws, it's for those to see to the due and diligent enforcement of the constitution whom it invests with powers to do so, and in case they do not use those powers responsibly, or negligently and irresponsibly share those powers with others whoever they are, or let them do so willfully or negligently, it is they with whom the responsibility for violating the dictates of the constitution rests with.

And, according to the constitution, it is the politicians whom it empowers to rule, prime minister as the chief executive of the state, after they obtain due mandate of the people.

Now, in case, the politicians do not use the powers fully they are entrusted with, or negligently and irresponsibly share them with others whoever they are, or do so willfully or negligently, it is the politicians who are the real culprit. It is this fact that gets itself established with the aid of the constitution and it is the theory of constitutional responsibility that helps fix the responsibility where it duly resides. The same theory opens the way to the resolution of the issue by demanding and forcing the mandated politicians to assert their constitutional powers fully and without any interference from any quarters, and to allow none to share these powers with them, no doubt, at any cost and with or without any support of the people! That's what the constitution of the country demands.

So, finally, it may be asserted: Are the Pakistani politicians ready to make a real sacrifice? Do they have the courage to enforce the rule of the constitution? If not, let's be prepared, which we already are, to live in a constitutional disorder and chaos, which we already were living in for long. It is in such environment that the theories like intra-elite conflicts and civil-military imbalance, which see no other way to prove and resolve the issue, easily survive and thrive. At best, such theories i) benefit the politicians most; and, ii) they never help and allow the issue of responsibility to be fixed and the real culprit identified. At worst, such theories never help and allow the democracy to deliver and good governance to prevail, thus, leaving the ordinary citizens to live at their own risk and at the mercy of the callous state machinery and ruthless private actors both of which behave like heartless enemies of the people!

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A short list of some important articles focusing on intra-elite and civil-military conflicts published recently:

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