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Contents

Editorial

The Importance of Evidence-based Policing Challenges..

Disarming FATA: A Cultural Violence-Cultural Genocide Paradox
Waseem Iftikhar

War and Game Theory: Reflecting on the War on Terror on the Pakistan
Syed Sami Raza, Muhammad Ayub Jan & Ghazala Rafi

Relationship between Operational/Organizational Stress and Family Distress in Police..
Sajida Naz, Nida Jamshed & Sayyeda Namooos Kazim

Spill Over of Militants and Criminals from Federally Administered..
Noreen Naseer & Iftikhar Firdous

Judicial Activism and Institutional Legitimacy of Supreme Court of Pakistan (2006-2014)
Dr. Intikhab Alam, Anwarul Mujahid Shah, Nauman Reayat & Dr. Mushtaq Ahmad Jadoon

Effects of Criminal Women's Sentence on their Children's Socialization..
Dr. Muhammad Shabbir Ch, AmbreenRubab, Uzma Niaz & Shazia Nasim

Terrorism and Violence: A Note on the Targeted Killing in the Tribal Agency of Bajaur ..
Rahman Ullah

History of Violence Against Women (VAW) in the West, Recognition and Emergen...
Raazia Hassan Naqvi, Muhammad Ibrar, Basharat Hussain & Christine Walsh

Book Review: Equality and Diversity in Policing Stout, B. (2010) 'Policing Matters..
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Pakistan Journal of Criminology

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The Pakistan Journal of Criminology is an official publication of the Pakistan Society of Criminology. It aims to advance the study of criminology and criminal justice; to promote empirically-based public policy in crime management; and to encourage comparative studies of crime and criminal justice in Pakistan for having implications for Pakistan. It further aims to develop and establish an indigenous criminological scholarship on issues pertaining to Pakistan. It publishes high quality original research and articles using varied approaches, including discussion of theory, analysis of quantitative data, comparative studies, systematic evaluation of interventions, and study of institutions and political process. It will also be acknowledged as a leading academic journal specializing in the study of policing institutions and their practices, in addition to its use of evidence generated by sound social science methods to evaluate criminological ideas and policy. The journal will bring into light the gap between practice and theory through strengthening the role of indigenous research in the development of relationship between criminal justice policy and practice. Such evidence-based research will focus on any aspect of crime and the justice system and can feature local, provincial, national or international concerns vis-a-vis Pakistan. Both quantitative and qualitative studies are encouraged. The journal encourages the submission of articles, research notes, commentaries and comprehensive essays that focus on crime and broadly defined justice-related topics in Pakistani context. The journal is an interdisciplinary and an innovative idea in Pakistan. The journal is issued quarterly.

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DEDICATION

This issue of *Pakistan Journal of Criminology*

is dedicated to

The Honorable Inspector General of Police,
KP,

MR. NASIR KHAN DURRANI

for his Visionary Leadership and Successful
Police Reforms in KP

during 2013-2016.



Mr. Nasir Khan Durrani, Inspector General of Police, Khyber Pakhtunkhwa (KP), Pakistan.

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Volume8/No.4/Oct.2016

Contents

Editorial	
The Case of KP Police in Pakistan	i
Disarming FATA: A Cultural Violence-Cultural Genocide Paradox	
Waseem Iftikhar	1
War and Game Theory: Reflecting on the War on Terror on the Pakistan- Afghanistan Borderland	
Syed Sami Raza, Muhammad Ayub Jan & Ghazala Rafi	15
Relationship between Operational/Organizational Stress and Family Distress in Police Officers from Anti Narcotic Force (ANF) Rawalpindi, Pakistan	
Sajida Naz, Nida Jamshed & Sayyeda Namoos Kazim	29
Spill Over of Militants and Criminals from Federally Administered Tribal Areas to Adjacent Areas of Khyber Pakhtunkhwa	
Noreen Naseer & Iftikhar Firdous	44
Judicial Activism and Institutional Legitimacy of Supreme Court of Pakistan (2006-2014)	
Dr. Intikhab Alam, Anwarul Mujahid Shah, Nauman Reayat & Dr. Mushtaq Ahmad Jadoon	58
Effects of Criminal Women's Sentence on their Children's Socialization: An Exploratory Study of Punjab – Pakistan	
Dr. Muhammad Shabbir Ch, Ambreen Rubab, Uzma Niaz & Shazia Nasim	73

Terrorism and Violence: A Note on the Targeted Killing in the Tribal Agency of Bajaur, Pakistan Rahman Ullah	82
History of Violence Against Women (VAW)in the West, Recognition and Emerging Interventions Raazia Hassan Naqvi, Muhammad Ibrar, Basharat Hussain & Christine Walsh	94
Book Review: Equality and Diversity in PolicingStout, B. (2010). 'Policing Matters' Series, Waddington, PAJ & Wright, M. (Eds.) Gwyneth Boswell	104

Editorial

The Importance of Evidence-based Policing Practices and Challenges to Implementation: The Case of KP Police in Pakistan

With the increasing pressure on police organizations to improve the quality of service and operations, the reliance on practices based on evidence and facts helps to justify policing choices and decisions. In turn, this enhances the force's legitimacy. The concept of evidence based policing, which is inspired by evidence based practices in the field of medicine, is not new. Indeed, there is consensus among researchers and policy-makers that the absence of credible research-guided policy making and practices is likely to lead to less effective policies, imperfect training and even low quality academic programs in policing. Hence, to counter the problems related to police effectiveness, evidence based policing provides a decision-making perspective which is based on the premise that police practices should be supported by rigorous research evidence. In sum, it focuses on the application of science in everyday policing for the improvement of organizational efficiency and effectiveness.

In this connection, the evidence based policing initiatives launched by the Khyber Pakhtunkhwa (KP) Police is a much needed step in the right direction, reflecting political commitment to improve the effectiveness and image of police in the province. But despite the noted benefits of basing organizational strategies on research evidence, police organizations across the globe have been slow to adopt such practices. It is therefore important for Pakistani police organizations to recognize the practical aspects of evidence based policing, and the factors inhibiting its adoption, so as to develop strategies which are conducive to implementation of such practices.

Since police organizations generally struggle with resource constraints, the use of evidence provides a decision-making framework, based on strategic planning and cost-benefit analysis. This can lead to more cost effective policing solutions. Larry Sherman, the father of evidence based policing, believes that it is one of the most powerful ideas in modern policing, as it takes into consideration the best practices in the field. An important element of evidence based policing is for officers from all organizational levels to have adequate knowledge regarding the tactics and strategies that are instrumental to dealing with crime and making informed decisions.

Although evidence based policing does not overlook the traditional style of decision making in policing, it encourages the application of the strategic principles of targeting, testing and tracking. Targeting begins with allotting scarce

resources to crime and disorder of significant importance and establishing guidelines for action based on published or in-house research. These guidelines also need to take into consideration the community culture and values, in order to determine measurable outputs. Once high-priority criminal targets are defined, methods to counter such activities are tested to determine their suitability. The departmental performance is then tracked over a period of time against these defined benchmarks, as well as with the performance of other policing units, so to evaluate the level of success. The outcomes are then used to further refine and improve the initial guidelines.

However, despite the established role of evidence-based practices in improving organizational efficiency and effectiveness, they have not yet made a significant impression on police organizations across the globe. The barriers to the adoption of such practices can be individual, organizational or political in nature. Like other professionals, police officers are also reluctant to adopt unfamiliar practices that diverge from their usual way of work. They only tend to recognize the value of research that employs less rigorous methodology and does not interfere much with their established patterns of work. Officers also prefer to rely more on internal organizational knowledge regarding tactics rather than external experts. Besides, personal resistance to change by individuals, certain structural, functional and political barriers also prevents the police from readily embracing new practices. Organizational and political factors like budget controls, organizational norms and culture prevent the adoption of programs that disrupt the established routines and relationships.

As top police managers are the main decision makers in organizations, their commitment is vital for the adoption and success of a new strategy. Organizational members cannot adopt or support a new initiative on their own as it must first receive the approval of the management. There have been instances where strong police leaders have instituted new programs despite initial resistance from the line staff, who finally acknowledge the value of the initiative after being apprised of the benefits by the top management. Since supervisors in paramilitary organizations such as police have a major influence on officers, they can use it to promote evidence based practices within their own departments. Top leadership can thus act as agents of change who create advocates for change at all levels of the organization to achieve the desired goals.

The efforts to implement evidence-based practices are resource-intensive and may initially involve costs like training and new equipments. Public servants face tremendous scrutiny by elected officials and any initiative involving public funds is closely monitored. The higher the costs, the more resistant the top management is expected to be in terms of committing to a new strategy, given the

resource scarcity in the public sector. The risks associated with a new initiative as well as the lack of managerial experience to deal with such changes may also affect their receptivity towards initiatives. Changes those are more difficult to implement and have higher levels of uncertainty associated with success, or contribution to organizational performance, are not readily accepted by the top management. For countries like Pakistan where the traditional model of policing is still in place, the introduction of an innovation such as evidence based policing may be viewed as a devaluation of the previously acquired skill and experience of officers, leading to resistance towards the adoption of such practices. Besides the challenge of dealing with resource constraints, the top management would also have to ensure a balance between traditional policing and science while keeping in view the operational concerns of the rank and file officers, in order to ensure their commitment towards such initiatives.

Research on receptivity to evidence based policing highlights the importance of training officers of all levels to recognize the importance of research in making effective policing decisions. While training can help reduce barriers to the adoption of research based practices in policing, research has also found resistance to training programs by the rank and file officers, who believe that learning new scientific research is not relevant to their particular job assignments and also lacks direction regarding specific measures to be taken in certain circumstances. It is therefore imperative to create a partnership between researchers and police organizations in order to translate academic findings into more accessible and applicable formats for use by officers across various hierarchical levels. In sum, police must make use of scientific knowledge regarding what works to improve crime control as well as community relations, which in turn helps improve their legitimacy. What is most important for the successful adoption of evidence based policing practices is the realization that such measures will receive greater support across the board if considered in tandem with personal experience while making decisions, so as to improve organizational ability to prevent and reduce crime.

In conclusion, it may be observed that the evidence based policing reforms adopted by KP not only represent a new mode of policing in the province but also serve as a useful experiment to evaluate whether or not similar reforms in Pakistan's other provinces have a chance of improving the organizational efficiency and the image of the police force as suggested by research. Indeed, this crucial first step by KP may be symbolic of a new dawn for Pakistan's embattled police forces and their slow march towards modernization and emancipation from their colonial legacy of public control rather than public service.

Guest Editor,
Hina Jawaid Kalyal, PhD
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Disarming FATA: A Cultural Violence-Cultural Genocide Paradox

Waseem Iftikhar

Abstract

Multiple Afghan Wars have magnified law and order problems in border regions between Pakistan and Afghanistan especially Federally Administered Tribal Areas (FATA). Rampant proliferation of weapons and spread of Kalashnikov culture all over the country have created new challenges for Pakistan. Possession and display of weapons as part of tradition and dress has become controversial aspect of FATA culture. Cultural contours of the region remained primeval until the Russian invasion of Afghanistan in 1979, which followed almost four decades of a reign of terror, chaos, and turmoil in FATA. Multiple actors used and misused the 32000 square Kilometers of FATA lands to their benefit, considerably altering the cultural fabric of tribal life. Now, when the aspirants of peace are trying to calm the situation in Afghanistan, an effort is underway to pay special attention to peacebuilding in FATA.

Scholars like Johan Galtung brand possession of weapons as Cultural Violence. Simultaneously there is a debate to preserve age old traditions and cultures in tribal societies and any effort to alter these pristine traditions could push the issue into realm of proverbial Cultural Genocide.

This paper argues that any obligatory cultural alteration in an effort to 'modernize' a culture could very well hurt the fabric of that culture to the core. Traditions acceptable in one part of the world or in a particular culture may sound offensive in another part of the world, but that is an insufficient reason to impose change. Results from a small survey conducted in all seven agencies of FATA have been incorporated in the study to understand the indigenous sentiment on the issue of firearms. The Survey shows a clear resentment against giving up the weapons both from cultural as well as security point of view.

Key Words: Small Arms/Fire arms, Cultural Violence, Cultural Genocide, Federal Crimes Regulation, and Federally Administered Tribal Areas

Introduction

A multitude of scholarly as well as journalistic writings have tried to explain almost all possible aspects of culture in Federally Administered Tribal Areas (FATA) of Pakistan. For most part of Pakistan's history, an aura of exclusion and mystery has surrounded this Afghanistan bordering belt constituting seven

agencies. Ironically the area is normally referred by non-residents of the region as *Ilaqa Ghair* (literal meanings “alien’s land”). Traditionally the area enjoyed very little, if any, writ from Federal Capital Islamabad. They have had their distinct way of life, culture, code of conduct and ethics referred as *Pashtunwali*. Despite absence of main stream laws applicable in rest of the country, the residents of these agencies have lived a relatively peaceful life with no major disputes or conflicts spilling out of proportion. *Pashtunwali* or the Pashtun code of conduct has remained the corner stone of life in FATA. The Russian invasion of Afghanistan in 1979, and responsive actions by Pakistan, USA, Saudi Arabia and multitude of other nations brought this region into lime light. Even then, generally the resident tribes preferred their own ways of life and culture including traditional conflict resolution through *Jirga* or mutual consent (Gohar A., 2005).

One of the most interesting yet controversial aspects of the FATA culture has been possession of firearms by almost every house hold. However for the purpose of this paper, firearms will refer to standard UN definition of small arms which explains it as “Small arms are broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns” (UNODC). Generally world firearms are considered as weapons of conflict or war. For the most part, possession of weapons in FATA, besides ensuring a reciprocity in mutual peace, has been part of their culture. FATA residents are not alone in this traditional love for weapons, almost all tribal societies around the globe have some sort of weapons as part of their attire and household (Ahmad, 2013). On the other hand mainstream peace workers and peace scholars such as Johan Galtung consider promotion of peace in presence of weapons as *Negative Peace* and rather a contentious approach in resolving any conflict. Simultaneously, preservation and protection of cultural traditions and norms is not only ethically desirable but if refuted could draw lot of attention and may even be taken as considerably offensive. This paper aims at highlighting the interplay of classical Galtungian *Cultural Violence* (Galtung, 1990) and the contradictory argument of *Cultural Genocide* by Rafael Lemkin (Lemkin, 1944) on possession of firearms in FATA. The results of a small survey conducted in all seven agencies on the subject will also be highlighted to incorporate the indigenous people’s aspirations and associations with their weapons.

Deciphering Violence

As per Johan Galtung *Cultural Violence* includes, “those aspects of culture, the symbolic sphere of our existence- exemplified by religion and ideology, language and art, empirical science and formal science (logic, mathematics) – that can be used to justify or legitimize *Structural Violence*” (Galtung, 1990). *Structural Violence* is referred as the actions taken by a perpetrator that result in slow killing (in the long run through flawed policy) and *Direct Violence* refers to direct, quick or sudden killing of the victim (Johan Galtung). In other words, creation of structures in a culture or society that ultimately result in the death, injury, harm or destruction of individuals, culture or entire society is structural violence. On the other hand, as suggested by the name, *Direct Violence* causes immediate death, injury or harm due to the nature of violence using weapons and direct force etc. There are many more differences and approaches to the types of violence, however, this research will primarily focus on these elucidations.

Galtung further argues that *Cultural Violence* (CV) paves way for *Direct Violence* (DV) and *Structural Violence* (SV). Through this Violence Triangle (Figure 1 below) he has contended *Cultural Violence* being root cause and facilitator of other two types of violence. Presence of *Cultural Violence* will enable and generate *Direct Violence* and allow *Structural Violence* to foster. The triangle when standing on the feet of *Direct Violence* and *Structural Violence* can be clearly seen as influenced and dominated by *Cultural Violence*. In the next triangle, the principal nature of *Cultural Violence* has also been shown at the bottom of three strata. *Cultural Violence* here depicts the nurturing and feeding the *Structural Violence*. When *Structural Violence* is deeply entrenched in the society, it becomes cause of *Direct Violence*. The triangle can stand upside down and multiple combinations of three kinds of violence can be formulated generating multitude of hypothesis, however for the purpose of this paper emphasis will remain on *Cultural Violence* being the root cause of *Structural Violence* and *Direct Violence*.

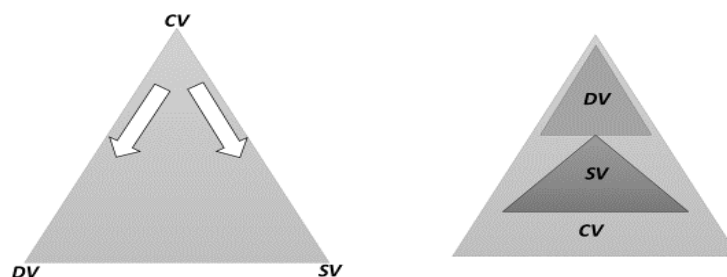


Figure 1: Galtung's Violence Triangle

Regulatory Predicament

For centuries a distinct FATA culture has existed and the region has remained largely stable despite clear absence of direct rule from central governments. British rulers imposed series of laws to govern this region between 1871 and 1876 including Frontier Crimes Regulation also known as FCR (FATA, 2016). FCR which was implemented in 1901, has traditionally been considered as a most draconian set of laws imposed in the region. It is worth mentioning that FCR of 1901 did not have any discussion on possession or carriage of firearms or weapons as a crime(PSC). In the rest of the Indian Subcontinent however, British rulers had enacted anti-weapon laws during the 19th Century. The Arms Act of 1878 (The Act XI of 1878) para VI (19) states that, “the person in possession of illegal weapons will be punished by three years in prison and fine or both”(Iftikhar, 2016). The absence of laws against carriage/possession of arms in FCR of 1901, therefore, cannot be considered as an oversight or an unintentional omission by the ruling legislators.

An amendment in FCR of 1901 was however, signed into law in 2011 by President of Pakistan Asif Ali Zardari (ISJ, 2011). The laws against possession and display of weapons have been added, including punishment for exhibiting the arms targeting the intention of an individual with possible preparation to commit a crime using arms. Specific regulation governing the carriage of arms in this amendment is as follows,

Where a person is found carrying arms in such manner or in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, he shall be taken in custody and be tried as provided in section 11 and if found guilty, may be punished with fine which may extend to five thousand rupees and the arms carried by him be confiscated and in case of habitual offender or previous convict, he may be punished with imprisonment with extend to two years or with fine which may extend to rupees ten thousand and the arms carried may be confiscated.

This amendment primarily seems to deter the display or carriage of weapons with petite amount of money suggested as punishment. In comparison the advocated reprim and is far lesser than the one applicable in other parts of Pakistan. As per a 1991 anti-weapon law, the punishment for possession of illegal weapons

was increased in other parts of the country to 'life in prison, confiscation of moveable and immovable property or both' (Iftikhar, 2016). The deterrent power of this law remains very low due to excessive proliferation and ease in procurement of weapons. In one-on-one discussions by the author with residents of FATA (mostly university students), a rather different trend could be seen emerging in handling of weapons issue by law enforcement agencies.

Cultural Violence vs Cultural Genocide

FATA lacks basic amenities of life and has livelihood limited to cattle farming and agriculture only in few valleys. Absence of any justifiable support in provision of food, shelter, water, health, safety and security etc. from the central or provincial government can appositely be labeled as a cases of *Structural Violence*. Unmet basic human needs as propounded by Abraham Maslow (Maslow, 1943), have cultured this collectivist cluster of tribal structure to sustain themselves and survive autonomously. Lack of opportunities and alternative options for livelihood make the struggle to fulfill the unmet basic human needs much harder. One such arrangement catering for personal, clan and tribal safety and security has been possession of firearms. These weapons as per Galtung's definition of violence are certainly an aspect of *Cultural Violence*, but in FATA culture these are considered arsenal of self defense and custodian of rule of law in inter and intra-tribal relationship. Acting mostly as guarantors of perpetual peace, firearms would however, still be considered the underwriters of Negative Peace as per Galtung's classification of peace (Galtung, 1967). Although the above mentioned amendment in FCR of 2011, allows confiscation of weapons on charges of suspicion, however there is hardly any measure to ascertain "suspicion". Resultantly, a vast majority of weapons from the residents of FATA have been collected for larger security interests in the region. Unfortunately, miscreants or terrorists entering in the region find it much easier to harass and intimidate locals in absence of retaliatory weapons.

Galtung also contends that opposite to violence is peace, which means if *Cultural Violence* promotes *Structural Violence* and *Direct Violence*, *Cultural Peace* should be able to promote *Structural Peace* as well as *Direct Peace* (Galtung, 1990). Any part culture or practice when seen through theoretical lens may seem violent but, one, it doesn't make the entire culture violent, and secondly, it may actually be ensuring peace within the acceptable bounds of that particular culture.

One such example of heterodoxy in resolving a particular issue can be observed in Bororo Tribe of Brazil. Traditionally everyone in the tribe does his/her own work which sounds like a perfect cultural practice. In order to ensure that all

the children born learn the same trait, however, again as a cultural phenomenon, children who don't seem healthy enough or are disabled at birth are killed (Cotlow, 1971). While this is a clear case of *infanticide*, it perfectly worked for their culture. In case of FATA, possession of weapons as a cultural phenomenon has ensured relative peace, though classically *Negative Peace*, therefore it can be argued that this *Cultural Peace* has ensured *Structural* as well as *Direct Peace* for centuries in the region.

