

REFORMING PAKISTAN POLICE: AN OVERVIEW

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I. INTRODUCTION

Police reform has emerged as a top priority in Pakistan Government's commitment for strengthening the rule of law. Despite many past reform efforts, it is only in about the last two years that Pakistan has viewed police reform as a critical developmental priority. The interest in reform stems from clear and overwhelming evidence that a fair, responsible, ethical and efficient criminal justice system is an important factor in the promotion of economic and social development and of human security. It also stems from the fact that law and order crisis in Pakistan has continued to deepen over time, and in recent years the police has been increasingly unable to cope with its increased responsibilities, particularly with regard to combating serious crime.

A. The Problem

Among the serious constraints undermining the police system of Pakistan are: (1) an outdated legal and institutional framework (devised for nineteenth century India consisting of near static villages with hardly any urbanisation or industrialization, and meant principally for a colonial rule), (2) arbitrary and whimsical (mis)management of police by the executive authority of the state at every level (policemen were increasingly recruited, trained, promoted and posted without regard to merit and mainly for their subservience to people with influence and power), (3) inadequate accountability, (4) poor incentive systems, (5) widespread corruption, and (6) severe under-resourcing of law and order.

B. The Way Forward

To meet the challenges of modernizing an outmoded institutional framework and improving the professional and ethical content of policing, the government has initiated an ambitious reform process. The thrust of these reforms is to organize a police system, which is politically neutral, non-authoritarian, accountable and responsive to the community, professionally efficient, and last but not least, which is an instrument of rule of law.

In a profound revamping of the structure and systems of police at federal, province and local government levels, the government has decided to dismantle the – anachronistic – Police Act of 1861, which was more suited for rule by a colonial power than safeguarding and promoting rule of law. The draft Police Ordinance 2002 aims, *inter alia*, at depoliticising police, improving police professionalism through a merit-oriented system of recruitment and career progression, and making police more accountable to citizens. If properly implemented, these radical reforms can bring about a fundamental transformation in the quality of policing, and make police a people-friendly public service, particularly for the poor and disadvantaged.

II. THE HISTORICAL CONTEXT

Pakistan inherited, in 1947, a more-than-eighty-year-old police system from the British. The overriding consideration before those who designed the police organization in 1861 was to create an instrument in the hands of the – colonial – government for *keeping the natives on a tight leash*, not a *politically neutral outfit for fair and just enforcement of law*. Police was *designed* to be a *public-frightening* organization, not a *public-friendly* agency. Service to the people was not an objective of this design. It was designed in response to the social and political realities of the times: The paramount concerns were collection of land revenue and maintenance of law and order (a euphemism for what Justice Cornelius called the rule of *danda* (stick)). Both these – incompatible – functions were vested in a European officer, variously called Collector, District Officer, Deputy Commissioner or District Magistrate. In his latter capacity, the District Officer was head of the magistracy who tried most criminal cases.

It is crucial to understand the basic difference between a colonial police and a police meant for a free country. Whereas the former was geared at raising semi-militarised, semi-literate, underpaid, bodies of men for maintaining order by overawing an often turbulent and hostile – native – population, the latter aimed at creating quality professionals tasked

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to prevent and detect crime in plural, multi-ethnic and socially conscious communities, through just and impartial enforcement of laws. The former knew how to rule, the latter to serve.

Another important reason why tight and effective control over criminal justice administration was felt critical was to protect the interests of European middle class responsible for trade and administration in India. To that end, those who investigated and prosecuted criminal cases were effectively subordinated to the District Officer.

Not only was this union of distinct functions in one government functionary wrong in theory and bad in principle, it was also contrary to the pre-British and ancient Indian practices under which there existed a virtual separation between the judiciary and the executive. This – untenable – position of District Officer was severely criticised even by many Britons, but it was felt to be “absolutely essential” to the maintenance of British rule in India.

As the overriding objective of police organization designed in 1861 was to maintain the stability of the Raj, the purpose was admirably achieved through emulating the Irish Constabulary model – by placing police under direction and control of the executive authority through the office of the District Officer who acted as the agent of the colonial government.

A. The Irish Constabulary Model

As Britain expanded its empire, a policing model deemed ideal for colonial rule came to be identified. The model was based principally on the experience the English had while they tried to enforce order in Ireland (which rejected rule from Westminster) through Irish Constabulary established under the Constabulary Acts of 1822 and 1836.

