

Role of police in countering terrorism: A comparison between Pakistan and the United Kingdom

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DECLARATION

I declare that no portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning

ABSTRACT

This research examines the role of police in counterterrorism in Pakistan and the UK. Pakistan is the principal focus, and the UK acts as a comparator thereto. Pakistan has been referred to as the epicentre of global terrorism, notwithstanding this, its police are woefully ill-prepared to deal with the threat of terrorism. Consequently, its military has tried to fill the vacuum and thus has almost complete control of national security and counterterrorism policy. Its police continue to be side-lined from national security efforts and loathed for their shortcomings. Its civilian institutions, although being the lead institutions as per the law, continue to be marred with severe deficiencies. In contrast, the militarisation of national security has led to a heavy-handed approach and human rights abuses such as missing person phenomena. Its police are in dire need of reforms.

When reforms have been needed, Pakistan has looked at the UK for inspiration. Pakistan and the UK have a common legal and administrative system, and its police law is based on UK law. Nevertheless, Pakistan and UK police counterterrorism roles have not been compared despite the several UK inspired laws and institutional structures being practised in Pakistan today. There is arguably no case study which compares UK and Pakistan policing counterterrorism roles. This scholarship, therefore, attempts to fill the gap by comparing most impactful police counterterrorism roles between the UK and Pakistan.

This scholarship examines five policing counterterrorism roles 1; what is the role of police in counterterrorism in Pakistan and the UK 2; how is the cooperation between police and intelligence agencies in Pakistan and the UK 3; how is the cooperation between police and prosecution in Pakistan and the UK 4; what is the role of police in de-radicalisation in Pakistan and the UK 5; how are police-public relations in Pakistan and the UK and their impact on counterterrorism.

The results show that the police are at the heart of UK counterterrorism efforts due to UK's preference of criminal justice model over the war model. The UK's asset is its long unfaltering relationship between its security agencies. UK JTAC has taken its multi-agency cooperation to an unprecedented level. Thirdly, police and prosecution in the UK, work as a team with the ethos of the prosecution team and their cooperation starts even before the investigation commences. The UK is using the special terrorism laws sparingly and is largely staying close to ordinary laws. Fourthly, its police are the lead organisation in the prevention of violent extremism as a multi-agency partner. Finally, UK polices through consent. It has invested in building confidence, the trust of the community, and used community-policing practices to harness police-public cooperation.

In comparison, Pakistan counterterrorism policy is militarised. There is a lack of cooperation between police and intelligence agencies. There is a lack of collaboration between police and prosecution. The police have little or no role in current de-radicalisation programs. Poor police public relations (in which the public resent the police and do not trust the police) is another hazard in the Pakistan counterterrorism fight. Consequently, Pakistan can arguably learn from the UK's experience on the topic.

Table of Contents

Role of police in countering terrorism: A comparison between Pakistan and the United Kingdom	1
DECLARATION	2
ABSTRACT	3
Table of Contents	4
Acknowledgements	7
Dedication	8
List of Abbreviations	9
Map of Pakistan	12
CHAPTER ONE	13
1. INTRODUCTION	13
1.1 Background.....	13
1.2 What? The focus of this research.....	16
1.2.1 The case for reforms in Pakistan counterterrorism approach.....	18
1.2.2 Role of police in countering terrorism	20
1.2.3 Cooperation between police and intelligence	24
1.2.4 Cooperation between police and prosecution	25
1.2.5 Role of police in de-radicalisation	25
1.2.6 Police public relations.....	27
1.3 Why? The research purposes	30
1.3.1 Terrorist prosecution challenges, military courts and human rights abuses.....	32
1.3.2 Contemporary nature of this research	38
1.4 How? Methodology and work already undertaken	41
1.5 Thesis structure	44
CHAPTER TWO	45
2 LITERATURE REVIEW	45
2.1 Pakistan Counterterrorism challenges:.....	46
2.2 Role of police in counterterrorism: the international situation	62
2.3 Role of police in counterterrorism: the domestic situation in Pakistan.....	73
2.4 Police prosecution cooperation in Pakistan	82
2.5 Cooperation between security agencies in Pakistan.....	85
2.6 Police public cooperation in Pakistan and the UK.....	87
2.7 Pakistan military role in country's polity and security	92
2.8 The gap in the existing literature and expression of originality.....	97

2.9 Conclusion	100
CHAPTER THREE	101
3. HISTORY OF TERRORISM IN PAKISTAN	101
3.1 Introduction.....	101
3.2 Terrorism in Pakistan and Islam- the connection.....	102
3.2.1 Islam: its sects and support for terrorism	103
3.2.2 Islam: a cause for a separate country	105
3.2.3 Pakistan’s shift from a liberal vision to Islamization:.....	107
3.2.4 General Zia Islamization programme.....	108
3.3 The Kashmir issue.....	110
3.4 Pakistan covert war against the Soviet Union and its everlasting impacts on creating domestic terrorism.....	112
3.5 Impact of 9/11 on terrorism in Pakistan and Musharraf regimes response to it.....	115
3.6 New emerging threat-Tehreek-e-Labbaik.....	117
3.7 Conclusion	120
CHAPTER FOUR.....	122
4. ROLE OF POLICE IN COUNTERTERRORISM IN THE UK.....	122
4.1 Introduction.....	122
4.2 UK recent terrorist incidents and challenges	124
4.3 UK counterterrorism strategy- CONTEST	127
4.4 Role of police in UK counterterrorism infrastructure	131
4.5 Multi-agency cooperation and role police play in that. How police and security services (MI5, MI6) cooperate.....	136
4.6 Police and prosecution cooperation in the UK.....	140
4.7 Role of police in preventing radicalisation	144
4.8 Relations between police, public, and its impacts on counterterrorism in the light of community policing in the UK	151
4.9 Counter terrorism and human rights in the UK.....	157
4.9.1 <i>Shoot to kill policy</i>	159
4.9.2 <i>Use of special terrorism legislation in Northern Ireland</i>	159
4.9.3 <i>Patten Report (Independent Commission on Policing for Northern Ireland)</i>	160
4.9.4 <i>Role of the European Convention on Human Rights (ECHR) in Northern Ireland</i>	161
4.9.5 <i>UK Human rights cases in ECtHR</i>	163
4.9.6 <i>Police training for human rights</i>	164
4.10 Conclusion	165

CHAPTER FIVE	167
5. ROLE OF POLICE IN COUNTERTERRORISM IN PAKISTAN	167
5.1 Introduction:.....	167
5.2 Pakistan recent incidents and counterterrorism challenge:	168
5.2.1 Fatalities in Terrorist Violence in Pakistan 2000-2019.....	172
5.3 Pakistan counterterrorism strategy- NISP	173
5.4 Role of police in Pakistan’s counterterrorism infrastructure	175
5.4.1 Military’s increasing role in internal security	179
5.5 Multi-agency cooperation and role police play in that. How police and security agencies (ISI) cooperate	184
5.6 Police and prosecution cooperation in Pakistan.....	189
5.6.1 ATA broad terrorism definition	191
5.6.2 The poor investigation by the police and lack of usage of advanced techniques.....	193
5.6.3 Court delays and inefficient case management system.....	194
5.6.4 Illegal activities by the security agencies.....	195
5.6.5 Lack of witness protection	196
5.7 Role of police in preventing radicalisation	198
5.8 Police-public relations and its impacts on counterterrorism	205
5.8.1 Community policing in Pakistan.....	207
5.9 Conclusion	211
CHAPTER SIX	214
6. CONCLUSION	214
6.1 Introduction.....	214
6.2 Lessons for Pakistan	215
6.2.1 Role of police in counterterrorism	215
6.2.2 Multi-agency cooperation and role of police in it.....	220
6.2.3 Police prosecution cooperation	224
6.2.4 Role of police in preventing radicalisation	230
6.2.5 Relations between police, public, and its impacts on counterterrorism	235
6.3 Conclusion:	241
Further Research and Implications	243
Bibliography	245