Firearms have been part of the cultural identity in FATA, not to mention source of pride and honor. Absence of weapons for a particular person or family is a sign of weakness and blemishing cultural identity. Enforcement of governmental regulations may levy surrendering of firearms by the tribes, however, that doesn't necessarily mean that they will do so willingly or find any cultural refuge in the process.

Relevant to this aspect is Galtung's definition of *Peace* which he has equated as shown in Figure 2 below (Galtung, 1990):-

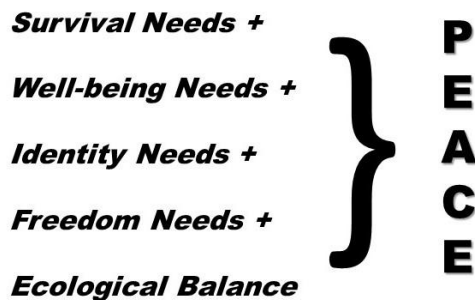


Figure 2: Peace

While talking about the needs, Galtung has clearly stated that declaring an individual or a group as “secondary citizen” is form of Direct Violence as per identity needs (ibid). Secondly, marginalization is form of Structural Violence under freedom needs. The main argument in case of FATA revolves around the issues of “de-socialization” and “re-socialization” being direct form of violation of identity needs. In an effort to internationalize a culture or tame it to suit needs of dominant culture (of “civilized” and “free” world), cultural identity needs are being violated. Moreover, in an interview Galtung said, “with a population of almost 40 million, Pashtuns are the largest stateless minority in the world”, inferring that their freedom needs are being violated (Iftikhar, 2014). FATA is a smaller and mostly segregated part of this “Pashtun stateless minority”, thus making them perfect candidate for violation of freedom needs. The crux of this discussion on typology of violence is that FATA is already a victim of Direct Violence as well as Structural Violence. Disarming them or forcing them to surrender the source of fragile peace and honor in order to “re-socialize” them will only enhance the complexity of existent violence.

It would be appropriate to turn the discussion towards the extinctive aspects of culture labeled as genocide by Rafael Lemkin. He has included eight areas in his argument referring to genocide including political, social, cultural, economic, biological, physical, religious, and moral facets of a threatened group, nation or ethnicity etc. Lemkin’s definition of cultural genocide is as under (Nersessian, 2005):-

A coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be **disintegration** of the political and **social institutions**, of **culture**, language, **national feelings**, religion, and the economic existence of national groups, and the destruction of the **personal security**, liberty, health, **dignity**, and even the **lives** of the individuals belonging to such groups. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group. (Emphasis added).

Conceptually, Lemkin aspired to preserve the traditions of an ethnicity/culture, especially those from minority cultures. Effort to alter the cultural norms by persuasion or force are undesirable under the terms of genocide. As mentioned above Galtung called Pashtuns as “the largest stateless minority”, which means that their culture, traditions and norms need not only to be preserved but respected – something Brits probably understood but has been altered by 2011 amendment in FCR. Fire arms being part of their tradition and to a great extent their “dress”, needs to be preserved as such.

Yet another rather interesting aspect of the issue is that the official dress code for tribes of FATA has been recognized by FATA Secretariat in these words, “The tribesmen wear their traditional clothes, which includes a large turban and a rifle on the shoulders” (FATA, 2016b). This official recognition coupled with imposition of FCR amendment in 2011 effectively proves classic Cultural Genocide. Galtungian Cultural Violence (due to presence of rifles as part of dress code) causing Structural Violence to curb the possession, display and carriage of weapons has resulted in Cultural Genocide effectively by enforcing changes in traditional and cultural dress code.

Cultural contours of the region remained pristine till the Russian invasion of Afghanistan in 1979, which followed almost four decades of reign of terror, chaos and turmoil in the region. Multiple actors used and misused the 32000 square Kilometers of FATA lands to their benefit, considerably altering the cultural fabric of tribal life. Now, when the contenders of peace are trying to calm the situation in Afghanistan, an effort is underway to pay special attention to peacebuilding in FATA. In order to have lasting and fruitful results local cultural norms and values are being violated which need to be respected.

Survey

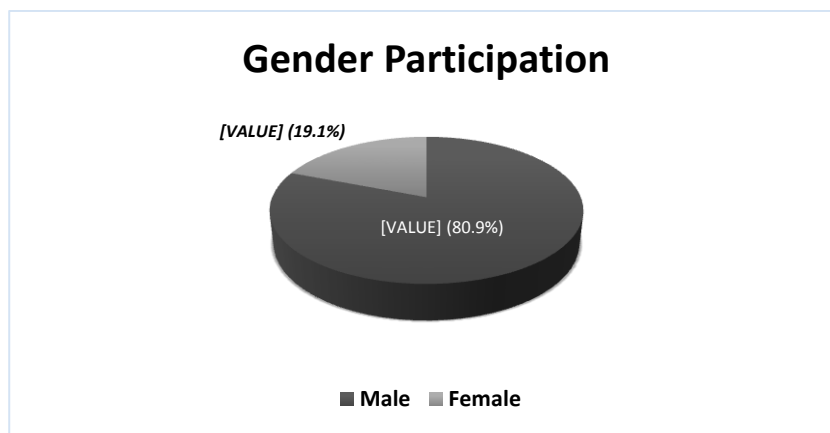
Even before the passage of FCR Amendment of 2011, Provincial as well as Central governments have been trying to confiscate weapons in FATA (Ali). Prior to the American invasion of Afghanistan the history of weapons in these regions were about to get a legal status as the government decided to declare the illegal weapons market to become an officially recognized industry (Hussain). Intermittent rules and laws have been devised without the consent of residents. In order to ascertain the local sentiment and desire to own or not to own firearms, a survey was conducted from November 10 to December 5’ 2015 in all seven agencies of FATA asking following question and responses:-

Have you, or would you give up your firearms willingly?

- 1. Yes*
- 2. No*
- 3. No Answer/Don't Know*
- 4. I Never Owned Firearms/Weapons*

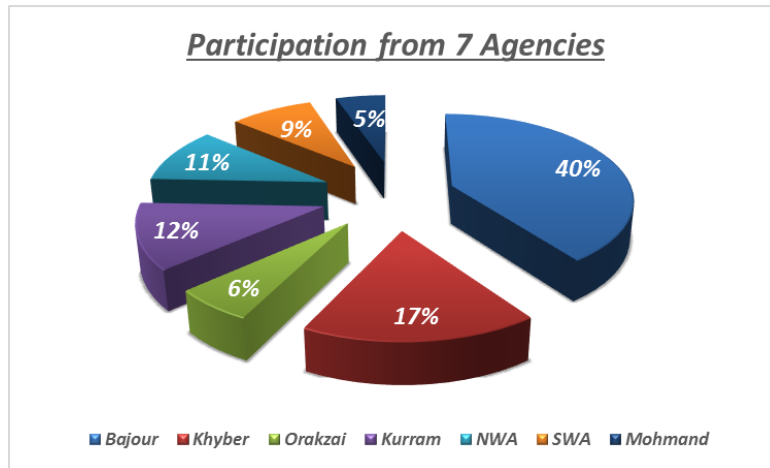
A total of 115 respondents participated in the survey, which included 93 males (80.9%) and 22 females (19.1%). Females were added in the survey for the reasons of availability and access and for the measure of sentiment only. It is not an indicator of their power to exercise any control on possession or otherwise of firearms within a house hold.

Graph 1



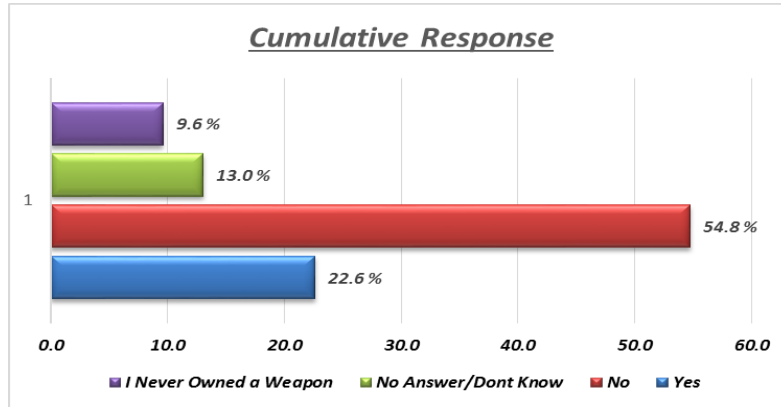
Participation varied from 5% to 40% between all seven agencies of FATA as shown below.

Graph 2



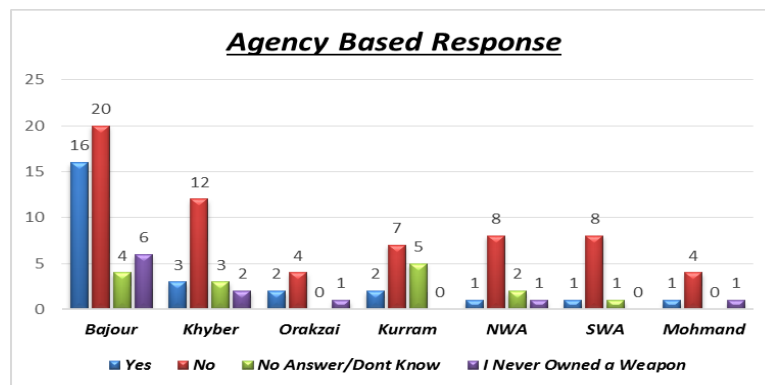
The Cumulative results showed 54.8% of respondents refusing to give up their arms willingly which is a clear majority. Respondents included 13% not giving any answer due to number of reasons ranging from caution to admit their unwillingness to give up firearms or hide their cultural “weakness” or being genuinely confused about abandoning their power, identity, security symbol i.e. firearms. A sizable percentage of 22.6% are however willing to give up their firearms in the larger interest of “peace” even at the cost of cultural alienation. The ‘first mover’ problem may yet be another aspect in the response. ‘Pashtunwali’ demands all men to follow the traditions and (presumably) being the first one to give up firearms may be considered rather a shame.

Graph 3



Although the survey participation from South Waziristan and North Waziristan was not the highest, however the area where Pakistan Army has launched multiple military operations, showed highest number of persons desirous to hold on to their weapons. Despite the fact that the large and prolonged presence of Pakistan Army should have given them a hope and sense of security, this is rather turned out to be opposite. While absence of a secure living and working environment has been an area of serious concern in almost all agencies (not to mention the rest of the country), the percentage of those desirous to retain weapons remained highest in these two agencies.

Graph 4

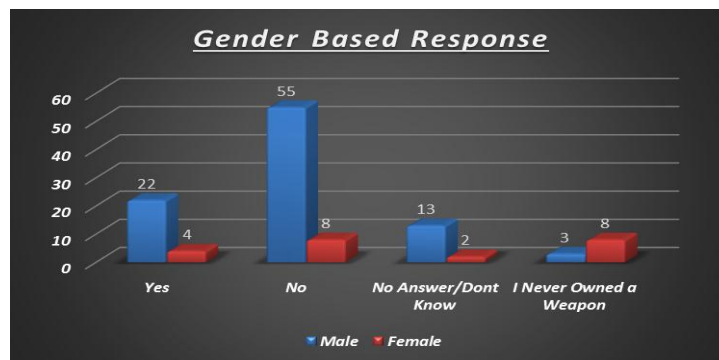


A total of 8 respondents amongst females and 3 amongst the males never owned any weapons. Non possession of weapons in case of females does not necessarily mean absence of weapons from that household (since male members of family usually possess arms). However, in case of male participants, generally it

can be assumed that the household doesn't possess any firearms. Or, these male respondents hesitated in responding to the possession of arms.

As an interesting surprize, 36% of the female respondents were found unwilling to hand over their weapons. Besides being an insecurity indicator, this also shows the cultural and traditional desire to own weapons. Total of 15 (13 males and 2 females) refused to answer the question or didn't know how would they respond if asked to give up their arms. To some extent this may be an effort to avoid confession of possession of firearms or a "survey fatigue" (due to excessive number of surveys/studies by multiple NGOs, INGOs, governmental organizations and scholars etc.).

Graph 5



Conclusion

This paper has aspired to theoretically analyze Johan Galtung's concept of *Cultural Violence* in comparison to Rafael Lemkin's perspective on *Cultural Genocide* and substantiating it with a survey showing local sentiment in FATA on abandonment of firearms. Possession of weapons as instruments of culture and tangible means of self defence in FATA is age old tradition which is entrenched deep into the ethos of these tribesmen and women. Exclusionary policies and dogmatic agendas directly addressing cultural sensitivities can only cause cultural genocide least of all bring cultural peace. Any enforced alteration in cultural patterns is highly susceptible to stiff (even armed) resistance and create resentment. Multi-year peacebuilding projects by the government as well as NGOs and INGOs may rather prove counterproductive. There is a proposal to integrate FATA into main stream, this can only be achieved through an inclusive approach. The study needs to be enhanced exploring further details of cultural attachments to certain traditional patterns before enforcing new regulations. Should the government

try to enforce main stream laws pertaining to firearms, a preferable way would be to demand registration of all weapons from FATA residents. This would help FATA cultural identity retention and due to tribal/agency pressure would warrant maximum (if not 100%) registration of weapons.

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**War and Game Theory: Reflecting on the War on Terror on the
Pakistan-Afghanistan Borderland**

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Muhammad Ayub Jan &
Ghazala Rafi*

Abstract

James P. Carse in *Finite and Infinite Games* defines finite a game that is played to win between two exclusive opponents within an established period of time and according to agreed-upon rules. There is one winner and one loser. There is much in international diplomacy that seems to fit this model. Carse introduces a second category that he calls infinite games—games that are played without time constraints or specific rules; the goal is simply to continue the game. The effort to strengthen the relationship between parents and a child might be an example, where the focus is on the relationship rather than exclusive agency, and the goal is to deal effectively with complex situations as they arise. Can this distinction be used productively to theorize the ongoing violence and terror that is consuming Pakistan? This article engages game theory and demonstrates that the Pakistan Army and the Taliban exhibit quite different understandings of and strategies for the ongoing war. It is this difference in understandings that underpins the inability to engage each other and also explains why this war has become protracted.

Introduction:

The War on Terror is essentially “asymmetric warfare” (Thornton 2007). The Taliban are fighting it as a drawn-out war, while the armies of Pakistan and the United States plan to contain it in a temporally delimited framework. We can engage James P. Carse’s game theory to make sense of this asymmetric warfare in its conceptual understanding (Carse 1997). The theoretical paradigm that Carse provides enables us to read the warfare’s asymmetry and therefore its indecisive character. The general starting assumption is that the Taliban have been playing an infinite game while the two armies a finite one.

The Taliban have long-term stakes. They have been fighting not just because they like to fight, but because they have a cause: to implement an Islamic state system on the borderland and subsequently in neighboring countries. We need not forget that they established one in Afghanistan during the 1990s. Today, however, their cause might not be accepted as legitimate or realizable but still they do not stop from waging the perpetual war for their cause. Because the creation of their version of an Islamic state in the region is a tremendous goal, their understanding of war (*jihad*) is

“infinite.” It is because of this understanding that the Islamic teachings that emphasize lifelong *jihad* are stressed to their followers. My argument here is that because their goal is infinite, their entire understanding and organization of war is infinite. It is the latter that I focus on in this essay.

Finite Versus Infinite in the Asymmetric warfare

Symmetry is not about quantity but about quality. Asymmetric “does not mean unequal.” It rather “implies a relationship that cannot be considered to be alike” (Thornton 2007, 4). Christopher Bellamy defines asymmetric warfare in the following words: “Whatever differences there may be in numbers and quality, conventional military forces are still designed, trained, and equipped to fight near mirror images of themselves; forces with broadly similar infrastructures. A true asymmetric conflict is where the means used are quite different” (Bellamy 2002, 152). In a similar vein Roger Barnett writes, “True asymmetry [involves] those actions that an adversary can exercise that you either cannot or will not” (Barnett 2003, 15). While Bellamy and Barnett define asymmetric warfare from actions and means point of view, Steven Metz and Douglas Johnson present a more holistic view. For them asymmetric warfare is:

[A]cting, organizing and thinking differently than opponents in order to maximize one’s own advantages, exploit an opponent’s weaknesses, attain the initiative or gain greater freedom of action. It can be political-strategic, military-strategic, operation or a combination of these. It can entail different methods, technologies, values, organizations, *time perspectives* or some combination of these. (Metz and Johnson 2001, 5) (Emphasis mine)

What interests us in the last definition is the reference to time perspective, which I think gives this formulation a broader and more basic understanding of asymmetric warfare. Now if we engage James P. Carse it will help us generate a more paradigmatic way of defining and thinking about asymmetric warfare. Let us first address the question, often raised after engaging game theory, whether war can be treated as a game. We think yes. Carse, for instance, cites the example of World War II. He sees war as a game and not outside the frames of application of game theory. On a broader and more basic level, temporal, spatial and numerical dimensions of warfare need our emphasis to read their symmetry. While we agree that current geopolitical conflicts between states and insurgent groups have asymmetry in actions and means used on two sides, what appears clearer is the understanding that the two sides have of the temporal and spatial aspects of their entanglement in these conflicts. For instance, the American and Pakistani armies plan operations which are bound by time frames and geographic areas, as well as by the capacity to mobilize soldiers, units, etc. On the other hand, insurgents and the Taliban fight without temporal and spatial bounds, and they do not take account of their fighting strength in calculated figures. Even when

they have plans, which remain not formalized or institutionalized and are very much improvised; these are like small, finite games inside the larger infinite game.

From the vantage point of Carse's theory of finite-infinite games we can describe the asymmetric warfare as juxtaposition of finite game against infinite game. In other terms, asymmetric warfare is a conflict between parties one of which employs the infinity of temporality, spatiality and numericity while the other remains circumscribed in its self-made temporality, spatiality and numericity.

Before we begin to explore the temporal, spatial and numerical dimensions of the asymmetric warfare on the Northwestern frontier of Pakistan, I want to foreground one basic aspect of finite and infinite games as well as that of restricted and unrestricted warfare. Carse points out that finite games have rules while infinite ones don't: "A finite game is resolved within the context of its rules...The rules exist to ensure the game is finite." In infinite games "rules exist to ensure the game is infinite," and rules are flexible enough to "be changed to allow continued play." The nature of contemporary conflicts, for instance the War on Terror and other insurgency wars in the region, demonstrates this fact. Armies normally exhibit a conventional understanding of war, which has specific rules (not necessarily the ethical ones, but the rules of game). On the other hand, insurgents like the Taliban fight without the bounds of rules. In their short and concise book, *Unrestricted Warfare: China's Master Plan to Destroy America*, about the nature of current conflicts faced by the United States, Chinese army officers Qiao Liang and Wang Xiangsui call such conflicts "unrestricted warfare" (Qiao and Xiangsui 2002). Colonel Qiao in an interview put it clearly: "the first rule of unrestricted warfare is that there are no rules, with nothing forbidden." He claims that not having respect for rules can be attributed not only to insurgents, but also to states: "The United States breaks [UN rules] and makes new ones when these rules don't suit [its purposes], but it has to observe its own rules or the whole world will not trust it" (Qiao and Xiangsui 2002, 3).

Temporal dimensions of the Asymmetric Warfare in Pakistan:

"A finite player puts play into time. An infinite player puts time into play."

---(Carse 1997, 95)

"NATO has all the watches, but we have all the time," says a Taliban spokesman.

---(Shinn 2009)



Figure: David Klein's Illustration in "NATO has all Watches," Courtesy WSJ.

The War on Terror has become an "unending" war and many time frames given by the NATO forces to wind it down have only proven frustrating. Pakistani participation in the War on Terror is also becoming increasingly frustrating, sapping public patience and military endurance. In this section we draw attention to three temporal dimensions, or dissymmetry, of the engagement on the battleground between the state armies and the Taliban.

Temporal Boundaries: External Time against Lived Time

I want to begin with the above cartoon by David Klein. As Obama *views* his wristwatch while a *Talib* (singular form) sits outside the hourglass, it represents fairly well what Carse has to say about time-dissymmetry among the finite and infinite players: "The infinite player in us does not consume time but generates it. Because infinite play is dramatic and has no scripted conclusion, its time is time lived and not time *viewed*....Time does not pass for an infinite player"(Carse 1997, 94). The Talib is sitting outside the clock-time. He sits in the "lived time." The gun in his hand instead of a watch defines his preoccupation—gun (jihad) is his time, his calendar. Like a Chinese calendar, which measures years and ages with reference to events and objects, the Taliban measure time with reference to war events. The lived time is measured not by a clock (the Western way of measuring time) but by the event itself as Carse explains: "For an infinite player there is no such thing as an hour of time. There can be an hour of love, or a day of grieving, or a season of learning, or a period of labor" (Carse 1997, 94). Similarly, for the Talib sitting outside the hourglass, war is not commanded (divided and controlled) by time. Conversely, it is the war that commands time and constitutes a period whose time dimensions are immeasurable. For instance, the War on Terror is now being realized as an "endless" war. Thus the primacy is not the time itself but the event that gives meaning to time, "its specific quality" (Carse

1997, 7). In this line of argument then, we can say that Western (Pakistan follows that too) time is clock-time while the Taliban time is eventual (from event) time. The difference between the two can be further understood by the following categorization by Carse:

While finite games are externally defined, infinite games are internally defined. The time of an infinite game is not world time, but time created within the play itself. Since each play of an infinite game eliminates boundaries, it opens to players a new horizon of time. For this reason it is impossible to say how long an infinite game has been played, or even can be played, since duration can be measured only externally to that which endures. (Carse 1997, 7)

The often-quoted Taliban remark, which I mentioned above as one of the epigraphs of this section, instructs about this difference between the Taliban and their Western and Pakistani adversaries. The former give primacy to the event itself from which time will gain its meaning, while the latter seek to contain the event within their clock-time. Pakistan's War on Terror in the Northwestern frontier and the American one in Afghanistan are cases in point. Both plan military operations whose time dimensions are fixed. The operations also have fixed funding. Even if victory is not achieved at the end of an operation, it is nevertheless unilaterally declared because they run out of their operation-time. Hence victory is a "scripted conclusion," in the sense that like the beginning and other details of the plan, it is always already on the script. Carse calls these operations theatrical: they have scripts, players and an audience.

