

LEGAL BRIEFS

**“CAPACITY BUILDING OF PAKISTAN ARMED
FORCES IN THE LAWFARE DOMAIN”**

NOTE-3/2019

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CAPACITY BUILDING OF PAKISTAN ARMED FORCES IN THE LAWFARE DOMAIN

Abstract

The evolving nature of modern warfare has introduced complex challenges that demand innovation not only in traditional military strategies but also in the realm of legal operations, commonly referred to as lawfare. This paper explores the capacity building of the Pakistan Armed Forces in the lawfare domain, focusing on enhancing their operational and strategic competence in addressing legal dimensions of conflicts. The increasing intersection of military and legal challenges—such as the enforcement of international humanitarian law, human rights issues, and countering legal narratives used by adversaries—necessitates a robust framework for training, awareness, and expertise. This paper examines the current status of Pakistan's military legal preparedness, identifies gaps, and proposes solutions for strengthening the armed forces' legal acumen, both in terms of procedural understanding and in navigating the global legal landscape. The study highlights the importance of integrated legal training programs, collaboration with international legal bodies, and developing specialized legal expertise within military structures to effectively counter the emerging threats in modern warfare. Ultimately, enhancing the capacity of Pakistan's Armed Forces in the lawfare domain is vital for ensuring compliance with international law, safeguarding national interests, and maintaining operational effectiveness in multifaceted conflicts.

Keywords: Pakistan Armed Forces, Capacity Building, Lawfare, Military Law, International Humanitarian Law, Legal Preparedness, Legal Training.

EXECUTIVE SUMMARY

The use of law as a tool and instrument of war has been consistent feature in modern international relations. Today, international law is increasingly being used as a weapon in modern war, as law now shapes the institutional, logistical, and physical landscape of war, resulting in the coinage of the term ‘lawfare’ in global academic discourse. The application and scope of ‘lawfare’ as an instrument of war is increasingly being explored by strategists and academics in leading global universities and think-tanks.

It is by now apparent that lawfare is increasingly and successfully being applied by foreign powers and institutional bodies against Pakistan on a range of issues ranging from counter-terrorism, human rights and humanitarian issues, terrorist financing, targeted killings and drones, non-proliferation, international trade, migration and refugees etc. In the coming years, the legal pressure points will increase to include climate change and water law, cyber-security, intellectual property and economic law.

In this context, this paper has been developed in joint collaboration between the Centre for Global and Regional Studies and the Centre of Excellence for International Law, Institute for Strategic Studies, Research and Analysis (ISSRA), National Defence University, Islamabad. It briefly explores the scope and use of lawfare in modern international relations with specific focus of its recent use in Pak-India relations. This is followed by a review of the existing legal capacity of the Pakistan Armed Forces and its ability to engage in ‘lawfare’ in strategic matters. The paper then provides an overview of the lawfare capacity of the Armed Forces of the United Kingdom, United States and India.

The central focus of the paper is to provide recommendations for improving the lawfare capacity of the Pakistan Armed Forces. In this regard, the paper sets out a roadmap for reform and includes proposals for capacity building workshops and courses that can be instituted at official and private forums.

The paper also provides an overview of the major foreign courses that can be of benefit to officers of the Pakistan Armed Forces in the field of international law and sets out details relating to qualification criteria, duration and costs etc.

The paper also suggests mechanisms by which legal updates and their strategic implications can be circulated to various branches of the Armed Forces in Pakistan.

Importantly, the paper introduces the concept of ‘legal wargaming’ through which the legal and political outcomes of potential lawfare maneuvers may be analyzed either as a safeguard or as an offensive legal action against adversaries. The paper concludes by highlighting priority areas of training in international law for the Pakistan Armed Forces.

LAWFARE AND ITS SCOPE IN THE INTERNATIONAL ARENA AND PAKISTAN

Lawfare as a concept has been defined by Professor David Kennedy of Harvard Law School as “the use of law as a weapon, as a tactical ally, as a strategic asset and finally as an instrument of war.”

In the context of Pakistan, lawfare may be said to mean the employment of international law to develop pressure points on strategic issues in order to make political gains. The use of law in this manner has been in practice since many years now. It is becoming increasingly clear that as the international community matures, it is leaving behind its earlier preoccupation with displays of military force and is instead placing its primary focus on leveraging international and domestic law in order to achieve its political and strategic global goals.

However, this concept as an instrument of statecraft has only recently been realized by stakeholders within Pakistan and it is pertinent to mention that there is at present, a critical lack of capacity in apprehending and responding to strategic threats in the legal realm.

Numerous examples of lawfare moves in the international arena can be seen being employed throughout the years. A primary example of this is the lawfare move by the United States on Iran. The US has imposed a number of sanctions on Iran since 1979, which have taken the form of executive orders regarding Iranian support for terrorism and have also evolved into a greater lawfare regime concerning Iran’s nuclear program. Another example is that of the South China Sea. In the arbitration case brought by the Philippines against China’s continued military presence in the South China Sea, the Arbitral Tribunal questioned China’s claim to historical rights in the region. Ever since, China has been seeking to shape international law to its advantage through the strategic use of research funding and has also placed issues of national import on priority, including the law of the sea.¹ Therefore, this can also be seen as a lawfare attempt by China.

Other such instances include the recognition of Jerusalem as a capital of Israel in 2017,² and the revocation of visas to members of the International Criminal Court involved in investigating the actions of US troops in Afghanistan or other countries.³

In the context of Pakistan-India conflicts, lawfare has played a major role in posing a challenge to Pakistan's strategic interests on a range of issues. India's recent abrogation of Article 370 of its Constitution is one such example. The Presidential Order passed by India was only the first of a series of carefully crafted legal maneuvers aimed at abolishing the autonomy and special status of Jammu & Kashmir. India has consistently attempted to dilute the relevance of the UNSC Resolutions by legal strategies, such as the reliance on Simla Agreement to argue that Pakistan and India have 'contracted out' of the UNSC Resolution framework and reliance on the UNSC Counter-Terrorism legal framework to proscribe Indian Occupied Kashmiri freedom fighters as terrorists. India's decision to take the Jadhav case to the International Court of Justice was another such lawfare move.