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Dedication

Just when I was contemplating the question about the tangible benefits of my research, I shockingly discovered my childhood friend Hassan Amin being on the receiving end of many of the pressing issues discussed in my research. He was kept in illegal, inhumane detention for more than three months, and then after a long trial lasting over two years, he was finally acquitted. He suffered inhumane treatment and trauma at the hand of security services (the particulars of which are too gruesome). In the midst of this, while he was on bail, he wrote a letter to me on his late father notepad and gifted me a pen and suggested to me to use the power of the pen to make a case for change.

I dedicate this thesis to him.

List of Abbreviations

AACP	The Actions (in Aid of Civil Power) Regulation, 2011
ANF	Anti-Narcotic Force
ASP	Assistant Superintendent Police
ATA	Anti-Terrorism Act 1997
ATC	Anti-Terrorist Courts
BCS	British Crime Survey
BLA	Baluchistan Liberation Army
BPPAI	Bali Peace Park Association Inc. Initiative
CAF	Civilian Armed Forces
CAPS	Chicago Alternative Policing Strategy
CBI	Central Bureau of Investigation, India
CIA	Central Investigation Authority, USA
CID	Crime Investigation Department
CNI	National Intelligence Centre, Spain
COIN	Counterinsurgency
CONTEST	United Kingdom's Counterterrorism Strategy
CPLC	Citizen Police Liaison Committee
CPS	Crown Prosecution Service
CTD	Counterterrorism Department
CTIO	Counterterrorism Intelligence Officers
CTS	Critical Terrorism Studies
CTSA	Counterterrorism and Security Act 2015
CTU	Counterterrorism Units
CVE	Countering Violent Extremism
DAC	Deputy Assistant Commissioner
DCC	Deputy Chief Constable
DI	Defence Intelligence
DIS	Directorate of Intelligence and Security Services
DPO	District Police Officer
DV	Developed Vetting
ECHR	European Convention on Human Rights
FATA	The Federally Administered Tribal Areas
FBI	Federal Bureau of Investigation
FC	The Frontier Corps
FIA	Federal Investigation Agency
FIR	First Information Report
GCHQ	Government Communications Headquarters
GPS	Global Positioning System
IB	The Intelligence Bureau Pakistan
ICFC	Intelligence Collection and Fusion Center
ICG	International Crisis Group
ICT	Information Communication Technology

IIUI	International Islamic University Islamabad
ILP	Intelligence-Led Policing
IRA	Irish Republican Army
IS	The Islamic State (Terrorist Organization)
ISA	Intelligence Services Act 1994
ISI	Inter-Services Intelligence Pakistan
ISIL	Islamic State of Iraq and the Levant
ISIS	The Islamic State of Iraq and Syria
JID	Joint Intelligence Directorate
JTAC	The Joint Terrorism Analysis Centre
JUD	Jamat ud Dawah (a banned terrorist organisation in Pakistan)
KPK	Khyber Pakhtunkhwa province Pakistan
LEA	Law Enforcement Agencies
LeJ	Lashkar-e-Jhangvi
LEO	Law Enforcement Organizations
MAB	Muslim Association of Britain
MCU	Muslim Contact Unit
MI	Military Intelligence
MOD	Ministry of Defence
MP	Motorway Police Pakistan
MPS	Metropolitan Police Service
MPSB	Metropolitan Police Special Branch
MSF	The Muslim Safety Forum
MWH	Muslim Welfare House
NACTA	National Counter Terrorism Authority Pakistan
NADRA	National Database & Registration Authority Pakistan
NAP	National Action Plan, Pakistan 2014
NGO	Non-Governmental Organisations
NHP	National Highways Police Pakistan
NIAC	Non-international Armed Conflict
NIM	National Intelligence Mechanism
NISA	National Internal Security Apparatus
NISP	National Internal Security Policy
NP	Neighbourhood Policing
NRPP	National Reassurance Policing Programme
OSCE	Organization for Security and Co-operation in Europe
PACE	Police and Criminal Evidence Act 1984
PATA	Provincially Administered Tribal Areas
PCSO	Police Community Support Officers
PEO	Prevent Enforcement Officers
PIPS	Pakistan Institute of Peace Studies
POP	Problem-Oriented Policing
POPA	The Protection of Pakistan Act, 2014
PPC	Pakistan Penal Code
PRSRA	Police Reform and Social Responsibility act 2011

PSIA	Public Security Intelligence Agency Japan
PTA	Prevention of Terrorism Act 1974
PVE	Preventing Violent Extremism
RAW	Research and Analysis Wing, India
RIPA	Regulation of Investigatory Powers Act 2000
RSIL	Research Society of International Law
RUC	Royal Ulster Constabulary
SAPO	Swedish Security Service
SAS	Special Air Service
SB	Special Branch
SHO	Station House Officer
SIB	Special Irish Branch
SIO	Senior Investigation Officer
SIS	Secret Intelligence Services
SISDE	The Service for Information and Democratic Security Italy
SOPS	Standard Operating Procedures
SP	Superintendent Police
SSP	Sipah Sahaba Pakistan
TFIU	Terror Financing Investigation Unit
TLP	Tehreek-e-Labbaik Pakistan
TPIM	Terrorism Prevention and Investigation Measures 2011
TTP	Tehreek-e-Taliban Pakistan
UAE	United Arab Emirates
UDA	Ulster Defence Association
UDR	Ulster Defence Regiment
USIP	United States Institute of Peace

Map of Pakistan



Map 1. Pakistan’s Administrative Regions

Source: Moeed Yusuf, ed. *Pakistan’s Counterterrorism Challenge* (Georgetown University Press 2014)

CHAPTER ONE

1. INTRODUCTION

1.1 Background

Terrorism attacks the core fabric of society by causing fear, panic, and destruction. It stops the smooth functioning of society by attacking the fundamental human rights on which a society and its values are based. Those core values amongst others are freedom of movement, freedom of association, freedom of expression, and so forth. These fundamental human rights are at the core of our societies. Armed security at most public places, including shops, schools, worship places, and banks, are the real prospects if terrorism is not tackled comprehensively and with priority.

However, what is terrorism can be a contentious issue. Defining terrorism is one of the most challenging tasks. Many countries in the world do not have a single definitive definition for terrorism; for example, the United States does not have a single definitive legal definition of terrorism.¹ It is prominently said that one man's freedom fighter is another man's terrorist; it is submitted that Nelson Mandela, Yasir Arafat and MAnachen Begin were declared terrorists at a time. Yet, they received the Noble peace prize at a later stage in their life;² this reminds us of the difficulty defining terrorism presents. Terrorism label has also been widely used in the past to suppress political dissent from people based on their colour, creed, ethnicity and religion.