Military operations like any finite games have a precise beginning and definitive ending, which are temporal boundaries. For instance, each time the Pakistan Army launched a military operation, it announced the timeframe in a press conference. Accordingly, press conferences like these demonstrate the theatrical dimension of operations. A time frame announced in press conferences is often tentative, primarily because it is addressed to domestic and foreign audiences, however, it gives the idea that operations are temporally limited. On the other hand, for the Taliban, it is time of jihad—there is no beginning or ending. As a result, it is difficult to tell when this jihad began: after the American invasion of Afghanistan, during the 1990s Afghan civil war, during the Cold War, or during colonial rebellion movements.

An argument can still be made that the Taliban also do make plans, but we counter-argue that their plans need to be understood as certain finite plans within the larger strategy of their infinite *jihad*. Carse gives us a good explanation of this argument: "Finite games can be played within an infinite game, but an infinite game cannot be

played within a finite game. Infinite players regard their wins and losses in whatever finite games they play as but moments in continuing play” (Carse 1997, 7).

Protraction against Acceleration in Warfare

Engaged in operations on the Northwestern frontier of Pakistan, the Army has the capacity and propensity to achieve acceleration, to speed up, and to push to the victory. On the other hand, the Taliban engage in reverse tactics—slowing down and protracting the conflict. This tactic not only demonstrates asymmetry in the ongoing war, but works in favor of the latter. The reason for the acceleration-against-protraction tactic can be figured by juxtaposing Paul Virilio’s theorization against Mao Tse-Tung’s. Virilio, the theorist of speed in warfare, argues that historically, improvements in warfare have constantly followed the imperatives of acceleration. The victory has gone to the party which has had greater capacity for generating speed/acceleration as well as ability to effectively exploit it (Virilio 2006). Virilio’s thought stretches as far back as Sun Tzu, who wrote: “War is such that the supreme consideration is speed” (Tzu 1993, 157). On the other hand, Mao, partly due to peculiar conditions in his own country, developed a different model of warfare that depended on opposing the accelerated tactics. He made slowness, protraction, and careful use of weakness of the adversary central to his warfare strategy, which was developed to engage a much stronger enemy (Tse-tung 2014). Similarly, we see that the Taliban, faced with this type of enemy, employ the tactics of exhaustion and protraction aiming at draining the energy, resources, and support of their adversaries. Their strategy is to render the frontier borderland (and Afghanistan) ungovernable--where putting more resources would appear to be wasting them and result in the exhaustion of the armies. As Sun Tzu writes, “A state is impoverished by its armies when it has to supply them at a great distance” (Tzu 1993).

Element of Surprise in Warfare

Surprise has been one of the significant elements of conventional warfare. For instance, Sun Tzu, in *The Art of Warfare*, says, “Generally in battle use the ‘straightforward’ to engage the enemy and the ‘surprise’ to win the victory” (Barnett 2003, 119). Similarly, Carse argues that in finite games surprise ensures victory. On the other hand, in infinite games (the asymmetric warfare) surprise has a different significance since victory or defeat is not the end:

Surprise in finite play is the triumph of the past over the future...Infinite players, on the other hand, continue their play in the expectation of being surprised. If surprise is no longer possible, all play ceases...Surprise in infinite play is the triumph of the future over the past. Since infinite players do not regard the past as having an outcome, they have no way of

knowing what has been begun there. With each surprise, the past reveals a new beginning in itself. Inasmuch as the future is always surprising, the past is always changing. (Carse 1997, 18)

For all finite games players are trained and strategies detailed to reduce the risk of surprise. In fact, training aims to making players “Master Players”: “to be so perfectly skilled in their play that nothing can surprise them, so perfectly trained that every move in the game is foreseen at the beginning. A true Master Player plays as though the game is already in the past, according to a script whose detail is known prior to the play itself.” This focus on training and details of making strategy before going to the play is reminiscent of Sun Tzu (see that “Sun” means master in Chinese) instruction about great commanders: “the expert in using the military subdues the enemy’s forces without going to battle, takes the enemy’s walled cities without launching an attack, and crushes the enemy’s state without a protracted war” (Tzu 1993, 92)

Modern armies are trained and equipped to make them Master Players and to eliminate surprise. Let me point to three different schools of thought in war philosophy. First, the mainstream Western philosophy of war does not think that it is possible to master, that is, completely plan and control, the event of war because of surprises. For instance, Clausewitz, who is regarded as the father of modern Western war philosophy, warns strategists about what he calls “friction”—that is difficulties in foreseeing and manipulating the progression of war. He gives *chance* an important value in the equation of success or defeat. Second, it is in Chinese classic war philosophy, which is still read today in war colleges around the world, that the element of surprise or friction are also thought to be controllable. Thus, the old Chinese war philosophy attempted to eliminate the element of chance by preparing the right combinations that could allow army to attain strategic advantage (*shi*). Third, in the recent asymmetric warfare against terrorism, it is the non-state actors who wage a war that rests on the idea that the element of chance/surprise should be made internal and something from which to benefit. Therefore, they fight like infinite players, for whom surprise is what constitutes and continues the game.

I further draw attention to the element of death in game theory as a kind of surprise in finite play, but not infinite play. As Carse writes, “Infinite players die. Since the boundaries of death are always part of the play, the infinite player does not die at the end of play, but in the course of play. The death of an infinite player is dramatic. It does not mean that the game comes to an end with death; on the contrary, infinite players offer their death as a way of continuing the play” (Carse 1997, 24). Again, he writes, “Infinite players play best when they become least necessary to the continuation of play. It is for this reason they play as mortals” (Carse 1997, 26). In 2007 NATO forces killed one of the top leaders of the Taliban, Mullah Dadullah, and it was expected that his death would be their defeat. That did not happen. Waheed

Muzhda, a former Taliban official explained: “The Taliban are used to this. When Mullah Dadullah was killed, some people thought that the Taliban would give up. But it didn’t happen, because the Taliban are waging an ideological war, and in an ideological war, this kind of thing doesn’t have a big impact” (Ghosh 2010, 29).

Spatial dimensions of the Asymmetric Warfare in Pakistan:

“The terrorists are nowhere and everywhere,” Lt. Col. Nisar Mughal said as he looked out on a landscape devoid of people, crops, animals or any sign of normal life [in Makeen, South Waziristan]. “This is a strange kind of warfare.” (Perlez and Shah 2010)

There is in fact a profound difference in the understanding and use of space by the Taliban and the armies. The above statement by a Pakistani soldier demonstrates shock and an inability to come to terms with the expanse of the battlefield. In traditional military training, soldiers are taught that the battlefield is limited, circumscribed and calculable space. In effect, one of the old preoccupations of militaries involving their “geographical politics” has been, according to Paul Virilio, “complete unveiling” of the (world) battlefield (Virilio 1998, 22). This has entailed scanning geographical space in all three dimensions, thanks to the development of scanning technology. The finite dimensions allow military commanders to plan strategies and deploy soldiers with effective organization. On the other hand, the battlefield is an infinite expanse for terrorists. In fact, the battlefield is not a given and predetermined space where encounters should take place. As Carse explains, time is produced in the infinite game rather than outside it; space in infinite warfare is also produced from within. Moreover, since the space is produced from within and/or with movements of the warrior the battlefield keeps on expanding.

To shed more light on the dissymmetry of space or spatial understanding and the exploitation between finite and infinite warfare, I turn to Deleuze and Guattari who in their *Treatise on Nomadology: The War Machine* invoke game theory to explain this dissymmetry (Deleuze and Guattari 1987). Although the war machine is a complex concept, in its simplest terms it can be equated with modern insurgent groups or infinite warriors.

Just as Carse talks about how infinite players/warriors produce space Deleuze and Guattari call it “construction.” Comparing the strategy of the pieces of Go with those of chess, Deleuze and Guattari observe that the former *construct* their territory. They proceed from within, avoiding confrontation, seeking infiltration. Deleuze and Guattari also name this strategy “the insertion.” On the other hand, chess pieces in

principle seek confrontation. They move from without, conquering, capturing or covering as many spaces as possible (Deleuze and Guattari 1987, 352–354). Just like the pieces of Go, the Taliban produce or expand space/battlefield by avoiding face-to-face confrontation because confrontation leads to concentration of men and logistics. Therefore, it leads to delimiting the spatial encounter. Even when they confront the army, on some occasions they pursue a hit-and-run encounter in order not to delimit their space/battlefield.

Carse's finite and infinite understanding of space can be compared with Deleuze and Guattari's smooth and striated spaces. The former is constructed by the "war machine" and the latter by the State (army). The smooth space is unlimited, infinite space like that of ocean, desert, and mountain ranges. The striated space refers to limited, finite space, like the spaces of a state that are divided and controlled by law, authority, and customs. These two spaces are different in nature and therefore enact different patterns of movement and warfare. Deleuze and Guattari compare the space in chess with space in Go and call the former a striated space while the latter a smooth space:

[T]he space is not at all the same: in chess, it is a question of arranging a closed space for oneself, thus of going from one point to another, of occupying the maximum number of squares with the minimum number of pieces. In Go, it is a question of arraying oneself in an open space, of holding space, of maintaining the possibility of springing up at any point: the movement is not from one point to another, but becomes perpetual, without aim or destination, without departure or arrival. The "smooth" space of Go, as against the "striated" space of chess. (Deleuze and Guattari 1987, 353)

The quote from Deleuze and Guattari identifies two major spatial dimensions: 1) organization of/in space and 2) movement in space. Under the first dimension we see the typology of the space divided into striated and smooth spaces and the strategy of arranging against and arraying in those spaces respectively. Under the second dimension we analyze perpetual movement as strategy, the mode of springing up (exhibited by the Taliban) against marching (exhibited by the Army), and the mode of renouncing (exhibited by the Taliban) against retreating (exhibited by the Army).

For Deleuze and Guattari "the space is not all the same," because the space in chess is coded and regulated while in Go it is least coded. The former constitutes what

they call “striated space” while the latter constitutes the “smooth space.” On the other hand, we know that they compare Go with the war machine and chess with the State. In this way, the war between the war machine and the State is like war between the pieces of Go and chess. And the battlefield is a juxtaposition between the smooth and striated spaces. This exactly is the situation on the real battleground of the Northwestern frontier of Pakistan where the Taliban confront the Army. The Taliban make a war machine and move in the “lawless borderland” (the smooth space). The Pakistan Army, on the other hand, makes a state army, which moves in legal territory, holds it, and helps the State to expand it by capturing the lawless space. This confrontation between the Taliban war machine against the Army, like the juxtaposition between Go and chess, is what makes it asymmetric warfare.

The Pakistan Army stations a limited number of soldiers on the Northwestern frontier. They are normally strategically positioned, because the Army has to *arrange* the space so that it closes and covers it. Forts, compounds, outposts, and check-posts are the material consequence of this arranging. However, in doing so it has successfully covered only major towns, villages, and highways. On the other hand, the Taliban are also limited in numbers, but must spread themselves so that they seem to be “everywhere.” Their strategy is to spread themselves in the mountain ranges and valleys to open, expand, and thus hold them. In other terms, in arraying “space is occupied without being counted,” and in arranging the “space is counted in order to be occupied” (Deleuze and Guattari 1987, 362). Thus, they *array* themselves in the borderland against the arranging of the Army.

By arraying themselves on the smooth space of the mountainous tribal borderland, the strategy of the Taliban is not only to avoid confrontation, but also to make movement a “pure strategy” (Deleuze and Guattari 1987, 353). Making movement pure strategy means ease of movement, non-departing, and unimpeded by the borders. The ease of movement is due to their logistical lightness compared to the Army, whose movement is laborious, energy-consuming and time-intensive. As early as the eve of 20th century, the British Army encountered this problem in its wars against the restive tribes in this mountainous borderland. Winston Churchill, who was commissioned in Malakand Field Forces and sent to Swat Valley, wrote about the difficulties of Army movement in this borderland: “People talk of moving columns hither and thither as if they were mobile groups of men who had only to march about the country and fight the enemy wherever found; and a very few understand that an army is a ponderous mass which drags painfully after it a long chain of advanced depots, stages, rest camps and communications, by which it is securely fastened to a stationary base. In these valleys, where wheeled traffic is impossible, the difficulties

and cost of moving supplies are enormous” (Schofield 2009, 111). One hundred years after Churchill’s experiences, the Pakistan Army is faced with similar logistical problems and the Taliban know how to use this mountainous territory for their advantage.

Their movement is non-departing because it is more akin to nomadic movement. Pakistani, as well as American, generals believe that their military operations (and in the case of the latter, drone attacks) keep the Taliban on the move. This claim has some validity, however, it is not operations or drone attacks that keep them on the move. Instead, it is pure strategy to cope with these attacks. Moreover, they do not depart the borderland, like the nomads do not depart the smooth space. Supporting Toynbee’s thesis that the nomad is one who does not move, Deleuze and Guattari write “the nomad is one who does not depart, does not want to depart, who clings to the smooth space...the nomad moves, but while seated, and he is only seated while moving.” The nomad who has the territory and paths and moves with speed does not depart or arrive because the space is infinite. Departure and arrival cannot be measured in a space which resists spatial measurement dimensions.

Because the mountain ranges run into Afghanistan, the Taliban move unimpeded through the border from and to Afghanistan. A report says that in January 2009 “hundreds of Taliban militants poured into northwestern Pakistan in a large frontal attack on...an outpost of the Frontier Corps paramilitary force in the Mohmand...in a reversal of usual patterns, it involved a large number of Taliban forces from Afghanistan attacking into Pakistan” (Cloughley 2008, 203). One senior Pakistani official commenting on this attack refers to the criticism that Pakistan received from the coalition forces in Afghanistan for not controlling the Taliban says that it “might shut [them] up” now (Cloughley 2008, 203). The fact is that for the Taliban the Afghanistan-Pakistan mountainous borderland (or the Northwestern frontier) is a “smooth space,” and their movement is not from one side of the border to the other; there are in fact no sides or the border. Ambrose Dundas, who served as Governor of the North West Frontier province in 1948-9, writes how the infinite/smooth space of the mountainous country does not give itself to the drawing of borders. He writes that the contemporary border “is a vague sort of line, sometimes following watershed, and sometimes not. There is the same mountainous tangle of country on both sides of it, and nowhere is there anything artificial or natural to tell you when you have reached it” (Quoted in Schofield 2009, 60)

Go pieces and nomads renounce the territory--“deterritorialize oneself by renouncing, by going elsewhere” (Deleuze and Guattari 1987, 353)—while the chess

pieces and the Army retreat from the territory, for example an advance position, to its original position. Like Go pieces and nomads the Taliban deterritorialize themselves and go elsewhere. This phenomenon has by now become visible in numerous military operations carried out on the tribal borderland since the beginning of the War on Terror. For instance, when the Army marched into Swat Valley, the Taliban gave it up and went into the neighboring tribal agencies of Bajuar and Mohmand. When the Army marched into Bajuar and Mohmand, they moved to south to Khyber, Orakzai and Waziristan agencies. From South Waziristan, as the Army marched in, they moved upward to North Waziristan.

Conclusion:

*He who knows the enemy and himself
Will never in a hundred battles be at risk.*

--Sun-Tzu (3:113)

The war on terror has become an asymmetric war because we, although powerful, do not understand the enemy well, while the enemy, although weak, understands us well. The military strategists' reliance on modern technology and sophisticated weapons that generate speed, precision, and lethality might be quite effective in traditional warfare, but they are almost useless in the infinite war. The enemy's poor technology and weapons are on the other hand quite suitable to the infinite war. I feel provoked to summon Arthur C. Clarke's militarily instructive fiction, *Superiority*, for a lesson here. The fiction's setting is a distant future. It is written from the perspective of a captured military officer who sits in a prison cell of the enemy. He narrates how his side lost a war despite having better weapons. He recalls and says, "We were defeated by one thing only—by the inferior science of our enemies." "I repeat, by the inferior science of our enemies" (Arthur C. Clarke 1997, 110). As his side keeps developing new technologies in the hope of changing the battlefield and terms of warfare, they were unable to use their technology in the battlefield that also changes with war. The inferior side takes advantage of their weakness and eventually wins. In the context of the War on Terror, modern technologies are proving unsuitable. These technologies develop speed, lethality, and precision, but what we actually need are the technologies to counter slow, protracted, and spatially expanded war.

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Relationship between Operational/Organizational Stress and Family Distress in Police Officers from Anti Narcotic Force (ANF) Rawalpindi, Pakistan

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Abstract

Police is the backbone of law enforcement agencies that is becoming a hub of immense stress and frustration due to the prevailing situation in Pakistan. Thus, this research was carried out to unveil the underlying stressors in the police department and to explore if these stressors are encroaching and invading their family lives and affecting them in any way. A quantitative research was carried out for this purpose. Two questionnaires were used in this research; police stress questionnaire and Index of family relations. 150 police officers recruited in ANF police stations in Rawalpindi were approached for the research purpose. The results of the study showed a strong correlation between operational Stress and family distress in police officers ($r=0.33$ and $p<.001$). Simple regression analysis showed that operational stress is a strong indicator of family distress in police officers ($\beta=-.030$, $p<0.01$). This research indicates the existence of occupational stress in police officials that can lead to high family distress. As police job is dangerous and stressful in nature this aspect cannot be eradicated therefore the need of the hour is to introduce useful interventions for controlling and managing these stressors. This can help identify the elements of occupational stress and family distress and educate the police departments on how to overcome and manage such huge amounts of stress and distress among their employees.

Key Words: Police Stress, Family Distress, Punjab Police Pakistan.

Introduction and Literature Review

Research in the area of police stress has defined, stress as a state that is forced on a person from outside giving rise to physical and mental distress to some extent (Miller, 2007). A number of occupational stressors have been observed such as work-family conflict, work load, lack of appreciation, apprehension of severe injury or being killed on duty, insufficient tools, shooting someone as a part of duty, conflict with the public, lack of job satisfaction, the work environment, workplace problems and Police hierarchy (Selokar et al, 2001). Same types of stressors including low pay, irregular sleep schedules, shift work, role ambiguity,

role boundary, limited staff and resources, safety hazards, physical strains, bad health and lack of opportunities for growth have been observed in police throughout the world (Matt Nesvisky, 2014; Violanti, 2005; Richard Matthews, 2011; Osipow & Spokane, 1998; Roberts & Levenson, 2009 & Kop, Euwema, & Schaufeli, 1999). The research idea came from observations from the literature review that police officers who are emotionally burnt out are likely to exhibit anger, experience stress and anxiety after returning from work (Naz and Gavin, 2013, Irshad, 2008). Therefore, this research was carried out to investigate the relationship between police job stress and family relationships. It explored the impact of occupational stress on family relations, thus also looking at the factors contributing to family distress and aims at identifying measures to address occupational stress in family context.

The previous findings also suggest that stress affects the police officers as well as their families (Sever and Cinoglu, 2010). Literature in Pakistan also suggests high levels of stress. One study found that 80% of the Khyber Pakhtoonkhwa police officers had high scores on the burnout scale and 55% had scored high on stress scale (Irum, 2008). In addition, Naz and Gavin (2013) highlighted role of operational procedures in police work as major contributors towards stress.

Work-family conflict is found to be one of the major stressors that can impact the functioning of family due to work-role stressors, social support at work and work distinctiveness (Michel et al. 2001). Sever and Cinoglu (2010) found that highly stressful officers are 4 times more likely to commit domestic violence. Police stress was a leading cause of the high divorce rate in Police officers (Burgin, 1978) and other problems like violence with family members have been identified as an outcome of this occupational stress.

In Pakistan, at Federal level the police forces include Federal Investigation Agency, National Highways and Motorway Police, Pakistan Railways Police and Anti-Narcotics Force. The regional level forces are Capital Territory Police, Islamabad Capital Territory, Punjab Police, Sindh Police, KP Police and Baluchistan Police (Ellahi, 2002). These huge numbers of forces are also indicators of greater occupational stress thus affecting their family relations. Due to the ever changing and volatile social and political conditions in Pakistan risk and danger for the police is considerably increasing thus giving birth to high stress rate among the officers.

The current research aims at exploring the occupational stress experienced by the police officers of ANF Rawalpindi and how it is affecting their family ties. The findings can help identify the stressors that may lead to unhealthy family

relations and also bring about some important reforms. The findings of the current study help in unveiling the contribution of work stressors on family relations.

Research Questions

1. What is the prevalence of operational/organizational stress and family distress among police officers of ANF?
2. What is the relationship between operational/organizational stress and family distress?
3. Is there any difference in experiencing operational/organizational police stress and family distress among police officers of ANF based on their years of service?
4. Is there any difference in experiencing operational/organizational police stress and family distress among police officers of ANF based on their ranks?
5. Is there any impact of operational stress on family distress?