Pakistan also faces other lawfare challenges in the international arena. Pakistan was placed on the 'grey list' of the Financial Act Task Force in 2008,⁴ from 2012 to 2015,⁵ and has been placed on the list again since July 2018.⁶ Being placed on the 'grey list' of FATF means that Pakistan's financial system has been designated as posing a risk to the international financial system because of "strategic deficiencies" in its ability to prevent terror financing and money laundering.⁷ These actions taken against Pakistan by the FATF in the realm of terrorism financing and money laundering pose a serious threat that can cause immense harm to Pakistan's economy. Finally, Pakistan must also be wary of potential sanctions that may be placed on it by the US through Countering America's Adversaries Through Sanctions Act (CAATSA), if it decides to purchase weapons from Russia.

Therefore, there is a need for building lawfare capacity in the armed forces in order to be well-equipped in confronting contemporary lawfare challenges faced by Pakistan.

LAWFARE CAPACITY OF THE ARMED FORCES OF PAKISTAN

1. Need for Building Lawfare Capacity of the Armed Forces

1.1. As stated in the preceding chapter, the increasing legalization of international relations has made law an increasingly powerful alternative to traditional military means to achieve operational objectives. Lawfare opens up a new area of inquiry through its systematic and detailed different uses of law in relation to national security and armed conflict.

1.2. Pakistan's response to law's potential as a tool for advancing national security objectives has thus far been predominantly defensive. Therefore, there is a strong need to build the indigenous capacity of Pakistan's Armed Forces to promote its national security objectives.

1.3. This chapter will explore the current lawfare capacity of the Armed Forces of Pakistan and then make comparative analysis of the lawfare capacity of other countries including, the United Kingdom, United States of America, and India.

2. Judge Advocate General Branch of the Armed Forces of Pakistan

The Judge Advocate General (JAG) or the Legal Affairs Department is primarily responsible for combating lawfare incidents, along with their other responsibilities. The objective of the Department is to facilitate the armed forces with legal advice, whenever it is required. The following sections discuss the current capacity of Pakistan army, air force and navy in the domain of lawfare.

2.1. Army JAG

- The Judge Advocate General (JAG) department of Pakistan army performs an advisory role on legal matters for the Army.⁸
- It is mandatory for all JAG officers to be service officers that hold LLB degree.

They do not accept lawyers directly, neither do they have a permanent contract with a private legal firm. The same may be hired on a case to case basis.

- There is a competitive internal vetting process with robust examinations through which officers are appointed with JAG. The officers at a minimum must hold an LLB degree, and should be well versed in at least two different law domains i.e. Manual of Military Law and Civil Law.
- Currently, there are approximately 45 to 50 JAG personnel of which 32 officers are appointed at the GHQ-JAG office, and three are serving in the UN Mission. Each corps of the Army has at least 1 JAG officer assigned. However, there are certain corps such as Karachi which has a higher number of JAG officers because of the work load.
- However, despite having studied international law as a course during their regular LLB degree, there is no JAG officer with a specialized degree in international law.

2.2. Legal Services Department PAF

- The Legal Services Department of Pakistan Air Force (PAF) predominantly provides legal advisory services to the PAF.⁹ JAG in PAF is part of this Legal Services Department.
- All the Legal Services Department of PAF officers have law degrees, it is a prerequisite for induction in the department. The PAF inducts qualified lawyers into its legal services department. Though an LLB degree is the minimum requirement, however, more than 10 officers in the department hold an LLM degree.
- The personnel strength of PAF Legal Services Department is around 42 officers. Currently, there is only one officer who has an LLM degree in International Law, however several others have foreign LLM degrees.

- Many JAG officers have certifications in international law and have participated in international courses such as with ICRC and other well reputed organizations. Several JAG officers have participated in the 3-month international course of Military Law Development Program (MLDP) which offers valuable insight into Law of armed conflict, peacekeeping laws and ICRC's mechanism.

2.3. Navy JAG

- JAG Navy assists and supports Pakistan Navy on a broad range of legal matters. The objective and purview of JAG Navy is defined under the Pakistan Navy Ordinance 1961, and is quite broad. It includes activities, such as, maritime security, fisheries, customs, environment etc.¹⁰
- It is mandatory for all JAG officers to hold an LLB degree. Both service officers and civilian lawyers may be appointed as JAG officers in the Navy, after the requisite trainings.
- Currently, the personnel strength of JAG Navy is sanctioned at 59. There are approximately 38 to 40 personnel that are assigned to the JAG department.
- The JAG officers have participated in several international courses on international Law such as at university of Malta etc. There are four officers in JAG Navy holding an LLM degree in maritime law from Malta.

LAWFARE CAPACITY OF OTHER COUNTRIES

1. Armed Forces of the United Kingdom¹¹

1.1 Office of the Judge Advocate General (OJAG)¹²

- The Office of the Judge Advocate General (OJAG) is primarily responsible for operating the Service Justice System (SJS) within the Royal Navy, British Army and Royal Air Force. The main elements of the SJS amongst others is the Court Martial, and the Military Court Service.
- Members of the JAG are independent members of the judiciary and are all civilian. Although some have served in the Armed Forces.
- The Judge Advocate General is Head of the Service Justice System, who is assisted by a team of judges a small staff of civil servants. There is a total of seven judges, comprising one Vice-Judge Advocate General, and six Assistant Judge Advocates General, all of whom must be barristers or advocates of seven years standing.