Leaders and governments have used the definition of terrorism to suppress the political dissent of their authority by using it against their opposition. Pakistani leader's General Ayub Khan(*in office* 1958-1969), Prime Minister Zulfikar Ali Bhutto(*in office as president* 1971-1973, *as prime minister* 1973-1977), jailed the opposition leaders because of their protests against their rule.³ They used the terrorism law to suppress the opposition leaders, branding

¹ David Lowe, *Policing Terrorism : Research Studies into Police Counterterrorism Investigations* (Boca Raton : CRC Press, Taylor & Francis Group 2016) 12.

² Peter Weiss, 'TERRORISM, COUNTERTERRORISM AND INTERNATIONAL LAW' (2002) 24 *Arab Studies Quarterly* 11 <<http://www.jstor.org/stable/41858410>> accessed 20 July 2020.

³ Shabana Fayyaz, 'Responding to Terrorism: Pakistan's Anti-Terrorism Laws' [2010] *Perspectives on Terrorism*; Vol 2, No 6 (2008): *Perspectives on Terrorism* <<http://www.terrorismanalysts.com/pt/index.php/pot/article/view/39/81>> accessed 2 October 2019.

them traitors and anti-state rather than anti-government.⁴ For that reason, it is crucial that the definition of terrorism has a distinction between ordinary and terrorist crimes, a definition which protects the fundamental rights and freedoms of a progressive democratic society but at the same time protects people from terrorism, which attacks those very freedoms.

Consequently, many academics have struggled to derive a coherent definition of terrorism. Still, Cohen's definition encompasses the key issue related to the impact terrorist acts have, saying it is "a hatred that finds an expression in violence, often designed to shock and horrify."⁵ Terrorist acts are often designed to change or influence the government or quasi-government bodies. UK definition also covers the core characteristics of terrorism. The Terrorism Act 2000 section 1 defines terrorism as, "the use or threat of action which is designed to influence the government or an international governmental organisation, or to intimidate the public or a section of the public, and which is made for the purpose of advancing a political, religious or ideological cause. The action used or threatened must involve serious violence against a person, serious damage to property, endangering a person's life, creating a serious risk to public health or safety, or the intention to interfere with or seriously disrupt an electronic system."⁶ In Pakistan, the Anti-terrorism Act 1997 (ATA 1997) defines terrorism. It contains the fundamental aspects of terrorism. However, as it is revealed later in this chapter, the ATA 1997 includes several ordinary criminal offences, thus blurring the distinction between terrorist offences and ordinary offences which hampers the prosecution of terrorism offences.

Pakistan began experiencing terrorism on a sustained basis in the 1990s, in the form of sectarian killings.⁷ Since 9/11, Pakistan has been referred to as "the epicentre of international terrorism."⁸ Terrorism in Pakistan has paralysed the country, there are no international sports tournaments, tourism has halved, business and trading activity has been disrupted, and 65 percent of schools have been destroyed in the Khyber Pakhtunkhwa (KPK) province.⁹

⁴ *ibid.*

⁵ Stephen Philip Cohen, 'With Allies Like This: Pakistan and the War on Terrorism.'" [2004] A Practical Guide to Winning the War on Terrorism 103
<https://www.hoover.org/sites/default/files/uploads/documents/0817945423_103.pdf> accessed 19 January 2017.

⁶ Terrorism Act 2000 section 1

⁷ Sectarian terrorism, defined as violence between different sects within Islam

⁸ Moeed Yusuf, *Pakistan's Counterterrorism Challenge* (Washington, District of Columbia : Georgetown University Press : United States Institute of Peace 2014) 1.

⁹ Shah Faisal Afridi, 'Socio-Economic Impact of Terrorism on Pakistan' (*The Nation*, 22 December 2014)
<<https://nation.com.pk/22-Dec-2014/socio-economic-impact-of-terrorism-on-pakistan>> accessed 27 August 2020.

Around 64,000 people have lost their lives in terrorist violence in Pakistan from 2001 to 2019¹⁰, and the economy has lost over 100 billion dollars directly or indirectly due to terrorist activity carried out by domestic terror groups.¹¹

Notwithstanding this ongoing violence for over a decade and its severe consequences, Pakistan has been unable to curb the operation of violent Jihadi groups with its recent attempts¹² due to the legal, social, and political obstacles discussed below in this chapter. Accordingly, Pakistan's current counterterrorism regime is a very weak deterrent to terrorism. Whilst the US State Department report termed Pakistan's anti-terror legal system as "almost incapable of prosecuting suspected terrorists."¹³

In Pakistan, the biggest terrorist threat comes from local terrorist groups, namely Tehreek-e-Taliban Pakistan (TTP) and the danger of sectarian terrorism. There is also the threat from Pakistan's federally administered tribal areas (FATA) where the Pakistan army is fighting an insurgency. Many people residing in regions surrounding FATA, which borders Afghanistan, oppose the US' war on terror in Afghanistan. They are against Pakistan's alliance with the United States. Taliban and local militants on both sides of the border want to hold their respective governments responsible for allowing the United States and allied forces into the country, and they term their presence in Afghanistan as 'foreign occupation' of their land. Taliban were also in power before the United States attacked Afghanistan after 9/11, and they are resentful at Pakistan for supporting the invasion, which resulted in them losing their hold on power.¹⁴

In addition, there are new emerging terrorist threats from Islamic State (IS) to Pakistan as Zahid reveals.¹⁵ Recently, in February 2017, IS claimed responsibility for an attack on a Sufi shrine in Sindh province, killing 75 people.¹⁶

¹⁰ South Asian Terrorism Portal, 'Fatalities in Terrorist Violence in Pakistan 2000-2019' (23 June 2019) <<https://www.satp.org/satporgtp/countries/pakistan/database/casualties.htm>> accessed 21 August 2020.

¹¹ Ministry of Finance, 'Pakistan Economic Survey 2016-17: Impact of War in Afghanistan and Ensuing Terrorism on Pakistan's Economy' (*Government of Pakistan*, 2017) <http://www.finance.gov.pk/survey/chapters_17/Annex_IV_War.pdf> accessed 27 August 2020.

¹² International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' 1 <<https://d2071andvip0wj.cloudfront.net/271-revisiting-counter-terrorism-strategies-in-pakistan-opportunities-and-pitfalls.pdf>> accessed 20 January 2016.

¹³ Tariq Parvez and Mehwish Rani, 'An Appraisal of Pakistan's Anti-Terrorism Act' (US Institute of Peace 2015) <<http://www.jstor.org/stable/resrep12399>> accessed 17 January 2016.

¹⁴ Nasreen Akhtar, 'PAKISTAN, AFGHANISTAN, AND THE TALIBAN' (2008) 25 *International Journal on World Peace* 49 <<http://www.jstor.org/stable/20752859>> accessed 2 October 2019.

¹⁵ Farhan Zahid, 'Nature of Presence, Method of Recruitment, and Future Outlook' (2017) 9 *Counter Terrorist Trends and Analyses* 9 <<http://www.jstor.org/stable/26351518>> accessed 2 August 2020.

