

Political Dimensions of Police Reform in Pakistan

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Summary

- Reform of Pakistan's civilian security forces, particularly the police, would help restore confidence in the government and its ability to protect its people, thereby increasing its political legitimacy.
- Historically, both civilian and military regimes have used the police as an instrument of repression against opposition groups. Police forces were politicized, and recruited, trained, promoted, and posted without regard to merit.
- Any assistance to or cooperation with the Pakistani police must be conditioned on regulatory and legislative changes. Pakistan's government must also guarantee that the forces constituted as a result of U.S. and international assistance will be used for the purpose they were created for.
- Pakistan needs help to turn the police into an instrument of public service, not one of military repression. The Kerry-Lugar-Berman law provides an adequate framework to achieving this goal, as long as its conditions are adhered to. The flexibility of the law—particularly the ability to slow aid to modify behavior—should serve as a model for all countries interacting with the Pakistani establishment.
- Strengthening police capabilities must be part of a larger political process—technical assistance on its own is insufficient.

Few reforms would make more of an impact on Pakistan's security and political situation than reforming the civilian security forces, particularly the police. Only a strong police force can prevent the expansion of radicalism by tackling the problem at the grassroots level. Only a strong police force, working with local administration and the judiciary, can provide long-term security.

Strong and efficient security forces are also the only way to diminish the civilian government's dependence on the army to ensure domestic security. They can help restore confidence in the government and its ability to protect people. Increasing the capacity of the police will lead to greater efficiency in security management and, as a result, increase the legitimacy of the regime. These goals have been the cornerstone of assistance programs to Pakistan's police service, including the hundreds of millions of dollars in U.S. assistance to be spent annually on police reform contained in the much-talked-about Kerry-Lugar-Berman law.

The link between security and legitimacy is obvious in most countries, including in dictatorial regimes where the need to re-establish security is often the pretext for taking power. However, the causality between security and legitimacy is somewhat distorted in the case of Pakistan.

In most authoritarian regimes, violence is used for the repression of political dissent. But no matter how ruthless, the primary aim is always the reaffirmation of the monopoly of the state on legitimate violence. In Pakistan, the state itself, or more precisely its most important actor, the military, uses violence in a quite different manner. It pushes one part of the population against another, one organization against the other—each time creating a new problem for which military power appears to be the ultimate recourse.

So far, the problem is viewed essentially as a technical issue. While the Kerry-Lugar-Berman law contains conditions linked to democratic norms and respect for Pakistan's constitution, these considerations are always competing with short-term ones linked to the needs of the Pakistani army in the fight against terrorism.

This is, however, a false dilemma. Capacity building and the political will to fight terrorism cannot be separated. Should political will or real determination to fight terrorism be missing, capacity building will inevitably end in failure, regardless of the amount of foreign assistance invested.

The commitment by the military and intelligence agencies to increase police capacity is the result of outside influence and special circumstances. The default position of the military is not to invest in increasing the capabilities and authority of the police, as the military wants to be seen as the sole provider of security to the population. Any effort aimed at building police capabilities is thus likely to be met with suspicion and hostility.

Strengthening police capabilities is not just a matter of technical assistance and will succeed only if it is understood as part of a larger political process. The

effort, no matter how costly, will be meaningful only if accompanied by legislative and regulatory guarantees that the money will be spent, and the people used for the purpose and in the way they were intended. This will most likely require a stricter application of the conditions contained in the Kerry-Lugar-Berman law.

Pakistan's Police and the Military Intelligence Agencies

Any assessment of Pakistani law enforcement agencies must take into account the role of the intelligence agencies. The intelligence agencies often work as the unofficial arm of the military, both in domestic and foreign affairs. The police force, too, was historically an instrument of political repression for both civilian and military regimes. The role of the intelligence agencies would not be a problem if they didn't use terror tactics against Pakistan's opponents.

