

CHAIRMAN BHUTTO'S REPLY TO GENERAL ZIA'S 2ND STATEMENT IN THE SUPREME COURT OF PAKISTAN



**Reproduced by:
Sani Hussain Panhwar
Member Sindh Council, PPP**

**IN THE SUPREME COURT OF PAKISTAN RAWLPINDI:
ORIGINAL JURISDICTION**

RE: CONSTITUTIONAL PETITION NO. I-R OF 1977

BEGUM NUSRAT BHUTTO

PETITIONER

Vs.

THE CHIEF OF ARMY STAFF, ETC.

RESPONDENTS

Counsel for Petitioner:

Mr. Yahya Bakhtiar, Senior Advocate assisted by Messrs Ghulam Ali Memon and Noor Ahmed Noori, Advocates-on-Record

Counsel for the Respondent:

Mr. A. K. Brohi Senior Advocate instructed by Fazl-i-Hassain, Advocate-on-record.

INDEX

Description of Document	Date
1. Rejoinder to the reply of the Respondent dated 26-10-1977	31-10-1977
2. Affidavit of General (Retd.) Tikka Khan.	31-10-1977

(Ghulam Ali Memon)
Advocate-on-Record
Supreme Court of Pakistan

IN THE SUPREME COURT OF PAKISTAN ORIGINAL JURISDICTION

CONSTITUTIONAL PETITION NI 1-R OF 1977

BEGUM NUSRAT BHUTTO

PETITIONER

Versus.

THE CHIEF OF ARMY STAFF, ETC. RESPONDENTS

REJOINDER TO THE REPLY OF THE RESPONDENT DATED 26TH OCTOBER, 1977

1. (The contents of para are again vehemently repudiated.) The Respondent, a functionary of the State under the Constitution of 1973 which he had solemnly sworn to uphold as it embodied the will of the people, could not promulgate the Laws (Continuance in Force) Order or any other Regulation or Order in violation of the Constitution of the Islamic Republic of Pakistan 1973. He could not super impose his own will over the will of the people. His attempt to subvert the Constitution after violating his solemn oath makes him guilty of the offence of high treason. The commission of this offence and feeling of guilt and fear retribution have been haunting him like a nightmare all his actions, orders and statements are aimed at voiding the day of reckoning. The entire Nation is being punished because it has demonstrated its unwillingness to accept his will and whim and for asserting its will as embodied in the Constitution of 1973. The Respondent is desperately fighting a losing battle against his own Nation. He should be well aware of the fact that the People of this Ideological state shall never permit a usurper to impose his will over the will of the people or permit him to nullify the ideals, aspirations and expectations to be achieved by them through their duly elected and chosen representatives. He shall never be permitted to 'suppress' the Constitution of the Islamic Republic of Pakistan along-with the corner, stone of this edifice that Sovereignty belongs to. Almighty Allah alone and is to be exercised as a sacred trust by the people of Pakistan through their chosen representatives. The Respondent has the audacity to assert that he has effectually suppressed this immutable Principle of the Constitution and yet claims that he is a Soldier of Islam.

His further claim that he is the sole law-giver in this promised land who is not bound either by his oath to uphold the Constitution or by the Constitution itself; that he is above Law and not subject to the jurisdiction of any Court, including the highest Court of the land are postposterous and are repudiated.

Again the claim made repeatedly on behalf of the Respondent or on behalf of the 'Federation of Pakistan' before this Hon'ble Court that the Court owes its existence to his will and that the only decision that the Court can give is that the usurpation is effective and that any other decision upholding the will of the people and adverse to his interest would amount to a mere declaration and is not capable of being implemented. This betrays his ignorance of the respect the Nation has for the highest judicial institution under the Constitution of 1973. A decision of the Court will not merely be the opinion of individual Judges but expression of the will, of the people in accordance with the Constitution, which the people of this Country have authorized it to express. Any idea or attempt on his part to disregard or to refuse to implement the directions or orders of this Hon'ble Court would create the most serious crisis of jurisprudence and lead to a direct confrontation between the Respondent and the people of Pakistan.

2. (The contents of para 2 are denied.) The doctrine of necessity could not be invoked to justify the imposition of Martial Law and to suppress the Constitution which embodies the will of the people. Every possible false and malicious allegation from embezzlement of official funds for personal use and benefit to misappropriation of financial aid by friendly countries for charitable purposes were made without making any effort to discover the truth of these matters. After the Rejoinder supported by documentary evidence was filed on 18th October, 1977 to prove that not a penny of official funds or money received for charitable purposes from the Ruler of a friendly country was used for my personal benefit or for the benefit of my family members, decency demanded some expression of regret for the false allegations broadcast to the whole world maligning not only me as an individual but the Prime Minister of Pakistan who had enhanced the prestige of the country as Chairman of the Second Islamic Summit Conference, as a bold spokesman of the Third World and in every other field of International affairs. Pakistani's voice began to be heard with respect in all International Forums. The Respondent's personal venom and vendetta against me has caused an irreparable damage to the image of Pakistan by deliberately making false and malicious accusations of a very petty nature and propagating these through our embassies and international Press throughout the World.

The so-called mosaic of events was in fact a patch-work of false and concocted stories of alleged crimes intended to malign me and my colleagues on the one hand and to justify imposition of Martial Law and abrogation of the Constitution

on the other. The so-called ice-berg turned out to be a water-bubble which was pricked by the documentary evidence and proof produced in my Rejoinder.

3. I want to make it clear to this Hon'ble Court that my attitude and my defence has been predicated on the pillar of national interest. The petition in this Hon'ble Court was filed by Begum Nusrat Bhutto and her prayer for relief was sought on legal grounds. The Respondent, instead of confining his position to legal points and to the minimum of political issues or 'meta legal' issues, chose in his wisdom, to malign me and my Government and some of my colleagues in the darkest and ugliest hues and colours. The Respondent filed a written statement of over thirty pages with numerous annexures to make me the target of the worst and meanest vendetta that has been unleashed in the history of our country. It was not a written statement. It was an essay in abuse and lies. Instead of being a legal document worthy of this Hon'ble Court's attention, it was political pornography.

As a public figure, having held the highest elective offices in the country and as a political leader of national stature it was my irksome duty to place the truth on the record of this Hon'ble Court. What is more, this Hon'ble Court will remember that when I had the honour to appearing before it on the 22nd October, 1977 at Rawalpindi, I immediately complied with the observations of the Hon'ble Judges whenever they deemed that a certain point need not be pursued further on the ground of relevancy.

As a matter of principle, I do not indulge in political aggression. I believe in keeping political options open provided the options are reconcilable with my convictions and national interest. However, if political aggression is committed against me or my Party and the aspirations of the people, I believe in a decisive counterattack. In this approach I have been influenced by the thought of MOU TSE TUNG. The Respondent committed repeated political aggressions against me culminating thus far in the humiliating manner of my arrest on September 3, 1977 and in the obnoxious and sordid Written Statement filed by the Respondent in this Hon'ble Court in this petition. Still, I bear no personal malice towards the Respondent. In contrast the Respondent has turned his personal malice against me with a malice towards the Nation by depriving the people of their inalienable rights. The Respondent has turned his personal bitterness towards me into a frightful bitterness towards the people of Pakistan by denying them the right to choose their leaders through democratic means. In his blind hatred and obsession towards me, the Respondent is turning his personal vendetta against me into a vendetta against Pakistan. In short the Respondent is suffering from 'Bhutto phobia'. My rejoinder did not reveal many of the Respondent's machinations. My rejoinder was written in constraint insofar as it did not reveal all the chicaneries of the Respondent. I thought better sense would prevail and

that the Respondent would get the message and maintain some poise, some equilibrium, and some sense of balance. But alas, being intoxicated by power, the Respondent's reply goes beyond the reckless and irresponsible ambit of his written statement. Not only the people of Pakistan, but people much farther than the frontiers of Pakistan have their eyes fixed on the current developments in our country. In these circumstances I cannot keep silent. If the Respondent had stopped telling lies, about me, I would have stopped telling the truth about him. Since the Respondent persists in continuing to tell lies about me, I am constrained to pursue to tell the truth about him.

All my submissions are based on concrete facts. I am afraid it is the Respondent who is not the respecter of truth. His written statement did not contain a scintilla of truth. His reply under reference does not contain a scintilla of truth. In the last four months the Respondent has been walking on the broken glass of the crystal of promises and pledges he has unabashedly destroyed one by one since that fatal day in July. What record does the Respondent want to keep straight? Unfortunately, the Respondent does not have any conception of the power of reason. His thoughts and actions, his pronouncements and decisions are intrinsically inimical to rationalism. A man can fall from power, but when a man falls in the estimation of his people by deceiving them; by making false promises to them, by treating them with contempt, there can be no greater fall.

I reiterate what has been stated in my Rejoinder, my oral statement before the Court, in the Rejoinder of Mr. Abdul Hafeez Pirzada and in his oral statement before the Court and say that anything inconsistent therewith or contrary thereto is false and is denied.

4. The first part of this paragraph is important as it admits that the Armed Forces recognized by Government to be the legal Government of Pakistan. The second part is incorrect. I do not want to mention names to avoid embarrassing the other members of the so-called Military Council. The Respondent should neither drag in the other senior officers of the Armed Forces nor the institution of the Armed Forces in this odyssey. He is the lone warrior. In his speech on July, 5th, 1977, the Respondent assumed full and sole responsibility for his illegal action. He said and I quote his words *'the process of change-over has been accomplished smoothly and peacefully. All this action was executed on my orders'*. If all this action was executed on the Respondent's orders, he should not make a vain endeavor to tarnish with the brush of criminal culpability the other officers of the institution of the Armed Forces. The Respondent and the Respondent alone is responsible for the heinous crime of treason. The people's conflict is with the Respondent. Hence, this petition is against the Respondent. Having explained the position, I want to state most emphatically that I did not request the Respondent to give the statement of 28th of April, 1977. I did not even discuss it

with him. I did not raise the subject with him. I had no talk with the Respondent on the statement under reference. The facts are entirely different from what has been stated in this paragraph. What actually happened is that I summoned one of the Chiefs of Staff, but not the Respondent, to the Prime Minister's House on the morning of the 27th of April, 1977 for a discussion on the situation obtaining in the country. During the course of the discussion I touched upon the massive foreign interference in the internal affairs of the country and told the gentleman that I was going to take the Nation into confidence on the foreign efforts to destabilize the situation in Pakistan. I told him that I was going to make the disclosure in the National Assembly next evening. It was in this context, that the idea emerged that a joint statement by the Chairman, of Joint Chiefs of Staff Committee and the three Chiefs of Staff, in support of the Government would have a salutary effect if it coincided with my disclosure in the National Assembly. It is, therefore, noteworthy that the statement under reference and my speech in the National Assembly came on the same day. The Chief of Staff undertook to get the statement of his colleagues. I did not draft the statement. The Chief of Staff with whom this discussion took place returned to see me again after a couple of hours with the signed statement in his hand. I read the text of the statement for the first time when he delivered it to me. I vividly recall his telling me that the Respondent made the draft statement stronger on the words relating to the support to the legal Government. Now, with hindsight knowledge I can understand why the Respondent was so anxious to demonstrate this extra doze of loyalty. Since the Respondent was thickly involved in the foreign plot, he wanted to conceal his involvement by a conspicuous demonstration of loyalty. The Chiefs of Armed Forces are not experts in Constitutional Law. This much is readily conceded. Otherwise, the Respondent would not have violated the Constitution and brought in a train of crisis into the country. If the Respondent had known the elementary importance of the Constitution or had any regard for his oath to uphold it, he would not have called it a twelve page document which can be torn into pieces. I agree the Respondent is not an expert on Constitutional Law. The Respondent is not an expert on political science either. The Respondent knows nothing about economics. The Respondent is incapable of holding an intelligent Press Conference. Yet the Respondent, unanswerable and unaccountable to anyone, holds the life and destiny of seventy five million people of Pakistan, in his hands. What is the basis of this awesome responsibility? The Respondent is only an expert in breaking solemn pledges and in intriguing against the Constitutional orders. Surely that does not qualify him with the divine right to play amock with Pakistan on the pretext of necessity. However, the Respondent does not have to be an expert in Constitutional Law to make the simple and straightforward statement of 28th April, 1977. The statement in question does not require any special knowledge of law or politics.

Furthermore since the Respondent had the facility of consulting the legal experts in the Ministry of Defence or in the G.H.Q., he could have easily taken recourse to such consultation if he had any doubts or inhibitions before signing and issuing the statement to the Press. On the contrary, the Respondent welcomed the opportunity to make a show of his support to conceal any suspicion or to derail any data that might have come within my knowledge about the secret arrangement between the Respondent and a former Ambassador made about ten days earlier in Rawalpindi between the two of them while I was in Lahore. The arrangement was celebrated in the form of grand reception the Respondent gave to the former Ambassador in the garb of a farewell party. Although the Respondent is a 'Momin' wine flowed freely that evening. I was still in Lahore when the, Foreign Office informed me that despite my strict instructions that no senior official or Minister could give receptions and banquets to foreign diplomats without the prior permission of the Foreign Office, the Respondent had not bothered about these standing instructions by giving the lavish reception to the departing Ambassador. The then Interior Secretary gave an appraisal of the reception to a colleague. When I returned to Rawalpindi I was given an account of the reception. I discussed the matter with the then Interior Secretary, and admonished him telling his colleagues that the reception without the prior approval of Foreign Office was the signal for the Coup. With this background, the Respondent not only gladly signed the statement of the 28th of April, 1977 but also made it stronger in support of the Government. The Respondent maintained a facade of fraudulent loyalty to my Government until the night of 4th of July, 1977 when I spoke to him on the telephone at about 10.30 P.M.