¹⁶ *ibid.*

Pakistan, at present, is incapable of prosecuting suspected terrorists due to numerous challenges it is facing. These include poor case management in anti-terrorism courts,¹⁷ lack of protection for witnesses and judges in terrorism cases, over-reliance on witness testimony rather than the use of latest forensic techniques as evidence in courts,¹⁸ lack of role of police in countering terrorism¹⁹, heavy-handed military approach in counterterrorism²⁰, the state's approach to the terrorist activity being reactive rather than being proactive, use of terrorism as a tool by state to achieve its strategic objectives in the region²¹, lack of regulation and oversight of religious schools often termed as Madrassas²² (Madrassas are regularly accused of fostering religiously motivated terrorism) and socio-economic conditions in the country which can provide a breeding ground for terrorism.²³

Therefore, it is understandable that reforming such a system would require a multi-facet approach, which covers different areas such as education reforms, policing reforms, revisiting and rethinking foreign policies, military operations against insurgents, judicial reforms, curbing terror financing, addressing root causes of terrorism and extremism and so forth. However, the scope of this thesis is limited to the reforms in the role of police in counterterrorism due to their urgency and significance of their impacts, as discussed below in this chapter.

1.2 What? The focus of this research

There are mainly two types of approaches in dealing with terrorism referred to as soft and hard approach. Soft approach constitutes compromise, negotiation with the terrorists and introducing the political reforms that reduce the motivation to engage in terrorism. In comparison, the hard approach is dealing with counterterrorism through military or criminal justice model.

¹⁷ Syed Manzar Abbas Zaidi, *Terrorism Prosecution in Pakistan* (United States Institute of Peace Washington, DC 2016) <https://www.usip.org/sites/default/files/PW113_Terrorism_Prosecution_in_Pakistan.pdf> accessed 11 February 2017.

¹⁸ *ibid.*

¹⁹ Robert Perito and Tariq Parvez, 'A Counterterrorism Role for Pakistan's Police Stations' (US Institute of Peace 2014) <<http://www.jstor.org/stable/resrep12215>> accessed 17 January 2016.

²⁰ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

²¹ Ayesha Siddiqi, 'Pakistan's Counterterrorism Strategy: Separating Friends from Enemies' (2011) 34 *The Washington Quarterly* 149 <<https://doi.org/10.1080/0163660X.2011.538362>> accessed 20 March 2016.

²² International Crisis Group, 'Pakistan's Jihadist Heartland: Southern Punjab' (Brussels: International Crisis Group 2016) <<https://d2071andvip0wj.cloudfront.net/279-pakistan-s-jihadist-heartland-southern-punjab.pdf>> accessed 27 August 2020.

²³ Andreas Freytag and others, 'The Origins of Terrorism: Cross-Country Estimates of Socio-Economic Determinants of Terrorism' (2011) 27 *European Journal of Political Economy* S5 <<http://www.sciencedirect.com/science/article/pii/S0176268011000723>> accessed 20 August 2020.

Currently, there are three types of models through which the nation-states are dealing with terrorism. Firstly, the war model secondly the criminal justice model and finally, the widened criminal justice model.²⁴ The war model sees terrorism as an existential threat to the nation-state, which threatens its political system, its citizens, and its sovereignty. This model implies that by virtue of being more capable of dealing with a high level of violence the army and military are well trained to act against this; therefore, they should be made largely responsible for fighting terrorism. Pakistan is following the war model as it sees the counterterrorism threat it is facing as an existential threat.²⁵ The adaptation of the war model leads to growing inclination of looking at the armed forces to perform the tasks, which are essentially the law enforcement tasks. Therefore, the purpose in this is for the military to perform the civilian police tasks. The illustration of the war model is the US in Iraq and Israel in Palestine. War model provides justification for the government to use extreme force which otherwise would lead to widespread condemnation in a democratic society because it can be seen to be against basic democratic principles. Challenges in the war model are applying counterterrorism methods successfully whilst avoiding collateral damage and human rights infringements.

The second method, the criminal justice method means that terrorism is in the exclusive domain of police force fighting terrorism. Lum C *et al.* state that given the nature of threat terrorism represents, the effectiveness of the criminal justice model remains low; hence, most countries have adopted the third model called the widened criminal justice model.²⁶ Widened criminal justice model is the dominant method of counterterrorism in most countries. The widened criminal justice model constitutes of creation of separate counterterrorism units within the police, widening police training to include counterterrorism, extending the use of technology and protection devices to tackle unprecedented violence. Besides, it includes extending cooperation between police and intelligence bodies and recruitment of military personnel in police with appropriate skills.²⁷ The widened criminal justice model has become the dominant method in dealing with counterterrorism in nation-states. The UK is following this model. The criticism of the widened criminal justice model is that it blurs the military

²⁴ Lum C. and others in David Weisburd and others, *To Protect and to Serve: Policing in an Age of Terrorism* (2011) 146-148.

²⁵ Shuja Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (US Institute of Peace 2016) <<http://www.jstor.org/stable/resrep12212>> accessed 20 May 2018.

²⁶ Lum C and others in Weisburd and others (n 24) 147.

²⁷ *ibid.*

and police organisations limits, and the government may use this method in cases where its use is contentious or unclear.²⁸

1.2.1 The case for reforms in Pakistan counterterrorism approach

Notably, a survey by Peace Direct revealed that police and judicial reforms in Pakistan would have the highest impact in providing the solution to violent extremism. In contrast, military targeting of violent extremists was considered to have the lowest impact on finding a potential solution to violent extremism.²⁹ Peace Direct report revealed that "the poor quality of the police forces across Pakistan is seen as an 'open invitation' to extremist groups to operate, and increases dependence on military involvement."³⁰ Yusuf says that nowhere in the world, there is such ease of access to terrorist infrastructure as is in Pakistan.³¹ Therefore, Hassan Abbas³², International Crisis Group (ICG)³³, Parvez³⁴ emphasises the cruciality of the reformed police system in Pakistan's fight against terrorism. I would suggest that the reformed police system is bound to have a knock-on effect on different areas of counterterrorism. Abbas³⁵, Tajik³⁶, Rana³⁷, Parvez³⁸, Perito³⁹, ICG⁴⁰ argue that police should have a greater role in Pakistan anti-terrorism structure. Tajik states that one of the pitfalls in the current situation is the lack of cooperation between police and intelligence agencies.⁴¹ Zaidi states that another difficulty in the current police counterterrorism role is the lack of

²⁸ *ibid.*

²⁹ Peace Direct, 'Local Approaches to Preventing Violent Extremism in Pakistan' <<https://www.peacedirect.org/wp-content/uploads/2017/03/Report-Pakistan-8-single-pages.pdf>> accessed 27 August 2020.

³⁰ *ibid.*

³¹ Yusuf (n 8) 38.

³² Hassan Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (Asia Society 2012) 12 <www.asiasociety.org> accessed 2 October 2019.

³³ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

³⁴ Parvez and Rani (n 13).

³⁵ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

³⁶ Suhail Habib Tajik, 'Counterterrorism Efforts of Law Enforcement Agencies in Pakistan' in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.12>> accessed 3 June 2018.

³⁷ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 61.

³⁸ Parvez and Rani (n 13). and Perito and Parvez (n 19).

³⁹ Perito and Parvez (n 19).

