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Editorial

Having got the opportunity to write the editorial for the first time, it gives me immense pleasure to communicate with the readers in this new position. Thanks to the busy schedule of the Editor-in-Chief, Mr. Fasihuddin, in attending international conferences and seminars and his frequent posting-transfer within the country, that the responsibility of writing the editorial fell upon my shoulders.

The launching ceremony of the last issue was a big event in the development and dissemination of the criminological literature in Pakistan. The ceremony was arranged at the Police Club, Peshawar on April 24, 2012 and was attended by higher officials from police, the criminal justice community, the academics, members from both the printed and electronic media, the NGO community, and the students of social sciences and criminal justice. The Chief Guest, the Inspector General of Police, Khyber Pakhtunkhwa, lauded the efforts of Pakistan Society of Criminology (PSC) in promoting criminology and policing studies in the country. The speakers said that PSC is the name of hard work, creativity and commitment. The speakers criticized the existing training and curriculum in the police training colleges, and said that such trainings are of little effect in fighting terrorism in the area.

The recognition of Pakistan Journal of criminology (PJC) on March 28, 2012 by the Higher Education commission (HEC) of Pakistan in Category 'Y' is another big achievement of criminology in Pakistan. This is the first journal in criminology to be recognized by the HEC. It is pertinent to note that all the previous issues, right from issue 1st of PJC (April 2009), are now considered as officially recognized by the Government of Pakistan through its autonomous body, the HEC. This recognition by the HEC will help a lot in developing indigenous criminological literature in Pakistan. It is a tradition in Pakistan that the students and the academics submit their research papers only to those journals which are recognized by the HEC-the reason being a requirement for a degree or promotion to a particular position.

Furthermore, thanks to the efforts of the PSC, the Federal Public Service Commission (FPSC) of Pakistan has included the subject of criminology for the esteemed Central Superior Services Examination (CSS), 2013. This is another good news for the community of criminologists and law-enforcement practitioners. This will also help generate more books and other literature on criminology in Pakistan. About ten thousands (10,000) candidates appear in the CSS examination every year. In the said examination, the candidates have to select from the list of optional subjects, which now includes criminology, and more and more candidates are likely to opt for criminology as one of the most opted subjects from the optional list. The PSC is committed to provide for the needs of such candidates in terms of publications and coaching courses in the near future. This is how PSC is promoting criminology in Pakistan.

Like all other previous issues, this too is a blend of research articles from both the local and foreign authors. In the current issue, we are also publishing the letters and receipts of acknowledgement sent to PSC by various institutions, government officials, important personalities, and practitioners etc. We are re-producing them so that such letters can be used for reference in the developmental history of criminology in Pakistan, to be preserved in an authentic and published form. Similarly, the article of Fasihuddin (PSP) titled 'The Need for a Comparative Criminology of Policing in the Context of India and Pakistan' was originally published in the *Canadian Journal of Police and Security Services*. Vol.5.Issue.1/2.(2007).pp.59-69, which is now reproduced here for the same purpose. It is another constructive development in the history of criminology in Pakistan that the local researchers are now engaged in producing more and more research articles. It is, indeed, a positive contribution to the criminological literature, both nationally and internationally.

Similarly, PSC provides platform for joint articles of foreign and local authors, e.g. the article of Basharat Hussain and Gwyneth Boswell titled 'The Treatment and Rehabilitation of Offenders on Probation: An Assessment of the Changing Faces of Probation Service in England and Wales'. Through this platform, an interaction of experience and sharing of knowledge is coming into being between the West and the rest. This is how a common and collective pool of criminology is developed and disseminated across borders.

Basharat Hussain and Gwyneth Boswell research the origins and development of the treatment and rehabilitation of offenders on probation in England and Wales. In their study, they highlight how the Probation Service started its journey as a voluntary missionary service and eventually became an integral part of the modern day criminal justice system. They explain all those important events which have transformed the Probation Service from a philanthropic organization to a social welfare activity and, more contemporarily, into a correctional service charged with dispensing punishment. The writers conclude that the politicization of crime has compelled the Probation Service continually to revise its approach to working with the offenders.

Petter Gottschalk explores the difference between internal versus external detection of white-collar crimes. He finds that there are several substantial differences between cases of internal versus external detection of white-collar criminals: Financial amount involved in the crime is higher in external detection cases; Income of criminal persons is higher in external detection cases; tax paid by criminal persons is higher in external detection cases; and there are more persons involved in the crime in external detection cases.

Using in-depth interviews and Delphi-Technique, Col. Samroeng Saengtrong and Sunee Kalyajit have conducted research on witness protection. Indeed, it is one of the very important factors for ensuring due process of law. The article discusses the problems and limitations of witness protection in Royal Thai Police. A few of the major findings are: no courses of witness protection in the educational system of the Royal Thai Police, no checking of the witnesses' records, no checking of witnesses' physical and mental health, no orientation for witnesses before admission, and laggard in line of command and easing interference by the powerful persons. Though, the article proposes a model for Royal Thai Police, it can be generalized to other developing countries as well.

Vabhav Choudhary and A. Velan comprehensively research the area of insanity and criminal responsibility. Though their main focus remained on the insanity laws in India, they did trace the history of insanity and criminal responsibility back to the thirteenth century Europe. It is indeed a good contribution to the Pakistan Journal of Criminology.

Fida Muhammad's article 'Suicide-Bombing: A Unique Threat to Security Agencies in Pakistan' is a theoretical description of the threats posed by suicide-bombers to security agencies in Pakistan, particularly the police.

Tariq Rustam Chohan takes the issue of narcotics with reference to the performance of the Punjab Police. He seems to complain that while it is the police which performs at local level, the credit is always taken by the Pakistan Customs and / or Anti-Narcotic Force. He argues that the provincial police forces are suffering from many a constraint, whereas the ANF has the advantage of dedicated and well trained cadre, nationwide jurisdiction and inter-provincial / international network with huge budgets at their disposal. The author compares the data on the subject for the respective law-enforcement agencies in the province of Punjab. He suggests that in war against narcotics, the provincial police force should be given more focus for concrete results.

Dr. J. M. (Johan) Ras researches the drug trade in Pakistan from an existential point of view. He sees drug trade as a cognitive war. He argues that the death penalty is an appropriate sentence for all those involved in the drug trade. He links the current drug trade in the world to Taliban, which is an unusual claim that other experts might not support. He suggests the political will of the government and treating drug dealers as terrorists to be the workable solutions in fight against drugs.

Syed Rashid Ali et. al. research the area of awareness about terrorism. They show with the help of statistical tests that the level of knowledge in the educational curriculum regarding terrorism (and any other social problem) is significantly related to the level of awareness regarding terrorism.

Rohan Gunaratna discusses concepts and practices in rehabilitation of the terrorists of Swat. He argues that a new frontier in countering political violence, rehabilitation of insurgents, terrorists and extremists is a global challenge. He discusses the Pakistan Army's rehabilitation programme for the Swat terrorists and suggests that the police should adopt the same programme for the rehabilitation and de-radicalization of the extremists under their custody.

Due to some printing issue in PJC Vol 3/Number 3/Jan 2012 (the last issue), we are reproducing one article in the current issue, i.e. Prof. Geof Dean, Peter Bell, and Jack Newman's article titled 'The Dark Side of Social Media; Review of Online Terrorism'. The inconvenience is regretted.

As usual, we are thankful to the Australian Federal Police (AUSAID) for providing us a modest but well-appreciated support for printing the present issue. However, the research materials contained in the current issue belong exclusively to the writers and do not reflect any views of the Australian Federal Police.

Imran Ahmed Sajid

Assistant Editor, PJC

The Treatment and Rehabilitation of Offenders on Probation: An Assessment of the Changing Faces of Probation Service in England and Wales

Basharat Hussain & Gwyneth Boswell

Abstract

In the field of criminal justice, one of the most difficult tasks facing practitioners is how to work effectively with offenders. The aetiology of criminality is complex, yet the public expect the responsible agencies to discourage potential offenders from offending, and actual offenders from re-offending. This article describes the origins and development of the treatment and rehabilitation of offenders on probation in England and Wales. It highlights how the Probation Service started its journey as a voluntary service and eventually became an integral part of the modern day criminal justice system. In this context, it explains all those important events which have transformed the Probation Service from a philanthropic organisation to a social welfare activity and, more contemporarily, into a correctional service charged with dispensing punishment. It ends by suggesting that there are lessons to be learned for jurisdictions in other countries so that effective policy and practice may be drawn upon, and mistakes which have been made can be avoided by others.

Keywords

Community Punishment, Effective Practice, Nothing Works, Probation Service, Rehabilitation, Treatment, Welfare, What Works

Introduction

The word 'probation' derives from the Latin *probare*, meaning to test or to prove. Thus, a person on Probation has his/her punishment suspended by the Court on the understanding that he/she will try to reform; if not, further sanctions will be applied. Probation as a concept has unusual origins. Most historical literature on the subject cites the first probation 'activity' as having been initiated in the United States in 1841 by John Augustus, a Boston shoemaker, who began voluntarily to bail defendants from court under his supervision on condition that he would ensure their good behaviour and re-appearance in court on the appointed date (Bochel, 1976). Other voluntary and philanthropic work with offenders in the USA and the UK led eventually to the setting up of modern day Probation Services in those countries and elsewhere. During the twentieth century, the Service in England and Wales was seen as one of the best in the world, described by a leading criminologist as 'the most significant contribution made by this country to the new penological theory and practice which struck root in the twentieth century' (Radzinowicz, 1958). However,

its developments over time have endured mixed fortunes in line with prevailing philosophies and politics. Other authors have characterised these changes as having taken place within specific phases (e.g. McWilliams, 1983, 1985, 1986, 1987; Crow, 2001; Chui and Nellis, 2003). Drawing on these understandings, this article sets out its own six phases to assess the changing face of the Probation Service in England and Wales, and concludes with a consideration of the implications of this assessment for the future of that Service and for those in other countries.

Saving the Sinners : The Missionary Phase (1876 – 1907)

Arguably preceding the work of John Augustus in the USA, the conditional release of offenders in England was initiated by the magistrates of Warwickshire Quarter Sessions in 1820, a system whereby young offenders, after receiving a nominal one day imprisonment, were released on conditions under the supervision of their parents or masters (Raynor and Vanstone, 2002). Later on in 1840, Mathew Davenport Hill started a similar experiment in Birmingham for young offenders (Bochel, 1976). However, most literature on the history of Probation in England and Wales views its real beginnings in the work of the Police Court Missionaries, founded in 1876 by the Church of England Temperance Society (Raynor and Robinson, 2009). Its impetus lay in a letter sent from a Hertfordshire printer, Frederick Rainer, to his friend Canon Ellison, who was the chairman of the Society. In Rainer's words:

'Once a person got into trouble there seemed no hope for him but only offence after offence and sentence after sentence' (Rainer, cited in King, 1964:2)

Probation historians identify this as a defining moment for the Probation Service in England and Wales and Rainer's name remains well-known and respected in Probation circles. The Society responded to his letter by beginning to appoint missionary workers in a range of Metropolitan Police Courts in London during 1876. The work of the Police Court Missionaries soon expanded and, by 1900, there were 'over a hundred men and nineteen women' working in this role (King, 1964:3). The Society's role was to bail offenders and place them under the supervision of the Missionaries, whose job was to 'reclaim' their lives and souls. The majority of offenders supervised were those charged with either drunkenness or drink-related offences (Mathieson, 1992). It is important to note that the Police Court Missionaries were basically Christian volunteers, rather than professionally trained people, and that the reformation of offenders, or 'sinners' also revolved around the concept of 'mercy'. They had to show reasons to the court as to why 'mercy' should be shown to the offenders whom they were seeking to reform (McWilliams, 1983).

The initial success of this voluntary work soon opened the debate about accepting and adopting such an approach as a public service. The Summary Jurisdiction Act 1879 is regarded as the first Probation statute in Britain (Leeson, 1914; McWilliams, 1983). The Act gave legal recognition to the existing voluntary practice of the Police Court Missionaries. It allowed the conditional release of young or petty offenders, both male and female, without sentence, under their supervision (Raynor and Vanstone, 2002). However, McWilliams (1983) has argued that it was also a government move to reduce prison numbers and prison costs rather than to rehabilitate offenders, a theme which has continued to pervade the history of the Probation Service in England and Wales, and beyond.

In the meantime, on the other side of the Atlantic, the Massachusetts informal Probation system, which had been in practice since John Augustus' initiative in 1841, was given a statutory status in the Massachusetts Act of 1878. The Act required the appointment of paid Probation Officers to work with different courts in Boston. These developments encouraged policy makers in Britain to follow in the footsteps of the Americans by introducing the conditional release of first offenders under the supervision of Police Court Missionaries, which was passed by the House of Commons in 1886, then rejected by The House of Lords, but ultimately passed the following year. The Probation of First Offenders Act, 1887 included provisions for the supervision of offenders similar to those in the Massachusetts Act of 1878. Its major development was the introduction of the word 'Probation' for the first time in the penal history of Britain. However, the scope of this Act was limited. It was available to first offenders involved in more serious offences such as larceny and false pretences, and other offences not punishable by more than two years imprisonment. Further, despite its official recognition, Probation remained the work of the Missionaries outside the State administrative structure (Chui and Nellis, 2003).

Thus, the birth of the modern Probation system in both the USA and England and Wales can be traced back to the 'pioneering activities of philanthropic individuals rather than any initiative by the State or other official bodies' (Brownlee, 1998:64).

The Treatment and Rehabilitation of Offenders: The Welfare Phase (1907-Early 1970s)

The efforts of the Police Court Missionaries, and the American example of a statutory Probation system, paved the way for the enactment in England and Wales of the Probation of Offenders Act in 1907. The scope of the 1907 Act was much wider than that of the Probation of First Offenders Act, 1887. It was not limited to first offenders, but included all types of offenders except those involved in murder and treason. Probation would now be applicable to 'all reclaimable offences'

(Leeson, 1914:7). Probation was not viewed as a sentencing option in its own right; it was rather 'instead of sentence', in reality an alternative to custody available to the Courts (Nellis, 2001). The 1907 Act asked Magistrates' Courts to appoint paid Probation Officers whose job would be to 'advise, assist, and befriend' offenders under their supervision and to find these offenders suitable employment (Brownlee, 1998:65).

In fact, almost half of those appointed as Probation Officers were former Police Court Missionaries who were still being funded by the Church of England Temperance Society (Jarvis, 1972). The Society also retained control over the direction and philosophy of the Probation Service alongside the Petty Sessional Probation Committees, and this remained the case until 1936. Nevertheless, the Probation of Offenders Act, 1907 was the first legislation to bring the Probation Service under State control (Chui and Nellis, 2003). Furthermore, the Act not only laid down the foundation of the Probation system in England and Wales, it was later exported to the British colonies including the Indo-Pak subcontinent (King, 1964). In 1923, new sections were inserted into the Criminal Procedure Code of 1898 (amended 1923) which empowered courts in the British colony of India (which included Pakistan) to place certain offenders on Probation.

The Probation of Offenders Act, 1907, a fundamentally constructive initiative, nevertheless soon began to reveal its limitations and weaknesses. It was widely used in some courts but relatively little in others. There were wide variations in practice and even in the appointment of Probation Officers (Leeson, 1914). Three subsequent developments then began to influence its future direction. The first was the foundation of its professional body, the National Association of Probation Officers in 1912; the second was a move towards setting up a countrywide Probation Service; and the third was the publication of a Home Office Departmental Committee report on 'The Training, Appointment and Payment of Probation Officers' in 1922 (King, 1964). The latter's recommendations were incorporated into the Criminal Justice Act of 1925 (amended 1926). The 1925 Act legislated for the establishment of a comprehensive Probation Service across the country and empowered courts to appoint Probation Officers. Whilst the Service was now countrywide, the Act nevertheless preserved its local basis (Whitfield, 1998).

There is no doubt that the Criminal Justice Act 1925 (amended 1926) provided the basic framework for the development of the Probation Service in England and Wales. However, there were still some problems hindering the Service's progress. Its preservation in local hands resulted in an uneven development, according to varying local responses. The Home Office asked the local Probation Services to ensure the careful selection of Probation Officers, and to give them as many cases as they could manage to supervise. However, the appointment of Probation Officers

was not regular. Some Courts had part-time unqualified Probation Officers, and some did not have any at all. Many Courts did not have any female Probation Officers (Whitfield, 1998).

McWilliams (1985) cited two important documents published in the mid-1930s, which played an important role in rectifying the problems outlined above and promoted the gradual move of Probation towards a professional service. The first was *A Handbook of Probation and Social Work of the Courts*, produced by the National Association of Probation Officers in 1935, and the second was the *Report of the Departmental Committee on the Social Service in the Courts of Summary Jurisdiction* published in 1936. Both documents acknowledged the difficulties currently hindering Probation work. Although they both recommended a move away from the missionary ethos to the diagnosis and treatment of offenders, they nevertheless suggested retaining its missionary zeal. Furthermore, the 1936 Home Office Departmental Committee recommended that Probation should remain under the control of local areas while the Home Office itself should take more responsibility for the organisation and direction of the service (Williams, 1970). The recommendations of the 1936 Committee were later incorporated in the Criminal Justice Act 1948.

Thus the religious, reforming ethos and the legislative developments of the first half of the twentieth century had laid the foundations for a Probation Service which represented a welfare-orientated and rehabilitative ideal, but was now ripe for a more professional and treatment-based approach to its charges. This was reinforced by the desire of post-Second World War governments to reconstruct and develop State welfare services after the devastation of war. It

'required State action and could not be left to markets because much of it was carried out on behalf of people who had few or no resources and consequently no market power'.

(Rayner, 2012: 176)

Probation Officers in the period following the Criminal Justice Act, 1948 began to be trained in one-to-one casework and other 'treatment' techniques, again emanating from their counterparts in America. Offenders had to consent in Court to a Probation Order, report regularly to their Probation Officer and receive visits from him or her at home. Probation Officers were highly respected by their Courts and their Services, and had almost complete autonomy as to how they worked with their Probationers. Most favoured the one-to-one casework approach as propounded by Biestek (1961) but some found group work most effective and others employed activity-based methods. Professional debate within the National Association of Probation Officers and indeed in local Probation teams often centred around such

vexed questions as to whether treatment was something which could be applied to a 'diagnosed' problem (McWilliams, 1986), whether it could simultaneously embrace both care and control, welfare and punishment, or whether these concepts were mutually exclusive (Boswell 1985; Boswell, Davies and Wright, 1993). In the meantime, however, little effort was being made to discover to what extent these efforts were having the desired effect of preventing re-offending. These chickens were gradually to come home to roost as the century wore on.

Nothing Works : Diversion from Custody Phase (Mid 1970s – 1982)

From the 1970s, the Probation Service started to head into a third and somewhat chaotic phase, marked by considerable moves from its traditional welfare-oriented theory and practice towards more punitive community measures, aimed primarily at reducing the prison population. Probation was increasingly perceived as 'soft on crime' (Robinson and McNeill, 2004:281). The apparent lack of effectiveness of rehabilitation programmes in reducing offending came under attack from politicians and academics, resulting in the emergence of the 'Nothing Works' agenda (Davies, Croall and Tyrer, 2005). In 1974, Martinson published his infamous paper, 'What Works? Questions and Answers about Prison Reform'. His assertion that very few, if any, methods succeed in rehabilitating offenders, was based on a review of 231 research studies using different therapies with offenders between 1945-67. These studies had looked at a wide range of therapeutic techniques such as counselling, individual and group work (Easton and Piper, 2005). In his article, Martinson presented a pessimistic picture about the whole range of treatment programmes. He concluded that:

'With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism' (Martinson, 1974, cited in Easton and Piper, 2005:286).

In the UK, the Home Office Research Unit conducted a research study on the Intensive Matched Probation After-Care and Treatment Programme (IMPACT) in 1976, to see whether intensive community-based treatment programmes worked with offenders who otherwise would go to prison (Folkard, Smith and Smith, 1976). The research was carried out in four areas: Dorset, Inner London, Staffordshire and Sheffield during 1971-72. Approximately 500 male offenders aged 17 or above were allocated to either a control group or an experimental group. Crow (2001) stated that 'the findings were consistent with Martinson's conclusion that no general treatment effect could be demonstrated' (Crow, 2001:28).

Further, Brody's (1976) work, *The Effectiveness of Sentencing*, generally seen as the British version of Martinson's study, supported Martinson's views. Brody reviewed UK sentencing policies and found 'no evidence to suggest that a particular

type of sentence was more effective than others in preventing re-offending' (Easton and Piper, 2005: 286). The evidence from these studies constituted a serious blow to the dominant rehabilitation philosophy (Hedderman and Hough, 2004). Martinson's paper was mistakenly quoted in many places, which resulted in the emergence of the 'nothing works' phase in the penal paradigm. As Whitfield put it:

'Martinson's work produced a very pessimistic assessment of the effectiveness of a whole range of treatment provision, which was generally taken to conclude that, in fact, nothing works; or not very much at all' (Whitfield, 1998:15)

The attack from politicians and academics on the traditional optimism about rehabilitation of offenders led to a decrease in the use of Probation Orders in the Courts. Offenders were sentenced to fines instead of being placed on Probation. A further development was the introduction of shorter Probation Orders of six months' duration, and the courts' reliance on these. Bottomley and Pease (1986:90) argued that the decade of 1968-78 could be characterised as the 'decade of probation's decline'.

The proponents of the rehabilitation philosophy widely criticised Martinson's work. Advocates of the treatment philosophy, including Palmer (1975), argued that some programmes can work for some offenders and that Martinson in 1974 had overlooked these. What he [Martinson] was looking for, was 'a guaranteed way of reducing recidivism' (Crow, 2001:58).

Martinson later admitted to methodological deficiencies in his 1974 study. He produced more positive evidence and came up with the conclusion that some approaches work with some offenders. After his early review of the effectiveness of correctional treatment which led to the 'nothing works' article, Martinson later studied a further 555 treatment programmes, which led him to a different conclusion:

'However, new evidence from our current study leads me to reject my original conclusions and suggest an alternative more adequate to the facts at hand....The very evidence presented in the article indicates that it would have been incorrect to say that treatment had *no* effect ... More precisely, treatments will be found to be 'impotent' under certain conditions, beneficial under others, and detrimental under still others' (Martinson, 1979, cited in Crow, 2001:59).

Easton and Piper suggested that, by the late 1970s, Martinson's work was considered to be 'out of date' because the proponents of rehabilitative approach argued that:

Large scale studies of re-offending do not tell us enough about *which* individuals were helped by *which* programmes, and the individual who is helped may be overlooked in data on those who were not (Easton and Piper, 2005:286).

Despite all the new evidence from Martinson's work and others, there was little support left for the treatment model. This evidence had appeared at a time when the damage had already been done and rehabilitation was dead in the water (Whitfield, 1998). However, there were some positive outcomes following the professional despondency engendered by Martinson, whereby:

'Practitioners had to find their own sources of optimism and belief in what they were doing. As a consequence the 'nothing works' era actually became a period of creativity and enthusiasm in the development of new methods and approaches' (Raynor, 2002:1182).

Overall, however, the 'Nothing Works' phase had reduced the credibility of the work of the Probation Officer, and it ended with the Service being mainly viewed as a provider of alternatives to custody 'aiming to change the minds of sentencers rather than those of offenders'

(Rayner, 2012: 181)

The Punishment in the Community Phase (1982 – 1997)

The increasing concern about Probation being a 'soft option' had led to the addition of new provisions to the Probation Order, first through the Criminal Justice Act, 1972 and later on in the Criminal Justice Act, 1982, where offenders placed on Probation were required to attend Day Training Centres for up to a maximum of sixty days. These programmes were related to drug or alcohol education (May, 1994). The Criminal Justice Act, 1991 added to the list of community penalties, such as a Combination Order and Curfew Order with electronic monitoring.

In 1988 the government published a Green Paper entitled *Punishment, Custody and the Community* (Home Office, 1988). This document further signalled the direction of the Probation Service away from penal welfarism. It suggested that people chose to commit crimes and that they must have an idea of what would happen to them if they offended. The 1988 Green Paper was followed by the White Paper, *Crime, Justice and Protecting the Public* (Home Office, 1990). Noting that 'prison is an expensive way of making a bad person worse', it advocated the use of more community-based options for less violent crimes such as burglary and theft. Its legislative manifestation came in the shape of the Criminal Justice Act, 1991.

The Criminal Justice Act 1991 was the turning point in the history of community penalties in Britain. Its core philosophy was that *the punishment should*

be proportionate to the seriousness of the crime, which revealed the government's 'tough on crime' sentencing policy (Whitfield, 1998:17). Already popular in the USA and Canada, the 1991 Act provided a new coherent sentencing framework based on the principle of 'just desert' with only the most serious offences being punished with imprisonment.

The major thrust of the 1991 Act was a move from 'alternatives to custody' to 'punishment in the community'. Under this Act, community punishments, including Probation, became sentences in their own right, rather than alternatives to custody. The Crime (Sentencing) Act, 1997 had already removed the requirement for offenders to consent to a Probation Order. *Social Inquiry Reports (SIRs)* were replaced by *Pre-Sentence Reports (PSRs)*. It was not only a change of the name, but of the content as well:

'Pre-sentence reports now shift the focus on probation officer's report writing away from the diagnosis of the offender's needs, towards the sentencing requirements of the court'

(May, 1994:876)

The Criminal Justice Act 1991 made it clear that the rehabilitation of offenders ethos had now been replaced by one of punishment. For the Probation Service, public protection and reducing offending, rather than rehabilitating offenders, had become the foremost objectives. The Probation Service experienced another serious blow when the then Home Secretary, Michael Howard, announced that 'prison works' (Robinson and McNeill, 2004:281). Addressing the 1993 Conservative Party Conference at Blackpool, he stated:

'Let us be clear. Prison works. It ensures that we are protected from murderers, muggers and rapists – and it will make many who are tempted to commit crimes think twice' (Howard, 1993, cited in Worrall, 1997:39)

In 1994, Howard announced his 27 points policy under the banner of 'Prison Works', in which the emphasis was on incapacitating offenders rather than punishing them in the community in line with the philosophy which had been set out in the 1990 White Paper. All these developments seriously undermined Probation work, added to which it has been argued that the Service was seriously neglected during 1993-97 (Chui and Nellis, 2003). As a consequence, it sought to guarantee its survival by searching for new means of establishing its credibility.

The 'What Works' and Effective Practice Phase (1997 - 2009)

In 1997, New Labour was elected to power and, for a time optimism returned to the Probation Service in England and Wales. Towards the end of the twentieth

century, there appeared to be political encouragement for the Probation Service to play a more effective role in reducing crime. A new literature and new 'effective practices' drawing on concepts such as motivational interviewing and the identification of criminogenic need, had begun to emerge, based on the principle of 'What Works' according to which 'some things work for some people some of the time' (Hedderman and Hough, 2004:153). These developments included McIvor's review of evidence on effective sentencing for the Scottish Office in the 1990s; the conference on 'What Works' in 1991; the launch of the Effective Practice Initiative in 1995; and the publication of McGuire's edited collection of papers from the 'What Works' conference (McGuire, 1995); the launch of the 'What Works' pathfinder projects and the Joint Accreditation Panel in 1999; and the launch of the National Probation Service in England and Wales in 2001 (Raynor, 2003).

Among British research studies, STOP (Straight Thinking on Probation) was an important study carried out in Wales, which was initiated by Mid-Glamorgan Probation Service in 1991. The basic concept of this programme was developed from Ross and Fabiano (1985), a Canadian cognitive behavioural programme, 'Reasoning and Rehabilitation'. Raynor and Vanstone (1994) evaluated the STOP programme based on the reconviction data of the previous 12 months. They found a 35% reconviction rate for programme completers, as against the predicted 42% rate, added to which none of those who were reconvicted received a custodial sentence.

However, it gradually became apparent that the new political administration was not minded to intervene in existing sentencing practices. The emphasis on tougher management and enforcement continued. The prison population continued to rise. The government published a consultation paper entitled *Joining Forces to Protect the Public* (Home Office, 1998) to consider the possibility of integrating the Prison and Probation Services together under one umbrella. This report did not attract much support, and the posited merger did not take place. However, in 2004, the administration of the two Services was brought together under the 'National Offender Management Service' (NOMS), since when NOMS has assumed central responsibility for offender management, both in custody and the community (Robinson, 2005).

For most of its history, the Probation Service in England and Wales was managed locally and relatively autonomously by 54 area-based Probation Committees. However, when the National Service was set up in 2001, with the National Probation Directorate based in London, these areas were reduced to 42 under the governance of local Probation Boards, in order to match the boundaries of the Police Force and Crown Prosecution Service areas. The rationale for this creation was to give the Probation Service the same access to the central criminal justice policy as police and prison officers.

The Marketisation of Probation Phase (2010 onwards)

In May 2010, a Conservative-led coalition government came to power in a climate of deep global economic downturn. It required all Ministries to make heavy cuts and sought to reduce State responsibility for providing community-based disposals, privatisation already having entered the custodial sector. The Green Paper *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* (Ministry of Justice, 2010) talked of reducing the (expensive) prison population through a 'rehabilitation revolution', but this soon lost favour with other politicians still wanting to be seen as 'tough on crime'. It also proposed a strategy for the commissioning of traditionally Probation-led services from the paid voluntary and private sectors, via a 'payment by results' system, according to the numbers of offenders who do not re-offend. Pathfinder schemes are already in train and it is widely feared that large corporate bodies with a profit motive, will begin to take over the delivery of these services, and be accountable not to the community but to their shareholders. England and Wales has arrived at a situation in which the State appears no longer to consider that it has a responsibility for its offenders which it should implement by funding a uniquely professionally-trained Probation Service.

Conclusion

The contemporary Probation Service in England and Wales has travelled far away from its volunteer and philanthropic beginnings. It had a golden era of development in the first half of the twentieth century after which empirical and ideological attacks on the rehabilitative ideal left it providing 'alternatives to custody', 'punishment in the community' and 'offender management' to Courts, rather than a focus on what offenders needed to help them stop crime. The politicisation of crime has compelled the Probation Service continually to revise its approach to working with offenders. Where this has succeeded, usually through its own input, it has survived. However, where government is imposing its central will, with little meaningful consultation, and an intent to cut both funds and State responsibility, the outlook appears bleak. Jurisdictions in other countries need to value the contributions their Probation Services make to the preservation of civilised society, and their Probation Services need to be ever-vigilant in collecting and presenting to those jurisdictions, the evidence of their effectiveness.

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Internal Versus External Detection of White-Collar Criminals: An Empirical Study

Petter Gottschalk

Abstract

This article addresses the following research question: What differences might be found between white-collar criminals detected by internal procedures versus white-collar criminals detected by external sources? This research is important, as studies of white-collar criminals so far has focused on case studies rather than statistical analysis of a larger sample. Based on articles in Norwegian financial newspapers for one year, a total of 57 white-collar criminals convicted to jail sentence were identified. The average age of the convicted persons was 51 years. 54 out of 57 criminals were men. The average sentence was 3 years imprisonment. The average sum of money involved in the financial crime was 178 million Norwegian kroner (30 million US dollars). 19 crime cases emerged from internal detection, while 38 crime cases emerged from external detection. The average sum of money involved in the financial crime was significantly higher in cases of external detection.

Keywords

White-collar Crime, Descriptive Statistics, Court Cases, Archival Analysis, Newspapers

Introduction

Sensational white-collar crime cases are regularly told in the international business press and studied in journals of ethics and crime. White-collar crime is financial crime committed by upper class members of society for personal or organizational gain. White-collar criminals are individuals who tend to be wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organizations.

This article addresses the following research question: *What differences might be found between white-collar criminals detected by internal procedures versus white-collar criminals detected by external sources?* This research is important, as studies of white-collar criminals so far has focused on case studies rather than statistical analysis of a larger sample.

Definitions of White-collar Criminals

Edwin Sutherland introduced the concept of "white-collar" crime in 1939. According to Brightman (2009), Sutherland's theory was controversial, particularly since many of the academicians in the audience perceived themselves to be members of the upper echelon of American society. Despite his critics, Sutherland's theory of white-collar criminality served as the catalyst for an area of research that

continues today. In particular differential association theory proposes that a person associating with individuals who have deviant or unlawful mores, values, and norms learns criminal behavior. Certain characteristics play a key role in placing individuals in a position to behave unlawfully, including the proposition that criminal behavior is learned through interaction with other persons in the upper echelon, as well as interaction occurring in small intimate groups (Hansen, 2009).

In contrast to Sutherland, Brightman (2009) differs slightly regarding the definition of white-collar crime. While societal status may still determine access to wealth and property, he argues that the term white-collar crime should be broader in scope and include virtually any non-violent act committed for financial gain, regardless of one's social status. For example, access to technology, such as personal computers and the Internet, now allows individuals from all social classes to buy and sell stocks or engage in similar activities that were once the bastion of the financial elite.

In Sutherland's definition of white-collar crime, a white-collar criminal is a person of respectability and high social status who commits crime in the course of his occupation. This excludes many crimes of the upper class, such as most of their cases of murder, adultery, and intoxication, since these are not customarily a part of their procedures (Benson and Simpson, 2009). It also excludes lower class criminals committing financial crime, as pointed out by Brightman (2009).

What Sutherland meant by respectable and high social status individuals are not quite clear, but in today's business world we can assume he meant to refer to business managers and executives. They are for the most part individuals with power and influence that is associated with respectability and high social status. Part of the standard view of white-collar offenders is that they are mainstream, law-abiding individuals. They are assumed to be irregular offenders, not people who engage in crime on a regular basis (Benson and Simpson, 2009: 39):

Unlike the run-of-the-mill common street criminal who usually has had repeated contacts with the criminal justice system, white-collar offenders are thought not to have prior criminal records.

When white-collar criminals appear before their sentencing judges, they can correctly claim to be first-time offenders. They are wealthy, highly educated, and socially connected. They are elite individuals, according to the description and attitudes of white-collar criminals as suggested by Sutherland.

Therefore, very few white-collar criminals are put on trial, and even fewer upper class criminals are sentenced to imprisonment. This is in contrast to most financial crime sentences, where financial criminals appear in the justice system without being wealthy, highly educated, or socially connected.

White-collar criminals are not entrenched in criminal lifestyles as common street criminals. They belong to the elite in society, and they are typically individuals employed by and in legitimate organizations. According to Hansen (2009), individuals or groups commit occupational or elite crime for their own purposes or enrichment, rather than for the enrichment of the organization on a whole, in spite of supposed corporate loyalty.

Bookman (2008) regard Sutherland's definition as too restrictive and suggest that white-collar crime is an illegal act committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid payment or loss of money or property, or to obtain business or personal advantage. Furthermore, scholars have attempted to separate white-collar crime into two types: occupational and corporate. Largely individuals or small groups in connection with their jobs commit occupational crime. It includes embezzling from an employer, theft of merchandise, income tax evasion, and manipulation of sales, fraud, and violations in the sale of securities. Corporate crime, on the other hand, is enacted by collectivities or aggregates of discrete individuals.

Pickett and Pickett (2002) use the terms financial crime, white-collar crime, and fraud interchangeably. They define white-collar crime as the use of deception for illegal gain, normally involving breach of trust, and some concealment of the true nature of the activities. White-collar crime is often defined as crime against property, involving the unlawful conversion of property belonging to another to one's own personal use and benefit. Financial crime is profit-driven crime to gain access to and control over property that belonged to someone else.

Bucy et al. (2008) argue that white-collar crime refers to non-violent, business-related violations of state and/or federal criminal statutes, and they make a distinction between "leaders" and "followers" in white-collar crime.

White-collar crime can be defined in terms of the offense, the offender or both. If white-collar crime is defined in terms of the offense, it means crime against property for personal or organizational gain. It is a property crime committed by non-physical means and by concealment or deception (Benson and Simpson, 2009). If white-collar crime is defined in terms of the offender, it means crime committed by upper class members of society for personal or organizational gain. It is individuals who are wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organizations (Hansen, 2009).

Characteristics of White-collar Crime

White-collar crime is a broad concept that covers all illegal behavior that takes advantage of positions of professional authority and power as well as opportunity structures available within business for personal and corporate gain (Kempa, 2010: 252):

Crimes such as embezzlement, fraud and insider trading, one hand, and market manipulation, profit exaggeration, and product misrepresentation on the other, add up to a massive criminal domain.

If white-collar crime is defined in terms of both perspectives mentioned above, white-collar crime has the following characteristics:

- White-collar crime is crime against property for personal or organizational gain, which is committed by non-physical means and by concealment or deception. It is deceitful, it is intentional, it breaches trust, and it involves losses.
- White-collar criminals are individuals who are wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organization. They are persons of respectability and high social status who commit crime in the course of their occupation.

In this paper, we apply this definition of white-collar crime, where both characteristics of offense and offender identify the crime. Therefore, white-collar crime is only a subset of financial crime in our perspective: White-collar crime is violation of the law committed by one holding a position of respect and authority in the community who uses his or her legitimate occupation to commit financial crime (Eicher, 2009)

White-collar crime contains several clear components (Pickett and Pickett, 2002):

- *It is deceitful.* People involved in white-collar crime tend to cheat, lie, conceal, and manipulate the truth.
- *It is intentional.* Fraud does not result from simple error or neglect but involves purposeful attempts to illegally gain an advantage. As such, it induces a course of action that is predetermined in advance by the perpetrator.
- *It breaches trust.* Business is based primarily on trust. Individual relationships and commitments are geared toward the respective responsibilities of all parties involved. Mutual trust is the glue that binds these relationships together, and it is this trust that is breached when someone tries to defraud another person or business.
- *It involves losses.* Financial crime is based on attempting to secure an illegal gain or advantage and for this to happen there must be a victim. There must also be a degree of loss or disadvantage. These losses may be written off or insured against or simply accepted. White-collar crime nonetheless constitutes a drain on national resources.

- *It may be concealed.* One feature of financial crime is that it may remain hidden indefinitely. Reality and appearance may not necessarily coincide. Therefore, every business transaction, contract, payment, or agreement may be altered or suppressed to give the appearance of regularity. Spreadsheets, statements, and sets of accounts cannot always be accepted at face value; this is how some frauds continue undetected for years.
- *There may be an appearance of outward respectability.* Fraud may be perpetrated by persons who appear to be respectable and professional members of society, and may even be employed by the victim.

PricewaterhouseCoopers is a consulting firm conducting biennial global economic crime surveys. The 2007 economic crime study reveals that many things remain the same: globally, economic crime remains a persistent and intractable problem from which US companies are not immune as over 50% of US companies were affected by it in the past two years.

Percentage of companies reporting suffering actual incidents of fraud according to PwC (2007) were:

- 75% suffered asset misappropriation
- 36% suffered accounting fraud
- 23% suffered intellectual property infringement
- 14% suffered corruption and bribery
- 12% suffered money laundering

Categories of Business Crime

White-collar crime can be classified into categories as illustrated in Figure 1. There are two dimensions in the table. First, a distinction is made between leader and follower. This distinction supported by Bucy et al. (2008), who found that motives for leaders are different from follower motives. Compared to the view that leaders engage in white-collar crime because of greed, followers are non-assertive, weak people who trail behind someone else, even into criminal schemes. Followers may be convinced of the rightness of their cause, and they believe that no harm can come to them because they are following a leader whom they trust or fear. Followers tend to be naive and unaware of what is really happening, or they are simply taken in by the personal charisma of the leader and are intensely loyal to that person.

Next, a distinction is made between occupational crime and corporate crime in Figure 1. Largely individuals or small groups in connection with their jobs commit occupational crime. It includes embezzling from an employer, theft of merchandise, income tax evasion, and manipulation of sales, fraud, and violations in the sale of

securities (Bookman, 2008). Occupational crime is sometimes labeled elite crime Hansen (2009) argues that the problem with occupational crime is that it is committed within the confines of positions of trust and in organizations, which prohibits surveillance and accountability. Heath (2008) found that the bigger and more severe occupational crime tends to be committed by individuals who are further up the chain of command in the firm.

Figure 1. Categories of White-collar Crime Depending on Role and Actor

Actor \ Role	Leader	Follower
Occupational	Occupational crime as leader	Occupational crime as follower
Corporate	Corporate crime as leader	Corporate crime as follower

Corporate crime, on the other hand, is enacted by collectivities or aggregates of discrete individuals. If a corporate official violates the law in acting for the corporation it is considered a corporate crime as well. But if he or she gains personal benefit in the commission of a crime against the corporation, it is occupational crime. A corporation cannot be jailed, and therefore, the majority of penalties to control individual violators are not available for corporations and corporate crime (Bookman, 2008).