As pointed out by Mawby (1990), Irish Constabulary sought legitimacy at Westminster rather than among the indigenous population. It was an alternative to an army of occupation with no community mandate whatsoever. On a structural level it was highly centralised with a recognised chain of command from the individual constable, through chief constable to inspector general, who in turn was responsible to chief secretary and lord lieutenant.

Another significant characteristic of the model was that it firmly established the principle that the constable was answerable to the chief constable rather than the law, the chief constable himself being responsible to central government.

Jeffries (1952, 31) also notes that the Irish blueprint was considered as the ideal mechanism for solving a specific set of law-and-order problems:

It is clear enough that from the point of view of the Colonies there was much attraction in an arrangement which provided what we should now call a 'para-military' organization or gendarmerie, armed and trained to operate as an agent of the central government in a country where the population was pre-dominantly rural, communications were poor; social conditions were largely primitive, and the recourse to violence by members of the public who were 'agin the government' was not infrequent. It was natural that such a force, rather than one organized on the lines of the purely civilian and localised forces of Great Britain should have been taken as a suitable model for adaptation to colonial conditions.

B. The London Model

The Metropolitan Police Act 1829 established the principles that shaped modern English policing. First, policing was to be preventive and the primary means of policing was conspicuous patrolling by uniformed police officers. Second, command and control were to be maintained through a centralised, quasi-military organizational structure. Third, police were to be patient, impersonal and professional. Fourth, the authority of the English constable derived from three official sources – the crown (not the political party in power), the law, and the consent and co-operation of the citizenry. Finally, the oversight of the Home Secretary was to operate in such matters as establishment, administration, and disciplinary regulations, leaving the direction of policing as such in the hands of the two Joint Commissioners and now the Commissioner of the Metropolitan Police. In other words, the secretary of state was not explicitly or implicitly given the authority to direct police operations.

Policing in Britain for the past 173 years has continued to rest on these broad principles, and the Police Act guarantees the independence of the office of chief constable. In maintaining responsibility of direction and control of his force, the Act places high value on the principles that the chief constable should be free from the conventional processes of democratic control and influence in relation to decisions in individual cases.

C. The Irish and British Models Compared

Using the three criteria of legitimacy, structure and function, Mawby (1990) demonstrates that the English and Colonial models of policing are quite distinct. In terms of legitimacy, while the English system is founded on the law and on local government accountability, an alien authority using its law to suit its purpose legitimises the colonial model:

In the colonial system, the police not infrequently usurped the role of judge, jailer and executor. The 'order' imposed by the police did not automatically square with the 'law' with which it was habitually coupled. (Arnold 1986, 3)

To a certain extent, the same can be said of the structure. While the police forces of England were decentralised, civilian, and not organized in a military fashion, although senior officers tended to be recruited from the military, the colonial system featured a military structure, with personnel often drawn from the armed forces, usually (and certainly in the case of senior officers) aliens, armed, and living in separate quarters.

The two models are also distinctive in terms of their functions. While the police forces under the English system accepted responsibility for a range of non-crime tasks, their responsibilities for general administration were nowhere as important as in the colonial model. Moreover, the role of the former in maintaining order and protecting the state from political protest, while scarcely ignored, never attained the priority it had in the colonies. As Arnold (1986, 3) argues, within the colonial system:

The distinction between political and crime control function is largely a false one. To the colonial regime crime and politics were almost inseparable: serious crime was an implicit defiance of state authority and a possible prelude to rebellion; political resistance was either a 'crime' or the likely occasion for it. The resources and skills developed in combating one were freely employed in defeating the other.

No wonder, then, that in India, where a small occupying force imposed alien rule combining administrative, judicial and police functions, the police organization that emerged tended to follow Irish pattern, whereas in countries like United States and Australia that remained under colonial rule but where the indigenous population was in a minority and/or policing settlers was a priority, as in the British Indian cities of Calcutta (now Kolkata), Madras (now Chennai) and Bombay (now Mumbai), alternative policing systems similar to the English system emerged.

D. The Napier's Police Organization

In India, Sir Charles Napier created an Irish-type police in the province of Sind (now the south-eastern province of Pakistan) in the 1840s, and a similar system was later adopted in other provinces. The force was armed and organized on a military basis. Its location, in barracks, like Irish Constabulary, illustrated its source of legitimacy, structure and function as an organ of social control.

