

FEDERALISM AND INTERNAL SECURITY IN THE AGE OF TERROR: POLICE IN PAKISTAN

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INTRODUCTION

Like many of its counterparts in the developing world, Pakistan has consistently struggled to develop inclusive and decentralized state institutions. From its inception in 1947, the state has generally operated like a unitary state. Institutional experiments such as One Unit, oscillation between civilian and military rule have all led to creation of an extremely centralized state structure that functions in a top-down fashion. In a deeply complex and heterogeneous society like Pakistan, the creation and operationalization of closed institutions has led to the emergence of autonomy movements, ethnic parties and agitational politics – waged by both majority (Bengali) and minority (Balochis, Sindhis, Pakhtuns and Seraikis) groups. Amidst all the chaos, the state managers in Pakistan have adopted federalism since 1973. This paper will make an effort to provide a brief discussion of the federal structure of Pakistan with a special focus on internal security. Within the domain of internal security, this paper will highlight the functioning, ethos, performance and evolution of police force in Pakistan. The role of other security institutions such as the armed forces, paramilitaries and intelligence agencies will not be directly discussed owing to the limitations of space and time.

HISTORY OF FEDERALISM IN PAKISTAN

Pakistan's centralized and exclusionary state ethos can be traced back to the British colonial heritage. The British model of state management in India was transitioned and adopted after independence. In the post-colonial, fragmented and heterogeneous society of Pakistan, establishment of devolutionary federalism should have been one of the first policy decisions. In such settings, federalism acts as an instrument of conflict-management. But this was not the case and the result was a story of political instability and conflict. The history of federalism in Pakistan can be divided into three different phases. The first phase comprises colonial heritage when the Government of India Act 1935 attempted to provide a basic framework of division of powers between Center and provinces. This act of legislation set the stage for provincial autonomy and provided a blue-print for future administrative re-structuring of the post-colonial state in Pakistan. Following the transfer of power, the state managers pursued policies of centralization. In this second phase of federalism, the focus was on enhancing the powers of central government at the expense of provinces. An institutional reflection of this stringent centralization was the One-Unit formula. Both the 1956 and 1962 Constitutions were based on this scheme. The result was a disastrous internal conflict followed by a bloody civil war and cessation of East Pakistan. Following the break-up of the country, federalism finally entered the constitutional and political landscape through the 1973 Constitution. It laid the foundations of a *dejure* federalism in Pakistan. This was an exercise in demos-constraining federalism as Punjab with its 58 % demographic strength was the overwhelmingly dominant member of the federation.¹ The 1973 Constitution provided a theoretical foundation of federalism in Pakistan and created several new institutions such the Council of Common Interest and bicameralism with the foundation of the Senate. However, for a variety of reasons, these institutions failed to live up to the expectations and Pakistan continued to survive as a *defacto* centralized state.

The most important step towards decentralization was taken in the form of the 2010 18th Amendment. This constitutional amendment has been celebrated as a landmark event in the history of constitutional development and federalism in Pakistan. This legislation sought to strengthen parliamentary sovereignty, provincial autonomy and representation of religious minorities in the Senate. Critics of this Amendment have highlighted several shortcomings, including the failure to transfer any substantial financial powers to provinces and limited administrative decentralization. Six years into the passage of the 18th Amendment, the project of creating a federalized Pakistan has been stymied due to logistical and political considerations.² Having briefly discussed the general framework and evolution of federalism in Pakistan, I will now examine the theoretical and operational dynamics of internal security in the *de jure* federation of Pakistan.