Hypothesis

- There will be a high level of operational/organizational stress as well as family distress in police officers.
- There will be a positive relationship between operational/organizational stress and family relationships.
- There will be a difference in experiencing operational/organizational stress in terms of years of service in police officers.
- There will be a difference in experiencing operational/organizational stress in terms of ranks of police officers.
- There is an impact of operational stress on family distress.

Method

Design

This was a correlation study using survey design which looked at the relationship between operational/organizational stress and family relations of the Police officers in ANF, Rawalpindi.

Sample

A sample of 150 police officers was approached through convenient sampling from the Department of ANF Rawalpindi. Participants ranged in age from 25-40 years. All the participants were male as the female officers were really limited in number and were not included in the present study. All the officers were

selected from two police stations and a general head quarter of ANF located in Rawalpindi. The consent form for this study was provided by the Senior Authority of Anti Narcotics Force. Three gate keepers provided access to all the officers and helped in the collection of data.

Exclusion Criteria

Following was the exclusion criteria for this study

1. The Women Police officers were not made a part of this study because of the scarcity of the recruited women police in the ANF department.
2. This study was just limited to the police officials and the army personals serving the ANF department. Secondly, this study aimed at just exploring the experiences of the police officials only.
3. Only the officials of ANF Rawalpindi were selected. Islamabad ANF officials were not approached due to huge differences in their experiences.
4. The officials having less than 5 years of service were not made a part of the study due to their lack of experience in this particular field.

Instruments

Following instruments were used in this study in addition to consent letter and demographic information sheet:

1. Police Stress Questionnaires

The Police stress Questionnaire comprised of two scales that are The Operational Police Stress Questionnaire (PSQ-Op) and the Organizational Police Stress Questionnaire (PSQ-Org). These two scales together measure the "Occupational stress in Policing". The PSQ-Op and PSQ-Org both contain 20-items each and can be used either independently or collectively. There is no formal scoring method for PSQ, the mean of each scale is considered to be a cut off score and the participants scoring higher than the cutoff score are considered to be experiencing high level of stress where as those scoring below the cutoff score are considered to be experiencing low level of stress. In this study the mean for PSQ-OP was 95 and for PSQ-ORG it was 96, thus the participants scoring above this mean were considered to be highly stressed.

Index of Family Relationships

The Index of Family Relations (IFR) was developed by Walter W Hudson in 1993 and published in 1997 who intended to measure the family distress and relationship problems in family and aimed at assessing what an individual felt about his/her family. This scale was used in order to check if there was a relationship between occupational stress and family distress in police officers of ANF. The IFR is a 25-item scale. As per the scoring system of IFR, 70 is taken as a cutoff score and inverse scoring is also done for some items (Hudson, 1997). The participants scoring above the cutoff score 70 are categorized as highly distressed individuals and the ones scoring below the cutoff score are categorized as having no family distress.

Procedure:

Translation of the Scales

1. Police Stress Scale

No Urdu version of this scale was available thus this scale was translated into Urdu for the convenience of the participants using strategy adopted by Brislin (1970) in which the scales were translated using committee approach. During translation into Urdu language, senior police officers were also included in the committee other than a linguistic expert for purpose of back translation.

2. Index of Family Relations

Urdu version of the scale was used (Shah & Aziz, 1993).

After translation, the scales were subjected to pilot study followed by the main study.

Pilot Study

Purpose of pilot study was to examine psychometric properties of scales used in this study. Particular attention was paid to language comprehension and readability of items that were translated into Urdu for present study. A process of back forward translation (Brislin, 1970) led to a refined version of PSQ along with IFR. These two scales along with demographic sheet and consent forms were individually administered to 15 police officers. Overall it took an average of 15 minutes to complete the protocols. Reliability analyses suggested acceptable range of both scales (i.e., alpha being 0.76 for PSQ and 0.81 for IFR). Despite strong alpha values, few items were identified from IFR that the participants experienced difficulty in comprehending. These items were reworded and amended protocol was re administered on 6 police officers suggesting appropriateness in terms of language comprehension and reliability.

Main study

Permission for access was obtained through proper channels from two stations of ANF Rawalpindi and general headquarters. A total of 230 officers were approached, out of which 150 officers consented to take part in the study. The participants of this study were assured that this study is research based and had nothing to do with their administration and they would not be evaluated in the light of the results of this study and neither would it in any way affect their personal or professional lives adversely. On average it took 15 minutes. All instructions were in compliance with those described in manuals of scales.

Ethical Considerations

During this study all the ethical issues were considered especially getting a consent letter from the department in return. For getting consent from the participants, a formal consent letter was signed by them before participating in the study. Confidentiality was also made sure and the participants were told that all their private and provided information shall be kept confidential and would be used nowhere except for the research work. The participants were asked not to state their names as there were a few questions related to the supervisors and administration of their department thus the researcher wanted to save the participants from all kinds of negative and adverse consequences that may occur. Without any pressure and after knowing all the aspects of this study the officers participated in the study and were given a choice to quit the research at any time they if felt uncomfortable or unsafe.

Results***Demographic Profile of Participants*****Table 1***Demographic characteristics of the research participants (n=150)*

<i>Variables</i>	<i>Categories</i>	<i>N</i>	<i>%</i>
Age (in years)	25-34	50	33.3
	35-39	44	29.3
	40 -55	56	37.3
Education (in years)	Matric	17	11.3
	Intermediate	26	17.3
	Graduation	59	39.3
	Masters	48	30.0

Marital Status	Single	19	12.7
	Married	131	87.3
Family System	Nuclear	90	60.0
	Joint	60	40.0
Children	0	28	18.7
	1-3	80	53.3
	4-6	42	28.0
Service Duration (in years)	5-10	54	36.0
	11-20	63	42.0
	20 years above	33	22.0
Ranks	Constable	30	20.0
	Head Constable	12	8.0
	ASI	13	8.7
	SI	31	20.7
	Inspector	39	26.0
	DSP	19	12.7
	SP	6	4.0

Note: the missing cases have not been reported; ASI =Assistant Sub Inspector

As suggested in the table above, majority of the participants ranged in age between 25 to 55 years with an average service experience of 10 years (approximately). Demographic distribution across education, marital status and family system reflected that a majority were educated up to graduation and above (i.e., 17-39%) married (87%) and belonged to nuclear family system (60%). According to the distribution across ranks, 20-26% of participants were constables, Senior Inspectors or Inspectors. Quite a few were head constables, assistant sub inspectors, or deputy sub inspectors.

Prevalence of Operational/Organizational Stress and Family Distress**Table 2***Levels of Operational/Organizational Stress and Family Distress in Police Officers*

<i>Scale</i>	<i>F</i>	<i>Percentage</i>
PSQ-OP		
Low stress	66	43.7
High stress	84	55.6
PSQ-ORG		
Low stress	61	40.4
High stress	87	57.6
IFR		
No distress	14	9.3
High distress	135	89.4

Note: PSQ-OP stands for police stress questionnaire operational, PSQ-ORG stands for police stress questionnaire organizational, IFR stands for Index of family relations.

As it has been described earlier, police stress questionnaire was used to determine levels of operational and organizational stress in police officers. Alongside, family relations were determined in context of presence of family distress as measured by index of family relations scale (IFR). Table 3 presents descriptive analysis of scores obtained on the three scales on basis of medians as cutoff points. Findings suggested that comparatively high percentage of police officers reported presence of operational (56%) and occupational (57%) stress. The percentage of participants reporting family distress was quite high (i.e., 89%).

Relationship between operational/organizational stress and family distress**Table 3***Pearson product moments correlations (r) between PSQ-OP, PSQ-ORG and IFR*

<i>Scale</i>	<i>PSQ-OP</i>	<i>PSQ-ORG</i>	<i>IFR</i>
PSQ-OP (S)	--	.387**	.333**

PSQ-ORG (S)	--	--	.085
IFR	--	--	--

Note: PSQ stands for Police stress Questionnaire, PSQ-OP stands for police stress questionnaire operational, PSQ-ORG stands for police stress questionnaire organizational, IFR stands for Index of family relations

Table 3 suggests a significant positive relationship between operational stress and family distress ($r=0.33$ and $p<.001$) where as no significant relationship emerged between organizational stress and family distress ($r=.08$ and $p>.001$). These findings reflect that operational rather than organizational factors of stress may play influential role in family distress.

Service wise differences in terms of operational/organizational stress and family distress

Table 4

Using ANOVA to compare years of service with PSQ-OP, PSQ-ORG and IFR

Scales	SS	df	Mean Square	f	p
PSQ –OP					
Between groups	4140.282	2	2070.141	3.161	0.045
Within groups	96284.711	147	654.998		
Total	100424.993				
PSQ –ORG					
Between groups	1369.281	2	684.640	1.138	0.323
Within groups	87838.129	146	601.631		
Total	89719.173				

IFR					
Between groups	106.708	2	53.354	.711	0.493
Within groups	11034.465	147	75.064		
Total	11141.173				

Note: PSQ stands for Police stress Questionnaire, PSQ-OP stands for police stress questionnaire operational, PSQ ORG stands for police stress questionnaire organizational, IFR stands for Index of family relations

Table 4 shows that years of service have a significant relationship with operational stress the significance level is 0.04 which is <0.05 thus there is a significant difference in years of service related to experiencing operational stress. Whereas no significant relationship between the years of service and PSQ-ORG and IFR were found as in both the cases $p>0.05$ showing that years of service is not a significant factor in organizational stress and neither it has any relationship with family distress and does not affect the family relations.

Rank wise differences in terms of operational/organizational stress and family distress

Table 5

Using ANOVA to compare ranks with PSQ-OP, PSQ-ORG and IFR

<i>Scales</i>	<i>SS</i>	<i>df</i>	<i>Mean Sq</i>	<i>F</i>	<i>P</i>
PSQ-OP					
Between Groups	4544.113	6	757.352	1.130	0.34
Within Groups	95880.880	143	670.496		
Total	100424.993	149			
PSQ-ORG					
Between Groups	5943.034	6	990.506	1.691	0.12

Within Groups	83776.139	143	585.847		
Total	89719.173	149			
IFR					
Between Groups	870.827	6	145.138	2.021	0.06
Within Groups	10270.346	143	71.821		
Total	11141.173	149			

Note: PSQ stands for Police stress Questionnaire, PSQ-OP stands for police stress questionnaire operational, PSQ ORG stands for police stress questionnaire organizational, IFR stands for Index of family relations

Table 5 shows that ranks have no significant relationship with operational stress. The significance level is 0.34 which is more than 0.05. There is no significant relationship between the ranks PSQ-ORG and IFR as well where significance level of PSQ-ORG is 0.12 and that for IFR is 0.06, in all three cases $p > 0.05$ showing that rank is not a significant factor in operational and organizational, neither does it have any relationship with family distress as p should be < 0.5 .

Operational Stress as Predictor of Family Distress

Table 6

Summary of Linear Regression Analysis for determining prediction effect of Operational Stress on family distress (N = 150)

Variables	b	B	95% C.I LL	UL
PSQ-OPR	-.030	-.090	60.738	71.170
R ²	.19			
F	17.774			
Δ R ²	.195			
p	<0.05			

Note:., PSQ-OP stands for police stress questionnaire operational, IFR stands for Index of family relations

F = 17.774, $p < 0.05$, controlled for service duration, family system, and ranks

Since there was a strong correlation between operational stress and family distress, simple linear regression analysis was computed to find out predictive power of operational stress after controlling for service duration, family system, and ranks. Results suggested that almost 20% of the variation in scores of family distress can be attributed to operational stress ($\Delta R^2 = .195$, $p < 0.05$).

Discussion

Aim of the present research was to look at the relationship between police stress and family distress. Consistent with the hypothesis, police stress (particularly operational stress) had a statistically strong correlation with family distress suggesting that high levels of stress at work can influence family relations and cause distress. In addition to this, high levels of stress were prevalent in the sample of present study. These findings are consistent with what is reported across literature worldwide. The levels of police stress, whether operational or organizational, was quite high (table 2). Other studies have reported consistently high rates of stress in Pakistani police (Naz and Gavin, 2013; Hussain, 2012; Irshad, 2008).

Moreover, mean differences suggested that there was significant difference across number of years of service and ranks (Table 3-4), in terms of police operational stress and family distress. Post Hoc analysis revealed that officers from lower ranks (ranks up to ASI and below) reported high stress than officers from senior ranks (i.e., ASI and above). Similar pattern was observed for number of years of service. Deahl and colleagues (2010) had reported the similar results which suggest that due to operational nature of work as required of officers in different ranks may contribute to mounting levels of stress. In addition, initial years of service may be stressful on its own, because of lack of experience, unfamiliarity with police culture (Hussain, 2012) and adjustment.

Regression analysis (Table 6) endorsed the predictive power of operational stress on family distress suggesting that there could be a strong role of taking work pressure home which could be a leading cause of disturbed family relationships. Literature on police-family distress across the globe corroborates with these findings and has demonstrated that police stress limits quality of family life (Patterson, 2003; He, Zhao, & Archbold, 2002; Jackson, & Maslach, 1982). Some of the reasons could be that the police officers have limited time for social gatherings or family time and quite often take work pressure to their home; their spouses are also concerned for their safety and wellbeing which eventually distresses home environment.

Findings of the present study contribute significantly in terms of providing empirical evidence against role of police stress in family distress. With respect to

the future research it is recommended to carry out further research into how police officers can manage work home environments. The current research suggests looking into further variables such as the problems/ challenges faced by the families of these officers or the impact of this stress on their social life and a number of other aspects. It is extremely important to gather research evidence related to these issues at national level as well. The current circumstances of the country are adding up greatly to the stressors for the law enforcement agencies thus the need of the hour is to explore these stressors and their impact and to come up with valuable strategies to help these people. Thus in addition to the current study other researches and surveys should be conducted on other police departments in relation to other aspects of life and strategies should be put forth to identify and resolve the issues and problems if any.

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Spill Over of Militants and Criminals from Federally Administered Tribal Areas to Adjacent Areas of Khyber Pakhtunkhwa

Noreen Naseer & Iftikhar Firdous

Abstract

This paper addresses the precarious condition of law and order situation aggravated by the interplay of militants and local criminals in Federally Administered Tribal Areas of Pakistan and its spill over to adjacent areas of Khyber Pakhtunkhwa. Post-2001, with the influx of militants (some foreign and others created), crimes within FATA and on the periphery transformed into complicated and sophisticated one, which is now beyond the control of security apparatus. This work explores that how militant groups with the help of local criminals are committing different kinds of crimes in FATA as well in the surroundings of Khyber Pakhtunkhwa to generate funds. Also discusses the spillover of malevolent elements from tribal areas to settled districts that transform the adjacent peri-urban and urban areas of Khyber Pakhtunkhwa into "Fatacized space and Fatacization"¹, a process where urban areas resemble the dynamics of FATA regarding security and administrative measures.

Keywords: FATA, Crimes, Militants, Security Apparatus and Violence.

Introduction

To militants, destruction of prevailing social structure/order (unjust) and imposing their system (just and fair) achieved only through instilling fear and violence. Therefore, they promote their social structure/order/agenda by bombing government places and public spaces, killing intelligentsia/politician/security personal, abducting rich/powerful for ransom, discrediting people in governance/security, gain supporters by nurturing them and helping petty criminals to cover certain spaces (Rule, 1988). The study of political science defines such disorder created by militants and criminals a collective violence. Later, research work was conducted in the fields of theology, sociology, psychology and criminology too. However, criminology of terrorism models and theorists discuss militants, criminals' activities and their objectives in detail that

¹Fatacization is a term coined by Iftikhar Firdous while working on violence related activities in Khyber Pakhtunkhwa. The province is under siege with innumerable check posts like FATA; however, it failed to preserve peace and experience severe urban violence.

stand relevant in the context of militant and criminal linkages. Borges on and Valeri in their work discuss several theories, discussing criminology theory that it associates militants with anarchists that reject any form of central or external authority and replace it with their form of governance through violence or instilling fear. However, discussing fascist theory in the context of terrorism, it states that it does not only instil fear and reaction but also through conspiracies and propaganda convinces supporters to believe or follow a certain ideology. However, they concur that presently the theological philosophy is a popular theory used and abused by the militants for their desired goals and objectives. Moreover, it is the most dangerous model where the state itself ridicules secularism and modernism; thus facilitate militants, which through religion manipulate many other vulnerable groups (Borges on & Valeri, 2009).

Economic deprivation theory and globalisation discuss the growing gap between rich and poor; hence develop another pertinent rationale behind the militants' activities against the state and its discriminatory policies in certain areas or towards the particular ethnic group. In poor conflict-ridden areas, several armed struggles are considered justified against the unjust state. It is on the record that suicide bombing is carried out by people from the poor, radicalised strata of society (homeless, illiterate "radicalised/misguided", and unemployed). And militants are not only manipulating their socio-economic situation but also termed them skilled labour and performing the sacred duty (Caplan, 2006).

Similarly, sociological and psychological theorists have also based their argument on class difference, deprivation, and labelling that leads to frustration, aggression, identity crises and moral disengagement. Therefore any rebellion against the state is justified by militants and criminals on the premise of sociological order that is ingrained in his mind as bad, unjust, discriminatory and draconian (Caplan, 2006). In FATA and Khyber Pakhtunkhwa, militants with the assistance of criminals are using the philosophical theory of religion and socio-economic deprivation, thus manipulating radicalised and poor for their nefarious activities.

There is a huge scholarship available on militants, outlaws, criminals, and their activities. However, no academic work is available on the spill over and interplay of such elements involved in committing crimes against both the state and its citizens in Pakistan. There are several reasons for this omission; one is the disagreement amongst many scholars and experts on the convenient alliances of militants and local criminals, and secondly in FATA due to the absence of police and the judicial system no record available of malevolent elements. Therefore many

academicians and researchers failed to draw any differentiation between militant and criminal in FATA. Due to this confusion, the spillover of malevolent elements to urban areas is interpreted only as creating fear factor and imposing a new system. However, in reality, Khyber Pakhtunkhwa is now a Fatacised space; resembles FATA in which nexus of militants and criminals with sophisticated weapons and techniques committing violent activities (urbanicide and generating funds) and the local police are left alone to deal with it.

The debate of nexus and spillover to other places and its impact started by Bill Clinton administration in 1995, directing in Presidential Decision Directive 42 that such linkages of militants/terrorists and criminals are a national security threat to states. Therefore, serious actions and proper strategy shall be formulated at a national and international level to handle such elements. Many practitioners and experts on militancy and criminology agree that the relationship of such malevolent elements exists and it is not a merger but a convenient association of different groups for certain fringe benefits and economic reasons. Nevertheless, the objectives of all such crime-committing groups are to cooperate only for criminal activities and generate fear amongst locals. In such arrangements, either of the group grows weaker or stronger, obeys and obliges the powerful and in some cases develops issues with each other. While in certain cases both militants and local criminals behave political and commit crimes, thus create confusion about the activities of such groups (Picarelli, 2007).

In FATA, all such types of nexuses are present. However, it is like a marriage of convenience amongst militants and local criminals, thus manipulating situation from agency to agency. For example in Kurram Agency, they used a blanket of sectarianism and portrayed it a war between two sects, but a major objective was looting and plundering by different groups (Buneri, 2013). While in Khyber Agency, they posed to be a moral brigade not only within the agency but in the suburbs of Peshawar too, although they were together in criminal activities such as drug peddling, arms smuggling, and extortions (Express Tribune, 2013). Such groups have divergent goals, methods and execution strategies but political motives of militants and profit motives of criminals converge on creating fear factor and material gains. Both groups create fear and harm local population in FATA and adjacent areas, criminal affiliation with the militant group is like a mercenary, concerned about quick money making while terrorising people for a militant group that is challenging a state. In Khyber Pakhtunkhwa, criminal groups such as "Meelo" (Pashto word means Black Bear) and Charg (Cock bird) formed a nexus with militants groups such as Al-Qaida and

Taliban, hence committed every crime that created violence and instilled fear as well generated funds (Firdous, 2016). The police officers of all the provinces in the Senate's Standing Committee on Interior recorded that criminals have formed organised gangs with terrorists and terrorising and looting local population (Ali, 2013).

FATA Ungoverned Space and Sanctuary of Malevolent Elements

Presently, there are five parent militant groups (Tehrik-e-Taliban Pakistan, Tehrik-e-Taliban Afghanistan, Tehrik-e-Taliban affiliate Daesh, Lashkar-e-Jangvi, and Daesh) and forty-six affiliate sub-groups are operating in different agencies of FATA (FATA Annual Assessment Report, 2015). These forty-six affiliate sub-groups have a combination of militants and local criminals, thus creating mayhem that leaves a very thin line between militants and criminals. These malevolent groups are engaged in many heinous crimes against the state and people. Although, several military operations are conducted in FATA but even then such groups through different strategies and attacks make their presence felt to both state and local people. Ironically, the most vulnerable are the security apparatus personals, which both militants and criminals target (Rana, 2010). Unfortunately, some of the militants affiliated with international terror organisation have provided linkages to local criminals with transnational criminal groups too (Oehme III, 2008).