5. Para 5 of the reply deals with two main contentions:
- a) The trial of conspiracy case pending before the Hyderabad Special Court and
 - b) Insurgency in Baluchistan.

The respondent has taken a false and untenable stand in both these contentions and all the documentary evidence on these issues available with the Government belies him.

He contends that 'it is wrong on the part of Mr. Zulfikar Ali Bhutto to allege that the Chief of Army Staff was either specially interested in the trial of cases in the Hyderabad Special Tribunal or that he was unwilling to withdraw the Armed Forces to barracks in Baluchistan'.

I had not asked him to prepare a fifty-page document to impress upon the leaders of PNA that the trial of conspiracy case before the Hyderabad Tribunal must go on, giving details of evidence in support of his contention that the persons who were being tried at Hyderabad were traitors, secessionists and had been working against the interests of Pakistan since the time of its birth and even

before that. I, as Prime Minister had not provided the respondent with the detail of that evidence nor did I like that he should give a lecture on the subject. He was rightly snubbed by Nawabzada Nasrullah Khan for doing so and it is really surprising that in the presence of three distinguished leaders of the PNA and three Chiefs of the Armed Forces apart from the Government Team present at the negotiations he should have taken a firm stand and then gone back on it in the reply so conveniently.

The fact that he was specially interested that the trial should proceed before the Hyderabad Special Court can also be verified from the minutes of several Cabinet and other High Powered Committees' meetings in which the respondent consistently pressed this issue and was adamant about it. It is really amazing that in support of his contentions the respondent has not been able to produce a single note, letter or document addressed by him to the Prime Minister or any other authority indicating that he was not specially interested in the trial of the conspiracy case before the Hyderabad Special Court. His assertion that he was not unwilling to withdraw the Armed Forces to barracks in Baluchistan will be dealt with later in this rejoinder.

This paragraph makes one now understand the meaning of the expression 'fact is stranger than fictions'. The contents of this paragraph are filled with monstrous distortions, half-truths and unadulterated falsehoods. It is a blessing of Allah that honorable and God-fearing individuals like General Tikka Khan, the predecessor of the Respondent, are available to refute the tissue of lies contained in this paragraph. Every word, every assertion made by me in my Rejoinder on this subject can be substantiated and verified by positive proof. The Respondent was uncompromisingly adamant on the Hyderabad Special Tribunal and on the withdrawal of the Army in Baluchistan. He was almost paranoid on these two points. He made a prestige issue out of them in the numerous meetings held on the subject. The Respondent insisted that Ali Bakhsh Talpur, Meraj Muhammad Khan and Ali Ahmed Talpur should also face trial at Hyderabad because they were fully involved in the conspiracy. Due to his insistence, two of them were sent to Hyderabad to face the Special Tribunal, but I refused to include Ali Ahmad Talpur as the Respondent made out only a general case against him. He was equally fanatical in his views about the NAP politicians of N.W.F.P. He called them Congressites. He quoted their speeches and he referred to the books written by them. Above all, he kept referring to the Supreme Court finding on NAP in support of his views.

As already stated the Respondent went to the extent of presenting his views on both these points in the PNA-PPP negotiations on the 2nd or 3rd of July, 1977. Three PNA representatives were present and they heard him for over two hours on the subject of traitors.

The Respondent further says in this paragraph that it was the former Prime Minister who was using all the agencies available to him to dig out a plethora of evidence to prove that the persons involved in the Hyderabad Conspiracy Case had indulged in acts prejudicial to the national interest. The Armed Forces as such did not at any time conduct any such inquiry or investigation. The Armed Services in conformity with the traditional spirit of their profession had kept themselves away from politics and they had no direct contact with any political leader in the country. The Government agencies were the sole source of their information. It was only after the 5th July, 1977, that the real magnitude of the problem became known to the Armed Forces who became, for the first time, aware that the information that had been supplied to them was often out of context and NOT free from bias and slant. Under the circumstance, it would appear to this Honourable Court that the Army's professional role was based on the spurious quality of information which the Government had by then made available to the Army. If the information provided was coloured or inadequate, the fault did not lie with the Defence Services.

I had not concocted or manipulated evidence to prove that persons involved in the Hyderabad Conspiracy Case had indulged in acts prejudicial to the State. People do judge others by their own conduct and standards. The evidence was provided to the Prime Minister not only by Civilian Agencies but also by the Armed Forces, as could be borne out from the record of the Reference Case about the Dissolution of the NAP decided by the Supreme Court of Pakistan on 30-10-1975. That judgment contradicts the Respondent on every assertion made by him in this paragraph. Summing up the evidence at the conclusion of the judgment this Hon'ble Court held:

“We find on the material produced before us no difficulty in holding that the NAP and its leaders are not reconciled to Pakistan's existence, integrity and sovereignty, that they have consistently been attempting to create doubts about people's belief in the Ideology of Pakistan with a view to destroying the very concept which formed the basis of the creation of this country, that they have always been preaching the doctrine of four/five nationalities/nations to prepare the ground for the ultimate secession of N.W.F.P. and Baluchistan on the pretext of demanding the right of self-determination for the different nationalities/nations inhabiting those Provinces and advocating a policy of subversion of the Constitution, rule of law and democratic institutions in the country, that they have for this purpose resorted to large scale acts of terrorism, sabotage and subversion within Pakistani to undermine the security, solidarity and sovereignty of the State in the areas of N.W.F.P, and Baluchistan and that the N.A.P. and its leaders had actually organized a

large scale rebellion or insurgency in Baluchistan in order to coerce the Central Government and the people of Pakistan to submit to the wishes of the N.A.P. leaders in Baluchistan and N.W.F.P.”

This is the verdict of the Supreme Court of Pakistan based on solid evidence provided among others by the Armed Forces including Field Interrogation Service, Inter-Services Intelligence and this is the evidence which the respondent relied upon in his fifty-page document which he insisted on reading at the meeting with PNA leaders. It was not the Government Agencies that were the sole source of the respondent’s information but evidence proved before the Supreme Court and accepted by it which was known to the Respondent all along. He is now making a vain effort to contradict Pakistan’s Thirty Years History and the history of the Freedom Movement of the Muslims of the subcontinent for the establishment of Pakistan and the role of those Muslims who opposed it. I was not trying to involve persons in the Hyderabad Conspiracy case but was duty bound to implement the verdict of the Supreme Court mentioned above. I would have failed in my duty if I had not put to trial persons who had actually organized a large scale rebellion or insurgency in Baluchistan, who had resorted to large scale acts of terrorism, sabotage and subversion within sovereignty of the State in the areas of N.W.F.P. and Baluchistan as held by the Supreme Court. I would have failed in my duty to the Nation and to the State of Pakistan.

It is really tragic that the Respondent in his zeal to punish me has suddenly discovered:

“that the information that had been supplied to them was often out of context and NOT free from bias and slant. Under the circumstance, it would appear to this Honourable Court that the Army’s professional role was based on the spurious quality of information which the Government had by then made available to the Army.”

It seems he is making an attempt to show that the judgment of the Supreme Court was based on spurious quality of information and that he is a better Judge than the Highest Court of the land and that the members of the Armed Forces who valiently fought to safeguard the integrity solidarity and sovereignty of Pakistan and laid down their lives did so in vain and the Army’s professional role to combat insurgency in Baluchistan was due to coloured and inadequate information provided to the Defence Services.

The Respondent himself was no where on the scene when the Armed Forces were dealing with the most serious threat of secession in Pakistan but he implies chat his predecessor, General Tikka Khan and his top ranking colleagues of the Defence Services were so easily misled and misdirected by the Civilian

Government to take up arms against their own brothers in these areas and that too for over a period of three years or so. The large quantities of Arms and Ammunitions, mostly of foreign make were recovered by the Army and their recovery was proved before the Supreme Court of Pakistan by the Army witnesses themselves. The use of this large quantity of arms and ammunitions against the Army causing heavy toll of life was not 'coloured and inadequate information.'

As I had correctly dealt with the insurgents and secessionists I have become the target of their hostility and their leaders have now joined hands with the respondent against their common 'enemy'. The respondent in one brief interview observed that the history of Pakistan and Pakistan Movement was all false; that Quaid-e-Azam was wrong and that Khan Abdul Ghaffar Khan was a great patriot and if the father was a patriot, the son would be also a patriot. Thus the respondent has nullified the judgment of this Honourable Court in the said NAP Reference case as well as the judgment of history.

The Supreme Court in that judgment further held: "The learned Attorney-General has also pressed before us 6th and last topic, namely, that the NAP and its leaders have been causing hatred and disaffection amongst the various sections of the people in Pakistan to create strife and chaos in the country with a view to undermine the integrity of the country.

"We do not consider it necessary to go into this question, because, as we have already indicated earlier, the very concept of Pakistan being a multi-national State and that each of the nationalities/nations living in Pakistan must have the right, of self-determination is founded on the basic assumption that the Punjab, being the most populous area in what is now Pakistan is seeking to submerge the other smaller provinces and thereby to deprive them of their legitimate right to be treated as equal partners in the Federation.

The demand for Pakhtoonistan is grounded on this assumption of predominance of the Punjabis in all fields political and economic. This is the proposition which Khan Abdul Ghaffar Khan propounded in 1947 as is now revealed by his own apprehensions disclosed to Pyrelal and reproduced in the latter's book 'Thrown to the Wolves'. The author states that Khan Abdul Ghaffar Khan being a highlander 'has strong antipathy to being dominated by plainsmen' and that this feeling 'was further accentuated by the fear that accession to Pakistan would mean domination by the Punjabi Muslim Capitalist interests, if Pathan autonomy was not conceded'. He also quotes Khan Ghaffar Khan as saying in one of his statements after the establishment of Pakistan that:

“Our Province has been swamped by the Punjabis, who are trying their level best to make the Pathans right amongst themselves. Having lost a good portion of the Punjab through a communal division, the Punjab Nawabs and big capitalists are now after our province in order to make good their loss.”

This sentiment has been repeated even now by Mr. Wali Khan, himself in his application which he filed in this Court on the 5th June, 1975, for the grant of funds. In this, he expressed himself to the following effect:-

“The real contest is between two units of the Federation which are by reason of their population superiority trying to submerge and swamp the other provinces in the Federation”.

The judgment further held:-

“These references have been made only to ascertain as to what was his concept of Pakhtoonistan and how the Pakhtoonistan concept came into being and for no other purpose. We have on these basic concepts tested the evidence to ascertain whether that concept had undergone any radical change by the process of time as now claimed by Mr. Wali Khan and the Party. These comparisons have not been made for the purpose of recording any finding against Khan Abdul Ghaffar Khan, but only to consider whether the N.A.P. as a Political Party as it now exists, has modified its concept of Pakhtoonistan. We have, of course, come to the conclusion that the concept has not undergone any radical change for the reasons which we have given earlier”.

The judgment also refers to several other statements of Khan Abdul Ghaffar Khan and Mr. Abdul Wali Khan for instance, in his autobiography dictated by Khan Abdul Ghaffar Khan to Mr. K.B. Nareng, a speech of the Khan delivered on the Pakhtoonistan day from Kabul Radio on 31-8-1967 has been reproduced at page 237 of the Book ‘My Life and Struggle’ wherein the Khan is reported to have stated :-

“It is my belief and conviction that all the people who live in the country that stretches from river Jhelum to the river Amu (Oxus), as far as Herat are Afghans. They are all Pakhtoos and this country belongs to them all,”

Similarly, the judgment refers to several other statements of Mr. Abdul Wali Khan, and other NAP leaders like the statement of Sardar Ataullah Mangal at a Press Conference held on 18th July, 1973, after the insurgency had started that:-

“We will settle the problem in the mountains. Our struggle shall not be in the Assembly, people do not accept the Constitution.”

It was therefore, not spurious quality of information, nor was it coloured and inadequate material on the basis of which the Supreme Court gave its finding but undisputed evidence and hard facts resulted in the judgment of the Supreme Court.

The respondent in this paragraph further states:

“The allegation that the Chief of Staff of Army was against the withdrawal of Armed Forces from Baluchistan is an over-simplification of a problem, which was both complex and involved.”

In this paragraph the respondent, as quoted above, had earlier stated that the Chief of Army Staff was not unwilling to withdraw the armed forces to barracks in Baluchistan and yet in the same breath he admits that the problem cannot be over simplified and it was both complex and involved. The records in the General Headquarters, the Prime Minister’s Secretariat and the Ministry of Interior will bear out that the Chief of Staff and his predecessor had again and again impressed upon the Government about the possibility of not withdrawing the troops to barracks in Baluchistan as their presence in the field was considered absolutely necessary to protect the integrity of the country against the insurgents who were getting continued support from across the borders and had set up camps for training guerrilla warfare inside and across the border. Experts in such warfare had not only gone from foreign country to Marri and Mengal areas but also some Pakistani pseudo intellectuals from London belonging to Karachi and Lahore had taken upon themselves to guide and direct the secessionist movement through violent means.