⁴⁰ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁴¹ Tajik (n 36) 118.

collaboration between police and prosecution.⁴² Parvez says that poor police public relations (in which public resent the police and do not trust the police) is another hazard in Pakistan counterterrorism fight.⁴³ While Rana states, that police have little or no role in current de-radicalisation programs but should have a bigger role in de-radicalisation.⁴⁴

In contrast, the UK anti-terrorism system has been described as envy of the world.⁴⁵ In the UK, Police play a central role in counterterrorism, the cooperation between police and intelligence is unprecedented level⁴⁶, the Crown Prosecution Service and police have a great working relationship⁴⁷ with the CPS and Metropolitan Police having specialist units being specifically set up to undertake terrorism cases. Police play a central role in de-radicalisation⁴⁸, and police public relations in the UK are increasingly getting better.⁴⁹

Based on UK experience, this thesis begs the question of whether Pakistan can learn lessons from the UK and should Pakistan police, therefore, be given a greater role in the light of the UK's record. The existing literature on the subject highlights police reforms to be the single biggest contributor in Pakistan's counterterrorism struggle, hence this presents a powerful reason to investigate further into the role of police in counterterrorism. This thesis draws the most impactful policing roles regarding counterterrorism in Pakistan and compares them with the UK. This thesis creates five themes, which will serve as a thread throughout the thesis. Those five themes are: 1; what is the role police in counterterrorism in Pakistan and the UK 2; how is the cooperation between police and intelligence agencies in Pakistan and the UK 3; how is the cooperation between police and prosecution in

⁴² Zaidi (n 17) 5.

⁴³ Robert Perito and Tariq Parvez, *Empowering The Pakistan Police* (United States Institute of Peace 2013).

⁴⁴ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 61.

⁴⁵ Eliza Manningham Buller, 'Countering Terrorism: An International Blueprint, MI5 - The Security Service' (*Lecture: Countering terrorism: an international blueprint*, 17 June 2003) <<https://www.mi5.gov.uk/news/countering-terrorism-an-international-blueprint>> accessed 21 August 2020.

⁴⁶ Paul Burke, 'Fit to Fight or Unfit for Purpose? A Review of the Effectiveness of the Intelligence Cycle in UK Counter-Terrorism, 2003-2013.' 2003.

⁴⁷ 'House of Commons - The Crown Prosecution Service: Gatekeeper of the Criminal Justice System - Justice Committee' (15 July 2009) <<https://publications.parliament.uk/pa/cm200809/cmselect/cmjust/186/18602.htm>> accessed 21 August 2020.

⁴⁸ UK Government, 'The United Kingdom's Strategy for Countering Terrorism' (2018) 37 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716907/140618_CCS207_CCS0218929798-1_CONTEST_3.0_WEB.pdf> accessed 21 August 2020.

⁴⁹ Overall, in 2017-18, 78% of people aged 16 years and over in England and Wales said they had confidence in their local police – up from 76% in 2013-14.

See: UK Government, 'Confidence in the Local Police' (4 March 2020) <<https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/confidence-in-the-local-police/latest>> accessed 21 August 2020.

Pakistan and the UK 4; what is the role of police in de-radicalisation in Pakistan and the UK 5; how are police-public relations in Pakistan and the UK and their impact on counterterrorism.

1.2.2 Role of police in countering terrorism

Police forces in the world have a variety of general policing roles. This thesis is predominantly concerned with their role in countering terrorism. It is well established in the Western countries that it is within the ambit of the police force to deal with terrorism from preventive investigation to crime scene investigation. Having said that, police forces around the world may have specialist counterterrorism units to deal with the threat as discussed above in the widened criminal justice model.

Due to the new evolving threats on national security, the policing has branched out into two main types of police duties, namely high policing duties and low policing duties. Brodeur coined the terms 'high' and 'low' policing. The police, which is intelligence focused, is created to counter macro crimes and which goes into the realm of politics and economics are generally classed as "high policing". Whereas the police, which is more in charge of normal day to day traditional policing duties such as patrol, order maintenance, and the control of street crime, comes under the realm of what is described as "low policing".⁵⁰

Although the role of 'high' or 'low' policing in terrorism can be contentious yet overall, it is generally accepted that the police are responsible for countering terrorism along with general law and order duties. However, how much bigger the role police play in counterterrorism can be a matter of discussion. In some countries, due to political or resource issues, the police may not be at the forefront in countering terrorism, which appears to be the case for Pakistan. In Pakistan, the military and its agencies are at the forefront of the country's security matters with the military directly or indirectly controlling 64% of the country's security apparatus⁵¹. Pakistan's counterterrorism strategy is overly militarised. In Pakistan, the military has almost complete control over national security and counterterrorism policy.⁵² Therefore, ICG says that the government should take on that challenge and replace an overly militarised response

⁵⁰ Jean-Paul Brodeur, 'High Policing and Low Policing: Remarks about the Policing of Political Activities' (1983) 30 *Social Problems* 507 <<http://www.jstor.org/stable/800268>> accessed 2 October 2019.

⁵¹ Tajik (n 36) 116.

⁵² International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

to terrorism with a renewed counterterrorism strategy guided by intelligence, led by civilian law enforcement agencies, particularly the police.⁵³

Siddiqa's criticism of Pakistan's current counterterrorism policy is that it is overly militarised.⁵⁴ The ICG report reveals that Pakistan's counterterrorism policy is 'militarised' because its civilian institutions are underdeveloped and unable to deal effectively with terrorist incidents with the consequential effect that Pakistan's military has filled that vacuum to become an influential and powerful organ of the Pakistani state.⁵⁵ Pakistan military is also accused of supporting terrorist groups to meet its strategic objectives. However, the military denies such allegation. Almeida's report reveals that the civilian government directly accused the military of getting the arrested militant suspects free whom it favours.⁵⁶ According to the report, Chief Minister of the Punjab province in Pakistan Mr Sharif allegedly stated, "Whenever action has been taken against certain groups (militant groups) by civilian authorities, the security establishment (the military and its intelligence agencies) has worked behind the scenes to set the arrested free."⁵⁷ Shah states that intervention by the military in civilian affairs has weakened and undermined civilian institution capacity.⁵⁸ Military interventions diminish the state's constitution; it gives birth to provincialism, separatism, and disintegration of the country, according to Baloch and Gaho.⁵⁹ Parvez and Rani argue that military intelligence agencies intervention in civilian police cases (through secret detention of terror suspects) does irreversible damage to the plausibility of the legal case against the accused because military agencies do not have the legal power to arrest the suspects.⁶⁰

Therefore, the question it raises is whether Pakistan is serious about fighting all militants when it is also accused of fostering some militant groups. According to Yusufzai, after the

⁵³ *ibid.*

⁵⁴ Siddiqa (n 21).

⁵⁵ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁵⁶ Cyril Almeida, 'Exclusive: Act against Militants or Face International Isolation, Civilians Tell Military - Newspaper - DAWN.COM' (9 January 2017) <<https://www.dawn.com/news/1288350>> accessed 21 August 2020.

⁵⁷ *ibid.*

⁵⁸ Aqil Shah, 'Getting the Military Out of Pakistani Politics: How Aiding the Army Undermines Democracy' (2011) 90 *Foreign Affairs* 69 <<http://www.jstor.org/stable/23039409>> accessed 10 November 2016.

⁵⁹ Jamshed Ali Baloch and Ghulam Mustafa Gaho, 'Military Interventions in Pakistan and Its Implications', vol 2 (2013) <<http://sujo-old.usindh.edu.pk/index.php/THE-GOVERNMENT/article/view/937>> accessed 21 August 2020.

⁶⁰ Parvez and Rani (n 13).

Peshawar school Massacre,⁶¹ the public opinion has influenced the stakeholders to change their stance and not discriminate between any militant groups, in the country's fight to eliminate terrorism.⁶² This research will evaluate the outcomes of the current 'military-led'⁶³ approach of Pakistan to countering terrorism.