In FATA's such networks of militants and criminals are committing crimes such as murder, kidnapping, smuggling, robbery, vehicle snatching, human and drug trafficking, extortion, street crimes and money laundering (FATA Annual Assessment Report, 2015). Militants with the help of local criminals (their familiarity with area) are committing terror-related crimes such as Improvised Explosive Devices (IEDs), attacks on security personals through firing, missile attacks on villages and vehicles (both private and government), hand grenade attacks, mines, mortars, rockets, target killings, bombs, suicide bombing and cross-border attacks (Daily Situation Reports, 2011-12-13-14-15-16). According to a yearly report of FATA Annual Assessment 2015, 1,490 crimes committed and 693 incidents of terror occurred in the tribal belt (FATA Annual Assessment Report, 2015). Moreover, it is also observed that there is a gradual rise in both criminal and militant's activities in FATA, following tables explain that how this nexus strengthens both crimes and militancy activities. Unfortunately, from 2007 to 2010, official or any newspaper-consolidated data is not available due to tribal region dis-connectivity with media and researchers.

Table I Five Years Criminals' Activities with the assistance of Militants

Year	2011	2012	2013	2014	2015
Murder	226	264	201	211	249
Attempt to murder	76	115	77	98	168
Kidnapping	164	108	50	80	45
Robbery	7	13	1	3	19
Street crimes	3	7	3	1	3
Extortion	2	0	0	0	3
Vehicle snatching	18	10	4	14	6
Smuggling	2	20	2	9	17
Arms smuggling	31	29	12	40	49
Narcotics trafficking	30	71	54	90	238
Terrorism	774	759	591	557	693

The above table shows that in some lucrative activities; criminals and militants strengthen themselves such as narcotics, smuggling and murder for money and through terror create fear to control specific area.

Similarly, militants' activities recorded from 2007 to 10 but were not classified agency wise, such as Terrorism Watch displayed six casualties of FATA in the year 2007, however completely ignoring Kurram's sectarian violence ignited by militants; that resulted in more than 1000 deaths (Naseer, 2015). In 2008, total recorded casualties suffered at the hands of militants in FATA were 619; in 2009 total casualties were counted as 644 and it reached to highest 904 in the year 2010. Following table shows 2011 and onwards shows militancy record (FATA Annual Assessment Report, 2015).

Table II Agency Wise Five Years Militancy Data

Agency/FR	2011	2012	2013	2014	2015
Bajaur	104	88	72	132	206
Mohmand	114	107	66	61	92
Khyber	220	221	143	147	114
Orakzai	58	67	41	32	29
Kurram	77	87	79	72	63
NorthWaziristan	133	138	133	64	86
South Waziristan	39	39	48	43	94
FR Peshawar	2	2	4	2	1
FR Kohat	27	6	3	0	0
FR Bannu	0	3	2	0	5
FR Tank	0	0	1	4	1
FR Lakki	0	1	0	0	2

The above data shows that the most vulnerable agencies are the Bajaur, Khyber, South Waziristan and Mohmand regarding militant activities. Last six months of 2016 experienced a surge in the activities of both militants and criminals in these agencies. The recorded crimes in the months of March and April in FATA were 198 and incidents relating to terrorism were 96. A sharp increase of militancy related incidents in Mohmand Agency recorded that is from 9 to 16 in recording period. Agency wise monitoring showed that militancy incidents recorded in Bajaur were 16, Mohmand 16, Kurram 6, Khyber 30, North Waziristan and FR Tank 2 each and Orakzai & South Waziristan 1 each (FATA Annual Assessment Report, 2016). It is pertinent to mention that since 2002, Pakistan's military solution displaced almost 3 million tribals while carrying out 14 major operations including Zarb-Azb, but it failed to preserve peace and order in FATA (Rana, 2014).

Malevolent Elements Spill Over To Adjacent Settled Areas of Khyber Pakhtunkhwa

Khyber and Mohmand proximity with Khyber Pakhtunkhwa have its worst spillover effects on its cities and towns. Moreover, different militant groups are also using the six Frontier Regions of FATA adjoining to settled areas of Khyber Pakhtunkhwa as their sub-headquarters (Yamin & Malik, 2014). Thus, from 2007 to 2016, Khyber Pakhtunkhwa and its capital experienced the worst violence ignited by militants and criminals (both local and tribal) and proved deadly for Khyber Pakhtunkhwa police that was ill prepared for such mayhem. Sajjad Khan, a police officer, served in different districts of Khyber Pakhtunkhwa, stated that initially our force, which is the first line of defence but was not ready for such criminal nexuses that crept near to the settled areas (FRs and suburbs of Khyber Pakhtunkhwa). Hence, Khyber Pakhtunkhwa's police department lost 1,212 police persons; however, in 2015 standard operating procedures were set up to assist security apparatus in dealing with the menace of militancy and crimes².

Following Table 3 shows the details of casualties from the year 2007 onwards in Khyber Pakhtunkhwa. Data is collected from different sources such as National Police Bureau, Islamabad, Crimes Branch, Central Police Office, Peshawar, Khyber Pakhtunkhwa, Khyber Pakhtunkhwa Assessment- South Asia Terrorism Portal, Monthly Security Report- The Conflict Monitoring Centre. And also from national newspapers such as Express Tribune, The News, Urdu Daily Ajj, Mashriq and Dawn. A police officer and a researcher Mr Fasihuddin in his published work "Criminology and Criminal Justice System in Pakistan" explicitly stated that data related to crime rate is not recorded properly due to several reasons; hence, different sources are consulted to establish authenticity.

Table III Militants Inflicted Casualties from Year 2007 and Onwards in Khyber Pakhtunkhwa

2007	109
2008	982
2009	1438

²Minutes recorded with Mr. Sajjad Khan at Islamabad in 2016, a Chevening scholar, served as a DPO in Swat, Hangu, Sawabi, and also worked in Special Branch because of his work on militant-criminal nexus.

2010	836
2011	820
2012	401
2013	936
2014	542
2015	224
2016 (Jan-June)	112

Although every incident was horrific and tragic, however, the most horrific and tragic incidents were Meena Bazar bombing, Shah HasanKhelvolleyball ground bombing, FC Centre Shabqadar Tehsil bombing, Bacha Khan Airport attack, All Saints Church bombing, Army Public School and Bacha Khan University attack. Also, jailbreaks and attacks on a police station in settled areas of Khyber Pakhtunkhwa have made police vulnerable in such circumstances (Khan, 2016). During these years, the crime rate also increased, thus made settled areas unsafe for dwellers. Local security apparatus of settled areas had to deal with two tasks; one was dealing with militants armed with sophisticated weapons and other was controlling law and order situation aggravated by local criminals (got support, training, and protection by the militants) of Khyber Pakhtunkhwa. Hence, several types of crimes such as abductions, kidnapping for ransom, child lifting, burglary, car snatching/theft, dacoity, extortion, and murder increased. In the following table, the details of crimes are not mentioned but through numbers, tried to map out and understand the spillover effects from FATA to settled areas.

Table IV Crimes Stats from Year 2008 and Onwards in Khyber Pakhtunkhwa

2008	20,838
2009	40,900
2010 (includes attacks on police too by criminals)	1,36665
2011	1,45856
2012	1,47788

2013	1,42,757
2014	59,839
2015	57,189

The most affected settled district of Khyber Pakhtunkhwa is Peshawar city; it gives birth to urbicide³, converting the settled district into Fatacized space that is under siege by the heavily armed military, however without peace. Following table shows the crime stats (Data Central Police Office, 2016).

Table V Crimes Stats from Year 2009 and Onwards in Peshawar

2009	22830
2010	25861
2011	23797
2012	23912
2013	22727
2014	27190
2015	34207
2016 (Jan-June)	27108

Funding Strategies by Malevolent Elements

The militants generate funds/money for anti-state activities while local criminals support them for material gain through crimes such as drug trafficking, weapon smuggling, human trafficking, timber mafia and activities related to ransom and extortion (UNODC Report, 2011). FATA's geographical location⁴ and its governance system are ideal for crimes like drug and weapon trafficking, and these are the most lucrative illegal economic activities that are not only funding terror but helped militants in gaining the support of other violent elements too. According to UN reports, Afghanistan sharing a border with FATA produces approximately 70% (400 to 500 billion dollars) of the illicit drugs, channelized through different routes including

³Urbicide is a term coined for urban violence in the cities by western academia and used it in the "Cities Under Siege The New Military Urbanism" by Stephen Graham.

⁴FATA shares longest and porous border with Afghanistan militants' infested five wilayats (provinces). In addition, it is also devoid of proper local security apparatus and courts system to deal with both criminals and militants but under siege by military.

tribal belt and its adjacent areas (Business Recorder, 2016). The exact amount of drugs or money generated through FATA has no official record due to money transfer through Hawala system. However, a study conducted in 2009 by MianAsif stated that militants collect 4 billion Pakistani rupees through different crimes in FATA annually. In his work, he mentioned that besides drugs and weapons, FATA's natural resources and forests are generating finances for both militants and local criminals (Mian, 2009).

Human trafficking and smuggling (illegal immigration to Europe, South America than US and Middle East) is another important source of revenue. In this trade, local criminals are operating actively in the protection of local militant commander. Many people from FATA and Khyber Pakhtunkhwa for jobs and refuge overseas are paying a huge amount to smugglers (\$5000 to \$14,000 depending on destination) with no guarantees beyond certain areas (Mehsud, 2016). US State Department reported in "Trafficking in Person Report" that non-state actors (militants) are involved in children trafficking, using them for different anti-state activities such as spying and in extreme form as suicide bombers (US State Dept, 2011-16).

Recently, in Khyber Pakhtunkhwa's settled districts, both militants and criminals are actively engaged in kidnapping for ransom and extortion. According to different reports, forty-two different militants and local criminal groups are involved in such activities while their bases are in FATA (Ahmed, 2013). There are unofficial details that approximately Rs. 10 million is collected through extortion from Peshawar city, hence forcing people to migrate to other cities and provinces for business and jobs (Daily Times, 2016). The victims and targets are government officials (such as high profiled kidnapping of universities vice chancellors), doctors, lawyers, businesspersons and others with money and resources. The police department has termed such crimes extremely challenging due to several reasons. However, the major cause stated is that the handlers are in FATA or in the adjacent periphery, which is out of the jurisdiction of Khyber Pakhtunkhwa police and intelligence agencies (See Khyber Pakhtunkhwa Police – Official Portal, 2016).

Demographic change in Khyber Pakhtunkhwa due to the influx of internally displaced people from FATA is also adding to disorder in the settled districts. Peshawar's population doubled in last one decade, today its estimated population is approximately 3.3 million (Mosel & Jackson, 2013). Such huge demographic change

has not only affected the meagre resources of the city but has also increased the crime rate (Yousafzai, 2013).

To handle such criminal activities in settled areas, Khyber Pakhtunkhwa's law enforcing agencies devised certain specialised training, groups, and units. For capacity building of police, training related to the investigation, intelligence, explosive handling and public disorder management are conducted under reviewed courses and centres. Special departments, forces, and units such as counter-terrorism department, rapid response force, special combat unit, women elite commando unit, canine unit, bomb disposable unit, and cellular forensic cells are formed to deal with crimes committed by militants with the assistance of local criminals. Recently, IT based policing tools are also introduced to handle high-tech crimes; moreover, community engagement is replaced with other informal channels for public liaison with the local police. Khyber Pakhtunkhwa's government also introduced verification of persons through police department to control the spill over of violent actors (Khyber Pakhtunkhwa Police – Official Portal, 2016). Along with the empowerment of police department, intelligence agencies, anti-terrorists courts were also strengthened to deal with the menace of militancy in the province (Peshawar High Court, 2016).

Conclusion

FATA needs a new set of administrative and governance laws to handle malevolent elements that are not harming tribal people, but its spillover has affected settled districts of Khyber Pakhtunkhwa too. The present poor administrative setup of Frontier Crimes Regulations, Khassadars, Levis, Traditional Jirgas and local militia (lakhker/lashkar) are ill equipped to handle complicated crimes committed by the nexus of militants and local criminals. Moreover, the present system does not match with the current socio-political and economic realities of the region and lack capability of dealing with the emerging challenges.

In addition, the prevailing governance system in FATA has transformed tribal areas into a sanctuary for both militants and criminals. The Khyber Pakhtunkhwa's geographical connectivity with the tribal areas has transformed its urban periphery into Fatacized space, hence experienced urbanicide that swallowed thousands of innocent lives. The inaccessibility of local police and intelligence to FATA facilitates both militant and criminals to strike anytime in Khyber Pakhtunkhwa's cities and hide conveniently in different places of tribal areas.

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Judicial Activism and Institutional Legitimacy of Supreme Court of Pakistan (2006-2014)

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Abstract

This article attempts to inquire the instruments and approach adopted by the Supreme Court of Pakistan to cultivate institutional legitimacy during the process known as judicial activism from 2006 to 2014. Whereas judicial activism in Pakistan has already been empirically touched upon by legal scholars and intelligentsia, the current research is about the accomplishments achieved by the apex court through the process of judicial activism. It is argued that judges of the Supreme Court of Pakistan decided various cases strategically and through strategic decision making cultivated institutional legitimacy. Main problem targeted by this work is judicial activism as focal point of discourse on the apex court in Pakistan and its position as instrument of measurement for judicial activism. For this purpose, this article contributes to concepts of judicial activism and strategic decision-making and reflects, theoretically on institutional legitimacy. Moreover, institutional legitimacy of the Supreme Court of Pakistan has been posited in discourse on role of courts in political development of countries in global south and global north.

Keywords: Supreme Court of Pakistan, Strategic decision making, judicial activism, institutional legitimacy.

Introduction

There are two motivating questions behind conduction of this research. The first motivating question is the latest findings of comparative inquiries on law and court which point out increase in power and influence of judicial institutions world wide. One major observation of scholars of comparative politics is that global increase in judicial power is leading us towards juristocracy making us to live in an era of judicial power (Tate and Vallinder, 1995; Hirschl, 2004; Malleson and Russell, 2006). One clear implication of such expansion in judicial power is to underline the legitimacy concerns linked with the way in which judicial power is exercised since courts' determination of questions of highly political nature is questionable and warrants inquiry (Hirschl, 2008: 99). This research will probe that how courts secure and hold their legitimacy against the backdrop of their increasing politicization. Reasons and ways of acquisition and retention of legitimacy by institutions is a probing question for the inquirers who attempt to

unearth the underlying reasons of increasing judicial power and influence (Gibson et al 2003:556).

While this question warrants inclusively diverse answer in context of courts everywhere but it has specific link with Supreme Court of Pakistan. Judicial activism slowly began in Pakistan in 2005, when Supreme Court of Pakistan had begun hearing Pakistan Steel Mills case. It accrued major significance to the apex court in overall political debate. Slow start of judicial activism had major impact on the body politic of Pakistan. Deposition of Chief Justice Ifthikhar Mohammad Chaudhry by General (rtd) Pervez Musharraf and his restoration catalyzed such activism on the part of overall judiciary, so much so that many experts termed that as judicialization of the politics. The other ostensible judicialization of Pakistani politics was evident by overall increase in judicial power through media-driven popularity, the courts as the final deciders of political issues and inter-party wrangling (e.g. Report of recent Judicial Commission on electoral malpractices in the general elections 2013 in Pakistan) and independence of judiciary as prior most popular slogan of political parties to muster support among masses.

There is no denial that after Lawyer movements in 2007, supreme judiciary became the center of overall all political process in Pakistan which made it a significant actor on the national scene. Nevertheless, the higher judiciary succeeded to protect and preserve its institutional legitimacy. Media reports and other independent sources show that supreme judiciary of Pakistan enjoy popular support and trust of citizens, while majority of Pakistani perceive the apex court as the valid and people-friendly institution whose words ought to prevail when conflict between legislation and fundamental rights take place.

It is intriguing to observe that the Supreme Court of Pakistan has maintained its legitimacy in the wake of its activism. The reasons for highlighting such observation as intriguing are the emergence of supreme judiciary as policy making institution, criticism of judiciary's encroachment on the domains of other institutions, judicialization of Pakistani politics and politicization of courts since the start of the process of judicial activism. As Hirschl (2004: 73-4) finds the encroachment of judicial power on political domain through constitutionalization of fundamental rights and individual freedom has seriously eroded the perception of supreme judiciary as neutral and apolitical arbiters and deciders. Yet having found that, like all other liberal democracies elected representatives of people not the appointed judges face legitimacy crises (Russell, 1994b: 172). It seems that judges of supreme judiciary are successful in holding the trust and confidence of the people as they have attained more power and have emerged as prominent political actors.

This enquiry of ways adopted by the supreme judiciary to project its legitimacy attains importance in the light of observations that ‘constitution as living tree’ or living constitution has become the commonly practiced method for constitutional interpretation across the globe (Hirschl, 2010: 79). Under this method constitutional evolves and adapts itself to the requirements and exigencies of the time in flexible and progressive manner. In Pakistan, for example, this concept of living constitution has been followed in number of cases by supreme judiciary. For example in Pakistan, this idea of living constitutionalism can be witnessed in verdicts given in *Arshad Mahmood v. Government of Punjab* PLD 2005 SC 193. It was observed that constitution is a living document and approach of the apex court towards its interpretation should be flexible, dynamic and evolving in accordance with the aspirations and yearnings of the common people. Similarly, in *Mushtaq Ahmed Mohal v. Hon’ble Lahore High Court* 1997 SCMR 1043 it had been laid down that articles pertaining to fundamental rights should be understood and interpreted liberally to cover up the essentials of modern times.

The approach of living-tree constitutionalism has invited criticism to the supreme judiciary of Pakistan that following such an approach personal desires of judges can underpin the interpretation of constitution. Such criticism increases the legitimacy concerns about the power of judicial review available to the apex court for liberal interpretation. If the text of constitution or the intentions of constitution-makers is not the particular context in which constitutional interpretation takes place then what is to state that none else that discretion of judges explains the ultimate nature of constitutional evolution? Globally practiced living-tree constitutionalism can be explained that the doctrine lends itself more easily than most other interpretive approaches to an injection of the personal values of those who interpret the constitution” (Hirschl 2010: 79). This doctrine has been found as having converted into exclusive repository of judicial discretion in case of the Supreme Court of Pakistan by the critics.

In given scenario of judicial activism in Pakistan it is necessary to look into the degree, character and path of Supreme Court of Pakistan’s policy-making capacity. The curiosity to know the answer of this question stems from the contradictory literature. For some the judicial supremacy of the Apex court is determinant of constitutional supremacy or at least their way of projection of judicial independence leads the readers towards synonymous nature of the two. Supreme Court of Pakistan has ensured good governance and institutionalized the politics.

To the contrary other analysts have carefully scrutinized the policy-making approach of the apex court. They viewed such approach as meaningless for the major change in overall power structure of Pakistan. Activism on the part

of the supreme judiciary didn't shift the class pattern of the society. Rather, it became the part and parcel of already existing military-bureaucratic oligarchy. Similarly, followers of dialogue-theory believe that policy-making capacity of the supreme judiciary is countered by the legislative and executive function of other institutions of the state. Other institutions such as executive reverse or mould the verdicts of apex court in a favorable way.

There is also disagreement on findings about ideological character of Supreme Court of Pakistan. The apex court, relying on basic structure doctrine, protected the Islamic character of the legal system. For example, the apex court while delivering the verdict on constitutional petitions which had challenged 18th amendment and 21st amendment delved into this discussion and stated "Therefore, the Parliament cannot replace Islam with secularism nor can it replace the Federation with a confederation. This is what the Muslims of the subcontinent aspired and endeavored for. This is in essence the *raison d'être* for the establishment of the separate homeland." (http://www.supremecourt.gov.pk/web/user_files/File/Const.P.12of2010.pdf) Lau (2006) explains in detail, the usage of Islamic principles and norms in judicial reasoning and discourse by the Pakistani courts. There are others who disagree with such ideological protection by taking upon policy-making capacity at the expense of evolving and dynamic aspirations of people. Reifying the religious character of state in the constitution by the supreme judiciary reinforce the discrimination among common citizens (Ashraf,2015; <http://www.dawn.com/news/1182981>) There are others who view the Supreme Court of Pakistan as an unqualified body for debates on ideological character of the state(Lakho, 2015; <http://www.dawn.com/news/1182981>). Mehdi (2013) observed inconsistency and instability in adjudication of Islamic laws by the Pakistani judiciary in particular and legal fraternity in general.

Some political economists with their leftist orientations have found the activism of apex court as new actor in already existing military-bureaucratic oligarchy. They developed and linked the thesis of Hamza Alavi to the current activism of supreme judiciary and argued that ongoing judicial activism in Pakistan has given rise to new military-bureaucratic-judicial oligarchy with judiciary as the new entrant (Sajjad, 2013). But such observations have been made in short form and can be found in tidbits of newspapers. Therefore, such contention requires further scrutinized elaboration.

Given the above divergent and confronting observations one might not be unjustified in conduction of an inquiry for it emerges that Supreme Court of Pakistan lends itself towards favoring any contention. Observations that Supreme Court of Pakistan protect the ideological character of the state and legal system are

confronted with the observations that the apex court gives relief to the dispossessed class of society through liberal interpretation. Findings that the supreme judiciary has adopted the approach of open-ended policy making discretion and hence has made constitutional supremacy synonymous to judicial supremacy are countered by the findings that the apex court till date remained submissive towards other branches of the government such as executive and army (Beatty, 1997: 494). For a researcher in the field of social science it becomes inquisitive to dig out the links between concluded findings and to reflect new light on the policy making influence of the Supreme Court of Pakistan through incorporation of heterogeneous methodologies.