Attention of the Hon’ble Court is drawn to the voluminous evidence mentioned in the judgment of the Supreme Court in the NAP Reference case to prove serious insurgency in Baluchistan which the NAP leaders called war of National Liberation. Only one passage is cited from the judgment to rebut the assertion of the respondent that he was willing to withdraw the troops from Baluchistan:-

“There is, in our opinion, a great deal of force in this argument and from what has been stated” above if acts of the kind alleged by the Referring Authority did, in fact, occur in Baluchistan then whatever was done there was done to subvert the Constitution and to prejudice the integrity of the country. The evidence of Mr. Muhammad Ashraf (RAW 14) has clearly established that the camp set up in the mountains, as earlier threatened by Sardar Ataullah Mengal, was really a camp of rebels who were carrying

out the insurgency plan of the NAP leaders in order to achieve the establishment of an independent Baluchistan. We have no hesitation, upon the evidence placed on the record in coming to the conclusion that insurgency and subversion was taking place on a large scale in Baluchistan and this was organised and guided by the NAP leaders. The suggestion that only a few of the leaders of the NAP might have been mixed up in this and not the NAP as a party, is also unacceptable to us, because the evidence of Asghar, who identified most of the persons in the camp as being members of the NAP and belonging to the Mengal tribe. We have also before us the resolutions of the party itself giving support to the rebels and describing them as 'valient freedom fighters'."

In view of this situation how could any responsible Chief of Army Staff consider withdrawal of troops to the barracks under the circumstances mentioned by the Supreme Court in the judgment.

That the respondent's further assertion that the problem was of a political nature and a political solution was required is also not correct. The demand of the NAP Government in Baluchistan that the Federal Government Agencies cannot enter or move within the Province in performance of their duties with respect to the subjects belonging properly to the. Centre, according to the Supreme Court judgment, amounted to subversion of the Constitution and claiming total independence for the Province. The Supreme Court held:

"We are, therefore, unable to accept the contention that the Provincial Government of Baluchistan was acting lawfully within the field of its own activities in resisting the force used by the Federal Government to quell insurgency, if not almost an armed rebellion in that-Province."

It is also wrong to say that my Government and I did not' make efforts to find a political solution to the problem within the limits, prescribed by the Constitution but unlike the respondent I was not in a position to take extra or supra Constitutional steps to solve the problem by conceding "their right of secession or opting out of the Federation of Pakistan." After the back of the insurgency was broken. I was in a better position to find a political solution and for that purpose I took the initiative of talks with Sardar Daud Khan, President of Afghanistan. The interest of the Afghan Government in the insurgency and bomb blast and terrorist activities in those two Provinces of Pakistan is apparent from the judgment of the Supreme Court.

The respondent also makes a preposterous statement in this paragraph that some political leaders have vehemently advanced the contention that "Mr. Bhutto's plan was to keep the army occupied from one crisis to another with a view to

weakening it from within just to enable himself to perpetuate his hold on the country." He has further called this as the sinister move of Mr. Bhutto's regime.

The army was called to combat insurgency in Baluchistan; army was called on the occasions when there were serious floods or earth quakes in the country and to help in the rehabilitation work. Army was called to act in aid of civil power in Karachi, Lahore and Hyderabad recently was the insurgency, floods, the earthquake or the PNA agitations planned or created by me? Is it not the duty of the Army to protect the country and its integrity from external aggression or internal disintegration when called upon to do so by the Government? In any case what has army got to do with political matters and how could he say that I was trying to perpetuate my hold on the country by diverting the attention of the army "from one crisis to the another". Army had no Constitutional role of the nature implied in this statement of the respondent. My party had a mandate to remain in Government for a specified period of time under the Constitution. I had ordered the holding of elections long before the expiry of my Government's term of office. How could I even imagine to think of weakening of the army from within when no one had made so much effort for making the army strong and well equipped than my Government and this fact had been admitted time and again by the respondent and other leaders of the armed forces.

The respondent has recently been having meetings Mr. Abdul Wali Khan and some other leaders who had opposed Pakistan and who have still not reconciled themselves to the existence of the State. They would naturally vehemently advance the contention that the army should supervise the working of a Civil Government and on any pretext dislodge the Government and take over the administration of the Country. This seems to be the easiest way in achieving their objective of secession and disintegration of the country. They know that when there is no sense of participation in the affairs of the Government by the people, there is lawless law of Martial Law, when atrocities are committed, the responsibility and responsiveness of Government have disappeared, corruption, mal-administration and interference into the daily lives of the citizens become the order of the day and the aspirations of the people, which is the basis for them to live together as a Nation, are undermined, then there is bound to be resistance by the people to the Will of an individual leading to parting of ways.

In his speech on the 5th of July 1977, the Respondent said "truth can never remain unexposed." For once I agree with him. Sooner or later the truth will tell. The diabolical role of the respondent in this matter will find its place in the history of our country. He will not be able to digest such a wholesome lie.

The Army was in exclusive or almost exclusive control of those parts of Baluchistan where the insurgents were active. On many occasions the

respondent complained bitterly about the civil interference in the administrative control of the Army. The officers appointed to civil posts in those regions were mostly former Army officers. On four separate occasions I had laid down a time table for the winding up of the military operation— to each occasion the respondent asked for a further extension of period. In an important conference held in Quetta soon after the respondent had been appointed as Chief of the Army Staff, the respondent wanted his tentacles to be spread beyond those parts of Baluchistan where the insurgents were active. He wanted an additional allocation of funds to give teeth to the military operations. Intelligence was almost completely under the control of the respondent as Military intelligence had all but replaced civilian intelligence. The respondent wanted certain parts of the Province to be put under “de facto” Martial Law. When the former Chief Secretary of Baluchistan sought to exercise civil control or joint control, the respondent was furious with him. Soon after taking over the country’s administration, he transferred that Chief Secretary from Baluchistan to some Corporation. The respondent was up to his neck in Baluchistan operations. Most of the evidence against the insurgents was provided by the respondent and his agencies. The Constitution of Azad and Greater Baluchistan was found by the respondent’s agents. It was the respondent’s agencies which informed the Government that some foreigners and Pakistani ‘intellectuals’ from Karachi and Lahore were aiding the insurgents. A fleet of helicopters from a friendly neighbouring country was obtained for operations against insurgents. When that Government wanted the helicopters to be returned the respondent requested me to prevail upon that friendly neighbouring country to allow the helicopters to remain with the respondent for some more time. The respondent after he took over as Chief of the Army Staff from General Tikka Khan, was the principal figure in military operations. He simply cannot take a different position merely because his vacillating mind prompts him to extricate himself from his known role and position on these problems. He should be courageous enough to admit the prominent part played by him in the Baluchistan operations and in the attitude he adopted on the Hyderabad Special Tribunal.

The respondent would feel less perplexed if he saw these problems in their historical perspective. The respondent seems to have a marked propensity towards hasty decisions. The respondent also appears anxious to achieve spectacular results. He is pining for a sensational breakthrough. This is understandable because so far he has failed miserably on all fronts. We only fear that in his indecent haste, his faulty judgment and his blissful ignorance of politically complex issues, will turn out to be counterproductive and do real harm to Pakistan. By now the secret of his aims relating to N.W.F.P. and Baluchistan are no longer a secret. This very paragraph is an indicator of the working of his mind. The writing on the wall is clear. His inspired political decisions might alter the map of this whole region leave alone Pakistan. But he

should have the moral fibre to stand on his own ground and not shift the onus of his own past actions on others.

I am now convinced more than before because by the grace of God Almighty, with the support of the people and Armed Forces of Pakistan I broke the back of the Insurgency in Baluchistan and brought normality to N.W.F.P. If the respondent had not illegally intervened in the affairs of Pakistan on the 5th of July, 1977, I am confident that during my present term of office, the Nation would have crossed these remaining barriers as well.

However, let me predict that the respondent is incapable of achieving these results for the obvious reasons that he lacks a national mandate and the task is beyond his capacity. Such complicated issues cannot be resolved without a National Parliament and Provincial Assemblies. An editorial in the Press Trust Papers or a television speech cannot prepare the ground for the resolution of historic problems. The people have to be taken into confidence and there is only one way known to modern man to take the people into confidence. I took the Simla Agreement to the National Assembly. My Government resolved the century old Ahmadi issue through the National Assembly. None of the vital issues are resolved permanently and equitably over a cup of tea. Issues such as these are resolved by the people and their genuine leaders. In the last five and a half years I have paved the ground for the solution of these historic problems. Let the interloper step aside and allow Parliament to complete my mission.

It is redundant, it is useless, indeed it is immoral to blame my Government for confrontation and for bloodshed, when my Government did everything in its power to start with cooperation and dialogue. This part of the past is too fresh in the minds of the people of Pakistan and this Hon'ble Court for me to repeat it here. Later, we had to go through a painstaking ordeal due to the miscalculation and obstinacy of those who had different dreams of the future. I repeat, those sensitive issues have to be solved by an elected Parliament and the historical perspective must be the determining guide.

The respondent has sought to convey the impression that I created these problems by pursuing a policy of confrontation. In the first place these problems were not created by me. I inherited them. In the second place the factual position is that I have brought these problems so close to the grasp of a permanent solution, that even the respondent, is tempted to toy with idea of resolving them. If the respondent is sincere and he wants a permanent solution, he should immediately fall back on the Constitution of 1973 and not allow the nation to become giddy in the vacuum of Martial Law. Sooner or later, the question of provincial autonomy will come into the picture if a permanent solution is sought. Let us therefore, fall back on the Constitution of 1973 for there to be agreed

yardstick of measuring provincial autonomy. Martial Law provides no yardstick. The limited and immediate question before this Hon'ble Court is whether the Martial Law of the respondent can over-ride the Constitution of 1973 but the deeper and more fundamental question before this Hon'ble Court is whether the Federation of Pakistan can survive without the Constitution of 1973. For a multitude of reasons, there is a due necessity of returning to the Constitution with utmost dispatch. Here, I have dealt with only the problem posed by this paragraph, to demonstrate that even this single though vital problem cannot be solved satisfactorily without a return to the Constitution. If this is true of this problem it is more true of all the other problems facing Pakistan. A perverse or a misinterpreted exposition of the theory of Kelson or other jurists will not solve our Problems. Neither will the interpretation of the judgments of Southern Rhodesia meet the test of Khuzdar, or Charsadda or Sann. Only a brazen faced usurper would rely on the one hand on the judgment in the case of Southern Rhodesia in favour of Mr. Smith to justify his Martial Law in the Supreme Court of Pakistan and on the other, show solidarity with the majority population of a country observing Namibia Day on the 27th of October. The respondent shows one face to the Supreme Court of Pakistan another face to the people, of Namibia. Neither are the people of Pakistan deceived nor are the people of Namibia. How much more is the word credibility to be shattered by the respondent?

I am duty bound to return to the historical perceptive to repudiate the uncharitable indictment implicit in this paragraph. Not I but the Respondent has sought to over-simplify an extremely complicated problem by throwing the onus of centuries on the doorsteps of my Government by stating that:

“The Government for reasons best known to it, undertook a line of action which resulted in a state of confrontation in that Province “

Perhaps the Respondent was in Jordan doing more heroic things, when I sought the cooperation of the political leaders of these two Provinces to frame the Constitution and when I gave them the reins of Provincial Governments and Governorships of both the Provinces. But the respondent could not have been oblivious of all the subsequent developments culminating in the finding of the Supreme Court of Pakistan. However, when the Respondent was appointed Chief of the Army Staff by me in supersession of seven officers senior to him in March, 1976, he became very much a part of the establishment to know the reasons. He took a part in the formation of the reasons and he was put in sole charge of affairs in the troubled regions. No wonder the Respondent says that neither morality nor justice can question his illegal usurpation of power. Does the respondent really believe that these problems did not exist before the advent of my Government? Let us refresh his memory.

We can begin with Alexander the Great's conquest or with Ashoka. We can start from any road and go down the hill of history but time is limited and this Hon'ble Court has a specific legal problem to determine. Otherwise we could give a narration of the three Afghan Wars which the British fought. We could talk of the earlier Moghal rule. We could point out Ahmad Shah Abdali's conquest and of his journey to Baluchistan when he left behind Marhettas in Marri-Bugti tribal territories. We can discuss the British treaties with Afghanistan and the British treaties with Kalat and with Marri-Bugti Chieftains. This record is available with the foreign office. Over two years ago I had selected a team of experts to prepare it. The Respondent would be well advised to read it.