The support of militants from the Pakistani government and its military stems from the traditional security paradigm that the state of Pakistan followed throughout its post-independence life. Pakistani has inherently perceived India as a threat and considered itself a vulnerable state and, as a result, has supported militancy against India through militant proxies as part of its foreign policy to meet its strategic objectives. Fair⁶⁴, Siddiqa⁶⁵, and Haqqani⁶⁶ agree that Pakistan has supported certain terrorist groups. Therefore, the country has been accused of distinguishing between the so-called 'good Taliban' and the 'bad Taliban' or 'good terrorist' organisations and 'bad terrorist' organisations. Those who accuse Pakistan of distinguishing between militant organisations argue that 'good militant organisations' would be those who help Pakistan to achieve strategic influence in Afghanistan and those which are used by Pakistan to fight a 'proxy war' against India in Jammu and Kashmir whereas 'Bad militant organisations' are those who are causing trouble for Pakistan internally, with violence against the government agencies or civilians.⁶⁷ Therefore, Fair⁶⁸, Siddiqa⁶⁹, and Haqqani⁷⁰ suggest Pakistan terrorism problem partly is of its own making as Hillary Clinton former US Secretary of State remarked about Pakistan support for some militant groups "It's like that old story you can't keep snakes in your

⁶¹ BBC News, 'Pakistan Taliban: Peshawar School Attack Leaves 141 Dead - BBC News' (16 December 2014) <<https://www.bbc.co.uk/news/world-asia-30491435>> accessed 21 August 2020.

⁶² Hellen Mirren, 'The Inquiry, Is Pakistan Serious About Tackling Militants?' (*BBC World Service*, 20 January 2015) <<https://www.bbc.co.uk/programmes/p02gtht1>> accessed 27 August 2020.

⁶³'Military led' approach is in which military has almost complete control over national security and counter-terrorism policy

⁶⁴C Christine Fair, *Fighting to the End: The Pakistan Army's Way of War* (New York: Oxford University Press 2014).

⁶⁵ Siddiqa (n 21).

⁶⁶ Satu p Limaye, Mohan Malik and Robert g Wirsing, *RELIGIOUS RADICALISM AND SECURITY IN SOUTH ASIA* (ASIA-PACIFIC CENTER FOR SECURITY STUDIES 2004) <<https://apcss.org/Publications/Edited Volumes/ReligiousRadicalism/ReligiousRadicalismandSecurityinSouthAsia.pdf>> accessed 27 August 2020.

⁶⁷ Siddiqa (n 21).

⁶⁸Fair (n 64).

⁶⁹ Siddiqa (n 21).

⁷⁰ Limaye, Malik and Wirsing (n 66) 360.

backyard and expect them only to bite your neighbours. Eventually, those snakes are going to turn on whoever has them in the backyard."⁷¹

Pakistan has launched several major military operations in the country since 2007.⁷² ICG states that reliance on blunt instruments and lethal force to counter terrorism risks doing more harm than good when they undermine constitutionalism, democratic governance, and the rule of law and provide grist to the Jihadis' propaganda mill. Furthermore, it adds that a reformed and strengthened criminal justice system is pivotal to countering terror threats and countering violent extremism.⁷³ Kaltenthaler and others also state that the reaction from the local Pashtuns to the military operations has been significantly adverse, and a series of militant groups were formed among Pakistani Pashtuns to repel government forces.⁷⁴ Irshad states that military operations have resulted in the expansion of militancy and produced a bigger pool of militants. He says that the success of any military operation in Pakistan's tribal area bordering Afghanistan, cannot occur without taking tribal population on board⁷⁵ and this may need engagement with extremists to alleviate genuine grievances through a democratically elected government.

A growing body of empirical research has also established that law enforcement, not military force, is the most effective tool for counterterrorism. As Fair observes, "A police-led effort would be better than one led by the army, as the history of successful insurgency movements in disparate theatres across the globe shows."⁷⁶ Abbas argues that whether it is to combat insurgency or terrorism, "a good police force is any state's best bet."⁷⁷

Pakistan is currently fighting insurgencies and following both the war model and widened criminal justice model, whereas the UK is mainly following the widened criminal justice model. Therefore, the question it raises is whether police can have a bigger role in the case of

⁷¹ Tricia Bacon, 'Preventing the Next Lashkar-e-Tayyiba Attack' (2019) 42 *The Washington Quarterly* 53 <<https://doi.org/10.1080/0163660X.2019.1594135>> accessed 4 June 2020.

⁷² EJAZ HAIDER, 'Counterinsurgency': in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.10>> accessed 18 June 2018.

⁷³ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁷⁴ Karl Kaltenthaler and others, 'The Sources of Pakistani Attitudes toward Religiously Motivated Terrorism' (2010) 33 *Studies in Conflict and Terrorism* 815.

⁷⁵ Muhammad Irshad, 'Terrorism in Pakistan: Causes & Remedies' (2011) 6 *The Dialouge* 224 235.

⁷⁶ C. Christine Fair, 'Policing Pakistan - WSJ' (30 June 2009) <<https://www.wsj.com/articles/SB124630267412469431>> accessed 21 August 2020.

⁷⁷ Hassan Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' [2011] Special report 266 1 online resource (19 p.) <<http://purl.fdlp.gov/GPO/gpo19423>> accessed 25 January 2016.

an insurgency. An analysis of US study group report found that in all 34 counterinsurgencies (COIN) 1948 onwards where police had gained public trust COIN was successful⁷⁸; the reason for unsuccessful counterinsurgencies was either no significant participation of police or where police did not establish effective contact with the population.⁷⁹ Kalev Sepp study reveals that the success of seventeen 20th century insurgencies was based on four reasons. Firstly, where the lead role was taken by police with the support of the military, secondly, where the police were diversified and expanded, thirdly where insurgents were separated from the public, and finally where the tactical focus was on the fundamental needs of the population including the safety.⁸⁰

However, Tajik states that the first line of defence against insurgency is military; nonetheless, he says the first line of defence against terrorism is the police force.⁸¹ Dunn *et al.* state that in the current war on terror context, the criminal justice approach is more useful than the military approach, as the military approach scarcely leads to an end of radicalised groups.⁸² They state that the criminal justice model is more comprehensive in counterterrorism as the trust of the community is vital, and the efforts of anti-radicalisation within the community context require consultations and partnership with the communities.⁸³

1.2.3 Cooperation between police and intelligence

Police and intelligence are an integral part of a state's security apparatus. A state's security apparatus generally consists of military, paramilitary, policing, and intelligence agencies. The purpose of the police is to ensure the obedience of the criminal laws of the country. If things are happening contrary to the criminal laws, then arrest, collect evidence, and present the accused before the court to bring them to justice for their illegal acts. However, the purpose of intelligence is to gather information to protect national security. Intelligence agencies pre-empt and assess threats through a mechanism such as joint terrorism analysis centres (also referred to as fusion centre in some countries), pass the information to the police

⁷⁸ David H Bayley, *The Police in War : Fighting Insurgency, Terrorism, and Violent Crime* (Robert Perito ed, Boulder : Lynne Rienner Publishers 2010) 55.

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ Tajik (n 36) 103.