Pakistani police officials have long complained that the resources to build investigative capacities have gone to the intelligence agencies at the expense of the police. That trend was reinforced under General Pervez Musharraf, who strengthened the Directorate for *Inter-Services Intelligence* (ISI) in the aftermath of attempts on his life.

In its dealings with the various actors in Pakistan's political scene, the intelligence agencies vacillate between playing the police and detaining terrorists and keeping the police from taking action against terrorists. Police officers often assert in private that they are asked by military intelligence agencies to release militants or criminals from custody. Such actions have contributed to widespread distrust of these institutions and continue to feed a political culture that thrives on conspiracy theories.

The Report of the United Nations Commission of Inquiry into the facts and circumstances of the assassination of Former Pakistani Prime Minister Mohtarma Benazir Bhutto is a must read for anyone concerned with police reform in Pakistan. Although it is inconclusive about who actually killed the former prime minister, the report contains important insights with regard to the inner workings of Pakistani law enforcement.

The report offers perhaps the most striking documented example of intelligence agency interference in police work. In the case of the Bhutto investigation, the role of the intelligence agencies far exceeded assistance in investigations, and had the effect of subordinating law enforcement institutions. "Whatever little direction the police investigators had was provided to them by the intelligence agencies," says the Commission, which clearly states that they, "including the Inter Service Intelligence (ISI), were present during key points in the police investigation, including the gathering of evidence at the crime scene and the forensic examination of Mrs. Bhutto's vehicle, playing a role that the police were reluctant to reveal to the Commission." The ISI was conducting its own

investigation at the same time but only selectively shared the evidence it collected with the police. The intelligence agencies hampered the investigation all along, impeding the search for truth.

The asymmetry of power between the army and its intelligence agencies on the one side, and the police on the other, deeply affects the latter's behavior. In many instances the police have refused to confront organizations that they knew to have a privileged relationship with the intelligence agencies. *Lashkar-e-Taiba*, a terrorist group operating out of Pakistan, is one such organization.

Tension between the police and intelligence agencies clearly influenced the investigation of Benazir Bhutto's murder. The UN Commission believes that the failures of the police "were driven by uncertainty in the minds of many officials as to the extent of the involvement of [the] intelligence agencies. These officials in part fearing involvement by the intelligence agencies, were unsure of how vigorously they ought to pursue actions that they knew, as professionals, they should have taken."

The intelligence agencies' interference does not exclude specific police responsibility for the dysfunctions of police institutions, as recently observed following terrorist attacks in Lahore. This poor performance of the police allowed the intelligence agencies to accuse them of inefficiency in dealing with extremism. For example, the ISI today blames the police for its management of the July 2007 Red Mosque incident in Islamabad, while at the same time claiming that it did not ignore what was going on within the Mosque located about 500 meters from its headquarters. Such was also the case in the scandal that followed the release of the UN report of the Commission of Inquiry. Eight police officials were suspended. Not a single military or agency official was blamed, although the report clearly confirms their responsibility for the failure of the investigation.

In reality, the police can only conduct efficient operations when there is at least a minimal consensus within the security establishment. Shoaib Suddle, former head of the Intelligence Bureau (IB), was able to successfully confront the Muttahida Qwami Movement (MQM) in the mid-1990s because the ISI, under the leadership of Lt. General Asad Durrani, was also trying to weaken the MQM at the beginning of the decade.

The police-intelligence problem is exacerbated by an asymmetry that allows military officials, serving and retired, to lead the police and civilian intelligence agencies. Brigadier Ijaz Shah led the Intelligence Bureau under Musharraf's presidency and, as such, was in a position to influence the orientation of the organization. By contrast, there is no civilian in a leadership position in the ISI, although the institution does employ civilians.

The practice of placing military officers at the higher echelons of law enforcement institutions seems to have diminished since the February 2008 elections. It has, however, been more than compensated by the de facto militarization of the police at the lower ranks. The 5,000 police officers trained in

counterterrorism in the North-West Frontier Province (NWFP) are all said to be former military.

