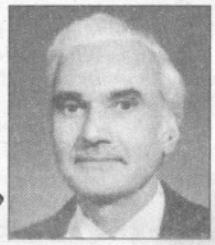
Police reforms: a perspective

COMMENT



IM MOHSIN

Reforms by a fairly elected government must focus on three issues. First, they must make police a public service. Second, they should raise the status of a constable a la Barratt report. Third, police should be autonomous — accountable but free from political victimisation

WE HAVE, BY NOW, EXAMINED HOW leading democratic countries introduced police reforms to promote rule of law with its twin advantages of establishing the supremacy of law and the constitution and subordinating the institutions having pretensions of power to the will of people.

We also noted that both Benazir Bhutto governments (1988-90 and 1993-96) aggressively pursued the objective and that valuable reports on the subject were produced as a result. The elected governments (1988-1999) failed generally, however, to implement the reforms, partly on account of frequent dismissals.

The Musharraf regime then botched its reforms at the altar of post-referendum tailoring of democracy. His efforts to retain power involved indefensible concessions to strange bedfellows and carpetbaggers. Now that party and government offices have been combined through a regressive move to make rulers feel secure, the police are once again in the familiar position of serving a dictatorial regime.

The judiciary, already functioning under constraints, would be hard put to test by the new dispensation. As it ceases to be an instrument of law, the police could tend to turn into something like the personal force of say the Khan of Kalat. No wonder, therefore, that the regime has shelved its accountability apparatus — the Public Safety Commissions and the Police Complaints Authority. To be credible, the new system required nomination of people of unimpeachable integrity to such bodies. The government realised, however, that it could not afford such a disposition. Packing them with toadies would only aggravate the problems. Much to the disgust of the citizen, the police will now be an agent of the party-in-power as well as the president's favourite Nazims.

It is clear that we should adhere to Quaid-e-Azam's vision of a Pakistan committed to democracy, social justice and accountability of those exercising power as a trust. Desperate plots by any institution or section of the society to monopolise power can result only in mayhem and weaken the country. The civil society must close ranks, therefore, to launch a struggle for the restoration of genuine parliamentary democracy enshrined in our constitution.

It is clear also that no government with questionable legitimacy can establish democracy or deliver justice. The first thing we need, therefore, is transparent elections, possibly under UN supervision. (UN oversight has already been commended for elections in Florida, USA, following the experiences of the last presidential elections.) Once a genuinely elected parliament is in place, it can elect a president under the constitution to restore the legitimacy of governance. No government can be respected without a transparent electoral process. In the dangerous world we live in, a country divided against itself risks ending up a 'failed state'.

Pakistanis badly need a new deal. Once a fairly elected government assumes power, it should go about reforming the police. The Police Order 2002 relied on clichés. Investigation was separated, for example, from maintenance of public order to promote the concept of team policing. Its implementation, however, was quixotic and caused untold sufferings. The old order is now back and the police station rules the roost.

Powers devolved upon police after the demise of the office of district magistrate have to be brought under the ambit of public accountability. The police have also not been given the necessary infrastructure to allow them freedom from political interference. You can't have the Doctrine of Necessity running the top echelons of government as well as a law-abiding police serving the community. Placing police under a chief minister, who is the provincial chief executive as well as local president of the Q-League, can only demoralise and corrupt the police. One has to pity the honest police officer who would be obliged to look for ex-cadre jobs to avoid becoming a party to unlawful conduct at the behest of the regime.

Reforms by a fairly elected government must focus on three issues. First, they must make police a public service. Second, they should raise the status of a constable *a la* Barratt report. Third, police should be autonomous — accountable but free from political victimisation. A change of mindset is required for making police a service. Ours is, primarily, a feudal society where the privileged defy social reform. An average Pakistani today is afraid of going to a police station for obvious reasons. In the rural areas, the police stations are remote and the distances forbidding. More police stations should be opened in view of the phenomenal increase in population and to facilitate the public.

However, a real change can result only after recruitment, training and working procedures are all changed. This should be supplemented by an effective watch kept by the judiciary as well as the civil society.

Raising the status of the police will give a fillip to its becoming a public service. Nobody, it has been observed, messed with the Motorway police. If we want honest policing, all police forces should be treated at par. A change of approach by the police coupled with a new status can give it the dignity and confidence to face public accountability. Helped by honest Public Safety Commissions and a principled judiciary, the new police should be able to withstand extraneous pressures. Public goodwill so earned can in the long run be the greatest insurance against political bullying.

The writer is a former Secretary Interior. The is the last of a three-part series. The second part was published on July 29, 2004

Legal pluralism: a case study

VIEW

TANYA SHEIKH

The abuse of the Hudood Ordinances by Dr Aamnat's brothers in filing a false kidnapping and dacoity case against Dr Mustafa and his relatives, is obvious. This is widely acknowledged as a common occurrence but MMA legislators, including women, argue that no amendments can be made to the law "decreed by God"

CEPT, OR RATHER THE METHOD, OF lism (existence of several legal domains in ach sustained by its own norms), has been lished in anthropological if not legal circles 80s. The dynamics of interaction between gal domains are, however, unique to the oncerned. The recent judgment of Sindh rt's (SHC) Sukkur Bench outlawing the m (April 24) is mute testimony to what has known and widely accepted in Pakistan, e existence and often the predominance of ial legal system. The judgement also indi- nsion — even a clash — between two sys- g for authority and supremacy.