In legal terms, a corporation is an unnatural person (Robson, 2010: 109):

Corporate personality functions between an insentient, inanimate object and a direct manifestation of the acts and intentions of its managers. Nowhere is this duality more problematic than in the application of traditional concepts of criminal law to business organizations. The question of whether business organizations can be criminally liable - and if so, the parameters of such liability - has long been the subject of scholarly debate. Whatever the merits of such debate, however, pragmatic considerations have led courts and legislatures to expand the panoply of corporate crime in order to deter conduct ranging from reprehensible, to undesirable, to merely annoying. In the context of organizational behavior, criminal law is the ultimate deterrent.

Corporations become victims of crime when they suffer a loss as a result of an offense committed by a third party, including employees and managers. Corporations become perpetrators of crime when managers or employees commit

financial crime within the context of a legal organization. According to Garoupa (2007), corporations can more easily corrupt enforcers, regulators and judges, as compared to individuals. Corporations are better organized, are wealthier and benefit from economies of scale in corruption. Corporations are better placed to manipulate politicians and the media. By making use of large grants, generous campaign contributions and influential lobbying organizations, they may push law changes and legal reforms that benefit their illegal activities.

Occupational crime is typically motivated by greed, where white-collar criminals seek to enrich themselves personally. Similarly, firms engage in corporate crime to improve their financial performance. Employees break the law in ways that enhance the profits of the firm, but which may generate very little or no personal benefit for themselves when committing corporate crime (Heath, 2008: 600):

There is an important difference, for instance, between the crimes committed at Enron by Andrew Fastow, who secretly enriched himself at the expense of the firm, and those committed by Kenneth Lay and Jeffrey Skilling, who for the most part acted in ways that enriched the firm, and themselves only indirectly (via high stock price).

While legal corporations may commit business crime, illegal organizations are in the business of committing crime. Garoupa (2007) emphasized the following differences between organized crime and business crime (i) organized crime is carried out by illegal firms (with no legal status), the criminal market being their primary market and legitimate markets secondary markets, (ii) corporate crime is carried out by legal firms (with legal status), the legitimate market being their primary market and the criminal market their secondary market. Whereas organized crime exists to capitalize on criminal rents and illegal activities, corporations do not exist to violate the law. Organized crime gets into legitimate markets in order to improve its standing on the criminal market, while corporations violate the law so as to improve their standing on legitimate markets.

Criminal opportunities are now recognized as an important cause of all crime. Without an opportunity, there cannot be a crime. Opportunities are important causes of white-collar crime, where the opportunity structures may be different from those of other kinds of crime. These differences create special difficulties for control, but they also provide new openings for control (Benson and Simpson, 2009).

While occupational crime is associated with bad apples, corporate crime is associated with systems failure. Bad apples theory represents an individualistic approach in criminology, while systems failure theory represents a business approach in criminology (Heath, 2008: 601):

If the individualistic approach were correct, then one would expect to find a fairly random distribution of white collar crime throughout various sectors of the economy, depending upon where individuals suffering from poor character or excess greed wound up working. Yet, what one finds instead are very high concentrations of criminal activity in particular sectors of the economy. Furthermore, these pockets of crime often persist quite stubbornly over time, despite a complete changeover in the personnel involved.

It is certainly an interesting issue whether to view white-collar misconduct and crime as acts of individuals perceived as 'rotten apples' or as an indication of systems failure in the company, the industry or the society as a whole. The perspective of occupational crime is favoring the individualistic model of deviance, which is a human failure model of misconduct and crime. This rotten apple view of white-collar crime is a comfortable perspective to adopt for business organizations as it allows them to look no further than suspect individuals. It is only when other forms of group (O'Connor, 2005) and/or systemic (Punch, 2003) corruption and other kinds of crime erupt upon a business enterprise that a more critical look is taken of white-collar criminality. Furthermore, when serious misconduct occurs and is repeated, there seems to be a tendency to consider crime as a result of bad practice, lack of resources or mismanagement, rather than acts of criminals.

The 'rotten apple' metaphor has been extended to include the group level view of cultural deviance in organizations with a 'rotten barrel' metaphor (O'Connor, 2005). Furthermore, Punch (2003) has pushed the notion of 'rotten orchards' to highlight deviance at the systemic level. Punch (2003:172) notes, "the metaphor of 'rotten orchards' indicate(s) that it is sometimes not the apple, or even the barrel, that is rotten but the *system* (or significant parts of the system)".

Including rotten apple and rotten barrel in Figure 2 expands Figure 1.

Figure 2. Categories of White-collar Crime Depending on Role, Actor and level

		Role	
		Leader	Follower
Occupational	Rotten apple	Occupational apple leader	Occupational apple follower
	Rotten barrel	Occupational barrel leader	Occupational barrel follower
Corporate	Rotten apple	Corporate apple leader	Corporate apple follower
	Rotten barrel	Corporate barrel leader	Corporate barrel follower

White-collar crime involves some form of social deviance and represents a breakdown in social order. According to Heath (2008), white-collar criminals tend to apply techniques of neutralization used by offenders to deny the criminality of their actions. Examples of neutralization techniques are (a) denial of responsibility, (b) denial of injury, (c) denial of the victim, (d) condemnation of the condemners, (e) appeal to higher loyalties, (f) everyone else is doing it, and (g) claim to entitlement. The offender may claim an entitlement to act as he did, either because he was subject to a moral obligation, or because of some misdeed perpetrated by the victim. These excuses are applied both for occupational crime and for corporate crime at both the rotten apple level and the rotten barrel level.

Criminal liability for legal entities does normally imply a court sentence of fine or disruption of operations. Criminal liability for a person normally implies a fine or jail sentence.

Research Design

To identify a substantial sample of white-collar criminals and to collect relevant information about each criminal, there are several options available. However, in a small country like Norway with a population of only five million people, there are limits to available sample size. One available option would be to study court cases involving white-collar criminals. A challenge here would be to identify relevant laws and sentences that cover our definition not only of white-collar crime, but also required characteristics of white-collar criminals. Another available option is to study newspaper articles, where the journalists already have conducted some kind of selection of upper-class, white-collar individuals convicted in court because of financial crime. Therefore, the latter option was chosen in this research.

There are two main financial newspapers in Norway, "Dagens Næringsliv" and "Finansavisen". In addition, the newspaper "Aftenposten" regularly brings news on white-collar criminals. These three newspapers were studied on a regular basis from early 2010 to early 2011 to identify white-collar criminals. A total of 57 white-collar criminals were identified during this year. A person was defined as a white-collar criminal if the person satisfied criteria mentioned above, and if the person was sentenced in court. For this study it was considered sufficient that the person was sentenced in one court, even if some of them were recent cases that still had appeals pending for higher courts. A sentence was defined as jail sentence. Therefore, cases of fine sentence were not included in the sample. The total sample is listed in Table I.

First column lists age of white-collar criminal at court conviction stage, while second column lists age of white-collar criminal at crime stage. Third column lists court sentence in terms of imprisonment years. Next column lists amount involved

in the crime in Norwegian kroner (6 Norwegian kroner is 1 US dollar). Next three columns list each criminal person's income statement in terms of taxable income, tax to pay and net capital worth, all according to public tax lists available to the public for income year 2009. The following columns list persons involved in the crime, business revenue of the organization where the criminal had a role, the number of employees in the organization where the criminal had a role, and whether the crime was internally detected (1) or externally detected (2).

Criminals in Table I are listed according to imprisonment years, where the highest is 9 years and the lowest is 0.08 years, i.e. one month in jail.

Table I: White-collar Criminals in Norwegian Financial Newspapers 2010/2011

S. No.	Age1	Age2	Prison	Crime	Income	Tax	Fortune	Persons	Revenue	Employ	Detect
1	52	48	9	1200	30000	4000	0	3	900	200	2
2	72	65	8	70	600000	200000	2000000	3	500	400	2
3	21	20	8	90	0	0	0	1	10	10	2
4	57	52	7	625	0	0	0	200	300	10	2
5	51	48	7	90	30000	3000	0	2	500	400	2
6	59	55	7	1200	80000	11000	0	3	900	200	2
7	55	52	6	200	133000	40000	2000000	1	20	1	2
8	50	47	6	70	252000	83000	0	1	500	400	2
9	50	45	6	16	50000	9000	0	3	1200	800	1
10	54	40	6	100	0	28000	0	3	100	50	1
11	57	43	6	100	120	0	0	3	100	50	1
12	56	42	6	100	0	0	0	3	100	50	1
13	55	45	55	172	0	22000	0	4	200	50	2
14	69	67	55	85	0	0	0	1	10	2	2
15	35	34	48	60	404000	198000	4000000	5	4	1	1
16	51	49	475	1	0	7000	1000000	1	100	100	1

S. No.	Age1	Age2	Prison	Crime	Income	Tax	Fortune	Persons	Revenue	Employ	Detect
17	62	59	45	800	12000000	3000000	0	4	500	100	2
18	39	32	45	70	400000	100000	400000	3	3	1	2
19	61	54	4	70	100000	100000	0	3	10	10	2
20	51	47	4	31	100000	50000	0	3	200	200	1
21	67	64	4	16	180000	41000	471000	3	1200	800	1
22	57	47	35	30	638000	248000	0	1	50	40	2
23	47	44	35	32	0	0	0	5	30	70	1
24	58	56	35	12	0	400000	33000000	1	1500	300	1
25	37	35	3	3	668000	279000	0	1	4	1	2
26	60	57	26	15	1	0	0	2	20	2	2
27	63	44	25	149	0	0	0	5	30	10	2
28	38	34	225	63	272000	96000	41000	1	700	600	1
29	56	52	2	2	0	0	0	1	2000	2000	2
30	52	42	175	172	0	0	0	4	200	50	2
31	52	48	15	100	1400000	1200000	51000000	2	400	200	2
32	62	58	15	100	1000000	386000	0	2	400	200	2
33	40	38	15	11	1500000	500000	4500000	1	20	20	2

S. No.	Age1	Age2	Prison	Crime	Income	Tax	Fortune	Persons	Revenue	Employ	Detect
34	64	60	15	5	0	25000	3000000	2	10	5	2
35	35	30	15	200	246	37000	4000000	1	10	1	1
36	57	53	1	800	484000	212000	0	4	500	100	2
37	43	40	1	15	0	0	0	2	10	1	1
38	49	39	1	32	700000	300000	0	6	12	12	2
39	47	46	1	2	1500000	700000	5000000	3	30	30	2
40	60	54	1	4	900000	400000	0	1	50	5	1
41	43	40	9	13	1500000	500000	0	3	40	10	2
42	39	36	9	13	947000	399000	688000	3	10	5	2
43	45	42	8	16	15	2	0	3	1200	800	1
44	46	44	67	25	873000	330000	0	2	10	2	2
45	35	31	67	20	0	0	0	4	200	20	1
46	48	38	58	172	177000	57000	0	4	200	50	2
47	61	51	58	172	433000	162000	90000	4	200	50	2
48	46	38	5	65	3000000	1000000	8000000	2	15	12	2
49	51	43	5	65	314000	123000	0	2	10	10	2
50	65	57	5	27	1000000	500000	7000000	1	300	400	1

S. No.	Age1	Age2	Prison	Crime	Income	Tax	Fortune	Persons	Revenue	Employ	Detect
51	36	34	5	331	287000	103000	508000	1	5	1	1
52	69	61	25	800	478000	916000	168000	4	1100	1100	2
53	30	27	17	2	337000	116000	62000	2	10	10	2
54	29	26	17	2	390000	135000	95000	2	10	10	2
55	70	62	12	5	700000	400000	0	1	300	400	1
56	59	55	9	1200	1000000	505000	4000000	3	1100	900	2
57	56	48	8	800	311000	1200000	119000	4	1100	1100	2

Research Results

The average age of white-collar criminals in Table I is 51 years old when convicted and 46 years old when committing the crime. Thus, 5 years elapse on average for crime detection and court proceedings. 54 out of 57 convicted criminals are men. The average sentence is 3 years imprisonment, with a maximum of 9 years and a minimum of 1 month (0,08 year).

The average sum of money involved in the financial crime is 178 million Norwegian kroner (30 million US dollars). The average taxable income is 616.000 kroner, which is about 100.000 US dollars. The average tax paid is 265.000 kroner. The average personal wealth is 2.3 million kroner. The average number of people involved in each crime is 6 persons.

19 crime cases were detected internally, while 38 cases were detected externally. Internal detection includes cases of internal control and internal audit as well as employees reporting misconduct and crime to control committees or company boards. External detection includes whistle blowing, often followed jointly by media coverage, government control authorities such as financial crime intelligence agencies, stock exchange controls and tax authorities, as well as banks and other financial institutions that are frequent victims of financial crime.

This article addresses the following research question: What differences might be found between white-collar criminals detected by internal procedures versus white-collar criminals detected by external sources? In Table I, there were 19 cases of internal detection and 38 cases of external detection. Results of comparative t-tests are listed in Table II.

Table II: Comparative Statistics for Internal Versus External Cases

Characteristics	Internal Detection	External Detection	Significance
Age Convicted	50.000	52.000	00.809
Age Crime	44.000	46.000	00.884
Years Prison	3.000	2.800	00.156
Financial Amount	45.000	244.000	00.000
Personal Income	204.000	823.000	00.131
Personal Tax	119.000	338.000	00.042
Personal Wealth	2,632.000	2,113.000	00.753
Persons Involved	2.400	7.800	00.208
Organization Revenue	384.000	311.000	00.365
Organization Employees	244.000	202.000	00.944

It is interesting to note that there are several substantial differences between cases of internal versus external detection of white-collar criminals:

- Financial amount involved in the crime is higher in external detection cases
- Income of criminal persons is higher in external detection cases
- Tax paid by criminal persons is higher in external detection cases
- There are more persons involved in the crime in external detection cases

However, the only statistically significant difference at the .01 statistical requirements is financial amount involved in the crime, which is higher in external detection cases. The only statistically significant difference at the .05 statistical requirements is in addition tax paid by the criminal persons, which is higher in external detection cases.

Discussion

It is interesting to note that the media in terms of newspapers and television programs reveal a substantial number of white-collar criminals. Typically, an individual who is employed in the organization or a supplier to the organization develops suspicion towards an executive. He or she does not choose the internal whistle-blowing strategy, as whistle-blowing typically is supposed to be done to executives that might themselves be involved in the crime. Instead, he or she gets in touch with a journalist on an anonymous basis.

When comparing to sensational white-collar crime cases especially in the United States, jail sentences in terms of imprisonment years in Norway are quite modest. The average jail sentence of 3 years indicates both that white-collar crime is not considered too serious, and also that jail sentences in Norway are typically limited in the number of years. Cases of child sexual abuse, for example, are normally punished with one or two years, rape three or four years, illegal drug trade five or six years, and murder ten to fifteen years, where typically only eight or nine years are actually served in prison.

Despite short jail sentences, white-collar crime cases are taken serious by the court system as well as the prison service. Also in the public, there are no excuses accepted for their crime. When released from prison, very few are able to regain their positions in society in terms of prestige, network and financial freedom. When asked what they found to be the worst, whether media attention, imprisonment years, family collapse or financial ruin, answers differ. Many seem to apply techniques based on neutralization theory (Siponen and Vance, 2010).

In line with Heath (2008), white-collar criminals in this sample tend to apply techniques of neutralization to deny the criminality of their actions. Examples of neutralization techniques found in interviews with Norwegian white-collar

criminals include (a) denial of responsibility, (b) denial of injury, (c) denial of victim, (d) condemnation of the condemners, (e) appeal to higher loyalties, (f) everyone else is doing it, and (g) claim to entitlement.

It is often expected and assumed that auditors and others in charge of financial control should detect and prevent financial crime in general and white-collar crime in particular. However, as is evident from this sample, auditors are not very good at detecting crime. Rather, the media with its investigating journalists seem to do a better job at detecting white-collar crime.

This research is based on newspaper articles written by journalists. The reliability and completeness of such a source might be questioned. However, most cases were presented in several newspapers over several days, weeks or even months, enabling this research to correct for initial errors by journalists.

Conclusion

The purpose of this study was to collect some empirical data on white-collar criminals outside traditional jurisdictions such as the United States. Often labeled the best country to live in, according to the United Nations, Norway does indeed have white-collar criminals as well. Empirical evidence based on newspaper studies suggests that the typical Norwegian white-collar criminal is male, 46 years old when committing the crime, involved in crime for 30 million US dollars, and convicted to 3 years in jail. Most cases were externally detected. Externally detected cases were associated with significantly higher amount involved in the crime as compared to amount involved in internally detected white-collar cases.

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Witness Protection Model for the Royal Thai Police

Samroeng Saengtrong & Sunee Kalyajit

Abstract

The study of “Witness Protection Model for the Royal Thai Police” was to investigate problems and limitations of the witness protection, to explore models and to appropriately design models of the witness protection for the Royal Thai Police. In-depth interviews and Delphi Technique had been used in the research methodology.

Results showed that the problems and limitations of the witness protection were no units established to be responsible for them. There are assigning the local polices with loaded works, absence of knowledge, absence of understanding and unskillful because of being untrained for. No units to organize training skills for police, no courses of witness protection in the educational system of the Royal Thai Police. No checking of the witnesses' records, no checking of witnesses' physical and mental health, and no orientation for witnesses before admission. Laggard in line of command and easing interference by the powerful persons. Also poor secret system and IT system for database and witness protection. Its practices were uncharted, unstandardized, and diffused. Remunerations for the witnesses, the authorities and other expenses were low and unmatched to the current high standards of living.

The appropriate witness-protection model should be, to a certain extent, independent under the immediate supervision of the Royal Thai Police, and centralized with localized operations in the regions. Operations must be under the authorities from the unit and just coordinated with the local police. Command must be subject to a committee, which charted operations, missions with acceptable measures but in the same direction. It was necessary to establish a training unit, developing IT with certain confidential levels. Organizing orientation to educate witnesses and their conduct, checking their records, their physical and mental health with conditional agreements during the project, should any breeches arise.

Recommendations were the Royal Thai Police should establish the witness-protection unit itself in an organizational model with protection procedures as they were found in this research.

Background and Significance of the Problem

Crimes in every country around the world are surging and violent with more complexity. They insecure lives and properties of people in societies particularly the organized crimes and what involve life. Therefore, to create sense of security in life and property and confidence in the criminal justice critically requires the justice administration in the country can sue the guilty to punishment while emerges confidence and justice in societies. Any criminal justice in any countries by any regimes strongly needs fact-finding through witness and evidences regardless being the criminal cases or civil cases or administrative cases or any other cases. Witnesses are very important since they link or are keys to facts of the case or the incident

occurred. However, there are many kinds of witness to each case such as oral evidence/witness, material evidence, documentary evidence and expert evidence but they must be linked and related. No any evidence is absolute in itself to fully prove truth alone (Wanchai Srinuannat, 2006).

Oral evidences/ witnesses are important and have more problems than other types. Since they much rely on many basic elements, which can easily be changed such as their mental condition, memory ability, emotion and duration and so on. These basic elements will not be found in other types of evidence except the expert evidence but rarely found. Senses of insecurity, fear, threats, assaults and exhortations from influences are critical problems and lead to the criminal justice impact because they fear witnesses to present before the interrogation officers, public prosecutors, and courts. Fairness then fails as the consequence (Wanchai Srinuannat, 2006).

The witness protection is the state duty and is the important principle found in worldwide. Refusal of the state on the witness protection is the refusal to pay justice to societies. The state must provide resources like personnel, budget and manuals and just only notes without them for the witness protection, it is charged as its omission of the public duties to people (Anitra Moser, 2007). The safety of the witness is critical especially with the criminal cases and with the justice administration. It is contingent where all parties must cooperate, seek solutions and mechanize the efficient witness protection without permits any witnesses fall under fright and poor self-reliance as in present and it is unacceptable in the current Thai societies (Wanchai Srinuannat, 2006).

Before 1997, Thailand did not enact any special laws to prioritize rights and liberty of life and property security for witness and persons involved in the criminal cases and victimized by crimes, particularly, prioritizing their protection and their compensation. Such rights has been coded the constitutional law BE2540 (1997) and the consequences of signing the convention of countering transnational crimes as an organization. In 2000, the bill of witness protection has been drafted and in 2003, the Witness Protection Act BE 2543 (2003) has been enforced under supervision of the Office of Witness Protection, Department of Rights and Liberty Protection: Ministry of Justice. Being new, it faces many problems of organizing, knowledge, personnel, expertise, budget and related laws that have loop holes and many amendments are needed (Srisombat Chokeprajakchat and Dol Boonnak, 2007). However, the Article 113 has empowered the Office of Witness Protection to make agreement with seven public units involved with the witness protection for coordinating operation and protection. They are the Royal Thai Police, Ministry of Defense, Department of Observation and Protection for Children and Youth, Office of Counter Narcotics, Department of Public Administration, Department of

Corrections, and Department of Special Investigation (DSI). The witness protection is new and all the units above have no knowledge and experience about it and some units unlikely involve. Only the Royal Thai Police has more roles to play than other units do, and having its police force spread around the country and it must investigate and collect evidences as witnesses before other units of the criminal justice administration.

Witness protection located in each unit during 2004-2011 were 20 subjects in Office of Witness Protection, 144 subjects in the 1st Provincial Police Region, 65 subjects in the 2nd Provincial Police Region, 55 subjects in the 3rd Provincial Police Region, 95 subjects in the 4th Provincial Police Region, 127 subjects in the 5th Provincial Police Region, 130 subjects in the 6th Provincial Police Region, 102 subjects in the 7th Provincial Police Region, 250 subjects in the 8th Provincial Police Region, 155 subjects in the 9th Provincial Police Region, 36 subjects in Center of Southern Police Operation (3 provinces), 165 subjects in Metropolitan Police, 2 subjects in Department of Corrections, 4 subjects in Department Public Administration, 1 subject in Command of Counter Offense Against Children, Youth and Women, 1 subject in Department of Special Investigation, 1352 subjects in total. None subjects have been recorded in Department of Observation and Protection, Ministry of Defense, Office of Counter Narcotics (Office of Witness Protection, Department of Rights and Liberty Protection: Ministry of Justice : May 31, 2011).

As mentioned above, the witness protection is important to the justice administration and social. It is still new to Thailand. It is new to new roles and duties in a new public unit, which is yet unprompted but in the early stage of establishment, improvement, and development of knowledge, roles, duties and personnel. Even many laws are still defective and await amendment. With the unreadiness of the unit and laws, it affects the witness protection operation. Further, the Royal Thai Police is the unit playing roles and duties for protecting lives and properties of people. It is also in the scalar line of justice administration holding duties of collecting primary evidence for the judicial process and is ready with personnel nationwide, a unit pleaded for protection from witnesses, and a unit more coordinated for witness protection cooperation from the Office of Witness Protection (Srisombat Chokeprajakchat and Dol Boonnak, 2009). Therefore, as being found in the statistics of petition and action, the witness protection and the laws of witness protection is specific. Though the Royal Thai Police might prolongly be prompt, knowing and closing to witnesses under the duty of collecting evidences to be forwarded to the judicial process; the personnel of the Royal Thai Police are just common police loaded with variety of jobs, and routine jobs. They have no knowledge and experience on principles of protecting witnesses and being acceptable. In addition, the previous police performances are likely found violating

rights and some groups of human rights and foreign countries disagree or are suspicious in the police intervention of protecting witnesses (Anitra Moser, 2007). However, Thailand is unclear with both laws and model of witness protection but with the past operation and data, the Royal Thai Police plays as key in the witness protection but it has no responsibility or readiness regarding establishing a unit, model, procedures, clear and constructive operation. With such reasons and benefits, the research of “Witness Protection Model for the Royal Thai Police” is imperative in order to study and to develop the witness protection as in part of the Royal Thai Police. This is to further create clarity, tangibility and standards of the model and the procedures acceptable and accountable for the public.

Research Objectives

1. To investigate problems and limitations of the witness protection for the Royal Thai Police
2. To explore models and to appropriately design models of the witness protection for the Royal Thai Police

Scope of the Study

1. Scope of the contents is related to the models, problems and limitations in following the standards of witness protection, its Act in the Criminal Case BE 2546(2003) connected to the mission of the Royal Thai Police.
2. Scope of the targeted population is focused on 18 persons who have knowledge, skills, expertise and experience of the witness protection and 5 witnesses under the program or ever admitted into the program.

Expected Benefits

1. To understand the problems and limitations of the witness protection for the Royal Thai Police for finding the solutions of the problems of them.
2. To learn the structure and processes of the witness protection, which will lead to develop the proper models of the witness protection for the Royal Thai Police.
3. To be as a reference for any researchers and other units for further developing the witness protection in Thailand.

Research Methodology

A qualitative research conducted with two groups of population. The first group was the experts equipped with knowledge, ability, expertise and experiences in the witness protection. The second group was subjects. The questionnaire formulation was based on Delphi Technique. Median and Interquartile Range were used in statistical application.

1. Population and Samples

A research was conducted with two groups of population, i.e.

The first group was 18 experts equipped with knowledge, ability, expertise and experiences in the witness protection. Choosing samples was based on Critical Incident Technique or Snowball Technique. The second group was the five witnesses admitted to the program under the supervision of the Royal Thai Police and sampling was based on randomization.

2. The Research Instrument

The formulated questionnaire as this research instrument was based on Delphi Technique, i.e.

- i. The first round questionnaire compiled basic information explored from concepts, principles and the models of witness protection as the scope of the open-ended questions.
- ii. The second round questionnaire was to collect the responses of experts based on the first round open-ended questions and formulated a summative rating of five (5) level scales questions. This improved questionnaire has been conducted with the same expert group to freely provide opinion.
- iii. The third round questionnaire was to collect data based on the second round questions to find means and interquartile range of each question. Then the third round questionnaire was formulated applying the same content but increase the means values and the values of the interquartile range so that each expert could revise their second round responses. The third responses of the third round questionnaire was the final and all data collected were interpreted and summarized to be the appropriate model of the witness protection for the Royal Thai Police.

3. Statistical Application

Median and interquartile range were used in this statistical application and the SPSS program was used for their calculations.

- i. Median of the ungrouped data has been calculated from formulas by classifying them from less to the greater number and pinpointed their median in the position of $\frac{n+1}{2}$ to read the median value. (Business Statistics: http://www.science.cmru.ac.th/statistics/stat2105/index_2_2.html/)
- ii. The interquartile range was the difference values between the quartile 1 and the quartile 3 taking the latter quartile 3 to be minus from the quartile 1 to find the differences. The less difference means less spread value while the more difference means more spread values (Choosri Wongrattana, 2001).

Results

1. ***Problems and Limitations of Witness Protection for the Royal Thai Police***
by examining the values of the median with values higher than 4 which meant agreeing and their interquartile range was less than 1.5 which had relevancy worth for analysis. They were
 - i. The ambiguity of laws, the responsible unit, and the management which were consequences with connectivity.
 - ii. The royal Thai Police accommodated no direct unit to be responsible for the witness protection. Its Department of Criminal Case was just the coordinator without any authority and duty to manage the witness protection.
 - iii. The Royal Thai Police employed a large number of police force nationwide but their local responsible tasks were overloaded. They also had no skills and knowledge in protecting witness, which became problem making and affected the efficiency of the witness protection.
 - iv. The present witness protection of the Royal Thai Police found no place, material, modern technologies necessarily for backup this duty.
 - v. The witness protection police had no knowledge, understanding, experience and training because the Royal Thai Police did not allocate the courses of witness protection both its theories and practices in the its educational system and the practicum courses in each level were insufficient and not prevailed.
 - vi. The coordination among organizations for witness protection and even the internal coordination required models with short and sharp methods for preliminary understanding to avoid problems and limitations.
 - vii. Without the responsible unit for the witness protection in the Royal Thai Police, it drew problems and limitations, which entailed no development, no improvement, and no revision.
 - viii. The Royal Thai Police did not establish the database of the witness protection, which has created the current problem and long-term problems in future.
 - ix. The critical problem of the witness protection among police or even the Thai witness protection is the witness confidentiality and jobs about witnessing.
 - x. Lengthy line of command by bureaucratic Royal Thai Police slowed the process because commands were diverse in each level, which had no

finalization or clarity bringing ambiguity to the operational level and was disadvantageous to the witness protection.

- xi. Most witness protection police in the local were male and some situations they needed female police but few have been allocated or even none. Though there were female police, they did not have skills, knowledge, and ability to fulfill the duties of the witness protection.
- xii. The witness protection restricted the rights of the witnesses or the subjects of the program and affected their ways of life. It made them feel being violated on rights and felt uneasy. It might come from misunderstanding between the authority and the witnesses, which damaged their protection because there was no orientation of the witness and the subjects of the program before their protection entry.
- xiii. Compensation for police on duty and for the witnesses was poor and mismatched the economic condition and current standards of living.

2. ***Proper model and model formulation for the Royal Thai Police*** revealed that by examining the values of the median with values higher than 4 which meant agreeing and their interquartile range was less than 1.5 which had relevancy worth for analysis; they were

- i. Social justice and peace emerged through justice administration with efficiency, speed, certainty, accountable and ability to bring the guilty to punishment.
- ii. Witnesses and evidences were important in the prosecution.
- iii. Witnesses in the criminal cases were the most problematic evidence in the justice administration.
- iv. The criminal trails likely adduced witnesses rather than other evidences.
- v. Good and effective witness protection provided would become an important mechanism to promote efficiency and effectiveness of **adduction** in the criminal cases.
- vi. Efficient witness protection speed the trial with fairness, accuracy, justice creation and bringing peace to societies.
- vii. The social contexts, such as ethnicity, religion, culture, tradition, custom, values, concept, lifestyle, and belief of each societal member differently influenced models, methods and measures of the witness protection.
- viii. Legal system, the trial system, and the public administration system were means allowing each country to set the different processes and the different models of witness protection.

- ix. Criminal conditions, violence and criminal complexity turned each society to design different methods and different model of witness protection.
- x. The witness protection system of Thailand had to be improved, and amended about its organization, model, process and laws.
- xi. The main purpose of the witness protection was to enable the witness to accurately and precisely testify in court as closest to fact without fear.
- xii. Effectively managing witness protection under scarcity of resources was better than ignoring to take action or to be heedless to the public rights which was counted negligence to the state duties.

3. *Opinions of experts on the models of witness protection worth the Royal Thai Police* disclosed that examining the values of the median with values higher than 4, which meant agreeing and their interquartile range, was less than 1.5, which had relevancy worth for analysis. They were

- i. The Royal Thai Police must have a unit to seriously protect witnesses equipped with its organization, police force, technology, equipments and direct and sufficient budget to fulfill its duties.
- ii. The Department of Criminal Case had no authority and could not command in the witness protection in the Royal Thai Police. It was the coordination unit only.
- iii. It needed to adopt a command board to examine the witness protection mission such as specifying qualities, measures, models, methods, its expansion/reduction/ suspension, budget, its expenses, any other affairs involved to replace its line of command.
- iv. It certainly needed preliminary training to be ready and to understand witnesses or individuals admitted for protection.
- v. It needed to check the mental health, physical conditions and health as a procedure and necessity in admitting witness or individuals for protection.
- vi. It needed to check historical records of punishment and conduct of the witnesses or individuals admitted and should specify procedures and conditions to consider permits of witness protection.
- vii. The circumstances of the case, the circumstances of intimidation, methods of threat, weapons, status, litigants' potential, fears of the witness/persons under covered had to be considered in the admission for protection rather than using rate of punishment as conditions or obligations.

- viii. If the Royal Thai Police had a unit of witness protection and prompt with the police force, budget, place, materials and managerial model; It was potential to protect witness with common measures and special measures.
- ix. The training unit of witness protection which ingrained skills and knowledge for the personnel needed to evaluate trainees' performance, and developed technology and equipments to support the tasks.
- x. Police protecting witnesses needed to have female police who were expert in protecting witness and weapons in the situations needed them more than the male police.
- xi. There should be roles, ethics and practices of the authority protecting witnesses with same pattern and the in the same direction.
- xii. Having the witness protection unit with its own force without taking advantages from the local police who are overloaded. It would be advantageous to the Royal Thai Police and efficiency of the witness protection.
- xiii. Having the witness protection unit with its own force was to end problems of the witnesses' petition for protection outside their constituency and needed not shift responsibility to other locality or other units for the protection.
- xiv. In general measures, the witness protection was allocated into subunits by any possible levels with conditions, and criteria such as punishment rate by case, facts of the case, violence of threat, intimidation, weapons, methods of threats, intimidation, or others related to be examined in each level and applied in the same measures in each location and by case.
- xv. The witness protection unit of the Royal Thai Police needed to have an immediate supervision unit to keep database and records of the witness protection.
- xvi. The witness protection unit established by the Royal Thai Police would be any appropriate sizes, police force and enough budget to meet the quantity of the current and future work.
- xvii. The witness protection unit established was independent and directly under supervision of the Royal Thai Police or any similar office. Significantly, it had to be expedite and autonomous at a certain level.
- xviii. The 2nd Model was that the new establish unit had to be centralized but the routine operations were in each local areas by the Command Office to protect witnesses by itself but coordinated their cooperation and data with the locality only.

4. ***Results from Witness*** – the researcher has interviewed five witnesses who were under the protection program and ever been in the program and results were:
 - i. ***Recognition of the rights under legal witness protection*** – most interviewees did not know or realized its existence and most interviewees just knew when incident happened and filed petition with police and being recommended from the police to plead protection at the Office of Witness Protection.
 - ii. ***Petition for witness protection*** – most interviewees pleaded protection through the Office of Witness Protection which was expedite and budget approved faster than filing petition through police and this information was introduced by police.
 - iii. ***Knowledge and understanding the witness protection measures*** – most interviewees had no knowledge and understanding about them before. Upon incident happened and after the police introduced details, there was a certain knowledge and understanding and pleased to have this measures. Most witnesses plead protection with the police but being introduced to file the case at the Office of Witness Protection because the police still met with the disbursement for the protecting witness and witnesses understood.
 - iv. ***Causes and types of case pleaded witness protection*** – most interviewees were the original evidences for murder, attempted murder, and rape. They mostly involved the groups of gender, life and body and not found as accomplice with any large-network organized crime. Most interviewees felt that considering for witness protection would be approved only based on rate of punishment, which by the witnesses' views should better be based on violence, intimidation, and weapons.
 - v. ***Satisfaction with the witness protection officer*** – most interviewees berated on police conducts, manners, speeches, and local police on job. The local police knew other litigant well and sometimes interviewees did not trust the local police at all. Female witnesses were in some cases under the cover of the male police who very often visited the safe house during nighttime. It was improper and there should be other measures or should assign female police to undertake the duty.
 - vi. ***Satisfaction with the protection method*** – most interviewees were satisfied with the admission and felt more secure. What worried them were their concerns of their families fearing that they would be insecure. Most interviewees did not want to stay in the arranged safe house but their

own because of the concerns on properties and families. During the program, they were satisfied with their compensation, which they were never given before.

- vii. ***Problems and limitations to enter the protection program*** – they came from concerns of their families and their properties. They declined to stay in strange safe houses and they were rebated if they failed to abide with the conditions, movements, and calling without informing the police on-duty.
- viii. ***Sense of security during and after the protection program*** – witnesses felt secure when police protected and it was enough. However, they did not know any methods and duties of the police, which mostly just witnessing the red-box visits of the police, co-residing during the first period, and moving to other residence and most witnesses declined because of worrying about their families and their properties. The aftermath, by any reasons, they were still likely feared with intimidation of the litigants but less than the before the program.

Discussions

1. Problems and Limitations of Witness Protection for the Royal Thai Police

Results revealed that the Witness Protection Act in Criminal Case BE 2546(2003) enacted relevantly with the Constitution of the Kingdom BE 2540 (1997) Article 244 which endorsed protection of the witness' rights. Part came from the endorsement of the UN Convention on countering transnational organized crimes CE2000 No. 24 and 25, which emphasized the witness and victim protections. The research was corresponded with the studies of Suddhiphol Thaweechaikarn et al (2005) that such measures in the Convention were insufficient to protect witnesses and their assistances. A country had to amend and enact new Act to enforce other measures worth the witness protection. This research was also corresponded with the studies of Srisombat Chokprajakchat and Dol Boonnak (2009) that the problems of the matter of laws in the Witness Protection Act in Criminal Case BE 2546(2003) which were ambiguity in defining witness, specification of rules, conflict operational standards of the units involved, ambiguity in standards of the coordination and cooperation of units. The responsible unit should be evidently empowered. The research was consistent with the works of Mahithorn Klannurak (2004) on The Rights of Witness Protection under the Criminal Case Section 244 in the Constitution of the Kingdom B.E. 2540 that there were loopholes and needed amendments to meet the principles of the criminal laws, the Criminal Procedure Code and the concepts of the witness; consent. All these legal problems entirely affected the system of the operation units for the witness

protection. The Royal Thai Police besides keeping the social peace and order on securing life and property of the public, it involved in inquires to find facts, collecting and screening potential evidences into the justice administration. Results disclosed that the research was corresponded with the works of Wanchai Srinuandat (1999), Srisombat Chokprajakchat and Dol Boonnak (2009), Methini Chalothorn (2000) and Anek Anathawan (2001) on duties and regulations of witness protection before this Witness Protection Act. It was also corresponded with the interviews of the witness that before this Act, they never knew about the laws of witness protection.

Another critical problem in the Royal Thai Police was there was no evident responsible unit for witness protection. The consequences were then the operation, budget and police force. It was corresponded with opinion of most experts that having no responsible unit entailed no development, improvement, and amendment in the process of the witness protection for the Royal Thai Police. It was also consistent with the works of Niroj Pholboon (2007) that another problems and limitations of witness protection for the Royal Thai Police were the absence of a specific unit to handle the witness protection. Being a large size unit and bureaucratic, the Royal Thai Police had lengthy procedures, troublesome, complex and likely poor coordination.

Accommodating large number of police force, still the Royal Thai Police handled many tasks and duties. Police had no knowledge and skills of witness protection since the office never conducted its training for its skills and its competence both in theories and practices. This was corresponded with the studies of Choomphol Krissanasuwan (2007) that police lacked skills and knowledge in protecting witness. In addition, most police were male and if witnesses were female, it would be improper in protecting them while the witnesses themselves would feel uneasy, frustrated and misunderstanding with the police. Rationally, in the program, the rights of witnesses would be restricted and certainly, it would affect the protection and witnesses would decline the program. This was corresponded with the interviews that some witnesses pointed out the police on protection program should realize the decency and status of the witnesses.

There was poor efficiency in the witness protection system. IT was without operational procedures such as steps to admit witness or persons admitted to the program, no orientation to prepare witness before the program, no mental health check, no criminal records check, no code of conduct agreement signed, no checking of circumstances of the case, intimidation method check, threat method check, and checking of witness's fear. Such procedures should have been complete before their admission to the program by the Office of the Witness Protection and before they were forwarded to the Office of the Royal Thai Police for further action.

However, most cases and witnesses were thoroughly known well by the interrogation officers and the local police than the other units. Though there were well checked by the Office of the Witness Protection, there was no standards of the operational plan upon arriving at the police level, which was accounted in every country. In addition, measures and methods imposed by the Royal Thai Police were unclear and agreeably tangible in the entire unit, which was found in the studies of Choomphol Krissanasuwan (2007).

There were scarcities of place, equipment, materials and technology to support the operation. It was based on there was no specifically responsible unit, therefore there was no organization, no necessity of management and all these affected the efficiency and the effectiveness of the witness protection. The findings were corresponded with the investigation of Dejrabhi Khongdee (2003), and Choomphol Krissanasuwan (2007). A problem of confidentiality was critical and by principle, personal secrecy was necessary and deadly; had it been disclosed, it certainly affected the safety of the witnesses and their families. Keeping secrecy was still weak and it was consistent with the study of Kobkiat Kasiwiat (2007) and Methinee Chalothorn (2000) that secrecy of the witness was the most important thing in the witness protection process. It meant their lives and properties directly. Consequently, the witness protection process around the world prioritized the witness' secrecy. Problems of expenses and compensation for officers were low and unmatched with the current living standards. They were the important problem and limitation, which experts had placed them at the highest level. It was also corresponded with the works of Choomphol Krissanasuwan (2007) and Dejrabhi Khongdee (2003) that there was insufficient budget to meet the expenses in for the witness protection and the expenses and compensation for witnesses and for the officers were unmatched with the current higher living standards while disbursement was too red-taped.