The military and their intelligence agencies are thus present at all levels of the law enforcement structures set in place to combat terrorism. Such a role would and should be considered abnormal outside of Pakistan. Given the intelligence agencies' past and present role in supporting terrorism in the country, the institutionalization of their presence in the law enforcement institutions creates de facto a conflict of interest.

The Politicization of Pakistan's Police

The role played by the intelligence agencies does not tell the whole story however. Politicization and "clientelism" are largely responsible for the current state of Pakistan's police. But this politicization reflects the ambivalence and contradictions of Pakistani society historically, as both civilian and military regimes have used the police as an instrument of repression against the opposition.

In addition to being used to further the political objectives of various groups, the police itself gradually became politicized. In a report published in 2001, former inspector general of police Muhammad Shoaib Suddle complained about the "arbitrary and whimsical (mis)management of police by the executive authority of the state at every level—policemen were increasingly recruited, trained, promoted and posted without regard to merit and mainly for their subservience to people with influence and power."

This trend was particularly pronounced in the 1990s. Muhammad Shoaib Suddle insists that "the last decade of the 20th century particularly witnessed an almost complete collapse of the existing law and order apparatus thanks mainly to growing and reckless interference in vital aspects of police administration by the 'persons of influence.'" Nominations were decided on the basis of political affiliations (initially with the PML-N and the PPP, then later with the MQM in Sindh and the NPA in NWFP). As a result, police standards kept declining while public mistrust for the police kept increasing.

Musharraf and Police Reform

As a consequence of the politicization of the police, many in and outside of the institution welcomed the Police Order introduced by Musharraf, believing it would transform the police into an effective protective body for Pakistani citizens.

The Police Act of 2002 formally placed the police under oversight bodies composed of both elected and nominated members at the district, provincial, and national levels, while an additional check was placed on the police through the creation of an independent prosecution service. Citizen liaison committees were also established to facilitate contacts with the wider public. Safety

commissions and offices of police complaints were meant to ensure public accountability. Autonomy in administration and investigation was also supposed to guarantee operational neutrality. The police itself was reorganized along functional lines into various branches and divisions (ranging from investigation, intelligence, watch and ward, and guard duties) to improve efficiency. The posting of officers to the specialized branches was to proceed according to qualification and experience.¹

An exhaustive analysis of the system Musharraf intended to set up would go beyond the focus of this paper, as it would have to examine the consequences of the devolution process for the police. Devolution created, in effect, a new client for the federal government at the local level. It shifted public oversight of the police from the deputy commissioner (the authority controlling a district's executive, judicial, and revenue functions) to the mayors (*nazims*), but did not make the police more effective or more autonomous.

However, under pressure from his political allies, who feared they would lose control over the police, Musharraf introduced a series of amendments in the Police Act in 2004, which undermined the spirit of the reform. The role of the oversight bodies was drastically reduced and political interference reintroduced. Appointments, transfers, and evaluations no longer needed to be approved by the oversight bodies and therefore ultimately depended on the politicians at almost all levels. In order to secure their career prospects, police officers had no choice but to do the bidding of their political masters.

The Musharraf era illustrated the many contradictions in Pakistani society. Musharraf took power as a reaction against corrupt politicians endangering the future of the country but gave in to the pressures of the same political clique (the PML-Q was mostly composed of former PML-N members who had rallied around Musharraf after the coup) on a reform that, if successful, would have brought him real popular support.

It is also unclear whether Musharraf ever intended to make the police a truly autonomous and efficient body. He officially wanted to improve the police force but deprived it of adequate resources, increasing instead the capabilities of the intelligence agencies. Many in Pakistan's police believe today he did more harm than good.

Today the fate of police officers remains linked to the interests and goodwill of politicians. When Shabaz Sharif lost his position as chief minister of Punjab in February 2009, all of the high ranking civil servants from the provincial police force were relieved of their duties. They were reintegrated when Shabaz was reinstated as chief minister.

Capacity Building and Political Will: A Chicken and Egg Problem?