It is pertinent to know the answers of above questions and arguments to fill the gaps by first constructing and then evaluating a novel theory of how supreme judiciary in Pakistan acquire and sustain the legitimacy of the apex court as an institution-a theory of strategic cultivation. This theory is vast in its scope and application to the higher tiers of judicial systems everywhere but its applicability to the supreme judiciary of Pakistan will particularly be tested and evaluated in this research. This theory will give an insight of how courts of Pakistan in general and higher judiciary in particular achieve and sustain legitimacy, unfolds the compatibility between the concepts of living-tree constitutionalism or living constitution and espousal of legitimacy of judicial review, and make new reflections on the degree of policy-making influence enjoyed by Supreme Court of Pakistan.

Methodology

Qualitative methodology has been used for this inquiry. Textual analysis is the research tool and approach adopted for the research is historical institutional interpretative. Through these methods, methodology and approach institutional legitimacy cultivated by Supreme Court of Pakistan through strategic decision making is investigated. It is significant in terms of alternative research on the topic in question and given the current limited focus on names and numbers of cases decided by the apex court of Pakistan.

Positioning the institutional legitimacy in current discourse

A range of models of separation of powers stresses on the strategic behavior of judges of supreme judiciary by pinpointing specifically the encounter between courts and other institutions (Marks, 1989; Ferejohn and Weingast, 1992; Ferejohn et al, 2007; Helmke, 2005). The key argument of this literature is that the reason behind strategic behavior of judges is their intentions to avoid confrontation with other institutions without compromising on authority and

influence of judiciary as an institution. Their strategy is to ensure the ultimate implementation of the decision and maintenance of institutional integrity.

One part of this literature emphasizes on public support and popularity of courts as basic source of power and influence of courts in their dealings with other institutions (Stephenson 2004; Vanberg, 2005; Staton, 2010; Carruba, 2009). There is variety of reasons for more public support to courts in comparison with other institutions. One reason could be public demand for and interest in rule of law (Weingast, 1997). Second reason behind public support to courts could be the public's belief that courts can mark and shape public policy parameters better than how other institutions do (Stephenson, 2004). Other reasons may include the public's interest in establishment of functional, responsive and deliverable regimes because continuous competition between courts and other institutions on public support will create more and more favorable alternatives for general public (Carruba, 2009)

Vanberg (2005) notes that public support for the courts is a sanctioning force which compels other institutions to implement the verdicts of the courts and hence in this regard public support becomes significant for the adjudication of cases. Other institutions including the representative elected one in order to avoid losing the popularity compete with each other to promote the independence of judiciary. Context of Vanberg's observation was German judicial system but it is applicable to Pakistan as well with reference to judiciary as central actor in the politics from 2008 onwards. He further contends that it is necessary for public enforcement mechanism to come in play for judiciary to deliver verdicts which can muster support and project popular beneficence among common citizens (2005:21). These findings have been generalized to context of Mexico where it was suggested that courts can be selective in deliverance of verdicts after taking popular sentiments into account and later on can be made visible to public. Such selective activism can be used to secure implementation of their rulings (Staton, 2010).

Bollen (1993); Munck and Verkuilen (2002); Knack (2006) propounds that overall political environment and courts of the country both operate on each other. Media's hype regarding the judicial verdicts, slogan of judicial independence as votes-garnering instrument to achieve popularity and the unpredictable response of other institution make the overall environment to shape the ultimate verdicts of courts. This applies to the case of Pakistan where at one stage of history this perception of judicial coup was well spread that the Supreme Court of Pakistan may direct Pakistan Army to implement its decision by invoking interpretively article 190 of the constitution of Pakistan. On the other side judicial verdicts also operate on overall environment as it becomes part and parcel of

political campaign and popularity.

Andrews and Montinola (2004); (Barro 1997, 2000); Joireman (2001, 2004); Rigobon and Rodrick (2005) have further developed the contention of weingast (1997) that the desire to have rule of law and order in the society accrues public support behind the apex court which integrate both attitudinal preferences with strategic decision making for the cultivation of institutional legitimacy.

Attitudinal approach to Canadian and American Supreme Court is more applicable than strategic approach (Heard 1991; Otsberg and Wetstein 2007; Songer and Johnson 2007). Strategic approach applies to handful of cases adjudicated by Canadian Supreme Court (Manfredi, 2002; Flanagan, 2002; Knopff et al., 2009). But case of Supreme Court of Pakistan becomes unique in this regard where both approaches are intermittently applicable. Both approaches merge together in case of Pakistani supreme judiciary because attitudinal approach drives the judicial activism but at the same time such activism by the Supreme Court of Pakistan is strategic as well because it is motivated by popular support, media extraordinary projection and institutional essentials. For example, in Pakistan the Supreme Court disqualified the Prime Minister of Pakistan from holding the office. Peshawar High Court in Pakistan declared drone attacks on terrorists' illegal and violation of public international law. It directed the government of Pakistan and Pakistan Army to target them and even prescribed a military strategy on how to take them down. It is noteworthy that the latter decision had not been implemented but was hailed and appreciated in media and general public as the step of departure from past where judiciary avoided delivering such bold verdicts. Alarie and Green (2007; 2008; 2009a; 2009b) further elaborate this link between Supreme Court and attitudinal policy inclinations with different findings in the context of America. They found that markers of attitudinal policy approach are projection of professional and personal profiles of judges during their appointments and the political party to which judges-appointing regime is associated and these markers are loosely correlated to voting at the bench. This observation is not applicable to the case of Pakistan as the procedure of the appointment of judges is different with exception of media's role in projection of the higher judiciary. Appointment procedure after 19th amendment has become autonomous and has almost become the monopolized domain of judges. This point gives fillip to earlier observation that boundaries between attitudinal approach and strategic approach blur in case of Supreme Court of Pakistan with both attitude and strategy of judges as well revolving around popular motivations since the beginning of judicial activism in Pakistan.

Attitudinal motivations constitute one category of political factors which may affect the decisions of judges during the proceedings of various cases and this

research will explore that how judges of Supreme Court of Pakistan demonstrate sensitivities and alertness to variety of political and external determinants. It will be explained that how judges of supreme judiciary in Pakistan are provided various incentives by cultivation of institutional legitimacy as prior goal of higher judiciary, to involve in a set of characterized behavior. Courts foresee the potential of legitimacy cultivation which require justices to deliver such verdict which avoid direct full fledged confrontation with other institutions, alertly sensitive to the opinion of general public, that do not overstretch the scope and domain of judicial activism to the extent of encroachments on the domains of other institutions. In short the central thesis of this research will be that justices of supreme judiciary, involved in strategic verdict delivering, in order to cultivate their institutional legitimacy, carefully draw such boundaries between judicial activism and judicial restraint in a particular political and institutional environment which can enhance the judicial power in diversified ways and in multiple areas.

Epstein and Knight (2000:642) observe different methods to carry out the strategic analysis. Three methods among these different methods are worth referring here. First method is to merge historical-interpretive research with logic of strategic approach. Second method is construction of concepts pertaining to judicial decision making through the lenses of strategic perspective. Third method is incorporation of microeconomic theories for reasoning through analogy. Fourth is conduction of formal equilibrium analysis. The proposed central thesis falls in the domain of second category: on the basis of strategic approach conception of judicial verdict delivering will be constructed.

Theoretical reflection on strategic decision making of the Supreme court of Pakistan

Institutionalism part of rational choice theory has been relied upon to develop the strategic theory. Institutionalism-rational-choice theory expounds that institutional structures, requirements and rules provide opportunities and disincentives for the involved actors who deal with such opportunities or challenges by behaving strategically in order to secure maximum favorable results (Hall and Taylor, 1996; Immergut, 1998). The benefit of subjecting judicial institution to this approach is delineated by Walter Murphy in his famously published *The Judicial Strategy* in 1964. During last couple of decades, this approach-under the well-known title of strategic approach- has attained distinguished attention among the readers of and researchers of judicial activism with such enthusiasm that has made them to find judicial politics as the current domain of strategic revolution (Epstein and Knight, 2000) In reality, this approach provides an alternative comparative and complementary route to the attitudinal-

school of thought on the scope of judicial decision making. Attitudinal school of thought attributes ideological orientations/inclinations of individuals justices to the ultimate verdicts of the courts(e.g. Segal and Spaeth, 2002). Confrontation of two approaches will widen the vision of observers and generalization of research.

Involvement of justices in strategic decision making engulfs higher tiers of judicial system into strategic decisions-making processes. Such espousal of strategic way of deciding the cases depend upon what courts and individual judges can gain or loose. Gains include the increase in influence and power of judiciary through popular support and trust. Losses include non-implementation of the verdicts or its foresighted modification through political jugglery or procrastination. Available literature highlights various incentive structures as markers of judicial decisions. To many, such incentives accrue central attention to courts in political spectrum and hence provide leverage of policy-making to courts. Many contends that judges of supreme judiciary act as single-minded aspirants of legal policy and hence decide cases strategically to realize and increase the probability of implementation of their policy preferences(Epstein and Walker, 1995; Epstein and Knight, 1998; Epstein et al, 2001; Epstein et al, 2004; Maltzman et al, 2000). On these scores strategic decision-making approach is complementary to attitudinal decision-making approach. Judges, in other way, are observed as driven by attitudinal priorities during the deliverance of verdict but since political environment doctored by the popular aspirations create sophisticated constrains for the judges so they amalgamate the attitudinal desires with strategy. Exclusive substantiation of attitudinal inclination can either invite the difference of other justices on the bench (Maltzman et al., 2000) or make the resultant verdict unpopular and can easily be impeded by other institutions through non-implementation or subsequent reversal through new legislation e.g. Epstein and Knight, 1998). Posner finds attitudinal and strategic approaches as compatible to each other because the former is theory of ends and the latter is theory of means (2008). Posner's finding further support the complementary nature of two approaches to each other.

It is significant to underline that strategic theory is compatible with any other result-oriented worldview of judicial motivations inclinations as well (Posner, 2008:30). Therefore it is not necessary that judges of supreme judiciary may involve in strategic decision-making only to foster their attitudinal motives but there can be other important factors as well to affect the approach followed by judges. Alter (2001) while expounding his theory of European legal integration underscored three objectives which work in tandem with institutional exigencies to affect and influence the decision of a judge of national high court.

Independence, influence and authority of judiciary are the three objectives which operate the decision making process. As courts work in a political environment so they function strategically with respect to other courts and political organizations (Alter, 2001:46). They do not deliver such verdicts which can receive unwelcoming response in the shape of non-implementation or subsequent reversal of decisions leading to erosion of judicial authority (Ibid).

Conceptualization of judicial activism and institutional legitimacy

It is imperative to conceptualize the terms institutional legitimacy and judicial activism as the former is objective of courts and the latter is instrumental in the process/approaches adopted for the achievement of objective. Verdicts of the apex court hold and instill institutional legitimacy when the general public regards such verdicts as favorable, justified and appropriate and worth supporting (Fallon, 2005: 1795). Current research finds multiple ways of conceptualization of judicial legitimacy. There are three distinguishing legitimacies (2005: 1794-1797). First is legal legitimacy which is based purely on judicial doctrines and strict adherence to legal principles regardless of public support for resultant verdicts of the court. Second is moral legitimacy which determines the justification of the verdict on moral grounds. Third is the institutional legitimacy which is not only different from the other two categories but will also be the focus of this inquiry.

Conceptualizing judicial activism is bit sophisticated as it has been defined diversely by experts. Generally, it has been explained as the product of undue influence of a judge's policy preferences rather than having origins in legal texts (Friedman, 2009:344-5; Hunter, 2003:531). This definition is problematic as it is highly subjective in nature and devoid of empirical analysis. It suggests an oversimplified notion that judicial activism of one judge is objective interpretation of another judge (Friedman 2009: 345). With particular reference to Pakistan, conceptualization of judicial activism can be delineated into three dimensions: Verdicts given through overstretched use of article 184(3) of Constitution of Pakistan, verdicts given in Public Interest Litigation and verdicts delivered in the cases involves human rights(). This work at this stage is limiting the definition of judicial activism as the activism in the formulation of policy which is akin to rigorous judicial behavior to implementation and execution of constitutional principles which appears to be happen when the court alters policy status quo by striking down or modification of the statutory laws, regulations and executive's actions in favor of constitutional limitations (Russell,1990:19). To the contrary, judicial policy restraint is the court's maintenance of policy status quo in its verdicts. It does not strike down the set of rules or legislation frequently. In

nutshell, the more courts revise the policy status quo through their verdicts the more activism occurs. This definition becomes significantly inclusive against the backdrop of fluidity of the concept, variety of definitions and for the understanding of judicial decision making (Garrett et al., 1998; Choudhry and Hunter, 2003).

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**Effects of Criminal Women's Sentence on their Children's
Socialization:
An Exploratory Study of Punjab – Pakistan**

*Dr. Muhammad Shabbir Ch,
Ambreen Rubab, Uzma Niaz &
Shazia Nasim*

Abstract

This paper inspects the effects of the sentenced criminal women upon the socialization of their children, in Pakistani context. The objectives of the study are to find out the socio-psychological and cultural effects of the jail environment on the children and behavior of sentenced women towards their children as well as analyze the facilities provided by the jail authorities for the socialization of the women. Quantitative variables and qualitative thematic variables caused by the opinions through open-ended questionnaire were collected and analyzed by applying statistical measures, e.g. Social Sciences Package for Social Sciences (SPSS), to reflect out the results. It was found that the sentence of women shatters the socialization process of their children which commonly leads them to criminality. The government should review the ongoing sentence policies for an improvement and betterment. For this purpose, the idea of socialization centers would be a healthy initiative.

Keywords: Sentenced women, thematic categories, socialization, precision

Introduction

Socialization is a process through which the biological man and woman are made social through socio-cultural influences around him/her. Socialization is a lifelong process through which group values are induced into a member individual from previous generations. Thus, socialization stands for a process through which the original nature of human beings is fashioned into a social being. As the theories of values claim that socialization in the formative years of personality has lasting effect, the study in hand especially emphasizes the socialization of children in the family. In the present research, the socialization of children means how jail environment affects the personality of children and the effects of that set-up on the children's disposition.

Mother plays a significant role in the children's socialization process as she is the key administrator of the whole family. But in many societies including Pakistani society, women also commit crimes and make their future dark which

affects the whole, especially the children. Sentenced women from their own experiences may know the distressing trends in children, like, substance use, unhappiness, survival crime, school absentee, early loss of adult care, exploitation by others, and early child bearing.

Various women in jail missing before graduation had the first baby in their teenage and many of them are jobless. They may have skills and be dependent either on well-being, minimum wages employment, or illegal ways of money. Even compared with men in prison, they have high rates of serious drug addiction problems. If they have any mental health, they must be sent to the mental rehabilitation centers rather prisons. Parents who are in prison go through countless issues in sustaining healthy relations with babies. Families are more probable to be upset by women's confinement than by men's (Baugh 1985; Datesman and Cales 1983).

Indeed, offspring can be affected when a parent involves in unlawful behavior like doing white collar crimes and corruption, and when a case becomes intricate under law (e.g. pending court proceedings, arrest, and being under boundaries in the public). But it is debatably the influence of the parting instigated by sentence that is unsafe for children, because they involve in different criminal activities and adopt the felonious groups of their age.

Unduly enjoying their liberty, children become the secondary sufferers of crime, facing housing disturbances, education institute replacements, adoptive attention and spending time with unsuitable custodians. They may have viewed a shocking scene at their mother's detention and feel confusion, grief, loneliness, shame, isolation and abandonment, the teenagers of imprisoned moms also facing severe issues. A situation, in which mothers are, imprisoned with their babies experience a painful trauma which is transferred to offspring. The separation between mothers and babies may lead to emotional, psychological and physical issues for children. Mostly children of prisoner mothers live with relatives, mostly with maternal grandparents during their mothers' incarceration. Some, however, are positioned in non-relative foster homes. In some cases, siblings may be separated and are put in out-of-family placements (McGowan and Blumenthal, 1978).

A mother's sentence upsets the family already confronted by economics, insufficient homes facilities, insulting or manipulative partners, psychological disorder, material misuse and the bequests of the child. As the mother returns, children are forever changed knowing she could commit the crime and visit jail once again. A key impairment to the association of mother and child is that women's prisons are mostly placed in inaccessible regions where transport availability is little or non-available. Long distance and non-availability of

transport create difficulties for caregivers, many of them, do not have money to support regular visit. Furthermore, adoptive families are hesitant to carry children to meet their mothers due to destructive feelings.

Children, particularly those from poor and deprived backgrounds, are easy targets for protective violence, rape, and sexual abuse, and such actions damage their psycho-social identity. Even children placed in the custody of government/state institutions like orphan homes, sometimes deal with wrong treatment and manipulation. In some cases, children face cruel, inhuman or degrading conduct which was allowed by national laws on account of corporal punishments and the death consequence.

Methods and Procedures

– Respondents and Procedure

Respondents were selected as a sub-sample of 80 sentenced women drawn from a larger set of 253 women who were able to respond the researchers. Purposive sampling technique was applied to select women who have children. Five jails (Women Jail Multan, Central Jail Rawalpindi, District Jail Faisalabad, Central Jail Lahore, and Central Jail Gujranwala) in which the women are imprisoned were selected for the target population (Home Department Punjab).

– Instruments, and Data Collection

The structured 1-hr interview, “A Mother’s Story,” contained 13 parts having the mother’s socio-cultural context, family traditions, their ways of life, and folk beliefs, along with other measures that examined the mother’s level of criminality, criminal-related attitudes and behaviors and criminal involvement. Open-ended questions were developed for use with study participants who spoke either English or ¹Urdu or ²Punjabi.

– Open-Ended Questions

Thirty-seven open-ended questions were presented to each respondent to get their responses stating their experiences of the effects of their criminality upon the socialization of their children. These questions asked about their views and experiences about the relationship between them and their children’s socialization process. For the convenience of the respondents, questionnaire was translated in to Urdu and Punjabi languages. Responses from the Urdu and Punjabi speaking participants were re translated into English. The thematic analysis of the text was made in English for all the stories of mothers.

– Quantitative Analysis and Qualitative Text Analysis

¹ National Language of Pakistan

² Provincial Language in Pakistan

First, the researcher used Statistical Package for Social Sciences (SPSS) to analyze quantitative data, and conducted the qualitative thematic text analysis, using a four-step methodology that generated the qualitative thematic categories. The four steps are (a) identifying excluded words, (b) creating aliases, (c) generating automatic categories, and (d) iterative analyses to attain an optimal solution.

Results and Discussion

– *Participants Characteristics*

Table 1(attached at the end) presents the background characteristics of the 80 participantsentenced women from whom, the researcher obtained qualitative responses. These women ranged in age from 17 to 50, with a mean age of 28.41 years. Also, these women represented the entire range of the women sentenced in the jails of Pakistan. As the tradition-oriented country, the people of Pakistan wed their daughters as they reach puberty. Most of the sentenced women in Pakistan have committed crimes in their marriage matter. Out of the 80 participants, most of them were married (42.50%), and then widows (32.50%), and the remaining were divorced (25.00%). As their educational status is concerned, most (86.30%) were illiterate which shows that crime rate is higher in illiterate women, i.e. education is inversely proportionate to the crime rate. Regarding the crime they have committed, most were identified as killers (52.50%) either advisedly or unadvisedly, i.e. in a murder case. Next to murder, most of them were involved in drug trafficking (41.30%), while the remaining were found in other crimes such as adultery. Most of the respondents were Punjabi Speaking and in good health. It was observed that maximum women were under trial (46.30%) which highlights the slow judicial process in Pakistan and, 38.80% out of the remaining have more than seven years of sentenceleft before the day of the interview.

– *Effects upon the Socialization of the Children of Sentenced Women*

Table 2 (attached at the end) highlights the sentenced life of the women upon their children. Among all of the respondents, (83 % as compared to 16 % which was not agreed) were of the view that the jail (prison) environment had affected the socialization process of their children. These women were also worried about their children's future. While collecting the data, it was observed that the women who responded that the jail (prison) environment has no impact upon the socialization of their childrenwere not mentally prepared. Children of the sentenced women were found deprived of their wishes because 50.00% of the women respond that they couldn't fulfill their children's wishes and 37.50% said that they fulfilled their children's fundamental wishes to some extent. Regarding

the effects of their imprisonment upon their children's attitude, 86.30% of the respondent women said that their children's attitude adversely affected by their imprisonment. 58.80% of the respondent women were of the view that their imprisonment had negative / destructive effects upon their children's personality, and they were going to be mad or become psycho patients. Their children's socialization deficiencies, 66.30% of the participating women were of the view that their children's socialization was not affected by their imprisonment, and the issue of poor socialization was only because that maximum sentenced women were illiterate. 13.80% of the total said that there were some psychological problems in their children due to lack of proper socialization, and 15.00% were worried about their children's future life. 77.50% respondents didn't want to hand over their children to their relatives for better socialization because they showed lack of trust in their relatives in this regard.

Conclusion and Suggestions

After statistical analysis of the collected data for the study in hand, it was concluded that the children of the sentenced women were deprived of the proper socialization process which shoddily shattered their personality growth and visionary development of life. In Pakistani jails (prisons), there is no system for such children's socialization and education. As a result, they constitute their character and attitude by themselves and make their vision about how to lead life. Commonly, this thing further leads most of them to delinquency as they grew in the shelter of criminals. In a nutshell, it is not wrong to say that the imprisonment of the women is also an imprisonment for the emotions, wishes, personality development, character formation, attitude building, and life learning of their children. They become psychological patients who ultimately lead them to criminality.

