

Letters from Lahore:
Osama bin Laden, “Internal Sovereignty,” and the
“Black Coat Movement”

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“Letters from Lahore” is a selection of three short blog posts by Khalil Ahmad, Executive Director of the Alternate Solutions Institute, a libertarian think-tank based in Lahore, Pakistan.¹ All three posts, dating to May 2011, respond in some way to the assassination by U.S. Navy Seals—code-named “Operation Neptune Spear”—of al-Qaeda leader Osama bin Laden in Abbottabad, Pakistan (May 2, 2011). We translate and reprint them here, with editorial revisions for clarity and style, as examples of a distinctive and original response to the assassination and its aftermath, instructively different both from the predominant American response, as well as from the predominant Pakistani one.

The predominant American response to the assassination of Osama bin Laden expressed unapologetic gratification at his death, essentially untroubled by worries about the alleged violation of Pakistani sovereignty involved in the U.S. operation. The predominant Pakistani response expressed outrage at the United States for its supposed violation of Pakistan’s sovereignty, untroubled by worries about the significance of Osama bin Laden’s presence in a suburb of the Pakistani capital. Ahmad’s posts, by

¹ All three posts were originally published at the website of the Alternate Solutions Institute (Lahore, Pakistan), and are reprinted here by permission of the author, Dr. Khalil Ahmad. The May 4 and May 14 posts were originally written in Urdu, and translated for *Reason Papers* by Aysha Mahmood, with editorial revisions by Khalil Ahmad and Irfan Khawaja. The post of May 10 was originally written in English, and edited for publication in *Reason Papers* by Irfan Khawaja. All introductory and footnote material was written, translated, and transliterated by Irfan Khawaja. Thanks to Aftab Khawaja, Tom G. Palmer, and Steve Miller for helpful advice.

contrast, reflect the difficult predicament of the Pakistani libertarian, forced by public sentiment and personal conviction to reconcile both sets of concerns. How, on the one hand, does the loyal citizen of a country like Pakistan respond to a violation of its sovereignty by a superpower like the U.S.? How, on the other hand, does a libertarian committed to individual rights respond to nationalist sentiments that put questions of national sovereignty over questions of substantive justice? Ahmad's responses to these questions are a paradigm of reason and courage.

Consider his May 3, 2011 post responding to widespread Pakistani outrage about the sovereignty-violation involved in the bin Laden assassination the day before. The post begins by taking for granted the obvious facts—half-acknowledged and half-denied by the Obama Administration's convoluted legalisms²—that Operation Neptune Spear *was* an assassination and that it *did* violate Pakistan's sovereignty: the operation crossed Pakistani airspace and onto Pakistani soil with the explicit aim of killing Osama bin Laden, and (barring some extraordinary revelation) did so without the consent or knowledge of the Pakistani government. Coming from an administration that had gotten itself elected in opposition to the foreign policy of the Bush Administration—that is, by contrast with Bush's supposed unilateralism, disrespect for international law, and elastic conception of “self-defense”—Operation Neptune Spear offered plenty of material for accusations of opportunism and hypocrisy. But Ahmad focuses instead on a subtler and normatively more important set of issues: What does “sovereignty” mean, and what value can it have, in a country that lacks civilian control over government policy? If the U.S. Navy Seals violated Pakistan's sovereignty on May 2, 2011, could it not be said in a different sense that Pakistan's military violates Pakistan's sovereignty every day that it flouts civilian supremacy over its actions? In addressing these questions, a further unspoken question seems to slip in, so to speak, under the radar: Under what conditions would Americans accede to an assassination by another power on *American* soil?³

The May 10 post addresses the preceding issues more explicitly. We typically think of “sovereignty” as denoting the state's supreme, monopolistic authority to govern and control a certain geographic area.⁴ “Internal

² See Harold Hongju Koh, “The Lawfulness of the U.S. Operation Against Osama bin Laden,” *Opinio Juris*, May 19, 2011, accessed online at: <http://opiniojuris.org/2011/05/19/the-lawfulness-of-the-us-operation-against-osama-bin-laden/>.