It was not only the single men who lived in barracks; married constables and sub-constables were usually accommodated in the barracks with their wives and children; partly for their protection, partly to make it more difficult for them to form the 'local connection' which their senior officers greatly feared. (Tobias 1977, 246)

Napier (1851, 7) was a great sceptic of the civil service. He thought that it was 'a system under which the best must misgovern, as founded on false principles.' He, therefore, decided to run his new administration not through civil servants, but military officers or 'soldier civilians,' as he called them, with 'far less expense and more activity.' Following the para-military Irish Constabulary model, he placed the police of the entire province under the command of a captain of police.

The Napier model was based on two main principles: Firstly, that the police must be kept entirely distinct from the military in their support of the government. And secondly, the police must be an entirely independent body there to assist the civilian authorities in discharging their responsibilities for law and order, but under their own officers.

Although the new police was to be employed solely on police work and was to be supervised by officers whose sole duty it was to control and direct them, the system lacked logical finish. Paradoxically, the district heads of police were organizationally under the command of their provincial chief, the captain of police, while operationally each one of them was subject to orders of his respective civilian authority. In essence, the senior officers of the force were merely to be good managers of the men under their command while the District Officers, apart from their revenue and judicial functions, were tasked with the responsibility of maintaining law and order in their respective districts.

E. The Rationale for Napier's Model

Napier's irrational organization was a deliberate departure from the Irish Constabulary model, which the author of the new scheme had purportedly tried to follow. It was a typically bizarre arrangement that shocked the theorists but which made 'sense' in view of the aims and character of the – colonial – administration (Griffith 1971, 72-4).

F. East India Company's Historic Decision on Police Reform

It may look quite inconceivable that the British administrators, with liberal backgrounds, did not believe in the principle of separation of powers. Actually most of them did; but as pragmatists it was their 'considered view' that only by supplementing and not by judicially reviewing or correcting the police actions (often taken at the behest of executive authorities) could the writ of the rulers be established with maximum of vigour and ease.

Some 'liberalisation' in views, however, started with the Bird Committee's report of 1838. The Committee was tasked to look into the 'desirability' of introducing in India police reforms similar to those Peel had introduced in London in 1829. After stressing that the chief cause of police inefficiency was its inadequate supervision, the Committee recommended that control over police be entrusted exclusively to an officer other than the Collector.

An intense debate followed the Bird report. There also came a scathing indictment of the system by the Torture Commission of 1855, which concluded that revenue authorities in Madras were grossly misusing their police powers to extort revenue from the poor peasants. These historic developments led the Directors of East India Company to examine afresh the vexed subject of police reform in India.

In 1856, after examining the available evidence, the Directors issued orders clearly emphasising that further organizational development of police throughout the sub-continent would proceed on the basic premise that the District Magistrate would seize to have any role in the affairs of police. In line with the basic principles of a modern organization, they decided to commit the police exclusively to a – European – superintendent of police responsible only to his departmental hierarchy. In what may be termed as the most important policy directive – of 24 September 1856 – for the reorganization of police throughout British India, the Directors observed that the police in India had lamentably failed in accomplishing the tasks for which it was established. Identifying ineffectual and irrational control by the District Magistrate as one of the major causes of police failure, they directed:

The management of the police of each district be taken out of the hands of the Magistrate and be committed to an European officer with no other duties and responsible to a General Superintendent of Police for the whole presidency (see Gupta 1974, 354-5).

G. The Police Act of 1861

The implementation of the 1856 directive could have rid the police of many of its chronic organizational ills, but the 'Mutiny' of 1857 completely transformed the whole liberal perspective. The clock was turned back and tightening of control over police was felt a more compelling necessity both to rein in the natives and prevent policemen from ever falling into the footsteps of mutineers. The historic decision regarding separating the police from the executive authorities was withdrawn, and it was strongly advocated that with the judicial and police powers concentrated in the same hands, the District Officer would be more effective in keeping the junior police ranks loyal to the rulers.

Under the Police Act 1861, the Inspector General of Police as the chief of provincial police assumed specific responsibilities in the areas of police policy formulation and the line operations involved in the execution thereof. His appointment was firmly controlled by central government although, once appointed, he was to act as an advisor to the provincial government on all matters connected with the police administration of the province.

In carrying out his responsibilities, the Inspector General was to be assisted by several Deputy Inspectors General posted on a territorial basis, usually each to a group of three to five districts called a range. The Deputy Inspector General was to exercise a general supervision over the District Superintendents in his range, and they were to look towards him for advice, guidance, leadership and co-ordination of police work within the range.

As head of the district police, a District Superintendent was made responsible for all matters relating to the internal economy of the force, its management and the maintenance of its discipline and the efficient performance of all its duties connected with the prevention, investigation and detection of crime.