⁸² Kevin Mark Dunn and others, 'Can You Use Community Policing for Counter Terrorism? Evidence from NSW, Australia' (2016) 17 *Police Practice and Research* 196 <<http://dx.doi.org/10.1080/15614263.2015.1015126>> accessed 15 May 2019.

⁸³ *ibid.*

so that arrests could be made of the perpetrators and the perpetrators are brought to justice. Counterterrorism is absolutely dependant on intelligence without which it cannot operate. Compared to other forms of policing, counterterrorism is more dependent on intelligence.⁸⁴ When it comes to counterterrorism, reliable and timely intelligence plays a crucial role. Intelligence allows the state to strategically and tactically prevent terrorism.

On the one hand, intelligence enables the government to assess the threat in a strategic context with long term planning and political decision-making (Strategic). On the other hand, it grants police or other appropriate security agencies the opportunity to act before the attack has materialised (tactical). Therefore, the cooperation between police and intelligence is crucial for counterterrorism.

1.2.4 Cooperation between police and prosecution

Successful prosecution, according to the rule of law, is critical to counterterrorism. If terrorists can avoid the strictest legal penalty of their actions due to dysfunctions in the criminal justice system, they will not be deterred, nor will it send a strong message to prospective terrorists. A weak criminal justice system could also lead to authorities disregarding human rights laws and following a heavy-handed approach due to their frustration at the weak legal system. Legal maxim still holds that certainty is the biggest deterrent, which is that if terrorists are sure that they will be caught and brought to justice, they are more likely to be deterred. Therefore, a free and fair prosecution, which upholds the rule of law, is indispensable in combating terrorism. A professional police service, complemented by an independent prosecution service, working in partnership to bring the perpetrators to justice while upholding human rights law is pivotal in successfully countering terrorism. The prosecution has the responsibility of checking police investigation against the due process of law and dispose of the case for the trial. While both prosecution and police should be independent, they need to have a working partnership.

1.2.5 Role of police in de-radicalisation

Police role in de-radicalisation, also known as CVE (countering violent extremism) can be pivotal in dealing with terrorism or insurgency. The police work amongst communities and their knowledge of the community gives them an edge in detecting terrorism. Therefore, they could be crucial in informing the public or vulnerable youth about the law and its

⁸⁴Burke (n 46).

implications on their lives. They could also be valuable in informing the parents of young people about the vulnerabilities of their child.

De-radicalisation is a process, with its meaning varying in a different context. John Horgan⁸⁵ defines de-radicalisation as:

"The social and psychological process whereby an individual's commitment to, and involvement in, violent radicalisation is reduced to the extent that they are no longer at risk of involvement and engagement in violent activity. De-radicalization may also refer to any initiative that tries to achieve a reduction of risk of re-offending through addressing the specific and relevant disengagement issues."

Whereas, the UN Working Group on Radicalisation and Extremism leading to terrorism defines de-radicalisation as:

"Programmes that are generally directed against individuals who have become radical with the aim of re-integrating them into society or dissuading them from violence."⁸⁶

Pakistan has started de-radicalisation programs, albeit on a significantly smaller scale. Before Swat⁸⁷ military operation the concept of de-radicalisation was alien to Pakistan, Pakistan army started the de-radicalisation programme. Dr Muhammad Farooq Khan, a moderate religious scholar, designed the project, which was paid by the KPK provincial government; unfortunately, the Taliban killed Dr Farooq. The project consisted of four modules. 1) Education 2) counselling/ therapy challenging the ideology by confronting it with logic. 3) Social issues and incorporating family participation 4) vocational training to enable detainees to earn a living. Pakistan de-radicalisation program is based on a Saudi model.⁸⁸ Pakistan police have a very limited role in de-radicalisation projects. The army runs most of the projects. This thesis reveals in chapter 5 the shortcomings due to military leading the project.

In the UK, de-radicalisation is more specifically defined in the previous version of CONTEST. It is situated under the second objective of the PREVENT strand in CONTEST - 'supporting vulnerable people' -: it states that:

⁸⁵ John Horgan in T Bjørge and J Horgan, *Leaving Terrorism Behind: Individual and Collective Disengagement* (Routledge 2009) 153

⁸⁶ Alex Schmid, 'Radicalisation, De-Radicalisation, Counter-Radicalisation: A Conceptual Discussion and Literature Review' (2013) 4 ICCT research paper.

⁸⁷ Swat is the name of a city in the Khyber Pakhtunkhwa (KPK) province of Pakistan

⁸⁸ Muhammad Amir Rana, *De-Radicalization and Role of Police*. in Hassan Abbas (ed) *Stabilizing Pakistan Through Police Reform* (Asia Society 2012) 61.

"This area of Prevent is based on the premise that people being drawn into radicalisation and recruitment can be identified and then provided with support. The purpose of that support is to dissuade them from engaging in and supporting terrorist-related activity. This support is sometimes described as 'de-radicalisation', a term which is sometimes used to refer to cognitive or behavioural change: in the context of our own programmes we use it to refer to both. We seek to remove people from the influence of and from contact with terrorist groups and sympathisers, and to challenge any support they have for them."⁸⁹

It is in the light of Pakistan and the UK context of de-radicalisation, which this thesis will explore, the role of police within this context. In terms of Pakistan, ICG states, "ending radicalisation through hate speech and literature will require reallocating limited resources in order to strengthen the capacity of the provincial police forces. It further states that "An empowered, resourced police force remains the most credible tool for enforcing a sustained and successful counterterrorism strategy."

1.2.6 Police public relations

The public can be the eyes and ears of the police. Police cannot successfully carry out their task without the support and confidence of people. Sir Robert Peel, who is considered the founder of modern British policing, stated on police public relations "The ability of the police to perform their duties is dependent upon public approval of police existence, actions, behaviour and the ability of the police to secure and maintain public respect."⁹⁰ He further stated, "The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police."⁹¹ Although the police associates these principles with Sir Robert Peel, the origins of these principles are contested with some saying that the twentieth-century textbook authors have invented these principles.⁹² Nonetheless, what's important is the principles rather than the originators of these principles.

⁸⁹ UK Government, 'CONTEST: The United Kingdom's strategy for countering terrorism' (*Gov.uk*, July 2011) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97995/strategy-contest.pdf> accessed 8 September 2020

⁹⁰ Durham police, 'Sir Robert Peel 's Principles of Law Enforcement 1829' <https://www.durham.police.uk/About-Us/Documents/Peels_Principles_Of_Law_Enforcement.pdf> accessed 28 August 2020.

⁹¹ *ibid.*

⁹² Susan A Lentz and Robert H Chaires, 'The Invention of Peel's Principles: A Study of Policing "Textbook" History' (2007) 35 *Journal of Criminal Justice* 69 <<http://www.sciencedirect.com/science/article/pii/S0047235206001449>> accessed 28 August 2020.