1.2 Army Legal Service (ALS)¹³

- Army Legal Service provides legal support to the Army. It is comprised of professionally qualified solicitors, barristers or Scottish advocates. The ALS is compartmentalized into the Directorate of ALS and the ALS Branch. The former consists of a Brigadier, three Colonels, eight Lieutenant Colonels and eight other officers whilst the latter consists of a specialized legal division.
- Royal Air Force Legal Branch¹⁴
- The Royal Air Force Legal Branch or Directorate Legal Services, is the uniformed legal service provider for the Royal Air Force. It consists of solicitors and barristers qualified in a Commonwealth jurisdiction.

- Royal Navy Legal Services¹⁵
- The Royal Navy internally selects and trains its legal cadre. Naval lawyers also remain full-fledged members of their source specialisation. The Navy selects officers, usually with around five years of general service and places them in an academic environment for advanced study.

2. Armed Forces of the United States¹⁶

2.1 Judge Advocate General Corps

- The Judge Advocate General's Corps, also known as JAG or JAG Corps, is the military justice branch of the U.S. Air Force, Army, Coast Guard, and Navy.
- These judge advocates serve primarily as legal advisors to the command to which they are assigned and may cover a wide range of issues dealing with administrative law, government contracting, civilian and military personnel law, law of war and international relations, environmental law, etc.
- The United States Army JAG Corps currently has 1,850 personnel led by the Judge Advocate General of the United States Army (usually a Lt. General).
- The United States Air Force JAG Corps has an estimated 1,288 officers appointed therein. Every Air Force base is assigned an Air Force Judge Advocate.
- The United States Navy JAG Corps currently has about 855 judge advocates that advise the Commander and staff of Navy Operational Commands, and provide sailors with legal assistance.
- The United States Marine Corps Judge Advocate Division has an estimated 566 personnel who are deployed on the basis of an analysis of the mission at hand.

2.2 Law of War Programme

- The Department of Defence established the Law of War Programme which provided that a Judge Advocate must review all operational plans, policies and directives, in all services, for compliance with the Law of War.

3. Armed Forces of India¹⁷

3.1. Judge Advocate General Branch, Army

- The Indian Army has a JAG branch consisting of legally qualified army officers who are either commissioned directly into the JAG branch, or can be sidestepped from other arms, branches, or corps. These officers advise the presiding officers of courts-martial on military law and provide legal assistance in all aspects.
- The JAG is headed by a Major General who is the legal and judicial chief of the Army.

3.2. Judge Advocate General Branch, Navy

- The JAG Department of the Naval branch plays a very crucial role by effectively discharging its responsibilities in administering and supervising the naval justice system.
- An officer in the Dept. of JAG (Navy) is expected to have a deep understanding of areas such as Maritime Law and its corresponding Rules & Regulations, International Maritime Law, Salvage, Privacy, Contract Law, Criminal Law, Civil Law, Personal Law etc.

3.3. Human Rights Cell

- The Human Rights Cell (HRC) was established in 1993 to monitor, analyse, and respond to alleged Human Rights violations by the Army personnel.

- HRC is a part of the Adjutant General’s Branch and functions under the Additional Directorate General, Discipline & Vigilance which is headed by a Major General with one of the Brigadiers (DDG-B). Furthermore, a Human Rights Cell exists at every Command & Corps HQs, which is headed by a Colonel rank officer.

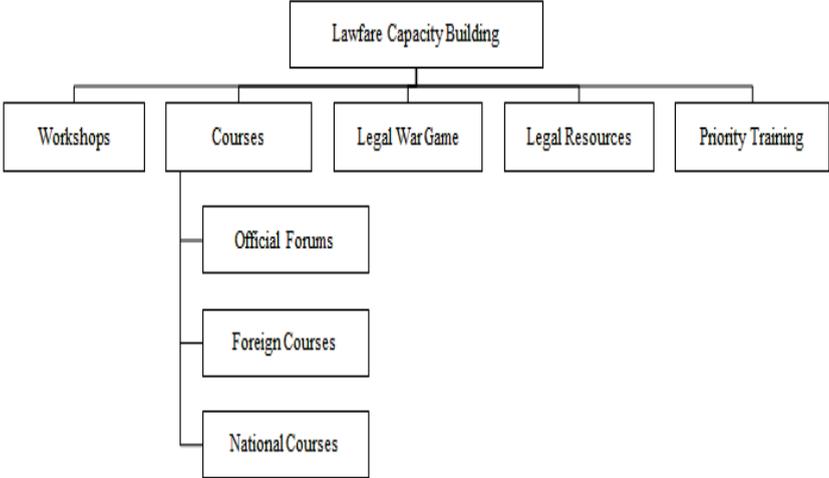
PROPOSALS FOR CAPACITY BUILDING

As stated in the preceding chapters, lawfare has played a major role in posing a challenge to Pakistan’s strategic and national security interests. The recent abrogation of Article 370 by the Indian Government, pursuing the International Court of Justice for consular access to Kulbhushan Jadhav and its efforts to place Pakistan on the ‘blacklist’ of the Financial Action Task Force are glaring examples of lawfare.

It is evident from the analysis drawn hereinabove that the Armed Forces of Pakistan lack the requisite capacity in the lawfare domain to anticipate and effectively respond to such attacks in comparison to its contemporaries. Therefore, there is a strong need to build the capacity of the armed forces of Pakistan in matters of international and in specific the domain of lawfare.

The following chapters provide key recommendations with respect to the measures that may be undertaken as a means of strengthening the capacity of the Armed Forces of Pakistan.

