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The Terror of Writing on Terror

The trials of collecting material on the Lashkar-e-Tayyaba



C Christine Fair  | 26 Apr, 2024

MOST OF MY BOOK projects have more than one decade to effectuate because my scholarly projects involve painstaking review of primary source materials which have taken me several years to collect. However, no project has taken as long to fructify as my most recent book *The Literature of the Lashkar-e-Tayyaba: Deadly Lines of Control* (2023), with Saifina Ustaad. The collection of material for this book began in a cold February in Lahore in 1996 when I stumbled onto an Islamist bookstore, with a wall where there hung a calendar depicting the global capitals on fire. When I asked the avuncular proprietor about the story told by the calendar, he gently explained the images which depicted global capitals on fire. Even the United Nations was burning! And the group whose hands were implied to have done the burning? Zafar Iqbal's Markaz al-Dawah Irshad (MDI, Center for Preaching and Guidance), indicated by a nifty logo that included an erect Kalashnikov rising from a book, which is evidently the Quran, amidst a rising sun.

Zafar Iqbal and Hafiz Saeed were both professors from the Islamic Studies Department of Lahore Engineering University who founded Jamaat-ud-Dawa (JuD, Organisation for Preaching), which initially was a small group engaged in *tabligh* (proselytisation) and *dawah* (missionary work) with the purported intent of promulgating the Ahl-e-Hadees creed.

In 1986, Zaki-ur-Rehman Lakhvi's Salafist militia Lashkar-e-Tayyaba amalgamated with Saeed and Iqbal's JuD to form the Markaz al-Dawah Irshad. When I encountered this artefact, this merger had not yet transpired.

I had collected material for this project on virtually every trip I undertook to Pakistan from 2004 onward.

Sometimes, I asked others to collect the material. But as is fairly well-known, Pakistan's notorious ISI procured some version of my book *Fighting to the End: The Pakistan Army's Way of War* (2014) before it went to press and a very nasty confrontation ensued, which effectively resulted in my inability to return to the country. However, work collecting material continued. One day while briefing a fairly senior US intelligence official about my ongoing work which attests to the continued activities of the organisation despite Pakistan's numerous attestations to the contrary, I told her my well-kept secret: I was obtaining them through inter-library loan, usually from the US Library of Congress.

It turns out that American libraries house many of LeT's most important writings thanks to a programme that began in 1962: the so-called PL-480 programme, named after the eponymous public law which allowed the US Library of Congress to use rupees from Indian purchases of American agricultural products to buy Indian books. Through this programme, libraries throughout the US have acquired books from South Asia. A few years later, in 1965, a field office was opened in Karachi to oversee the acquisition of Pakistani publications. While the PL-480 programme was discontinued long ago, the Library of Congress in Washington continues to employ the same institutional infrastructure to acquire publications from Pakistan and India under the rechristened South Asia Cooperative Acquisitions Project. We are extremely grateful to the Library of Congress, the Joseph Regenstein Library at the University of Chicago, and the other libraries across the US that purchased these publications through this programme and made them available to us and other scholars through our institutions' inter-library loan programmes. We are particularly grateful to Georgetown University's Lauinger Library, which never failed to produce a book we required through inter-library loan. (Unfortunately, my dog ate one and it had

to be replaced.) As one US government official quipped when we explained the sources of our material, “There is no better way to keep terrorist literature out of the hands of would-be terrorists than putting it in a library.”

Once we assembled the collection, we next examined the volumes to determine which texts best addressed the overarching questions posed for this and a related scholarly effort. Specifically, we looked for volumes that delineate what LeT/JuD says it does as an organisation, what external and internal political imperatives shape the organisation’s behaviour in and beyond Pakistan, how the organisation recruits and retains fighters, and how it cultivates a larger community of support. We also sought volumes that discussed the fighters of LeT, what motivates them, and who are the families that empower and enable them. Once we selected the critical texts, we perused the volumes and identified key sections within them for translation. Unless noted elsewhere, Ustaad translated the works while Fair edited and annotated them as required for context or clarity.