2. Finding Models and Creating Proper Model of Witness Protection for the Royal Thai Police

The proper model as being analyzed was the Royal Thai Police should have its own unit responsible for the witness protection. It was corresponded with works of Niroj Pholboon (2007) that unit had to be established to handle this responsibility. There had to be evident specification of roles, structure, laws and budget for its operation as well as authentic autonomous in protecting witness. Such the structure, system and process were consistent to the research on Evaluating the Enforcement and the Witness Protection Operation under the Witness Protection Act in Criminal Case BE 2546(2003) conducted

by Srisombat Chokprajakchat and Dol Boonnak (2009). The findings favored to approve autonomy to the Office of Witness Protection and to be the core center for other units involved with it. It was recommended that its role should be the facilitator, the regulator, supervisor and organizer of the entire protection system. There should be the involvement in planning direction, the same standards with the criteria of admission and operation nationwide. Its operational process should be under the same system; if unit had to protect witnesses by itself. Special measures only should be imposed with the witness protection program.

The unit was centralized but routine local operation in each responsible region. Actions were taken by the center itself but coordinating with the local police only with data collection. This method was similar to the US Marshal Service established to directly protect witnesses with autonomy under supervision of the Secretary of Justice authorized by the public prosecutors. It was centralization with the local operation unit and many subunits in each State or city. Operations were handled by the witness protection unit itself and not by the police. Police handled witness protection in Germany and Australia, especially; the Police Commander handled the project by himself in Australia to end delays, repletion of order where operations were under the same direction and to prevent the interferences from the influential or the ill-will persons over the witnesses allowing those who feared influences could turn to the police.

According to the current Witness Protection Act, there were two measures, i.e. general measure and special measure similar to many countries as in USA. By the differences of potential, professional and experiences, it was necessary to adapt both measures to meet the Thai social context, the Thai legal system, and the Thai justice administration system. The general measures in the studies might be prescribed in the subsystem to appropriately meet their multilevel with condition and criteria such as punishment rate by case, fact of the case, violence of threats, intimidation, weapons and intimidation and threat methods and others related for classification and applications within the same standards in each location and each case. At the meantime, when the Royal Thai Police was well-equipped in all aspects for the witness protection, the especial measures could potentially be imposed.

Regarding personnel, this unit had to really deploy police to protect witnesses without other loaded works. Such duty required knowledge, skills, and expertise to protect witnesses and they were the unit personnel to end taking advantages of the local police or overload them. It required training them on knowledge and skills of witness protection and the Royal Thai Police should

organize or add the course or the personnel development for these affairs in every curriculum. At the meantime, the witness protection unit had to organize R&D and follow-up equipped with technology back-up in its database, development of equipments, devices and necessary technology to support its witness protection. It was just the foundation of management to a just established unit to be ready for supporting every mission of the unit.

There had to be clear procedures to admit witnesses or individuals for protection, organizing orientation to prompt witness to understand before admission, checking mental health, criminal records, circumstances of case, circumstances of intimidation, circumstances of threat, and the fear of the witnesses. Models of protection in light of an organization was consistent to the investigation of Evaluating the Enforcement and the Witness Protection Operation under the Witness Protection Act in Criminal Case BE 2546(2003) conducted by Srisombat Chokprajakchat and Dol Boonnak (2009). The office structure must be autonomous and the main quarter to other units involved with responsibility to protect witness in the entire system, involvement of planning, descriptions for consideration, designing the standard operation and clear witness protection process. It was similar to the autonomy of the Royal Thai Police with systematic protection, planning to enact laws, regulations and obligations for the same direction and meeting the legal witness protection under the Office of Witness Protection. If the Royal Thai Police established the witness protection unit, it should adhere to the organizational concept consistent to the direction of this research, which might be advantageous.

Any modeling of the witness protection by the Royal Thai Police should follow below for sustainable model, i.e.

1. Established unit responsible for witness protection in part of the Royal Thai Police should allocate personnel and budget for action taken and lead to its operational development. Its roles and duties had to be evidently described, reducing difficulties and repetition. The unit had to be autonomous to consider its efficient operations for the witness protection.
2. The organization should issue rules, regulation, and obligation to evidently support the unit of witness protection, which would become the tools for the unit to deploy in control, order, supervise and check the operation.
3. The unit had to have certain autonomy, closer step of order for action and prevention of political and influential interference. Therefore, there had to be operation board and welcoming the central body of the justice administration and Office of Witness Protection to inspect its operations.

4. Describing qualities of the operation personnel, their compensations and expenses
5. Systematizing the information technology for efficiently storing database and coordination between units
6. The board of this unit had to evidently specify direction, measures, witness' qualities as a standard direction and operation plans appropriate with each witness.
7. Building understanding with witness on their rights and trust on the safety for them and their families
8. Prescribing models and necessary steps to the witness protection operation by studying from the developed countries and imposing similar legal system and justice administration system modified to meet the social situations, legal system and the justice administration.
9. Creating efficient systems for checking, follow-up and evaluation

Analyses disclosed that there were many flaws in the Thai witness protection system in parts of laws and organization. It was uncertain which system would be deployed. Currently, it is an integrated model and opened to many units involved, which diverse ideas and practices and affect problems and limitations in protecting witnesses for the field mission. The Royal Thai Police is a unit legally coordinated to protect witnesses more than other units but it has no evident unit to tangibly take the responsibility. Then, it raises problems and limitation of witness protection in The Royal Thai Police as above discussed. These problems and limitations found should be solved, and specifying proper models and further redesigning its worthwhile ones for the Royal Thai Police.

Recommendations from the Study

1. Clarifying the unit responsible for witness protection regarding roles and duties of the operation
2. Allocating enough police force for operation and leveraging their efficiency through training, developing skills and clearly prescribing their compensation worth their morale.
3. Educating witnesses about the witness protection process, their rights, code of conduct during the program and safety after the program.
4. Developing database for efficient or higher level operation than the existing ones.

Recommendations for Further Studies

1. There should be investigations of during and aftermath effects of the program on witnesses.
2. There should be investigations of witness protection measures and operational practices applicable and relevant to the Thai social context, criminal situations, legal system, and unit responsible for the witness protection.
3. Researches conducted with witnesses under the protection program are secret and prohibited for data disclosure and illegal if disclosed and they may consequently distrust about data collection even witnesses completed the program are still distrust strangers; therefore, investigation with witnesses as targeted population would be critical problems of life-safety and seriously affect the studies.

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Insanity Under Various Criminal Law Jurisdictions of the Globe: A Comprehensive Critical Study of the Relevancy of the Law

Vaibhav Choudhary & A. Velan

PART I

Introduction

Criminal law defines both legal and illegal practices. Like the two-sides of a coin, it expresses, on one hand, legal strategies of punishment; on the other hand, those of non-punishment because of justification or excuses such as insanity. *Mens Rea* is an essential element in every crime. But in the case of insane person, he may not understand the nature of the act. An insane person is not punished because he does not have any guilty mind to commit the crime.

This paper analyzes the Law of Insanity in India and other criminal law jurisdictions. The researchers briefly introduce the evolution of Insanity Plea in Common Law Jurisdiction. The researcher covers both English law and Indian law on insanity in detail. The researcher also mention the provision of Insanity defense in Rome Statute of International Criminal Court and Principle laid down by the European Court of Human Right. Finally an attempt was made to figure out if there is any scope for improvement in the law or not.

While dealing with the paper the researcher has came across with following Research Questions;

1. What are the basic essential for the insanity defense in various criminal law jurisdictions in the world?
2. Whether is there any scope of improvement in Indian Law of Insanity?
3. What can be a possible universally accepted law for the Insanity Defense?

To find out the answer of the above mention research question the researcher has taken a hypothesis that Law of Insanity need to be amended and the ICC provision for Insanity defense can be followed as a universally accepted Law for Insanity. Researchers relied on secondary sources for the compilation of the project.

PART II

1. Insanity in Law

Criminal law defines both legal and illegal practices. Like the two-sides of a coin, it expresses, on one hand, legal strategies of punishment; on the other hand, those of non-punishment because of justification or excuses such as insanity¹. Mens Rea is an essential element in every crime.² There may be no crime of any nature without an evil mind.³ There must be a mind at fault to constitute a criminal act.⁴ The concurrence of act and guilty mind constitutes a crime.⁵ This theory has its basis in the latin maxim '*actus non facit reum nisi mens sit rea*' which means that the act does not makes one guilty unless he has a guilty intention. Lord Diplock in the case of *Swet v. Parsley*⁶ said, '*An act does not make a person guilty of a crime unless his mind is so guilty*'.⁷

Insanity or unsoundness of mind is not defined in any act. It means a disorder of the mind, which impairs the cognitive faculty; that is, the reasoning capacity of man to such an extent as to render him incapable of understanding consequences of his actions.⁸ It means that the person is incapable of knowing the nature of the act or of realising that the act is wrong or contrary to law.⁹

2. The History of Insanity Plea

Before the thirteenth century, mental disease had no legal significance in the criminal law.¹⁰ During the 1200s, the historian *Henrici Bracton* first coined the phrase that would later become the "wild beast test".¹¹ The first recorded English case with an acquittal by reason of insanity was notably decided in 1505.¹² In the eighteenth century, *Rex v. Arnold*¹³ became one of the first recorded cases in England where the aptly named "right versus wrong" or wild beast test was called-upon.¹⁴ The test demanded exculpation where the defendant is totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, than a brute, or a wild beast, such a one is never the object of punishment . . . [It must be determined whether the defendant] knew what he was doing, and was [he] able to distinguish whether he was doing good or evil, and understand what he did.¹⁵ Arnold serves as precedent for the holding that an assertion of madness as a defense would not result in a not guilty verdict without the prerequisite finding of total insanity.¹⁶

Despite these early cases and some commentary on the subject, noted scholarly attention was not given to the doctrine of insanity until the 1700s.¹⁷ In 1736, the scholar Lord Hale stated that "*man is naturally endowed with these two great faculties, understanding and liberty of will. . . . The consent of the will is that, which renders human actions either commendable or culpable. . . . Where there is a total defect of the understanding, there is no free act of the will.*"¹⁸

In the 1843 landmark case of Daniel M'Naghten,¹⁹ the jury found the defendant NGRI. The jury determined that at the time of the crime the defendant suffered from the "morbid delusion"²⁰ that many people, including the Prime Minister of England, were persecuting him. Daniel M'Naghten, under the mistaken impression that the Prime Minister was indeed riding in his own carriage, shot and killed the Prime Minister's secretary, Edward Drummond, who actually was using the carriage at the time.²¹

Although the rule has undergone substantial change over the last century-and-a-half in the United States, English courts continue to follow it.²² Even intense criticism of the rule has not stopped a number of states from following some form of the old M'Naghten Rule.²³ The main defect of the M'Naghten test is that it was based on the now obsolete belief in the pre-eminent role of reason in controlling social behavior.²⁴ Contemporary psychiatry and psychology emphasize that man's social behavior is determined more by how he has learned to behave than by what he knows or understands.²⁵ Despite such criticism, the M'Naghten Rule continues to have legal force in America and England.²⁶

3. Constitute Element of Insanity Defence

There are three conditions to be satisfied in any case where a defence of insanity is raised:

- i. *The accused was suffering from the disease of the mind* – Disease of the mind is a legal term and not a medical term.²⁷ The law is concerned with the question whether the accused is to hold legally responsible for his acts.²⁸ This depends on his mental state and its cause complying with legally defined criteria. Lord Denning defined it as 'any mental disorder which has manifested itself in violence and is prone to recur is a disease of the mind.'²⁹ At any rate it is the sort of disease for which a person should be detained in hospital rather than be given an unqualified acquittal. The leading decision on what constitutes a disease of the mind was given in the case of *Sullivan*,³⁰ in which a distinction was drawn between insane and non-insane person automatism. Lord Diplock defined disease of the mind as mind in the M'Naghten rules is used in the ordinary sense of the medical faculties of reason, memory and understanding.³¹ If the effect of the disease is to impair these faculties so severely as to have either of the consequences referred to in the latter part of the rules, it matters not whether the etiology of the impairment is organic, as in epilepsy or functional or whether the impairment is itself permanent or is transient and intermittent,³² provided that it subsisted at the time of commission of the act.³³

- ii. *This disease gave rise to a defect of reason:*³⁴ Where the defence of insanity is to succeed, the disease of the mind must give rise to a defect of reason. The reasoning power of a person must be impaired.³⁵ The defendant must show that he was suffering from such defect of reason that he did not know the nature and quality of the act he had committed, or if he did know, that he did not know that what he was doing was wrong.³⁶ If the accused is relying on the second limb, he must show proof that he did not know that it was legally wrong; and as a result, he either did not know that what he was doing was wrong; If the accused's defect of reason is to be effective in establishing the defence of insanity, the insanity must affect his legal responsibility for his conduct as such he is not able to realise that what he was doing is wrong. Wrong here means something that is contrary to law.³⁷
- iii. Where the person knows the nature or quality of the act and knows he was doing wrong, then the fact that he was acting under a strong impulse will not entitle him to defence under the rules.³⁸ The insanity defense is an affirmative defense, in that the defendant, who usually carries the subsequent burden of persuasion at trial must raise it.³⁹

4. The Mother of Insanity Law : M'Naghten Principle

Under the M'Naghten formulation of the insanity test, black rage will satisfy the right-wrong prong of M'Naghten if the actor acts in an altered state of consciousness, for example, believing himself to be a leader in a racial war.⁴⁰ There were five significant questions which were raised in front of the House of Lords and the replies by the jury for these questions were named as M'Naghten Principle. The Five principles were mentioned below;⁴¹

- Every man is presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to the satisfaction of the jury.⁴²
- To establish a defense on the ground of insanity, it must be clearly proved that at the time of committing the act, the party accused was labouring under such a defect of reason from disease of mind as not to know the nature and quality of the act he was doing or if he did know it that he did not know that what he was doing was wrong.⁴³
- He should not be aware that act was at the same time contrary to the law of the land and he is punishable.⁴⁴
- Where a person under an insane delusion as to existing facts commits an offence in consequence thereof, the judges indicated that the answer must

depend on the nature of the delusion; but making the assumption that he labors under a partial delusion only, and is not in other respects insane, he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real.⁴⁵

There are two significant issues related to the Insanity Rule, which are necessary to be elaborate for the clear interpretation of these rules.

1. *The use of the word "know"*⁴⁶
 - a. the word "know" can either take on its cognitive meaning namely, is the defendant able to perceive correctly certain objective features of their conduct, i.e. I am shooting a gun; or
 - b. the word "know" can have a more affective meaning namely, whether the defendant is able to fully appreciate the significance of cognitive observations i.e. understand what he objectively knows; and
2. *The use of the word "wrong"*⁴⁷
 - a. In narrow terms, the word wrong could mean a particular crime; or
 - b. In the broader sense, wrong could take into account the defendant's individual beliefs about the desirability of his or her conduct.⁴⁸ These two issues still animate discussion of the M'Naghten Rule, which continues to play a role in the insanity defense in England and America.⁴⁹

From its inception the *M'Naghten* rule was criticized as being too rigid and confining because it did not cover cases in which offenders may cognitively know right from wrong, but were unable to stop themselves from committing the crime charged.⁵⁰ Based on this argument, jurisdictions began to develop other definitions for the insanity defense such as the irresistible impulse defense.⁵¹ In addition, as psychiatry became more accepted and prominent in the United States, several critics argued that the insanity defense should focus on mental illness and not a cognitive test of knowing right from wrong.⁵²

PART III

Explanation and Application of the Insanity Tests

Insanity defense has been in existence since the twelfth century.⁵³ However it has been recognized as an argument for pardon or a way to mitigate a sentence but not as legal defense claiming exemption from

criminal liability.⁵⁴ There are certain tests for the insanity defense some of them are obsolete in the present time and few of them has laid down the new principle for insanity defense in various criminal laws jurisdiction of the world.⁵⁵

1. Wild Beast Test

It was the first test to check insanity that was laid down in the case of *R v. Arnold*⁵⁶ in 1724. Justice Tracy, a 13th century judge in King Edward's court, first formulated the foundation of an insanity defense when he instructed the jury that it must acquit by reason of insanity if it found the defendant to be a madman which he described as 'a man that is totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, than a brute, or a wild beast, such a one is never the object of punishment'.⁵⁷

2. Good and Evil Test

This test was laid down in the case of *R v. Madfield*.⁵⁸ The test laid down in this case is 'the ability to distinguish between good and evil'.⁵⁹ In this case, the accused was charged for treason for attempting to kill the King. The defence pleaded that he was not able to distinguish between good and evil and 'wild beast test' was unreasonable. He was acquitted.⁶⁰

3. Insane Delusion Test

The *Insane Delusion test* was the second test concerning the defence of insanity. It was laid down by the House of Lords in *Hadfield Case*.⁶¹ In this case Hadfield was charged for high treason in attempting the assassination of King George III. The counsel for the accused Mr. Erskine was successful in proving that the accused was suffering under the insane delusion, a mental disease and thus obtained the verdict of not guilty.⁶² The counsel pleaded that insanity was to be determined by the fact of fixed insane delusions with which the accused was suffering and which were the direct cause of his crime.⁶³

4. Test of Capacity to Distinguish Between Right and Wrong

In *Bowler's case*⁶⁴ the House of Lords formulated the test of capacity to distinguish between right and wrong.⁶⁵ In this case Le Blanc J. charged the jury that it was for them to determine whether the accused when he committed the offence was incapable of distinguishing right from wrong or under the influence of any illusion in respect of the prosecutor which rendered his mind at the moment insensible of the nature of the act he was about to commit.⁶⁶ Ever

since the decision in Bowler's case the courts have laid more stress on the capacity of the accused to distinguish right from wrong, though they had not yet definitely formulated this test in very clear terms until the Mc Naughten case decided in 1843.⁶⁷

5. M'Naughten Test

The law relating to the defence of insanity is to be found in the rules set out in Mc'Naghten⁶⁸ that delineate the circumstances in which an accused will be held not to have been legally responsible for his conduct.⁶⁹

6. Irresistible Impulse Test

The irresistible impulse test usually appears as a third prong of the traditional M'Naghten test. This volitional prong broadens M'Naghten by including as insane actors those who act out of irresistible, uncontrollable impulses.⁷⁰ According to typical jury instructions, an irresistible impulse must "completely deprive the person of the power of choice or volition."⁷¹ Consequently, "If the accused would not have committed the act had there been a . . . policeman present, he cannot be said to have acted under an irresistible impulse."⁷² This prong, adopted in many M'Naghten jurisdictions, draws much criticism on the ground that psychiatrists -and philosophers - have difficulty discerning between resistible and irresistible criminal urges.⁷³

7. The Model Penal Code Test

The Model Penal Code of the American Law Institute embraces a third insanity test that incorporates both the cognitive element of the M'Naghten test and the volitional element of the irresistible impulse test.⁷⁴ It reads: A person is not responsible for criminal conduct if at the time of such conduct as a result of a mental disease or defect he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of law.⁷⁵ The first prong, the appreciation of criminality is a substantial revision of the M'Naghten test, collapsing its redundant prongs, substituting the more lenient "appreciate" for the stricter "know," and allowing jurisdictions the option to resolve the moral-legal question by inserting either "criminality" or "wrongfulness." The second prong, the conforming of conduct restates the irresistible impulse test but avoids the ambiguous word "impulse." The Model Penal Code also modifies both of its prongs with "lacks substantial capacity" and thus departs from both earlier tests in requiring less than total incapacitation.⁷⁶ As a result, the Model Penal Code test is broader and some would say more realistic than the earlier tests.⁷⁷

8. The Product Test

The product test is more forgiving than the M'Naghten, the irresistible impulse and the Model Penal Code tests both with respect to the mental disease or defect requirement and with respect to the cognitive and volitional prongs. Instead of requiring a "disease of the mind" that only some psychoses and extreme mental defects can satisfy or a lack of substantial capacity to understand or control the product test includes "any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behavior controls."⁷⁸ As a result of this lenient definition, more defendants could successfully assert a black rage defense under this part of the product test than under other insanity formulations.⁷⁹ If these defendants could additionally show that black rage was a but for cause of their criminal conduct, they would also satisfy the second part of the test and qualify as legally insane.⁸⁰

9. The Federal Test

The United States Congress comes with a final insanity test, aptly called the "federal test."⁸¹ Under this test, an actor is legally insane if, at the time of the criminal conduct, he suffered from a "severe mental disease or defect" and as a result was unable to appreciate;

- The nature and quality of the conduct or
- The wrongfulness of the conduct⁸²

A partial throwback to M'Naghten, the federal test replaces the Model Penal Code's more lenient "lack of substantial capacity" with the less forgiving "severe mental disease or defect" and removes completely the Model Penal Code's volitional prong.⁸³ As a result, incapacitation must be cognitive and total, as in M'Naghten, in order to exculpate the accused.⁸⁴

PART IV

Law of Insanity in India

The Indian law relating to insanity has been codified in the IPC, section 84⁸⁵ contained also the general exceptions.⁸⁶ Section 84 of the Indian penal Code, 1860 mentions the legal test of responsibility in case of alleged unsoundness of mind. It is by this test as distinguished from a medical test that the criminality or the *mens rea* of the *actus reus* is to be determined.⁸⁷ This section in substance is the same as the M'Naghten Rules which are still the authoritative statement of law as to criminal responsibility in spite of the passage of time.⁸⁸

1. Section 84 of IPC and M'Naghten Principle

IPC section 84 deals with the law of insanity on the subject. This provision is made from the M'Naghten rules of England. In the draft penal code, Lord Macaulay suggested two sections (66 and 67), one stating that 'nothing is an offence which is done by a person in a state of idiocy' and the other stating that 'nothing is an offence which a person does in consequence of being mad or delirious at the time of doing it' to deal with insanity.⁸⁹ The Law Commissioners in replacing these two provisions by IPC, section 84 have adopted a brief and succinct form of the M'Naghten rules.⁹⁰ It has been drafted in the light of the replies to the second and third questions, which is generally known as M'Naghten rules. But IPC, section 84 uses a more comprehensible term 'unsoundness of mind' instead of insanity. Huda says the use of the word 'unsoundness of mind' instead of insanity⁹¹ has the advantage of doing away with the necessity of defining insanity and of artificially bringing within its scope different conditions and afflictions of mind which ordinarily do not come within its meaning but which nonetheless stand on the same footing in regard to the exemptions from criminal liability.⁹²

2. Unsoundness of Mind

The Code does not define unsoundness of mind.⁹³ But to exempt a man from criminal liability unsoundness of mind must reach that degree such that it materially impairs the cognitive faculties of the mind that can form a ground of exemption from criminal responsibility.⁹⁴ A distinction must be drawn between insanity affecting the cognitive faculties of a man and that affecting the will or emotions. It is only the first that is within the purview of the section.⁹⁵

In *Bikari v. State of U.P.*,⁹⁶ it was held that where evidence of deliberate or premeditated actions are found, destruction of cognitive faculties cannot be inferred. Such unsoundness however cannot be inferred from mere lack of motive or the nature of the defendant's preceding or subsequent actions. Such was the dictum of the Supreme Court in *Sheralli Walli Mohammed v. State of Maharashtra*.⁹⁷

In *Lakshmi v. State*,⁹⁸ the meaning as to unsoundness of mind was cleared up. It was held that what section 84 lays down is that the accused claiming protection under it should not know an act to be right or wrong but that the accused should be "incapable" of knowing whether the act done by him is right or wrong. The former is a potentiality; the latter is the result of it. If the person possesses the former, he cannot be protected in law, whatever might be the result of his potentiality.

3. Judicial Interpretation

- ***Ratanlal v. State of MP***⁹⁹

The appellant on 22 January 1965, set fire to the grass lying in the khalyan of Nemichand. On being asked why he did it, the accused said; 'I burnt it; do whatever you want'. The accused was arrested on 23 January 1965. He was referred to a mental hospital. The psychiatrist of the hospital reported that the accused remained silent, was a case of maniac depressive psychosis, and needs treatment. The report declared the accused to be a lunatic in terms of the *Indian Lunatic Act, 1912*. The issue before the courts was whether insanity might be used as defence against a charge of mischief by fire with intent to cause damage under the IPC, section 435. The crucial point in this case was whether unsound mind may be established at the time of commission of the act. The Supreme Court held that the person was insane and acquitted him.

- ***Dayabhai Chhaganbhai Thakkar v. State of Gujarat***¹⁰⁰

In this case, the accused was charged and convicted under the IPC, section 302 for the murder of his wife. The accused killed his wife with wife by inflicting her with 44 knife injuries on her body. The accused raised the plea of insanity at the trial court. Trial court however rejected the contention on the ground that the statements made to the police immediately after the incident did not showed any sign of insanity. This conviction was confirmed by the high court. The accused made an appeal to the Supreme Court. The Supreme Court also upheld the conviction of the accused and laid down certain criteria according to which a accused in entitled to the defence under the provision. It said that in determining whether the accused has established his case under the perview of Indian Penal code, 1860, section 84, 'the court has to consider the circumstances which preceded, attended and followed the crime. The crucial point of time for determining the state of mind of the accused is the time when the offence was committed. The relevant facts are *motive for the crime, the previous history as to mental condition of the accused, the state of his mind at the time of the offence, and the events immediately after the incident that throw a light on the state of his mind*'.

- ***Ashiruddin v. King***¹⁰¹

In this case, Ashruddin had killed his son while acting under the delusion of a dream believing it to be right. The accused had dreamt that he was

commanded by someone to sacrifice his son of five years. The next morning the accused took his son to mosque and killed him by thrusting a knife in his throat. The Calcutta High Court observed that it was a case of insanity under IPC, section 84 and discharged the accused from criminal liability.

- ***Hazara Singh v. State***¹⁰²

In this case, Hazara Singh was under a delusion that his wife was unfaithful to him. One day, being disturbed by those thoughts, he caused her death by pouring nitric acid over her. Medical evidence showed that he knew what he was doing and had the ordinary knowledge of right and wrong. He was convicted for murder.

- ***Hari Singh v. State of M.P.***¹⁰³

In this Case the Court Laid down following principle for Insanity Defense the Court Said, “*Accused is protected not only when on account of insanity, he was incapable of knowing the nature of the act, but also when he did not know either that the act was wrong or that it was contrary to law, although he might know the nature of the act itself -Crucial point of time for deciding whether the benefit of this section should be given or not, is the material time when the offence takes place.*”

4. The Law Commission Report Summary

After much deliberation it was decided that the provisions in the criminal justice system dealing with the insanity defense need no alteration and the same were left untouched.¹⁰⁴ However. This decision of the Law Commission has come under fire since the M'Naghten Rule (which is based the Indian insanity defense) has come under increasing attack in most common law countries.¹⁰⁵ In fact to remedy it's inadequacies, a vast number of legislations and new theories have been formulated. In India however no such innovations have been introduced and we continue to live with this much criticized system.¹⁰⁶

The Indian Law on insanity is based on the rules laid down in the M'Naghten case.¹⁰⁷ However, the M'Naghten rules have become obsolete and are not proper and suitable in the modern era.¹⁰⁸

PART V

Law of Insanity in other Criminal Codes : An Overview

The Criminal Codes of many countries provide for a broader scope for the defence of insanity.

1. Insanity Law in USA

The United States' courts expanded upon the M'Naghten Rule by exempting from criminal liability those who acted under "irresistible impulse."¹⁰⁹ This test focused on exempting spur-of-the-moment reactions from criminal responsibility.¹¹⁰ Thus, courts, following this rule, would not excuse crimes committed after prolonged contemplation.¹¹¹

Parsons v. State,¹¹² a much-noted early case, exemplified this proposition. In *Parsons*, a wife and daughter were accused of killing their husband/father by fatally shooting him. The two defendants were tried jointly and both pled insanity. At the trial level, the jury found the defendants guilty of murder with malice aforethought.¹¹³

Another development with limited application in the law of the insanity plea in the United States was the so called "product" test.¹¹⁴ According to this test, the defendant would not be criminally responsible if his unlawful act was the product or result of a mental disease or defect.¹¹⁵

The American Legal Institute's (ALI) Model Penal Code (MPC) test, found in MPC section 4.01, provides that a person is not responsible for criminal conduct if, at the time of such conduct as a result of mental disease or defect she or he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.¹¹⁶ Thus, the ALI test focuses on the defendant's understanding of his conduct and on the defendant's ability to control his actions. Notably, the test absolves from criminal responsibility a person who knows what he is doing, but is driven to crime by delusions, fears, or compulsions.¹¹⁷ The test is a combination of portions of the M'Naghten Rule and the irresistible impulse test. The ALI test contains a cognitive prong from the M'Naghten Rule and a volitional component of the irresistible-impulse test.¹¹⁸

2. Australian Capital Territory

Pursuant to the Crimes Act 1900, section 428(1):¹¹⁹

An accused is entitled to be acquitted of an indictable offence on the grounds of mental illness if it is established on the balance of probabilities that, at the time of the alleged offence, the accused was, as a result of mental dysfunction-¹²⁰

- Incapable of knowing what he or she was doing; or
- Incapable of understanding that what he or she was doing was wrong.

3. New South Wales

In New South Wales, §38 of the *Mental Health (Criminal Procedure) Act 1990* states:¹²¹

If, in an indictment or information, an act or omission is charged against a person as an offence and it is given in evidence on the trial of the person for the offence that the person was mentally ill, so as not to be responsible, according to law, for his or her action at the time when the act was done or omission made, then, if it appears to the jury before which the person is tried that the person did the act or made the omission charged, but was mentally ill at the time when the person did or made the same, the jury must return a special verdict that the accused person is not guilty by reason of mental illness.¹²²

It is noted that this test invokes the common law; New South Wales is the only Australian jurisdiction to do so in those terms.¹²³

4. Singapore

Having been a British Crown Colony in the Far East until as recently as 1959, it is not at all surprising that much of Singaporean criminal law has been borrowed from the Indian Penal Code which the British colonial administration based in India introduced to many of its colonies.¹²⁴ As a result, section 84 of the Singapore Penal Code, the provision on insanity (or "unsoundness of mind" as it is described in the Code) is identical in wording to section 84 of the Indian Penal Code. Even after gaining its independence, Singapore has continued to look to English criminal law developments for guidance. A good example was the introduction of the English statutorily created defence of diminished responsibility¹²⁵ into the Singapore Penal Code in 1961 in the form of Exception 7 to section 300.¹²⁶ Interestingly, this move was not taken by India or by Malaysia, our close neighbour which, like Singapore, has also adopted the Indian Penal Code.¹²⁷

5. Tasmanian Criminal Code

Section 16 says that an accused may not be punished if he may not understand the nature of the act or that it was against law. They may also not be punished if they committed the act under an 'irresistible impulse'.

6. Penal Code of France

Article 64 provides that 'there is no crime or offence when the accused was in state of madness at the time of the act or in the event of his having been compelled by a force which he was not able to resist'.

7. Swiss Penal Code

Section 10 states that 'any person suffering from a mental disease, idiocy or serious impairment of his mental faculties, who at the time of committing the act is incapable of appreciating the unlawful nature of his act or acting in accordance with the appreciation may not be punished'. The American Law Institute suggested that 'a person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks the substantial capacity either to appreciate the criminality of his conduct or to confirm his conduct to the requirements of law'

PART VI

Insanity Defence Under International Law

1. The European Convention on Human Rights

A somewhat different aspect of the tension between crime control and democratic freedoms arises in the context of the mentally ill offender.¹²⁸ Here, there is always a serious danger that the emphasis on protecting the public from a person perceived as dangerous will result in that person being short changed regarding his rights, particularly the right to liberty.¹²⁹ The leading European Court decision on the detention/hospitalization of the mentally ill is *Winterwerp v. Netherlands*.¹³⁰ The principles set out in this seminal judgment must cause serious concern that Ireland is in serious breach of the Convention as regards both the insanity defense and the issue of fitness to plead in criminal trials.¹³¹ The *Winterwerp* principles include the following requirements:¹³²

- There must be a proper test of insanity, which is flexible and closely linked with current psychiatric concepts;
- There must be a proper consideration, at the time of detention, of whether there is a need for such detention/hospitalisation;
- There must be provision for periodic review of such detention/hospitalization;
- The test operated by the review body must be whether the conditions which warranted the original detention continue to exist;
- The procedures operated by the review body must be fair to the detainee;
- The review body must be sufficiently independent to have the power to order the release of the person if the previous condition is no longer satisfied; and
- Reviews must be dealt with speedily.¹³³

Without setting out a litany of possible shortcomings in this area of the criminal law, suffice it to say that many, if not all, of the *Winterwerp* requirements are ignored by seriously outdated Irish legal provisions concerning fitness to plead and insanity.¹³⁴

2. The Defence of Insanity in the Statute of the International criminal Court

It is noteworthy that most member states of the Commonwealth have ratified the Statute of the International Criminal Court (ICC).¹³⁵ As a result of this Statute, a permanent International Criminal Court was created for the first time in history, composed of judges who are independent of their home states to try perpetrators of crimes against humanity, genocide, war crimes and aggression. The ICC Statute contains provisions spelling out some of the general principles of criminal responsibility one of which is Article 31 which provides for certain defences. Among them is the defence of insanity which reads as follows:

- i. Person shall not be criminally responsible if, at the time of that person's conduct the person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law.¹³⁶

This formulation may be usefully compared with the Commonwealth formulations considered in this study. The ICC provision lends support to the correctness of several propositions that have been made concerning the elements that should go into making the best possible formulation of the defence of insanity. First, the ICC provision describes the mental disorder in terms of "a mental disease or defect".¹³⁷ In doing so, the provision recognises the difference between a disease and a defect and, at the same time, avoids unnecessary complications by not using the adjective "natural" to describe "mental defects" as some Commonwealth formulations have done. Secondly, the ICC provision uses the word "appreciates" to describe the cognitive defects referred to, thereby signifying that disruption of a deeper level of reasoning will support the defence. This renders it unnecessary for the provision to refer to the "quality" of the accused's conduct.

Hence, the defence would be available to a person who knew the nature of his or her conduct but, due to a mental disease or defect, could not understand the harmful effect or consequences of that conduct. Thirdly, the ICC provision supports recognition of conative defects and, in so doing, joins the many Commonwealth jurisdictions which have taken this stance. Fourthly, by using the word "destroys" the ICC provision is emphatic that a total (as opposed to a

substantial) incapacity is required for the defence to succeed. Fifthly, the absence in the ICC provision of a supplementary rule on partial delusions confirms the superfluous nature of such a rule.

Finally, the absence of a defence of diminished responsibility in the ICC Statute lends support for the view that the concept of diminished responsibility should be treated as a sentencing factor¹³⁸ rather than given an exculpatory role.¹³⁹

However, there are three matters appearing in the ICC provision which, it is contended, require revision. The first concerns the restriction of the defence to persons who did not appreciate the legal wrongness of their conduct. The second matter requiring revision is that the ICC provision should not have connected the accused's conative defect with the cognitive matter of conforming to the requirements of the law.¹⁴⁰ By imposing such a connection, the provision wrongly assumes that conative defects have no effect whatsoever on a person's cognitive faculties.

Fortunately, the wording of the provision is sufficiently vague to enable the ICC to interpret it in a way which does not require the accused to have appreciated that his or her uncontrollable conduct was contrary to law. The ICC could do so by regarding the relevant words as simply stating (rather superfluously) that the uncontrolled conduct of the accused was such as to have breached the law. A much better remedy would be for the Review Commission of the ICC Statute to strike out the words "to conform to the requirements of law" from the provision.¹⁴¹

The third matter concerns the use of the word "capacity" in the ICC provision. That this word has the effect of unjustly denying the defence to persons who may have had the capacity to appreciate the nature or wrongness of their conduct or to control it but who, on the occasion in question, lacked such appreciation or control as a result of a mental disease or defect. The solution would be to reformulate the ICC provision so as to avoid using the term "capacity".

PART VII

Conclusion

The Indian Law on insanity is based on the rules laid down in the M'Naghten case. However, the M'Naghten rules have become obsolete and are not proper and suitable in the modern era. The M'Naghten rule is based on the entirely obsolete and misleading conception of nature of insanity, since insanity does not only affect the cognitive faculties but affects the whole personality of the person including both the will and the emotions. The present definition only looks at the cognitive and moral

aspects of the defendant's actions but ignores the irresistible impulse that may be forcing him to commit that act. An insane person may often know the nature and quality of his act and that law forbids it but yet commit it as a result of the mental disease.

The Law Commission of India in its 42nd report after considering the desirability of introducing the test of diminished responsibility under IPC, section 84 gave its opinion in the negative due to the complicated medico-legal issue it would introduce in trial. It is submitted that the Law Commission's view needs modification since it is not in conformity with the latest scientific and technological advances made in this direction. There are three compartments of the mind controlling cognition, emotion and will. IPC, section 84 only exempts one whose cognitive faculties are affected.

The provision is regarded as too narrow, and makes no provision for a case where one's emotion and the will are so affected as to render the control of the cognitive faculties ineffectual. The Courts must also adopt a broader view of the Insanity and introduce the concept of diminished responsibility.

The Indian Government may also look at the provisions of the other countries relating to insanity. Swiss Penal Code, section 10 states that 'any person suffering from a mental disease, idiocy or serious impairment of his mental faculties, who at the time of committing the act is incapable of appreciating the unlawful nature of his act or acting in accordance with the appreciation may not be punished'. This provision is much broader and is better suited for the defence of insanity.

End Notes

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⁷⁶Model Penal Code § 4.01(1) (1962).

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⁷⁸About half of the states and all but one of the federal courts of appeals had adopted the popular Model Penal Code test by 1980.

⁷⁹McDonald v. United States, 312 F.2d 847, 851 (D.C. Cir. 1962).

⁸⁰*United States v. Alexander*, 471 F.2d 923, 958-59 (D.C. Cir.).

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⁸³See 18 U.S.C. s 17(a) (1988); see also *United States v. Salava*, 978 F.2d 320, 322 (7th Cir. 1992).

⁸⁴*United States v. Fishman*, 743 F. Supp. 713, 720 (N.D. Cal. 1990).

⁸⁵*United States v. Reed*, 997 F.2d 332, 334 (7th Cir. 1993).

- ⁸⁶ Indian Penal Code, § 84: '*Acts of a person of unsound mind*— Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law'.
- ⁸⁷ State of M.P. v. Digvijay Singh, AIR 1981 SC 1970.
- ⁸⁸ R.C. Srivastava, Law Relating to Crime and Punishment 234 (1st ed., Manav Law House, Allahabad 2006).
- ⁸⁹ Peeru Singh v. State of M.P., AIR 1987 Cr LJ 1781 MP.
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- ⁹² Amruta v. State of Maharashtra, 1996 Cr LJ 3450 (Bom).
- ⁹³ *Id.*
- ⁹⁴ Kader Hasyer Shah, (1896) 23 Cal 604, 607.
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- ⁹⁷ AIR 1961 SC 1.
- ⁹⁸ AIR 1972 SC 2443.
- ⁹⁹ AIR 1963 ALL 534.
- ¹⁰⁰ AIR 1971 SC 778.
- ¹⁰¹ AIR 1964 SC 1563.
- ¹⁰² AIR 1949 Cal 182.
- ¹⁰³ AIR 1958 Punj & Har. 194.
- ¹⁰⁴ AIR 2009 SC 31.
- ¹⁰⁵ Shivraj Singh v. State of M.P., 1975 Cr LJ 1458.
- ¹⁰⁶ *Id.*
- ¹⁰⁷ *Id.*
- ¹⁰⁸ Bhan Singh v. State of M.P., 1990 Cr LJ 1861 (MP).
- ¹⁰⁹ Elkai Shankari v. State of A.P., 1990 Cr LJ 97 (AP).
- ¹¹⁰ Michael L. Perlin, The Jurisprudence of the Insanity Defence 84 (1994).
- ¹¹¹ *Id.*
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- ¹¹⁴Henry J. Steadman et al., *Factors Associated With a Successful Insanity Plea*, 140 Am. J. Psychiatry 401, 401(1983).
- ¹¹⁵*Durham v. United States*, 214 F.2d 862, 874-75 (D.C. Cir. 1954) (explaining the product test), overruled by *United States v. Brawner*, 471 F.2d 969 (D.C. Cir. 1972).
- ¹¹⁶*Id.*
- ¹¹⁷Model Penal Code § 4.01 (1962). §4.01 states that:
- i. A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of law.
 - ii. The terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.
- ¹¹⁸Richard A. Pasewark et al., *The Insanity Plea in New York State*, 51 N.Y. St. B.J. 186,187 (1979).
- ¹¹⁹H. Weihofen, *Mental Disorder As A Criminal Defence* 77 (1954).
- ¹²⁰Diamond, *Criminal Responsibility of the Mentally Ill*, 14 Stan. L. Rev. 59, 61-62 (1961).
- ¹²¹J. V. Barry, *Insanity in the Criminal Law in Australia* 21 Can. Bar Rev. 429 437 (1943).
- ¹²²G. P. Fletcher, "Two Kinds of Legal Rules: a Comparative Study of Burden-of-Persuasion Practices in Criminal Cases" 77 Yale L.J. 880, 899-901(1968).
- ¹²³W. M. Best, *The Principles of the Law of Evidence* 548 (6th ed., 1875).
- ¹²⁴O. Dixon, "A Legacy of Hadfield, M'Naghten and Maclean" 31 A.L.J. 255,256 (1957).
- ¹²⁵Chan Wing Cheong & Andrew Phang, "The Development of Criminal Law and Criminal Justice" in Kevin Tan, ed., *Essays in Singapore Legal History* (Singapore: Marshall Cavendish Academic and the Singapore Academy of Law, 2005).
- ¹²⁶*See* §2, Homicide Act 1957 (U.K.), 1957.
- ¹²⁷The exception is closely similar in wording to the English provision. It reads: "Culpable homicide is not murder if the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in causing the death or being a party to causing the death".