H. The System of Dual Control

Under the Police Act of 1861, in addition to being under the senior police hierarchy, the District Superintendent was simultaneously subjected to the operational – lateral – control of the District Magistrate. Under paragraph 2 of section 4 of the Act:

The administration of the police throughout the local jurisdiction of the magistrate of the district shall, under the general control and direction of such magistrate, be vested in a district superintendent and such assistant district superintendents as the Provincial Government shall consider necessary.

The police administration at the district level was thus subjected to a *dual control* – all administrative, technical, financial, professional and organizational control of Inspector General through his deputies; and the lateral general control and direction of the District Magistrate. Also, postings and transfers of Superintendents of Police and officers senior to them were the concern of the provincial government, not of the Inspector General.

Because of its failure to rectify the long-discovered structural defects of the Irish model, an intense criticism of the draft Police Act of 1861 started right from the day it was introduced in the Legislative Assembly. It was variously described as ‘old wine in new bottle’ and ‘a new friend with an old face.’ Nonetheless the Act was passed with the hope that ‘at no distant period’ the police in India would be reformed on lines similar to Peel’s.

Sir James Stephan, a law member of the Governor General’s Council in 1870-71 and a political philosopher of the Indian Civil Service, however, was quick to put the whole debate about police reform in the ‘correct’ perspective. After accepting that the administration of justice was not in a satisfactory state in any part of the Empire, he enunciated in succinct terms:

The first principle to be born in mind is that the maintenance of the position of the district officers is absolutely essential to the maintenance of British rule in India and that any diminution in their influence and authority over the Natives would be dearly purchased even by an improvement in the administration of justice. (Cited in Gupta, 1979, xvii-xviii)

In practice, at least in some provinces, the ground position was far worse in that the police operations were controlled and directed not merely by the District Magistrate, but at the sub-divisional level by his subordinate, the Assistant Commissioner, and at the divisional level, by his superior, the Commissioner. In fact the police were impressed upon to act as the ‘hands’ of the civilian authorities, thereby reducing the former to an agency of the latter and practically excluding the Inspector General and his deputies from supervision of police not only in the sphere of law and order but also, to a very large extent, even from its internal administration.

These retrograde steps, including, in particular, constant interference with the authority of senior officers of police over the men under their command, had a crippling effect on the ill-conceived police organization, in addition to exacerbating the bitter complaints of police oppression and extortion (Griffiths 1971, 99), apart from spoiling the discipline of the force.

I. The Police Commission 1902-03

By the beginning of 20th century, the situation became so ‘bad’ that Lord Curzon, the Governor General, had to declare police reform as one of the most urgent needs of Indian administration. Accordingly, in July 1902, he appointed a commission to be presided over by Sir Andrew Fraser, chief commissioner of the Central Provinces, to report on the state of the police organization.

The commissioners, in their report submitted in 1903, recorded their ‘emphatic’ view that the 1861 system had completely failed. One of the major causes of its failure, according to them, was undue interference with the police by the civilian authorities. “The purpose of Police Act 1861 was not to create a system of dual control but merely to provide for a reserve of authority outside the police organization, to be exercised by the District Magistrate only sparingly and in very specific situations, while the day to day police work was to be directed and controlled solely by the senior officers of police,” they said.

But, oddly enough, the recommendations of the Fraser Commission fell short in addressing adequately the fundamental – and chronic – organizational ills of police, or bringing about any substantial reform.

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Why the British did not feel able to reform police, despite overwhelming evidence in support of reform, was largely because they wanted to ensure in-built subservience of police to the executive administration; never mind that corruption, lack of professional excellence, police high-handedness and resultant police-public estrangement were some of the obvious by-products of this policy. It was also due to the fact that they were not prepared to make terms and conditions of police rank and file attractive enough. In other words, the police organization was designed not to attract better talent.

In his note of dissent, the Moharaja of Darbhanga, the only Indian member of the Fraser Commission, maintained that the junction of the thief-catcher with judge was surely more anomalous in theory and more mischievous in practice. "The connection between the district superintendent and the magistrate needed to be severed entirely and completely, because as bed-fellows, they were capable of causing incalculable harm," he emphasised. He further said that his own experience in Bengal had made him believe that it was essential to sever this connection between the police and the magistracy in the high interest of justice and fair play.

Ironically, similar liberal and rational views of vision and professional wisdom were frequently expressed, but were almost always superseded by the overriding considerations of precipitating the Raj.