ROAD MAP TO CAPACITY BUILDING OF ARMED FORCES OF PAKISTAN



WORKSHOPS

In order to build the capacity of the armed forces in the domain of lawfare it is imperative to sensitize military officials with respect to the application of international law and its relationship with the national security of Pakistan. In this respect, it is recommended that the armed forces within each administration and formation conduct ad hoc workshops on matters pertaining to international law under the purview of lawfare i.e. how international law may be used to accomplish the aims of the armed forces, and how it may be used as a tool of strategic coercion.

In light of the constantly evolving spectrum of international law and legal institutions in the practice of international and national security affairs, the officers will greatly benefit from the workshops that will explore the application of lawfare in both traditional military options and the domestic elements of national security. These workshops will allow for the creation of dialogue and dissemination of knowledge between military officials at an operational level.

It is recommended that the workshops are contextualized to the legal needs of each formation of the armed forces. The following are some (non-exhaustive) examples of the lawfare topics a specific formation can undertake:

- **10 Corps Rawalpindi (Army):** The 10 Corps incorporates divisions such as Force Command Northern Areas (FCNA) that caters to the military control in Siachen. Therefore, it is proposed that the 10 Corps may conduct workshops on Siachen wherein discussions can be conducted on the line of control, and ceasefire violations, etc. Furthermore, owing to the active situation on the Line of Control, specific international humanitarian law (law of armed conflict) workshops may be arranged to keep officers up to date on the applicable law in such active situations.

- **11 Corps Peshawar (Army):** The 11 Corps may conduct workshops on issues relating to transit trade with Afghanistan, the Durand Line and legal aspects of counter-terrorism and counter-insurgency operations, including detentions, use of force and battlefield forensics etc.
- **Naval Base Karachi (Navy):** The Naval Base in Karachi may conduct workshops on pressing maritime issues such as maritime terrorism, human and drug trafficking, and maritime pollution.
- **Air Headquarters Peshawar (Air Force):** Air Headquarters in Peshawar can provide training workshops on issues concerning the application of international humanitarian law in international and non-international armed conflict e.g. air combat operations conducted in the former FATA region, etc.

COURSES

1. Official Forums

Aim: In order to build the capacity of the armed forces in the lawfare domain, it is integral that the existing institutes of the armed forces utilize their existing resources or develop appropriate tools to impart a sound understanding of International Law related to the functions of the personnel who are being taught. In this respect, the following institutes, among others, may be utilized.

1.1. National Defence University (NDU)

- The NDU due to its specialized expertise in academia, particularly, in the areas of geo-strategy, international relations and international law is well equipped to teach courses to all three wings of the armed forces.
- It is proposed that a mandatory course covering the basics of International Law be devised. In addition, it is also recommended that, insofar as possible, existing courses be altered to bring in aspects of international law and lawfare, which would be contoured in keeping with the original theme and the substance of the course.

1.2. Pakistan Military Academy (PMA)

- The PMA serves as Pakistan's counterpart to the United States Military Academy (West Point). The Academy lays great emphasis on building the academic capacity of the cadets in strategic areas of relevance to the Pakistan Army.
- However, at present, there is room for improvement in the field of International Law but more specifically within International Humanitarian Law. Violations of International Humanitarian Law can make Pakistan vulnerable in the lawfare domain and can also lead to senior officials being subjected to individual criminal responsibility under International Law.

Hence, it is important that this component of International Law be made an integral part of the Academic Courses taught at PMA.

1.3. Command and Staff College

- The Command and Staff College is a world-renowned institute which imparts strategic insight to officers so as to hold senior positions within the Pakistan Army. As part of this exercise, great emphasis is placed on strengthening their operational and tactical abilities. To further enhance their abilities, greater emphasis on international humanitarian law as well as the use of force would be useful.
- Similarly, officers must also be equipped to predict and gauge the potential actions that may be taken by adversaries of Pakistan within the lawfare domain. Therefore, it is recommended that a highly specialized course on lawfare may be devised which is able to target contemporary threats being faced by Pakistan.

1.4. Air War College

- The Air War College serves as the highest seat of learning in Pakistan Air Force and provides training to officers to equip them for higher command and staff appointments. The incident of Balakot in February, 2019 and Pakistan's response to Indian ingress, has made it evident that indigenous legal expertise within the International Law on Aerial Combat Operations be developed to defend Pakistan's sovereignty whilst being in compliance with our international commitments. To this end, a course devised for this purpose would be highly useful.

1.5. Pakistan Naval War College

- There are a multiplicity of courses that have been devised by the PN War College.

Most relevant to the Lawfare domain are Law of the Sea, International Affairs and National Security Challenges and Response with the Pakistan Navy Staff Course.

- Instead of devising a completely new course, it is proposed that elements of Lawfare be inserted into the existing courses with a view to improving the legal capacity and to equip the officers with appropriate legal tools to deal with relevant issues.

2. Foreign Courses

Aim: In order for the armed forces to be able to deal with threats posed by its adversaries in the lawfare domain, it is important to improve the capacity of the JAG departments in the field of International Law. Moreover, the said capacity needs to be at par with other leading armed forces of the world such as the United States and the United Kingdom which invest heavily in their JAG departments. In this respect, some unique courses taught by legal academics of the world have been researched. Relevant personnel could be designated to attend these courses:

2.1. Geneva Academy of International Humanitarian Law and Human Rights

- The institute houses leading academics in the field of IHL and teaches the following short courses:
 - Sources and Scope of Application of International Humanitarian Law
 - Protection of Persons and Property in International Armed Conflict
 - The Interplay between International Humanitarian Law and Human Rights
 - Preventing and Combating Terrorism
 - The Law of Non-International Armed Conflicts

- These courses range from 2 weeks to a month and take place from October-May every year. The fee for the course is Swiss CHF 1,150 and does not include travel costs, living expenses and stipend.