- ¹²⁸White, "*The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991*" 4 Crim.L.R. 4, 9(1992).
- ¹²⁹N. Walker, Crime And Insanity In England 15-73 (1968).
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- ¹³⁴Luberti v. Italy (1984) 6 E.H.R.R. 440.
- ¹³⁵Sutherland and Gearty, "*Insanity and the European Court of Human Rights*" (1992) Crim.L.R. 418, 419.
- ¹³⁶Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9, 17 July 1998 (entered into force 1 July 2002), reprinted in 37 I.L.M. 999 (1998), available at <http://www.un.org/icc>.
- ¹³⁷Article 31(1)(a). For a detailed discussion of this provision, see Peter Krug, "*The Emerging Mental Incapacity Defence in International Criminal Law: Some Initial Questions of Interpretation*" (2000) 94 A.J.I.L 317; Geert-Jan Knoops, Defences in Contemporary International Criminal Law 109-112 (2nd ed., Martinus Nijhoff Publishers 2008).
- ¹³⁸*Id.*
- ¹³⁹This is possible under the framework of the general sentencing provisions of Article 78 of the ICC Statute.
- ¹⁴⁰The non-recognition of a defence of diminished responsibility by the ICC Statute is all the more glaring given that it was recognised by the International Criminal Tribunal for the former Yugoslavia in the Celebici Camp Case: see Prosecutor v Delalic, Judgment, No. IT-96-21-T (16 November 1998) available at <http://www.un.org/icty>.
- ¹⁴¹The wording describing this connection is closely similar to that found in the American Model Penal Code provision on insanity
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Suicide - Bombing: A Unique Threat to Security Agencies in Pakistan

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Abstract

This paper deals with a unique threat posed by suicide bombing in law-enforcement context in Pakistan. The primary focus is on operational abilities of security forces as well as their limitations in face of suicide attacks. Attention is paid to justificatory techniques deployed by suicide bombers and their effectiveness in current sociopolitical and international context.

Keywords

Suicide Bombing, Terrorism, Policing in Pakistan, Taliban Recruiting Strategies and Neutralization Techniques.

In order to understand predicament of Police vis-à-vis militants, we need to contextualize it within both domestic politics and international pressures from the very beginning. Domestically, Pakistan is mired in rampant corruption at the highest level. Political government and its bureaucratic cronies are brazenly involved in high level of corruption. Supreme Court is the only credible institution and that is openly flouted by both executive and legislative branches. The *raison d'être* of Pakistani police since colonial days was based not on rule of law but basically securing the interest of ruling authorities. Police are divided into provincial and Police Services of Pakistan (PSP). PSPs are the upper caste of police, while provincial service generally constitutes rank and file. In the status conscious society of Pakistan any police officer from lower echelon going to higher position still carries stigma of “ranker” i.e. simultaneously part of and apart from the elite club. Now there are multiple ways of induction in provincial system bypassing seniority and merit contributing to deterioration of morale in rank and file. Even death of PSP officers in encounters with Pakistani Taliban (formal name of their organization is TTP: Tehrik-e-Taliban Pakistan) is glamonously memorialized and handsomely rewarded with money and commercial plots. The rank and file are like cannon fodder in war against terrorism just mentioned impersonally in statistical manner e.g. five or six constables perished in suicide bombing. An assembly line funeral is arranged, poorly compensated and the deceased family are quickly consigned to collective amnesia. Borrowing insights from Goffman's dramaturgical analysis the death of a PSP is front stage while mutilated bodies of average policemen are back stage. In Goffman's analysis audience see the front stage but front stage is made possible by people who are working behind the scene i.e. backstage (Goffman, 1959). Couple of years ago while I was travelling from Islamabad to Peshawar I saw

personally billboards memorializing influential PSP police officers. Hierarchies of death in today's live television will have some deleterious implication for the spirits of forces. Historically Pakistani Police were a feared but not revered institution but now it is neither feared nor revered. The Military on the one hand is overstretched between Eastern and Western borders and on the other involved in disappearance of citizens reminiscent of the Dirty War of Argentina (1976 until 1983) where thousands vanished in illegal military custody. Internationally US is asking Pakistan to do more in war against terrorism and her Drone attacks are very unpopular domestically. For Taliban militants Pakistan's role in US war against terrorism is like helping crusading armies against fellow Muslims. People of Pakistan generally do not consider War on Terrorism as their war and this is substantiated by surveys. In order to confer legitimacy on their acts, militants, terrorists and extremists are different labels manufactured by the epistemic regime of government for those defying authority of state. In reality militants are not monolithic groups, neither ideologically nor organizationally. Operationally, the militants who collaborate on the principle of my enemy's enemy is my friend are different franchises primarily united by hatred for pro-US policies of Pakistani government. All these factors and more have constrained operational abilities as well as morale of the police in this never ending violent saga. I believe it is not clear to many that what will be the ultimate end or direction of this melodramatic episode in Pakistan's history. This unending violence, unbridled corruption and grinding poverty have weakened the writ of state. Pakistan is awash with heavy weaponry; the recent Lyari debacle bespeaks the limitation of police against the heavily armed citizens. The role of the police should be understood and evaluated in backdrops of aforementioned factors.

Police are facing highly motivated enemy who is morally clear and determined to die while police are plagued by a mission that is not clear, morally they are ambivalent and psychologically they have mixed emotions. Theoretically speaking, police forces are expected to operate within the framework of individual human rights and the rule of law and that limit their abilities against an enemies who do not abide by such requirements and can easily move from one nation state to others (Naím, Jan. - Feb., 2003).

Classical insurgency movements followed tactics articulated by Mao: "The enemy advances, we retreat; the enemy camps, we harass; the enemy tires, we attack; the enemy retreats, we pursue" (Mao, 1997, p. 242). There is a new saying in Taliban circles that US has the watch and we have time, indicating that Taliban can outlast US determination to win the war on terrorism. Insurgents' quantitative and qualitative weaknesses were countervailed by a protracted war of attrition. The element of surprise and subsequent extraction of fighter determined their operational tactics. Injection of Suicide Bombing (militants term Martyrdom

Operation) has changed the configuration of warfare and police activities. Except rhetoric of war on terrorism there is no clear vision how to fight this unpopular war. The police are not trained for such prolonged operation and that have led to further deterioration of law and order.

Lethality of Suicide Bombing

Lt. Gen. John Vines while explaining the lethality of suicide bombing said, "foreign fighters (most of suicide bombers in Iraq) are what amounts to a terrorist cruise missile." For Taliban militant in practical term suicide bomber is a deliverer of payload to enemy target. "They can target a specific element without having to worry about their own survival. They are very hard to fight; so they take chances and do things someone who would worry about survival wouldn't do" (as cited in Miklaszewski, 6/21/2005).

Pape echoed Gen. Vines:

Suicide bombing is an effective weapon in an asymmetrical warfare. It is a weapon of the weak against the powerful enemy. In 1985, Daud, a leader of Hezbollah in southern Lebanon, said: "We are prepared to sacrifice our lives - literally blow ourselves up in opposition to their tanks Since we cannot fight the enemy with weapons, we have to sacrifice our lives. And this is what is happening right now in South Lebanon." Sayeed Siyam, a Hamas leader in Gaza, said, "We in Hamas consider suicide bombing attacks inside the 1948 borders" - inside Israel- "to be the card that Palestinians can play to resist the occupation We do not own Apache helicopters ourselves, so we use our own methods. Given the methods used by the Israelis, we consider the door to hell is open. Their assassination policy and the bombardment-all this theater of war inside Palestinian villages and homes-we respond to that by seeking to make Israelis feel the same, insecure inside their homes." In 1995, the Secretary General of Islamic Jihad, Fathi al-Shaqqi, said, "Martyrdom actions will escalate in the face of all pressures [they] are a realistic option in confronting the unequal balance of power. If we are unable to effect a balance of power now, we can achieve a balance of horror." In 1997, the Tamil Tigers' political spokesman, S. Thamilchelvan, gave an interview in which he explained that the group devised the use of suicide bombing as a means to compensate for the Tamils' numerical disadvantage-their population is about one-fourth that of the majority Sinhalese-and to more effectively attack the Sinhalese military and political leadership. The goal, Thamilchelvan said, was "to ensure maximum damage done with minimum loss of life" (as cited in Pape, 2005, pp. 32).

Dr. Ramadan Shalah, Secretary-General of the Palestinian Islamic Jihad summarized its utility as follows:

Our enemy possesses the most sophisticated weapons in the world and its army is trained to a very high standard... We have nothing with which to repel the killing and thuggery against us except the weapon of martyrdom. It is easy and costs us only our lives... human bombs cannot be defeated, not even by nuclear bombs (as cited in Madsen, 2004, p. 2).

Effectiveness of suicide bombing can be seen in Palestinian-Israeli conflict. Israel is a mini-super power in Middle East and has almost brought all her neighbors to their knees but has remained helpless against suicide bombing. The same is true of United States in Iraq and Afghanistan. Israel has a high-tech military, police and small geography (which is easy to monitor) but still cannot stop suicide bombing. In order to deter suicide bombing Israelis quickly resorted to collective punishment (like Pakistani FCR) and so far it could not dissuade motivated bombers.

Pape (2005) sees suicide bombing as a strategy mediated by rational choice model. Using pleasure-pain calculus the bomber tries to inflict so much pain in the hope that in the end regime will be brought to its knees. Suicide bombers ruthless determination is obvious from the fact that they have attacked the most secure places as well as have killed and kidnapped relatives of powerful officials in broad daylight. Most of key government officials and anti-Taliban politicians use bullet proof vehicles for transportation. Suicide bombers know the futility of direct armed conflict with security apparatus and therefore do not intend to engage military or police. Their goal is that by blowing oneself in an unpredictable manner could definitely demoralize security machinery.

Pape (2005) summarized the effectiveness of suicide bombing in following words:

1. Suicide attacks are generally more destructive than other terrorist attacks. An attacker who is willing to die is much more likely to accomplish the mission and to cause maximum damage to the target.
2. Suicide attackers can conceal weapons on their own bodies and make last-minute adjustments more easily than ordinary terrorists.
3. They are also better able to infiltrate heavily guarded targets, because they do not need escape plans or rescue teams.
4. Suicide attacks are especially convincing in signaling the likelihood of more pain to come, because suicide itself is a costly signal, one that suggests that the attackers could not have been deterred by a threat of costly retaliation.

5. The more suicide terrorists justify their actions on the basis of religious or ideological motives that match the beliefs of a broader national community, the more the status of terrorist martyrs is elevated, and the more plausible it becomes that others will follow in their footsteps (Pape, 2005, p. 28).
6. Community support is essential to enable a suicide terrorist group to avoid detection, surveillance, and elimination by the security forces of the target society (Pape, 2005, p. 81).

Effectiveness of suicide terrorism is also succinctly described by Madsen in the following words:

An additional tactical advantage of martyrdom operations over conventional terrorist tactics is the guarantee that the attack will be carried out at the most appropriate time and place with regard to the terrorists' objectives. This ensures the maximum number of casualties, which most likely would not be achieved via other means such as the use of a remote controlled charge or timer bomb. Similarly, it is extremely difficult to counter suicide attacks once the terrorist is on way to the target. Even if the terrorist is apprehended, the explosive device can still be detonated (2004, p. 3).

I will mention three cases that would corroborate Pape and Madsen's opinions:

1. On 10 October, 2009, about 10 Taliban fighters in military uniform successfully attacked Pakistan Army's General Headquarters (GHQ) in Rawalpindi, Punjab, Pakistan; GHQ is like Pentagon of Pakistan. This is a heavily guarded facilities and Taliban attack indicates that they had local sympathizers in Rawalpindi as well as help inside the GHQ.
2. On May 22, 2011 Taliban launched a spectacular attack on PNS (Pakistan Naval Station) Mehran in Karachi that lasted about 15 hours. Two maritime surveillance aircraft were destroyed and nobody arrested. Most of Taliban fighters died but some escaped or blended inside with servicemen.
3. What appears to be one of the most impressive jailbreaks in Pakistan's history was conducted on April 15, 2012 where Taliban freed death row inmate Adnan Rashid who was one of the masterminds of attack on former president Gen (r) Pervez Musharraf along with approximately 400 other inmates from Bannu Jail. These brazen attacks cannot happen without aforesaid factors.

It is self-evident that such attacks cannot occur without popularity. For logistics, public support is needed and for operational activities, tactical intelligence come from inside police and armed forces. . . Taliban or other militants have not only a popular base but they have also infiltrated government forces. Government of Pakistan appoints commissions to investigate causes of attacks and very few of them have seen daylight. It is common saying in Pakistan if you really want to do nothing then appoint commission.

Operational Difference Between Guerilla Warfare and Suicide Bombing

In the classical hit and run type of guerilla warfare a major concern was extraction of fighters after an operation. Apprehension of combatants could cost an organization not only fighters but also of divulging valuable information. Therefore a lot of planning was done for post-operation scenarios. Suicide bombing has no such concerns because it is “one-way ticket” without any exit plan and fear of arrest. On the authority of Lord Chalfont it is said:

The whole time that I have been involved in terrorist operations, which now goes back to 30 years, my enemy has always been a man who is very worried about his own skin. You can no longer count on that, because the terrorist [today] is not just prepared to get killed, he wants to get killed. Therefore, the whole planning, tactical doctrine, [and] thinking [behind antiterrorism measures] is fundamentally undermined (as cited in Merari, 1998, p. 193)

Operationally speaking suicide attack has a great allure because terrorist organizations do not need to worry about taking out of comrades or escape routes. Rescue missions are complex and require significant resources. Arrest of a militant could be fatal to organization inner workings due to potential fruitful interrogations. In Madrid, when Spanish police surrounded terrorists the four terrorists preferred blowing themselves up to being arrested. In this way they foiled police attempt of interrogation. Similarly, Tamil Tigers fighters generally carried a cyanide pill for suicide if confronted with imminent capture (Madsen, 2004).

Sprinzak, (2000) came to the same conclusion about suicide terrorism:

It is a simple and low-cost operation (requiring no escape routes or complicated rescue operations); it guarantees mass casualties and extensive damage (since the suicide bomber can choose the exact time, location, and circumstances of the attack); there is no fear that interrogated terrorists will surrender important information (because their deaths are certain); and it has an immense impact on the public and the media (due to the overwhelming sense of helplessness (pp. 66-8).

Killing oneself in a premeditated and gruesome way conveys a message of a highly motivated fighter. “The element of suicide itself helps increase the credibility of future attacks, because it suggests that attackers cannot be deterred” (Pape, 2005, p. 28-29). This undeterred willingness to die for a higher cause has a demoralizing impact on those who are trying to stop them.

Berman and Laitin are of the opinion that suicide terrorism will be used against hard targets. By hard they imply one that is heavily fortified (n.d.). Hoffman and McCormick think in similar vein: “Suicide attacks offer the terrorist organization a precision-guided weapon that can pinpoint an otherwise invulnerable enemy (as

cited in Ayers, 2008, p. 861).” But the actual numbers and targets both hard and soft by suicide bombers contradict their assessment and loudly indicate that extremists have an unlimited supply of volunteers for all sorts of targets.

Many Western scholars have a very simplistic attitude bordering on naiveté in expounding suicide bombing. Most of these reductionist critiques look for motivation to conduct suicide bombing in eschatological universe and completely ignoring the socio-historical and psycho-political factors. Pape (2005) believes that suicide bombing follows a unique trajectory that cannot be psychologized to a criminal mind that generally engages in predatory activities for utilitarian reasons. Also, suicide bombers don't come from isolated and insulated cult-like communities that are detached from mainstream society. He says:

Rather, suicide terrorist organizations often command broad social support within the national communities from which they recruit, because they are seen as pursuing legitimate nationalist goals, especially liberation from foreign occupation (Pape, 2005, pp. 22).

Juergensmeyer, Cynthia Mahmood, and Jessica Stern “focus on the personal dimension of activism, specifically the experience of frustration and humiliation. They show how religion in such situations is important in linking a personal sense of fulfillment to the social and/or political goals of an activist group” (Juergensmeyer, 2005, p. 30). Popular egalitarian language of religion could be very appealing to socially excluded, economically marginalized and politically disempowered segments of a society.

Justificatory Mechanisms for Suicide Bombing

Killing of innocent civilian in regular warfare is euphemistically portrayed as “collateral damage.” In other words killing of innocent non-combatant civilian is an unintended consequence of war against evil forces or unavoidable consequence of mechanized warfare. Extremist groups have appropriated the same language against state actors with great effectiveness to their targeted audience. Hafez highlighted this point in these words:

The ethical justification of violence can be achieved in several ways. Rebels could frame their actions as a necessary evil to end real or perceived social injustices; they could claim that they are resisting foreign aggression or alien domination; and they could argue that violence is justified to reverse a historic trend that is deleterious to the moral or physical health of their people . . . Antisystem frames that polarize social actors, heighten the threat posed by "oppressors," and portray the struggle as a total war against corrupt and irredeemable enemies . . . In the case of Muslim rebellions, insurgents and terrorists employed a master frame that spoke of a nefarious plot by Crusaders and Zionists and their subservient apostate agents to destroy Islam and subjugate Muslims in their lands (Hafez, 2005: pp. 159 and 191).

When rulers and the ruled live in different moral and economic universes then there is high likelihood of alienation from state and its institutions. Seeman believes:

This variant of alienation can be conceived as the expectancy or probability held by the individual that his own behavior cannot determine the occurrence of the outcomes . . . Likewise, this version of powerlessness does not take into account, as a definitional matter, the frustration an individual may feel as a consequence of the discrepancy between the control he may expect and the degree of control that he desires-that is, it takes no direct account of the value of control to the person (Seeman, 1959, p. 784) Italics in original.

Militants have successfully tapped into anti-US sentiments in Pakistan and their propaganda machine through CDs and DVDs successfully propagates their views. These audiovisual materials are openly available. Deaths of children and women in Drone attacks are used for both recruiting as well as justifying suicide attacks. I believe militants understand the immorality of civilian deaths in suicide bombing but like a torturer, suicide bombers rationalize their acts by various justificatory techniques. Sykes & Matza called this process "Techniques of Neutralization." According to them:

The most important point is that deviation from certain norms may occur not because the norms are rejected but because other norms, held to be more pressing or involving a higher loyalty, are accorded precedence. Indeed, it is the fact that both sets of norms are believed in that gives meaning to our concepts of dilemma and role conflict (1957, p. 669).

In simple language, a militant believe I am not an horrible person but I am doing all these horrible things for a noble cause that is bigger than me and it transcends all generations. The noble cause could be fighting occupation, serving God's Will, protecting culture from alien influence, confronting Crusaders and their supporters and more, depending on the imagination of suicide bombers.

Police and security agencies are targeted for their role in war against terrorism as well as their brutal interrogation methods. Security agencies for their actions are dehumanized in the sense that humans cannot engage in such cruel methods. It is a well-known fact that the accused often gets killed while in an agency's custody. Supreme Court of Pakistan is playing active role in recovering the missing persons presumably taken into custody by security agencies. Sometimes, it is alleged that the security agencies in extra judicial killing beat their victims so barbarically that one cannot even recognize their faces. Victims' bodies are often dumped in deserted place and that spirals the anger and desire for revenge. How an agency supposed to uphold the rule law could engage in such activities? Fragmentation of job in an illegal activity performs self exonerative function. Bandura, Underwood & Fromson hypothesized,

that both dehumanization and diffused responsibility would reduce self-detering responses and enhance aggressiveness. Dehumanization was

expected to be a more powerful disinhibitor of aggression under diffused than under individualized conditions of responsibility (1975, p. 256).

Kelman nicely explained Diffusion of Responsibility:

The deterrent power of self-sanctions is weakened when the link between conduct and its consequences is obscured by diffusing responsibility for culpable behavior. This is achieved in several ways. Responsibility can be diffused by the division of labor. Most enterprises require the services of many people, each performing fragmentary jobs that seem harmless in themselves. The fractional contribution is easily isolated from the eventual function, especially when participants exercise little personal judgment in carrying out a subfunction that is related by remote, complex links to the end result. After activities become routinized into programmed subfunctions, attention shifts from the import of what one is doing to the details of one's fractional job (as cited in Bandura, 1990, pp. 10-11).

Hannah Arendt explained the same point in her Banality of Evil Thesis:

Banality of Evil believes that most of the murderous things in history are done by ordinary normal people in bureaucratically routinized manner. "Ordinary" bureaucratic men who lead compartmentalized lives- dutifully and even eagerly obeying orders to kill and torture people during the day while remaining good family men at night. This notion of a motiveless, thoughtless bureaucratic man was what she meant by the "banality of evil" (as cited in Miller, 1998, p. 58).

Herman describes this phenomenon in following words:

Doing terrible things in an organized and systematic way rests on 'normalization'. This is the process whereby ugly, degrading, murderous and unspeakable acts become routine and are accepted as 'the way things are done'...It is the function of the defense intellectuals and other experts and the mainstream media to normalize the unthinkable for the general public (1992, p. 67).

In preparing a suicide bomber there is an elaborate division of labor. According to Giddens, "the main substantive problem for Durkheim stems from "an apparent moral ambiguity concerning the relationship between the individual and society in the contemporary world" (Giddens, 1971, p. 73). Durkheim thought high division of labor in Organic Solidarity (i.e. urban communities) leads to weakness of both social cohesion and breakdown of moral fabric. Weak group solidarity will further contribute to anomic conditions. By anomie Durkheim means moral deregulation and disconnectedness from collective consciousness. A person who is not anchored on some moral foundation and has a delicate social bond is less likely to be concerned about the sufferings of others (Durkheim, 1997). Fragmentation of job not only reduces or minimizes personal responsibility of a trainer of suicide bomber but if suicide bomber is somehow arrested it will be difficult to tell the whole story to security agencies. Sprinzak elaborated this point:

A suicide terrorist is almost always the last link in a long organizational chain that involves numerous actors. Once the decision to launch a suicide attack has been made, its implementation requires at least six separate operations: target selection, intelligence gathering, recruitment, physical and "spiritual" training, preparation of explosives, and transportation of the suicide bombers to the target area. Such a mission often involves dozens of terrorists and accomplices who have no intention of committing suicide, but without whom no suicide operation could take place (2000, p. 69).

Suicide bomber is consummation of a process in which somebody indoctrinated him about the moral mission he is going to execute but bomber may not be fully aware that he is a cog in sophisticated terrorist machinery. Converting people to extremism could be relatively easily when system is illegitimate, corrupt, oppressive, plutocratic and where ordinary citizens are alienated from it. Alienation could generate helplessness, powerless and meaninglessness in one's life. Individual does not have a clear moral compass for navigating in this morally nihilistic predatory political system. Sociologically this social chaos could be termed as anomie. In an anomic condition public good is made subservient to private interests. In this morally disordered condition people live in "reciprocal distrust" (Seeman, 1959). Alienation here means a mode of experience in which the person experiences himself as an alien. He has become, one might say, estranged from himself (Fromm in Seeman, 1959, p. 789).

The idea of meaninglessness . . . surely includes situations involving uncertainty resulting from obscurity of rules, the absence of clear criteria for resolving ambiguities, and the like. . . It may be further noted that the idea of rulelessness has often been used to refer to situations in which norms are unclear as well as to those in which norms lose their regulative force (Seeman, 1959, pp. 787-8).

When societal norms lose their regulative power then societies at collective level descend into famous Machiavellian "end justifies means" mode. Right and wrong are replaced by technical efficiency for reaching their desired monetary goals.

Cognitive Dissonance

Festinger, (1957) did a pioneering research in area of Cognitive Dissonance. He believes that Cognitive Dissonance is induced by simultaneous presence of "non-fitting relations among cognitions."

By term *cognition*, here and . . . I mean any knowledge, opinion, or belief about the environment, about oneself, or about one's behavior. Cognitive dissonance can be seen as an antecedent condition which leads to activity oriented toward dissonance reduction just as hunger leads activity oriented toward hunger reduction. (Festinger, 1957, p. 3)

Let us say a suicide bomber intends to kill one person but in result could kill many innocent people. This thought may cause anguish and if this dissonance in cognition is not overcome then it might be difficult to do the job. Kowol has indicated that

Dissonance is an aversive motivational state, therefore people naturally attempt to avoid dissonance-arousing situations. That is to say, persons prefer to be exposed to information that is supportive of their current beliefs rather than to non-supportive information, which presumably could arouse dissonance (n.d., pp. 4).

Festinger elucidates:

1. The existence of dissonance, being psychologically uncomfortable, will motivate the person to try to reduce the dissonance and achieve consonance.
2. When dissonance is present, in addition to trying to reduce it, the person will actively avoid situation and information which would likely increase the dissonance (1957, p. 3)

Now the question is how dissonance is overcome? According to O'Keefe the most effective method of overcoming cognitive conflict is *selective exposure* hypothesis. If people generally seek out only media sources that confirm or reinforce their prior beliefs, then the powerful effects of the mass media are blunted (as cited in Kowol, n.d., pp. 4-5).

The Story of Sgt. Alvin York who was a pacifist turned into a fighter and recipient of Congressional Medal of Honor for valor in WWI is a living example of how a pacifist could be transmuted from non-violent person to a fierce combatant by cognitive restructuring. Kelman thinks,

The conversion of socialized people into dedicated combatants is achieved not by altering their personality structures, aggressive drives, or moral standards. Rather, it is accomplished by cognitively restructuring the moral value of killing, so that it can be done free from self-censuring restraints (as cited in Bandura, 1990, p. 3).

The Story of Sgt. Alvin York depicted in biographical movie 'Sergeant York' is a living example of cognitive restructuring. Skeyhill explains how a pacifist Alvin York could be converted to a ferocious Sergeant York by Moral Reconstrual:

Radical shifts in destructive behavior through moral justification are most strikingly revealed in military conduct. People who have been socialized to deplore killing as morally condemnable can be transformed rapidly into skilled combatants, who may feel little compunction and even a sense of pride in

taking human life. Moral reconstrual of killing is dramatically illustrated in the case of Sergeant York, one of the phenomenal fighters in the history of modern warfare (Skeyhill, cited as in Bandura, 1990, p. 3)

All abovementioned factors have impact on police effectiveness. Police officers are not abstract disembodied entities; they come from same society and have same frustrations, grievances and are part of same moral universe. In this live television age it is almost inescapable for police rank and file not to be affected by social, economic and political crises. These factors affect morale and create ambivalence in police mission. Bain comprehensively defined Morale as:

Morale is feeling and action which maintain the same general quality and direction under the most adverse conditions. The measure of a man's morale is the sacrifice he will make to preserve his personal integrity which is a correlate of his group identification. Morale is self-respect derived from the respect one gets from others and gives to them; it is an aspect of a man's loyalty to the basic values of his culture; it is a sense of duty to preserve and promote values which transcend immediate personal pleasure, profit, and reputation (1943, p.419).

Suicide bombers are morally clear and highly motivated and therefore more dangerous. Importance of Morale was beautifully described by Colonel Foertsch: "The final word regarding victory and defeat rests not on arms and equipment, nor the way in which they are used, nor even on the principles of strategy and tactics, but on the morale of the troops" (as cite in Pope, 1941, p. 195). Based on multiple surveys Government of Pakistan and public have divergent views on war against terrorism. The Government of Pakistan thinks it is necessary but public has the opposite opinion. This could cause ambivalence and mixed emotions in police force and security agencies. Hartman & Zimmeroff defines ambivalence as,

the strategy of preoccupation with both what is wanted and what is not . . . The ambivalent person realizes from this experience how debilitating their ambivalence has become and how it has literally drained their energy and kept them immobile in their lives (Hartman & Zimmeroff, 2004, pp. 14 and 53).

Mixed emotions are accompanied by seemingly positive and negative effect simultaneously; in practical terms both sadness and happiness are experienced at the same time (Larsen, in press). Constables on a check post may be sympathetic to the cause of militants but may not agree with their tactics. Combined with ambivalence, mixed emotions and in constant state of hypervigilance (because in any vehicle or next person could be a suicide bomber) could take its toll in operational sense. Lower ranks of police come from mainstream society and their likings and dislikings are affected by public opinion and informal social control. They are caught between institutional demands on the one hand and social ostracization on

the other. One of the most unsung heroes are constables manning dangerous check posts in hypervigilant state for almost last ten years. One cannot sustain hypervigilance without creating psychosomatic disorders i.e., stressful mental condition can induce physical diseases e.g. high blood pressure, cardiovascular problems and more. Hypervigilance is

a mindset that overestimates the potential for danger at any given moment. It is accompanied by a state of physical reactivity as well as consequent fearful behaviors – all operating together to ward off the possibility of danger. While this unrelenting wheel of vigilance may feel like it will protect you from harm, it probably will not (Stone, 2011, p.1).

Is Suicide Bomber an Irrational Fighter?

My opinion is that apparent irrationality is a tactical move and a strategic choice by rational considerations. Here geography among other things becomes an important factor. Geography has a tremendous influence; it has an influence for potentials for economic, social and political development; issues of boundaries; issues of transportation. We do not imply geographical determinism, but it does have a great influence on the historical development. Geography (Oldknow, 2000) does not necessarily determine morals, rather, it makes certain things possible. We do not think that geographical location makes people honest and dishonest. We think however, that when you are located between certain areas, certain aspects become potentials. In other word, if you live in Golden Triangle, in South-East Asia, where the border of Thailand, China, and Burma are near, where opium is grown; the fact that it is isolated, the fact that it is conducive to certain things help. When you look at Afghanistan/Khyber Pakhtoonkhwa (KPK) formerly known as North West Frontier Province of Pakistan (NWFP), which lies between the Indus Ganges region of Southeast, Iran to the West, and Central Asia to the North. That geography makes it a Corridor and a Barrier. If something is simultaneously both corridor and barrier, it has the potential to become the center of things going back and forth. A corridor is where something is promoted for transportation from one place to another and the area is also physically isolated and relatively inaccessible. You can look at Hindokush as a barrier. Also, deserts are traditionally barriers—now with air transportation it is different. Historically, the fact that Pashtun territory was so isolated that you could get off a major trade route and then just disappear. It is a rugged terrain and let us look at this way, if Afghanistan was totally flat like the Netherlands, we don't know whether they would have been able to withstand the Soviet invasion or resist present US occupation. The fact that there is an isolation that gives the local the ability to blend in and disappear, and it is also a place where you can move goods. You can move goods from the Central Asia to Pakistan, from China across Wakhan to Iran, all sorts of possibilities take place in

this area. It is simultaneously a corridor for movement of goods and barrier. It makes it easy to become a center of smuggling. Just look at Kazakhstan, which is so flat that there is no way to hide anywhere. Whereas, in KPK or more so in Afghanistan, isolated mountain valleys makes it ideal to hide. Therefore, it is absolutely wonderful place to organize resistance, to be able to fight great powers, and of course smuggle contrabands. It is not just ferocity of Taliban that makes their resistance viable rather it is facilitated by geography, smuggling, kidnapping for ransom, taxing poppy crops and working with local criminal gangs on utilitarian grounds. “Unlike organized crime, terrorists ultimately hold crime only as a means to an end, not the end itself” (Poveda, Jr., 2007, p. 36). As rationally irrational actors Taliban could cultivate relationship with criminal gangs if it is expedient. In order to sustain insurgency they have to coordinate with other groups operating in the area. Poveda, Jr. (2007) is right in his assessment that

Terrorists and criminals alike are most likely to cooperate in areas where the other has a comparative advantage. A marriage of convenience therefore ensues where agreements are not binding but rather momentary – be it a one-time event or lasting as long as both individuals who initiated the agreement honor their pact (p. 40).

In light of above discussion I will say that police is facing a herculean task and without some proactive solution it is a bottomless pit of law and order.

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Role of Punjab Police in Control of Narcotics A Comparison with ANF and Customs

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Abstract

Proximity with Afghanistan and the porous border between Afghanistan and Pakistan makes Pakistan vulnerable as trafficking route and market for narcotics. To counter these threats various agencies are working in Pakistan the most important of which are the Provincial Police Forces, Anti Narcotics Force (ANF) and Pakistan Customs. Pakistan Customs and ANF generally remain in limelight and take most of the credit as they deal with high profile targets, foreigners and as a sequel get a high flying media coverage. The provincial police forces despite doing a lot in terms of quantities seized, cases registered and convictions achieved get little attention and credit for their efforts because they deal at local level with small scale drug pushers and drug users. Whereas ANF has the advantage of dedicated and well trained cadre, nationwide jurisdiction and interprovincial/international network with huge finances at their disposal, the Punjab Police have the benefit of huge workforce which can penetrate every nook and corner of the province in the respective jurisdiction of their police stations. If the Punjab Police are given specialised training in this regard and their finances are improved to cater for their needs of purchasing information and giving financial rewards and establishing a dedicated court to deal with such cases, their anti narcotic efforts can be amplified manifold.

Keywords

Drug Trafficking, Drug Abuse, Finances, Training, Investigation, Prosecution, Conviction

Introduction

Whereas geographic location of Pakistan gives it numerous advantages, its proximity with Afghanistan, the world's largest producer of illicit opium, renders it vulnerable to the curse of drug trafficking and drug abuse. Unfortunately, Pakistan has been and still is the primary transit route of trafficking of narcotics produced in Afghanistan. Even more disturbing is the fact that Pakistan is also one of the largest markets of these drugs. Trafficking of opiates into and through Pakistan increased dramatically during the period 2001-2006 corresponding roughly to the increase in opium production in Afghanistan from 185 metric tonnes in 2001 to 6,100 metric tonnes in 2006, which has again come down at 4860 metric tonnes in 2010.¹ The United Nation Office on Drugs and Crime (UNODC) 2011 Afghanistan opium Poppy Survey highlights that in 2010, 82 percent of Afghanistan's Poppy was grown in five provinces along the border with Pakistan.²

Apart from Afghanistan the tribal areas of Pakistan have also been big cultivator of poppy. In 1979 the total production of poppy in the tribal belt of Pakistan was at the peak which was responded to by the then Pakistan government by enforcement of Hadood Ordinance 1979.³ Trends have shown that poppy cultivation in Pakistan had dropped to less than 600 hectares by 2000, but had risen up to 3100 hectares in the country's tribal areas in 2004. In the same year, according to the Afghanistan opium survey 2004, opium cultivation reached an unprecedented 131,000 hectares. Afghanistan's output meets 80% of the world's demand today. In 2010 opium cultivation was 123,000 hectares which according to Afghanistan Opium Survey 2011 is going to witness a slight decrease in the current year.⁴

Various Agencies Working to Control Narcotics

Various governments in Pakistan have been trying their best to curb the menace of narcotics and have achieved considerable success in this regard. This was duly recognised by Mr. Antoneo Maria Costa, Executive Director United Nation *Office of Drug and Crime* (UNODC) in 2006 during his visit to Pakistan. In a meeting with the then Interior Minister, he said that *Pakistan victory over poppy cultivation was a real success story but Afghan heroin continued to flood the country.*⁵ In Pakistan there are a number of institutions which are involved in the fight against narcotics.

For example:-

1. Ministry of Narcotics Control
2. Anti-Narcotics Force
3. Narcotics Interdiction Committee
4. Pakistan Coast Guard
5. Airport Security Force
6. Frontier Corps (KP and Baluchistan)
7. Frontier Constabulary
8. Pakistan Rangers (Punjab and Sindh)
9. Provincial Police Forces (Punjab, Sindh, Baluchistan and KP)
10. Inter-Agency Task Force
11. Federal Investigation Agency
12. Pakistan Customs

Of all these, the ANF, Customs and Provincial Police Forces are the main agencies which make major contribution in the fight against narcotics. Whereas, ANF and Customs take the lion's share of the credit because of their action against high profile targets and foreigners and high-flying media coverage, the services of the provincial police forces generally remain unrecognised despite the fact that the number of cases registered and person arrested and challaned is always higher as compared to ANF and Customs. In the succeeding paragraphs we will examine the contribution of Punjab Police in the fight against narcotics as compared to ANF and Customs, its relative strengths and weaknesses, modus operandi and resource position and make recommendations as to how its performance can be improved in this regard.

Methodology

This paper is primarily an analytical comparison of three main agencies, namely ANF, Customs and Punjab Police, working in Pakistan to fight against narcotics. The primary research methods used are archival research, interviews with the officials of these agencies and internet search. In addition I have also drawn on my own experience of 13 years as a police officer. Whereas interviewing the officials was not much of the problem, however, obtaining data was really a problem. To my surprise, in Punjab Police Headquarters all the relevant data was found in systematic form and was made available readily. The regional directorate of ANF was also very cooperative and which prepared the data according to the requirement of this paper in a few days. However data from the Customs Department came with much difficulty and indeed figures for cases decided and convictions could not be obtained at all. Unstructured interviews of police officers, judges and officials of ANF and Customs department were conducted to know their relative strengths and weaknesses, their problems, limitations and how the things could be improved.

Statistical Comparison of Relative Performance of Punjab Police, Customs and ANF for Last 5 Years

Below is given a year-wise statistical comparison of recoveries effected by Punjab Police, Custom and ANF in the last 05 years (Table I). Only 03 major categories of narcotics which are more commonly trafficked through or into Pakistan are included in the comparison. Similarly, in the Table II and III, there is a comparison of three departments regarding registration of cases, number of accused arrested, challaned and convicted.

Table I: Comparison of Seizures by Punjab Police, ANF & Customs

Year	Opium (Kg)			Heroin (Kg)			Hashish (Kg)		
	Punjab Police	Customs	ANF	Punjab Police	Customs	ANF	Punjab Police	Customs	ANF
2006	412.29	103	110.000	438.35	322	130.000	16499.00	19468.00	2910.500
2007	484.48	136	97.330	961.88	227	177.817	15267.00	24335.00	2516.285
2008	344.66	35	99.940	1125.60	218	162.060	16080.00	7528.00	2563.178
2009	272.76	75	1154.570	660.10	208	88.737	8213.10	20456.00	4413.860
2010	301.60	351	187.505	728.87	372	144.070	13879.00	16924.55	6525.710
Total	1815.79	700	1649.200	3914.60	1347	702.500	69938.10	88711.50	18929.400

Table II: Cases Registered, Person Arrested, Cases Decided and Convictions

Year	Cases Registered			Person Arrested			Cases Decided		Conviction	
	Punjab Police	Customs	ANF	Punjab Police	Customs	ANF	Punjab Police	ANF	Punjab Police	ANF
2006	44513	230	102	44481	125	198	15322	141	11951	133
2007	50065	204	177	50077	138	306	19783	166	15299	153
2008	48377	198	184	48034	131	305	23951	154	19450	139
2009	47168	123	143	47873	73	250	26900	108	23430	94
2010	49648	143	165	51055	82	249	24323	96	20938	74
Total	209771	898	771	241520	549	1308	110279	665	91068	593

N.B: The data of cases decided and convictions for Customs is not available.

Table III: Comparative Percentage of Convictions

Year	Conviction %		
	Punjab Police	Custom	ANF
2006	78	NA	94.33
2007	77	"	92.28
2008	81	"	90.39
2009	87	"	87.04
2010	68	"	77.08

The data of convictions in case of Pakistan customs was not available

Source: Punjab Police Headquarters (CPO), Statistical Wing of Punjab Investigation Dept.
Regional Directorate of ANF, Lahore⁶
Regional Directorate of Customs

Successes and Failures of Punjab Police

It is evident from the statistics that the Punjab Police has performed exceedingly well as compared to other two departments not only in seizures of various categories of drugs but also in the number of cases registered and persons arrested. However, the conviction percentage of Anti Narcotics Force is higher than the Customs and the Punjab Police. If we go into the details, the relative performance of various departments can be evaluated on the basis of following criteria.