Coming down to the Pakistan Movement, it must be remembered that despite the emotional appeal what the movement aroused among the over-whelming Muslim population of undivided India, there were a number of prominent Muslim leaders who opposed the Quaid-i-Azam and his two Nation theory. They opposed Pakistan to the hither end. For this reason a referendum was held in N.W.F.P. For this reason the Quaid-i-Azam had to conclude fresh treaties with the Khan of Kalat, with the Jam of Lasbelia, with the Nawabs of Makran and Kharan. For this reason a Shahi-Jirga was held in Quetta which was attended by tribal Chieftains on the question of Baluchistan's accession to Pakistan. It was a touch and go affair. Several Sardars were very active in opposing the decision in favour of Pakistan. The Khan of Kalat wanted to declare the independence of Kalat and become a sovereign State like Nepal. In the Frontier Province, apart from the referendum, the Red Shirts were militantly active. After the Quaid-i-Azam, Mr. Liaquat Ali Khan was also engrossed with the same problems. From 1947 every Government tried to come to a settlement, but every Government failed. Most of the time, during the tenure of different Prime Ministers, after an initial period of attempted negotiations, the N.A.P. leaders were put behind bars. When Ayub Khan took over in 1958, he also started with negotiations but ended up with severe measures against N.A.P. In the N.W.F.P. he ordered not only the arrest of N.A.P. leaders but also the confiscation of their properties. He conducted military operations in Balour and broke relations with Afghanistan. In Baluchistan, the Ayub Government faced the insurgency of Nauroze Khan Brohi and his followers. That insurgency spread to Jhalawan and Sarawan. It went beyond to the Marri-Bugti regions. Ayub Khan during Martial Law got convicted and executed Nawab Nauroze Khan Brohi's sons. He arrested most of the N.A.P. leaders. He appointed new Sardars in place of the hereditary Sardars. He confronted the insurgents. Towards the later part of Ayub Khan's tenure, on the advice of Governor and due to the efforts of some of the London Plan Plotters, Ayub Khan changed his policy. He released the Sardars and other N.A.P. leaders and withdrew the forces. The policy was changed but the problem was not resolved. Then came Yahya Khan and he took upon himself to resolve this problem. He invited the N.A.P. leaders. He spoke highly of them. He showed

some gesture of goodwill towards them but the net result was that before the end of his tenure, he banned N.A.P. by an executive order and imprisoned the leaders of the Party. When I took over a broken Pakistan, one of the important Sardars stated publicly that the only answer to the problems of a broken Pakistan lay in a confederation with India. Slogans of 'Arora. Zindabad' and 'Indira Gandhi Zindabad' were heard on the streets of Quetta. The Constitution of Azad Baluchistan had been prepared. A number of foreign guerrilla experts had infiltrated into the strategic parts of the two Provinces. Weapons dispatched for the insurgents were found in an embassy Islamabad. Jumma Khan Baloch was making hostile and provocative broadcasts from a foreign Radio Station. When I visited Iran I was shown documentary evidence and maps of 'Greater Baluchistan'. The documents were most revealing. The maps of 'Greater Azad Baluchistan' included the Baluchistan of Pakistan and Iran and a small strip of another country. The agents of a number of foreign countries were in touch with the insurgents and their leaders. Despite all these colossal difficulties and international intrigues, my Government was the only one since the establishment of Pakistan to negotiate to a successful conclusion two important agreements with N.A.P. One agreement related to the Constitution and the other to the Governments of N.W.F.P. and Baluchistan. It was a masterly triumph in the art of political negotiations. Perhaps the preliminary political steps were more important than the negotiations. Without a dexterous handling of the various steps in the ladder by political means and political institutions, the outcome might have been different. The most important, indeed the decisive element in the situation was peoples mandate held by all the leaders who participated in the negotiations. Without that mandate, it would have been a barren exercise. The successful conclusion of the two agreements were not without repercussions. Some of the leaders wanted to use the control over the Provincial machinery as a spring board to attain their real goals. These individuals regarded the agreements to be a means to an end. They began to do odd things. Slowly and steadily, with the consolidation of their hold over the Provincial Machinery, their attitude became one of defiance. The final result was a parting of the ways. The choice was obvious. Either we had to hold Pakistan together or get it under-cut. A revolt against the State of Pakistan through an armed insurgency came into full swing in 1973. In the year 1974 it reached disturbing peaks. By the end of 1975 it was on the decline and the year 1976 saw its virtual extinction. When Akbar Bugti met me in Karachi at my residence in the Spring of 1976 he told me that you have brought victory to Pakistan.

Without this national achievement, I doubt if fruitful talks could have begun between Afghanistan and Pakistan in June, 1976. My Government succeeded in a national task complicated by past Governments. Either there was an armed insurgency in Baluchistan against the State of Pakistan or there was no insurgency against the State of Pakistan in that Province. If an insurgency did

exist it was the solemn and sacred duty of the national Government to confront it with the object of crushing it. Without the support of the Armed Forces it would not have been possible to crush an insurgency of such a grave magnitude. I fail to understand why the Respondent is now making a feeble attempt to extricate himself from the performance of a national duty.

The sweet talk he is having nowadays with N.A.P., leaders would not have been possible without crushing the insurgency. Within a month the Respondent has made two trips to Tehran. If he has any doubts that there was an armed insurgency for a Greater Azad Baluchistan, he should make a third trip to Tehran. All the names mentioned in Annexure F/57 were the star insurgents. They were the top leaders of the armed revolt. How does the Respondent, who is a military man, propose to deal with insurgents armed to dismember the State? The production of such documents shows the difference between a National leader and a charlatan. All the individuals mentioned in this document (F/57) fought battles against the Armed Forces of Pakistan. They killed many a young officers and the Jawans in the encounters. One side was fighting for Azad Baluchistan and the other side was fighting for the State of Pakistan. By producing this document, does the Respondent want me to admit that I should have supported the insurgents and opposed those who were fighting for the survival of the State of Pakistan? I do not understand the object of the Respondent in producing such documents. The insurgency was played down by my Government publicly for obvious reasons, but it was a serious insurgency having powerful foreign support. My Government broke it by a combination of political and military measures.

We mustered the support of the poor masses of Baluchistan. This was done by abolishing the Sardari system, by giving land to the landless tenants, specially in Patt Feeder. It was done by a massive economic programme of development. We put an end to the division of Baluchistan into 'A', 'B' and 'C' compartments. We took the writ of the Federal and Provincial Governments throughout the Province. Today Baluchistan is genuinely and truly a part of Pakistan. By the advent of my Government only 137 square miles of the Province were truly under the control of Pakistan. The remaining 1,34,000 odd square miles were in the control of Sardars. The Government of Pakistan only had nominal control over the rest of Baluchistan. Neither a Prime Minister nor a President nor a Chief of Staff nor any one else for that matter could have put his foot on the rest of Baluchistan without the permission of the Sardar of that jurisdiction. Now all that is gone. Several roads have been built including the one linking Sibi with Barkhan. Trucks and tractors are plying on the roads and on the new farms. The tribal jails have been abolished. The Province has a High Court of its own for the first time. The flag of Pakistan is flying for the first time on the ramparts of every section of the Province. Schools, Hospitals and Mosques have been built. The

poor, wretched tribesmen has seen money for the first time. Such revolutionary achievements would not have been possible without crushing the insurgency. Indeed it is unfortunate that blood had to be shed on both sides. But the battle had a cause and it was not a personal cause.

At last the Respondent has announced the strike of gas at Pirkoh. This would not have been possible without crushing the insurgency and building of roads. No drilling would have been permitted by the Sardars in these regions. Hence, it is entirely self-defeating to criticise me for the glorious success of the State. My attitude towards the insurgents was humane and visionary. Repeatedly I offered them amnesty. Repeatedly I went to their regions and spoke to their elders. I gave amnesty to thousands of Marri and Mengals and other insurgents who laid down arms against the State of Pakistan. When I gave amnesty to Salman Khan, the nephew of the Khan of Kalat, the Respondent wanted me to withdraw the amnesty on the ground that Salman Khan was misusing the pardon. I refused point blank to withdraw the amnesty of Agha Salman Khan and those who surrendered with him. If it was wrong to enter into battle with the insurgents, why was the Respondent unable to hide his jubilation when the insurgent Safdar Khan Zarakzai was killed or eliminated? Why was the Respondent so delighted over the Sangsilla Operations or over the death of Laungh Khan Mengal? Suddenly, the Respondent has begun to shed crocodile tears for Aslam Gichki who is one of the more elusive and dangerous insurgents. If the Respondent had so much hidden sympathy for Aslam Gichki, the well known insurgent, why did he want me to arrest Ali Ahmed Talpur on the ground that it was reported to him by his military intelligence that Aslam Gichki was given abode in the house of Ali Ahmad Talpur whenever the insurgent went to Karachi. On whose side is the Respondent? Surely he has not become an advocate of those who waged war against the State of Pakistan. The Respondent should know that it is possible to come to a settlement on these problems without becoming a spokesman of the insurgents. A political settlement and the insurgency of the past are not irreconcilable provided the settlement is genuinely political and comes through democratic institutions. I wish the Respondent had refrained from touching on this subject in his Reply of 26th October, 1977. He has either been ill-advised or he has shown the instability of his own judgment and discretion. The Respondent has not made out a case against me by the contents of this paragraph and by the production of the minutes contained in Annexure F/57. He has only enhanced my prestige as a national leader and tarnished his own image still further. However, since he has thought it fit to bring in the name of the insurgent Aslam Gichki and other well known insurgents, would it not be appropriate to ask the Respondent whether young Asadullah Mengal the son of Attaullah Mengal was an insurgent? The Respondent forces me to raise this issue much against my inclination. However by making false and malicious attacks on me, the Respondent leaves me with no option. I know the talk the Respondent had

with Attaullah Mengal when he visited the N.A.P. leaders in Hyderabad Jail two months ago. The Respondent tried to mislead Attaullah Mengal by telling him a bundle of lies. Even then i kept silent. When the Respondent told me on the 28th of August 1977 in Rawalpindi the lie about the alleged slow poisoning of N.A.P. leaders in Hyderabad jail, I ridiculed him with reply 'how slow can slow poisoning be'. I knew the motive of the Respondent in making the false and mischievous allegation. The Respondent had provoked me sufficiently for me to tell him that my ethics were different from his notions. By way of illustration I could have mentioned Asadullah Mengal and asked the Respondent why he had requested me to wind up the man-hunt I had ordered for the location of Asadullah Mengal. The Respondent will land himself in greater trouble if he continues immature and indiscreet approach. What worries me is the damage being done to Pakistan in the pursuit of this folly.

The Respondent has also over simplified matter with regard to the insurgency in Baluchistan. The area in Baluchistan covers almost half of the territory of the country with a population of only about two million people. In this vast Province various tribes live in isolation separated by deep valleys and huge mountains. There is hardly any communication between the tribes or with the outside world, i.e., the other Provinces of the country or even the people living in Quetta and other small towns. The result of this isolated life had, from times immemorial established and perpetuated the Sardari system and the tribal customs and usages. The Sardari system had kept Baluchistan and these tribes not only backward but almost in the mediaeval conditions.

The British, after occupation of Baluchistan had encouraged and strengthened the Sardari system for their own benefit. They could not afford a big administration and large police force in such a vast area and thin population. They naturally allowed the Sardars complete autonomy in the internal affairs of their areas and permitted them to deal with the tribesmen in any manner they wanted. The Sardars had set up their own Jirgas and Jails and the people were left at their mercy. Sardars had dehumanized the people under this system.

The Court may be pleased to note that the top N.A.P. leaders in Baluchistan were the top Sardars of that area. They talked of Socialism in their Press Conferences in Lahore, Karachi and other cities of Pakistan but refused to allow schools, hospitals and roads to be constructed in their areas. They resisted the writ of the Government and the jurisdiction of the Courts to be extended there. From the times of the British Government in Baluchistan upto 1975 the authority of the Government and its writ could be asserted only in an area of about 135 square miles out of 134 thousand square miles territory of the Province.

When the People's Government with its determination took steps to spread education and establish administration at a huge cost in these isolated areas, when hospitals, schools, clinics, mosques were being built and new Police Stations were being established, new roads were being constructed, lines of communications provided, these Sardars, the important of whom were incharge of the Provincial Government started rebellion against the Federal Government and the State of Pakistan. They could see their doom in the progress that was to take place in Baluchistan and the people being approached directly over and above the heads of these feudal lords.

In the course of five years the Federal Government abolished the Sardari system, new roads were built, schools and colleges, hospitals, clinics and mosques constructed, free land was given to the landless tenants, Shariat Laws were introduced to replace tribal customs and usages. The army played a commendable role in all these Nation building activities and Sardars took large number of their tribesmen to the mountains and armed them to fight the forces of light and progress. People of these tribes were now generally looking up to their Government instead of the Sardars and had begun to have a sense of belonging to the Pakistani Nation instead of a feeling of belonging to a small tribe. Complete integration of these people of Baluchistan with a Pakistani Nation never appealed to their tribal chiefs who wanted their perpetual hold with the divine right to rule over these tribes, The respondent has to study for a long time the history of Baluchistan and its tribes, the role- of the Sardars in the tribal society of Baluchistan to understand and appreciate the problem and the reasons for insurgency and rebellion in that Province.

Only proper solution to the problem was not talks and talks with the N.A.P. Sardars but the development of the areas on top priority basis coupled with political approach and negotiations. Much more money has been spent by my Government in five years in Baluchistan on development projects and uplift of the people in the Province than was done in Pakistan's twenty-five years history and the British Government's seventy years rule put together.

6. (The contents of paragraph 6 are not admitted and what has been stated by me on the subject in my rejoinder before the Court is reiterated.) It was never suggested that the Army had deliberately delayed the negotiations between the Government and the P.N.A. but the allegation was that the respondent tried to delay and frustrate the talks as he did not want any accord to be arrived at for the obvious reason that he had planned over a sufficiently long time to take over the Administration of the country.