ravails of Drs Solangi are a case in point. Solangi, a 44-year-old gynaecologist, mar- specialist Ghulam Mustafa Solangi, 47, on r 30, 2003, in the presence of her mother ral of his relatives. They marriage was d under Muslim family law. However, Mir ad Solangi, Dr Aamnat's eldest brother of s — Sardar of the Solangis, chairman of the fety Committee, president of the Moro Bar nd nazim of the union council among them d to accept the marriage.

rding to Aamnat, he was loathe to losing her able income and had for that reason refused is consent to the wedding in the preceding en she and her mother had begged him for it. perate pleas were met with abuse — mental,

Justice Atta-ur-Rahman instructed the advocate-general on June 22 to provide police protection to the couple and their family in Moro. The instructions were reiterated later by Justice Maqbur Baqir. However, it was not until July 14 that Justice Amir Muslim said the words the couple wanted to hear: "I... quash the proceedings pending before the trial court ... Bail bonds of the applicants stand cancelled and their sureties discharged." Dr Aamnat cried tears of relief, and Dr Ghulam Mustafa's grin could have rivalled the sun.

But the couple's travails were not over. Mir Mohammad was still at large and they had no reason to believe that he would accept the verdict. They travelled to Islamabad and continued lobbying. On July 17, it was reported that several MNAs had become the couple's new champions. On July 18 the couple met the prime minister, who promised them accommodation and a transfer of their services from Karachi to Islamabad. This is the current state of affairs. The Solangis have become spokespeople for legislation against *karo kari*.

There are many aspects to this case. The abuse of the Hudood Ordinances by Dr Aamnat's brothers when they filed a false kidnapping and dacoity case against Dr Mustafa and his relatives, is obvious. This is widely acknowledged as a common occurrence but MMA legislators, including the women's wing, argue that no amendments can be made to the law "decreed by God".

The HRCP and the Aurat Foundation, played a

his sister's money to marry off his own children.

Consequently, Mir Mohammad called a *jirga* to decide the couple's fate. The verdict: the marriage would be recognised only if the couple paid Rs 2 million and if Ghulam Mustafa handed over two girls of his family as compensation for the damaged honour of Aamnat's family. Failure to comply would result in the stigma of *karo kari* and death.

The couple fled to Karachi and went into hiding. Dr Aamnat filed a constitutional petition asking the court to prevent her brothers from filing false charges against them. The couple also approached the Human Rights Commission of Pakistan (HRCP), who took up their case and filed an application with the Naushero Feroze district and sessions judge. Mir Muhammad was able, however, to use his influence in the area and get an FIR under the Hudood Ordinance registered at Moro police station against Dr Ghulam Mustafa Solangi and eight of his relatives, including a brother-in-law who is an army officer. The complainant alleged that Dr Mustafa Solangi and his relatives had abducted Aamnat.

Notwithstanding the fact that the investigating officers had declared the FIR false, the police served the couple with a *challan.* (This later resulted in two police officials' suspension from service.) The couple approached the SHC for bail. Their requests for hearing of the in Karachi and for protective pre-arrest bail were granted.

Visiting the SHC to obtain the court papers, Dr Mustafa found the building surrounded by men hired by Aamnat's relatives. He narrowly escaped them and the couple fled Karachi. They returned to the area at the end of February 2004 to be with Dr Mustafa's father who was very ill. Threat to his own life, however, did not allow Dr Mustafa to see his father in his deathbed or participate in the funeral in the first week of March. Meanwhile, the courts kept adjourning their case.

The couple decided finally to tell their story to the press. The initial response was lukewarm. The Shaista Almani case had just come to an end and the media may have been saturated.

On June 20, things got dramatically worse. A woman, a young girl and a boy from Dr Mustafa's family were kidnapped. The kidnappers left behind a letter linking their release to Aamnat's 'return' within a week.

The HRCP wrote to the president and the prime minister, apprising them of the situation and asking for help. Aurat Foundation staged demonstrations in Karachi and in interior.Sindh. Urgent calls were made to the Karachi corps commander and senior police officials. However, the police in Moro remained apathetic and the fate of the hostages unclear.

At the end of their emotional tether, Drs Solangi attempted self-immolation in front of the Karachi Press Club on June 26. The attempt was thwarted by onlookers and the media promised help. Good news finally came on July 6, when Dr Mustafa's relatives were returned. They made a statement to a magistrate identifying Mir Mohammad and his associates as their kidnappers.

The HRCP and the Aurat Foundation, played a crucial role. Apart from providing free legal counsel through Iqbal Haider, they kept pressure on the government and explained the case to the media. Newspapers (Sindhi, Urdu and English) and television channels supported the couple.

The role of the police and the political parties is more ambiguous. Despite repeated orders from the corps commander and top ranking police officers, the police in Moro have been unable to locate Mir Mohammad. And while several MNAs are now championing the Solangis' case, it should not be forgotten that there have been 4,001 victims of *karo kari* in the last six years (and this is not counting the cases that went unreported).

The fact Solangis were married according to Islamic (and state) law did not stop Mir Mohammad from calling a *jirga* that condemned the couple. His and the *jirga*'s authority was not only not challenged in his locality, but also enjoyed support of the Moro police — a state institution. He has still not been apprehended. And even though the Sindh High Court has issued a judgment upholding the marriage and quashing the case, the couple are still on the run, seeking justice from the *überlords* in Islamabad. Does this not cal for an official declaration that state law is not worth the paper it is written on?

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