- There should be proper socialization process and arrangements for the children of sentenced women in Jail and separate 'socialization centers' should be established, either within the boundary wall of the prison or elsewhere.
- The government should develop a proper strategy for the interaction of sentenced women and their children residing in 'socialization centers' to the satisfaction of mother and child's emotions and sentiments.
- Proper socio-cultural facilities must be provided at these centers, e.g. recreational, educational, emotional, and others which are fundamental for smooth sailing of life.

- The government should review the policies and strategies in this regard and should allocate sufficient funds to polish the future of the children of sentenced women.

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Annexures-1

Table 1: Background Characteristics of the Sample of Participants

<i>Variables</i>	<i>Response</i>	<i>n</i>	<i>%</i>
Age (Years)			
	17 – 20	5	6.30
	21 – 30	35	43.80
	31 – 40	29	36.30
	41 – 50	11	13.80
Qualification of the Participants			
	Illiterate	69	86.30
	Literate	11	13.80
Marital Status			
	Married	34	42.50
	Divorced	20	25.00
	Widow	26	32.50

Type of Crime Committed			
	Murder	42	52.50
	Drugs Trafficking	33	41.30
	Adultery	4	5.00
	Any Other	1	1.30
Imprisonment (Years)			
	Under Trial	37	46.30
	1 - 4	6	7.50
	5 - 6	6	7.50
	7 <	31	38.80

Table 2: Effects upon the Socialization of the Children of Sentenced Women

<i>Variables</i>	<i>Response</i>	<i>n</i>	<i>%</i>
Jail Environment has Affected their Children			
	Yes	67	83.80
	No	13	16.30
To Much Extent their Children are Affected			
	To Great Extent	39	48.80
	To Some Extent	28	35.00
	Not At All	13	16.20
Satisfaction of their Children's Wishes			
	Nothing	40	50.00
	Try To Provide	30	37.50
	Feeling Depressed	6	7.50
	They Have No	4	5.00

	Demand		
Children's Personality Affected by their Attitude			
	Yes	69	86.30
	No	11	13.80
To Much Extent their Attitude has Affected their Children's Personality			
	To Great Extent	47	58.80
	To Some Extent	22	27.50
	Not At All	11	13.80
Children's Socialization Deficiencies			
	Nothing	53	66.30
	Psychological Adjustment	11	13.80
	Less Confident	4	5.00
	Fear About Their Future	12	15.00
Relatives are Suitable for their Children's Better Socialization			
	Yes	18	22.50
	No	62	77.50

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Terrorism and Violence: A Note on the Targeted Killing in the Tribal Agency of Bajaur, Pakistan

Rahman Ullah

Abstract

Lately, the Taliban aimed to spread terror, insecurity and created space for extremism in the absence of the local leadership in the tribal belt of Pakistan. The existing/traditional leadership—*Khan* and *Malik* are not only considered the symbol of power, but they also maintain socio-political order in the tribal belt because they coordinate between government and the common people of the tribal society. The Taliban succeeded in minimizing the role of existing structure and created space for themselves in the absence of Khans and Maliks (traditional leaders of the tribal society). This paper critically investigates the phenomenon of targeted killings in Bajaur agency of the Federally Administered Tribal Areas (FATA) during the War on Terror. It is concluded that the targeted killings of tribal chieftains have an impact on the social order of Bajaur agency. The research is based on interviews, un-published government document and a case study of the few tribal elders to understand the impact of tribal elders targeted killing on the existing social order in light of anthropological perspective.

Keywords: Terrorism, Target Killing, Maliks

Introduction

The tribal belt had remained a center of radicalism in the 18th century when the tribals showed stiff resistance to the British and provided basis for the radical movement of Syed Ahmad Shaheed. After the partition of colonial India the region has faced the same type of resistance movements. As a result of the soviet invasion, the militarization of the entire tribal belt started at large scale in 1980 by the US and Pakistan. However, the targeted killing in that period was not deployed as a war tactic due to cooperation between the Mujahidin and the sponsoring States for vested interests (Qadir, 2016). The Taliban claim the same legacy and manipulate tribesmen for their cause (Rana, Jihad aur Jihadi, 2003).

Since then the extremists and Jihadi groups (holy warriors) have been active in the tribal belt. The tribals have also supported the Pakistan government in Afghan War when the USSR invaded Afghanistan in 1979 and the tribal belt was used as a training center for these Jihadi groups. There were 104 violent jihadi and 82 sectarian groups of varying strength operating in Pakistan before September 9, 2001 (Ali A. , 2016). All of these groups came into being in the 1980s and 1990s. In the FATA the number of militant groups grew fast as well as in Khyber

Pakhtunkhwa where more than 50 local Taliban and a number of other violent religious groups came into being within just six years (Rana, 2009).

It was 2001 when the phenomenon of the targeted killing of the tribal elders and civilians started in general in Pakistan and particularly in the tribal belt of Pakistan bordered with Afghanistan. As a result of the US attack on Afghanistan the Taliban regime was toppled and the Taliban fighters infiltrated in the whole tribal agency and particularly in Bajaur (Ali A. , 2016). During 2006 to 2012, the intensity of the targeted killings remained high in Bajaur and claimed lives of the *Maliks* (tribal elders/tribal chieftains), journalists, leaders of the *Lashkars* (Anti-Taliban militias) and local politicians (Malik, 2013).

Prior to 1979 the power structure in the tribal belt was balanced as the two powerful political elements, tribes and government, co-existed peacefully. After the withdrawal of the USSR from Afghanistan and the emergence of the different Jihadists organizations, particularly, with entering of the Taliban fighters into the tribal areas the traditional power structure in the FATA was disturbed. To make the traditional power structure tilt in their favour, the heavily armed militants started targeted killing of tribal elders after spying or labeling on them pro-government charges (Leghari, 2008).

The phenomenon of targeted killings has different definitions depending upon how it is perceived and used in different circumstances. Targeted killing may refer to “[i]ntentional, premeditated and deliberate use of lethal force, by States or their agents acting under colour of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator” (Mcneal, 2014). Targeted killing is one of the techniques or tools of terror. In Pakistan targeted killing is an offshoot of terrorism, which is a broad phenomenon. The motives behind the targeted killing is not just to kill a single person, like he or she may be a political leader, a security officer, a tribal elder/chieftain, a journalist, but with such act, the militants want to convey a harsh message to the entire community, association or tribe. And mostly this message is to weaken, terrorize and keep a certain family, community, association and tribe under a constant hype (Riaz, 2016).

In Bajaur agency militants were targeting tribal elders to spread terror among the people and to weaken the administrative system as tribal elders were functioning as a bridge between the political/government administration and the tribal people. The killings of influential and powerful tribal elders created horror in the tribal people who started feeling of insecurity. The militants worked with clear objectives to control civilians, spread terror and shatter the tribal administrative system where the tribal elders help the Political Agent (agency administrator) in maintaining law and

order situation. As the thinking, goals and modus operandi of the targeted killings changed in Bajaur agency, Dr. Khadim Hussain interprets this situation as the tribal elders in Bajaur were targeted with clear intentions to fulfill particular political, cultural and social objectives. The targeted killing in Bajaur was used as a planned manner of violence; the tribal chieftains were targeted who were proving hurdles to the desired objectives of the militants (Hussain, 2016).

Escalation of Targeted Killings in Bajaur Agency

Targeted killing is not a new phenomenon. Like other agencies of Pakistan it has an old history in Bajaur agency. The tool of targeted killing has been in use in both tribal belt and Khyber Pakhtunkhwa for over decades.

Militancy and invention of modern technology has however recently transformed the traditional phenomenon of targeted killing into a more sophisticated and scientific form. Targeted killing existed in tribal belt and Khyber Pakhtunkhwa before 9/11 terrorists attacks on the US twin towers, but during that time, the very factors, forms and manifestations of target killing were different. Even, at that time, this word of “targeted killing” was not very commonly used. During that era, personal enmity was the primary reason behind majority of killings, sometimes; the wealthy party was using the *Hujrati Qatil* (hired-killer or assassin) (Riaz, 2016).

According to Khan, an official in FATA Secretariat, around 1,035 tribal elders fell prey to targeted killing since 2006 to 2012 in the FATA. Hundreds more of these tribal elders sustained serious or minor injuries during targeted killing and likewise hundreds were forced to flee their homes and shift to safer places. In seven agencies of the FATA--Khyber, Bajaur, Momand, Orakzai, Kurram, North Waziristan and South Waziristan--the total number of tribal elders is about 4,2647, among them some have got special perks and privileges from agency administrator i.e. called as political agent (Khan, 2016).

In return these tribal elders assist the political agent in maintaining law and order situation in their respective agency. If any of the tribal elder is found non-cooperative or if he violates the government directives then his perks and privileges are curtailed (Khan, 2016). These tribal elders play key role in the administrative affairs, they are considered as parts of the government machinery in the tribal belt. If from government the tribal elders were receiving benefits, receiving a bullet from the militants by these tribal elders was imminent and obvious.

When US toppled Taliban regime in Afghanistan in 2001 and militants made their ways to Pakistan's tribal areas, tribal elders became their first target to

cripple the government machinery. While forming the Anti-Taliban militias in 2008, tribal elders materialized the apparent fear of the Taliban that in the event of conflict between militants and the Pakistani government, tribal elders could form anti-Taliban *Lashkars* (private army) and turn the local population against militants (Khan M. A., 2015). The tribal chieftains under threat, preferred to form *Lashkars* (militia) against the militants, as they were reluctant to accept the protection of the state, as this would have been contrary to their Pakhtun and tribal gallantry values and honour (Malik, 2013).

According to FATA Secretariat Peshawar, total 255 tribal chieftains have been killed in Bajaur from 2006 to 2012, i.e. the highest figure of killing Maliks or tribal elders as compared to other agencies of the FATA. Malik Shah Jehan was the first who was targeted in Bajaur and then the list of killing tribal elders extended to 255. All names could not be accommodated here, however, see appendix for a brief list of few key and influential tribal elders fell prey to targeted killing in Bajaur (Khan, 2016).

Mainly the un-conventional form of the targeted killing was used in Bajaur agency. The intelligence agencies, mafia, gangsters and militants were involved in targeting the tribal elders in Bajaur. In un-conventional targeted killing, the intelligence agencies hire assassins, killers or companies like the US did it in Iraq through Black Water (Nazir, 2016). Contrary to the un-conventional targeted killing, the conventional targeted killing is the one that is conducted or sponsored by the state. The killing of a militants commander Nek Muhammad Wazir in a US drone strike in South Waziristan on June 18, 2004 and even the killing of Osama Bin Laden in US Navy seal operation on May 2, 2011 are included in conventional target killing, though both the operations were carried out by United States, but as they are State sponsored killing, thus they are included in conventional target killing. As both these killings were pre-planned, particularly, the killing of Nek Muhammad, who was obviously indicated by Pakistani government, is example of conventional target killing (Nazir, 2016).

Tribal Elders (Maliks) killed in Bajaur

For in-depth investigation and clarity of the topic, few cases/examples of tribal elders who fell prey to targeted killing are mentioned here. Following list received from the political administration of Bajaur agency gives details of the different tribal elders targeted in Bajaur.

Name Of Tribal Elder	Tehsil	Month	Date	Year
Malik Shah Jehan	Mamound	July	7	2007
Maulana Gul Sher	Mamound	June		2008

HajiRahmatullah	Mamound	December	7	2009
Malik Khan Wali	Mamound	December	7	2009
Malik Abdul Wadood	Mamound	December	7	2009
Mailk Abdul Ahad	Mamound	December	7	2009
MalikFaqir	Mamound	November	20	2008
MalikRahmatullah	Mamound	November	21	2008
Malik Abdul Majeed	Mamound	October	3	2009
MalikToorMulla	NawagiCharmang	August	23	2009
MalikGul Mohammad	Mamound	December	26	2009
MalikSherZaman	Mamound	December		2009
MalikGul Khan	NawagiCharmang	August		2009
MalikSardar Khan	Mamound	June		2008
MalikZakirullah	Slarzi	January	3	2009
MalikMohibullah	Slarzi	January	3	2009
MalikMamoor Khan	Khar	January	26	2008
MalikMursalin	Nawagi	January		2008
MalikAmeer Khan	Khar	August	3	2009
MalikStana Khan	Mamound	January		2009
MalikWalit Khan	Khar	June	3	2010
Malik Ismail Khan	Khar	September	17	2010
MalikNawabZada	Khar	September	17	2010
Malik Abdul Qayum	Khar	January	17	2010
Malik Shah Farooq	Mamound	October	25	2010
MalikJehangir Khan	Khar	January	1	2009
MalikBanars Khan	Slarzi	January	27	2010
MalikSherZaman	Mamound	November	15	2009
Malik Shah Poor Khan	Mamound	November	27	2009
MalikJandool Khan	Mamound	October	22	2009
MalikMuhamad Islam Armani	Nawagi	April	12	2009
MalikMunir Khan	Mamound	April	11	2009
NawabZadaShamsulWahab Khan	Khar	August	16	2007
MalikAlif Khan	Nawagi	September		2007
MalikHussain Khan	Khar	July		2007
Malik Mohammad Ayaz	Nazakai, Slarzi	June	2	2007

On the top of the list is Malik Shah Jehan who was one of the renowned tribal elders of Mamond Tehsil of Bajaur agency. According to Sultan Zeb, his father Malik Shah Jehan was shot dead by unknown gunmen on July 7, 2007. Being a pro-government tribal elder, Malik Shah Jehan belonged to Tarkani tribe. Sultan Zeb is the only son of Malik Shah Jehan, while Jehan left five daughters when he was targeted in 2007. According to Sultan Zeb his father Malik Shah Jehan was around 70 when he was killed.

The killing of the undaunted Malik Shah left deep marks on the social, cultural and political arena of Bajaur. Being a pro-government tribal chieftain, Malik Shah Jehan worked as a bridge in between the government and the tribals. He always played pivotal role in resolving land and other disputes in Bajaur. With killing of Malik Shah Jehan, a wave of horror spread in Bajaur, the tribesmen felt themselves insecure. Malik Shah Jehan was killed near colony of Khar, and Sultan Zeb was informed about the incident by hospital staff. Zeb doesn't know who were behind the killing of his father, but movements like Tahrik-i-Nifaz-i-Shariat Mohammadi and the Taliban were active at that time.

The killing of Malik Shah Jehan not only left his family but the entire Tarkani tribe orphan. Sultan Zeb recalls, "My father was an experienced head of our family, after his death, my family was affected socially, psychologically and financially." Not only our family, the entire tribe was affected, the people still remember him when they face some problem. Zeb says, "Though peace is restored to Bajaur but the fear still persists and the tribesmen are still guarding the area and the armed tribesmen have their turn to watch and safeguard roads and homes in the area(Zeb, 2016)."

Another influential malik to be killed was Malik Mohammad Ayaz. He was killed in a bomb blast in Salarzai Tehsil of Bajaur agency on June 2, 2007. He left five sons and three daughters and two wives behind. Presently, his one wife is alive. Belonging to a tribe of Tarkani, Malik Mohammad Ayaz was also pro-government tribal elder. Nasar, one of the five sons of Malik Mohammad Ayaz, told according to national identity card (NIC) his father (Malik Mohammad Ayaz) year of birth was 1935.

According to National Identity Card (NIC) the age of Malik Ayaz was 65; however, his original age was 78. Malik Ayaz along with his son was killed in a blast in a bazaar, after he was returning while burning some houses of the locals, as agency surgeon doctor was killed in the area. Though Malik Ayaz had received no threats, but he was quite aware of the grave situation in the agency, therefore, minutes before his death, he told the youngsters who were traveling with him in a pickup, "I have spent much part of my life, but I have deep concern for you as you are still young", Nasar recalled. Malik Ayaz had resolved some severe local issues

through Jirgas, and there are several examples that due to his efforts the enmity was changed into friendly relations. During his life, the militants could hardly dare to carry out their activities, and the locals remember him as a gentle, shrewd and judicious elder (Nasar, 2016).

Another influential malik was Wahab Kahn. Ahmad Ali is the eldest son of NawabZadaShamsulWahab Khan. According to National Identity Card (NIC) Wahab Khan was born in 1951. Belonging to Tarkani tribe of Khar Tehsil, Wahab Khan was killed in a blast on August 16, 2007. He left three sons and two daughters behind. He said his father's vehicle was targeted in a blast in Shawa graveyard (Shawa is Pashto name of a Willow tree), the graveyard has now named as ShuhadaChowk (Martyr Square). He said his father was receiving threats and once a bomb was also planted near his house. The killing of Wahab Khan's left worst marks on the entire family. Being an elder son of Wahab Khan, Ali said, "This incident affected me and my family economically, psychologically and socially. My study was also affected." The locals faced many problems after the killing of WahabKhan(Ali A. , 2016).

The very existence of these tribal elders was a great challenge to the narrative and goal of militants. Through targeting tribal chieftains, to a great extent militants succeeded in spreading fear in the tribal society and fracturing the bond between the tribals and the political administration. Due to militancy the entire Pakhtun codes were changed as Jirgas, funerals, mosques and tribal elders traveling along with women and children were attacked. In the first ever attack on a Jirga, a traditional council, occurred in Bajaur when about 200 men from SalarzaiKhar were chalking out plan to oust militants from their area. A bomber walked up to the Jirga and detonated explosives strapped to his body(Dawn, 2008).

In the last decade such attacks got firmed roots in the tribal culture that were earlier considered as acts of cowardice and contrary to tribal norms. These staunch and deep-seated Pakhtun norms and values were barely violated during the last decade in Bajaur(Yusuf, 2016).

Political Implications

It was overthrowing the Taliban reign following the US assault on Afghanistan that some tribesmen also began to organize themselves with a Taliban-style Islamic ideology. They came forth to pursue agenda identical to that of the Afghan Taliban leading to the killing of hundreds tribal elders to establish them as an alternative force in the region(Khan H. , 2012).

Like other agencies, in Bajaur too the Taliban succeeded to widen the gap between the tribesmen and the political administration. Some tribesmen oppressed

by the tribal system where influential tribal elders/maliks had a key role started perceiving Taliban as their survivors. The Taliban started targeting the pro-government tribal elders who helped the political administration in maintaining law and order situation in return of *Longi* (turban) allowance. The Taliban broadly used three-point strategy to create the vacuum for themselves in Bajaur agency.

- 1) Firstly, the Taliban took steps against the criminals to win sympathies and support of the tribesmen.
- 2) They started targeting the influential tribal elders who challenged their authority.
- 3) They set-up their own shura (council), courts or dispute resolution mechanism and thus mitigated the role of tribal elders and Jirga(Rana, 2009).

The Taliban not only started targeting tribal elders but also set-up court in Bajaur to minimize the influence of tribal elders. One Taliban court had registered 1,400 cases until August 2008 and decided 1,000 out of them(Yusaf Ali. and Javed Afridi, 2008).

This posed a direct challenge to the writ of the government. According to a research conducted by BBC Urdu Service and published in April 2009, the civilian government no longer exercised authority over 24 percent areas of the FATA(BBC, 2009).

These tribal elders worked as a bridge between the tribesmen and the agency administration. A 'political agent' (civil servant) administers an agency of FATA, and is answerable to the governor of Khyber Pakhtunkhwa. The Taliban made this administrative system ineffective and fragile by killing hundreds of the tribal chieftains and continuously threatening the agency administrators. The government failed to comply with the people demands of protecting their lives and properties. Meanwhile, several criminal gangs also surfaced and indulged in crimes like theft, looting, robbing, plundering, kidnapping and killing of innocent people. The Taliban succeeded in curtailing the inherited government-to-people relationship by targeting the influential tribal elders(Khan Z. A., 2012).

Power Vacuum

After crossing over to the FATA, the Taliban wanted to create a space in order to establish their writ, i.e. commonly known as militants challenged the government writ and wanted to set up a parallel system in the tribal belt, thus they first started to produce a vacuum that could later be filled by them. For creating this vacuum and breaking the bond of government functionaries and tribal elders, militants started targeted killing of the most influential tribal elders in FATA(Riaz, 2016).

Security and political analyst Dr. Khadim Hussain also having the same view, the militants wanted to create a particular kind of vacuum, social, cultural and political so that it is filled with their own discourse, the victims were the people who used to challenge the discourse of militants' organization, as their challenge used to be effective and were blocking the ways of militants' objectives, thus they were targeted. The non-state actors/militants targeted the tribal elders to create mainly three-types of vacuum in Bajaur

- 1) To shift the decision making-power corridor from the tribal elders to the Taliban shura (council).
- 2) The tribal elders are being considered as a source of wisdom and they have full grasp of the tribal cultural traits and social institutions like Jirga and Pakhtunwali. They are considered as source of indigenous knowledge and take indigenous-knowledge-based decisions drawing guidance of the tribal principles, customs, traditions and institutions. The non-state actors targeted them to create vacuum for their new radicalized thought drawing guidance of the hardcore Jihadist ideas.
- 3) The non-state actors targeted the tribal elders as they wanted to create the vacuum to be filled with their new theocratic discourse.

Dr. Khadim Hussain reveals that the militants also targeted spies or those people who were taking interest in gathering information about militants' activities, perhaps they were not spies, but their interest of gathering information made their status dubious and were targeted by the militants in the name of spies in Bajaur agency.

The militants groups also targeted the religious scholars who were not following religious sects of the militants' outfits or were challenging their discourse of Jihad. Political activists and state officials were also targeted in both the FATA and KP for certain objectives. The defunct Tehrik-i-Taliban has claimed majority of incidents of the targeted killing (Hussain, 2016).