³ Cf. the 1976 murder of former Chilean minister Orlando Letelier, on which see Christopher Hitchens, *The Trial of Henry Kissinger* (New York: Verso, 2002), pp. 68-76.

⁴ For discussion, see Dan Philpott, “Sovereignty,” *Stanford Encyclopedia of Philosophy*, accessed online at: <http://plato.stanford.edu/entries/sovereignty/>.

sovereignty” has, in turn, typically been understood to mean state authority over those who reside within the state’s territory. But Ahmad invokes another, less discussed, in fact neologistic understanding of internal sovereignty: If each individual under state sovereignty has strong rights in the Lockean or classical-liberal sense, then each individual rights-holder is “sovereign” over his or her own life. Understood in this way, state sovereignty has no value or legitimate purpose unless it protects individual sovereignty. And the primary threat to the sovereignty of individual Pakistanis comes not from American drones but from al-Qaeda and the Pakistani Taliban, a fact about which, as Ahmad aptly puts it, all “nationalist chatter of ‘sovereignty’ rings hollow.”

Finally, Ahmad’s May 14 post offers a unique perspective on the so-called “black coat” or lawyers’ movement so uncritically lionized by the American media in late 2007 and throughout 2008. Hailed at the time as “perhaps the most consequential outpouring of liberal, democratic energy in the Islamic world,”⁵ it has now conveniently been forgotten by the intellectuals who so breathlessly brought it to prominence.⁶ Ahmad offers a useful and relatively early corrective to that romanticization, prefiguring the growing disillusionment in Pakistan today with the frankly theocratic and terrorist-positive sympathies of the black-coated heroes of 2007.⁷

⁵ James Traub, “The Lawyers’ Crusade,” *The New York Times Magazine*, June 1, 2008, accessed online at: <http://www.nytimes.com/2008/06/01/magazine/01PAKISTAN-t.html?pagewanted=print>.

⁶ For fairly typical romanticizations of the movement, both reportorial and editorial, see, e.g., Jane Perlez, “Pakistani Lawyers Angered as Hope for Change Faded,” *The New York Times*, November 7, 2007, accessed online at: <http://www.nytimes.com/2007/11/07/world/asia/07lawyers.html>; Amitabh Pal, “Pakistan Lawyers’ Movement Counters Lies About Muslims,” *The Progressive*, November 12, 2007, accessed online at: http://www.progressive.org/mp_pal111207; and Toby Berkman, “Notes: The Pakistan Lawyers’ Movement and the Popular Currency of Judicial Power,” *Harvard Law Review* 123, no. 7 (2010), pp. 1705-26, accessed online at: http://www.harvardlawreview.org/issues/123/may10/Note_7078.php.

⁷ For examples of the more recent disillusionment with the movement, see Saroop Ijaz, “No Time for Celebration,” *The Express Tribune*, October 8, 2011, accessed online at: <http://tribune.com.pk/story/269743/no-time-for-celebration/>; Saroop Ijaz, “Where Are They, Now?” *The Express Tribune*, October 15, 2011, accessed online at: <http://tribune.com.pk/story/274684/where-are-they-now/>; and Amina Jilani, “Black Coats and Blacker Faces,” *The Express Tribune*, February 17, 2012, accessed online at: <http://tribune.com.pk/story/337881/black-coats-and-blacker-faces/?print=true>. Unfortunately, some of this writing makes ironic use of the inadvertently racist phrase “black faces”; most Pakistani writers are probably unaware of the connotations of that phrase in American English, but its use may reflect some residual cultural biases in favor of fair skin as well.

May 3, 2011: The Assassination of Osama bin Laden

It is not the first time that the questions that are presently circulating in and out of Pakistan have been raised. “What of our sovereignty?” “How did we allow it to be violated with impunity?” These same questions have arisen before, but never perhaps with such intensity or such irony.