The Respondent was working according to the scheme and the time table contained in his Master Plan to overthrow the legal Government established by

the law and the Constitution. I, therefore, reiterate that the Respondent played a macrobian role to frustrate the PPP-PNA negotiations by putting the Government on the horn of a dilemma. Outwardly the Respondent put up the pretence of supporting the legal Government but inwardly he put a number of, obstacles in the path of the negotiations. The Respondent alone is responsible for his double dealing role. He should not make a vain attempt to associate the Armed Forces in his crime of treason. There is a clear cut distinction between the culpability of the Respondent and Armed Forces. As Chief of Staff, he sought to confuse the Government and the Armed Forces of Pakistan. If the Respondent had been sincere in the discharge of his Constitutional responsibilities, the Nation would have been saved from the agony of the present crisis which is of his making. There is no attempt on my part to defame the Army. I have rendered yeoman service to the Armed Forces of Pakistan. The Respondent is making a fruitless endeavor to gain the sympathy of the Armed Forces by trying to draw the institution as such in his nefarious conspiracy with foreign power to undermine the stability of Pakistan. According to his own words, the Respondent alone was responsible for his illegal action of 5th July, 1977. The Chairman of the Joint Chief Staff Committee and the other Chief of Staff were informed of the coup after the Respondent had stuck the Nation with his foreign inspired coup d'etat. The Government was most anxious to see the early end of the agitation as has been stated in my written statement, but the Respondent prolonged it for his selfish and myopic ambitions by putting wheels within wheels.

7. With regard to the contentions of paragraph 7 it is submitted that the respondent did put into operation his plan of Wheel Jam in May this year. This could be verified from the Press Reports of that period When the Army was supposed to be acting in the aid of civil power in Karachi, Lahore and Hyderabad, directives were issued by the Army Administrators in these places to stop the movement of vehicles altogether for long hours and thus to help the strike call of the PNA for general strike in these areas. It is admitted that I had commended the role of the Armed Forces during the period when they were called to act in aid of civil power or the period of Constitutional Martial Law. They were only performing their Constitutional duty. My charge, however, remained against the respondent who had described the Constitutional duty of the Armed Forces as 'Langra Loola Martial Law' as he was not satisfied with the powers that he exercised during that period and was attempting to take over the administration of the country and impose his absolute undiluted and vigorous Martial Law treating the armed forces of Pakistan as his Lashkar as if he was the conqueror of Pakistan and it was his divine right to rule.

The "Wheel Jam" contingency plan was given to the Army by Foreign experts as early as in the days of Ayub Khan. The recruits were carefully selected and

trained at Cherat. The Respondent cannot deny the existence of this plan. The Respondent should not forget that as Prime Minister of Pakistan and as Defence Minister of the Country I have knowledge of this plan. Since President Carter might be making a whistle stop in, Pakistan next month, in the interest of that visit and due to the delicacy of the subject, I would not like to elaborate on this subject. However, my comments in this connection have been confirmed by foreign journals, The Respondent has said that facts cannot be hidden. This fact certainly cannot be hidden. More material will come to the surface as time passes.

8. I have praise and respect for the Armed Forces of Pakistan. I am proud of their valour. I fail to understand why the Respondent considers himself to be the symbol and spokesman of the Armed Forces of Pakistan merely because a year ago, I made the biggest mistake of my life by appointing him Chief of the Army Staff over the heads of seven officers. His predecessor opposed his appointment. The then Secretary of Defence was not in favour of his appointment. The then D.I.B. was of the same view. When I went to Vienna in August, 1975, his former senior officer in the Armoured Corps, General Gul Hassan, who was then Ambassador to Austria, came to pay his respects to me almost every evening in the Imperial Hotel. Gul Hassan, has now turned against me and is full of venom. At that time he claimed to be a great admirer of mine. He professed great loyalty and friendship towards me. In a relaxed sitting we discussed many matters. He sought my permission to marry a foreign woman. I waived the Foreign Office Rules, and immediately granted him the permission. After granting him the permission, Gul Hassan requested me to instruct the Commerce Minister and the Production Minister of Pakistan to oblige him with contracts in which he could make £.40,000 profit so that the husband of the woman he wanted to marry could be paid about that much as an inducement to divorce the woman. I thought the request to be most unusual and improper. When I declined to oblige him in meeting the request, he changed the subject to the question of my inclinations on the successor of General Tikka Khan as the Chief of the Army Staff. He said to me that since he had been Commander-in Chief and was my loyal friend it might be advisable if I took him into confidence on my likely choice. When I mentioned the name of the Respondent, Gul Hassan was visibly shocked. He rose from his chair and began to walk up and down. When I asked him why he appeared to be so taken aback, Gul Hassan made some very disparaging remarks about the Respondent and told me that he knew the Respondent very well as the Respondent had served under him. Gul Hassan made some concrete attacks on the Respondent. He told me that as a devoted friend and admirer of mine he felt duty bound to tell me the truth. When I met the Respondent in Rawalpindi on the 28th of August 1977, I communicated to him the words of Gul Hassan and the observations of others relating to him. Since my standards are different from those of the Respondent,, despite all the unparalleled provocations of the Respondent, I will refrain from quoting Gul Hassan's views on the Respondent.

If I reveal them it will make a force of his much trumpeted slogan of accountability. Chiefs of Staff, good or bad, loyal or treacherous will come and go, but the institution of the Armed Forces is permanent. Hence, the Respondent should not try to make his person synonymous with the Armed Forces. He should, not inject his wrongs and his crimes on the Armed Forces. The Respondent should not seek to exploit the Armed Forces for the achievements of his personal ambitions. As Prime Minister I did commend the role of the Armed Forces during the agitation and before the agitation. I still maintain the same position in so far as the Armed Forces are concerned. But the Respondent is not the Armed Forces of Pakistan. My indictment is against the Respondent for what he has done to the country.

9. I still maintain that it was a stage managed drama in furtherance of the Respondent's nefarious Master Plan to strike at the roots of the country by breaking the Constitutional framework. Mr. Aziz Ahmad was a Minister of the Federal Government. A month or two earlier he had held the portfolio of Minister of State for Defence. He was at liberty to speak on internal or external policies of the Government. The report of Military Intelligence on this meeting only substantiates my suspicions that the Respondent engineered the fiasco to heighten the crisis. Can such a thing happen now? and if it does take place will the Respondent go about circulating the event or will take immediate disciplinary action against the officers? Asghar Khan wrote a letter addressed to the Armed Forces of Pakistan inciting them to revolt against the legal Government of Pakistan. Will Asghar Khan write such a letter today? And if he does, will the Respondent take it as nonchalantly as he took the letter written by Asghar Khan at the time of my Government? If all these pieces are put together the mosaic of the Respondent's conspiracy becomes quite apparent.

10. With regard to contents of para 10 of the Reply it is submitted that there is no inconsistency whatsoever in the statements made by me and Mr. Abdul. Haieez Pirzada on the subject before this Hon'ble Court. Both had stated that the withdrawal of the second amendment to the Representation of Peoples Act was because of negotiations with the P.N.A. leaders and decision that I had taken to hold fresh elections to the National Assembly, If Mr. Pirzada in his note/statement before this Honourable Court had given further reasons that the amendment was repugnant to the provision of the Constitution on the subject or the power conferred by the Amendment was operated unfairly to the detriment of the returned candidates, in that the principle that the result must have been materially affected by the alleged irregularity was not taken into consideration, that only the election of some of the PPP candidates were enquired into in spite of the fact that the commission was pressed again and again to take up some of the cases of serious mal-practices indulged in by the PNA candidates, no inconsistency is indicated.

It is also wrong that the setting aside of the elections of two or three more PPP candidates could have made any difference to the Government or its majority in the National Assembly, The Commission had set aside the election of one or two former Ministers and other members of the PPP. Some of the orders of the Election Commission setting aside the elections had also been challenged in the High Court. The Commission had to dispose of about two dozen complaints which it had received in a period of 60 days prescribed in the Amendment for the purpose. In over 50 days the Commission could only dispose of six or seven complaints.

In the remaining period of one week or so, it could only dispose of one or two more matters. Therefore, to suggest that the Commission had sent for about 85 other cases is absolutely untenable. They could not possibly deal with these cases in view of the fact that Election Tribunals had been set up and even before the Election Tribunals very few Petitions were filed. The PNA had refused to respond to the gesture of the Government for the disposal of those complaints by the Election Commission and did not want the Election Tribunals to deal with individual cases of alleged irregularities and rigging, as that would have obviously exposed their stand of massive rigging of the polls. The Amendment was not withdrawn with retrospective effect for obvious reasons that some writ petitions were pending in the High Courts and this would have led to a misunderstanding that the Government was trying to save the elections of those candidates who had been unseated by the Election Commission.

11. (The contents of para 11 are not admitted.) The respondent had given several reasons from time to time for his decision to 'postpone' the elections. Before this Honourable Court, however, his sole excuse has been the process of accountability which he invented for the first time on 1-9-1977 when formalition with regard to filing of nomination papers, their scrutiny and withdrawal had been completed.

Only an accountable Government can take account ability. Only a Government answerable to the people can clothe itself with the mantle of such a responsibility. The whole nation cannot be punished and denied of its inalienable rights on such a flimsy pretext. The Respondent broke his promise to the people of Pakistan to hold impartial elections because he knew that despite the mountain of obstacles placed in the path of the Pakistan Peoples Party, my Party, the party of the toiling masses was going to sweep the polls. The Respondent had calculated that my Party would be defeated by his puppets and for that reason he promised impartial elections within ninety days when he made his first speech on the 5th of July, 1977. My tour of Sindh and the Punjab and the rising tide of the people in favour of my Party badly shocked the Respondent. All his calculations fell to the

ground. In sheer desperation he devised the gimmick of accountability on the 1st of September, 1977 as a cover to frustrate and defeat the will of the people. The Respondent's lame excuses to postpone elections have malafide odour. This odour can be smelt beyond the frontiers of Pakistan. In his insatiable thirst to wreck vengeance on me, the Respondent has taken positive action against every citizen of Pakistan. It is the most savage form of collective punishment. The decision of the Respondent has cast a gloom over the Nation. I have touched upon the force of accountability in my rejoinder and in my submissions before this Hon'ble Court on the 22nd of October, 1977. I do not want to belabour the point. It stands nakedly exposed and needs no further elaboration. Out of several thousand candidates only a few belonging to the Pakistan Peoples Party top leadership are being victimized. What is more, the victims also include some who are not even candidates. If the intention of the respondent is to complete this process with regard to all the candidates then this process cannot possibly be completed for several years. It is no business of the Chief of Army Staff to select candidates for the electorate according to his standards methods of accountability in a subjective approach. It is for the Courts of the country under the Laws in force to look into such matters. The respondent has embarked upon a very dangerous and sinister move to perpetuate his hold over the Government and politics of the country, allowing no free choice to the electorate and depriving judiciary of its functions in these matters.

The certificate the respondent has taken from the spinters and supine stooges whom he describes as political leaders and from the controlled press require no comment. Such individuals and such a press would hail any decision of a usurper like the respondent. There is no dearth of sychophants. If the respondent wants to know the real feeling of the people, he should follow the example of Haroon-al-Rashid and go incognito into the heart of Pakistan to know how bitterly the people feel over his betrayal.

The respondent has not postponed elections to avoid a catastrophe but to invite a catastrophe. He might have taken this repulsive decision to avoid a personal catastrophe but not a national catastrophe. Actually, the respondent has not the slightest intention of holding free and fair elections. He does not want to transfer power to the peoples chosen leaders He wants to perpetuate his illegal usurpation. The respondent has for the time being postponed elections for about a year to consolidate his power base. He knows that in about a year's time the epoch making event for which I have been striving to attain since 1964 is likely to take place He will capitalize on that event of great historical importance to continue in power as a 'hero'. But a Nero cannot become a hero. The people will rise against him but by then it might be too late By that time the rubicon would have crossed.

What has the respondent done in the last four months to show his credentials as a leader of mean and as a batsman of this Nation? The economy has become chaotic by his anti-people decisions Prices of essential commodities are souring. For two years the bureaucrats told me to increase the prices of tea and cigarettes but I refused as such increase would have hit the common man and increased his sufferings. Within four months the respondent has fallen a prey to anti-people decisions by increasing the price of tea on the eve of winter and by increasing the prices of cigarettes. Prices will rise further in the coming months. The harmful effects of denationalizing the processing plants is already visible. The threats of Martial Law action will not alter the position. My government found gas at Pirkot in July. The respondent has announced the decision in the end of October to take credit for the achievement of my government The agreement with France for the construction of Saviam trucks was taken by my government in June. I sent my Foreign Minister to Paris in May to get the approval of the French Government for the franchise to sell the trucks in the Middle East. My government got the necessary approval and the required credit for the project to become viable. The respondent announced the decision with great fanfare two weeks ago as an achievement of his illegal government. For how long will the respondent bask in the glory of my government? The industrial and economic development has come to a standstill. Whatever activity is taking place is on the basis of the momentum of our dynamic policies.