2.2. International Institute on Humanitarian Law (IIHL)

- The IIHL conducts international military courses on the law of armed conflict, aimed to provide military officers, including military operators and military lawyers with the opportunity to learn about the application of the principles and rules of the laws of armed conflict. The class work itself consists largely of a series of exercises conducted under the guidance of class leaders using classic current military planning and staff processes, leading the course through a series of IHL and other relevant legal issues arising during military operations at all levels.
- The course takes place around November in San Remo, Italy. The fee for the course is 1,950 Euros and does not include travel costs, living expenses and stipend.

2.3. Defense Institute of International Legal Studies (DIILS)

- DIILS is the lead US Defense Security Cooperation resource for professional legal education and training program for international military. Each year, DIILS conducts a 3 week course on the 'Law of Armed Conflict and Human Rights'. The course provides insight into conducting operations in accordance with IHL and IHRL. This is done through analyzing various scenarios from the lens of the aforementioned fields. This course tentatively takes place in May and October of each year.
- In addition, DIILS also provides a vast range of courses including the Military Law Development Program, Military Justice which caters specifically to Military Legal Advisors.

Further, there also more niche courses such as the ‘Legal Aspects of Combating Terrorism’ which are also offered.

2.4. Institute for International Criminal Investigations (IICI)

- Another emerging threat in the lawfare domain is the use of International Criminal Law against the Militaries of States across the world.
- In order to fend off this threat, the courses offered by IICI may be of great help. The International Investigator Course is involves a range of seminars and roleplay exercises, including several days at the Dutch Military School of Peacekeeping. It covers, extensively, the international legal framework in respect to Military Investigations and those goes on into to the technical aspects of such investigations which include, inter alia, investigating the crime scene, documenting crime scenes, forensic death investigations etc. If implemented, it could project Pakistan as a responsible State to the international community which does not treat the violations of the laws of war lightly.
- The Course tentatively takes place in October every year. Details of the cost and expenses is subject to the approval by the IICI of the applicant.

3. Domestic/National Courses

3.1. Research Society of International Law (RSIL)

- As part of its mandate to build the capacity of governmental stakeholders in various aspects of international law that are of strategic importance to Pakistan, the organization conducts an annual Fellowship Program which aims to delve deeper into the contemporary threats being faced by Pakistan within the legal domain with a specific focus to counteracting these issues through combining aspects of national security and international affairs with law.

3.2. National University of Sciences and Technology (NUST)

- As part of the MOU between the International Committee of the Red Cross (ICRC) and NUST, a ten-day ‘Foundational Course on International Humanitarian Law’ was conducted in 2017. The course was aimed to provide military officers, including planners and military lawyers to learn and apply the principles of IHL.
- The trainers included specialists from ICRC and Centre of International Peace and Stability, NUST.
- It is proposed that the same course can be resumed under the auspices of NUST.

3.3. Bahria University

- Bahria University has one of Pakistan’s leading law schools. It is also one of Pakistan’s leading institutes when it comes to maritime law. It has newly introduced an LLM Program in International and Maritime Law. Similarly, since 2018 Bahria University, in collaboration with Dalian Maritime University, has commenced a seven-day course on International Maritime Laws which aims to raise awareness on Maritime Laws, awareness of maritime governance and on areas of strategic importance of sea and maritime security.
- Appropriate offices of the Navy may hold a consultation meeting with Bahria University to either devise a new course focusing specifically on the issues being faced by the Pakistan Navy or to contour the existing course in a way that deals with contemporary issues in this domain.

LEGAL WARGAMING

RAND Corporation, a leading American think-tank, defines the concept of wargaming as:

‘Analytic games that simulate aspects of warfare at the tactical, operational, or strategic level. They are used to examine warfighting concepts, train and educate commanders and analysts, explore scenarios, and assess how force planning and posture choices affect campaign outcomes.’¹⁸

The National Defence University has developed a state of the art National War Gaming Centre (NWGC) equipped with NATO standard computers assisted war gaming system which is known as the Joint Theater Level Simulation System (JTLS). NWGC is also used by the three services for running of war games under different scenarios which provides a simulated environment for War planning, military operations other than war and disaster management scenarios. In the same vein, there is an absence of as well as a critical need for senior military officials to develop their capacity in the legal domain and it is proposed that the same may be done through legal wargaming.

The concept of legal wargaming is much too similar to the concept of wargaming itself. It seeks to analyze the legal outcomes of the lawfare options that may be deployed, either as a safeguard or as an offensive legal action against adversaries.

At present, ISSRA comprises of various sub-branches that specialize in national security, international relations, 4th generation warfare, counter-extremism, defence studies and law. Accordingly, it is proposed that a Secretariat be formed under the auspices of ISSRA, which would be responsible for conducting legal wargames on contemporary legal issues relevant to the three services of the armed forces of Pakistan with the assistance of the Centre for Excellence of International Law (CEIL). The Secretariat will be chaired by DG ISSRA who will be assisted by the heads of the sub-branches of ISSRA so as to mutually discuss, decide and pre-empt lawfare issues that may be faced by Pakistan or are being faced by Pakistan, at present.

1. In this respect, the CEIL proposes the following legal wargames as a starting point:

1.1. Raising the Kashmir Issue before the International Court of Justice

- After annexation of IOK by India through constitutional amendments, the right of self-determination of the Kashmiri people have been dealt a severe blow. In this respect, Pakistan has a strong legal case that may be argued before the ICJ. However, a comprehensive assessment of, inter alia, the following is required:
 - Engaging the jurisdiction of the ICJ
 - Potential Outcomes
 - Methods of enforcement
 - Garnering international support to pressurize India
 - Pre-empting India's response
 - Border Security
- This would require the input from the representatives of CEIL, G&RS, Defence Studies and Internal Security as well as input from relevant senior military officials and the Ministry of Foreign Affairs.