I don’t intend in this post to ask or answer the usual questions about our sovereignty. For my purposes it’s only necessary to raise the following dilemma. If Pakistan’s security establishment was *unaware* of Osama bin Laden’s presence in Pakistan but genuinely seeking to find him, then what sort of seeking was it that, as the old ghazal has it, “what was sought was lost with the seeker”? But if the security establishment was *aware* of his presence, then what sort of self-conscious ignorance have they cultivated—one they can neither effectively conceal nor come clean about? Every question contains the seeds of its own answer, as the saying goes. So it has been in the past, and so it will be in the future. The questions that remain, then, concern the reasons for the offense and the identity of the offenders. *Why* did our government do as it did, and *who* was responsible?

My answer is this: If the ruling power in Pakistan had been the people’s representative civilian government, whatever came to pass on May 2, 2011 would never have played out as it did. In other words, if the rule of law and of the constitution existed in Pakistan, if Pakistan’s defense and foreign policies were firmly in the hands of a civil government, none of this would have happened. To a large extent, the events of May 2, 2011 raise the same issues as the Kargil operation twelve years ago⁸: if our defense and foreign policies had been in civilian hands, neither Kargil nor the events of May 2 would have happened.

What Pakistan needs above all is civilian supremacy over its affairs, the sovereignty of a civilian government limited by a constitution and representative of its citizens. It needs a government that keeps its defense and foreign affairs under its control, not one that merely appropriates ministries and plunders resources. Frankly, I have no complaint to make against our security establishment: I have nothing to say to them at all. My concern is instead with the current government; *they* are the ones who need to be questioned. Do *they* have the answers to the questions that are being raised inside and outside of Pakistan? They are the ones obliged to give answers, as

⁸ The Kargil operation (May-July 1999) was a military incursion, by the Pakistani Army, across the Indian line of control at Kargil Ridge in the Indian state of Jammu and Kashmir. Spearheaded by then-General and Chief of the Army Staff Pervez Musharraf, the conflict momentarily threatened nuclear war between India and Pakistan until Indian forces prevailed in conventional combat. For further discussion, see Owen Bennett-Jones, *Pakistan: Eye of the Storm*, 2nd ed. (New Haven, CT: Yale University Press, 2003), pp. 87-104.

control of the law and constitution was and remains in their hands. Whatever has happened, responsibility falls on *them*—not on anyone else.⁹

May 10, 2011: What about Internal Sovereignty?

The so-called nationalists maintain that American drone attacks are damaging the sovereignty of Pakistan. These nationalists include both rightists such as Jamaat-e-Islami and Jamiat-e-Ulema-e-Islam (F), and left-leaning elements as well.¹⁰ The criticisms they make are frankly puzzling. Such people, whether right- or left-wing, must know that Pakistan is a declared ally of the United States in the war against terror, in which case it is of no significance *whose* drones are being used to fight terrorism and *whose* territory they are targeting, as long as they are targeting terrorists. In any case, both Bob Woodward's book *Obama's Wars* and the recent Wikileaks revelations establish Pakistan's tacit *approval* of the drone attacks.¹¹ How can drone attacks approved by the Government of Pakistan violate the sovereignty of Pakistan?

⁹ Pakistan's government condemned the violation of Pakistan's sovereignty involved in Operation Neptune Spear, but claimed to welcome its result. See President Asif Ali Zardari, "Pakistan Did Its Part," *The Washington Post*, May 2, 2011, accessed online at: http://www.washingtonpost.com/opinions/pakistan-did-its-part/2011/05/02/AFHxmybF_story.html; see also Prime Minister Yousaf Raza Gilani's reaction in "Reactions: Bin Laden's Death," *al-Jazeera*, May 2, 2011, accessed online at: <http://www.aljazeera.com/news/asia/2011/05/20115241936984209.html>.

¹⁰ Jamaat-e-Islami and Jamiat-e-Ulema-e-Islam (F) are Islamist political parties in Pakistan. The "F" designation in the latter case refers to the faction of the party led by Maulana Fazlur Rahman (as opposed to the "S" designation for the faction led by Maulana Sami ul-Haq). For Jamaat-e-Islami Pakistan, see: <http://jamaat.org/beta/site/index>; for Jamiat-e-Ulema (F), see: <http://www.abdallahshah.com/JHI-F.html>.