In the field of politics there is a void. In Foreign Affairs, the glow and glitter are gone. The respondent is visiting foreign countries not like a head of government but like a travelling salesman. In four months he has spoken at length on accountability and on the postponement of elections, on trials and on the virtues of the private sector He has not uttered a word on Jammu and Kashmir. He has swallowed the declaration of India being the dominant power of the sub-continent and humbled national pride. The respondent has not rejected the Dayan dictated document on the Geneva Conference by declaring that the P.L.O. alone can represent the cause of Palestine in that Conference or in any other Conference in the Middle East. For the first time since the creation of Pakistan, a President of Turkey is to visit India. Why are all these things happens now? They are happening now because the respondent has irreparably weakened the National framework. These things are happening now because the respondent has created an ominous crisis in Pakistan. It is still not certain if President Carter will condescend to spend a few hours in Pakistan when he goes to India for two days. The Foreign Office and our Embassy in Washington are on their knees to get the American President to make a symbolic visit to Pakistan. I wish for the sake of the respondent that President Carter will oblige him. In the past it was assumed that an American President would not come to the Sub-continent without visiting both India and Pakistan. President Eisenhower visited both countries and it was done as an imperative of U.S. foreign policy without

pleading or cajoling. The respondent celebrates Namibia Day on the 27th of October, 1977, and his counsel in the Supreme Court holds the Smith usurpation of Rhodesia as a precedent for Pakistan to follow. Without a Constitutional framework, every individual and every department has become a law unto itself. On the 23rd of October, 1977. Chairman WAPDA held a ceremony in which he made the employees of WAPDA swear an oath of allegiance to WAPDA. Tomorrow the Commissioner of Sargodha will demand a similar oath from the departments and people in his division. The Superintendent of Jail of Kot Lakhpat and the Chairman of Karachi Municipality might follow suit. These are the objective conditions prevailing in Pakistan. In such circumstances, in such conditions of uncertainty and fear would any sane citizen rejoice over the postponement of elections in the country? The people are silent but their silence should not be misunderstood. They have not acquiesced to the respondent's usurpation. To say that they have acquiesced is an insult to their dignity and self-respect. The people are watching the situation with mute anger. A look into the eyes of the working classes will tell the state of their mind. None of them are happy over the present state of affairs. There is a tear in every eye. They have forgotten the meaning of laughter. Yet the respondent is made to believe that his decision to postpone the ring of freedom, the joy of the ballot has been acclaimed. The people want this night of terror to be put to an end. This is their wish, this is their prayer and this will be their verdict.

12. (The contents of para 12 are repudiated. The inspired comments by the Press, statements of frustrated political leaders do not advance the case of the respondent.) The nation was shocked and stunned at the postponement of the elections and the respondent's brazen some result on the solemn assurance he had given to hold the election on the 18th October, 1977.

Mention of the speeches of the Members of the Bar at the Reference of the new Chief Justice of Pakistan, Mr. Justice S. Anwar ul Haq is not only not relevant but also indicates the illusion under which the leaders of the Bar suffered when they made these speeches about the freedom and independence of the judiciary being fully restored by the respondent. The submissions made on behalf of the respondent in this Hon'ble Court must have now thoroughly disillusioned these members of the Bar when it was repeatedly asserted on behalf of the respondent that the de facto assertion of authority by the respondent has paralyzed the judicial process of this Court and that it cannot call in question any order or action of the respondent or Martial Law Authorities who were controlling and messing up every department of Government and life throughout the country.

13. (The contents or bonafides of pares 13 are far too preposterous to call for any comments). To go back on his solemn assurances again and again with a view to perpetuate his dictatorship does not establish the bonafides of the respondent.

He claims to save the Constitution by suppressing and destroying it He claims to deal with oppression, with tyranny. He wants to bring about democratic institutions by his tailored methods of dictation and selection with supreme indifference to the will and opinion of the people He does not expect to be taken seriously by the Nation when he pleads his bonafides in the matter of his vacillating stands on crucial matters. He makes Pakistan laughing stock of the world when the Chief Spokesman of this country committed Pakistan in unambiguous terms on the 28th September, 1977, before the General Assembly of the United Nations that the election would be held as promised by the Respondent on the 18th of October, 1977 and power would be transferred to the elected representatives of the Nation. Two days later he blantly broadcast to the World that the elections had been postponed indefinitely. Not only he has gone back on the solemn assurances given to the Nation but has tarnished the image of Pakistan throughout the World. How could any spokesman of Pakistan be taken seriously in any international forum under these circumstances.

The Respondent has been inveigled by his own contradictions. He has dealt a death blow to his credibility and credentials by swinging from one end of the pendulum to the other. I have stated in my Rejoinder that the Respondent is using the logic of the barracks by adopting the posture of aggression being the best form of defence. His guilty conscience is eroding and corroding his vitals. In a way he has become an object of pity. Politically the Respondent has fallen flat on his face. He has sown the seeds of his own destruction by abandoning the cause of the Nation in order to fulfill his lust for personal revenge. He has tied himself in knots. The people are not going to untie the knots. Only this Honourable Court can untie the Gordian knot. For this reason the eyes of the whole World are on this Honourable Court.

14. When I had the honour of appearing in this Honourable Court, I volunteered to make a detailed statement on the use of secret funds before this Hon'ble Court in camera. However, this Hon'ble Court observed that my statement on the subject was not relevant to the determination of the issues raised in the Constitutional Petition. Despite this offer and despite my statement on the subject in the Rejoinder filed by me in this Hon'ble Court, the Respondent persists in harping on this theme. The details now provided by the Respondent in Annexure F/7 are of such a trivial nature that I do not deem it necessary to bad this reply with an explanation on the expenditure of every pie. The amounts mentioned are insignificant. Besides I do not have the requisite information available with me in my cell to furnish a rejoinder on each and every item. I do not have a photographic memory to comment on each item of expenditure for the month of October, 1973. Four long years have gone by.

I repeat, however, that I gave funds from this Head to the Governments of N.A.P./J.U.I. in N.W.F.P. and Baluchistan. They did not belong to my party. I gave funds from this Head to Bugti and to the Khan of Kalat when they were Governors of Baluchistan. Neither Bugti nor the Khan of Kalat belong to my Party. I gave funds from this Head to Governor Nasirullah Babar who joined my Party after he relinquished the charge of the Governorship of N.W.F.P. I gave funds from this Head to many other persons not belonging to my Party. If some poor individuals and workers of my Party were in urgent need of some succour or relief, they were also citizens of Pakistan. I remember giving funds to a young man who lost his eyesight in a quarrel. I did not ask him if he belonged to my Party. I helped him because he lost his eye-sight. I fail to understand why my discretion is being questioned on such petty matters. My integrity cannot be compromised by the exercise of my discretion to give assistance and relief to deserving persons on compassionate grounds. I am still prepared to appear before this Hon'ble Court and give in camera the details of the amounts I spent from this Head on the promotion Pakistan's interest. I would welcome that opportunity. I will like to respectfully submit that in the last four months the Respondent has spent quite a lot from the Secret Service Funds to set up mushroom parties. Some individual politicians have also been given funds by the Respondent. This notwithstanding that the Respondent is not a politician and he does not head a political party. Actually, the Respondent should stop using Secret Service Funds to build up so-called public opinion against elections and for a Presidential form of Government. Perhaps the Respondent is not maintaining written accounts. I maintained written accounts because my conscience was clear. I would not have kept any written accounts if I had thought that the funds were being misused.

15. This paragraph concerns Mr. Abdul Hafeez Pirzada and he will deal with it.

16. (This is totally false. On the contrary,) PPP leaders have exercised a restirring influence in the face of unmitigated provocation. PPP leadership wants the return of the rule of law. A Party subscribing to the doctrine of law and Constitution cannot want lawlessness. It is a contradiction in terms and action. The Respondent, by having lawless law is subscribing to lawlessness in the country. Not a single leader of PPP made any speech after the 5th of July, 1977 to give substance to this charge. The Respondent's virulent attacks on me in his speech on 14th August, 1977 and in his Press Conference of 1st September, 1977. The Respondent encouraged some of the P.N.A. politicians to make the dirtiest personal attacks on me. Some of the Gutter Press was given the same encouragement and latitude. The Physician should attend to his own health. On the 13th of September, 1977, the Respondent met the political leaders to evolve a code of conduct for the elections and on the 16th of September, 1977, only three

days later the respondent arrested me on Eid day in Larkana and ten top leaders of my party. There was no justification for our arrests. We have been the victims of the respondent's vendetta. There is no legal ground for our arrest. We are knocking at the door of the Highest judicial Tribunal in the country. If we were bent upon taking violent action we would have been in the streets and not in the court room. A huge bundle of annexures has been attached to this reply but it does not contain a single speech of any P.P.P. leader between 5th and 16th of September (the date of arrest) to show that my party was preaching violence. I have the privilege of being the leader of a revolutionary party. We have faced two military dictators before the respondent. One was Ayub Khan and the other was Yahya Khan. We are not afraid of facing the respondent. The more force the respondent employs to suppress the people, the more will the people rise. This is the verdict of history from the time of the Romans and the Greeks. The respondent is neither Alexander nor Caesar.. We are not afraid of the respondent. A Muslim believes in the Will of Allah and not in the will of the Army Commander. A man dies only once. We are not cowards. We will not be intimidated. There is no point in trying to demoralize us with false cases and with coercive methods. God is on our side because we are on the side of the people and the right. We are not the type of individuals to say one thing and do another. If we had preached violence we would have admitted it without hesitation. Since we have not preached violence we will not oblige the respondent by saying that we have preached violence. The respondent should also know that violence does not take place by merely preaching it. Conditions give rise to violence. If the soil is not fit for the seeds of violence to grow, no amount of preaching will give rise to violence. If, on the other hand, the soil is fertile for violence, preaching is not needed. The respondent is creating conditions for violence and he alone will be responsible if one fine day violence erupts in the country. By closing all avenues of normal and legal redress, the respondent is fostering the advent of violence. The respondent should think hard and prevent violence not by the threat or use of force but by restoring normal conditions and by bowing to the will of the people. The respondent talks about the sanctity of Eid. We know fully well from bitter experience the extent of respect the respondent has for the sanctity of Eid and for the sanctity of the home of those whom he wants to insult and humiliate. Charles Napier was a foreign conqueror and yet he told the leaders of Sindh after the battle of Miani in 1843, that he would give honour to those to whom honour was due notwithstanding the fact that they had fought a battle a day earlier. We know the honour the respondent has shown us since our incarceration on the 3rd of September, 1977.

17. The respondent began to poke his nose in these matters from the 9th of April when he told me in Government House, Lahore, that under no circumstances should I compromise on the release of "traitors" in the Hyderabad Special Tribunal and on the withdrawal of the Army in Baluchistan. The 9th of

April, 1977, was the starting point of the respondent's interference in political matter referred to in this paragraph. After his lavish reception for the departing Foreign Ambassador, his interference became more conspicuous. He stood on solid ground and was following the traditions and habits of two of his predecessors -- Ayub Khan and Yahya Khan. The respondent had clinched a deal with a foreign power and celebrated it with a reception without bothering to follow the instructions of the Foreign Office. There are agitations in the country. As time went on, the respondent began to take more advantage of the objective conditions. He was following the footsteps of Ayub Khan and Yahya Khan. In 1964, Ayub Khan, while remaining Commander-in-Chief, thrust himself on the country as Defence Minister in one of the pre-1958 Governments. Later on, Ayub Khan took advantage of the unstable conditions in 1958; dislodged the civilian government and abrogated the Constitution of 1956. Similarly, Yahya Khan, began to show his teeth to the government of Ayub Khan during the disturbances of 1969. Taking advantage of the situation, and of his position as Commander-in-Chief, Yahya Khan dislodged Ayub Khan in March, 1969 and abrogated the Constitution of 1962. The respondent was following the pattern of which he has spoken so much in his written statement. In making the inroads in the political sphere after 9th of April, 1977, the respondent was following the 'glorious' examples of the previous usurpers. My Government did not encourage him in making these inroads. He took advantage of the situation and exploited it to his benefit. He attended our meetings and on the basis of the information gained, he formulated his Master Plan. Only after invoking Article 245 of the Constitution in Karachi, Hyderabad and Lahore, did my Government find it necessary to invite from time to time, the concerned corps Commanders for a review of the law and order situation in the three cities. This was only natural. On two or three occasions, the other Corps Commanders were also invited to Conferences dealing with the general situation prevailing in the country and the military implications involved in the situation, vis-à-vis, Azad Kashmir and the border with India. Apart from such Conferences dealing with internal and external off shots of the agitation, the respondent and the Corps Commander were invited to one other Conference in which the question of the Referendum was discussed. In this Conference the the respondent and the other Generals pledged complete loyalty to my Government of their own volition. All of them placed their right hand on their heart and swore loyalty to my Government and made the collective request that there should be no compromise on the traitors being tried by the Hyderabad Special Tribunal and on the withdrawal of Armed Forces from Baluchistan. At the same time they feared that serious cracks would appear in the absence of a political agreement between PPP and PNA. All of them were of the view that the only solution lay in an early election. I agree that normally the Respondent and the Armed Forces should have kept out of such matters. The operative word is 'normally' but were not dealing with a normal situation. It was an abnormal situation, and the respondent made full use of it as

is apparent from the imposition of his illegal domain over Pakistan on the 5th July 1977. The Respondent's participation in the Conference only emboldened him to take his final action. His participation in the Conference only emboldened him to take his final action. His participation was not meant for the purpose of overawing or bullying the PNA leaders. The PNA leaders thought they were on top of the world. On the contrary, as I have already stated in this Hon'ble Court, one of the PNA leaders rebuked the Respondent when he was giving his lecture on the traitors of Pakistan. Since the Respondent had laid down the two conditions and since all the Corps Commanders were of the same view, it was the Respondent who sought to address the PPP-PNA meeting in Rawalpindi on the 2nd and 3rd of July, 1977 to make the Army position known to the political leaders on the two issues mentioned in this and earlier paragraphs and in my Rejoinder the Respondent took the initiative to interfere and what is more he was enjoying it thoroughly. There was no question of prolonging the dialogue between PPP-PNA. The dialogue had come to a successful conclusion and the formal Agreement would have appeared before the Nation on 5th July 1977 if the Respondent had not struck 'Operation Fairplay' which by now is known to every individual as 'Operation Foulplay'. The Respondent should not insult the leadership of our country by describing the PPP-PNA talks as a "dialogue between the 'dumb and deaf' ". At least it was not a one eyed encounter. No fires would have raged. The fires had been extinguished as soon as the negotiations began and indeed even by the commencement of the talks, the graph of the agitation was falling sharply by each day. We did not need a fire brigade. It is the Respondent who uses tanks, armored cars and fire-brigades. He will need them if he tears up the twelve page Constitution of Pakistan. How should we know that the 'eleventh hour' had struck. The Respondent as the conspirator alone was in a position to look into the sands of time, and know whether it was the 'eleventh hour' of Constitutional rule in the country.