Functioning under the guiding principles of this colonial philosophy, the police performed remarkably well in its role of an occupying force. Although this role kept it miles apart from the public and often turned it into a target of emotional abuse by those who were pitted against the British.

III. POLITICS OF POLICE REFORM

The first attempt to bring about a perceptible change in the Irish-type colonial police was – vainly – made within six months of Pakistan becoming a free country in 1947. Under the progressive and able leadership of Governor General Muhammad Ali Jinnah, the Sind Assembly passed a Bill (XXV of 1948) in February 1948 for establishing a modern police force for the city of Karachi. In his statement of objects and reasons, Mr. M. A. Khuro, chief minister, who successfully piloted the Bill, had thus to observe:

Sir, the Bill is a long one, but most of it is already in operation in Bombay and other cities. Karachi has very much developed and many more people have come in. The population has considerably increased and the police force in the present conditions will not be able to cope up with the situation. Therefore, like Bombay, we are going to appoint Commissioner of Police for the city of Karachi and give him powers which are identical to those which are given to Police Commissioner of Bombay. This is the main idea behind it. The powers that he will enjoy are in respect of curfews, processions, public meetings, permission of these, regulating arms and licences. I think it is high time that Karachi city should have a Bill like this. There should be a regular Police Commissioner for this city.

The Assembly passed the Bill on 7th February 1948 and an authenticated copy signed by the Speaker and bearing the forwarding note of the Governor of Sind was duly forwarded to the Governor General's office. Surprisingly, the Legal Advisor to the Governor General made certain 'minor corrections' on the authenticated copy of the Bill, and returned it to the office of Governor Sind for resubmission. Why he did so is not clear from the record, but it appears that the politics of police reform did not let the Bill return to the Governor General, who because of his fast deteriorating health was increasingly unable to attend to official matters. (He died on 11 September 1948.)

In 1951, a committee headed by Sir Oliver Gilbert Grace, then Inspector General of police of the North Western Frontier Province (NWFP), recommended that police set-up for the city of Karachi should be fundamentally changed. However, no headway could be made because of strong opposition by the bureaucratic elite.

The Pakistan Police (Constantine) Commission of 1960-61 specifically went to India to study metropolitan police system for Karachi, but the commissioners chose not to make any recommendation in this regard. They 'felt' that since the capital had already shifted from Karachi to Islamabad, the issue was no longer relevant.

The Pay & Services Re-organization Committee (1961-62), headed by Justice Cornelius, recommended in clear terms the introduction of metropolitan system of policing for cities like Karachi and Lahore, but the recommendation was not 'accepted' for implementation by the 'decision-makers.'

In 1985, the Police Committee – which included the present author as member/secretary – was mandated to examine whether the existing police system based on Police Act of 1861 was capable of meeting the growing law and order challenges, especially in Pakistan’s major urban centres, and to consider the introduction of metropolitan police system as it existed elsewhere in the world. After an in-depth discussion of the issue, the Committee strongly recommended that the existing – outdated – system needed to be fundamentally restructured, especially for capital cities and major towns with a population of over 500,000. A Ministerial Committee also approved the recommendation. However, the Cabinet in its special meeting held on 6th January 1987 ‘decided’ to send a delegation consisting of Member/Secretary of the Ministerial Committee and the Additional Secretary, Ministry of Interior, to India and Bangladesh to study the reforms proposed by the Police Committee. (It is worth recalling that Bangladesh – which was East Pakistan until 1971 – had already changed the 1861 system of policing in Dhaka (1976), Chittagong (1978) and Khulna (1987).

The two-member delegation after having ‘detailed and searching discussions/interviews’ with prominent experts on the question of merits/demerits of the 1861 system, returned ‘absolutely’ convinced that as a pilot project the policing system proposed by the Police Committee should be introduced in the major cities of Karachi, Lahore and Islamabad on priority basis. However, before any headway could be made in this regard, the time and tide once again proved to be on the side of the forces of status quo. In May 1988, the Government of Prime Minister Junejo was dismissed, with the long-debated police organizational reform suffering serious setback yet another time.

After the new elected government was installed, the Prime Minister in her speech before the Police Service of Pakistan Association on 12th April 1989 announced that the old police system would be replaced on experimental basis in selected cities of Pakistan. (A directive No FDS (IMP)/PMDIR/114/89 dated 04.05.1989 followed the announcement.) However, in the meanwhile, it was ‘decided’ to send another delegation headed by the Interior Secretary to India and Bangladesh. Interestingly, this delegation also returned with ‘strong’ recommendation in favour of changing the 1861 system.