¹¹ See Bob Woodward, *Obama's Wars* (New York: Simon and Schuster, 2011), pp. 5, 26, 87, 106-7, and 116-17. The Wikileaks material has come in Pakistan to be known as the "Pakistan Papers," and since May 2011 has involved a formal "memorandum of agreement" between Wikileaks founder Julian Assange and *Dawn*, Pakistan's leading English-language newspaper, based in Karachi. According to the agreement, *Dawn* has "exclusive first use in Pakistan of all the secret US diplomatic cables related to political and other developments in the country." For the Wikileaks-*Dawn* arrangement, see "Announcement," *Dawn*, May 20, 2011, accessed online at: <http://dawn.com/2011/05/20/announcement-2-2/>. On apparent Pakistani consent to drone operations, see "Pakistani Leadership 'Okayed' Drone Strikes," *Dawn*, December 1, 2010, accessed online at: <http://dawn.com/2010/12/01/pakistani-leadership-okayed-drone-attacks-wikileaks/>.

The nationalists respond that the present Pakistani government is a U.S.-backed puppet regime. But the truth is that many if not most of these supposedly pro-sovereignty nationalists sympathize with the Taliban—a group openly at war with the sovereignty of Pakistan. Such nationalists apparently lack any conception of *internal sovereignty*, fixated as they are on guarding the external sovereignty of Pakistan from drone attacks which present no comparable danger to its internal security.

Is a country merely a piece of land whose sovereignty consists only in its territoriality? Perhaps that was so under ancient principalities. But today, sovereignty is a function of legality and constitutionality. When a new country emerges, its first aim is to attain constitutional legitimacy, not just to acquire larger and larger bits of legally disorganized territory.

In today's world, territorial sovereignty is just one element of what might be called real or substantive sovereignty. This latter sort of sovereignty is an internal phenomenon which gives a tract of land and a population of individual persons inhabiting that tract an identity and the status of a country. Internally this sovereignty is a collection of sovereign *individuals* whose life, liberty, and property are guaranteed by the country's legal and constitutional arrangements. And externally this sovereignty expresses the same legal and constitutional arrangements, so that the boundaries of the country are the boundaries at which it can effectively protect the individual sovereignty—the *rights*—of its inhabitants.

Thus, sovereignty requires safeguarding the physical borders of a country from external invaders not as an end-in-itself but as a means to protecting the rights of the sovereign individuals who live inside those borders. Likewise, sovereignty requires the protection of the life, liberty, and property of individuals from internal invaders as much as from external ones—be they the Taliban, or any other individual, group, force, party, or institution. That sums up my argument: ultimately, real sovereignty derives from sovereign individuals who bind themselves into a legal and constitutional arrangement that protects them. When that arrangement fails to protect them, sovereignty reverts back to the people.

Furthermore, any such legal and constitutional arrangement creates various institutions to take care of the functions of the sovereignty of a country. In our case, the parliament, provincial assemblies, the courts, the election commission, auditor general, the armed forces, etc., are brought to life but to serve the same purpose. These institutions derive their existence and mandate from legal and constitutional arrangements the sole objective of which is to help create an environment in which individual citizens are free to live as they wish and where their life, liberty, and property are safe from invaders like the Taliban.

As against this, the nationalist chatter of “sovereignty” rings hollow. Our nationalists fail to see that the presence in Pakistan of the Taliban and its allies challenges the very writ of the government and undermines the sovereignty of the country more thoroughly than the American drone operations. Is not challenging the writ of the government a serious crime? Is

not taking up arms against the state a capital offense? Aren't the Taliban waging an open and declared war against the state of Pakistan—in other words, against the institution that protects the sovereign *individuals* of Pakistan? Aren't they inflicting unbearable losses on the life, liberty, and property of the citizens of Pakistan? Isn't the sovereignty of Pakistan at stake at the hands of these internal invaders in a more obvious way than the American operation against Osama bin Laden and his allies?¹²

The hollow nationalism of pseudo-sovereignty amounts to supporting the Taliban, a declared enemy of Pakistan—an enemy of its legal and constitutional sovereignty, and above all, of its sovereign individuals. Our so-called nationalists never seem to raise their voices in favor of the sovereignty of Pakistan's individual citizens. They rarely show concern about threats to the internal sovereignty of this country from those within who would subvert it. Indeed, the point is not merely that their campaign for sovereignty aims to mislead, but that they are *abetting* the invasion of Pakistan, by abetting those who would violate the rights of its people, gut the rule of law, and undermine its government.