INTERNAL SECURITY – POLICE

Pakistan being a post-colonial state inherited the security institutions from the British Raj. On the eve of independence, internal security – especially police – was structured around a set of laws and institutions that were first codified in 1861. After independence, it took Pakistan more than half a century to come up with a new legislation covering the bare minimum details surrounding the functioning of police. The colonial police functioned in an extremely centralized and authoritarian manner, driven by the goals of being a "people-frightening organization".³ During the British Raj, police comprised a collection of semi-militarized and extremely hostile official who enjoyed an almost adversarial relation with the local population. In addition to maintaining law and order, the police had to perform the function of collecting revenues according to the 1861 Act. This fundamental ethos of colonial police unfortunately has been continued after independence. In the post-independence era, the civilian and military regimes regularly used police as an

instrument of oppression against their opponents as well as the wider public at large. It is due to these practices that in terms of popular perception of state institutions, police has been one of the most hated institutions in Pakistan. Part of the reason lies in the way this institution has been used and abused by the state managers. In essence, post-independence leadership of Pakistan continued to rely upon police as an instrument of coercion. In this respect, unfortunately both civilian and military regimes fare equally poorly. The three military regimes of Ayub, Zia and Musharraf unceasingly relied on police to brutally suppress the opposition.⁴ This basic institutional ethos surrounding the culture of internal security in Pakistan has generally survived to this day.

As stated previously, the origins of the current police system of Pakistan can be traced back to the colonial period. Having started with some encouraging beginnings, the 1857 Mutiny deeply impacted the colonial state's imagination. Far from establishing a London-styled police in India, the Raj focused on building an oppressive and frightening state machinery that could keep the natives on a tight leash. Hence in the Police Act of 1861, the provincial police departments were to be headed by Inspector General of Police (IG) who was to be centrally appointed. This was a significant policy decision that set the stage for creation of an oppressive and almost-unitary police force in the sub-continent. The IGs were to spearhead a team of Deputy IGs who were going to be appointed on regional and provincial criteria.⁵ At the district level, the police was also responsible to District Magistrate, another key position established by the central government to keep a check at the local level developments. As the IG maintained control over technical, financial and organizational sphere of police, the District Magistrate controlled the operational aspects of police work at the district level. Hence according to the 1861 Police Act, the overall structure of functioning of police at the provincial and district level was controlled by a top-down ethos in which center's appointees, i. e. IGs and District Magistrates called the shots at the local level.⁶

There were some initial efforts undertaken in post-independence Pakistan to change the centralized and oppressive character of police forces. One of the earliest proposals dealt with the experimental founding of metropolitan police force in Karachi. In this regard, the Sindh Legislative Assembly passed a bill in February 1948. However, it never led to any serious initiative for re-organization of Pakistan police force. Political instability, institutional inertia and lack of initiative kept the status quo maintained. Police as part of the larger bureaucracy underwent some changes during the Z. A. Bhutto period. After taking over power, Bhutto immediately terminated 1,300 civil and police officers. As a result of Bhutto's reforms, the "constitutionally guaranteed protection of employment" as well as protection from political interference for government officers was removed. Bhutto's reforms led to further politicization of Pakistan police. Through a system of "lateral entry" large number of police officers was inducted by passing the Federal Service Commission. Bhutto also used police force to crush dissent and opposition.⁷ Hence Bhutto's overall reforms of police and civil service failed to enhance the professionalism and performance of police force in Pakistan. Another half-hearted attempt at reform was made by the Junejo government in the mid-1980s that proposed the establishment of a new modern metropolitan police force in all the major cities of Pakistan with a population in excess of 500,000. But these policy plans also fell prey to dynamics of decision-making as Junejo government hardly enjoyed any autonomy and was eventually dismissed by General Zia in 1988. Following the return to multi-party democracy, the civilian governments failed to take any steps for police reform.