1.2. Tackling the issue of Terror Financing (TF)

- The issue of TF has allowed Pakistan's adversaries to exploit international forums against Pakistan. This has manifested itself into Pakistan being grey-listed by the Financial Action Task Force.
- This contemporary issue must be analyzed from not only a legal standpoint, but also from the lens of politics, international relations and internal security as law.

- At the lawfare wargame, representatives from the State Bank, Financial Monitoring Unit etc. may also be invited to pre-empt any further blowbacks within this domain and to discover ways of not only remedying this legal problem that is being faced by Pakistan but also, in the interim period, devise ways of preventing adversaries from weaponizing it as a tool of lawfare.

1.3. International Criminal Law, International Humanitarian Law and Counter-Insurgency Operations

- The CEIL assesses and predicts that in the near future, International Criminal Law will be deployed against actions committed by the armed forces of Pakistan. This can make our officers susceptible to being subjected by criminal prosecutions through Universal Jurisdiction or International Courts.
- Not only that, the stigma attached with the violations of International Criminal Law has the potential to lead to sanctions through international instruments as well as under domestic law of countries such as the USA. Such sanctions can also have a direct impact on foreign military sales undertaken by Pakistan. Therefore, it is integral that awareness in this domain as well as compliance of IHL be strictly adhered to in all counter-Insurgency operations.

LEGAL RESOURCES

Aim: In order to build the capacity of the armed forces in the lawfare domain, it is imperative that dissemination takes place of updates in international law and its domestic implications. A number of dissemination methods may be used in this regard, which have been discussed subsequently.

1. Dissemination of Updates in International Law and Implications in the Domestic Sphere

- 1.1.** There is a need for the armed forces to be updated about contemporary lawfare challenges faced by Pakistan. This would entail information regarding the legal challenges that Pakistan faces in the international arena, and the domestic implications of those challenges.
- 1.2.** Moreover, other than the emerging lawfare threats against Pakistan, dissemination would also take place regarding broader international legal updates taking place globally, along with their domestic implications.
- 1.3.** This would create awareness of international law among the armed forces, hence equipping Pakistan with the right knowledge to be able to address challenges strategically.

2. Proposed Methods of Dissemination

2.1. Bi-Annual Newsletter

- The NDU due to its specialized expertise in academia, particularly, in the areas of geo-strategy, international relations and international law is well equipped to identify the latest developments in international law relating to Pakistan.

Therefore, it is proposed that a bi-annual newsletter be published by the either the Internal Studies or the Research & Publication Branch under ISSRA within National Defence University, the objective of which would be to identify contemporary lawfare moves, legal updates and emerging threats against Pakistan, and their domestic implications. It is further proposed that the relevant research wings of the Air Force and the Navy also publish similar bi-annual newsletters.

2.2. Law Journal

- Other than the newsletter, it is proposed that a scholarly discussion and legal analysis of the latest updates in international law and lawfare moves against Pakistan be published through a Law Journal. It is proposed that this Law Journal be published quarterly by the Internal Studies/Research & Publication (IS/R&P) Branch, with assistance of the Center of Excellence for International Law under ISSRA within NDU.
- This would ensure that other than the identification of lawfare moves globally and against Pakistan done through the bi-annual newsletter is expounded upon through a scholarly discussion and legal analysis of those updates published by the Law Journal. This would, in turn, aid in capacity-building of the armed forces for them to be able to strategically address challenges faced by Pakistan.

PRIORITY AREAS OF TRAINING

1. Certain areas of training should be prioritized and the general staff should be taught courses on:
 - 1.1. National Security Law,
 - 1.2. The Counter Terrorism Legal Regime of Pakistan,
 - 1.3. International Humanitarian Law,
 - 1.4. Military Law and Justice Mechanisms,
 - 1.5. International and Constitutional Human Rights as well as United Nations Resolutions and Pakistan's obligations as a result of those,
 - 1.6. Nuclear Law,
 - 1.7. Cyberwarfare and Cybersecurity Law.
2. Training Options
 - 2.1. These courses can be incorporated in two ways, either as part of existing courses offered at NDU, the Command and Staff College, Air War College, and the Pakistan Naval War College; or as stand-alone short courses offered at the same institution

ANNEXURE

1. Armed Forces of the United Kingdom

1.1 OJAG (Office of the Judge Advocate General)

- The OJAG is tasked to deal with the Court-martial process.¹⁹ The JAG exercises jurisdiction over Royal Airforce, Royal Army, Royal Navy including when they are operating overseas. Members of the JAG are independent members of the judiciary and are always civilians which makes it unique in comparison to other jurisdictions. The OJAG also has a team of full-time judges, which comprises of the following:
 - ❖ Vice-Judge Advocate General
 - ❖ Six Assistant Judge Advocates General
 - ❖ Deputy Judge Advocates (Part time)
- The functioning of the OJAG is supplemented by the Military Court Service (MCS) which maintains military court centres and other ad hoc venues in the UK and overseas. In addition, the Army Legal Service (ALS) provides, inter alia, a prosecutor for the trials and advises military officers on legal questions in this respect.

1.2 Army Legal Service (ALS)²⁰

- ALS is further compartmentalized into the Directorate of ALS and the ALS Branch. The former consists of a Brigadier, three Colonels, eight Lieutenant Colonels and eight other Officers whilst the latter consists of a specialized legal division. This legal division consists of qualified lawyers and they are tasked to provide legal support to the army.

2. Structure

- Legal Advisory: They assist the chain of command, conduct trainings and devise publications in support.

- Service Prosecuting Authority: They are tasked to prosecute cases referred by the Chain of Command and, where appropriate, cases of Court Martial. It also conducts training programmes to let the Officers expand their knowledge in relation to their conduct.
- Operational Law Branch (OLB): They are tasked to train all members of the armed forces in the intricacies of operational law which includes the conduct of hostilities, Geneva Conventions, criminal law, human rights etc. OLB officers also serve in assignments relevant to International Law and International Humanitarian Law. Even before deployment, they undergo a training with for 12 months.