A four-member British delegation headed by Sir Richard Barrat, Her Majesty’s Chief Inspector of Constabulary visited Pakistan from 21 to 26 January 1990. The delegation emphasised that the present police establishment was a continuation of the police appointed during the British days, which was essentially a ruler-appointed police, and that the whole policing philosophy needed to be changed on the lines suggested by the Police Committee of 1985. “The central problem surrounding police ... in Pakistan is that the present system was created many years ago under colonial rule and has not been refined or evaluated to keep pace with the changing face of the country in the last decade of the twentieth century ... Police ... throughout Pakistan has clung to the role envisaged by the Police Act of 1861, in which the main functions were the maintenance of law and order and preservation of the status quo by methods of suppression and control,” the delegation observed.

The Police Reforms Implementation Committee, in its final report submitted on 1st March 1990, also reiterated that the Prime Minister’s directive for introduction of metropolitan police system in the cities of Karachi, Lahore and Islamabad should be implemented without further dilly-dallying.

A UN Mission led by Vincent M. Del Buono, UN’s Interregional Advisor for Crime Prevention and Criminal Justice, visited Pakistan from 26 March to 10 April 1995. The Mission made a number of categorical recommendations and urged that as an essential first step in the process of renewal, the political leadership of the country at all levels should state as a matter of fundamental policy that an effective, viable, independent but publicly accountable police was crucial to the development of stable democratic government institutions. “The present crisis comes as no surprise. Since 1960, there have been eleven separate committees or commissions established by governments in Pakistan and four international missions requested by the Government of Pakistan which have recommended major reforms of policing in Pakistan. These have for the most part been ignored and the remedies suggested have been unimplemented. Had the proposed reforms been undertaken, much of the present crisis could have been avoided... The present police system, which has been allowed to deteriorate so badly by successive governments and been so abused for political patronage, has not yet completely broken down due to the dedication, integrity, initiative and professionalism of a large number of individual officers and constables. In spite of their best efforts, policing will collapse not only in Karachi but also in other parts of the country unless law enforcement institutions are strengthened immediately,” the Mission observed.

Next, a Japanese police experts team led by the Director General of the National Police Agency, Mr. Sekine, visited Pakistan in April 1996 on the invitation of the Government of Pakistan. After analysing police reforms of 1947-54 in Japan, the team observed that it was crucial that police reforms in Pakistan should be focussed on building a relationship of trust between the people and the police, and that the police in Pakistan should adopt a public service concept. In order to establish mutual trust between the police and the general public, the team suggested the following steps.

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- Creation of institutional structures that ensure political neutrality and democratic control of the police.
- Proper sharing of responsibilities between the federal government and the provincial governments.
- Adoption of unified chain of command of the police.
- Establishment of recruitment and selection system of personnel based on merit.

In March 1998, the Good Governance Group of 2010 Programme, taking support from the Japanese report, recommended that police be depoliticised and their recruitment, postings, transfers, training and career development ensured on merit.

In their February 1999 report on Sustainable Peace in Karachi, the Colombian experts recommended a clean break with the existing situation. "If a professionally competent, politically neutral and democratically controlled Karachi Metropolitan Police Force is not formed, there will probably be no police reform or reconstruction of the public sector, both of which are essential elements for sustainable peace," they concluded.

IV. TOWARD A COMPREHENSIVE POLICE REFORM PROGRAMME

Faced with a deepening crisis both internally within its own organization and externally in its relations with the public, the 1861 police system started running aground under the strain of social change brought about in 1947 by the freedom from colonial rule. It was like expecting a pushchair designed for a toddler to take an adult from one city to another on a steep road. It was not possible, without a fundamental restructuring of the organization that was so broke.

The last decade of the 20th century particularly witnessed an almost complete collapse of the existing law and order apparatus, thanks mainly to growing and reckless interference in vital aspects of police administration by the 'persons of influence.' No surprises, if the machine designed for colonial purposes failed to meet the aspirations of a free people who wanted to enjoy the fruits of liberty, freedom, and rule of law.

Common complaints against the police ranged from routine discourtesy and incidents of neglect, incompetence, inefficiency, arbitrariness, inadequate or no response to citizens' requests for help to institutionalised abuse of power and widespread resort to high-handedness and corruption. Policing by consent was virtually non-existent. Citizens would lend little or no co-operation, at least little voluntary co-operation, to their police. They perceived police not as an instrument of rule of law, but as a corrupt, insensitive and a highly politicised force, operating mainly to look after the interests of the powerful.