Pakistan's nationalists claim to focus on the “collateral damage” to life and property done by American drone attacks, but they are blind to damage of far greater magnitude done by the Taliban.¹³ By their logic, if some

¹² For further discussion of the Taliban threat to Pakistan, see Ahmed Rashid, *Descent into Chaos: The U.S. and the Failure of Nation Building in Pakistan, Afghanistan, and Central Asia* (New York: Viking, 2008), chap. 18; Irfan Husain, *Fatal Faultlines: Pakistan, Islam, and the West* (Rockville, MD: Arc Manor Publishers, 2011), esp. chap. 6; Farhat Taj, *Taliban and Anti-Taliban* (Newcastle on Tyne, UK: Cambridge Scholars Publishing, 2011); and Hassan Abbas, “A Profile of Tehrik-i-Taliban Pakistan,” *CTC Sentinel* 1, no. 2 (January 2008), accessed online at: <http://belfercenter.ksg.harvard.edu/files/CTC%20Sentinel%20-%20Profile%20of%20Tehrik-i-Taliban%20Pakistan.pdf>. As I write in early October 2012, controversy over the assassination attempt by the Taliban on Malala Yousafzai, a fifteen-year-old education activist, has taken on global proportions. See Declan Walsh, “Taliban Gun Down Girl Who Spoke Up for Rights,” *The New York Times*, October 9, 2012, accessed online at: http://www.nytimes.com/2012/10/10/world/asia/teen-school-activist-malala-yousafzai-survives-hit-by-pakistani-taliban.html?_r=0.

¹³ For further discussion of Taliban versus allied casualties, see Alissa J. Rubin, “Record Number of Afghan Civilians Died in 2011, Mostly in Insurgent Attacks, UN Says,” *The New York Times*, February 4, 2012, accessed online at: <http://www.nytimes.com/2012/02/04/world/asia/afghanistan-civilian-deaths-hit-record-un-says.html>. For more detailed discussion and data, see the United Nations Report, *Afghanistan: Annual Report 2011, Protection of Civilians in Armed Conflict*, accessed online at: http://graphics8.nytimes.com/packages/pdf/world/20120204_afghan_civilians_deaths.pdf. See also Robert P. Barnidge, Jr., “A Qualified Defense of American Drone Attacks in Northwest Pakistan Under International Humanitarian Law,” *Boston University International Law Journal* 30, no. 2, accessed online at: <http://www.bu.edu/law/central/jd/organizations/journals/international/volume30n2/doc>

criminals take a family hostage inside their home, and the police come to the family's rescue, it is the police which is to be blamed for the unintended loss of innocent life put in danger by the criminals; the criminals themselves are not to be criticized. Nationalism of this sort simply defies commonsense.

Let these nationalists exalt the criminals. And let the responsibility for that praise be on their heads. It is for the sovereign individuals of Pakistan to realize what such nationalism really means and what it has in store for their sovereignty and Pakistan's as well.

May 14, 2011: Osama bin Laden's Lawyers

The matter is as odd as it is fascinating: last rites have been read for Osama bin Laden in some cities of Pakistan. If you take a look at the photos, you don't see ordinary men wearing everyday garb, but well-dressed men in suits, boots, and ties. It is clear that the photos were taken in Lahore and Rawalpindi. In fact, in Lahore even the name of the Lahore High Court Bar was invoked in Osama's honor.¹⁴

It is hard to know how to respond to this except to ask some obvious questions. What sort of law, one wonders, did these lawyers study and how did they reach a reading of it that required praise for Osama bin Laden? How did the Bar allow lawyers of this type to obtain licenses to practice law? Were the Bar Courts asleep? Were they thinking at all? These are, after all, the same sorts of lawyers who showered Mumtaz Qadri, the murderer of Punjab Governor Salman Taseer, with flowers.¹⁵ One might have thought that the