We looked for volumes that delineate what Lashkar-e-Tayyaba/Jamaat-ud-Dawa says it does as an organisation, what external and internal political imperatives shape the organisation’s behaviour in and beyond Pakistan, how the organisation recruits and retains fighters, and how it cultivates a larger community of support

But perhaps the hardest hurdle was the issue of copyright. Every book project has its own story to tell. But, in our experiences, perhaps one of the more interesting aspects of this project entailed considerable legal footwork. Dar-ul-Andalus usually places a prefatory statement in the front page of books (not pamphlets or posters) indicating that the rights of the publisher are protected. While these statements never specify that the government of Pakistan protects the

rights of the publisher, this is generally assumed to be the case. In most of the books, there was a clear statement of copyright which the organisation's singular and dedicated publisher, Dar-al-Andalus, published. The question was raised whether our efforts to publish translations of these volumes would violate copyright laws. At one point, my publisher floated the idea that I write to the organisation—which was a clearly identified, foreign terrorist organisation—on my employer's letterhead requesting permission to translate and publish their works without compensation. The thought of calling up my university's legal counsel with this absurd proposition made me reject it nearly as soon as it was floated.

However, I did have to seek legal counsel and ultimately clearance on this matter. I also had to consult the US office which oversees copyright and fair use. There an official politely walked me through Section 107 of the US Copyright Act, explaining there are four factors that must be considered when evaluating the question of fair use of the material we present, in translation, in this volume. He noted that scholars and librarians, among others, generally focus upon one concern, the “amount” of materials that are used; however, this singular focus upon one aspect does violence to the overall intent of the law as well as the three of crucial considerations. Specifically, these four considerations include:

Purpose and character of the use. This pertains to whether the use is of a commercial venture or is for nonprofit educational purposes and whether the work has been transformed.

Nature of the copyrighted work. This consideration relates to the extent to which the work that was used conforms to a copyright's intention of encouraging creative expression. For example, using an imaginative work (For example, novel, movie, or song) is less likely to be considered fair use than an item intended to be factual work.

Amount and substantiality of the portion used in relation to the copyrighted work as a whole.

This is the most difficult factor to anticipate because some courts have determined that the use of an entire work is fair while under some circumstances, courts have deemed using even a small

amount of a copyrighted work not to be fair because the selection comprised the “heart” of the work.



An Islamist calendar

depicting global capitals on fire

Effect of the use upon the potential market for or value of the copyrighted work. In evaluating this consideration, courts review whether, and to what extent, the use injures the extant or

potential market for the copyright owner's original work. In other words, would the unlicensed work diminish the market for the original (such as by displacing sales).

Here we address each of these four concerns as it pertains to this project. Regarding the purpose and character of this volume, there was unanimous agreement among our interlocutors (including legal consultations) that the purpose and character of this volume differ from that of the original. Whereas the original material is generally intended to increase sympathy for the organisation, recruit cadres and raise funds, we are trying to illuminate the thinking of the organisation to pre-empt its ability to do precisely these things. Thus, our effort should be seen as an effort to neutralise the intentions of the original.

Regarding the nature of the copyrighted work, most of the work here can be considered exegetical or logical, considering the way in which the organisation explains its beliefs or actions or relationships to the Pakistani state or other groups. Most of the works we use here are not 'imaginative' works, such as novels, movies or songs, even though the organisation does issue such works. As noted, such materials were excluded from our selection process *ab initio*. Regarding the effect of our use upon the potential market for or value of the copyrighted work, it has been the collective opinion that this volume is unlikely to influence the market of the originals because they are published in Urdu and because this book will not be sold in Pakistan.

Finally, turning to the "amount and substantiality of the portion used in relation to the copyrighted work as a whole", it was a consensus among the officials with whom we spoke that we are likely on firm ground.

Ultimately, after much legal consultation, our publisher went ahead with the project. But for quite some time, it seemed that it was touch-and-go. While we awaited the final word, a quip of one of the American officials I consulted kept ringing through my head. When I explained the legal concerns of my New York-based publisher, he quipped, "Let me get this straight. You think

these Islamist terrorists are going to file a case with the Southern District of New York? If they do, can I split the reward with you for helping capture these guys? We'll both 'f**k off and retire.' Is it wrong that a part of me still hopes for such an outcome?