This unacceptably high level of police-public estrangement did not come about lightly or suddenly. For most citizens confronting routine police misbehaviour was a bitter fact of every-day life, borne out of experience of successive generations at the hands of a force widely believed to be working beyond the bounds of civilized code of behaviour. It was the behaviour that defied change and was impervious even to the most scathing criticism by leaders of civil society.

Could the ordinary citizen do anything when things went wrong, grievances arose, or complaints about police fell on deaf ears? Not much, because, badly enough, whatever arrangements existed were woefully inadequate, lacked public confidence and were far from user-friendly.

In any case, not many citizens felt able to formally complain against any actual or perceived abuse of authority by the police. It was their widely-held belief that police could get away with any thing and every thing. There existed no credible mechanism of policing the police, notwithstanding the fact that an increasingly expanding range of coercive powers at their command required stricter accountability controls. Public confidence in the police had never been lower. We knew why. We even knew how to fix it. But we were faced with the perpetual failure of both police leadership and the governing elite to reinvent the design for a people-friendly police.

What people urgently required was a "fundamental change" in the way they were policed, as the police organization designed for colonial purposes had since broken down. It had broken down under the strain imposed by a variety of complex factors, including the growth of terrorism, sectarianism, proliferation of weapons, population explosion, and modern conditions of life. Urban terrorism during the past decade claimed tens of hundreds of innocent victims and brought Karachi the infamous title of 'the City of Death.' The economy also lost hundreds of billions of rupees. Indeed

the inability of the law enforcement apparatus, *inter alia*, to tame the sectarian dinosaur and control illegal arms cost the nation dearly, both in terms of dissipating the gains of economic growth and its image internationally.

Poor law enforcement over time also became a serious threat to the emerging democratic order of Pakistan, its economy, and the safety, well-being and integrity of its citizens. Although the country spent tens of billions every year on police, civil armed forces and security agencies, yet the citizen suffered from a creeping sense of insecurity. It was almost as if the law enforcement system was *designed* not to work.

The solution lay in radically changing the way the police operated, in developing a sub-culture of professional policing, trained and equipped to uphold the rule of law, in shifting from more-than-century-old oppressive policing practices to community policing, and in reinventing the police which had miserably failed to win much-needed partnership with citizens and communities. It was time for police to enter into a customer service contract with the people of Pakistan, a new guarantee of more effective, efficient, responsive, accountable policing. It was time to implement ideas that worked and get rid of those that didn't.

Fortunately, the most opportune moment to reinvent police came when the Government of Pakistan in November 1999 decided to set up the Focal Group on Police Reforms and tasked it to suggest fundamental restructuring of police. The Focal Group, of which the present author was a member, submitted its recommendations in February 2000. These were enthusiastically received and intensely debated by members of civil society as well as the media. In the meanwhile, and more significantly, the National Reconstruction Bureau (NRB) of the Government of Pakistan, as part of their good governance and devolution of powers programme, decided to accord high priority to long overdue police reforms.

The NRB's Think Tank on Police Reforms, which included the present author as a consultant, comprised senior police administrators who knew the police best – who knew what worked, what didn't; and how things ought to be changed. The Think Tank spoke with as many policemen as it possibly could. It heard from the stakeholders – the people of Pakistan – all across the country, seeking their ideas, their input and their inspiration. It sought views of the judiciary, and experts of other criminal justice sub-systems. It held useful discussions with top business leaders who have successfully used innovative management practices to turn their organizations around. It consulted public administration experts who knew how best to apply the principles of reinventing public sector organizations to improving police services. In short, it endeavoured to have meaningful dialogue with the best minds from private sector, government, and the civil society.

As the ground conditions that made the 1861 arrangement expedient had long ceased to exist, the Think Tank lost no time in concluding that police needed to be transformed from its colonial mould and organized on the basis of principles governing standard, modern, contemporary police forces meant for policing free societies, not *natives*. In this regard, the key issues debated in the NRB included: (1) What kind of organization will Pakistan Police need to meet the 21st century law and order challenges? (2) Which model would be most suited in bringing about a radical change in the existing intolerably high level of police-public estrangement? (3) How could such an organization be subjected to effective democratic control, yet ensuring its political neutrality?