18. I did not prepare the dossiers of my Ministers. From the time of the British, if not earlier, the intelligence agencies have the dossiers of all prominent personalities. The list includes Businessmen, Zamindars, Traders and the like. During British rule, every district maintained what was called 'the blue book' which contained confidential record of the prominent and the notorious personalities of the district. It was in the control of the Deputy Commissioner. The Superintendent of Police of the District also maintained the record of the personalities of the district, but more weight was attached to the 'blue book' After the creation of Pakistan these books were maintained but gradually the quality and the objectivity deteriorated. During the time of Ayub Khan, this work was handled by the intelligence agencies and the Bureau of National Reconstruction set up by Brigadier F. R. Khan. The Armed Forces maintain a dossier of all the officers and the promotion boards consider the dossier at the time of giving promotions. Does this mean that the Respondent has personally prepared the

dossier of all his senior officers? All countries maintain such dossiers. The advanced countries do it through scientific systems involving computers. It must be clearly understood that I did not introduce the system in my time and nor did I personally prepare dossiers. This is another crude and vulgar attempt to cause misunderstanding and mistrust between me and my closest colleagues. It is being done at all levels and everywhere. The campaign is very systematic but it will fail miserably. We, the leaders of PPP have lived untidily and like brothers. Nobody can succeed in such crude attempts to divide us. If the case at Lahore had not been subjudice, I would have mentioned here the heavy handed efforts being made by an approver to cause this kind of mischief and misunderstanding among my close friends and lo and behold between me and my eldest son, Mir Ghulam Murtaza. The Respondent stops at nothing. He takes official files to show my minutes to Foreign Heads of States and Government after interpolating and tampering with the words of my minutes, and not satisfied with that kind of unethical conduct, he stoops to the level of feeding false information on my friends and relations, to do the maximum mischief. It is not good to be a womanizer but it is worse to be a hypocrite. It is not good to drink alcohol but it is much worse to drink the blood of freedom fighters. Why does the respondent conceal his own dossier? What will it contain? Will it praise him for his role in Jordan? Surely it will not credit him with loyalty to the Constitution. Will it say that he claims to be a Momin but that he breaks sacred promises to the Nation. The dossiers of Mr. Mumtaz Ali Bhutto and Mr. Abdul Hafeez Pirzada, false as they are in the data contained in them, will look like the dossiers of saints if the Respondent's dossier is permitted to be prepared by me.

19. In this paragraph an attempt is being made to avoid the affects of the repeated solemn declarations made by the Respondent giving his reasons for the imposition of Martial Law, outlining the objectives and purposes of Martial Law, avoiding dissipation of his energies and efforts on any purpose other than holding of fair and impartial elections within a period of 90 days, transferring power to the elected representatives of people, not doing any witch hunting and not framing any Martial Law Order or Regulation except for the purpose of holding elections and maintenance of Law and Order and above all remaining within the bounds of the Constitution of 1973 which he stated had not been abrogated but had been kept alive, only some parts of it were held in abeyance. It was on the faith of these solemn undertakings that the people, the political parties, and the judiciary suffered the imposition of Martial Lau so as to secure restoration of democratic Government of their choice within a period of about three months. All these undertakings have been given a go by and there remains no basis whatever for the continued usurpation of the power in suppression of the Constitution and the will of the people of Pakistan.

20. (That para 20 of the Reply is denied.) The mala fides of the impugned order have been mentioned in the petition and are floating on the surface. The impugned orders of detention were passed under M.L.O. 12 which concerns itself with preventive detention and empowers the C.M.L.A. to order detention to prevent a person from acting in the manner mentioned therein. On the 17.9.77 the Respondent issued a Press Statement (Annex. B to the Petition at page 10) giving his reasons for detention of the Chairman, PPP and ten other top PPP leaders. These reasons were that instances of large scale malpractices and commission of crimes had since come to his notice necessitating investigation by Civil and Military Courts and Tribunals and it was to facilitate such investigations that the arrest had been made and that in due course the arrested persons will be put on trial before Civil and Military Courts. Can this be a valid ground for making use of the Regulation relating to preventive detention?

Another reason assigned was that it was necessary to show the true face of the candidates to the electorate and for that it was necessary to complete inquiries and investigations into the alleged crimes committed by the detenus This too was apparently false and malafide as at least two of the detenus were not even candidates at the forthcoming elections.

On 13-9-1977 at the Press Conference held after the leaders conference to settle the Code of Ethics for elections when the news of my release on bail by the Lahore High Court in the case of murder of Nawab Muhammad Ahmad Kasuri was known, the respondent unequivocally stated that neither I nor any other PPP leader or had committed any violation of Martial Law and that he would not use Martial Law against me. Yet within bare three days we were arrested under the impugned orders dated 16-9-1977 under M.L 0. 12 This speaks volumes on malafide nature of the orders.

In para 16 of the Reply of the Respondent it asserted that 'stern preventive action was called for even earlier but as the Eid day was near at hand, detention orders were served after that day' So the cat is out of the bag. The respondent was not telling truth on 13-9-1977 he stated at the Press Conference yhat I had done nothing against Martial Law and that Martial law will not be used to deprive me of my liberty. The real reason for the impugned action was to prevent me and other detenus from participating in the election campaign which was to commence on the day following Eid and it was already announced that I was to address the first public meeting of the start of PPP Election Campaign at Rawalpindi on the 19th September, 1977.

Now in para 16 of the Reply it is falsely alleged that 'in their public speeches the PPP leaders have been openly preaching violence' Plethora of annexures has been filed by the Respondent both with his first written statement and now

with his Reply yet not a single annexure has been filed to show any speech of any PPP leader which could in any manner be said to incite violence. As in every other respect the Respondent has been changing his ground in this behalf as well.

The real reason for the impugned orders is the Respondent's anxiety to eliminate me and my Party leadership and even the Party itself from the national scene, to have candidates of his own choice and finally not to have elections at all on the pretext of accountability invented by him in September, 1977 after he had seen the writing on the-wall that the people of Pakistan were determined to return the PPP to power.

21. Annexure F/6 is on the face of it a spurious document. It is dated 5th of July, 1977 the day the Respondent struck the Nation. Respondent will have to do lot of explaining in regard to this document.

It appears that the certificate in question may have been prepared by well meaning but perhaps overzealous officials. Their object was to show that I had fulfilled the promise contained in the Manifesto of my Party by having drastic Land Reforms. When land is distributed to landless tenants, it means that Jagirdaris and Jagirs are being abolished and not that Jagirs are being established. A person who abolishes the legal framework of the Country and who tears up the Constitution and has no power to stop him from the tip of the blue sky to the hard earth of the ground, is the one who converts the Jagir of the people into a personal Jagir. I broke the feudal bondage of centuries in Baluchistan and abolished the Sardari System. Alright, I am the Jagirdar and I made Pakistan my Jagir. The Respondent is the knight in armour who has freed the slaves of my Jagir, made Pakistan a modern, democratic State with a popular Constitution ensuring Fundamental Rights, the independence of the judiciary and fair elections. The Respondent has abolished the will of the Jagirdar and repudiated his theory of effectiveness or effectualness. If that is the position, let it be reflected into the reality of this day.

22. The emphasis of the letter is on clearing the back log of cases by the appointment of more subordinate Judges. The letter lays stress on Senior Judges, which means experienced and able Judges. It states that the Judges should be loyal to the Peoples Government. By Peoples Government it is meant that they should be loyal to democracy and the Constitution. The words used are 'Peoples Government' which means representative and responsible Government. It means a Government of the People. It means an 'Awami Government'. The words I have used are Peoples Government in the context explained and not Pakistan Peoples Party Government. The reference is not to the Party. It is to the people, to their cause and to their problems. I appointed numerous senior officers of the Armed Forces as Ambassadors to many countries, None of them belonged to my

Party. The Pakistan Peoples Party is the premier party of Pakistan. It has many able and gifted men and women in its ranks. Many of them are eminent in their professions. Should they be debarred from any appointment on merit for being members of the Pakistan Peoples Party? I appointed a Chief of Army Staff belonging to Jamat-i-Islami and the result is before all of us.

Annexure F/52 is an intelligence note on the political situation of the time. If in the interest of discipline I take a firm position to maintain the unity and discipline within my party, I fail to understand how that can be construed as an interference in elections. It is a part of politics to make and break combinations. This happens in all democracies, and specially in Parliamentary democracies. It even takes place in the politics of dictatorial regimes. The sort of interplay is a part of the chess board of politics. Asghar Khan was very keen to become the President of P.N.A. but he made way for Maulana Mufti Mahmood on the advice of a Foreign Power which kept Asghar Khan in one pocket and the respondent in another. This Foreign power advised Asghar Khan to put Maulana Mufti Mahmood in the front to be the centre of the attacks Asghar Khan was promised to get the build up in the foreign Press and the internal support to jump into Mufti Mahmood's place after the elections. Simultaneously, the Respondent was also being approached. Finally it was decided to drop Asghar Khan and put the Respondent into the saddle. This information is authentic. The Special Secretary who wrote the note under reference was completely in the dark on this aspect of the global intrigue. In the light of these facts it is useless to quote his report. A different game was being played than one described by the Special Secretary. When the wicket was different, the question of getting stamped on my playing field did not arise.

As for Annexure F/8-A all I can say is that I received thousands of notes in five and a half years of my tenure. The fact of the matter is that I received not thousands but hundreds of thousands of letters, telegrams and applications in five and a half years. This is one of them. It has no significance. I did not meet General Rani in these five and a half years for a single minute. This is the value and importance I attached to her suggestions. The fact that I made a marginal note only speaks for my efficiency and has no bearing on my interest in the matter. I gave importance to every thing that came to my attention but I gave my thoughts, time and attention to only the really important matters.

As far as Annexure F/53 is concerned a prudent and efficient Government responsible to the people had to consider every eventuality. This fear became hypothetical, the moment the talks between PPP-PNA began; this fear disappeared, the moment the talks succeeded. The same answer applies to Annexure F/54. In the minutes of the meeting mentioned in Annexure F/55 a concern and an apprehension has been expressed by the Committee. It is an

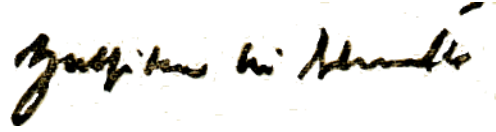
assessment and no more. The assessment of the Committee cannot be regarded as an established fact. It is only an opinion. As far as Annexure F/56 is concerned, I cannot hold myself responsible for the views of Mr. Drishak. It will be noticed that I have not made any comments; on his suggestions. The fact that I have made no comments on it, leave alone pass any orders, shows that I was not inclined to agree with him. Since then Mr. Drishak has joined N D P. Hence, I am certain that no action will be taken against him for this note or for anything else. As far as annexure F/57 is concerned, I have dealt with it in the paragraph on Baluchistan. If Aslam Gichki was not a well known and active outlaw waging war against the State of Pakistan, if he had not been a star insurgent in the armed struggle for 'the creation of Greater Azad Baluchistan, I would have had to do a great deal of explanation but the Respondent is aware of the role of Aslam Gichki in the armed revolt against the State of Pakistan, it is therefore, the Respondent who will have a lot of explaining to do one day for attaching this annexure to his Reply

Martial Law is a paper tiger. It is not the twilight of the Respondent's concept. Martial Law is darkness at high noon. It is neither an order nor a system. It is a whim and this world of ours cannot be run on a whim. This form of lawlessness takes us back to the law of the jungle, where only the strongest survive. Most of our people are weak and backward. They will perish in such an arrangement. Force, naked and brute, moody and mad cannot be made the sole criterion of our honour and our respect. For thirty years we have gone from crisis to crisis and each crisis is deeper than the previous one. At last in 1973, this Nation evolved a democratic Constitution. With all its limitations this Constitution cemented the Federation. It gave birth to new institutions and safeguarded the pre-existing ones. We began to move. We began to tell our progeny that at last we had found our equilibrium. There was hope for the future, Whatever happens to any one of us, we have to save the succeeding generations. Each individual has his own destiny. We cannot be intimidated by the noise of gunfire. This Hon'ble Court cannot be silenced, Its destiny demands that it upholds the Constitution and the law. The jurisdiction of this Honourable Court cannot be curtailed by an interloper. The doctrine of necessity propounded by the Respondent is anathema to the vision of an honorable State. Martial Law and a new order are terms which cannot be reconciled. One is the antithesis of the other. There is the permanent order of the Constitution of 1973. The Respondent is duty bound to uphold it.