1.3 Royal Air Force²¹

- **Legal Officers**
 - Advising military commanders and staff in national, coalition and Allied environments on domestic and international humanitarian law;
 - Advising on military law, air law, employment law, European law, health and safety and environmental law;
 - Development and drafting of legislation in relation to the Armed Forces;
 - Acting as Legal Adviser to Service Inquiry panels in relation to their investigations;
 - Advising both military police and commanders in relation to criminal investigations, evidence gathering, interviewing, and pre- and post-charge custody.
- **Initial Officer Training**
 - RAF Legal Advisers begin their careers at the Specialist Entrant and Re-entrant (SERE) course at the RAF College Cranwell. Following successful completion of SERE candidates attend the two-week Basic Air Warfare Course at RAF College Cranwell.

1.4 Royal Navy²²

- Royal Navy Legal Cadre²³
 - The Royal Navy internally selects and trains its legal cadre. Naval lawyers also remain full-fledged members of their source specialisation. The Navy selects officers, usually with around five years of general service and places them in an academic environment for advanced study.
- Naval Lawyer
 - The work of a naval lawyer is as follows:
 - ❖ Advise in discipline and personnel casework;
 - ❖ Examine the provisions of new legislation affecting maritime operations;
 - ❖ Advise and assist in the drafting of new Armed Forces legislation; and
 - ❖ Instruct other members of the Armed Forces in the law of armed conflict.

2. Armed Forces of the United States

2.1 Law of War Programme

- The Department of Defence established the Law of War Programme which provided that a Judge Advocate must review all operational plans, policies and directives, in all services, for compliance with the Law of War.

2.2 Expanded Role

- By the 1980s, JAs were already in position on Headquarters Staff of some units. Experience in the invasion of Grenada (Operation Urgent Fury, Grenada, 1983)²⁴ led to an increased demand for “forward deployed²⁵” JA, i.e. deployed to hostile areas and combat zones.

2.3 Structure / Hierarchy

- Military advice is centralized in the Chairman of the Joint Chiefs of Staff (CJCS), as opposed to the individual military service chiefs. The CJCS is the principle military adviser to the President of the United States, the National Security Council and the Secretary of Defence²⁶. The CJCS does not exercise military command over the Joint Chiefs or any of the armed forces.

2.4 Army

- The Judge Advocate General of the United States Army (TJAG) is the commanding officer of the JAG Corps of the Army division (usually a Lt. General). TJAG's have a statutory obligation to "direct the members of the JAG Corps in the performance of their duties."

Active Soldiers: 510,400²⁷

Army JAG Corp: 1,850

2.5 Air Force

- Air Force JA (AFJA) are assigned to every Air Force Base. AFJA usually work in a Wing²⁸, providing administrative and military justice support to the Wing Commander and subordinate group and squadron commanders. AFJA are also assigned to Air Force Head Quarters, Major Commands and Numbered Air Forces. The Air Force deploys units as Wings or as individual Squadrons. AFJA deploy with each to provide operational and non-operational support.

Air Force Personnel: 328,900

Air Force JAG Corp: 1,288 Officers

2.6 Navy

- The primary focus of Navy JA is to advise the Commander and staff of Navy Operational Commands. When sailors require personal legal assistance, this is provided by the Navy Regional Legal Service Officers.

Active Personnel: 322,700

Navy JAG Corp: 855 Officers

2.7 Marine Corps (U.S.M.C.)

- Though the USMC is a separate service branch within the Department of the Navy, the two branches have their own separate and distinct chain of command. There is no distinct USMC JAG Corps, Marine JA are managed like every other Marine line officer.²⁹
- While posted in Garrison, the majority of Marine JAs are assigned to work in Legal Services Support Sections (LSSS)³⁰. The LSS only provides legal services, advice to the command and staff of a unit is provided by the unit SJA. The Officer in Charge of a LSSS is a Colonel. Marine JA are deployed on the basis of an analysis of the mission at hand.

Active USMC Personnel: 197,300

Marine JAs: 566

1. U.S. Army JAG

- The Judge Advocate General's Legal Center and School (TJAGLCS) provides legal education, strategic planning, and collection and integration of lessons learned for the Army JAG Corps, as well as the DoD legal community. TJAGLCS develops capabilities and doctrine for the Army JAG Corps.
- The Judge Advocate Officer Basic Course
 - The Judge Advocate Officer Basic Course (JAOBC) is comprised of two phases: the Direct Commissioned Course and the Charlottesville Phase. Direct Commissioned Course (DCC) is a rigorous six-week course is designed to teach prospective Judge Advocates leadership skills and military tactics.

- All incoming Army Officers (West Point, ROTC and Officer Candidate School graduates) are also required to attend this course. The Charlottesville Phase Judge Advocates learn the organization, function, and mission of the Army JAG Corps, and receive an overview of U.S. military law.

2. U.S. Air Force JAG³¹

- The Air Force Judge Advocates receive training at the Air Force Judge Advocate General's School which provides instruction to new judge advocates and paralegals, in addition to offering approximately 30 continuing legal education courses.
- The “Judge Advocate Staff Officer Course” is a nine-week course on Air Force legal practice offered by this school. The JASOC curriculum focuses on many areas of military law, including military justice, trial advocacy and adverse administrative actions involving military members and civilian employees.
- The course also covers a wide range of practice areas critical to daily operations at Air Force installations, including government contracts, environmental law, labour law and legal assistance. Finally, training includes international and operations law topics, such as the legal aspects of homeland defense, deployed military justice and civil law, the law of armed conflict and rules of engagement.