It took NRB more than a year to deliberate upon various aspects of the Focal Group's blueprint of police reforms. There was complete unanimity that every organization, whether public or private, could only perform well if founded on valid organizational principles. In the case of Pakistan Police, these principles were ruthlessly violated over the years. This resulted in the creation of a corrupt, inefficient and highly politicised police force. Consequently, the task of maintaining law and order suffered serious setback. Increasingly the police was rendered to act as agents of the political executive rather than as instruments of a democratic state. The selective application of law against opponents, whether due to political interference or at the behest of persons of influence, became the norm rather than an exception. Political and personal vendettas were waged and won through manipulation of the instruments of state. Whatever safeguards existed against the floodgates of pressure, inducement or threat from criminals or ethnic, sectarian or other powerful elements virtually became dead. The net result of this all was that people perceived the police as agents of the powerful, not as members of an organization publicly maintained to enforce rule of law.

As a first critical step towards reform, the NRB concluded that responsibility of maintenance of law and order would need to rest unambiguously with the police. The police hierarchy will have to be made responsible not merely for the organization and the internal administration of the force, but also for other matters connected with maintenance of law and order. In short, policing will no longer be subject to dual control. In this regard, the Chief Executive took the historic decision to abolish the office of the District Magistrate effective 14th August 2001.

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Secondly, it was agreed that necessary steps for rendering the police professionally competent, operationally neutral, functionally cohesive and organizationally responsible for all its actions would need to be institutionalised in the Police Ordinance 2002 (scheduled to replace the Police Act 1861 on 23rd March 2002). Once implemented, the new Police Ordinance will lead to efficient police operations, better quality decision-making, improved discipline of the force, and revamping of internal accountability mechanisms.

Thirdly, in a bid to insulate police from extraneous interference by the politicians in power, and emulating the Japanese public safety commission system, the NRB decided to establish public safety commissions at national, province and district levels. In actual fact, the commissions at the district level have already been established and it is for the first time in the history of Pakistan that independent bodies having due representation from opposition parties will be performing oversight role over certain critical aspects of police functioning.

Commenting on the improvement in police accountability and behaviour that resulted after the introduction in 1947 of the public safety commission system in Japan, Bayley (1991) has observed:

The fact is that a transformation did occur in police behaviour in Japan in a relatively short period of time immediately after World War II. It is associated with democratisation and in one of the most prized developments of the post war period. Japan's contemporary record of excellence with respect to police behaviour is striking not only in relation to the United States but also in relation to its own past.

Fourthly, the role, duties and responsibilities of police have been re-defined in a manner in which service function gets precedence and the prevention and detection of crime is seen to have a social purpose. Not only does the new Police Ordinance seek to solicit voluntary support and co-operation of the people, it will enable the police to act proactively for ushering in a culture of rule of law in Pakistan.

Fifthly, it is crucial to bring police under a system of external accountability that enjoys public confidence. Once a policeman renders himself accountable to the community he serves, his work ethics undergoes a radical change. By subjecting himself to rule of law, he would be striving to upholding and promoting the cause of public interest. How can a police force hope to perform its functions efficiently and effectively without enjoying a high degree of public confidence in the integrity of their operations? The new Police Ordinance seeks to achieve this objective by establishing an independent statutory institution under the name and style of Police Complaints Authority. Simultaneously, since 14th August 2001 and for the first time in the history of Pakistan, the judiciary stands completely separated from the executive. There is no doubt that this measure alone would have a profound impact in controlling serious police misconduct.

Sixthly, the reform strategy seeks to establish an independent Prosecution Service in each province of Pakistan. The purpose is to improve the quality of both investigation and prosecution, in addition to introducing a system of check and balance. The measure will also be a major step forward towards establishing a standard criminal justice system in Pakistan.

Seventhly, the process of reinvention requires that the political and police leaderships in Pakistan realise that the police have to respond to the expectations of their customers if they are to be effective. Historically, there has been reluctance on the part of senior police hierarchy to recognise the necessity of seeing police forces as organizations that are fundamentally no different from any other enterprise or business. As Butler (1992) points out, arising from this basic error there has been a tendency to hide behind the complexity of policing as a means of excusing poor management and leadership. The police organization of tomorrow will therefore have to evolve a shared vision and understanding of a common mission which will increasingly be focussed on meeting the community expectations. 'Putting the customer first' would certainly improve the confidence of the public and an overt commitment to enhance the standards of both public safety and police accountability will require the police leadership to lead and manage, not simply run, the force to get results consistent with the mission.

In conclusion, law enforcement modernisation is one of the greatest challenges confronting Pakistan, a challenge that can and must be met. There are no short cuts, and no easy answers. Like an old Chinese saying, a journey of a thousand miles begins with the first step. Fortunately, the government has already taken several steps in the right direction, and is determined to complete the journey. There is not a moment to lose.

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