Targeted killing is very common in those societies that are called un-organized society, a term used in sociology for those societies where law enforcement agencies are weak to establish writ of the government. Unfortunately, this sociological definition can also be applied on Pakistan society where law enforcement agencies are weak to implement rule of law and have weak control. In Pakistan there is also sectarian conflict that is a big cause of target killing in some of the tribal areas and parts of Khyber Pakhtunkhwa (Basharat, 2016).

Pakistani society is a lawless society, poverty, weakness of law enforcing institutions, unawareness and low literacy rate provide chances to the foreigners and a few-handpicked people to play with the peace and tranquility of the society. Dr. Basharat Hussain reveals, "We are living in a state of constant denial, instead

of resolving, we are denying the pressing issues, thus our problems are multiplying and getting complex day by day.” The main sociological impact of target killings, particularly those ignited by sectarian conflict has created trust deficit (Basharat, 2016).

Conclusion

The phenomenon of the targeted killing continues in Bajaur agency and the militants are succeeding in weakening the bridge, coordination and communication system between local elders and political administration. With militants targeting the highly influential tribal elders who were supposed to help the political administration in protecting the local tribesmen, the feelings of insecurity have increased among the local tribesmen in Bajaur.

With the targeted killings going on for over a decade now, the political administration has also weakened. The primary reason is that powerful tribal chieftains fear to extend their support to the political administration. In the past the political agent often relied on tribal chieftains for maintaining law and order situation. Tribal elders often supported the political administration for getting certain perks and privileges usually called as *Longi* (allowance from Rs. 200 to Rs. 6000). But tribal elders now fear as militants target them for their loyalties or support to the political administration. Thus due to targeted killings of the tribal chieftains the close liaison between the political administration and the tribal chieftains is badly affected.

The militants targeted those tribal elders who supported the government forces against the Taliban and this process still goes on. Beside other pro-government tribal chieftains, leaders of the *Lashkar* (Anti-Taliban militias) also remained one of the prime targets of the militants. As this conflict between the militants and the elders of the Anti-Taliban militias has now almost been transformed into a personal feud between these two rival groups, this points to the possibility that there is no end to the targeted killings in Bajaur agency in near future.

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History of Violence Against Women (VAW) in the West, Recognition and Emerging Interventions

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Abstract

The recorded history of VAW dates back to 753 BC when wife beating was a conventional practice and an accepted norm as the law of chastisement allowed and made men responsible for all the crimes committed by their wives. The period of 1600 AD saw women taking refuge in convents to escape from violence in their homes. The paper uses qualitative approach to discuss the historical laws of West that supported wife beating. The women's right movement was generated as a result in West and the paper will then indicate how and when the VAW was being recognized as a social problem. At the end of this paper, the feminist movement involvement in developing VAW interventions and global recognition of discrimination and VAW is outlined.

Key Words: Violence Against Women, history, laws, recognition, interventions.

Wife Beating Supported by Historical Laws

Ancient Roman society was an inspiration for modern republics and contributed to modern government laws, customs, literature, technology, language, religion and society (Lemon, 1996). For example, beating a wife was accepted and forgiven by the Law of Chastisement during the rule of Romulus in Rome in 753 BC. This law allowed the husbands to reprimand and physically discipline their wives as they were considered accountable for their wives' misdeeds. Hence, husbands were given the privilege of beating their wives with a stick or rod equal to the circumference of a man's thumb, to protect themselves from their wife's harmful actions. During 1767 AD, the British Common Law was enacted, which allowed men to discipline or chastise their women with a stick or rod no larger in diameter than the thumb. This became known as the "rule of thumb" (Schechter, 1982). This law was a basis of most of the laws made under English Common Law as well as other laws over Europe (Lemon, 1996). But as the Punic War finished in 202 BC, women were given some freedom in the form of property rights and bringing their husbands to court if he had beaten her unduly (Lemon, 1996). During 300 AD, the Fathers of the Church restored the authority of the husbands according to the patriarchal values of Jewish and Roman laws.

During the Middle Ages (from 900 to 1300 AD) in Europe noblemen or masters used to abuse not only their slaves but often their wives; their slaves also tend to follow the examples of their lords in beating their wives (Martin, 1976). The Church also promoted the helplessness of the abused wives by advising them to win the hearts of their husbands by more obedience and serving them with more devotion. This was a time when a woman's feelings and capacity for sufferings was not considered as valued and equal to that possessed by a man. In the *Manual of Medieval Theology* (edited and translated by McCracken & Cabaniss, 1957), a man was given permission to rebuke and reprimand his wife even with physical beating for her correction (as cited in Martin, 1976).

During the 1400s, the Christian church was indecisive as to whether to support wife beating or to encourage husbands to be more sympathetic towards wives and to have self-control in punishing their wives (Lemon, 1996). Rules of marriage, including the trend of beating wives by their husbands, were documented by Christian scholar, Friar Cherbubino (Lemon, 1996). However, the *Book of the City of Ladies* (1364-1430), considered a classic literature book on women's issues, accused men of cruelty towards their wives in the form of physical abuse and promoted basic rights for women including education and the need to show kind and caring behaviour towards women in marriages (as cited in Pizan, 1999). In 1427, the Bernard of Siena advised his male worshippers to have self-control and mercy in treating their wives as they would with their hens and pigs (Lemon, 1996).

In 1500 English Jurist, Lord Hale laid down the foundation of non-recognition of rape in marital relationships as he stated that when a woman marries she gave herself to her husband in the form of contract which remains intact until their divorce (Lemon, 1996). He also stated that a wife cannot retract from the contract of all types of sexual relationships with her husband; thus a husband cannot be considered guilty of raping of his own wife owing to their contractual agreement (Lemon, 1996). This was also a basis of origin of contractual consent theory according to which the wife was to be available for sex to her husband at all costs. Lord Hale has been described by women advocates as misogynist as he used to burn women alive at the stake claiming that they were witches (Lemon, 1996). There was some retaliation to this concept as Abbe de Brantome raised the question that although husbands may have great authority over their wives, there is no sense in allowing them to kill their wives (Martin, 1976). In England, during late 1500s, under the Golden Age of the Rod Law

children and women were advised to be obedient of their men as their sacred duty (Martin, 1976).

Thus the practice of beating a wife has longstanding historical roots. The next part will describe some of the major milestones in the creation of laws in support of elimination of VAW.

Recognition of VAW as a Social Problem

The 1800's saw some favorable response towards the alleviation of suffering of women. For example, in 1824, the Mississippi Supreme Court of USA in *Bradley v. State* 2 Miss. Walker 156 decided a husband could only exercise restrained reprimands to his wife and then only emergency situations (Lemon, 1996; Martin, 1976). Similarly, in 1829 a husbands' unconditional power of physically reprimanding and rebuking his wife was abolished (Schechter, 1982). In 1874, the Supreme Court of North Carolina, in the United States renounced the finger-switch rule or rule of thumb that allowed the man to beat his wife with a stick not thicker than the finger and decided that under any situation a husband did not have the right to corporally punish his wife. The decision also included the provision that if a husband does not show his wife permanent hatred, cruelty or dangerous violence than both parties should forgive and forget (Martin, 1976).

In 1878 English author Francis Power Cobbe, wrote, *Wife Torture in England*, wherein she criticized the abusive behaviour towards wives in the Liverpool's district. She documented 6000 cruel physical attacks on women (for example, mutilated, blinded, trodden, set ablaze and murdered) in the span on over a three years period, concluding that most women were abused because people generally believe that a wife is the property of her husband.

The Parliament of England enacted the Matrimonial Causes Act in 1880 which allowed the women who were victim of their husband's violence to take legal separation from him (Dobash&Dobash, 1992). The Act also allowed women custody of their children in case of such separations and also entitled them to keep the earnings and property that they secured from their husbands (Dobash&Dobash, 1992). But separation could only be sought in cases of brutal assault by husbands in which the women's life was considered to be in grave danger (Dobash&Dobash, 1992; Lemon, 1996).

In 1882, the state of Maryland made wife beating unlawful, the stated punishment was either one year imprisonment or 40 lashes (Martin, 1976). But in North Caroline in 1886, a lower court affirmed that husbands cannot be convicted

unless the beating caused some permanent injury, the wife's life was endangered by the assault, or the beating was cruel (Martin, 1976). Subsequently, in 1890 the Supreme Court of North Carolina prohibited husbands from committing even a minor assault on their wives (Martin, 1976). During 1894 in Mississippi, according to *Harris v. State*, 71 Miss. 462 case, the court withdrew husband's right to administer even restrained chastisement (Lemon, 1996; Martin, 1976).

With Queen Victoria's ascension to the English throne in the late 1880s, lawmakers brought further reforms against wife beating. For example, it was prohibited to keep a wife in lock, harsh beating by a husband to endanger the life of a wife was considered grounds for divorce; it was also prohibited to sell wives and daughters for prostitution (Lemon, 1996). Further, in 1895 the Married Women's Property Act termed a husband's sexual and physical assault on his wife as sufficient grounds for divorce (Schechter, 1982). During late 1880s, the courts began to consider husbands responsible and thus guilty of marital rape (Lemon, 1996).

During 1919, America passed 19th Amendment in its constitution which gave right of vote to women in public elections (Martin, 1976). In 1945, California, USA passed a law which stated that a husband who deliberately meted out corporal injury upon his wife or child that was harmful or traumatic would be considered guilty and punished either in prison for not less than one year or more than 10 years (Martin, 1976). However, there was some criticism of this law. As an example, San Jose Superior Court Judge, Eugene Premo overruled charges against a husband who was accused of murdering his wife as unconstitutional, as the law only identified husbands as perpetrators of abuse (Martin, 1976).

These events and incidents set the stage for the development of the feminist movement where the activists advocated, demanded and struggled for more humane treatment towards women in the society.

The Feminist Movement Involvement in Developing Violence Against Women Interventions

The 1950s and 1960s gave birth to the US civil rights movement, the anti-war movement Black liberation and finally the feminist movement (Schechter, 1982). The feminist movement challenged unfair labour practices and discriminatory laws against women (Schechter, 1982). According to feminists views, violence and abuse against women are socially generated to maintain

dominance and social control over women (Lempert, 1996). Feminists also assert that as a consequence of male dominance in society men enjoy dominant positions economically, politically and socially (Greene & Bogo, 2002; Loue & Faust, 1998). Men have greater access to material resources and this economic discrimination against women promote their dependency on men and their lack of ability to terminate the abusive relationship with their male partners (Okun, 1986).

In 1962 New York State shifted cases of domestic violence from Criminal to Family Courts (Martin, 1976). As a consequence of the adoption of civil procedures in Family Court, couple's disputes were considered family affairs, VAW was shifted from a criminal act to a family's personal affair, and less severe charges were placed against the perpetrator (Martin, 1976).

In 1964, the feminist movement gave birth to two institutions for abused women in the USA: the Rainbow Retreat in Phoenix, Arizona and Haven House in Pasadena, California (Schechter, 1982). Both community-based institutions were individually run and offered help to battered women who had abusive husbands by providing temporary refuge to women and their children as well as other basic needs such as food, shelter and clothes and counseling for women (Schechter, 1982).

The efforts of feminist's movement in terms of labour relations came to some success when the American Congress in 1965 passed a law that prohibited employment discrimination by guaranteeing the same pay for women as equivalent work done by men (Martin, 1976). This was also a supporting step towards women's economic independence and it played a role in allowing women to be able to afford to live independently if they decided to separate from abusive relationship (Martin, 1976).

Further, in 1966 New York State legalized beating as sound grounds for divorce; but the wife had to present proof that substantial beating episodes had occurred before the courts would grant a divorce (Martin, 1976).

A groundbreaking study conducted in Chicago from 1965 to 1966 showed the widespread prevalence of VAW; 46.1% of the crimes against women took place in their homes and that police dealt with more number of complaints on domestic violence than the response against crimes like rape, murder, or other assaults (Martin, 1976).

As a consequence of emerging data on the prevalence of VAW and agitation by the feminist movement, shelter homes, whose aim was to provide temporary shelter to the women victims of domestic violence, were began to be established in the USA. In 1976, Maine established the first shelter home, the first

state-run institution also provided women with basic needs like food, clothes, and shelter (Lemon, 1996). This idea was later replicated by other states and countries around the world with the same purpose and structures. As a result of women's activism, shelter homes emerged throughout the West.

In the late 1960s, Italy declared that the honour killing, that is that in the terms used to describe in situations when women were either killed or traded to settle the dispute and to bring the honour back to their family, was a serious crime (Schechter, 1982). Soon after, other countries adopted this law. However, honour killing is still practiced in most of the world's developing countries (Schechter, 1982).

The feminist movement of 1960s and early 1970s in the US gave rise to the battered women's movement by claiming that peoples private life at home is a political issue (Schechter, 1982). As a result, women crisis centers and hotlines were established for battered women seeking help and support from their turmoil (Schechter, 1982). A group of feminists, established the Women in Transition Institute in Philadelphia, in 1971, which provided services to battered women, separated and divorced women as well as to single women who were facing abuse in their homes (Heinemann, 1996).

The feminist movement also resulted in establishment of similar structures in other countries. For example in the same year in 1971 in London England, an advice center, the Chiswick Women's Aid Center or Battered Wives Center, for battered women and their children was established by Erin Pizzey (Dobash&Dobash, 1992; Martin, 1976). At this center women could come to escape loneliness and could share mutual interests by meeting their peers (Dobash&Dobash, 1992). Erin Pizzey (1974) also wrote the book, *Scream Quietly or the Neighbors will Hear*, the first of its kind to highlight the issue of domestic violence in the society and its repercussions on women and their children.

Until 1980, approximately 150 shelter homes existed in England; most of which were sponsored by the National Women's Aid Federation and aimed to serve the battered women and their children (Johnson, 1981). During 1976, due to campaigning by Pizzey and other activists, the British parliament enacted laws which gave broader protection to women victims of domestic violence (Tierney, 1982). Thus, the issue of VAW became increasingly recognized as laws and institutions were created to safeguard women victims and to punish perpetrators.

After the establishment of shelter homes, crisis hotlines, where women can call to ask for help at times of immediate needs, emerged. The Women's Advocate Inc. started a crisis hotline service in St. Paul Minnesota, which provided

counseling to battered women and later the female staff members also provided shelter to such women in their own homes (Martin, 1976). The Abused Women's Aid in Crisis, founded by social worker Maria Roy from New York, established a hotline in 1975, and a shelter home in 1976 in New York (Tierney, 1982). The first emergency rape crisis hotline was started in Washington, D.C. in 1972 (Heinemann, 1996; Schechter, 1982).

The Rainbow Retreat of Phoenix Arizona established in 1973 was considered as the first formal shelter home for battered women in the USA. In 1974 Haven House, for battered women, was established in Pasadena, California and subsequently, two additional grassroots shelter homes were established: La Casa de las Madres in San Francisco and a Transition House in Massachusetts (Tierney, 1982). According to the United States News and World Report of 1979 almost 170 shelter homes were established in the USA from 1975 to 1978 (Tierney, 1982). By 1979 almost a dozen states of USA had made laws on wife beating and by 1980, 45 states of USA and the District of Columbia established special legal provisions for cases of wife beating (Seltzer & Kalmus, 1988).

Another achievement in the VAW struggle occurred in 1974 in California, when battered women were given rights to claim the compensation for the injuries inflicted on them by their husbands (Martin, 1976).

In the early 1970s Canada also established the first formal transition houses, which provided women and their children who are escaping violence housing till they find a safe alternative house (Gilman, 1988). Inaugural shelters include: Vancouver's Transition House, Ishtar in Langley, British Columbia and an Oasis House (now known as the Calgary Women's Emergency Shelter) in Alberta and Saskatoon's Interval House in Toronto, Ontario (Gilman, 1988; Hebert & Foley, 1996, MacLeod, 1989).

Thus, the recognition of VAW globally by the UN specifically, led to support for victims of violence through enacting laws, the establishment of shelter homes and crisis hotlines and other efforts. As members of UN, countries were responsible to take concrete steps in decreasing VAW and to establish structures to help women impacted by violence.

Global Recognition of Discrimination and Violence against Women

The UN recognized the prejudiced and biased practices against women on December 18, 1979 when its General Assembly implemented and approved the CEDAW, which was enforced on September 03, 1981 (UN, 1981). This convention stated that men and women have fundamental human rights of freedom, equality in dignity without any distinction on the basis of their sex and

that all members of the UN have to ensure equal rights of men and women in all civil, political, social, cultural and economic fields (UN, 1981).

In December 1993, the General Assembly of United Nations also approved the Declaration on the Elimination of Violence against Women (UN, 1993). It recognized that VAW is a demonstration of habitual imbalanced relationship of power between women and men that has created supremacy and unfairness of men towards women (UN, 1993) Moreover, it has blocked the means of development of women and as a result women are considered lower and secondary in status with regard to men in the society (UN, 1993).

According to the UN declaration (1993) VAW is any act that is carried on the basis of sex which causes physical, sexual or psychological injuries whether it occurred in public or private life. Physical abuse means unwanted contact of anything with the body of the women. Sexual abuse means pressurizing or coercing a woman to do something sexually which they do not wish to do themselves. Psychological abuse means non-physical behaviours like constantly threatening, insulting, humiliating, monitoring, stalking, isolating, or intimidating a woman (UN, 1993).

The recognition of VAW globally by the UN specifically, led to support for victims of violence through enacting laws, the establishment of shelter homes and crisis hotlines and other efforts. As members of UN, countries were responsible to take concrete steps in decreasing VAW and to establish structures to help women impacted by violence.

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EQUALITY AND DIVERSITY IN POLICING

Stout, B. (2010). 'Policing Matters' Series, Waddington, PAJ & Wright, M. (Eds.) Exeter: Learning Matters. V + 153pp. pbk. £16 ISBN 978-1-84445-353

This text book was written specifically for students undertaking degrees in Policing and related subjects. It is part of a series on 'Policing Matters', in which all books provide key information and learning activities related to core modules, and follow a common format of chapter objectives, case studies, practical and reflective tasks, with links to relevant national standards and legislation.

This particular volume provides a context for the difficult history of the Police in relation to equality and diversity, lucidly sets out legislative and policy frameworks, and examines diversity issues both between Police and community and within policing organisations and cultures. It benefits from an author with criminal justice experience in both South Africa and Northern Ireland, the latter being of particular relevance in discussing the policing of sectarianism, associated hate crime and restorative justice issues. Therefore, although some of the frameworks necessarily refer to UK law and policy, the primary issues of equality and diversity are internationally relevant and applicable.

The main concern of this book is to encourage existing and potential Police professionals to be reflective about the diversity dilemmas they may face, and to come to understand the importance of promoting fairness and equality in the policing arena. The book rightly emphasises that this is a process which amounts to much more than the 'common sense' rationale with which it is sometimes dismissed.

Six of the book's eight chapters are built around what are described as 'the six strands of diversity', these being categorised as age, disability, gender, race, religion and sexual orientation. Although a function of the book's deliberate structure, the reader might have benefited from hearing before, rather than after these categories were introduced, that diversity is a

nuanced term which embraces any state of potential oppression, such as poverty, unemployment, homelessness (one might add to these the innocent victims of terrorism), and so on. Similarly, an earlier explanation of social construction (or labelling) theory would have provided a comprehensive underpinning of the entire subject matter, rather than appearing first in Chapter 3 on disability. The other difficulty, which pervades most contemporary writing on criminal justice is that, having exhorted its readers to refer to, for example, the disabled, as 'disabled people', the book goes on to use the label 'offender' rather than 'a person who offends'. Just as in practising diversity, in writing about it there are no easy answers!

These are minor criticisms, however. In each of its chapters, this book provides reliable information and cogent argument surrounding each of its identified strands of diversity. Particularly useful is the inclusion of very recent examples of discrimination such as, in England, the bullying of Fiona Pilkington and her 18-year old daughter Francecca, because of Francecca and her brother's disabilities, leading to Ms Pilkington killing herself and Francecca. This had gone unrecognised as 'disability hate crime' by Leicestershire Constabulary, which has since developed a definitive policy on this type of crime.

Within this volume, Police students and other readers are encouraged to access websites and to think hard about how they might behave and apply the law in similar circumstances to that described above. This type of reflection has become even more important in the UK since the increase in hate crime, following the referendum decision to leave the European Union. Conscious that Police activity in relation to discrimination is often portrayed in a negative light, however, the book's author is at pains to balance this with accounts of more positive developments in recent times, such as the progress which has been made in countering racism since the Stephen Lawrence Inquiry in 1999. (This was a high-profile inquiry into the racially-motivated murder of an 18-year old young man in London, where the killers were not brought to justice, found to have been mishandled by Police because of institutional racism)

As impressively up-to-date as the material in this book is, publications involving legislation are always at the mercy of enthusiastic politicians. Since the book was published, 'Stop and Search' measures (always disproportionately perpetrated on black people) have been under review, and controversial Anti-Social Behaviour Orders (which did not constitute an offence other than in their breach) have been abolished in the UK. To an extent, this has limited Police discretion in relation to apprehension based on race and age, both of which are addressed in this book. However, as noted in the very last paragraph, it is 'easy to predict that the Police will deal with new and unpredictable diversity issues in the months and years ahead' (p.147). Indeed it is, and this publication has provided a most welcome body of knowledge and understanding from which to perceive, reflect and act upon equality and diversity in policing not only in the UK but world-wide.

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