1. Organisation
2. Training
3. Network Area
4. Resources
5. External Interference
6. Prosecution and Trial Court

1. Organisation

Anti Narcotic Force is the primary agency in Pakistan to deal with the issue of narcotics. It has dedicated cadre which includes both the army and civilian officers. In comparison, the other two departments despite playing a significant role, particularly the Punjab Police, are not as such specialized agencies to fight against drugs. Whereas, the ANF people are specialists in dealing with drugs and drug related issues, for the Punjab Police narcotics are only one of a long list of things done by them everyday. However, the Punjab Police has got the advantage of huge manpower as compared to ANF i.e. the former consist of a little more than 1,70,000 officers as compared to 1237 officers of the latter.⁷

2. Training

As the Anti Narcotic Force is dedicated and specialized cadre, its training curriculum, methods and techniques are also designed accordingly. In an interview Mr. Shahid Afzal, the Director ANF Lahore Region, told that ANF officers get a specialized training in intelligence gathering, carrier interception, apprehension of drug traffickers, investigation of drug cases and also tracking of illegal assets. The police on the other hand do not get any special training on these counts. Narcotics cases are dealt with just as ordinary offences. Moreover, they induct serving army officers who are already trained to launch special operation.⁸

3. Network Area

Whereas the Punjab Police have an intensive network within the province consisting of 613 police stations as compared to only 06 police stations of ANF, the latter has the advantage of an extensive network which transcends the provincial boundaries but also has its reach inside the neighbouring countries as well, particularly in Afghanistan.⁹ It is because of their huge network that ANF people are able to detect and intercept all the links starting from the origin to the destination of any shipment. They also enjoy the freedom from provincial jurisdictional issues which encumber the provincial police forces. For example, the ANF people can go after their accused in any part of the country anytime and do not need any permission from the respective provincial government required by the provincial police forces when they have to apprehend the accused in the jurisdiction of some other province. The provincial police forces suffer a further disadvantage in terms of jurisdiction as they are divided into police stations and police can operate only in the jurisdiction of their own police station. According to Abdul Razzaq Cheema, the Senior Superintendent of Police (Investigation) Lahore, if they have to operate in the jurisdiction of police station other than their own they have to intimate the local police of the respective police station. This simply limits the capacity of police to deal with traffickers who operate in the jurisdiction of multiple police stations on legal and administrative grounds. Moreover, prior intimations generally result in leakage of information ultimately leading to the failure of operations.¹⁰

4. Resources

As discussed above as far as the human resources are concerned, the Punjab Police have a clear advantage in terms of overall number but the ANF personnel are better placed in regard to knowledge, skill, training and logistics. ANF is a well funded organisation and neither the Punjab Police nor the Pakistan Customs are any match to them in this regard. Anti Narcotic Force not only receives funds from the government of Pakistan but also receives aid and grants from their international partners and donor agencies. The last five years budget position of ANF (for Regional Directorate of Punjab) is given in Table IV.¹¹

Table IV: Fund Allocation for ANF from Various Sources in Pak-Rupees

S. No.	Head of Accounts	FY 2006 - 07	FY 2007 - 08	FY 2008 - 09	FY 2009 - 10	FY 2010 - 11
1	NAS	4237000	54540000	1800000	4273200	5295160
2	GOP	58838000	74123000	80302000	101581000	132406000

On the other hand, the provincial police forces and customs do not get any special fund allocation to fight against trafficking of drugs or their use.

5. External Interference

As the police have to operate at local levels where the drug pushers and users are generally the local people who have strong links with local community as well as the political and non-political pockets of influence, their capacity to operate is considerably restricted because of these linkages. Whereas the local politicians interfere with the police actions to maintain their vote bank, other people of influence like media men or lawyers may extend their back hand support to the drug pushers to meet their own ends. The ANF or Customs personnel are not constrained by such factors and have the benefit of operating in relatively interference free environment, claimed Brig. Shahid Afzal, the Director of ANF Lahore Region.¹²

6. Prosecution and Trial Court

As we have seen of all the three departments under discussion, ANF has secured the highest percentage of conviction. The credit for this achievement, according to Sadiq Masood-Additional Registrar Lahore High Court, goes to two factors i.e. strong prosecution wing and a dedicated trial court.¹³ On the other hand in the province of Punjab, the prosecution has been separated from police and works as an independent department now. Unfortunately, the competency and performance of this department has yet to come up to the mark. Moreover, the cases by the local police go in the local courts which are not dedicated to deal with these cases of special nature resulting in treatment of these cases in a very ordinary way involving long delays and frequent adjournments leading to poor disposal rates.¹⁴

Recommendations

Establishment of separate narcotics wing in every police station will be of immense significance, not only to deal with cases of narcotics but also to help in treatment and rehabilitation of the addicts. These officers must be given specialized training in this regards and provided all the equipments like Walkie Talkies, GPS, mobile phone trackers etc. Such wings need to be established immediately and with full commitment and resources.

The officers posted in these specialized units must be rotated periodically to minimize their chances of mixing up with the drug traffickers. It may also help in ensuring that the same officers are not continuously exposed to the hazards of the job including threats to their life.

In order to prevent the officers from indulging in corruption and to maintain their level of motivation a system of financial rewards must be introduced on the pattern of ANF.

A strong police intelligence network transcending at least the provincial boundaries is the need of the hour to bring a measure of success in the anti narcotics efforts of the police.

Separate and dedicated courts in every district to deal with the cases of narcotics can go a long way in reducing unnecessary delays and improving disposal as well as conviction rates.

In order to translate all the above mentioned suggestions into reality a separate fund for drugs must be introduced in the police to meet the financial requirements for purchasing intelligence, financial rewards and investigation cost.

Uniform laws and procedures must be introduced in the country so that all the agencies can operate with better understanding and coordination. As drug trafficking is an organised transnational crime many countries like EU are harmonising their laws and procedures to deal with them effectively. In Pakistan, we should remove at least the interprovincial procedural restrictions to facilitate our agencies in their war against narcotics and other forms of organised crime. This will help the police to go after the drug traffickers free from any jurisdictional restraints.

Involvement of NGOs at gross root level in demand reduction efforts and treatment of addicts can go a long way in improving the performance of the Punjab Police in their fight against drugs.

Conclusion

To conclude, drug trafficking is an organised crime and is as such difficult to deal with. Various agencies are fighting against this menace with different set of resources, methods, techniques and varying objectives. Moreover, every department has its own strengths and weaknesses which determine its capacity and way of working. In a comparison with ANF and Customs, the Punjab Police clearly excel in terms of quantities seized, cases registered and accused arrested. However, their capacity is limited with respect to their jurisdiction and reach of their network which remains localized to the boundary of their police station. Paucity of financial resources also limits their capacity to deal with informers with sufficient price for their service and also provide financial incentives to the police officers to keep their motivation up. In short, if police are also provided with the same level of financial and logistical resources they can use their comparative advantage of intensive local network and huge manpower as a powerful lever to eliminate drug pushing at local level and also contribute a lot in treatment and rehabilitation of drug users in collaboration with NGOs, jail and health authorities.

End Notes

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¹⁴ for a more detailed description and comparatively analysis of the role of various agencies, see Fasihuddin (2010). Drug Problems in Peshawar, Pakistan. pp97-132, in Gary Cordner and Dilip K. Das (ed). Urbanization, Policing, and Security: Global Perspective. CRC Press, USA.

The Drug Trade and the Death Penalty in Pakistan: Childhood and Practical Remarks from a Narrative - Existential Point of View

J. M. (Johan) Ras

Abstract

The death penalty is an appropriate sentence for all those involved in the drug trade. This trade can be stopped through the political will of government, the implementation of the military to fight the war against drugs, by treating drug dealers as terrorists, through the expansion of the death sentence, by holding families responsible, through the confiscation of the assets of drug dealers, by breaking up the Taliban links with the drug trade, through considering radical counter-drug measures, and by getting criminal justice scholars involved in creating and implementing solutions to this problem.

Keywords

Drug Choice, Drug Wars, Kill the Drug Trade, Narco-Terrorists, Death Penalty, Execution, Confiscate Assets, Taliban, Radical Counter-drug Measures, Talks, Criminal Justice Scholars.

Introduction

Since I was a child I was confronted and fascinated by the cinema and television movies that were dealing about the drug trade. In my mind I was moving like a sniper (Ras 2002:7; 2011a) in the jungles of South America on one or other secret military and CIA operation that not even the President knows of. In my cognitive state of mind I had to be careful out there. There were snakes, booby traps, but most of all, very dangerous drug cartels with many men armed to the teeth that were only occupied with one major thing – business, and that business was drugs; tons and tons of drugs, hidden in the ground under the trees in one or other secret local factory or bunker. My job was to go and blow it up and like John Rambo (Sylvester Stallone), to return back a hero ([http://en.wikipedia.org/Rambo_\(film\)](http://en.wikipedia.org/Rambo_(film))).

My Real Childhood

However, in my real childhood life I did not grow up with drugs at all. I was raised in a God fearing home where alcohol and drugs were absent. I was told that I must love God, Jesus, and all other people, because that is simply the right thing to do. I later have learned that include Jews, Hindus, Buddhists and Muslims. As simplistic as it may sound, I simply just did that, and to be honest, I am still doing that today. I simply have no craving for snow, ice, opium, poppy, heroin, opiates or any drugs at all – not even alcohol. My mother has *inter alia* taught me a basic principle:

“If you smoke, you destroy your life. If you drink, you destroy your family!” As a youngster, I have listened, and I have learned, so I believe, to make the right choice in life (Zuck & Benson 1978; Richards 1980; 1982). I find it simply shocking that in a country like Yemen, the people are simply chewing themselves to death through the consumption of the leaves of the drug plant *khat* (“*catha edulis*” – Butters 2009; Khat 2011).

I Want to See Change

I was stunned when I saw the slides of Fasihuddin, now President of the Pakistan Society of Criminology, in Dubai, United Arab Emirates, at an International Police Executive Symposium (IPES) conference during 2007, pointing out the many drug addicted people that were just laying on the streets of Peshawar in Khyber-Pakhtunkhwa (NWFP). He was presenting a paper on “Drug Problems in Peshawar, Pakistan” (Fasihuddin 2010:97-132). Exposure to drugs will make any healthy and caring person “sick.” It is sick people with sick minds who believe that long term exposure to drugs will not have a negative and detrimental effect on the bodies and minds of ordinary human beings who were made in the image of God and who are suppose to represent Him on earth (*Biblia Hebraica Stuttgartensia* 1979:1-2; *The Holy Qur'an* 1946:1; Kendall & Hammen 1995:364-401; DSM-IV 1995:175-272). I have no doubt that for ordinary civilians and traditional law enforcement officers, who are frequently exposed to drug users, drug pushers, drug traffickers, and especially the drug manufacturers, the drug wars must be intensified and brought to an end. One way to end this is through the use of the death penalty – whether we like it or not.

The Drug Choice and Al-Qaeda

For me the issue today is not to win the war against drugs. To be honest, even before I was born the governments of the day were busy with that war, and they are still claiming and propagating that they are busy with this war nowadays. The issue for me today is much more personal. For me it is now all about “killing” or “blowing up” this trade once and for all. It is nothing more, and nothing less. For me the drug war is all about the hearts and minds of men and women. I believe that it is a choice that people make to get involved with drugs – the wrong choice. I also believe that what will set them free is a choice – the right choice.

Because the war on drugs is a war for the minds and bodies of people, drug pushers, drug lords and narco-terrorists want to enslave people in order “to control them” so that they can be used for one or other idiosyncratic reason – mostly to make money out of them or simply to bind them and to destroy them. In political terms, once they have enslaved them, they can control them as well as their geographical areas. If Al - Qaeda wants a world-wide Caliphate (Muslim theocracy

– Bergen 2006; Ras 2010c:12), and they use drugs to fund their beliefs, and at the same time to enchain their enemies to become “zombies” (“mentally-retarded”), then it becomes for me, in political terms, a political war - but at the same time, if they want to control the minds and bodies of those that they try to yoke, then it also becomes a psychological war. It is psychological because of the struggle to win the minds of the populace. This is one of the reasons why I believe that the drug wars need to end now once and for all because this struggle cannot go on *ad infinitum*.

Drug Wars are Cognitive Wars

The drug war is in the first place a cognitive war – an intellectual war – a war of thinking, reasoning and figuring out why one must use drugs and get addicted to it. The people who use drugs have all one simple thing in common – they cannot say “No!” If a person cannot say “No!”, then he or she has a psychological problem – the problem of a too low self-image that struggles to stand up in public and in the midst of the peers to take a firm stand and to take responsibility to say “No!” And if that is the case, then, I believe, we have to help him or her to say “No!” This, in my opinion, can be achieved by putting measures in place that act as a definite deterrent to do drugs. Drugs, indeed is a transnational problem with great implications and challenges (Fasihuddin 2010:131).

The Golden Crescent

There are scholars who say that the drugs in the world can be traced back to the three central areas known as the Golden Crescent, the Golden Triangle and Latin America. The northern borders of Thailand, Myanmar (Burma) and Vietnam (Laos), including the Shan States, make up the Golden Triangle, well-known for heroin smuggling – under the rule of the “Opium Army”, former Chinese Nationalist troops. Latin America produces mostly cocaine and marijuana, coming from Colombia (Abadinsky 1994), while the Golden Crescent, includes Iran, Afghanistan, Pakistan and Turkey. They are part of the so-called French-connection, because, in the past, the belief was that raw opium was smuggled to the city of Marseilles in France for processing into heroin. From here it was shipped to the United States of America. It seems to me that the Mexican drug cartels were not originally, from a historical point of view, receiving as much attention in the older days than what it is receiving today (Hagan 2010:315-316; Abadinsky 1994; Inciardi 1992).

Drugs in and Around Pakistan

Karimi (2010:153) believes that it was imperial states that have produced and spread drugs in states like Iran to reach political goals, like the British East Indian Company. He also said that narco-terrorism is the work of global imperialists and

that the number of drug addicts has reach-ed about 200 million in 2008 (Karimi 2010:156). There are about 4 million drug addicts in Pakistan alone (Fasihuddin 2010:126). During the peak of the cold war narcotics / drugs were used as a political tool and source of revenue. The Taliban deliberately has used drugs to generate funds for their campaigns. They also encourage farmers to cultivate poppy and they use permits to transport narcotics in Afghanistan and outside the country. These drug monies are used to fund their movement's beliefs and terror deeds. Despite the fact that the Taliban later has reduced poppy production in Afghanistan, poor Afghan farmers are still encouraged to grow poppy (Karimi 2010:156-159; Drugs Inc. 2011).

In Pakistan the organizational structure of organized drug-cartels operate at three major levels: the street dealers, the drug distributors and the drug lords or cartels (Narejo 2010:163). Drugs are coming from Afghanistan to Pakistan from areas, like Kandahar (16615 ha), Zabul (3219 ha), and Ghazni (62 ha). In 2005 Afghanistan has produced 87% of the world's opium supply (Fasihuddin 2010:104) and 80% of the opiate products (Narejo 2010) that were destined for Europe. According to Narejo (2010), terrorists in Afghanistan enjoy the benefits of a trafficker-driven economy that lacks even a recognized national government. He is also of the opinion that terrorists get their funding from narcotics gangs (Narejo 2010:164-165).

Fasihuddin (2010:127) correctly pointed out that cannabis is the most commonly used drug in Pakistan, followed by heroin, alcohol and psychotropic substances. He also pointed out that there are about 500 000 regular heroin drug users – mostly males, between the ages of 15 to 45 years. He further said that cannabis is 96% used in smoking. To win the war on drugs he has recommended: a general mass awareness campaign, a uniform drug law, equal allocation of resources to all law enforcement agencies, sharing of information, the appointment of specialized drug units, and the registration and early treatment of addicts (Fasihuddin 2010:130-131). Narejo (2010:165-166) correctly pointed out that the Taliban link to drugs *inter alia* needs to be disrupt-ed. I believe that all these remarks are all sound advice, but is it really enough to “kill” or “blow up” the drug trade?

How to Kill the Drug Trade in Pakistan?

I deliberately have chosen the question “How to kill the drug trade in Pakistan?” and not the typical general question of “How to win the war against drugs?” Law enforcers cannot keep on playing with drugs forever. Although there are many who argue that there are no fast and simple solutions to this social challenge in all different social strata of society, I always wonder: “Why not? Why

can't there not be quick solutions? Why must we always rationalize and have long excuses if there can be workable solutions?" In order to make a meaningful contribution to the beautiful country of Pakistan I recommend the following.

The Political Will of Government

The first important thing has to do with the government of the day. They must have, reveal and implement a political will to end the drug war (Ras 2010a). They must be committed to do just that. If there is no political commitment to end this war then the government can expect that there may be people, like those involved in the recent Arab Spring uprisings, who perhaps may also consider toppling and removing them (http://en.wikipedia.org/Wiki/Arab_Spring). Why? Because it is the government's responsibility to protect their own citizens against one of the worst kinds of human enslavement, and if they cannot do that, then they deserve to be replaced by a government that can do that.

Drug addicts are definitely dying at a steady rate and they are perceived, from an educational, health and criminal justice point of view for many, as "problems, sick and criminals" – they are simply a "social disgrace" in society and no nation, who wants to be a healthy nation, literally and figuratively-speaking, can and must tolerate them any longer. The President, the Prime Minister, every Minister and head of government must be committed to eradicate this evil, because it is not just a crime – it is an evil that works as a cancer that devours all human life, dignity and the basic respect that human beings must reveal for themselves and others – respect that make us different from animals like dogs and pigs.

Use the Military to Fight the Drug War

The war on drugs is a "war", and not just "rhetoric" about war. It is a real war. The general perception of the public is that soldiers have a no nonsense approach that sends out a very clear message to those who are the culprits. Soldiers must be organized and utilized along the line of sections, platoons and even battalions in order to eradicate this curse. Men of character and people who are goal directed and not open to any form of bribery are ideal candidates to do this challenging job. When operating in large numbers it becomes also more difficult to be bribed with drug money to look the other way.

A hard and decisive approach is needed to end the drug wars. The military is the highest authority in terms of "fire-power" and this must be utilized. Narco-terrorists and drug cartels are not stronger in terms of firepower and weaponry than the military. We have reached a stage where there are no room for philosophers who are arguing about the proverbial "just war theory" and if there indeed is a drug war going on or not. The fact is that there is a definite war going on and the situation

necessitates that the military, just like in the case of religious extremism and terrorism, must go in and finish it with military power and military ball. In short, use guns and boots.

Identify the Drug Manufacturers

Drug wars are also intelligence wars – it is all about the “who, when, where, why, what” and “how?” Once that information is on the table, the government's law enforcement agencies must, to use a metaphor, clamp down and strangle the breath out of those who are the culprits. The people who are manufacturing drugs are not behaving like ordinary human beings. They are not just poor peasants, or, as they say in Hebrew, the “am ha'arets”, the “people of the land” (the lower social class / the common people / the plebs as opposed to the aristocracy / the peasants as opposed to the townsfolk – De Vaux 1980: 70), who are trying to make a survivalist living. They rather want to make a lot of money fast. Manufacturers are persons who have deliberately decided, before they have started to do so, to involve themselves in the making of money (at times mega bucks) by utilizing other human beings for their own greed and self-enrichment. It is people who have no respect for the sanctity of human life and the dignity of other fellow human beings who were made in the image of God.

Execute those Involved with Drugs – Let the Death Penalty Serve as an Example

Drug wars are deadly wars. Drug manufacturers cannot expect mercy from government when they are caught in these illegal activities. Because this is all about a “war on drugs”, drug planners, designers and producers must be executed if founded guilty so that other potential opportunists will fear to follow the same route and get involved. What manufacturers and governments very often forget is that these drugs do not stay in their own countries. It is sold to drug pushers all around the globe where it enslaves members of different nations, especially targeting children and youngsters and those that are vulnerable. I believe there are deliberate attempts from Al-Qaeda and some Taliban members, who support the drug trade, to finance their terror deeds and to bind those in so-called Western democracies. This enslavement is part of their plans to paralyze their enemies and to take them over in order to establish an Islamic Caliphate. I believe that the death penalty (Van Zyl 1992:2-10; Snyman 2008:25-29) will act as a definite deterrent for those who want to enslave, paralyze and kill other fellow human beings by poisoning their minds and bodies with drugs.

The introduction of the death penalty for everyone who is involved with drugs in any form is a not inhuman. The death penalty may sound shocking but I believe it will be the quickest way of getting the desired effect, and that is, a radical reduction

in drug offenses. A South African woman was recently executed in China after she was caught with 3 kilograms of crystal methamphetamine (IOL-News 2011). There is no doubt in my mind that other South African drug distributors will think twice before they will try to smuggle drugs into China, because they know what will happen to them if they are caught. It is essential to remember that drug cartels “kill” people with drugs, and as a result, those involved in this crime must fear the consequences of getting involved. Drug addicts are also putting an unnecessary burden on the state that can rather use the funds in a proactive manner instead of utilizing it in a reactive rehabilitative manner.

Why is it that some countries do not have drug challenges but others do? If punishments are severe and people fear the consequences of getting involved, then it is good. It is better to use the death penalty and there are less drug problems than to have a country filled with drug addicts and drug wars. People also do not pay taxes on the “illegal drug money” they circulate. I have made the choice to stay drug-free and sober. Millions of others have made the same choice. Why can't others not do the same? Must good people allow bad people like “drug lovers” to rule them? The answer is a definite “No!” Those involved in drugs must either change sides and join the anti-drugs campaigners or simply experience the consequences of trying to deliberately poison others to death in an inhuman manner.

Treat Narcotics Handlers and Dealers as Terrorists

Karimi (2010:155) appropriately pointed out that “...Narcotics terrorism is a kind of terrorism in which people directly or indirectly are involved in the cultivation, production, transfer, or distribution of drugs.” We also know that narco-terrorist activities are financed through the drug trade. These terrorist activities include murder, kidnapping, extortion, threats, intimidation and anything that brings fear into the hearts and minds of men and women (Karimi 2010:155). I believe that the majority of Pakistan's citizens are peace-loving and good people who want to make an honest living through hard work and entrepreneurship, and not through the drug trade.

By treating those involved with drugs as terrorists, Pakistan will send out a very strong and clear message to the world that the country means good business and stands for good and responsible governance. In our neighboring African country, Lesotho, cattle (cows) are regarded as the most important possession of the Basotho people, and as a result of this, the crime of “stock theft” (“cattle theft”) is regarded as “terrorism” (Myburgh 2007:36). Pakistan can do the same when it comes to drugs. When a drug crime is committed by a citizen of a country against its own people, especially where drugs are used “to poison people to die a slow death”, then the culprits need to face the consequences of their deeds.

If narcotic handlers and dealers are treated as terrorists then it means *in practice* a “no-mercy approach” will be followed that will have a positive “shock effect” on anyone who witness their arrests, “terrorist trial” and execution. There are numerous examples in the history of the world, since the time of Babylonian king Hammurabi, and Moses in the Old Testament, where people were severely punished so that others must fear (Exodus 21:14). Drug offences (like drug manufacturing) are so serious that I think it deserves the death penalty – especially when innocent children are deliberately targeted by drug dealers to enslave them or to make money out of them.

Hold Families Responsible

All drug pushers and addicts are / were members of one or other family. Family members know what are their family members doing and if they are involved in the drug trade or not. A mother knows her child. A father knows his son. Brothers and sisters have contact with one another and uncles and aunts or cousins are not living in isolation. Even through extended family networks, people know what their relatives are doing and up to. Introduce legislation that compels all family households to declare all terrorists and drug related issues. Force members to come forward to the police, and if they do not do so and the police will find out that they have hidden this information, they must be held accountable. People have individual responsibilities as well as collective responsibilities when it comes to drugs and terror-related crimes.

Confiscate All Assets and Properties of Drug Manufacturers

The confiscation of all assets and properties of those who are involved in the planning, manufacturing and making of drugs must be implemented through legislation and active law enforcement. Sell or use the gathered assets and properties to further fund the war against drugs. Drug cartels consist of greedy people - people who only serve their own interests and not that of Pakistan. Their loyalty lies where the monies are, and definitely not with the country who gives them the right and who expect them to be responsible and peace-loving citizens. In fact, they are betraying their own country because of greed and the desire for idiosyncratic power. In short, they are like traitors and guilty of “treason” because they enslave and betrayed their own people – something that definitely is not right, especially when young children are involved.

Have “En Masse” Military and Police Clean-Up Operations

Military firepower and police firepower are two key ingredients of cleaning any drug-ridden area. Clean up operations is one of the quickest ways of dealing with this so-called age old problem that never really disappears. Make things happen, be different and have the guts to clean the streets. The fear for government

and the police will “fall upon” the people of the land and, whether in a rural setting, or in the cities, people will start to comply very fast when they see the police and military means business. Search and cordon operations and basic common sense approaches where people have to declare everything if they are in possession of drugs or not must become second nature for all visitors to Pakistan as well as for local inhabitants.

Democratically-appointed leaders in parliament, through law enforcement, must rule the country, not drug pushers and drug lords. Enforce the law and drugs will disappear. One cannot have a democracy and implement democratic principles in an area where narco-terrorists are ruling – one first has to clean the area and do proper sweeps to prevent a country from becoming a “narco-state.”

Break Up the Taliban Links with the Drug Trade

If Pakistan continues with their existing way of doing business, then the country will be flooded in future with unnecessary and unwanted drug problems and challenges – something it cannot afford. Talk to the Taliban (Fergusson 2010:282-288) and tell them in a frank manner that drugs are killing their own people and all other users as well. Make it clear to them that all local, national and international efforts will be implemented to stop this war once and for all. The quicker there is clarity and consensus about the wrongness of the use of drugs the better. The consequences of “sin” (wrong-doing) is always death – and with death I mean death.

Humanitarian reasons or democratic arguments to excuse some and to pardon others are not consistent with any government policy that wants the devastating effects of drugs to stop. How many more bodies must lie in the streets of Pakistan before sanity will prevail? It is essential that if the Taliban or Al-Qaeda or any militant group is involved with the drug trade in one or other form, then they must not only be immediately disrupted, but also be taken out of business as soon as possible, by any means available.

Consider Radical Counter-Drug Measures for a Change

Sometimes in psychology we make use of rational emotive therapy (RET). We have “to shock” people to bring them back to their senses. The death penalty and execution in front of a firing squad, for example, certainly will fall in a RET-category. Since the abolishment of the death penalty in South Africa, especially after the introduction of the first democratic rule in April 1994, our murder rates, violent crimes like car hijackings and rape have sky-rocketed (Snyman 2008:22-29). There is no doubt in my mind that the death penalty definitely will stop potential criminals “dead” in their tracks – especially when one thinks of the fact that those who have experienced the death penalty never again had committed any form of crime at all.

To arrest drug manufacturers, drug couriers and pushers and simply put them into over-crowded prison cells are certainly a waste of valuable state resources in my opinion. It is more humane to use the death penalty and to eliminate them than to try to preserve, protect and to nurture people who do not really want to change, but who are more determined to again enchain other healthy people with their poisonous weed or opium when they are released. There are also too many foreigners who are drug smugglers or pushers that are caught in Pakistan (Fasihuddin 2010), even coming from my own country. Do not feel sorry for them. According to the rational-choice theory they have deliberately decided to commit these crimes and must pay the highest price – giving up their lives.

Some academics think that it is wrong to even consider the death penalty for serious crimes. In fact, many are so “democratic and human rights-minded” that they are very often too blind for simple practical solutions that may work. The drug wars must stop. During a war there are always casualties and it is everyone's duty to stay alive as long as possible. If there is a drug war going on, and we all know there is one going on, then certainly the good guys must try every-thing in their might to stay alive, and if that means to eliminate those who try to poison and kill them with drugs, then, even if it is painful to say it, let it be.

Infiltrate Drug Cartels and Eliminate Them

The main reason why we are living and are surviving through the years is simply because we have decided to stay away from crime and because we have decided to make a difference and to do what is good. Both the Holy Qur'an and the Holy Bible clearly state that men must do good to others. To stop drug manufacturers, drug distributors, drug pushers, drug users and those who experiment with drugs and to prevent them from poisoning and killing other healthy God-given people, is to make sure they do not execute their evil plans. Drugs are evil because it kills a healthy person in an inhuman and slowly and deadly manner. There is no better and stronger word in a dictionary than the word “evil” when it comes to drugs. Whoever tries to use drugs must be stopped right away. Elimination of drug lords simply means “take them out.”

I do not believe that money must be placed upon the heads of those who are the most wanted men in law enforcement, because it is everyone's duty to assist the government of the day to ensure that social order is maintained at all costs (Van Heerden 1995) – this practically means one must assist them for free. One cannot go on and on and on and on and do business in the same manner year in and year out. The drug cultivations that take place in Afghanistan, Pakistan, Iran and in other countries are abominations that cause thousands of deaths and will lead on the long run to instability, regime changes and new governments.

Democracy, real democracy, does not bring death, but freedom and a healthy quality lifestyle where people live happy and prosperous lives. Pakistan owes it to its own people to stop those involved with drugs, “dead” in their tracks. Intelligence-led policing, where cartels are infiltrated and where the police, after sufficient information have been gathered, will do mob up operations to clean up drug cartels must be the norm. I am sure that even the United States of America and all its allies will assist Pakistan when they will request funds to just do that, and if they cannot assist, just pray. I am also sure that ordinary law-abiding citizens will step in, and like Rambo, start changing the rulers of the day to change the existing *status quo*.

Talks and Triggers

We all know that RPG-7s and AK-47s (Jalali & Grau 2001) are not really the solution to stop the drug trade, extremism and terrorism, but if necessary, it must be used. Drugs can only be stopped if the people who are involved in the drugs are stopped, and this starts in the minds and hearts of people who make that decision to do what is right. Constant peace negotiations and talks between opposing factions and groups are critical in order to eliminate the drug trade. If this means that one must go and talk to the enemy (Fergusson 2010), while keeping the trigger finger inside the trigger guard, then do so – just stop this trade once and for all. It is non-governmental organizations (NGOs), sound religious leaders, community activists and government officials who must take the lead and through “straight” and peace talks eliminate the damaging effects of the drug trade. The creation of new “ideas” that are “drug and terrorist free” must be taught and implemented at all levels in society. All educators have a critical role to play in this regard.

Poverty, Extremism, Religious Violence and Inequality

It was correctly pointed out that poverty, extremism, religious violence and inequality may cause terrorism (Narejo 2010:165-166). In fact, we know that many people are involved in the drug and arms trade in order to make a living and to feed their personal, economic and ideological appetites – these issues must be addressed through constant peace talks and negotiations at the highest political and international levels, but at the same time, tact and discretion must be used to know when to rely on real firepower instead of diplomatic persuasion and “going-nowhere-anywhere smooth talks.”

I find it totally unacceptable that billions of dollars of foreign aid are ploughed into the war on terror, or even into governmental aid to create jobs, to assist with medical, education and social development challenges and issues, but there are no positive visible returns. For “outsiders” Pakistan has reached a challenging “now or

never” point in their history where the legitimacy of even their own government is questioned from all angles. Foreign governments will no longer sit still on the long run when their freedom and tranquility are threatened and frustrated by possible terrorists who use the drug trade to finance themselves. If I may use a metaphor: Pakistan is like a big steam pot. The challenges like the drug trade, extremism and terrorism are like turbulent water inside the pot, busy “heating up.” The lit of the pot (foreign aid) will certainly blow when the steam reach boiling point. It is the job of government (Pakistan) to regulate and control the heat, otherwise “street-wise” people, who are simple “fed-up” may step in to make some socio-political changes, like in Tunisia, Egypt and Libya (Arab-Spring 2011).

Who are the Real Enemies in the Drug Wars?

Despite everything that I have just said, I am still moving around today, just like during my childhood years, with a “sniper rifle” in my head “to get them” (Ras 2011a) - the problem is just that I do not always know “who” to get. I mean, there are some authors like Mills (1986), who say that the largest narcotics conspirator in the world is the government of the United States whose intelligence agencies conspire with or ignore officials in at least 33 countries as soon as the Drug Enforcement Agency (DEA) closes in for the kill. Just when they want to move in to close the cases, then the United States' State Departments and CIA operators suddenly popped up “in the name of foreign policy” (Hagan 1987; 2010:316) to prevent these “crack-downs.”

Let us be honest, if the mighty USA and all its allies, through all the years, with all the billions of dollars that they have pumped into the eradication of the drug trade “could not” win the war on drugs, then certainly one must seriously question the motives of the political leaders and the policies of their foreign departments and clandestine units when it comes to their so-called “wars against drugs” slogans and war propaganda. Although freedom of speech allows Pakistanis to ask the question: “Is the USA today part of the problem or part of the solution?” I believe that, despite the Osama Bin-Laden raid, the USA-government is not an enemy of Pakistan. They are part of the solution and a “salvage-package” to assist the Pakistani people to protect themselves against extremists and terrorists who are trying to sow death and destruction, but at the same time, the USA is acting as a catalyst that put pressure on the existing Pakistan government to eradicate the drug trade and terrorism.

What Must Criminal Justice Scholars Do?

It will be wrong to say or to do nothing. It will also be dangerous to childishly play Rambo when you are alone. Practical solutions lie for me in collaborative efforts of all concerned scholars and law enforcement personnel who really want to see and experience a positive change. Never give up. Nothing is impossible with

God. Through character education, persuasion, practical law enforcement (like clean up operations, search and cordon operations, eagle patrols), intelligence-driven operations (Ras 2010a) and anti-drug activities of specialized units, the physical elimination of drug lords and cartels, winning the hearts and minds of the people, even at a very young age, are all things that we can propagate and can implement. The role of women (like mothers and grand mothers) in the education process is critical and no war against drugs or terrorism can be won without their daily input (Ras 2010b:21-32). Women simply have that loving and caring ability to form and shape their children in a positive and responsible manner. Pakistani men must be encouraged to unite and say no to drugs, extremism and terrorism and to be good examples to their young. Criminal justice scholars must simply use their academic standing and emphasize the important role of knowledge gathering, dissemination and sharing with local, provincial, national and international communities, in order to set sound parameters in which law enforcement agencies can operate and can ensure peace and stability.

Concluding Remarks

As an “outsider” I have perhaps spoken “too much” in line with my former childhood dreams and fantasies where the good guys, like Rambo, always take out the bad guys. However, the essence of being an academic is very often to say something that will draw fire from those who are very often too silent to bring peace and lasting solutions. I want to challenge our great scholars and brave law enforcement men and women who are perhaps, more than me, constantly in the proverbial line of fire on the great frontier – trying to make a difference. Let us again see what we can do to stop this senseless drug wars and everything that makes a beautiful country like Pakistan to go up in bombs and flames. I know we can change things. I mean, we have to change things and make it better. Why? Because it is simply the right thing to do, and also because, so I believe, God is watching us.

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Terrorism: An Evaluation of Students' Awareness and Attitude at Kust, Khyber Pakhtunkhwa

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Abstract

The basic purpose of this research was to assess the students' awareness about terrorism and attitudes towards learning about terrorism in the university curriculum. Kohat University of Science and Technology (KUST) was the universe of the study; 102 respondents (students) were selected randomly who were equally divided in terms of gender. A questionnaire was used for data collection. The collected data was analyzed by using Chi-Square Test. 63.7 % of the respondents were from rural area; 74.5% of the respondents were in the age group of 21-25 years. At bivariate analysis a relation was computed between dependent variable (the level of knowledge) and independent variables (importance of knowledge on different social problems, & different aspects of terrorism). In this, a significant relationship was found between first learning about terrorism, identification of victim of terrorism, identification of terrorist and level of knowledge on terrorism. Similarly, a significant relationship was found between social effects of homelessness to university education, the terrorism aspect of identification of victim of terrorism, the terrorism aspect of government's response to terrorism, and level of knowledge on terrorism. Further, a non significant relationship was figured out between the occurrences of terrorism in Pakistan, the importance of the topic of the social effects of child abuse and level of knowledge about terrorism. In addition, a non-significant relationship was detected between social effects of domestic violence, social effects of corruption to their university education, the terrorism aspect of lobbying and advocacy and level of knowledge about terrorism. In light of the study findings, it is recommended that the Higher Education Commission should introduce subject on terrorism in all universities of Pakistan which would help in minimizing the occurrence of terrorism in the country.

Keywords

Terrorism, Students, Awareness and Attitude, KUST.

1. Introduction

Terrorism is the most talked about social problem of the day. In past, the powerful groups oppressed the powerless, whereas in the present, the case is reversed (Akhtar, 2001). The word terrorism was introduced in 1795 and was used to represent acts of threats against civilians by their governments. The word terror has been derived from the Latin word *terrere* which means to frighten. Though

terrorism has existed for more than 2000 years, the 9/11 attacks on the U.S. have brought international repercussions unlike any previously experienced (Dunne, 1999). The concept of terrorism is subjectively defined and open to interpretation. People from one culture may label a certain behavior as terrorism, whereas those from another culture might label the same behavior as heroism (Russell and Miller, 1983). This does not stop government bodies, however, from trying to provide an official or objective definition of terrorism. The U.S. Department of Defense, for example, defines terrorism as;

“the unlawful use of or threat of use of force or violence against individuals or property, to governments or societies, often to achieve political, religious, or ideological objectives”

(U.S. Department of Defense, 1990).

The fright of terrorism is a psychological mind game that results from threats and attacks that seek to pressurize the targeted population and their government to alter behavior in line with the perpetrators demands which are politically, religiously, or/and economically motivated. (Freedman, 2005; Rosie, 1987; FBI, 1990; Fischhoff, 2006; and Henderson, 2001). As stated by Dunne (1999) terrorism is “the modern day scourge of the international community” (Dunne 1999).

2. Literature Review

According to Slang (2002) terrorism will increase in future. The present war against terrorism is not on its right direction and has had little impact because as there is multifaceted political agendas attached to it. It is not easy to come at terrorism in this way, rather it needs a complete plan of action with full commitment and resources. These include community programs that focus on affirmative action, talk between peoples of different religions and races, developing counter-terrorism policies that provide a more comprehensive approach to fighting terrorism, and conducting research for a better understanding of terrorism. Such situation needs to be evaluated and the young community members should be educated through the inculcation of the subject of terrorism in their education. Otherwise the government will not be able to stop terrorism effectively.

According to United States Institute of Peace (2001) the last aspect (Terrorized) of the challenges mainly involves how to successfully give educators, students and the public systematic access to system-level thinking about terrorism research. As recommended in the “Making the Nation Safer” report, more research needs to be conducted on preparedness for terrorism attacks, human responses to terrorism crises as well as the strategies for providing people with necessary knowledge of terrorism. Thus, how to utilize various information technologies in achieving these goals remains an interesting and challenging problem. In the light of

the foregoing, the University of Arizona's Artificial Intelligence (AI) Lab is developing Web-based counterterrorism knowledge portals to support the analysis of terrorism research, dynamically model the behavior of terrorists and their social networks, and provide an intelligent, reliable, and interactive communication channel with the terrorized (victims and citizens) groups. Specifically, the portals integrate terrorism-related multilingual datasets and use them to study advanced and new methodologies for predictive modeling, terrorist (social) network analysis, and visualization of terrorists' activities, linkages, and relationships.

In this context it is especially interesting to note a recent study which was conducted on a sample of 3,000 children in grades 7-9, living in Israel and the occupied territories (Laufer & Solomon, 2006). Soen (2009) concluded that approximately 70% of the participants noted that terrorist attacks had some impact on their lives. One third of the youngsters reported that they personally know someone who was a victim of a terrorist attack; 20% stated that some relative personally experienced a terrorist attack.

The United States Institute of Peace has undertaken a study that focused on the provision of assistance to the students in gaining an understanding of terrorism and its role in domestic and international politics. It also worked to make students aware of various definitions of terrorism and acquainted them with different ways in which terrorism might be addressed. It also provided teachers with lesson plans, bibliographic sources and factual material to assist them in teaching students about terrorism (United States Institute of Peace, 2001). In the same way, here in Pakistan it is believed that through educating the students we can raise a collective voice against the menace of terrorism and its perpetrators.

Alam (2003) conducted research on the Japanese students' perceptions of terrorism and other issues faced by Japan, India and USA where he concluded that in the perception of a majority of students, domestic terrorism has the highest importance ranking in Japan. A majority of the students also ranked international terrorism as having the second highest importance. The students feel that international terrorism, cyber terrorism and homeland security have ranks 1, 2 and 3 respectively in USA. Domestic terrorism is assigned Rank 3 while international terrorism is Rank 14 in India. This may imply that India's projections of cross border terrorism have not touched the minds of students in Japan. Over 80 per cent of the students agree that international terrorism is among the greatest threats to civilization.