After the 1999 military coup, the Musharraf regime took up this agenda of police reform. As a result, Police Order 2002 was passed that replaced the previous colonial-era legislation. This was by far the most important single piece of legislation dealing with police since independence. At one level, it is a landmark bill considering it has replaced almost 150-years old colonial law. But on the other

hand, it has failed significantly in bringing about the desired changes in the working of police force in Pakistan. In terms of outreach, the Police Order 2002 was confined to the four provinces of Punjab, Sindh, Balochistan and Khyber Pakhtunkhwa (KP) leaving the capital Islamabad, Gilgit-Baltistan and Azad Kashmir out of its purview. As per further developments, this legislation was made part of the 6th Schedule of the Constitution under the 17th Amendment making it mandatory to acquire the consent of the President in consultation with the Prime Minister before any alterations could be made.⁸ Several major changes were introduced by the 2002 Police Order. For instance, the district level operational control of police was passed onto the office of *nazim* (elected mayor) – something that was strongly opposed by the bureaucracy. Another positive step in the direction of enhancing the public accountability and credibility of police was the creation of Public Safety Commissions.⁹ In theory, the fundamental objective of these initiatives was to make police force more efficient, politically accountable with greater civilian control. But in practice, not much has changed in the control, administration and performance of police in Pakistan. The Public Safety Commissions have remained a redundant structure. Due to the precarious security situation, internal security has been dominated by the military.

These details are significant because we are trying to locate the structure of police within the larger framework of federalism in Pakistan. As we have observed for most of its existence in post-independence Pakistan, police like the rest of the bureaucracy has been centralized and operated with little or no territorial, regional and operational autonomy, even when the structure of federalism in Pakistan underwent changes following the introduction of the 2010 18th Amendment. Here it is important to understand what impact (if any) the 18th Amendment has made on the Police Order 2002. After the passage of the 18th Amendment, the proponents of provincial autonomy and devolution argued in favor of provincializing the police forces. This point of view was opposed by

professional police officers who argued that in times of internal security crisis a one-frame-fits-all kind of police force is necessary to overcome security challenges.¹⁰ The Police Order 2002 as amended in 2004 was part of the 6th Schedule of the Constitution which comprised thirty five laws. Any change in these laws required the prior consent of the President.¹¹ It has been argued that with the removal of Sixth Schedule of the Constitution through the 18th Amendment, the status of Police Order has not changed. Debate has raged on the issue of provincial control of police forces following the removal of 6th Schedule and the Concurrent List. Beyond these constitutional and legal debates, the single most important factor that has influenced the autonomy of police force in Pakistan has been the escalation of internal conflict during the last one and half decade.

TERRORIST VIOLENCE

During the last fifteen years, Pakistan has faced heightened political violence and terrorism. Pakistan's traditional security framework has been dominated by threat perception vis-a-vis its eastern neighbor and rival India. Its security forces have been trained and equipped to deal with conventional warfare fought against external actors. However, the events of last one and half decades have shown the inadequacy of this traditional security paradigm. Within a span of a decade (2003-2013), terrorist violence cost the lives of more than forty seven thousand Pakistanis including both the security personnel and ordinary civilians. This is a staggering number that shows the severity of challenge faced by the Pakistani state. Some of the country's leading public figures such as former Prime Minister Benazir Bhutto, former Punjab governor Salman Taseer and moderate Sunni cleric such as Maulana Sarfaraz Naimi have been assassinated. There has been an upsurge in violence against minority communities.¹² There has also been an international cost of this violence with neighboring states and international community constantly holding Pakistan responsible as a sponsor of terrorism. Pakistani