The above arguments do not mean that building capacity is not worth considering, simply that its absence so far is the result of a deliberate policy.

The National Highways and Motorways Police force is sometimes presented as a success story that could and should be replicated in other branches. Top-level commitment, effective leadership, better wages, a favorable work environment, and an emphasis on equality before the law are some of the characteristics of this department.² However, this specific specialization is devoid of any political content. As a result, proper funds are allocated and leadership is not an issue.

So far, the Pakistani police force enjoys a degree of autonomy only when its leadership pursues good relations with the military—namely, when the police leadership tolerates or endorses domestic military objectives. As a matter of fact, the leaders are chosen according to their acceptability to the military. It would be delusory to believe that any reform of the police will be successful if it is limited to purely technical aspects (training and equipment).

Police reform in Pakistan must take place within a larger democratic evolution of the political system. Since 2008, the army itself trains carefully-selected police officers, which shows the recognition of a need for a competent police force, despite the persistent mistrust between the army and the police. However, unless the democratic question is addressed, the process will result in the militarization of the police, not the strengthening of civilian law and order capabilities.

It would, however, be desirable to condition any assistance to or cooperation with the Pakistani police on regulatory and legislative changes in order to guarantee the autonomy of the police.

Pakistan's government should provide guarantees that the forces constituted as a result of U.S. and international assistance will be used for the purpose they were created for and not dispersed to other units.

There is no doubt that accusations of interference will continue to flourish. These accusations will, however, be unjustified. Relations with Pakistan should be transactional, even if they are bound to remain asymmetrical. Nor should the argument that Pakistan is already paying the cost for the Western war against terrorism be accepted at face value. Pakistan is indeed paying a heavy cost to fight terrorist groups but it should be remembered that it created or supported these groups itself.

Building Capabilities Versus Not Antagonizing the Military: A Dilemma that Should Not Be

The Kerry-Lugar-Berman law provides an adequate framework to deal with balancing capabilities and the military's influence. It contains a set of recommendations and, through its system of conditionality, all the required means of action. It should, however, be applied more strictly. The way in which it has been used so far by the State Department accepts the logic of a dilemma between the legal requirements and the need to not antagonize the Pakistani military because of the war on terror.

Accepting this dilemma amounts to defeating the very purpose of the law itself. The artificial separation between domestic terrorism—which is recognized as such by the Pakistani army and therefore must be fought, including with foreign assistance—and foreign terrorism carried out by Pakistan's proxies that cannot be touched by the regime, is a fundamental contradiction that must be addressed.

There is no need here to adopt an “all or nothing” approach. The slowing of aid disbursement by the United States when the Pakistani administration was creating problems in delivering visas for U.S. diplomats shows that the system allows a large degree of flexibility. In fact, all countries should deal with the Pakistani establishment in this way.

This is in no way a plea against strengthening law enforcement capabilities in Pakistan—quite the contrary. Many Pakistani police officers benefited from international training in the past and participate in United Nations operations. There is a real know-how and a willingness to reform the institution within the police itself; similarly, many police officers resent their dependence on an army that tends to monopolize resources and impedes their room to maneuver.

These people need to be helped to turn the police into an instrument of public service, not of military repression. Police reform should not be allowed to serve as an alibi for the Pakistani intelligence agencies' selective fight against terrorism. Only under these conditions will the Pakistani police become an effective instrument for fighting terrorism and a contributor to security and stability in Pakistan and beyond. The failed terrorist attack in Times Square has once again demonstrated that police reform in Pakistan is indeed the need of the moment.

Notes

¹ *Reforming Pakistan's Police*, Asia Report no. 157, July 2008, International Crisis Group, Brussels/Islamabad, http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/157_reforming_pakistan_s_police.ashx.

² See Hassan Abbas, *Police and Law Enforcement Reform in Pakistan: Crucial for Counterinsurgency and Counterterrorism Success*, Institute for Social Policy and Understanding, April 2009.

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