Krueger and Malec'kova (2003) pointed out that in the aftermath of the tragic events of September 11, 2001, several prominent observers ranging from former Vice President Al Gore (2002) to President George W. Bush (2002a), as well as

academics, including Joseph Nye, Dean of the Kennedy School of Government, Laura Tyson (2001), Dean of the London Business School, and Richard Sokolsky and Joseph McMillan (2002) of the National Defense University have called for increased aid and educational assistance to end terrorism. The present study is undertaken with the following conceptual framework;

2.1 Conceptual Framework

Independent Variables	Dependent Variable
Importance of knowledge on different social problems	Level of knowledge on terrorism
Different aspects of terrorism	

3. Materials and Methods

Survey research was taken on for this research work. The population was the students of Kohat University of Science & Technology, Khyber Pakhtunkhwa. From the selected respondents 102 were used as the sampled population. Questionnaire was used as a tool of data collection. The chi-square test/method was used for ascertaining the association between dependent and independent variables.

4. Results and Discussion

Findings pertaining to Terrorism: an Evaluation of Students' Awareness and Attitude are given and discussed in this chapter under various sections and sub sections. Section 4.1 carries information about univariate analysis/frequency distribution which consists of sub section 4.1(a). Section 4.2 carries information about bivariate analysis that present measurement of association between dependent and independent variables.

4.1 Univariate Analysis

(a) Nature of the Faculty, Residence and Gender of the Respondents

Table I indicates the nature of faculty of the respondents. Out of 102 (100%), 69 (67.6%) respondents belong to the Faculty of Natural Sciences and 33(32.4%) were from the faculty of Social Sciences. It also shows gender of the respondents. Out of 102 (100%), 51 (50%) respondents were male and 51 (50%) were female. Further the table presents resident of the respondents were out of 102 (100%), 65 (63.7%) respondents were the residents of rural locality while 37 (36.3%) were from the urban area.

Table I. Showing Nature of the Faculty, Gender, and Residence of the Respondents

Name of Faculty	Freq. (%)	Gender	Freq. (%)	Residence	Freq. (%)
Natural Sciences	69 (67.6)	Male	51 (50.0)	Rural	65 (63.7)
Social Sciences	33 (32.4)	Female	51 (50.0)	Urban	37 (36.3)
Total	102 (100.0)	Total	102 (100.0)	Total	102 (100)

(b) Average Age Group of the Respondents

Table II shows average age group of the respondents; Out of 102 (100%), 23(22.5%) respondents were below the age of 21 years and 76 (74.5%) were in the age group of 21-25 years whereas 3(2.9%) were from 26-30 year age group.

Table II. Showing Average Age Group of the Respondents.

Average Age	Freq. (%)
Below 21 years of age	23 (22.5)
21 - 25 years	76 (74.5)
26 - 30 years	3 (2.9)
Total	102 (100.0)

4.2 Bivariate Analysis

The following table portrays the picture about bivariate analysis. Here, Pearson's Chi-Square Test was used for measuring relation between the dependent and independent variables. The independent variables in this study were "importance of knowledge on different social problems" and "different aspects of terrorism" and the dependent variable was "the level of knowledge". The findings on all the aforementioned variables are presented and discussed one by one along with suitable reasons as follow;

(a) Showing the Relationship between the Dependent Variable with the Independent Variables.

In Table III, a significant relationship was found between first learning about terrorism and level of knowledge on terrorism. This

could be due to the media coverage of the terrorist attacks in Pakistan and/or due to the respondents' residence in the region which is more targeted by terrorism as the respondents are from Khyber Pakhtunkhwa. Similar findings were drawn by Tolga et al., (2008) regarding the knowledge about local and global terrorism among the Turkish students as they come-up with al-Qaeda as the name of terrorist groups they knew. Further, the study added that most of the Turkish children seem to be knowledgeable about the terrorist attacks that had taken place in Turkey which were predicted to be the result of media coverage. Moreover, a significant relationship was found between the identification of victim of terrorism in Pakistan and level of knowledge about terrorism. This significant relationship could be due to the frequent chances of interaction of the respondents with the victims of terrorism as it is noted that human losses of Khyber Pakhtunkhwa is more than the rest of the country, in addition to the fact that the people of Khyber Pakhtunkhwa in general are all the victims of terrorism. Laufer & Solomon (2006), in consonance with the findings of this research, concluded that approximately 70% of the participants noted that terrorist attacks had some impact on their lives. One third of the youngsters reported that they personally knew someone who was a victim of a terrorist attack; 20% stated that some of their relatives experienced a terrorist attack, personally. As well, it is highlighted by Reid et al., (n.d) that ever since the 9-11 incident; the multidisciplinary field of terrorism has experienced tremendous growth. Projects are designed to provide advanced methodologies for analyzing terrorism research, terrorists, and the terrorized groups (victims). Once completed, the system can also become a major learning resource and tool that the general community can use to heighten their awareness and understanding of global terrorism phenomenon. Information-related issues, such as the communication and sharing of research ideas among counter terrorism researchers and the dissemination of counter terrorism knowledge among the general public, become crucial in detecting, preventing, and responding to terrorism threats.

A significant relationship was found between familiarity with the sign and symptoms of terrorist and level of knowledge about terrorism. A non significant relationship was found between the importance of the topic, "Social Effects of Child Abuse to their

University Education” and the level of knowledge about terrorism. A non significant relationship was found between the importance of topic, “Social Effects of Domestic Violence to their University Education” and the level of knowledge about terrorism. For equipping the students and researchers the United States Institute of Peace undertook a study that focused on the provision of assistance to the students in gaining an understanding of terrorism and its role in domestic and international politics. It also worked to make students aware of various definitions of terrorism and acquainted them with different ways in which terrorism might be addressed. It also provided teachers with lesson plans, bibliographic sources and factual material to assist them in teaching.

A significant relationship was found between the importance of the topic, “Social Effects of Homelessness to their University Education” and the level of knowledge about terrorism. A non significant relationship was found between the importance of the topic, “Social Effects of Corruption to their University Education” and the level of knowledge about terrorism. Similar nature of studies is undertaken by scholars from different parts of the world due to its emerging importance. Among them, one is Alam (2003) who conducted research on the Japanese students' perceptions of terrorism and other issues faced by Japan, India and USA where he concluded that in the perception of a majority of students, domestic terrorism has the highest importance ranking in Japan. A majority of the students also ranked international terrorism as having the second highest importance. The students feel that international terrorism, cyber terrorism and homeland security have ranks 1, 2 and 3 respectively in USA. Domestic terrorism is assigned Rank 3 while international terrorism is Ranked 14 in India. This may imply that India's projections of cross border terrorism have not touched the minds of students in Japan. Over 80 percent of the students agree that international terrorism is among the greatest threats to civilization.

A significant relationship was found between the “Identification of Victim of Terrorism” for incorporating it in the curriculum of the University and the level of knowledge about terrorism. A non significant relationship was found between the “Lobbying and Advocacy Aspect of Terrorism” and the level of knowledge about terrorism. This result shows that the level of knowledge of the respondents was low and they were not understanding the

importance of the effects of “Lobbying and Advocacy” in the context of minimizing the occurrences of terrorism in the region. So, they might have taken it for granted. A non significant relationship was found between characteristics of terrorists and level of knowledge about terrorism. For improving the knowledge level and awareness of the masses in general the United States Institute of Peace (2001) University of Arizona's Artificial Intelligence (AI) Lab is developing Web-based counterterrorism knowledge portals to support the analysis of terrorism research, dynamically model the behavior of terrorists and their social networks, and provide an intelligent, reliable, and interactive communication channel with the terrorized (victims and citizens) groups. Such endure could be an effective and long lasting counter terrorism strategy.g students about terrorism (United States Institute of Peace, 2001).

A significant relationship was found between the terrorism aspect of “The Government's Response to Terrorism” and the level of knowledge about terrorism. A non significant relationship was found between the terrorism aspect of “International Cooperation for Combating Terrorism” and the level of knowledge about terrorism. The world realized that investment in education is a must for curbing this menace, therefore, Krueger and Malec`kova (2003) pointed out that in the aftermath of the tragic events of September 11, 2001 several prominent observers ranging from former Vice President Al Gore (2002) to President George W. Bush (2002a), as well as academics, including Joseph Nye, Dean of the Kennedy School of Government, Laura Tyson (2001), Dean of the London Business School, and Richard Sokolsky and Joseph McMillan (2002) of the National Defense University have called for increased aid and educational assistance to end terrorism.

A non significant relationship was found between the terrorism aspect of training and equipping police force and level of knowledge about terrorism.

Table III. Showing the Relationship the Level of Knowledge with Importance on Different Social Problem and Different Aspect of Terrorism.

Statements	Response	Knowledge About Terrorism				Total	Statements
		Not Knowledgeable	Some what Knowledgeable	Knowledgeable	Very Knowledgeable		
Your first learning about terrorism	Never learned about terrorism	6 (5.88)	3 (2.94)	1 (0.89)	0 (0)	10 (29.76)	$\chi^2 = 2.173 (.012)$
	Learned about terrorism before university	5 (4.90)	28 (27.4)	12 (11.76)	8 (7.84)	49 (48.03)	
	Learned about terrorism during university	4 (3.92)	11 (10.80)	8 (7.84)	4 (3.92)	27 (26.47)	
	Learned about terrorism outside of university curriculum	2 (0.0001)	5 (4.90)	5 (4.90)	4 (3.92)	16 (15.68)	
Do you think terrorism occur in Pakistan	Yes	13 (12.74)	42 (41.17)	22(21.56)	11(10.78)	88(86.27)	$\chi^2=11.422 (.248)$
	No.	2(0.0001)	0(0)	2(0.0001)	1(0.98)	4(3.92)	
	Not sure	1(0.980)	5(4.901)	2(0.0001)	0(0)		
The victims of terrorism can be identified in Pakistan	Unlikely	8(7.84)	13(12.74)	9(8.82)	2(0.0001)	32(31.37)	$\chi^2=21.686 (.041)$
	Somewhat likely	8(7.84)	22(21.56)	8(7.84)	2(0.0001)	40(39.21)	
	Likely	0(0)	9(8.82)	7 (6.86)	8(7.84)	24 (23.52)	
	Very likely	1 (0.98)	1 (0.98)	1 (0.98)	1 (0.98)	5 (4.90)	
Familiar with the sign and symptoms that might help you to identified terrorist	Not familiar	8(7.84)	16(15.68)	15(14.70)	3(2.94)	42(41.17)	$\chi^2=24.396(.004)$
	Somewhat familiar	5(4.90)	25(24.50)	17(16.66)	1(0.98)	38(37.25)	
	Familiar	3(2.94)	5(4.90)	3(2.94)	7(6.86)	18(17.64)	
	Very familiar	1 (0.98)	1 (0.98)	1 (0.98)	1 (0.98)	5 (4.90)	

Statements	Response	Knowledge About Terrorism				Total	Statements
		Not Knowledgeable	Some what Knowledgeable	Knowledgeable	Very Knowledgeable		
Importance of topic Social effects of child abuse	Not important	4(3.92)	6(5.88)	4(3.92)	2(1.96)	16(15.68)	$\chi^2=10.608(.304)$
	Somewhat important	8(7.84)	16(15.68)	10(9.80)	1(0.98)	35(34.31)	
	Important	2(1.96)	14(13.72)	10(9.80)	6(5.88)	32(31.37)	
	Very important	3(2.94)	11(10.78)	2(1.96)	3(2.94)	19(18.62)	
Importance of topic Social effects of domestic violence	Not important	1(0.98)	2(1.96)	2(1.96)	1(0.98)	6(5.88)	$\chi^2=10.538(.309)$
	Somewhat important	4(3.92)	6(5.90)	8(7.84)	5(4.92)	23(22.54)	
	Important	7(6.86)	20(19.60)	12(11.76)	2(1.96)	41(40.19)	
	Very important	5(4.90)	19(18.62)	4(3.92)	4(3.92)	32(31.37)	
Importance of topic Social effects of human trafficking	Not important	1(0.98)	3(2.94)	2(1.96)	0(0)	6(5.88)	$\chi^2=7.153 (.621)$
	Somewhat important	5(4.90)	11(10.78)	2(1.96)	2(1.96)	20(19.60)	
	Important	8(7.84)	16(15.68)	14(13.72)	6(5.88)	44(43.13)	
	Very important	3(2.94)	17(16.66)	8(7.84)	4(3.92)	32(31.37)	
Importance of topic Social effects of poverty	Not important	1(0.98)	0(0)	1(0.980)	0(0)	2(0.0001)	$\chi^2=6.559 (.683)$
	Somewhat important	3(2.94)	9(8.82)	4(3.92)	2(1.96)	18(17.64)	
	Important	6(5.88)	19(18.62)	11(10.78)	2(1.96)	38(37.25)	

Statements	Response	Knowledge About Terrorism				Total	Statements
		Not Knowledgeable	Some what Knowledgeable	Knowledgeable	Very Knowledgeable		
	Very important	7(6.86)	19(18.62)	10(9.80)	8(7.84)	44(43.13)	
Importance of topic Social effects of terrorism	Not important	1(0.980)	4(3.921)	2(1.96)	0(0)	7(6.862)	$\chi^2=7.927 (.541)$
	Somewhat important	4(3.92)	9(8.82)	3(2.94)	2(1.9)	18(17.64)	
	Important	5(4.90)	10(9.80)	12(11.76)	6(5.82)	33(32.35)	
	Very important	7(6.86)	24(23.52)	9(8.82)	4(3.92)	44(43.13)	
Importance of topic Social effects of homelessness	Not important	2(1.96)	9(8.82)	5(4.90)	2(1.96)	18(17.64)	$\chi^2=19.428(.022)$
	Somewhat important	8(7.84)	7(6.86)	10(9.80)	3(2.94)	28(27.45)	
	Important	7(6.86)	10(9.80)	7(6.86)	3(2.94)	27(26.47)	
	Very important	0(0)	21(20.58)	4(3.92)	4(3.92)	29(28.99)	
Importance of topic Social effects of corruption	Not important	1(0.98)	0(0)	1(0.98)	0(0)	2(1.96)	$\chi^2=3.962 (.914)$
	Somewhat important	3(2.94)	9(8.82)	3(2.94)	2(1.96)	17(16.66)	
	Important	2(1.96)	7(6.86)	5(4.90)	2(1.96)	16(15.68)	
	Very important	11(10.78)	31(30.39)	17(16.66)	8(7.84)	67(65.68)	
Which problem is most crucial	Child abuse	2(1.96)	7(6.86)	4(3.92)	2(1.96)	15(14.70)	$\chi^2=7.471 (.986)$
	Domestic violence	3(2.94)	6(5.88)	1(0.98)	1(0.98)	11(10.78)	

Statements	Response	Knowledge About Terrorism				Total	Statements
		Not Knowledgeable	Some what Knowledgeable	Knowledgeable	Very Knowledgeable		
	Gender disparities	2(1.96)	5(4.90)	3(2.94)	2(1.96)	12(1.76)	
	Homelessness	0(0)	2(1.96)	0(0)	0(0)	2(1.96)	
	Terrorism	5(4.90)	9(8.82)	7(6.86)	2(1.96)	23(22.54)	
	Poverty	3(2.94)	9(8.82)	7(6.86)	2(1.9)	21(20.58)	
	Corruption	2(1.96)	9(8.82)	4(3.92)	3(2.94)	18(17.64)	
Identifying victims of terrorism	Not important	9(8.82)	3(2.94)	7(6.86)	4(3.9)	23(22.54)	$\chi^2=29.65 (.001)$
	Somewhat important	6(5.88)	9(8.82)	6(5.88)	1(0.98)	21(20.58)	
	Important	1(0.98)	9(8.82)	8(7.84)	3(2.94)	21(20.58)	
	Very important	1(0.98)	25(24.50)	5(4.90)	4(3.92)	35(34.31)	
Lobbing and advocacy	Not important	3(2.941)	13(12.74)	5(4.901)	6(5.882)	27(26.47)	$\chi^2=17.929(0.36)$
	Somewhat important	11(10.78)	14(13.72)	17(16.66)	4(3.92)	46(45.09)	
	Important	1(0.98)	13(12.74)	2(1.96)	2(1.96)	18(17.64)	
	Very important	2(1.96)	7(6.86)	2(1.96)	0(0)	18(17.64)	
Characteristics of terrorist	Not important	2(1.96)	5(4.90)	2(1.96)	3(2.94)	12(11.76)	$\chi^2=19.946(0.18)$
	Somewhat important	8(7.84)	8(7.84)	10(9.80)	4(3.92)	30(29.41)	

Statements	Response	Knowledge About Terrorism				Total	Statements
		Not Knowledgeable	Some what Knowledgeable	Knowledgeable	Very Knowledgeable		
	Important	7(6.86)	17(16.66)	12(11.76)	2(1.96)	38(37.25)	
	Very important	0(0)	17(16.66)	2(1.96)	3(2.92)	22(21.56)	
Government response to terrorism	Not important	0(0)	0(0)	2(1.96)	3(2.92)	5(4.90)	$\chi^2=19.381 (.022)$
	Somewhat important	3(2.94)	8(7.84)	4(3.92)	1(0.98)	16(15.68)	
	Important	9(8.82)	15(14.70)	6(5.88)	2(1.96)	32(31.37)	
	Very important	5(4.90)	24(23.52)	14(13.72)	6(5.88)	49(48.03)	
International cooperation for combating terrorism.	Not important	3(2.94)	8(7.84)	3(2.94)	3(2.94)	17(16.68)	$\chi^2= 3.782 (.925)$
	Somewhat important	4(3.92)	9(8.82)	6(5.88)	4(3.92)	23(22.54)	
	Important	6(5.88)	13(12.74)	9(8.82)	2(1.96)	30(29.41)	
	Very important	4(3.92)	17(16.66)	8(7.84)	3(2.94)	32(31.37)	
Training and equipping police force	Not important	1(0.98)	2(1.96)	1(0.98)	1(0.98)	5(4.90)	$\chi^2=4.757 (.855)$
	Somewhat important	1(0.98)	3(2.94)	4(3.92)	2(1.96)	10(9.80)	
	Important	6(5.88)	11(10.78)	6(5.88)	4(3.92)	27(26.47)	
	Very important	19(18.62)	31(30.39)	15(14.70)	5(4.90)	60(58.82)	

5. Summary, Conclusions and Recommendations

Findings in the summary form along with conclusions and apt recommendations are given as follows;

5.1 Summary

The present study is concerned with Terrorism: An Evaluation of Students' Awareness and Attitude at KUST. The main objective of this research work was to assess the KUST students' awareness about terrorism and attitudes of learning about terrorism in university curriculum. For further investigation the following objectives were framed i.e. to know the level of knowledge of respondents about terrorism, to understand that the knowledge of terrorism is how much important in university education, and to compile policy recommendations for incorporation of the subject of terrorism in university curriculum. The universe of the study was Kohat University of Science and Technology, Kohat Khyber Pakhtunkhwa, Pakistan. Majority i.e. 67 % of the total respondents were from the faculty of Natural Sciences. Both male and female were equally selected for this study i.e. 51 each. Overwhelming majority i.e. 63.7% respondents were the resident of rural area. Most of the respondents' age group i.e. 74.5% was 21-25 years.

At bivariate analysis a significant relation was found between dependent variable (the level of knowledge) and independent variables (importance of knowledge on different social problems, different aspects of terrorism). In this a significant relationship was found between first learning about terrorism, identification of victim of terrorism, identification of terrorist, social effects of homelessness to university education, the terrorism aspect of identification of characteristics of terrorist, the terrorism aspect of governments response to terrorism, and level of knowledge on terrorism.

Further, a non significant relationship was ascertained between the occurrences of terrorism in Pakistan, the importance of the topic of the social effects of child abuse, social effects of domestic violence, social effects of human trafficking, social effects of terrorism, social effects of corruption to their university education, the most crucial problems, the terrorism aspect of lobbying and advocacy, characteristics and level of knowledge about terrorism, international cooperation for combating terrorism, training and equipping police force and level of knowledge about terrorism.

5.2 Conclusions

The main objective of this research was to assess the KUST Students' Awareness about Terrorism and Attitudes towards Learning about Terrorism in the University Curriculum. Students' attitudes were measured through independent and dependent variables namely 'importance of knowledge on different social problems, different aspects of terrorism, and 'the level of knowledge' respectively.

At bivariate analysis a relationship was measured between dependent and independent variables. Where, a significant relationship was found between first learning about terrorism, identification of victim of terrorism, identification of terrorist and the level of knowledge on terrorism. Additionally, a significant relationship was calculated between social effects of homelessness to university education, and level of knowledge on terrorism. Similarly, the same findings were ascertained between the terrorism aspect of identification of victim of terrorism, the terrorism aspect of governments' response to terrorism and level of knowledge on terrorism. Such results could be due to the media that promptly highlighting the occurrence of terrorism in the region. Such coverage sensitizes the masses on the one hand and improves their awareness and knowledge on the other. However, sensationalism which is the tool of marketing for media could ride with negative effects as well for the masses. In light of the study, it is suggested to cope with the situation a researched based education program on the subject of terrorism may be included in the counter terrorism strategies.

On the other hand, a non significant relationship was found between the occurrences of terrorism in Pakistan, the importance of topic of social effects of child abuse to their university education and level of knowledge about terrorism. Also, non significant relationship was detected between the importance of topic of social effects of domestic violence to their university education, the importance of topic of social effects of corruption to their university education, the terrorism aspect of lobbying and advocacy and level of knowledge about terrorism. Furthermore, a non significant relationship was found between the terrorism aspect of characteristics of terrorist, the terrorism aspect of international cooperation for combating terrorism, the terrorism aspect of training and equipping f police force and level of knowledge about terrorism.

5.3 Recommendations

- (a) The Higher Education Commission, Board of Studies of respective university departments and educators should include curriculum on

terrorism in university level education irrespective of students' degree program and gender. This would make aware the students regarding the various causes, factors, repercussions, aspects and combating strategies of terrorism. This awareness would contribute in minimizing the occurrences of terrorism in the region.

- (b) Media should also comprehensively devise programs on terrorism from various aspects and different perspectives. They should educate the people regarding the causes, effects, and response of the government towards terrorism. This would improve the knowledge level of the society on terrorism; hence, the combating strategies would be more effective then.

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Terrorist Rehabilitation: An Introduction to Concepts and Practices

Rohan Gunaratna

Abstract

Pakistani military developed a state-of-the-art capability to rehabilitate insurgents, terrorists and extremists. Community engagement to prevent and rehabilitation to deradicalize are the most humane approaches to countering the ideological threat of politically motivated violence. Spearheaded by Major General Ishfaq Nadeem Ahmad in Swat and by Major General Asim Saleem Bajwa in South Waziristan, Pakistani military working with its partners have created a rehabilitation capability that should be adopted by the police and the prisons. A new frontier in countering political violence, rehabilitation of insurgents, terrorists and extremists is a global challenge. This paper discuss the concepts and practices in rehabilitation shared by Singapore with Pakistan since October 15, 2008. Singapore's International Centre for Political Violence and Terrorism Research conducted the 1st Strategic Workshop on Rehabilitation and **De-Radicalization** of Militants and Extremists at the FATA Secretariat in Peshawar on 18-19 May 2010. Pakistan's pioneer in rehabilitation, Vice-Chancellor of the Islamic university of Swat, Dr. Farooq Khan was assassinated by the Taliban on October 2, 2010. This paper is dedicated to his courageous and visionary leadership.

Keywords

Rehabilitation, Terrorist, Pakistan, Concept, Practice, FATA

Introduction

Rehabilitation of insurgents, terrorists and extremists is the most humane approach to countering the ideological threat of politically motivated violence. The Pakistani military started to invest in building state-of-the art programs for rehabilitating Pakistani insurgents, terrorists and extremists starting in Swat in 2009. Singapore's International Centre for Political Violence and Terrorism Research provided assistance to Pakistan to build its capabilities in rehabilitation in 2010¹. Having visited the rehabilitation centres in Swat and interviewed both the beneficiaries and the officials in 2011, I was very impressed with the administration of the centres, rehabilitation interventions, and the rehabilitation instructors. With its success, the military is expanding its rehabilitation effort both in the Federally Administered Tribal Pakistan and in Khyber Pakhtunkhwa.

Today, the challenge is for the Pakistani police and the prisons to embrace rehabilitation as a counter-terrorism strategy. Without seeding a successful prevention and rehabilitation program, Pakistan will not be able to effectively fight

the current and emerging threat of ideological extremism, terrorism and insurgency. This paper seeks to provide an introduction to concepts and practices of insurgent, terrorist and extremist rehabilitation.

The Context

The four pillars of the criminal justice and prisons system are deterrence, incapacitation, retribution and rehabilitation. General deterrence, incapacitation, and retribution have limited impact in discouraging terrorists and others who engage in politically motivated violence. On the contrary, deterrence, incapacitation and retribution can reinforce and strengthen their misguided belief. As such, to meet the challenge of politically, religiously and socially radicalized Muslims, it is paramount for governments to disengage and de-radicalize them. Government success will depend on the strength of the partnership with Muslim community leaders and organizations.

Both protecting communities and preventing relapse of those detained and imprisoned is a government and community responsibility. Towards this, both in the open and inside detention and prison facilities, those vulnerable to radicalization should be engaged politically, religiously and socially. Nonetheless, such de-radicalization initiatives through rehabilitation in detention and in prison and engagement of the communities are new in idea and recent in systematic practice. As radicalization leads to violence, both these complimentary strategies are paramount in the fight against terrorism and ideological extremism.

Background

Today, the threat of political violence, especially terrorism, presents a tier-one national security challenge to most governments and to societies. In the spectrum of threat groups driven by diverse ideologies, the militant jihadis present the single biggest threat to international security. After al Qaeda's attacks on America's most iconic landmarks on September 11, 2001, the threat has escalated globally. The U.S. and European led kinetic and lethal approaches have dominated the global counter terrorism agenda. They include significant investment in operational counter terrorism – catch, kill and disrupt – and anti-terrorism – protection of personnel and infrastructure but not in strategic counter terrorism – change the enabling environment.²

The western-centric approaches focusing narrowly on fighting the armed groups have not led to an appreciable reduction in threat. Although the operational capabilities of threat groups have been targeted, their intentions to fight and fight back remain intact. Worldwide, the capabilities and capacities of governments and partners to fight operational terrorism's precursor ideological extremism have been

inadequate. To win the fight, government must build partnerships with academia, the media, community, educational, and religious institutions. The world is still in a very early stage of developing far reaching strategies both to stay ahead of terrorism and to prevent regeneration.³

A New Frontier

In the spectrum of violence, terrorism is a unique form of violence and presents a multidimensional threat. Although the United Nations is still debating on formulating a universally accepted definition for terrorism, there is broad consensus that terrorism is the threat or act of politically-motivated violence deliberately targeting non combatants. As opposed to violent crime, largely driven by personal need and greed, terrorism is ideologically based. As terrorism is a by-product of ideological extremism, terrorism and extremism is a continuum. Exceeding the bounds of moderation, extremists go to extremes or support extreme doctrines or practice.⁴ Extremists are driven by “*political ideologies* that oppose a society's core values and principles.”⁵ To deprogram the terrorist and extremist population, extremist belief and thinking instilled and indoctrinated by the ideology and narrative is central. Delegitimizing the ideology requires sustained engagement, counseling, rebutting, refuting, and other counter-ideology measures.

Cognitive and non-cognitive factors politicize, radicalize and mobilize Muslims to advocate, support and participate in politically motivated violence. However, contemporary understanding of rehabilitation of terrorists and other extremists is limited. In a recent study, Horgan and Braddock state that, “1. There are no specific criteria for success associated with any initiative 2. There is little data associated with these initiatives that can be reliably corroborated independently. 3. There has been no systematic effort to study any aspect of these programs even individually let alone collectively.”⁶ Earlier studies focused including three studies by Horgan, Bjorgo and Horgan, and Ashour, focused on components of rehabilitation notably disengagement and deradicalization. Insurgent and terrorist rehabilitation is a new frontier.

Rehabilitation

The contemporary usage of rehabilitation is contextual. Rehabilitation is to help someone return to normal life by providing education, training and therapy.⁷ Derived from the Latin word “*rehabilitare*”⁸, rehabilitation is “to make fit, after disablement, illness or imprisonment for earning a living or playing a part in the world.”⁹ Criminal and terrorist rehabilitation is about re-engaging, re-educating and re-entry of those who have deviated from the mainstream back to society. Although rehabilitation of offenders falls within the purview of penitentiary science, the developments in penology in the last 50 years is for rehabilitating criminals and not

politically-motivated violent offenders. The multidisciplinary art and science of rehabilitating terrorists in the custodial and community (probationary) settings is at a very early stage. Although mostly conducted in custodial settings due to security considerations, rehabilitation is much more effective in community settings. Called beneficiaries, the rehabilitees selected for reform are engaged by psychologists, social workers, sports instructors, religious and community leaders, and other leaders of influence serving as role models.

There is no universally accepted definition of terrorist rehabilitation. Academics agree that "To date, there is no consensus on what constitutes success in reforming a terrorist, let alone what even constitutes reform in this context."¹⁰ Criminal rehabilitation is defined as any "planned intervention that reduces an offender's criminal activity."¹¹ As no definition of terrorist rehabilitation exists in the social science literature and within the security community, we seek to develop a working definition. While the goal of both criminal and terrorist rehabilitation is to reintegrate offenders back into society as law abiding citizens, terrorist rehabilitation is designed to wean individuals from violence--terrorist or otherwise--and re-educating them how political change can be achieved without resorting to violence, including terrorism.¹² Rehabilitation is a holistic process that mitigates the drivers of conflict in an individual's life through education, vocational training, counselling or therapy, and may include post-custody aftercare and community connected services.

Radicalization

A working definition of radicalization is "*the process of adopting an extremist belief system, including the willingness to use, support, or facilitate violence, as a method to effect societal change.*"¹³ Based on a study of Islamist movements, Omar Ashour argues that "Radicalization is a process of relative change in which a group undergoes ideological and/or behavioral transformations that lead to the rejection of democratic principles (including the peaceful alternation of power and the legitimacy of ideological and political pluralism) and possibly to the utilization of violence, or to an increase in the levels of violence, to achieve political goals."¹⁴

As ideological extremism is the precursor of operational terrorism, it is essential to counter radicalization, the "process whereby an individual or group adopts extremist beliefs and behaviors."¹⁵ While most radicalized are vulnerable to supporting or advocating violence, categories of activity ignored and tolerated by many governments, only a tiny percentage actually engage in violence. Violent radicalization denotes a transition from radical thought to violent action¹⁶. After radicalization occur either or both in real and cyber space,¹⁷ recruitment into an organization mobilizes an extremist into committing terrorism or other violent acts.¹⁸ The reverse of radicalization is rehabilitation, a non-traditional security tool that has wider applications.

De-Radicalization

One facet of rehabilitation is de-radicalization, a term that academics are still in a stage of conceptualizing and defining. John Horgan and Kurt Braddock argue: "There is, in addition, confusion about whether any kind of rehabilitation is necessarily brought about by "de-radicalization" (itself a term which has not been adequately conceptualized, let alone defined) as opposed to other interventions for eliciting behavior change. In the context of governments engaging, including co-opting Islamist movements, Omar Ashour defines de-radicalization as a "process of relative change within Islamist movements, one in which a radical group reverses its ideology and de-legitimizes the use of violent methods to achieve political goals, while also moving towards an acceptance of gradual, social, political and economic changes within a pluralist context."¹⁹ Extricating the negative ideology that had been imbibed into the mind of the beneficiary selected for rehabilitation, followed by negation of the misunderstood ideology, and subsequently replacing the negative ideology with positive ideology is de-radicalization. ."²⁰

De-radicalization is a comprehensive process by which a terrorist's misunderstanding or extremist ideology is replaced with the principles of moderation, toleration and coexistence. Only a small percentage of the population has extremist views that require de-radicalization. De-radicalization involve religious engagements that seek to dissuade violence and extremism. Cognitive skills (sometimes called life skills) training are also employed. Such skill are used to inform terrorists that there are peaceful alternatives to violence. Changing the views and ideologies of terrorists and extremists is difficult and may take more time than education and vocational training.

The final stage of re-education is to input the rightful understanding of theology or nationalism essential for moderation, toleration and co-existence into the mind of the beneficiary. Upon completion of these stages the beneficiary of rehabilitation would have undergone an ideological transformation that qualifies him or her to be reclassified as "no longer pose a security threat". A multifaceted process to meet a multidimensional threat, rehabilitation is much more than de-radicalization. Although de-radicalization is paramount to open the mind of the detainee or the inmate, successful terrorist rehabilitation can be achieved by improving the circumstance of the beneficiary, the immediate family, the extended family and the wider community. By winning the hearts and minds in both through-and after-care phases can enable a beneficiary of rehabilitation to transform. To abandon and reject violence and embrace and advocate peace constant engagement is needed. For successful re-entry, de-radicalization should be continued after the custodial phase in the community phase by ideologically trained and intellectually competent clerics, community and other leaders.

Disengagement

In the counter-terrorism toolkit, there are many pathways out of terrorism. In addition to de-radicalization, there are other tools and techniques for ending violence. They include disengagement, a behavioural change wherein the terrorist agrees to lay down his arms and stops fighting. While in custody, he or she must be persuaded to voluntarily disengage from the fight. Rehabilitation programs provide the skills and tools to voluntarily disengage. Terrorists in custody who are motivated by economic reasons or who were not totally committed to the fight are likely to shift from "compelled" to "voluntary disengagement" by providing them education and vocational training. Those who are motivated by ideology will very likely require additional de-radicalization efforts such as religious engagement and/or cognitive skills training. Omar Ashour argues that terrorists may suspend, abandon or reject the use of violence but may remain ideologically unchanged.²¹

John Hogan defines disengagement as "the process whereby an individual experiences a change in role or function that is usually associated with a reduction of violent participation. It may not necessarily involve leaving the movement, but is most frequently associated with significant temporary or permanent role change. Additionally, while disengagement may stem from role change, that role change may be influenced by psychological factors such as disillusionment, burnout or failure to reach the expectations that influenced initial involvement. This can lead to a member seeking out a different role within the movement."²² As such, disengaging or desisting "from terrorist activity are not necessarily de-radicalized (as primarily conceived via a change in thinking or beliefs), and that such de-radicalization is not necessarily a prerequisite for ensuring low risk of recidivism."²³ In return for cooperation with the state, terrorists accepting government offer of incentives such as early release is not rehabilitation.²⁴ Most academics agree that "Disengagement refers to a behavioral change, such as leaving a group or changing one's role within it. It does not necessitate a change in values or ideals, but requires relinquishing the objective of achieving change through violence. De-radicalization, however, implies a cognitive shift—i.e., a fundamental change in understanding."²⁵ As such, to reduce the strategic long term threat, whenever possible, it is important for governments to remain involved, de-radicalizing individuals and groups that have disengaged from violence.

Recidivism

Derived from the Latin term *recidivus*, recidivism refers to "relapse into crime."²⁶ Terrorist recidivism is the relapse of terrorists released from custody into participating, supporting or advocating violence. Like some criminals, some

terrorists who are released from custody, are likely to return to violence. In the U.S. where rehabilitation is not a national policy, about 50% of the criminals released from custody return to crime and about 20% of the Guantanamo Bay detainees have returned to terrorism.²⁷

As custody is a continuity of their journey for some career criminals and terrorists, recidivism is a major challenge facing many governments worldwide. Categorized as low, high, medium, the rate of recidivism depends on multiple factors. In an ordinary prison or a detention facility, an offender “simply enters the same milieu he existed outside of jail.”²⁸ Such typical conditions in crowded jails may create access to the leadership, reinforce the ideology, harden the belief system as well as create opportunities for networking, learning and sharing new terrorist tradecraft and skills.

Non-Rehabilitation

By mere physical warehousing detainees or inmates, their belief system that determines behavior is unlikely to change. When released from custody, if the pull factors are stronger than the push factors, they returned to the terrorist networks. Central to reducing recidivism is to identify the main driver(s) of radical thinking and behavior and provide post release treatment to those not de-radicalized during imprisonment. Rather than mere incarceration, identifying the radical pathways and developing tailor-made rehabilitation initiatives reduces the probability of return to terrorism and to other forms of violence. Similar to the through care program, a carefully crafted and strategically guided aftercare program can reduce the susceptibility of the released detainee or inmate to reoffend.

Even if a released terrorist is not de-radicalized, if other facets of rehabilitation especially community engagement are in place, he or she can disengage or desist from relapsing to violence. In addition to continued monitoring, the other facets include the released detainee or inmate playing an active role: taking on a key responsibility in the community; engagement with a family and a network of friends, peer and other support groups supporting the ideals of non-violence; and to facilitate reentry economic and social incentives.²⁹ The engagement programs, through the community elite - elders, teachers, religious and other influential and visionary leaders –should reinforce the idea of reaching out, invest in building broken bridges, and promoting the values of reconciliation, healing, and forgiving.

Re-Entry

Re-entry is defined as the peaceful transition of the rehabilitated detainee or inmate from custodial to civilian life. The final and the most crucial phase of rehabilitation of the beneficiary and his or her family is the relocation to a

community of destination, reinsertion socially and economically, and protection from threats. The safety net should include emergency relief - cash, access to credit, and land, benefits – housing, employment, food, education and health support, and other interventions.³⁰ For sustained and long term support, social and economic linkup with local government leaders and institutions, professional and social networks, and NGOs is essential. Paramount for successful reentry is an improved security environment, where the security of the former detainee or inmate, his or her family and loved ones are government guaranteed. Dependent on the threat level, communication and interaction with their extended family, relatives and friends should be managed by government.

As the rehabilitated terrorists need to be protected psychologically, government should support the creation of groups, groupings, or an association of the rehabilitated. For successful and sustainable reintegration, the rehabilitated inmate or detainee must be convinced that their interactive participation with government and community working. Until they are empowered to take in charge of their life, the rehabilitated must be assisted, impediments removed, and monitored continuously. As they adapt to their new life, the aftercare program should guide, mentor and assist the beneficiary to rebuild their life in a new environment. In the case of the disabled, support will need to be continuous.

Terminology

As the term rehabilitation and rehabilitee have negative connotations, practitioners prefer to use the term re-education and beneficiary respectively. Rather than standardizing terminology, what is important is to select and use terms that are acceptable to government and society so that the program will be supported and sustained. The term militant or rebel as opposed to terrorist or insurgent is used in Pakistan and India because government is aware that at some point the government will have to negotiate with the threat groups. The meaning and usage of certain terms is also changing.

While many use the term reintegration to denote the entry phase, the emerging usage of the term reintegration refers to the entire process of wide-ranging activity to assimilate terrorists peacefully back to society. The three operation level subsets to reintegration are disengagement, rehabilitation and reentry. Among both the practitioners and academics, it is very likely that the usage of the term reintegration pioneered by Joint Task Force – 435 in Afghanistan will become popular and supersede the term rehabilitation in the future.³¹

Community Engagement

Governments working with community partners must counter terrorist propaganda seeking to politicize, radicalize and militarize the Muslim

communities. Known as community engagement, government should facilitate Muslim clerics and scholars to build platforms to counter the extremist ideology of radical and violent groups. Unless the Muslim elite working with the government immunize Muslim communities from terrorist and extremist propaganda and indoctrination, both recruits and support for group and homegrown terrorism will be inevitable. Furthermore, when released from custody, the repentant terrorist who has rejected extremism and embraced peace will be at odds with the views of the very community.

The narratives of al Qaeda, JI and other threat groups articulate the real and perceived injustices against the Muslims. The narratives make some minds, especially of the youth, susceptible to ideology. Like clay, they can be influenced, moulded and shaped by charismatic leaders selectively citing verses from the Quran. The ideology is the trigger. Islam itself has theological arguments that explicitly exhort or forbid the use of violence against civilians.

While narrative is not the only factor for radicalisation, it is one of the most compelling factors that propel people to extremist ideologies. The drivers for terrorist mindsets are ideology and narratives and these can be countered by a multi-pronged approach. As terrorism is a vicious by product of ideological extremism, all governments and their partners should develop a strategy to dismantle the conceptual infrastructures of terrorism. As narratives can be fact or fiction, only some narratives can be countered. Similarly, the components of ideology that either corrupt or misinterpreted, they too can be correct. Furthermore, the Quran and the Hadith has passages that promote moderation, toleration and coexistence. In parallel with countering the misinterpretation and disinformation, such passages should be promoted. To prevent politicization, radicalization and mobilization of vulnerable Muslims, the counter strategy should be targeted at centres of such extremist activity.