[uments/article_barnidge.pdf](#); Pir Zubair Shah, "My Drone War," *Foreign Policy* (March/April 2012), accessed online at: http://www.foreignpolicy.com/articles/2012/02/27/my_drone_war; and Saroop Ijaz, "Game of Drones," *The Express Tribune*, October 6, 2012, accessed online at: <http://tribune.com.pk/story/447920/game-of-drones/>. As I write in early October 2012, the Pakistani politician Imran Khan is leading a Pakistani/American coalition of activists to protest drone strikes. See Salman Masood, "Americans Join Pakistan Convoy to Protest Drone Strikes," *The New York Times*, October 6, 2012, accessed online at: <http://www.nytimes.com/2012/10/07/world/asia/americans-join-pakistan-convoy-to-protest-drone-strikes.html>. For criticism of Imran Khan, see Irfan Husain, "The Drone Debate," *Dawn*, October 13, 2012, accessed online at: <http://dawn.com/2012/10/13/the-drone-debate-3/>.

¹⁴ See (in Urdu, with photo) "Lahore High Court Bar Meh Osama ki Ghaibana Namaz-e-Janaza; Saenkdo Kala, Shahreon Ki Shirkat" ("Osama's Funeral Rites 'in Absentia' at the Lahore High Court: Hundreds in Black, City-Dwellers Join In") (<http://pakteahouse.net/wp-content/uploads/2011/05/a451.jpg>), quoted in "Lawyers of Lahore High Court Offer 'Namaz-e-Janaza' of OBL," Pak Tea House, May 14, 2011, accessed online at: <http://pakteahouse.net/2011/05/14/lawyers-of-lahore-high-court-offer-namaz-e-janaza-of-obl/>.

¹⁵ The Governor of the Punjab province of Pakistan, Salman Taseer, was murdered on

lawyers of the Lahore Bar Court had taken an oath to strengthen the rule of law, not to celebrate murder. But something drastic seems to have happened to this oath and to those who took it, something so drastic as to raise questions about the legitimacy of the respect for oaths which they claim to have sworn. Will the Bar or the courts ever hold these lawyers accountable for the violation of their oath? Can the rule of law operate under judicial officials who celebrate the extremes of lawlessness, or can we hope that their licenses will somehow be revoked?

No, it appears that the laws of Pakistan will remain helpless. Those who took an oath to uphold the rule of law will continue to flout their oath with impunity, and the law itself will continue to be manipulated in this way by those who take themselves to belong to the “higher orders”—to Pakistan’s elite. Unfortunately, in Pakistan, the behavior of Osama’s posthumous celebratory lawyers is not just a game of loose and absurd talk, but a sad and frightening reality. This incoherent mindset—the simultaneous celebration of constitutionalism, legality, theocracy, terrorism, and murder—has seeped into our very outlook in this country. So it is that Pakistan has managed to become that rarest of phenomena—a living (and dying) “contradiction in terms.”

January 4, 2011 by his bodyguard Mumtaz Qadri for what Qadri saw as Taseer’s impiety in questioning Pakistan’s blasphemy laws. Taseer’s assassination followed that of former Prime Minister Benazir Bhutto by Islamist militants (December 27, 2007), and was followed in turn by the assassination by the Taliban of Shahbaz Bhatti, the Federal Minister for Minority Affairs (March 2, 2011), as well as the kidnapping by the Taliban of Salman Taseer’s son, Shahbaz. On Salman Taseer, see Carlotta Gall, “Assassination Deepens Divide in Pakistan,” *The New York Times*, January 5, 2011, accessed online at: <http://www.nytimes.com/2011/01/06/world/asia/06pakistan.html>. See also Aatish Taseer, “The Killer of My Father, Salman Taseer, Was Showered with Rose Petals by Fanatics,” *The Telegraph*, January 8, 2011, accessed online at: <http://www.telegraph.co.uk/news/worldnews/asia/pakistan/8248162/The-killer-of-my-father-Salman-Taseer-was-showered-with-rose-petals-by-fanatics.-How-could-they-do-this.html>.