The nightmare of Martial Law must come to an end. The Respondent, without further ado must fulfill his promise and hold fair and impartial elections. The people alone can take accountability. Silence of the people does not mean their acquiescence. The mirage of 'effectual law' will not stand the strain of a people cheated of their rights. Man decays and ages move on. We must move with the ages. It was painful to be told that the Respondent's Counsel had quoted Voltaire

in defence of his suppressive new order. Voltaire was the soul and essence of freedom. But more than the damage done to Voltaire and Kelsen, we have to think of the damage being done to Pakistan. Did millions die to live in terror, did they die to be flogged and lashed? Let not Dosso speak. Please let the Quaid speak. In your hands, my Lords, lies the decision to make or mar. Today we are in Jails, the institution of Parliament has been sealed. The voice of the people has been silenced. Today only you hold that pen which is mightier than the sword.

Dated Lahore the 31st day of October, 1977.

A handwritten signature in black ink, reading "Zulfikar Ali Bhutto". The signature is written in a cursive, flowing style.

(ZULFIKAR ALI BHUTTO)
Kot Lakhpat Jail, Lahore.

**IN THE SUPREME COURT OF PAKISTAN ORIGINAL
JURISDICTION**

CONSTITUTIONAL PETITION NI 1-R OF 1977

BEGUM NUSRAT BHUTTO

PETITIONER

Versus.

THE CHIEF OF ARMY STAFF, ETC.

RESPONDENTS

AFFIDAVIT.

I, General (Retired) Tikka Khan, s/o Late Raja Iqbal Khan, resident of No. 65-E, Satellite Town, Rawalpindi, do hereby solemnly affirm and state as follows :-

1. I was appointed Chief of Army Staff on 3rd March, 1972, for a term of four years. Almost the whole of the Army was deployed on the Pakistan-Indian borders during the post cease fire period of 1972. Our territories occupied by the enemy were not vacated and prisoners of war were still to be exchanged/released. So as far as Army was concerned, there existed a vacuum in the two provinces of N. W. F. P. and Baluchistan, due to absence of troops from the Cantonments.
2. National Awami Party Governments were inducted in the provinces of N.W.F.P and Baluchistan in April, 1972. In Baluchistan, the Police, teachers, engineers and other technical hands, who belonged to other provinces, were sent back in a haste. This created fear of victimization and insecurity in the minds of people affected as well as the settlers who still remained there.
3. With the departure of most of the police, the law and order situation deteriorated. A new force called "Debi Mohafiz" was raised. This was intended to be a semi guerilla force as later became apparent by its training and organization.

4. About the end of 1972, the Marri tribesmen looted the farm of settlers in the Pat Feeder Area. A detachment of Scouts had to be sent to control the situation. The incident had caused a lot of harassment and unpleasantness and resulted in loss of life and property (at least one death). The lack of security forced the families of settlers to leave their farms.

5. In January, 1973, a tribal lashkar, consisting of Mangals, Sasolis, Bizenjos-was launched under the orders of the then Chief Minister, Mr. Ataullah Mengal to punish the Jamot tribe of Jam Ghulam Qadir of Las Bella, mainly on grounds of political rivalry. In addition to their own arms, the lashkar was also provided about 200 police rifles against the wishes of the I.G., Police at that time. About 5000 Jamots with their families and live stocks took refuge in the Pub Hills. The Lashkar was also supported by approximately 400 Dehi Mohafiz. Two companies of Scouts were provided but these were sent on a far away flank so that loot and plunder could go on unchecked against the Jamots.

6. Earlier a law and order conference was held at the Government House, Lahore, which was presided over by the then President, Mr. Zulfikar Ali. Bhutto and attended by the Baluchistan Governor and myself. It was decided that the Army should go in support of the civil administration and the lashkar should be disengaged and disarmed. A Battalion of infantry was moved to Bela from Karachi and although the situation was handed over to the Army and a senior officer, Colonel Mohammad Khan had been appointed incharge of the operations the local D. C. continued getting orders about the lashkar from Mr. Ata Ullah Mengal in Karachi. The conversation between the Chief Minister and the D. C. was over heard by the Army Operator and it was quite obvious that orders of the President were not being sincerely implemented. Major General Retd. (Then Brigadier and I.G.F.C., N.W.F.P and Baluchistan) Nazir Ullah Khan Babar met Mr. Atta Ullah Mengal who promised to disarm the "Lashkar" and deposit the weapons with the tehsildar at Uthal. This promise was never fulfilled and the "Lashkar" took to the hills without depositing a single weapon. The "Dehi Mohafiz" were however disarmed by the Army and lodged in the fort at Bela. They were later released and sent to Quetta along with their commander Liet Colonel (Retd.) Sultan Khan.

7. Dry rations --- Atta and rice --- were dropped on the Jamots who had escaped into the hills. It took seven days to induce these poor people to come down from the hills. An inquiry was conducted by the Army which proved that 42 persons were killed. Later the compensation of Rs. 36 Lakhs was paid by the Federal Government against losses to property and live stocks.

8. The Provincial Government had prevented the operation of Coast Guards beyond Hub Chowki (border between Karachi and Baluchistan). The move of

the Army was also resented. As a matter of fact some leaders, including the Governor, Mr. Bizenjo had remarked that the Army's employment in the area would be resisted. It was about this time that the Governor Baluchistan was removed and the Mengal Government was dismissed by the Federal Government for mal-administration and confrontation with the Centre. The N.A.P. Government in the N.W.F P also resigned in protest.

9. Meanwhile realizing the tension in the area, one brigade Ex Rahim Yar Khan was moved back to Quetta. Out of this one batallion was moved to Chamman, one batallion was kept at Quetta and the remainder of brigade was moved to Khuzdar area. Later due to various hostile incidents on the line of communication, the strength in Khuzdar area was increased to a brigade.

10. In May, 1973 a complete section of Dir Scouts was killed at Tanduri in Marri area while patrolling the railway line and their weapons were taken away. The outlaws escaped into the interior of the Marri territory. While the operation was going on against the Tanduri incident, Maiwand was occupied in the heart of Marri area, both from Sibi and Kohlu sides.

11. In June, 1973, a Scout party was ambushed near Baran Lak on the RCD Highway in the Mengal area about 15 miles Bela Side of WADH. On this date, Mr. Zulfikar Ali Bhutto had addressed meetings at Mashkai, Nal and Wadh. I was travelling with Mr. Bhutto. By now the incidents of firing, hold ups and loot were fairly wide spread in Bela, Jhalawan, Saronan and Marri areas and the better portion of one division had been inducted in Baluchistan.

12. In November, 1973 Kahan, the third biggest village in Marri area was occupied by heliborn troops and later joined by road columns from Dera Bugti. By this time we had acquired the heliborn capability of lifting two companies through additional helicopters loaned by a friendly country.

13. Army Engineers were employed from May, 1973 onwards to construct roads in Marri Bugti area. Some of the important roads were Sibi, Tali Tangi, Maiwand, Kohlu, Barkhan and Sui, Dera Bugti, Kahan, Maiwand. The engineers had to be protected against sniping and ambushes. There were also bright prospects for oil explorations and the area had to be opened and made secure for such operations.

14. The insurgency came to its height in 1974. We had inducted the SSG (Special Service Group) Bde in the Marri area. The famous hiding place for Marri hostiles in the Shimlang Hills was surrounded by four brigades on 28th August, 1974 and about 1000 Marri hostiles including some of their powerful leaders like Ali Gul Thangiani and Ghulam Rasul Zing were rounded up. This action really

broke the back of Marri resistance. However odd pockets-of resistance were still there. But the hostiles had moved to more inaccessible areas. Here also more operations were launched which forced some of the hostiles to cross our borders.

15. While the hostile Marris were kept in a mud fort at Kohlu, their families, old men, children, large flocks of live stock were brought to their own areas and settled. Roads, persian wells, tubewells, schools, hospitals, shops , community Centres and Mosques were built and jobs provided to the locals. This was the best way to win over the population. On 15th October, 1974 Mr. Bhutto paid a visit to the area and gave amnesty to the detained Marris and extended the same to whole of Baluchistan.

16. The intelligence had been started from the scratch but had improved through contact with the people. It was mainly the intelligence collected by the Army which was most reliable and this was natural as the Army was in contact with the people and was provided with funds and communications for the purpose. The Inter Services Intelligence also expanded their detachments and provided some useful information. The Intelligence Bureau and Special Branch activities were confined to the towns --- mainly district headquarters and were concerned more about bomb blasts and other sabotage activities. Right from 1973 Army had established a field interrogation Centre (FIC) where through interrogation of hostiles information concerning the insurgency was collected and analyzed.

17. In the end of 1974 the main effort was shifted to Mastung, Kalat and Khuzdar sectors and the results were rewarding. Big quantities of arms and ammunition of foreign make were unearthed in 1975 from the vicinity of Mastung and nearby hills on a good bit of intelligence. These arms including machine guns with anti aircraft sights have already been produced in the Hyderabad Trial by the Army witnesses.

18. After the success in Shimlang area and on 15th October, 1974, Mr. Bhutto after giving amnesty to the Marri Hostiles, had suggested to me that the Army should disengage by 31st December, 1974 it possible. Aaction had been initiated on this both at GHQ and Corps level. The only other agency who could take over from the Army and face the situation were the Scouts. However they were short of transport and wireless equipment and were given six more months. With effect from 15th July, 1975, I.G.F.C. Baluchistan was given the responsibility and some thinning out had been started by the Army but due to increased number of incidents Army had to take over the control again.

19. The Honourable Court would see from the sequence of events as narrated above that the Army was not plunged into the insurgency. Actually it was forced

into it at a time when the troops were on the borders. There was slow build up of insurgency and troops were inducted as per requirement of the situation. It was not the wish of the Federal Government or my own wish to remain engaged in the counter insurgency operations longer than the situation warranted. On the other hand there had been directives by the Government that the Army should disengage as soon as feasible. I kept in touch with the insurgency situation through regular personal visits and kept the Government and various echelons of the Army informed about aims, objects and progress of the operations through reports and weekly news letters. This was the system till I retired on 29-2-1976.

20. In August, 1976 as Special Assistant for National Security, it was pointed by me that there were too many law and order agencies in Baluchistan and there was no effective coordination. It was suggested that the Baluchistan Constabulary should be merged with the Scouts who should then be able to relieve the Army of its internal security duties. It was then estimated that after decision by the Government the merger should take about three months.

21. As stated earlier, the Army had their Field Interrogation Centre (FIC) at Quetta where the information was collected through interrogation of hostile elements and analyzed. Corps and Division intelligence staffs were keeping close touch with the Centre. Cases of accused involved in the insurgency were prepared by the FIA with information provided by the Centre. Again the contact intelligence mainly through the field intelligence units of the Army was expanded and funds provided by D.G.I.S.I. for their operations. Considering the tribal loyalties and the risks involved, I would say that information was flowing in and unity of action of various agencies was always stressed by me as Chief of Army Staff and also as Special Assistant for National Security. I would say that at NO stage, the information concerning Army operations was withheld from me when I was Chief of the Army Staff. As Special Assistant for National Security, I passed on all relevant information and intelligence to GHQ. Certainly such information was not out of context, biased or silent.

22. Again in the minutes of the Joint Intelligence Co-ordination Committee, I as Chairman had directed that close watch should be kept on the movements of Aslam Gichki and he should be eliminated as soon as possible. A slam Gichki is a hostile insurgent leader who with his group had been responsible for the killing of several policemen, Scouts and Army Jawans by laying ambushes. His elimination does not mean that we kill him when he is asleep or we kill him after he has been arrested. People like Aslam Gichki have become desperate and will have to be eliminated in an encounter. In this respect I draw the attention of the Honourable Court to para 19 C of the same minutes where I also directed in respect of two other groups of hostiles that they should be eliminated by

launching operations and laying ambushes on reliable information. Aslam Gichki by the way is still absconding and is very much alive.

23. About statement as published in the press on 28-4-1977, I have seen the original letter written to the then Prime Minister and signed by the Chairman Joint Chiefs of Staff Committee and the three Chiefs of Staff and it leaves no doubt in my mind that it was a pledge of loyalty to Mr. Zulfikar All Bhutto considered as head of the legal and Constitutional Government. It is also within my knowledge as Minister of State for Defence that the letter was approved and signed in the Chiefs of Staff Committee. However information if any if provided by the Government is not within my knowledge.

24. Finally as regards the two points -- viz trial of cases in the Hyderabad Special Tribunal and the withdrawal of the Army to barracks in Baluchistan, Chief of Army Staff's view was that the Special Tribunal should not be dissolved and that troops should be withdrawn to barracks only when Scouts were ready to take over. This view had been expressed by the Chief of the Army Staff in the Cabinet and other meetings so many times that it simply cannot escape my memory. This view was also held by the Corps Commander who is incharge of Baluchistan.

Sworn at Rawalpindi, This 31st, day of October, 1977.

(Signed)
General (Retd.) Tikka lthan