state's alleged support to the Haqqani network and other offshoots of the Afghan Taliban prompted the US to launch military strikes inside Pakistani territory through un-piloted drone attacks. These drone attacks have led to killings of countless ordinary civilians, generating resentment against the US and Pakistani government thereby providing an excellent propaganda opportunity for militants in their quest to win the hearts and minds. The famous "good Taliban vs. bad Taliban" approach epitomized the lack of clarity in the thinking of Pakistani establishment. This confusion however did not remain confined to the security establishment alone. Political parties, media and the wider Pakistani public especially the Western-educated upper and middle classes expressed a sympathetic and almost apologetic attitude towards Taliban and their band of brothers. In March 2010, Punjab's Chief Minister Shahbaz Sharif after a particularly prominent terrorist attack requested the TTP to spare Punjab since PML-N did not support Musharraf government's policy for coalition with the US in the war against terrorism.¹³ The PML-N is known to have historically close linkages with some of the banned terrorist sectarian outfits. Pakistan Tehreek-i-Insaaf (PTI) along with religious parties such as Jamaat-i-Islami (JI) and Jamiat-i-Ulema-e-Islam (JUI) have consistently adopted Taliban-sympathetic attitudes. However, this ambiguity towards Taliban was finally brought to an end by the events of 16 December 2014. On this day a handful of Taliban terrorists stormed a school deep inside the cantonment area in Peshawar and went on a rampage. This gruesome attack on Army Public School (APS) Peshawar that claimed the lives of almost 150 school children finally brought to an end Pakistani state's policy of ambiguity and confusion towards non-state actors. Within days, a comprehensive counter-terrorism policy was announced. Known as the National Action Plan (NAP), this plan attempted to provide a comprehensive solution to military, strategic, economic and ideological dimensions of terrorism in the country. The current strategy proposes to tackle the triad of "insurgency, terrorism and radicalization".¹⁴ The Pakistani police

has been at the front line of this war against terrorism suffering extremely high casualties.

The NAP has created parallel, sometimes overlapping security institutions that have tended to undermine the morale and motivation of regular police officers. For example since the enactment of NAP, a new Counter-Terrorism Force (CTF) has been established. The members of this force are deployed in special counter-terrorism cells in police stations and enjoy much higher pay scales than average police officers (the difference sometimes exceeds up to 50,000 per month). It has led to resentment and de-moralization among regular police officers. While exploring the effect of new counter-terrorism security institutions, it is useful to briefly focus on the on-going security operation in Karachi. Since March 2015, the Rangers have launched an active military operation in Karachi. The Rangers rely on a separate chain of command and are nominally controlled by the provincial government. With their active involvement in the Karachi operation, they have taken the initiative away from Karachi police. It has led to marginalization of civilian institutions. Parallel security institutions have been established such as ISI-supported counterpart to the Citizen-Police-Liaison-Committee (CPLC). Parallel call-in complaint centers have been established. Often the review meetings to oversee the progress of Karachi operation take place in the army headquarter. These meetings are led by the Army Chief Gen. Raheel Sharif. Provincial government is completely kept out of these discussions. The police officers have complained that Punjabi-dominated Rangers seem to have targeted certain ethnic groups (e. g. recent Pakhtun migrants for their alleged linkages with the TTP) during this operation. They feel that such tactics will create long-term problems by generating sympathy for criminal gangs in the targeted groups.¹⁵ In addition to the all-pervasive influence of Rangers, another parallel institution that has been created are the apex committees. These committees comprise of both military and civilian top brass. In practice, it is the military that sets the agenda.

With the introduction of NAP and an escalation in counter-insurgency operations, there has been an unfortunate tilt towards centralization. While there have been some measures taken during the last decade to beef up the police. All in all the deepening of internal conflict in Pakistan has further strengthened the hands of the military establishment. Civilian political leadership, bureaucracy and police have all been further sidelined. Civil-military imbalance has further increased. The war on terrorism has resulted in further curtailment of civilian and institutional autonomy of police force. This statement stands true in the post-18th Amendment Pakistan. During the last decade especially since the return to civilian rule, the number of police officers has doubled, jumping from 220,000 to 430,000 according to one estimate.¹⁶ But an increase in numbers is meaningless in the absence of operational autonomy, training, equipment and resources.

CONCLUSION

This paper has briefly attempted to understand the dynamics of federalism in Pakistan with a focus on police force. I have argued that Pakistan inherited a centralized and exclusionary state structure on the eve of independence. The *de jure* federalism established in the 1973 Constitution was reformed through the 18th Amendment of 2010. The Police Order of 2002 finally brought an end to the colonial era-legislation governing the police. It was a step in the direction of making police force more autonomous, people-friendly and accountable. But with the escalation of internal conflict in Pakistan, the objective of federalization, devolution and regional control of security remains a distant dream.

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NOTES

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