Moving Forward

There should be a whole-of-government strategy involving the schools, the religious establishment, the media and others to counter the inclination of indoctrinated youth towards violence. The campaign should be conducted not only in real space but also in cyber space. The website of the Religious Rehabilitation Group and <http://www.rrg.sg/> and private sites such as <http://counterideology.multiply.com> can provide a good model for future on-line counter-ideological work. Otherwise sympathies and support for terrorist causes will grow resulting in a series of support activities.

To prevent misinterpretation by radical and violent leaders, there must be efforts to explain the circumstances in which certain passages were mentioned. As there are verses forbidding the use of violence against civilians irrespective of

circumstance, it is paramount to harness these passages to immunize the vulnerable segments of Muslim communities. The militant groups are more often led by charismatic leaders who may at the same time are credible and very knowledgeable in the religion but use it for the wrong purposes. In their misguided views, they probably think they are doing what is right.

Conclusion

The post 9/11 world is in a very early stage of global rehabilitation of both terrorists and other politically motivated extremists. Nonetheless, some correctional rehabilitation programs have led convicted and suspected terrorists to express remorse, repent, and recant their violent ideologies and re-enter mainstream politics, religion and society. Although operational counter terrorism initiatives have received both investment and attention, strategic counter terrorism initiatives that ultimately end violence including terrorism but require patience and sustained efforts have been neglected by governments and received inadequate public coverage.

The rehabilitation of terrorists and extremists is a new frontier in restorative justice. Surrendered and captured terrorists and extremists should be offered the option of prosecution or rehabilitation. To encourage individuals and threat groups to genuinely reject violence and embrace peace, government should create the environment for engagement with incarcerated militant jihadis. If released before they repent and express remorse, they will not be properly reintegrated. To prevent recidivism, government should build multifaceted programs to rehabilitate the detained and imprisoned.

End Notes

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¹⁷Countering Online Radicalisation: A Strategy for Action International Centre for the Study of Radicalisation and Political Violence (ICSR), January 2009, p. 10

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- ²¹Omar Ashour, "The De-Radicalization of Jihadists: Transforming Armed Islamist Movements" (London Routledge, 2009), 205 pp
- ²²John Horgan, *Walking away from terrorism : accounts of disengagement from radical and extremist movements* (New York: Routledge, 2009), 152-153
- ²³Horgan, John and Braddock, Kurt(2010) 'Rehabilitating the Terrorists?: Challenges in Assessing the Effectiveness of De-radicalization Programs', *Terrorism and Political Violence*, 22: 2, 267 — 291
- ²⁴In dealing with left wing terrorism in Italy in the 1980s, government's repressive policies were interwoven with policies facilitating leaving the group. Although "facilitating departure through reduction of prison sentences and the creation of homogeneous areas in prisons" is not rehabilitation, the strategy contributed appreciably towards ending violence. "While repressive policies operate with a view to increasing the price of staying committed, rewarding the open abandonment of the armed struggle reduces the price (especially emotional and cognitive) of leaving, allowing collective paths towards changes in solidarity and identification." Donatella della Porta, "*Leaving underground organisations: a sociological analysis*," In, *Leaving Terrorism Behind: Individual and Collective Disengagement*, Tore Bjorgo and John Horgan (eds.) (London, Routledge, 2008).
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The Need for a Comparative Criminology of Policing in India and Pakistan^{*}

Fasihuddin

Abstract

This paper, originally written for presentation in the 30th All India Conference on Criminology at Calcutta (India) and the South Asian Conference at Islamabad (Pakistan), emphasizes the need for a comparative study of criminology and policing in the context of India and Pakistan, which offers a vast opportunity for intellectual input by our scholars, criminologists and practitioners. It is not an exhaustive comparison between the two countries. However, it identifies some fundamental issues and responses, common on both sides, from where the future researcher can take on a more vigorous academic exercise. This will definitely and understandably add to the mutual trust and confidence building measures between the two intrinsically similar but commonly known rival countries. This will undoubtedly, pave the way for the redressal of their common problems, enabling them to redress their social evils with the best practices available at next door neighborhood, and of course, a valuable contribution to the present, though relatively scanty literature on comparative criminology and policing.

Keywords

Pakistan, India, Criminology, Police, Policing, Crime

Despite their separation in 1947, India and Pakistan have much in common than diversity. History, culture, art, literature, languages, struggle for independence, social and legal institutions inherited from colonial era, are a few common features of their societies __ the list is not finite. Both have more or less the same level of socio-economic indicators. The structure, role and organizations of the police are nearly identical, with an amazingly similar spectrum of crime incidents, trends and patterns. They have an unprecedentedly similar police image, public expectations and police problems, and a simultaneous movement of police reforms to repeal the 'notorious' legacy of colonialism __ the Police Act of 1861. Both can learn more from each other than to look for a panacea to their perennial ills at a remotest part of the globe, and that too in a completely different system and environment. Pakistan and India are now nuclear powers, but their 'crime bombs' are more dangerous for their own safety and the community at large.

^{*}Fasihuddin (2007). The Need of Comparative Criminology and Policing in the Context of India and Pakistan. In, the *Canadian Journal of Police and Security Services*. Spring / Summer 2007. Vol.5 Issue 1/2, pp. 59 -69.

1. Comparative Studies of Criminology and Policing: Basic Idea and Approach

Comparative criminology is gaining greater popularity amongst practitioners and researchers for a number of reasons. By means of documenting, analyzing and contextualising criminal justice processes and institutions elsewhere and comparing them to more familiar settings a broader understanding can be gained. The theoretical and practical incentives to such comparative studies are generally academic curiosity; acquiring knowledge of preventing ethnocentrism; securing basic levels of cooperation; harmonization of laws and procedures; learning from experiences of others as to how some similar problems are tackled by others; and carrying out a self-analysis that where do we stand? (Pakes, 2005). Comparative criminological research is essential in order to understand similarities and differences within and between different jurisdictions, and to gain a deeper understanding of social reality in different national contexts. In particular, key current debates within criminology about international convergence and divergence in criminal justice and penal policy highlight the need for more detailed international comparison (Jones & Newburn, 2006).

These comparisons are often more or less centred around criminal justice structures or criminal justice processes. Although it may be argued that an examination of substantive and procedural laws is another possible avenue for investigation. Comparative crime statistics is still another interesting activity. Though the potential benefits of comparative research are numerous, however, a distinction can be made between the aims of seeking to understand and of seeking to change (Pakes, 2005). Although in some fields of study the basic tools of comparative research are relatively advanced (for example in economic analyses of growth, unemployment and labour markets) in criminology these tools remain relatively underdeveloped. This relates to a number of daunting problems that are being faced by the comparative researchers in the field of criminology (Jones & Newburn, 2006). Within the social sciences, for example, some argue that all sociological research is inherently comparative but due to the technical, conceptual and linguistic problems in the task, others claim that for these and other reasons comparative work is nearly impossible (Nelken, 2002).

The difficulties of different interpretation (like that of statistics and its mode of acquisition) are always there in such academic endeavours. An exhaustive and all-embracing study is next to impossible. The limitations of singular research exercise examining smaller aggregates such as states, cities or single locations and groups have encouraged and compelled social scientists to turn to comparisons among many geographical entities.

Comparative research methods allow for a broader vision about social relations than is possible with cross-sectional research to one country or one location (Bachman and Schutt, 2003). The *Sage Dictionary of Criminology* has equated, in a way, 'comparative criminology' with 'comparative method'. It defines comparative method as, 'the selection and analysis of cases which are similar in known ways and which differ in other ways, with a view to formulating or testing hypotheses' (Victor Jupp, 2006).

Zedner (1995), as quoted by Francis Pakes, has noted the risks of 'criminological tourism'¹, the possibility of misreading or oversimplification, the linguistic difficulties and most often overlooking the problem of 'touching base'.² Cain, who prefers a form of active collaboration with the subjects of her research, insists that comparison faces the allegedly unavoidable dangers of 'occidentalism' __ thinking that other societies are necessarily like ours __ or 'orientalism' __ assuming that they are inherently different from us (Nelken, 2002). Though most comparative work provides summary descriptions of a large variety of national systems, which are often out of data, and are usually less well-informed about the 'law in action' than about the 'law in books'. There is never only one ideal research method, and choice method is inseparably linked to the objectives being pursued. The questions posed in comparative work seem to be more ambitious than the methodologies adopted (Nelken, 2002). One of the largest comparative research projects undertaken in criminology was the development of the Comparative Crime Data File (CCDF), which was undertaken by Dane Archer and Rosemary Gartner (1984). The CCDF continues to be updated, but originally contained crime and violence data from 110 nations and 44 major internationalities covering the period from approximately 1900 to 1970. Archer and Gartner (1984) identified five major problems of comparative criminological research as, generalization,³ controlled comparison,⁴ casual inference⁵ mediation and intervening variables,⁶ and methodological uncertainty⁷ (Bachman and Schutt, 2003). Amongst the various approaches of comparative research such as case studies or statistical analysis, the focused comparison approach is the most used and beneficial method involving neighboring countries in which the same language is spoken; so most similar design tend to be easier to achieve in such cases. Hague et al., (1998) define this approach as,

“A most similar design takes similar countries for comparison on the assumption that the more similar the units being compared, the more possible it should be to isolate the factors responsible for differences between them. By contrast, the most different design seeks to show the robustness of a relationship by demonstrating its validity in a range of contrasting settings”.

(Hague et al., 1998)

In all the components of the criminal justice system, police is the first and foremost component. So, both for practical as well as academic interest, the comparative studies are woven around comparative policing. However, at the outset of any study it is important to distinguish between police (which refers to the institution) and policing (which implies a set of processes with specific social functions). Police is a modern specialized and organized body of people but policing is a relatively broader concept, which encompasses a wide range of activities and personnel. It is said that policing must fit those 'to-be-policed'. Therefore, a comparative analysis of policing requires a great deal of knowledge regarding the context in which it operates, which makes case-studies and focused comparisons appropriate methods of analysis. This academic endeavour requires a certain degree of understanding of not just criminal justice systems and processes but also the actors involved in it, and the society in which the system is set. (Pakes, 2005). Basically, the problems of comparative research, as noted above, can be compounded by a lack of common understanding of central concepts, and differing societal context within which the objects of study are located (Hantrais and Letablier 1996, quoted in Trevor Jones and Tim Newburn, 2006).

In comparative policing, the major areas of research are the evolution of the police, its history, style, structure, administration, duties, services, organizational behaviour, achievements, shortcomings, internal problems, expectations, challenges and its rapidly transforming role and shape in the continuously progressing political systems of the modern world, especially in the new democracies like India and Pakistan. For a better understanding and achieving a better model after sifting out the dissimilarities, we have to look briefly into the societies where these systems are operated, as rightly pointed out by Francis Pakes, Trevor Jones, Tim Newburn, Smith and others.

2. Societies Come First

James Sheptycki and others have observed that students of criminology are quite often unaware of the broad facts of geography and history that make the task of comparative criminology so interesting. In order to undertake comparative criminology in a global context, it is necessary to devote time to understanding how the cultural and political histories of different countries of the world serve to establish distinctive points of view about criminology and its object. But criminologists are not necessarily aware of Latin American political and economic history, or the anthropology of Muslim customary law, or how the geography of 'Eastern' Europe affects its place in global illicit markets, despite the fact much of the comparative literature is limited to OECD countries (the economically developed countries), and this begs questions

about crime in places that are more peripheral to the circuits of transnational global capital (Sheptycki & Wardak, 2005). This paper emphasizes that the researchers and intellectuals of the Southeast Asian countries should look for their own perspectives in the field of criminology and policing, especially when they have more similar models for their study work.

How, then are we to acquire sufficient knowledge of another culture (and of societies) for such purpose. Either we can rely mainly on cooperation with foreign experts, or we can go abroad to interview legal officials and others, or we can draw on our direct experience of living and working in the country concerned. All these strategies have their own academic merits and demerits but are beautifully dubbed by David Nelken as 'virtually there', 'researching there', or 'living there' (Nelken, 2002).

We all know about the common culture, common histories, common independence struggle, common languages, common art and literature, common organizations, and common historical personalities of both the countries. Today's borderless 'global village' has brought the two nations more closer to each other than they were before. Without going into the details of politico-economic problems and cooperation between the two countries, we would like to quote the socio-economic indicators of the two. Table I shows that despite the geographical and economic superiority of India over Pakistan, the basic human sufferings and deprivations are mostly similar across the length and breadth of the two countries. Both the nations are suffering equally from low-socio economic indicators, religious intolerance and law and order problems.

Both the societies (like many other developing societies) are rapidly changing and modernizing societies in which the individual lives an institutional life in a traditional set-up, transmitted to him by his culture and under various affiliations of blood-ties, family-roles, kinship behaviour, age-old conventions, ethos, tribal tendencies and valued ideals of religious and sectarian nature. The contradictions and frictions at various levels of both the societies have generated more or less the same problems of identity-crisis, anxiety, frustration, confusion, system dysfunction, and anomie (normlessness), etc, though with a different extent and severity. Similarly, the crime pattern and seriousness of criminal activities are also more or less similar. Actually, it is the similarity of our societal set-up, our culture and our common inherited values that are reflected in our day to day life and actions. Police is evolved from within the society as its first line of defence for combating crime. Police work is mostly affected by the underlying problems of the society, its stratification and anomalies. What Sunita Singh Sengupta observes in the context of India is also true in the context of Pakistan: -

“In India the problem [of policing] has been aggravated because of increase in population, scarcity of basic requirements (food stuffs, water, and dwellings), growing unemployment, conflicting claims of society, fluctuation in political order, rampant corruption, inefficient and insufficient resources, etc, etc, etc,”

(Singh-Sengupta, 1995)

All this above discussion clearly depicts that before carrying out a comparative study of police or policing in any given societies, the researchers have to carefully study the societies themselves, their culture, values, norms, history, ideals and other social institutions. Making sense of such theoretical underpinnings will make the job of the researcher quite easier than in a situation where a blind describes the various parts of an elephant. Police and Policing are the first reflection of a society that how much rule of law and respect for human dignity prevail in that society and how rational a response to an abnormal behaviour is presented and accepted by such a society.

3. Comparing the Police Image in India and Pakistan

Most citizens form their opinion of the police through personal contact either as a victim, witness, or suspect. These encounters often involve less than pleasant circumstances. Media and news broadcasts, movies, and television add a further impact to it. If a police officer himself is apathetic, engaged in unethical or unprofessional conduct, prejudiced, unwilling to handle public calls, selective in applying different standards of enforcement to different people or uses inappropriate body language, a negative police public image is likely to develop. However, the image of the police, as studies reveal, can be improved through implementation of community policing, by promoting better relationship between the police and minority communities, engaging in greater informal contact with citizens, and through events of greater collaborative and effective efforts (Ortmeier, 2006). This image formation is not a single day outcome. It takes a shape in an environment of trust or distrust after a lengthy period of successive interaction and encounters. The vast majority of police officers in the United States is hardworking, conscientious, ethical, and dedicated public servants (Ortmeier, 2006). I don't think that such an image is possible without the effective visibility and performance and cooperative attitude of the police in the United States. On the contrary, the police public image in India and Pakistan, though might be exaggerated negatively, is not that much encouraging and pleasant.

Leaving aside other factors, we would like to say a few words about policing in the two countries. Police in both the countries don't enjoy greater public respect or community support. Old and outdated police models with old weapons and techniques are still intact. Its colonial role of fighting crime, subjugating the miscreants and maintaining the order has not been replaced by service-orientation and community satisfaction. Media carries a bad image of the police everywhere in India and Pakistan and the judiciary and public are critical of their performance. The crime patterns and crime scenario is the same on both sides of the dividing line. We can look into a picture of police handling a person who was agitating over missing of some of his relatives in Pakistan. This man was beaten and got unstripped during police highhandedness. Many writers and columnists bitterly criticized the police for this violation of human dignity and outraging an innocent person (*Dawn*, December 29, 2006).

Not only the public is complaining, and dissatisfied with the police performance, but the higher judiciary is also not happy with the outcome of police efforts. On January 12, 2007, the Punjab (Pakistan) additional advocate-general Arif Bhinder and another advocate Niaz Sindhu were shot by some unknown assailants. The father of the deceased additional advocate-general sought the High Court's intervention on police failure to arrest the killers of his son. A full bench of the Lahore High Court heard the petition on Jan 18, 2007 and called the Chief Secretary and the Inspector General of Police (IGP) of the Punjab Province to submit the progress in police investigation in the said cases. During the proceedings, the Court asked them as:

“to why not billion budget for provincial police be freed owing to its inability to improve the law and order.” The Court observed, “We all are very much concerned about the law and order. The IGP should explain as to why the police had failed to bring the law and order situation under control. The increase in the police budget from Rs. six billion to Rs. 21 billion had made no difference as far as the performance of the force was concerned.”

(Dawn, January 20, 2007)

The Honourable Chief Justice of Pakistan while directing the ex-IGP Punjab Mr. Ziaul Hassan to appear before the apex court and submit a report in person in another case observed,

“Criminal gangs are playing with people's life and property in Punjab and police have allowed them to ravage the society. In

case of any political pressure, the police should let us know and we will direct for facilitating their task without fear and favour. The law and order situation has become a serious concern for all Pakistanis. The President of Pakistan has also expressed his dissatisfaction over this deterioration."

(Dawn, January 13, 2007)

"The Chief Justice of the Supreme Court of Pakistan while giving two-month deadline to eliminate criminal gangs operating in the province, directed the present Inspector General of Police Punjab Ahmed Nasim to bust criminal gangs and their hide-outs in the province by March 16 without taking into consideration any political or external pressure."

(Dawn, January 13, 2007)

In Pakistan such remarks by the higher judiciary are seen in the local and national press even on daily/routine basis. Editorials and columns are also very common against police inactions. These are incessantly written against the police performance and the unfulfillment of public expectations of the police, in addition to the criticism by the general public and opposition parties. Almost all of these articles are written in a castigating way and very rarely some positive suggestions are given for bringing improvement to the current situation.

Similar is the case in India. For example, in Noida (Uttar Pradesh) where some families were protesting against the missing bodies of about 17 people, the police action against the demonstrators was severely criticized by the general public. The *Time Magazine* in its issue of January 22, 2007 gave a detailed coverage to the said unpleasant happening.

"The uncle of Aladi Halder, 25, another victim, says police looked at the missing woman's photo and told him she was so beautiful that she must have eloped. Why do you keep coming to us with your problems?"

(Time, January 22, 2007)

Swati Mehta, a consultant for the Commonwealth Human Rights Initiative, an NGO in New Delhi was quoted as remarked,

"The most important aspect of these murders is not why the victims were killed or by whom, but the failure of the police to

protect the powerless.’ ‘This case is indicative of how the police function in India, and how the system needs to be changed”.

(Time, January 22, 2007)

These two latest issues about police performance in Pakistan and India are somewhat identical and indicative of the government and public dissatisfaction and uneasiness with the police behaviour and efficiency. In addition, we would like to reproduce the observation of Sharma (1973) and David Bayley (1969) about the image of police in the Indian society of more than thirty years ago, which even holds good for today and which tells that nothing has changed so far despite the public concern and reforms.

“The image of police is not positive in any section of the society. The students consider them power drunk, businessmen as corrupt, intelligentsia as illiterate and unfortunate, political leaders as agents of the ruling cliques, civil servants as lacking in professional ethics and religious leaders as immoral.”

(as cited in Singh-Sengupta, 1995)

“The survey results demonstrate forcefully what many close observers of police-public relations in India have long thought, namely, that the Indian public is deeply suspicious of the activities of the police. A considerable proportion expect the police to be rude, brutal, corrupt, sometimes in collusion with criminals, and very frequently dealing unevenly with their clients.”

(Quoted in Frankel, Hasan, Bhargava & Arora, 2000)

The remarks of the Honourable Chief Justice of Pakistan as quoted above remind us the concluding remarks of a committee, headed by N.N. Vohra and appointed by the central government, to explore the growing politician-criminal nexus in India. The Committee's 1993 report was placed before the parliament on 1st August 1995 and it concluded:

“It is apparent that crime syndicates and mafia organizations have established themselves in various parts of the country [and] have developed significant muscle and money power and established linkages with governmental functionaries,

political leaders and others to be able to operate with impunity.”

(Quoted in Frankel, Hasan, Bhargava & Arora, 2000)

Not only the 'image of police' in a heterogeneous society, like India and Pakistan is indicative of the police itself, but also a true reflection of the society in which it is supposed to deliver. It is this image which seriously helps or hinders the broader goals of national policy. The criminalization of politics and the politicization of crimes are equally agitated in our transitional societies. We can use this police-effectiveness as a yardstick to our social ideals in India and Pakistan. For an academic interest, we would reproduce the following passage from 'The Work Culture in Police Administration':

“It is but natural that the powers and limitations of the parent society will reflect itself in the power and limitations of the police.....It is the police which enforces the law and combats the breakers of it. The type of society thus protected will also be a measure of police effectiveness. The work of a society will be reckoned not in proportion to the number of criminals it burns, hangs or imprisons, but rather by the degree of liberty experienced by the great body of its citizenry.”

(Singh-Sengupta, 1995)

I think we have a number of commissions in both the countries who in their reports have remarked against the existing police and policing with a very disappointing mode. There is no dearth of such references in both the countries. More quotations from such reports will over burden this small paper, however a frank and thought-provoking conclusion by Dr. Arvind Verma in the chapter of 'The Police in India' is exactly like a honest commentary on the police in Pakistan:

“Institutions are important in the life of a nation. In India, where a nascent democracy is shaping the lives of millions of diverse people, in a land ravaged by centuries of colonialism and exploitation by the ruling classes, the need for a well functioning institution is undisputed. The police institution is obviously one that is important in the democratic system of the country. The security and well being of the citizens is dependent upon the police. Yet, the police institution in India is in a dire state: disorganized, inefficient, corrupt, and partisan in its operations. It is unable to perform in accordance with the

expectations of a democratic society. The fault lies in the design and inability to adapt to the changing circumstances that have emerged after Independence. It has failed to deal with social conflicts and prevent growing violence. The force has become heavily politicized and its leadership has been reduced to a rubber stamp."

(as cited in Kapur & Mehta, 2005, Chapter 6, P.249)

In view of the above facts and stark observations about the similar situation in India and Pakistan, a comparison of 'police image' with its causes, extent, intensity and historical prevalence is necessary in the present day of comparative criminological research. It will guide us about the level of human consciousness and development in our thinking and desire for democratic ideals and moral values. The researcher should focus on any individual or institutional efforts in improving this unpleasant police image in both the countries. Both the countries can learn a lot from each other's success or failure stories in this regard.

4. Comparing the Crime-Statistics

Comparative analysis of crime statistics is fraught with serious difficulties and controversies, e.g; the difference in crime definition, the method of registration of certain crime under different sections of law, the mode of acquisition and compilation of criminal figures, and of course the authenticity and veracity of crime statistics is a major problem all over the world. Mere statistics may not convey the seriousness of a particular crime. The trends and levels are two different things. Moreover, no one can claim with authority that the compiled record of crime/statistics is the complete picture of our national crimes. The official data may be counter checked by alternative statistics like victim surveys, self-report surveys, hospital admissions and cause of death data, etc. We all know that most of the crime is either not reported due to one or other reason or the report is not taken or the games of statistics are played in the compilation process. In relation to the analysis of crime trends, Estrada and Westfelt identify two other problems:

the continuity problem, that is, the difficulties associated with comparing statistical series over time. Since categories of official crime (and the way they are counted and measured) change from time to time, analysis of statistical series may lack continuity; and the *congruity problem*, that is, the differences in legal, statistical and cultural definition of crime, which result in lack of

how crime is counted and measured. (Sheptycki & Wardak, 2005). Such problems can partly be controlled during the process of interpretation and may not be a greater problem in the 'most similar approach' (like India and Pakistan) than we observe in the 'most different approach' of comparative methodologies.

Anyhow, the following comparative figures of crimes, keeping in view the above difficulties of interpretation and compilation, are presented for a brief idea of the prevalence, seriousness and similar nature of crimes in Pakistan and India alike. We can learn from each other why certain crimes are dealt effectively by one country and why the police are facing problem in combating the crime in the other. Pakistani police can consult their Indian counterpart in improving their crime rate and process of investigation. The comparison of our national crime data will be more beneficial for us than comparing our crime rates with the NYPD or Japanese police performance where both of us share little in common vis-à-vis police or policing in that part of the world.

It is pertinent to note that Table: II and III represent very commonly known crimes/offences and which are generally dealt with by the ordinary police in both the countries. As far as some serious or invisible crimes are concerned like drugs/narco business, money-laundering, white-collar crimes, cyber crimes, children abuses, human trafficking, terrorism or any other organized or global crimes, both the countries have some sort of specialized agencies for these crimes, and perhaps very little data or authentic statistics or studies are available in this respect. It is high time that a comparison and a meaningful research into such heinous crimes should be carried out in both the countries in their particular geopolitical, economic and social situations. If organized and global crimes can be studied in the context of Europe and America, then why not in the context of Southeast Asian countries. It is encouraging that the Federal Investigation Agency (FIA) of Pakistan and Central Bureau of Investigation (CBI) of India, decided on February 8, 2007 to sign an agreement on launching joint efforts for bringing an end to the crimes related to money laundering, illegal immigration and fake currency. The heads of both the agencies are expected to take final decision towards the end of this month (The *News International*, February 9, 2007).

5. Some Common Grievances Against The Police in India and Pakistan

The legacy of colonialism in many fields is the same for both the countries of India and Pakistan. Many government organizations and the laws governing them are still the same in both the countries despite many new

departments, new laws, amendments and reforms in the last 59 years since their independence in 1947. Police is also one of these old institutions which was established and administered under the Indian Police Act of 1861. The basic structure has not seen any tangible change in these years, though many a reform were advocated, documented and implemented from time to time. The basic characteristics of post-colonial police are summarized by Mike Brogden and Preeti Nijhar and which are equally true in most parts of the two countries. These are:-

- Centralised or regional policing systems.
- Policing traditionally bound up with the maintenance of central political rule.
- Policing concerned with imposing central notions of social order on locality.
- Strangers policing strangers.
- Co-existence of informal policing structure based on locality, communal or tribal tradition.
- State policing often badly paid, corrupt and badly resourced with resort to weaponry as primary feature of control.
- Confusion over legal powers of police due to colonial inheritance and local tradition.
- Minimal local accountability.

Despite the above academic discussion we would simply narrate some common grievances against the police which we commonly hear and receive from the general public. The police in both the countries are attacked for inefficiency, poor performance, misconduct, corruption, political interference, racial biases, favouritism, nepotism, violation of human rights, low level of professionalism, poor response in emergencies and crises, low quality of training, bossism, non-registration of reports and complaints, extra judicial killing, poor public contact, illegal detention, poor knowledge of law, tampering with case properties and investigative processes, excesses and torture in police custody, registration of fake cases, implicating of innocent people in criminal cases, reducing the seriousness of crime, misuse of case properties, and so many other harsh and moderate allegations. Some may be exaggerated but others may be underestimated in some cases. In one country some of these allegations may be over-sensationalized due to greater awareness and media reporting or film-making but the same may be less alarming in the other country. A police encounter is generally highly praised in

both the countries especially when a hardened criminal or a 'chief of the underworld', as most movies portray, is killed or arrested in the encounter. This shows that the 'societal mindset' of both the nations is identical in 'coming tough on crime' and which is truly traced back to a common Indian origin.

6. Western Policing and Transitional Societies of India and Pakistan

The import of technologies and ideas from the west or developed societies is not a new phenomenon. Similar is the case of policing, especially in the former British colonies where the new police concepts are rapidly becoming the alternative to the existing paramilitary and order- maintaining forces. We would like to show what kinds of police practices, police concepts, role and expectations are in current debate in the western literature of criminology and policing. The reader are invited to look at the comprehensive table given by Frank Schmalleger in his book, *Criminal Justice Today: An Introduction Text for the 21st Century* and another by Colin Goff in his book, *Criminal Justice In Canada*. These succinctly summarized accounts provide us an idea of how to evaluate our police, where do we stand and are our expectations from our police really fit to our societies and have we made a rational analysis of our systems? A thorough, meticulous, incisive and profoundly analytical evaluation for our police and policing is strongly recommended on the pattern of these comprehensive analysis. Our policy-makers and policy analysts should work out our performance and expectations in the light of our police organizations and administrative provisions.

Since the time of Sir Robert Peel, where 'the absence of crime and disorder' was the key goal of the London Metropolitan Police (1829), the prevention of crime and disorder is still the major area of concern for any police in the world. The police effectiveness and performance is generally evaluated in terms of crime control, crime management or declining crime rate, despite the complexity between the relation of crime reduction and policing. The comparative researchers should not ignore the fact that some things work in some places, under some conditions, particularly when social and economic factors are favourable and some may not work at other situations and places. The difficulty is in disentangling the effect of 'good police work' from changes in the economic and social context (Bowling & Foster, 2002). For a detailed outcome of research into this point, one may consult 'The *Oxford Handbook of Criminology*', 3rd edition, page 997-8.

The choices of the transitional societies are said to be limited. However, the burgeoning problems of socio-economic inequalities and worsening situations of law and order have compelled the developing societies to seek

help from other modern systems and where not only ideas are borrowed but the technical and financial assistance is also demanded by these transitional or underdeveloped societies. The voices of change or demand for a new system have been heard since long in India and Pakistan. Pakistani police officers and policy-makers launched an academic-cum-political campaign to get rid of the old magistracy system, repeal the old Police Act 1861 and bring in the Japanese Police Model. The movement for police reforms and support for community policing in India is also not unknown to the academics. For example, the *Times of India*, January 12, 2001 is quoted as:

“The police system is based upon antiquated systems and ideas of crime control, and has neglected the opportunities of systematic methods and technologies of crime analysis, of scientific investigation and documentation, of information processing, and of law and order mapping, projection and prediction. The sheer gap between contemporary policing practices in the West, and those that prevail in India is astonishing. Primitive policing practices are reflected in poor rates of conviction, in deteriorating efficiency and effectiveness, and consequently in a declining respect for the law.”

(as cited in Brogden & Nijhar, 2005)

In contrast to the existing system which is accused of being disorganized, ill-equipped, demoralized, highly politicized, coercive, colonial and public-unfriendly, the general population want a new and democratic policing. In India, The Commonwealth Human Rights Initiative (CHRI), an international NGO, based in New Delhi, has produced copious literature and has arranged quite a good deal of conferences and seminars in promoting and articulating such demands by the general public and academia. A roundtable conference by the CHRI in December 2005 on the topic of *'The Police That We Want,'* reiterates and emphasises the demand for a democratic policing which is based on strong public-police cooperation and trust. The basic arguments come from David H. Bayley, who has enumerated the following characteristics of a democratic police organization, which:

- is accountable to law, and not a law unto itself
- is accountable to democratic government structures and the community is transparent in its activities
- gives top operational priority to protecting the safety and rights of individuals and private groups protects human rights

- provides society with professional services
- is representative of the communities (Mehta, 2005)

Basically these are the concepts and ideals which have been agitating the minds of the pro-reform individuals and groups in India since independence. In addition to the numerous Commissions and Committees to suggest reforms, the National Police Commission (NPC) in 1979 - 81, set out a road map for the desired reforms.⁸ The spirit of the NPC is seen in the later developments of Civil Writ Petition No. 310 of 1996 in the Supreme Court of India, the Central Government Committee on Police Reforms in 1998, headed by Mr. J. F. Ribbeiro, a former IPS officer⁹ the Padmanabhaiah Committee on Police Reforms in 2000,¹⁰ the Committee headed by Mr. Kamal Kumar in December, 2004, the initiatives of the National Conference of Superintendents of Police with the Prime Minister of India, in September 2005 and the Police Act Drafting Committee of 2005.¹¹ The Supreme Court of India has passed a landmark judgment on police reforms in September 2006, directing all state and union government to implement its directives by the end of 2006, but this deadline is now extended to 31 March 2007. The judgment may be seen on the website.¹²

Some of the familiar recommendations of the National Police Commission (NPC) of India, which are also reproduced by the subsequent committees, are given as:

- A State Security Commission should be established statutorily in each State to help the government discharge its responsibility to exercise superintendence over the police in an open manner under the framework of law. The State Security Commission should:
 - i. Lay down broad policy guidelines for the functioning of the police.
 - ii. Function as a forum of appeal for promotions.
 - iii. Review the functioning of the police.
 - iv. Conduct yearly evaluation of the police.
- The Chief of the Police should be assured of a fixed tenure of office. The removal of the Chief of Police from his post before the expiry of the tenure should require approval of the State Security Commission. The Chief of the State Police Force should be selected by an expert panel.
- The Police Act of 1861 should be replaced by a new Police Act, which will not only change the system of administration and control over the police but also promote the rule of law in the country.

The Police Act Drafting Committee of 2005 submitted its draft Police Bill, entitled as, 'The Model Police Act, 2006' to the Ministry of Home in October, 2006. The Act is available on the website. Though this Model Police Act, 2006 (Draft) has not been implemented in India, yet many changes are expected after its implementation, both qualitatively and quantitatively. An academic analysis and comparison of the Model Police Act, 2006 of India with the Police Order 2002 will be of immense interest to researchers, practitioners and policy makers. However, it will be too early to look for the extensive results of these reforms.

The case for Pakistan is almost the same in terms of various commissions, committees and reports. Leaving the details of the voluminous documents of a number of these reports, the most important is the Report of Mr. Abbas Khan, the ex-Inspector General of Police, Punjab whose report contains the recommendations of the Japanese Police Mission of 1996. The three major fundamental recommendations of Abbas Khan's report were the replacement of Police Act 1861 by a New Police Act formulation of Public Safety Commission and establishment of National Police Agency. Mr. Abbas Khan was the pioneer of the movement of police reforms while he was in office at various positions, both in provincial and federal government and during his tenure as the Commandant National Police Academy. It was he and the officers of his group who influenced the Report of the Focal Group on Police Reforms in 2000. The Group after giving a bleak picture of the existing law and order situation, criticizing the obsolete Police Act of 1861 and outdated Police Rules of 1934, complaining about the absence of any meaningful research in police and criticizing the protection of criminals by influential politicians, underlined the following major concerns, (not dissimilar to the concerns expressed by the CHRI conferences and academics in India): -

- To restore security, justice and establish rule of law.
- To safeguard the citizens against abuse of authority by police and other vested power groups.
- To minimize extraneous interference, mainly political.
- To enhance operational capabilities along-with improving the credibility of police through the use of due process.
- To institutionalise community participation.
- To strengthen prosecution thereby ensuring speedy justice.

The re-organization of the police system in light of these major concerns was proposed by the focal group as:

- Democratically controlled and politically neutral.
- Non-authoritative.
- People-friendly and responsive to their needs.
- Honest and having respect for rule of law.
- Professionally efficient.

After a great deal of debate across every nook and corner of the country, a final draft was promulgated by the government of Gen. Pervaiz Musharaf as Police Order 2002. It has now completely changed the structure of the police in Pakistan though it is subject to day to day changes and amendments due to one or other reasons. The new Police Order 2002 provides for: -

- Description of Responsibilities and Duties of the Police.
- Reconstitution and Re-organization of the Existing Police Force.
- Formation of Public Safety Commission at District, Provincial and National levels.
- Establishment of Police Complaints Authorities at District, Provincial and Federal levels.
- Establishment of Criminal Justice Coordination Committee at District Level.
- Establishment of National Police Management Board.
- Establishment of National Police Bureau.

So many others qualitative and quantitative changes. Whether it was a step forward or a jump backward is not yet clear and only time will tell whether such reforms were truly needed or were mere a wastage of time and resources due to a clumsy grafting of the Japanese Police Model into a semi-democratic, semi-tribal, semi-religious and transitional society of a country which is already suffering from extremely poor socio-economic development. The new Police Order, 2002 is highly comprehensive in rhetoric and details. It is a part of the Access to Justice Programme (www.ajp.gov.pk), mainly funded by the Asian Development Bank. In reality, the provision of the required human and material resources for its proper implementation is yet to be made honestly and correctly. The former highly senior police officers who once advocated the new system with full vehemence and commitment while they were in office, are now desperately expressing their disappointment over the lacking of true spirit of reforms in their articles in the print media after they have left their offices. I will quote one example of another pioneer advocate of police reforms in Pakistan, who is also an ex-commandant of National

Academy, and an ex-Inspector-General of Police. He worked closely with the National Reconstruction Bureau (NRB) of Pakistan and remained deeply involved in the reforms agenda and its implementation processes. But soon after the reforms were introduced in the country, he started writing columns and critical essays in national dailies, especially Daily *The News*, Islamabad. Commenting on the successive amendments to the original draft, in one of his article under the topic of “Dismantling the Police Command Structure”, Mr. Afzal Shigri writes:

“The Police Order 2002 was a genuine attempt to address inter alia the problem of strengthening the internal organization of police so that it could grow into a cohesive and effective force.....Unfortunately this law was never implemented... The Government, instead of moving towards a progressive and modern law, has embarked on revising the provisions that depoliticize police. Its amendments are even worse than 1861 Police Act, harking back to the Subadari System by Sher Shah Suri in the sixteenth century that was meant to protect and enhance the power of the ruler. The destruction of command structure of a modern police force and its total subservience to the political bosses will have dreadful results for the country.”

(Daily *The News*, December 3, 2005)

In another article on the topic “Aimless Amendments to Criminal Laws” he says that:

“In the rare cases where a government was able to bring about any meaningful change in the basic structure, vested interests have ganged up to sabotage such laws, like the Local Government Ordinance and the Police Order 2002. These laws, even being fully implemented, are being subjected to fundamental changes that negate their very purpose.....We need to address the fundamental issue instead of these cosmetic changes that will only distract the courts from their judicial functions and provide no relief to the common man.....Legislation is serious business and needs consultations with all stakeholders and experts. Enacting lots of legislation is meaningless if it does not improve governance or provide relief to the public.”

(Daily *The News*, July 14, 2005)

The above comments of Mr. Afzal Ali Shigri are no more than the fact that the students of comparative criminal justice are not only concerned with the growth of transnational crimes, but also with the implications of transnational policing. (Nelken, 2002) But this is also a very tricky issue. The most important issue for policy (and of course for policing in my view) in many societies involves deciding when and how to borrow foreign ideas and practices in criminal justice, and which ones are likely to be most appropriate. It is tempting to judge the likely success of such legal 'transplants' or transfers in terms of their 'fit' to existing features of society and culture. (Nelken, 2002) This question of being 'fit' and 'appropriate' seems to be ignored in the transplantation process of developed police models into the given societal context and legal framework of Pakistan.

The political parties keep on criticizing these reforms due to their own political reasons. Moreover, no attention was paid to the fact that what consequences it will bring if a highly modernized police system is grafted to a poor third world country. The points of comparison were overlooked and the societies were not fully analysed on sharing values and concepts. The level of development in both the countries, i.e; Japan and Pakistan were ignored out rightly. Even the Japanese Police Mission who visited Pakistan in mid 1990s and who advised and recommended certain changes in Pakistan Police on the pattern of Japanese system were misled and misguided by their Pakistani counterparts in order to look for some plausible reasons for their failure in crime control and bringing order to the society. A Japanese police officer told me confidentially that “the way our system is implemented in Pakistan has annoyed our senior brass in Japan as it has put questions to our system's credibility and to your incompetence of incorporating our basic themes of politically-neutral, professionally-competent and democratically-controlled police system.”

In fact none of the above themes is truly realized. The non-formation of Public Safety Commission and the increasing influence of local politicians in police departmental issues in most parts of the country are severely agitated by the donors and the anti-reform elements. As far as the benefits of the police reforms are concerned, it is sufficient to say that the image of the police has not improved as we saw in the remarks of the higher judiciary in the above passages. Moreover, the recorded crimes have increased from 3, 88414 (2000), 3, 80659(2001) to 4, 41907 (2004) and 4, 53264 (2005). Even the President and the Prime Minister of Pakistan have expressed their concern and

disappointment over the deteriorating law and order situation in the country and have asked the concerned departments, policy-analysts and intelligence agencies to look for the causes of this situation, despite the much trumpeted police reforms and provision of extra funds and allocations to the law-enforcement agencies. This is a classic example of introducing reforms to a developing society. Both India and Pakistan can learn a lot from this scenario.

As far as a few individual efforts and new experiments by our police are concerned, we have noted that initially such efforts are supported by general public and admired by civil organizations like NGOs but with the passage of time, due to lack of proper legal framework or increased public distrust or donor fatigue, they are rendered ineffective in many cases.