3. US Navy JAG³²

- Naval Judge Advocates receive their primary training at the Naval Justice School (NJS) in Rhode Island. NJS currently provides accession-level and long-term legal training for all Navy, Marine Corps and Coast Guard lawyers, enlisted legal professionals, active and reserve. In addition, NJS provides training for civilian personnel, sea service commanders, legal officers, senior enlisted and others in the administration of military law.

- Staffed with officer, enlisted and civilian administrative personnel from each of the sea services, NJS offers several instruction courses each year³³
 - Basic Lawyer Course
 - For Service Members Who Are Not Lawyers
 - For Enlisted Personnel Performing Legal Duties
 - Continuing Education & Training

4. U.S. Marine Corps JAG³⁴

- Officer Candidate Course
- Applicants who have graduated from law school and have received their license to practice law are eligible to seek a commission through the Officer Candidate Course (OCC)
- Platoon Leaders Course
- To be eligible for Platoon Leaders Course (PLC), an applicant must be a college senior who has been accepted into an ABA-accredited law school or must already be in the first or second year of law school.

5. General Counsel

- Department of Defense – Office of the General Counsel³⁵
- Department of the Air Force – Office of the General Counsel³⁶
- Department of the Navy – Office of the General Counsel³⁷

6. Armed Forces of India

6.1 Judge Advocate General, Army.

- The Indian Army has a JAG branch consisting of legally qualified army officers who are either commissioned directly into the JAG branch, or can be sidestepped from other arms, branches, or corps.
- These officers advise the presiding officers of courts-martial on military law and provide legal assistance in all aspects. In relation to the latter, their function is similar to a civilian lawyer wherein they are also responsible for dealing with cases pending before the domestic courts and military tribunals. The JAG is headed by a Major General who is the legal and judicial chief of the Army.
- Members of the JAG are chosen from candidates aged between 21 and 27 years having scored 55 percent, or above in Law College and being eligible for registration from the Bar Council of India.
- Upon selection, the candidates undergo a 49 weeks training course at Officers Training Academy, Chennai. After successful completion of the training candidates get placed in the rank of Lieutenant (Lt.). Graduates receive Post Graduate Diploma in Defence Management and Strategic Studies by University of Madras.

6.2 Judge Advocate General, Navy

- The Judge Advocate General (JAG) Department is the legal arm of the Indian Naval Service. A Judge Advocate is deemed to be a Judicial Officer.

- The JAG Department plays a very crucial role by effectively discharging its responsibilities in administering and supervising the naval justice system, which is inextricably linked to maintaining good order and discipline and promotes confidence in the Navy's justice system.
- The primary duty of the officer in the Dept. of JAG (Navy) is to attend Courts Martial as Trial Judge Advocate wherein he decides all questions of law arising in the course of trial. An officer in this Department is also expected to render advice and assistance to ships/establishments/units of the Indian Navy in dealing with disciplinary matters, monitoring court cases and also in pursuing litigation in the various courts at various levels.
- Such officers are expected to have a deep understanding of areas such as Naval Law and its corresponding Rules & Regulations, International Maritime Law, Salvage, Privacy, Contract Law, Criminal Law, Civil Law, Personal Law etc. In order to further enhance their capacity such officers are nominated to undergo course at IML Kamptee, Nagpur and various other law schools.

6.3 Human Rights Cell

- The India Army after conducting the Counter Insurgency operations faced numerous cases of alleged violation of Human Rights. In order to counter those allegations they established a Human Rights Cell (HRC) at Army Headquarters in March 1993.
- HRC is a part of the Adjutant General's Branch and functions under the Additional Directorate General, Discipline & Vigilance which is headed by a Major General with one of the Brigadiers (DDG-B). Furthermore, a Human Rights Cell exists at every Command & Corps HQs, which is headed by a Colonel rank officer.

- The HRC monitors, analyzes, and responds to alleged Human Rights violations by the Army personnel.
- Another part of the HRCs mandate is to conduct trainings for the armed forces. The concept behind the trainings is to sensitize all ranks, from soldier to the officer, on human rights. Prior to deployment “Units” go through ‘Special Counter Insurgency Training’ schools where such training are delivered. In addition to this, seminars are held where guest speakers give their views on various aspects of Human Rights and interact with the soldiers to gather firsthand knowledge about ground realities.
- Subjects which form part of the trainings includes both domestic legislation on Human Rights, implications of human rights during armed conflicts, rights of prisoners, rights guaranteed under the Indian Constitution etc.

6.4 Civic Actions Teams

- The Indian Army in order to further improve their track record in the field of Human Rights has started providing assistance to the local populace by forming ‘Civic Action Teams’. The idea is to foster cooperation with the local population and improve living conditions in areas infested with so called insurgency/terrorism.
- Numerous projects have been initiated such as setting up of schools, health centres, and vocational training centres etc. Development work has also been initiated by the Indian Military.

OVERVIEW OF RECOMMENDATIONS

This, the paper identifies and expounds upon key steps that Pakistan may consider in order to build capacity of the armed forces in lawfare.

Workshops – the armed forces within each administration and formation conduct ad hoc workshops on matters pertaining to international law under the purview of lawfare.

Courses – military officials may attend various seminars or courses on international law related to the functioning of the personnel. These courses may be offered by various foreign and domestic academic institutes, international and national organizations, as well as other official forums such as NDU, Air War College, and Naval War College, etc.

Legal War Games – similar to the National War Games conducted at NDU wherein a simulated environment for war planning and military operations is effected, legal war game simulations may also be incorporated on contemporary lawfare challenges of Pakistan.

Legal Resources – a bi-annual newsletter and a quarterly law journal may be published and distributed amongst the various branches of armed forces for a dissemination of updates on international law and its domestic implications.

Priority Areas of Training – certain areas of training may be identified and prioritized to be incorporated in courses offered and contextualized to the legal needs of each formation of the armed forces.

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