In Delhi, the senior police officer once welcomed the development of COP to replace the old para-military style and said, "it is time to police by consent rather than police by coercion" (The *Times of India*, February 14, 2002 as quoted in Brogden and Nijhar, 2005). The UNDP supported such programmes. In some parts of India the scheme proved successful and in others failed badly and received serious criticism. In fact, all such Neighborhood Watch Schemes, Friends of the Police, Village Defence Parties and Community Liaison Groups (CLGs), etc may not be made a success story without community support and public participation (e.g. in Kerala and Chennai) which in turn are possible due to the high rate of literacy, greater social mobility, greater respect for law, urbanization, effective transportation and communication, and a generalized social consciousness for the rule of law. It is pertinent to note that despite the vociferous demands of police reforms in India, certain quarters have expressed their resentment over the blind imitation, mere copying or unwise transplantation of foreign models into the transitional society of India. In some areas the community policing didn't generate enough public support for its continuity. Many analysts have regarded these programmes as alien and incompatible.

"A retired senior officer dryly noted that there was little purpose in the international contact, given the disparities in literacy levels and disciplinary structures.Other schemes launched by the Delhi police in the past years have failed miserably.....Delhiites have never been benefited (from these community schemes).Hardly unique to India, many such senior police officers have been skeptical about the importation of community policing. In Uttar Pradesh, senior officers regarded COP as irrelevant to the Indian context. The criticisms of COP proposals in Pakistan were identical to

those by informed observers and police officers in India, although often for more conservative reasons”

(Brogden & Nijhar, 2005)

The failure and non-establishment of Citizen Police Liaison Committee (CPLC) in the cities of Pakistan, except in the mega city of Karachi, is basically due to the same reasons as we noted in the case of India. Despite the fact that establishing the CPLC is a legal requirement under the new Police Order 2002 but still we don't see any visible, functional and viable body in any big city. The CPLC in Karachi has rendered many services in terms of recoveries of stolen vehicles and investigation of cases of kidnapping but generally the police officials and other analysts in other parts of the country criticize the CPLC in Karachi on the score of its being funded by the big businessmen for their own security in the metropolitan city of Karachi. They think why the same CPLC doesn't extend its branches to any other city as the crimes in other cities are also rampant and deserve to be addressed with the same level of sophistication and facilities of CPLC. But to my mind, the example of CPLC in Karachi shall be followed by the rest of the cities for themselves.

7. Comparing Police Organization and Police Perspective

The total State Police Forces (by January 2001) was 1,449,761 with a total expenditure of Rs.15,538.47 crores coming from the taxpayers of India. Pakistan has a total of 317019 police with Rs. 48047.65 million of budget. The ratio worked out to be 14.12 policemen per 10,000 population and 45.79 per 100 sq. km in India as compared to 18.75 per 10,000 population and 39.82 per 100 sq. km in Pakistan. One police person serves 746 people in India and 505.78 people in Pakistan. Though we don't have a detailed and authentic comparative data for the existing police departments in the two countries, however, it is of interest that most of the police problems in one country are the chronic issues of the police force in the other.

Police complain against their early and immature posting/transfer, absence of fixed tenure, political interference, media blackmailing, undue propaganda of police excesses by NGOs, distrust by the judiciary and especially during the current judicial activism, unwarranted allegations from opposition parties, low public respect and recognition of police services, work overload, lack of proper training facilities, absence of provisions in remote areas, considerations in recruitment process, unfriendly attitude by the senior officers, unachievable, fixed and time bound targets, lack of legal power or authority (e.g. under the law of the two countries the police recorded statement under Section 161 of Criminal Procedure Code is not admissible in the court),

meagre support for family such as health, education or insurance, mental stress, strain and poor working conditions, and duality of command, etc, etc. Police in both the countries are said to be under-staffed, under-paid, mostly raw handed, under-trained, ill-trained and even don't enjoy the required legal authority. In India, each investigating officer handles more than 45 Indian Penal Code (IPS) cases at a time whereas only 37% of the forces are provided with family accommodation and the majority have to live either in slum like conditions or are away from their families for most part of their careers. The story for Pakistan police may be even more pitiable and deplorable in this context.

The police think that the society as a whole is corrupt and involved in malpractices. Their experience with the 'outwardly nice' but 'inwardly corrupt' big politicians, businessmen, religious leaders, high government officials, or mediamen make them skeptical and confused as how to uphold the integrity of a disciplined force and what to do in such a state of affairs. This mental ambivalence causes severe confusion, stress, and paradoxes in them, particularly in a young police officer. Most of the 'effective police officers' who yield to the dictates of the ruling parties or high offices, strangles and lives in a state of 'captive of conscience' afterwards in their life. Even in ordinary conditions, most of the active policemen lead a life of excessive stress, family maladjustment or even face the consequences of broken families. In case of non-compliance or unyielding attitude, they face departmental enquiries, stoppage of promotion, bad annual reports of 'unbecoming behaviour' and often transfer to an unsuitable station. This is a common phenomenon in India and Pakistan. Moreover, the police is mostly critical of the society for not recognizing their services in shape of their life sacrifice. During a nine year period i.e. 1991-92 to 1999-2000, as many as 9389 police personnel died in the line of duty, which is an average of more than 1043 lives per year. This is a very high toll. No police force anywhere else in the world has paid such a heavy price. Though figures for Pakistan for the same period are not available at the time of writing, however, the situation is not very different from India. From 2001 to 2005, a total of 369 police officers were killed and a total of 929 received injuries during police encounters with outlaws, dacoits and proclaimed offenders.

Both the police derive their authority from and work in the context of similar legal apparatus. The Penal Codes, the Evidence Act, the Local and Special Laws, and the Codes of Criminal Procedure are more or less the same with minor changes and amendment. The Indian Police Act of 1861 has recently been repealed by the Police Order 2002 in Pakistan. It is the similarity of this criminal justice system and legal provisions that the process of criminal justice has greater resemblance in its achievements and shortcomings, and of

course, the two greatly resemble in police malpractices and fault-lines within the system. It is this similarity that is reflected in the establishment, structure and organization of the police forces in the two countries. The researchers will definitely look for similar organizational behaviours in the two countries.

About the research in police and policing, as a last note of this paper, I would like to emphasise, as Arvind Verma observes, that despite 59 years of independence (democracy), our public institutions are still beyond the scrutiny of social scientists and other external reviewers. Dissociation of the social scientists has prevented the development of an appropriate research methodology and reliable data sources. There is no tradition for the police and other criminal justice organizations to open their records, activities, and deliberations for public scrutiny. The police world is thus insulated whereas 'the police need research about the community problems to determine its tasks' (Reiss, 1985:65), and further that 'research should be the core of policing' (Goldstein, 1979), as 'focusing upon quality of life issues also helps combat crime and disorder' (Wilson & Kelling, 1982) [as cited in Kapur & Mehta, 2005]. There is greater inspection of police organization in Britain, US and other developed countries which creates an environment of openness, responsibility and accountability. Arvind Verma hopes such an openness and broad based research agenda for India and I hope the same for India as well as Pakistan.

Conclusion

The debate on convergence and divergence is a lengthy but fruitful academic exercise. Common enemies (like cyber-crime and terrorism), constitute a factor that binds criminal justice systems and hence a driving force for convergence. Common threats will invite common responses and promote similarities. Foreign invasion, process of imitation, simultaneous development and international regulations are the other mechanisms for convergence. On the contrary, the opposing force of diversification or divergence arise from 'cultural persistence and indigenisation i.e; to resist the import of foreign programmes or structures and to change structures and processes so that they more closely resemble the original arrangement of the past. Though increased requirements for communication and harmonization provide rewards for convergence and the globalization of crime and criminal justice is likely to increase the pressure on becoming similar, yet the criminal justice system will in each country, after all, be judged on their individual effectiveness. (Pakes, 2005).

The opportunities of increasing convergence and reducing divergence are numerous in case of India and Pakistan. Instead of becoming each other common enemies, both the countries should rather address the common enemies of

transnational and international crimes of money laundering, drug-trafficking, human smuggling, terrorism, religious sectarianism, cyber-crimes, organized crimes, white collar crimes, and many more. The responses to such common threats in one country should be a guiding lesson for the other. We hope that greater accommodation and absorption capabilities are hidden in our systems. A comparative study of criminology and policing will definitely lead us to a broader scope of harmonization, stability, understanding and convergence.

End Notes

¹Going abroad is a fun and enjoyment and feeling free of the worries and commitment of every day life, behaving positively and friendly and spending money__all bring a positive change in our attitude, which is reflected in our research-orientation also. In such a situation our findings are susceptible to a certain degree of misreading, simplification, superficiality and become uncritical rosy accounts of foreigners` observers. In the field of criminology, a problem like this is generally described as 'Criminological tourism'.

²Most of the discussions, theories and practices in social sciences in general but in criminology in particular are controversial. Not a single theory of crime has become universal and unanimous, so what to speak of a police model or approach like the Community-Oriented-Policing (COP) which has failed to receive a universal applause and acceptance. A multitude of variables are to be taken into account, and both sides of the arguments are to be assessed. 'Touching base' describes such a difficulty of concomitant opposition to a presented view on a certain issue. To overcome the problem of over-identification of participant observers and their intellectual idiosyncrasy, this synthesis approach is called a meaningful access by some criminologists.

³It has been impossible to test the generality of a finding based on single-society research by means of replication in a sample of several societies.

⁴The absence of a sufficient number of cases (e.g., nations or cities has hindered rigorous comparisons between those cases affected by some social change and control cases unaffected by the same change.

⁵With longitudinal data unavailable, researchers have not been able to satisfy one of the classic requirements for making causal inferences the correct temporal relationship among the variables under study.

⁶Without a reasonably large sample of nations, it is impossible to discover whether certain variables may mediate the effects of a social change. Without a large sample of societies, a general pattern that explains or orders these different outcomes will never be seen.

⁷Without an archive of broadly comparative and longitudinal crime data, some key methodological issues have been largely uninvestigable. For example, it would not be possible to assess the reliability of different crime indicators like the number of offenses known or the number of arrests using data from a number of societies.

⁸http://www.humanrightsinitiative.org/publications/police/npc_recommendations.pdf

⁹(http://www.humanrightsinitiative.org/publications/police/recommendations_ribeiro.pdf)

¹⁰(http://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/summary_padmanabhaiah.pdf)

¹¹(<http://mha.nic.in/padc/npolice-act.pdf>).

¹²http://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/writ_petition.htm

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Police Authority: Three-Year Strategic Plan for Northamptonshire Police, 2004-2007

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Table I: Country Profile and Socio-Economic Indicators

S. No.			
1.	Total Area	796,095 Sq Km	3,166,414 Sq Km
2.	Total Population	160 Million (206 estimated)	1.02 Billion (2005 Estimated)
3.	Form of Government	Federation (problems of federation & religious intolerance)	Quasi - Federalism {(problems of seculars), multi-ethnic, multi-cultural democracy}
4.	Population of Density	187 per Sq Km	331 per Sq Km
5.	Annual Population Growth Rate	1.9%	1.55%
6.	GDP Growth Rate	6.6%	9.2% (current)
7.	Per Capita Income	US \$ 600	US \$ 620
8.	Life Expectancy (years)	M 64 - F 63.8	M 60.3 - F 64.6
9.	Population Under 5 (2004)	20,922,000	120,155,000
10.	Population Under 18 (2004)	71,297,000	419,442,000
11.	Maternal Mortality Ratio (per 100,000)	500	540
12.	Infant Mortality Rate (per 1,000 live birth, 2004)	80 / 1000	62 / 1000
13.	Under 5 Mortality Rate (per 1,000 live birth, 2004)	101 / 1000	85 / 1000
14.	Estimated Child Labour (at forms)	3.6 Millions {official (40% Boys & 25% Girls) 10 Millions (non-officials)}	12.6 Million (official)
15.	Unemployment Rate (2005)	6.6%	8.9%
16.	% of Population Using Improved Drinking Water Source (2002)	90	86
17.	% of Population with Access to Sanitation (2002)	54	30

S. No.			
18.	Adult Literacy Rate Male / Female (2000 - 04)	62 / 35	73 / 48
19.	Primary School Enrolment Ratio Male / Female (2000 - 04)	68 / 50	90 / 85
20.	% of Primary School Entrants Reaching Grade 5 (2000 - 04)	55	61
21.	% of Populations Below National Poverty Line (1990 - 2002)	32.6	28.6
22.	% of Central Government Expenditure Allocated to: (1993 - 2001)	2	2
	i — Health ii — Education iii — Defence 	i — 1 ii — 2 iii — 18 	15
23.	Globalization Index (Foreign Policy, Now Dec.2006, Carnegie Endowment,(USA)	56	61
24.	UNDP - Human Development Index (2006 HDI ranking)	134	126

Foreign Policy (Carnegie Endowment for International Peace), in collaboration with A.T. Kearney, has identified the losers and winners of globalization. Some countries have come on the top and others have gone down. It's a small world, and globalization is making it smaller, even in the face of conflict and chaos. This index is the culmination of various aspects of globalization, namely, Political Engagement (including participation in treaties, organizations, and peacekeeping), Technological Connectivity (including number of internet users, hosts, and secure servers), Personal Contact (including telephone, travel and remittances) and Economic Integration (including international trade and foreign direct investment). Out of the 62 countries in the ranking table, the top ten are shaded red, and the bottom ten are shaded blue. India and Pakistan both are in the blue shaded countries.

Source: UNICEF (World Children Reports), Foreign Policy, UNDP (Human Development Reports) etc

Table II: Crime Head-Wise Incidence in India and Pakistan (2005)

S. No.		Crimes		Crimes Rate		
		India	Pakistan	India	Pakistan	Difference
1.	Murder	32719	9731	3.028797	5.991257	-2.96246
2.	Attempt to Murder	28931	12863	2.678142	7.919591	-5.24145
3.	Kidnapping	22832	9212	2.113557	5.671715	-3.55816
4.	Dacoity	5141	2395	0.475902	1.474572	-0.99867
5.	Robbery	17673	12199	1.635989	7.510775	-5.87479
6.	Burglary	90108	12067	8.341294	7.429504	0.911791
7.	Theft	273111	50707	25.28188	31.21968	-5.9378
8.	Rape	18359	2148	1.699492	1.322497	0.376995
9.	Riots	56235	3139	5.205672	1.932644	3.273028
10.	Hurt	270861	29874	25.07359	18.39306	6.680538
Total Cognizable Crime Under PPC*/IPC**		815970	144335	75.53431	88.86529	-13.331

*Pakistan Penal Code

**Indian Penal Code

Source: National Police Record of Bureau of India www.indiastat.com & National Police Bureau of Pakistan www.npb.gov.pk/

Table III: Comparative Recorded Crime and Crime Rate in India and Pakistan

S. No.	Total Cognizable Crimes under Indian Penal Code (IPC)	Crime Rate (Crime per Lakh of Population)	Total Recorded Crime under Pakistan Penal Code (PPC)	Crime Rate (Crime per Lakh of Population)
1996	1709576	183.4	329305	269.68
1997	1719820	180.0	369161	295.16
1998	1778815	183.2	428549	334.13
1999	1764629	178.9	409167	310.80
2000	1771084	176.7	388414	287.61
2001	1769308	172.3	380659	264.14
2002	1780330	169.5	399006	269.58
2003	1716120	160.7	400680	220.17
2004	1832015	168.8	441907	238.48
2005	1822602	165.3	453264	282.68
Average of 10 years	1766429.9	173.88	400011.2	277.25

Source: National Police Record of Bureau of India www.indiastat.com & National Police Bureau of Pakistan www.npb.gov.pk/

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The Dark Side of Social Media: Review of Online Terrorism

Geoff Dean, Peter Bell, Jack Newman

Abstract

This paper lays the conceptual foundation for understanding the significant role that social media can and does play in relation to spreading the threat and growth of terrorism, especially 'home-grown' terrorism. The utility of social media applications (eg. Facebook, Twitter, You Tube) to recruit, communicate and train terrorists is explored through the perspective of Knowledge-Managed Policing (KMP). The paper concludes with the implications this conceptual analysis of terrorism as a new dot.com presence on the internet has for law enforcement and the global cyber community.

Introduction

The advent of social media (eg. Facebook, Twitter, You Tube) has created new opportunities for terrorist organisations and brought with it growing challenges for law enforcement and intelligence agencies. Whilst the use of online resources by terrorist organisations is not a new occurrence, what is new is the shift to a broader focus by national intelligence agencies towards the increasing threat of 'home-grown' terrorism (ABC News, 2005, 2011; Johnson, 2010; Silber and Bhatt 2007; Wright 2006). A review of extant literature shows a dearth of research into the connection between theoretical and practical applications of social media by terrorist groups and the strategies available to counteract such use.

This study seeks to address aspects of this conceptual gap in the literature by outlining a framework based on a Knowledge-Managed Policing (KMP) approach to the analysis of social media use by terrorists. Three of the most popular social media applications - Facebook, Twitter and YouTube – are focused on in this study as examples of how 'online terrorism' has become a new dot.com with the potential to harness the power of social media for recruiting, communicating, training and funding 'home-grown' terrorists.

Social Media's Utility for Terrorism

The introduction of Web 2.0 applications—websites based solely on interactive user-generated content, or 'social media', as opposed to more traditional static websites where users can only view content (Tech Pluto, 2009; Vorvoreanu and Kisselburgh, 2010) over the last 10 years has created new opportunities for online engagement. These social media sites effectively create online communities based upon users generating, collaborating on, viewing, and sharing content (Tech Pluto, 2009; Vorvoreanu and Kisselburgh, 2010). Wikipedia, as an example, is a free online encyclopaedia that only contains articles generated, edited and reviewed by its user base (Wikipedia, 2011).

The uptake of social media websites by the general public increased rapidly with the emergence of websites such as MySpace and Facebook, which allowed people to 'connect' online with their friends and family, and encouraged the creation of online communities based on common interests, political ideologies or geographical locations (Wooley et al., 2010). As the statistics began to appear showing the incredible surge in popularity of social media websites, people from all political persuasions quickly realised the value of this new resource (Wooley et al., 2010).

Social media quickly presented itself as a cheap and effective tool for mass-communication, as well as an effective method of specifically targeting key demographics (Earl and Kimport, 2011; Papic and Noonan, 2011; Wooley, et al., 2010). As far back as the 1990's political groups and leaders have used the Internet for political purposes (Earl and Kimport, 2011; Wooley et al., 2010). However, this was largely limited to the use of dedicated websites and e-mailing lists to distribute their campaign messages to constituents (Earl and Kimport, 2011).

With the advent of Web 2.0 technology the use of static forms of social media for political use were transformed into more dynamic and ever-evolving phenomena. For instance, in 2008 the value of social media was evidenced during the US Elections with the then presidential candidate, Barack Obama, investing a significant amount of time developing a Facebook page, Twitter account and YouTube channel (Wooley et al., 2010). However, it soon became apparent that social media could be used for other political purposes, from simply providing a forum for like-minded political dissidents to voice their opinions, to being used for organising and instigating major political riots and even revolutions (Earl and Kimport, 2011; Papic and Noonan, 2011).

Three of the most popular social media sites are Facebook, Twitter, and YouTube (Alexa, 2011b). Whilst these applications use different technologies, one important similarity between them is that any person with a valid email address and who claims to be over 13 years old can register as a user on the site (Facebook, 2011; Parental Guide, n.d; Twitter, 2011; YouTube, 2011)—affording a measure of anonymity to users if they require it. Furthermore, it is notable that recently the most popular social media sites have seen an increase in integration, so that content posted on one social media site will simultaneously appear on all other connected sites (Angelos, 2007; Gannes, 2009; Kelsey, 2010; O'Neill, 2009; Swisher, 2008).

Facebook – Virtual Recruitment Strategy

Facebook falls into the 'social networking' category of social media; its primary function is to build and maintain relationships between people (Alexa, 2011a; Wooley et al., 2010). Users of Facebook create an online profile using their personal

details, add connections to friends or family (or strangers, if desired), and can then post 'status updates' on their page or write messages to other users. Members can also create and join 'groups' based on similar interests such as support for a particular political group or cause (Wooley et al., 2010).

In addition to the inherent advantage of being the most widely used social media site throughout the world, the 'groups' application within Facebook presents itself as an invaluable tool for terrorist groups to organise themselves online, and attract other like-minded people to their cause (Wooley et al., 2010). Groups are public by default, and members of the group can send out invitations to friends to recommend that they also join. In this fashion groups can very quickly increase in size, especially when a political purpose is involved (Wooley et al., 2010). Once a group has its user base, any member can send out notifications or messages to every user who has joined the group instantaneously and free of charge (Wooley et al., 2010).

Facebook provides what is essentially an 'all-in-one' service to any group who knows how to use it. While Facebook is certainly capable of acting as a communication service similar to Twitter, and is capable of hosting videos similar to YouTube, the primary function of Facebook for terrorist organisations is for recruitment purposes (Department of Homeland Security, 2010; Torok, 2010). Traditionally, the online presence of a terrorist organisation consisted primarily of a website and possibly a private forum to facilitate jihadist discussions. The problem with this model, as pointed out by a forum poster on a jihadist website, was that an 'elitist community' was created, with those people on the outside having difficulty accessing the community (Department of Homeland Security, 2010). Facebook allows terrorist organisations to avoid this issue.

The most important and useful Facebook feature for terrorist organisations is the 'groups' function (Torok, 2010). The apparent strategy used by terrorist organisations is to create a Facebook group based on a seemingly innocent ideal, such as supporting Palestinians or Islam in general (Department of Homeland Security, 2010; Torok, 2010). As member numbers for the groups increase, jihadist material can be slowly introduced by members of the organisation to the Facebook group in a way which does not directly condone or encourage jihadist actions, and thus does not constitute a violation of Facebook policy (Department of Homeland Security, 2010; Torok, 2010). From this position, the group can even be directed straight to the website and forums of the terrorist organisation behind the Facebook group.

The threat posed by online recruitment is significant (Stein, 2011; al-Shishani, 2010; Weimann, 2010). There are no borders to be crossed, and no effective methods for intervention (Department of Homeland Security, 2010; Torok, 2010). Facebook

allows terrorist organisations to recruit people from all around the world, without posing any significant threat to the security of the organisation (Department of Homeland Security, 2010; Torok, 2010). Importantly, once people become members of the group, the organisation can then seamlessly transition into the next phase: training.

Twitter –Instant Communication Strategy

Twitter falls into the 'blogging' category of social media; however it is more aptly described as a 'micro-blogging' service (Van der Zee, 2009). Registered users of the site post publicly visible messages on their profile called 'tweets': text-based messages of up to 140 characters (Van der Zee, 2009). Users can subscribe to other users to automatically receive their posts, and can follow specific topics by using 'hashtags' (#), which are used to flag posts as belonging to a certain group or topic (Van der Zee, 2009), for example #terrorism to follow tweets related to the topic of 'terrorism'.

The ability to instantaneously send small bits of information to a virtually unlimited number of people free of charge makes Twitter an extremely valuable tool for political purposes (Papic and Noonan, 2011; Van der Zee, 2009). Twitter hashtag groups can function in a similar way to Facebook groups, except without a designated leader, with users often 'retweeting' (re-posting) to ensure the message is spread (Van der Zee, 2009). This is in part where the real value of Twitter lies: in the constantly changing virtual communities that are created almost naturally during major events (Papic and Noonan, 2011; Van der Zee, 2009). Political movements and protests in particular see these online communities thrive, where large amounts of people both directly and indirectly involved in an incident begin flocking to follow the relative hashtag for the event (Papic and Noonan, 2011; Van der Zee, 2009).

The threat posed by Twitter arises from both its ability to send out instant messages to large numbers of people, and from the ability for people to follow particular topics as well as groups (O'Rourke, 2010). Terrorist organisations can utilise Twitter at an operation level, using the service to keep up-to-date on any new information that emerges in the public sphere (Weimann, 2010; O'Rourke, 2010; US 304th Military Intelligence battalion, 2008). The 2008 terrorist attacks in Mumbai present an apt example of how terrorist organisations can utilise social media sites such as Twitter.

The 2008 Mumbai terrorist attacks occurred on 26 November, with more than 10 sites throughout Mumbai targeted by an Islamic terrorist organisation from Pakistan: Lashkar-e-Taiba (O'Rourke, 2010). The attacks killed 164 people and injured over 300. One of the most important issues that arose from the attacks was

the technological sophistication of the attackers. All of the attackers were equipped with BlackBerry smart-phones, and not only utilised VOIP (Voice over Internet Protocol), but also carried multiple SIM cards to switch into the phones if authorities were able to block them (O'Rourke, 2010; US 304th Military Intelligence battalion, 2008).

Post-attack interviews with the sole surviving attacker, combined with information from intercepted phone calls from the attackers during the events indicated that the terrorists were in constant contact with controllers based in Pakistan (O'Rourke, 2010; Rabasa et al., 2009). The controllers were able to keep track of the constant up-to-date flow of information streaming from public Twitter posts and communicate it directly to the attackers (Leggio, 2008; O'Rourke, 2010; Rabasa et al., 2009). This included critical information such as the movements and positioning of the Indian counter-terrorism units planning the assault on the hotel (Lee, 2008; Leggio, 2008; O'Rourke, 2010).

Examples such as Mumbai serve to demonstrate the increasingly advanced technological sophistication of terrorist organisations. In order to effectively combat these groups, robust counter-strategies for social media must be developed and implemented by government agencies as soon as possible.

YouTube – Cyber Training Strategy

YouTube falls into the 'video sharing' category of social media; the primary function of the website is to host videos uploaded by users, which are then publicly viewed and shared around the world (Vergani and Zuev, 2011). Registered users of YouTube are able to upload videos in a wide range of formats up to 15 minutes in length, and in most cases viewers do not need to register (Vergani and Zuev, 2011). Registered members can subscribe to another user's YouTube 'channel', receiving alerts whenever a new video is posted on that channel (Vergani and Zuev, 2011). While there are a range of restrictions over what cannot be uploaded, the 'post-hoc' review system used for YouTube videos means that only those videos which have been 'reported' by viewers will be reviewed and potentially removed by YouTube staff, thus making abuse of the system possible by terrorist groups.

YouTube is free, easy to use, difficult for state authorities to control, and can be used to communicate with a tightly-knit group to the entire world (Vergani and Zuev, 2011). Furthermore, YouTube can provide a more effective means of communication than text-based social media sites such as Facebook and Twitter, simply due to the ability to use sound and video (Vergani and Zuev, 2011).

Like Facebook, YouTube has multiple uses for terrorist organisations (Weimann, 2010; Bergin et al, 2009; George, 2009). Video can be a much more effective means of communicating an issue than plain text, so for this reason alone

YouTube would be an invaluable tool for terrorist organisations (Torok, 2010). For example, Anwar Al Awlaki is a prominent and 'highly dangerous' planner and trainer for 'Al Qaeda and all of its franchises', well known for his utilisation of social media sites such as Facebook and YouTube to spread his extremist messages (Madhani, 2010; Shephard, 2009; Smith, 2009). As of 2010, Awlaki was known to have posted over 5000 videos on YouTube (Torok, 2010). However, more important than simply relaying a message or calling for people to take action is showing them physically how to do it; this is where YouTube's value for terrorist organisations is truly shown (Department of Homeland Security, 2010).

Videos explaining and visually demonstrating practices such as tactical shooting or the field stripping of an AK47 have been identified as examples of training that is effectively communicated over YouTube (Department of Homeland Security, 2010). Additionally, these types of training videos do not actively incite violence, and thus do not contravene YouTube's policy, and will therefore not be deleted (Department of Homeland Security, 2010). Terrorist organisations can also take advantage of YouTube's 'post-hoc' review system by uploading bomb making instructions and other such videos that violate YouTube policy, but which can potentially be viewed hundreds of times before the videos are reported and deleted.

Terrorism: A New Dot.Com

According to Awan (2010) the internet has surpassed all other media forms in becoming the principle arena for terrorist media activity, and the primary platform for the dissemination of jihadism. Furthermore, this review has demonstrated it is not only political activists who see the competitive advantage of using social media, as the three most popular social media sites (Facebook, Twitter, and YouTube) have value-added to terrorism's ability to communicate, organise, recruit, and train would be terrorists (Alexa, 2011b; Weimann, 2006; Wright, 2006). Furthermore, terrorist groups are also using social media for fundraising purposes (Strohm, 2011; Gray, 2009; Caldwell, 2008; Conway, 2006).

This cluster of issues is of particular relevance to countries like Pakistan with large Muslim populations where fertile minds exist for social media to radicalism free of charge. Moreover, countries such as Australia face their own concerns about social media, where the traditional transnational terrorism threat is being replaced by a much more pervasive and difficult to detect 'home-grown' or 'grass-roots' terrorism threat embedded in virtual realities (Johnson, 2010; ABC News, 2005, 2011; Silber and Bhatt, 2007; Wright, 2006).

This review found that whilst the quality of the literature that focused on terrorists' use of social media was generally of a higher quality than that related to political activism in general, the number of articles available on this issue was

limited (Bjelopera and Randol, 2010; Hoffman, 2010; Silber and Bhatt, 2007; Weimann, 2006). Furthermore, many of the articles had been written by, or for, the US military (Mayfield, 2011; McCullar, 2010; Petraeus, 2010; US Joint Forces Command – Joint Warfighting Center, 2010). While the majority of content in these articles was highly relevant, the recommendations presented for strategies to deal with the issues were focused on military applications, as opposed to more generally applicable strategies or those which were specific to government or intelligence agencies.

Those articles which did not focus on military applications debated the effectiveness of the three broad policy approaches that governments can adopt: zero tolerance, encouraging extremist narrative to be challenged through the same social media tools that promote it, and intelligence gathering (Bergin et al, 2009; Caldwell, 2008).

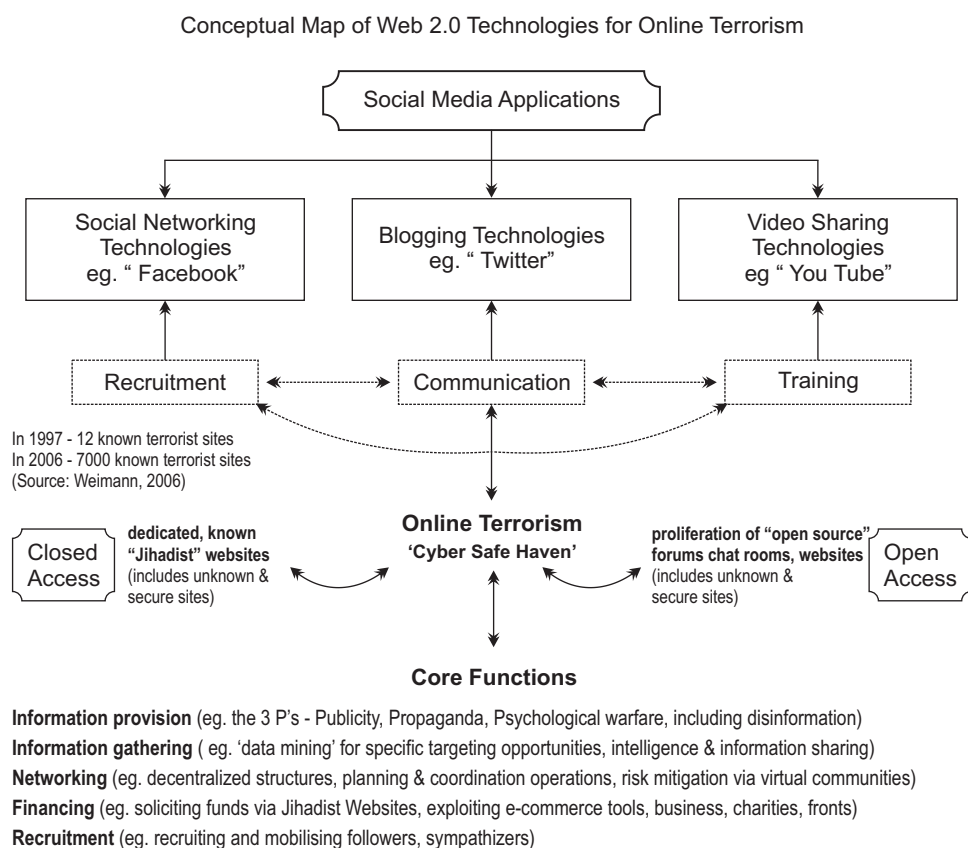
Hence, what is also clear from this review is that governments, law enforcement and intelligence agencies are adapting to this new political and social environment created by Web 2.0 inspired social media and are seeking to find and adopt new policies and strategies to minimize these threats and harness the presented opportunities. For instance, in June 2011, the Joint Select Committee on Cyber-Safety instituted by the Australian Parliament tabled its report on its Inquiry into Cyber-Safety entitled *High-Wire Act: Cyber-Safety and the Young*.

Moreover, there was a rapid expansion and widespread growth of 'Jihadist' websites during the period when Web 2.0 technologies began widely available around 2004 onwards. For instance, research by Weimann (2006) into the use of the Internet by terrorist groups showed that between 1997 and 2006, the number of websites dedicated to terrorist groups rose from only about 12, to over 7000.

Similarly, Stein (2011:3) cites a U.S. State Department report in 1998, that "... there were only 15 Web Sites run by groups defined by US as "terrorist" groups. In 2005, this number increased to more than 4000."

While the terrorist organisations that are advanced enough to have a presence online would traditionally stick to the use of 'jihadist websites' and forums, where most of the users were people already supporting the cause (Department of Homeland Security, 2010), the transition into the more 'open' realm of social media has given them the opportunity to reach significantly larger audiences than was previously possible. For instance, Cohen (2009) found that terrorist groups actively target the large number of social media users among vulnerable populations in impoverished regions in the Middle East, Africa and Asia, and poorly integrated immigrant communities in Western Europe.

Therefore, the conceptual picture which emerges from this review is that Web 2.0 social media technologies have allowed terrorism to become a massive 'dot.com' presence on the internet. Figure 1 below illustrates the virtual pathways utilised by terrorism to carry out its core functions 'online'.



Source: Gray and Head, 2009; Kohlmann, 2008; Conway, 2006; Weimann, 2004

Therefore, the conceptual picture which emerges from this review is that Web 2.0 social media technologies have allowed terrorism to become a massive 'dot.com' presence on the internet. Figure 1 below illustrates the virtual pathways utilised by terrorism to carry out its core functions 'online'.

As can be seen from Figure 1, the conceptual mapping above depicts the phenomenal rise of Jihadist expansion on the web through both closed and open access portals as well as the various configurations of online terrorism. As such, it provides a useful starting point for research but much more work needs to be done before a clearer picture of radicalism and its effectiveness comes into focus.

This is in part due to the very limited amount of scholarly empirical research in the existing literature on the effectiveness of social media by terrorist organisations to radicalise people (Leuprecht and Skillicorn, 2011). Much is anecdotal and based on biased samples. For instance, al-Shishani (2010) reports that "... according to Pakistani authorities, the five young American Muslims arrested in Pakistan last December were recruited online via You Tube and Facebook after the suspects used these sites to reach out to groups such as Lashkar-e-Taiba and Lashkar-e-Jhangyi (*Dawn* [Karachi], December 16)". In addition, there are major issues with the range of quality found in the literature, as well as with the lack of connections made between theory and practical application.

Given such limitations the role of Knowledge Management (KM) in capturing relevant and reliable data, information, intelligence and evidence on which to base policing and law enforcement of social media is still in its infancy. However, KM does have substantial applicability for policing online terrorism. For instance, the notion of 'Knowledge-Managed Policing' (KMP) coined by Dean is a foundational framework for managing, systematically, the application of knowledge to enhance policing effectiveness through harnessing practitioner-based knowledge and integrating such tacit knowledge with KM processes and appropriate IT support systems (Dean and Gottschalk, 2007). Furthermore, the utility of KMP for managing the challenges associated social media must, of necessity, involved a range of Communication Interception Technologies (CIT) by police and other law enforcement agencies. Dean, Bell, and Congram (2010) have previously outlined the significance of KMP as an organising framework for using CIT as an investigative tool for knowledge creation, capture, storage, retrieval, transfer, sharing, application and integration. Moreover, Dean (2007) developed a multi-context model of the terrorism process which is the subject of future work to integrate KMP with this terrorism model in order to expand available counter-terrorism options to police and law enforcement agencies, especially in relation to this dark side of social media.

A special report on *Countering internet radicalisation in Southeast Asia* in 2009 by Bergin, Osman, Ungerer, and Yasin identified three broad policy approaches and/or a combination of them which governments tend to adopt towards dealing with online terrorism. There are as stated in the report (2009:12):

- a hard strategy of *zero tolerance* (blocking sites, prosecuting site administrators, using internet filters)
- a softer strategy of *encouraging internet end users to directly challenge the extremist narrative* (including creating websites to promote tolerance)

- an intelligence-led strategy of *monitoring leading to targeting, investigation, disruption and arrest*.

Essentially, these policy approaches translate into a policing/law enforcement counter-terrorism continuum ranging from prevention to utilisation methodologies.

Prevention Methodologies would include aspects of a '*zero tolerance strategy*' whereby sites are censored, blocked or cut off and aspects of an '*intelligence-led strategy*' of monitoring, targeting, investigating, disrupting and ultimately arresting and prosecuting those involved in terrorist activities. For instance:

- censoring sites, eg. South Korea deletes political content from various social media sites regarded as North Korean propaganda (Eun-jung, 2011)
- blocking sites, eg. 'The Great Firewall of China' where access to websites deemed to be politically sensitive or offensive are blocked (Petraeus, 2010).
- cutting off complete access to the internet for entire regions or countries, eg. during the 2011 revolution in Egypt (Papic and Noonan, 2011)
- Proactive Intelligence monitoring and collection eg. developing risk profiles of potential terrorists through monitoring terrorist-related social media sites, (Norris, 2011)

Utilisation Methodologies would include some aspects of an '*intelligence-led strategy*', mainly that of disinformation, and a softer strategy of *encouraging and challenging extremist narratives*. For instance:

- Disinformation via 'sock puppets', eg. Sock puppets have been used to infiltrate online-based political or terrorist groups, and once inside to spread disinformation about the location and activities of law enforcement to disrupt the plans of the group and/or direct their protest towards a location that can be easily controlled (Norris, 2011; Papic and Noonan, 2011)
- Insider Knowledge' intelligence gathering, eg. tips offs by informers and human assets inside terrorist's cells and sites in order to utilise such knowledge strategically (Norris, 2011)
- Creating alternative websites by moderate Muslim groups, eg. harnessing social media to promote peace and democracy (Caldwell, 2008); providing alternatives to extremist influence (Cohen, 2009)

All counter-terrorism policy approaches and law enforcement strategic methodologies are depend on and require a substantive investment in a range of resources to counter social media-based radicalisation. The Special report by Bergin et al (2009:13) outlines in broad terms the *technical, human and intellectual* resources necessary to deal with online terrorism as follows:

- ***Technical infrastructure***

The technical requirements are secure, unattributable, superfast (broadband and wireless) ICT systems, and the ability to access and view extremist sites (visibility of the environment is fundamental).

- ***Human resources***

People with analytical, linguistic and technical skills are essential. They will need adequate training and the support of experts.

- ***Knowledge and intellectual capital***

It's necessary to stay abreast of the latest trends and industry developments, and governments aren't normally at the forefront of internet-related trends.

This massive investment is ultimately about Knowledge Management and the mobilisation of relevant resources. Since 9/11 and the extraordinary growth of online terrorism, the academic community is also playing a significant role with the emergence of a new interdisciplinary field of study and research known as 'Terrorism informatics' (Chen, Reid, Sinai, Silke, and Ganor, 2008).

According to Chen (2011:1) "Terrorism informatics has been defined as the application of advanced methodologies, information fusion and analysis techniques to acquire, integrate process, analyze, and manage the diversity of terrorism-related information for international and homeland security-related applications."

Chen notes the wide variety of methods used in 'terrorism informatics' to collect massive amounts of many and varied types of multi-lingual information from multiple sources. Hence, 'terrorism informatics' draws on a diversity of disciplines from Computer Science, Informatics, Statistics, Mathematics, Linguistics, Social Sciences, and Public Policy and their related sub-disciplines to achieve "Information fusion and information technology analysis techniques, which include data mining, data integration, language translation technologies, and image and video processing, play central roles in the prevention, detection, and remediation of terrorism." (op. cit).

Conclusion

This review of the extant literature from military, academic and public open sources presents a disturbing picture of the multiple pathways Web 2.0 'social media' technologies provide for terrorists and militant extremists to utilise and develop cyber terrorism into a potent virtual battleground which police and security agencies must confront on a very uneven global playing field.

Furthermore, it is evident from this review that the concept and practice of 'Knowledge-Managed Policing' (KMP) is highly relevant, timely and necessary perspective for policing/law enforcement/security agencies. Adopting a salient Knowledge Management approach can tip the competitive advantage towards policing the multitude of harms and threats that 'online terrorism' presents through the medium of the dark side of social media for Civil Society.

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