Rana⁹³ states that the police does not enjoy public trust in Pakistan. Perito states that the relations between police and public have been soured due to police's abusive behaviour, heavy-handed approach, and widespread corruption.⁹⁴ Police in Pakistan is authoritarian. Conversely, police in many Western democratic societies have started to call themselves as a service rather than a force. Police are urged to refer to the public as clients and establish a customer-focused approach. As a result, in many Western democracies, the role of the police is now to serve, rather than to dominate.⁹⁵ On the other hand, Perito states that Pakistan police Act 1861 (still currently in force) does not have any mention of the police's role as a service provider or a force that encourages good community relations.⁹⁶

The UK has police neighbourhood officers who are responsible for harnessing police and community relations. Sir Mark Rawley former anti-terrorism chief of London Metropolitan police, on the role of Neighbourhood police, states, "The more complex communities are the more important it is for police to have the trust of all elements of society. You only build that trust if you have a close relationship and you only build that with people on the beat. For example, information from communities is critical to spotting some of the volatile individuals who rapidly accelerate from being disenfranchised to someone who has a terrorist motivation."⁹⁷ Commissioner Cressida Dick in a parliamentary inquiry, stated that police neighbourhood officers "glue communities together and glue the counter-terrorist officers to communities."⁹⁸ Pakistan created specialist anti-terrorist unit after the new waves of terrorism with giving police more body armours and more weapons that are lethal. However, Perito states that experience from other conflicts shows that the success against terrorism depends on police accomplishment of gaining the trust of the community.⁹⁹

Lambert argues that building trust and partnership with the key community members is mandatory for effective counterterrorism policing.¹⁰⁰ Soon after the 7th of July, Metropolitan Police Commissioner Sir Ian Blair said: 'It is the communities that defeat terrorism, not the

⁹³ Rana (n 88).

⁹⁴ Perito and Parvez (n 43).

⁹⁵ Peter Grabosky, 'Community Policing in an Age of Terrorism.' (2008) 50 *Crime, Law & Social Change* 1.

⁹⁶ Perito and Parvez (n 43).

⁹⁷ Stuart C McDonald, 'Policing for the Future Tenth Report of Session 2017-19 Report, Together with Formal Minutes Relating to the Report Home Affairs Committee' (2018) <www.parliament.uk> accessed 21 August 2020.

⁹⁸ *ibid*.

⁹⁹ Perito and Parvez (n 43).

¹⁰⁰ Robert Lambert, *Countering Al-Qaeda in London: Police and Muslims in Partnership* (Hurst 2011) 72.

police.¹⁰¹ Innes states that police-community engagement could be used to challenge rumours such as ‘war on terror after 9/11 attacks is against the Muslims’ and to act as an intelligence feed for the police.¹⁰² Spalek states that developing trust between police and communities is important in fighting terrorism. However, she strongly disagrees with Innes, who states that both high and low policing could be employed when dealing with communities. Spalek terms Innes’s stance as "naive."¹⁰³ Spalek disagrees with the latter use of policing because of the possibility of the intelligence gathering being exploited and, therefore, police being accused of spying. She states that this can further strain the police-community relations.¹⁰⁴ Prevent review 2011 also found that using the police covertly to gather intelligence within the context of police-community engagement could be harmful; therefore, it recommended that prevent policing should not be used for that. Spalek states that intelligence should not be part of the community policing or neighbourhood policing. She instead agrees with Lambert that communicating with radicals such as Lambert did at Muslim Contact Unit (MCU) was the right approach where he treated Salafist and Takfiris as partners rather than suspects.¹⁰⁵ Lambert is considered as a pioneer in the use of community policing in counterterrorism. Spalek states that intelligence should not even be the focus of community policing. Instead, she argues that community policing should preferably be used as a medium to reassure the Muslim community who has been exposed to islamophobia attacks after 9/11, She views community policing as building bridges between the Muslim and non-Muslim communities in Britain.¹⁰⁶

¹⁰¹ Rachel Briggs, Catherine Fieschi and Hannah Lownsbrough, ‘Bringing It Home Community-Based Approaches to Counter-Terrorism’ (2006) <www.demos.co.uk> accessed 21 August 2020.

¹⁰² Martin Innes, ‘Policing Uncertainty: Countering Terror through Community Intelligence and Democratic Policing’ (2006) 605 *Annals of the American Academy of Political and Social Science* 222.

¹⁰³ Basia Spalek, *Terror Crime Prevention with Communities* (1st edn, London: Bloomsbury Publishing Plc 2013) 50.

¹⁰⁴ *ibid.*

¹⁰⁵ Lambert (n 100) 60.

Takfiris: a Muslim who declares another Muslim to be apostate (i.e. not believing in the essential tenets of Islam) and therefore no longer a Muslim.

Salafis: defined as the adherents to Sunni Islam who claim to emulate 'the pious predecessors' (al-salaf al-ṣāliḥ)—usually equated with the first three generations of Muslims—as closely and in as many spheres of life as possible

¹⁰⁶ Spalek (n 103) 48.

Therefore, in light of the above themes, this thesis investigates the following research question:

- Whether Pakistan should and could develop a civilian-led approach to counterterrorism like the one followed by the United Kingdom, where police have a greater role in countering terrorism?

1.3 Why? The research purposes

Perito and Parvez state that civilian police stations in Pakistan have not accepted countering terrorism as part of their mission, and they remain focused on their traditional roles of controlling crime and maintaining order. They further state that this is partly due to the prevailing view at the police station level that counterterrorism is the responsibility of specialised anti-terrorist units. Police officers at police station level are often unaware of the details of the law, and countering terrorism has not yet explicitly been prescribed as part of their duties.¹⁰⁷ If there is a terror attack, police are mere bystanders waiting for the counterterrorism units or the security services (ISI) to arrive to handle the case. Accordingly, their approach to terrorist activity is reactive rather than being proactive.

Moreover, no station house standard operating procedures have been established on police station security procedures or on responding to a direct terrorist attack.¹⁰⁸ Furthermore, Khoosa states, "Pakistan police is politicised, incompetent, corrupt, insensitive, ill-disciplined, colluded with mafias."¹⁰⁹ Thus, the thesis will explore these claims and examine how the police can develop into policing terrorist activity and learn any lessons from the UK police counterterrorism system.

A further problem with Pakistan's current approach to countering terrorism is the lack of coordination between Pakistan's civilian, military intelligence agencies, and the police despite the laws which require them to co-ordinate with each other. Under the law, refusal to co-operate with the police is punishable, but in practice, many police officers are not aware

¹⁰⁷ Perito and Parvez (n 19).

¹⁰⁸ *ibid.*

¹⁰⁹ Tariq Khosa, *The Faltering State: Pakistan's Internal Security Landscape* (Oxford University Press 2018) 96.

of this law and hardly make use of it.¹¹⁰ Intelligence agencies do not have the legal power to arrest suspects. In practice, however, if they have some intelligence about a suspect, they unlawfully detain suspects for questioning before eventually transferring them to police custody. It may enable the intelligence agencies to follow up leads quickly. Still, the detentions do irreversible damage to the plausibility of the legal case, as they breach a Supreme Court judgment¹¹¹ stating that all procedures laid down in the Criminal Procedure Code of Pakistan shall be followed in the investigation of cases of terrorism. Police are forced to fabricate a story about the arrest of the accused from a different place at another time. This happens quite frequently and is an important reason for acquittal in terrorism cases when initial intelligence is developed in the intelligence agencies.¹¹² This thesis will evaluate the reasons for the lack of coordination between these institutions and make recommendations accordingly.

A reformed police system would also be good for the civil-military imbalance, which has thwarted the country for a long time as currently, the military is playing a large role in the security, which tilts the balance in their favour. Enhancing the role of the police authorities and limiting the role of the military would be good for democracy in the country because an independent and reformed police system would ensure the rule of law and enhance trust in democratic institutions. A study by Rehman and Vanin on the impact of terrorism on democracy in Pakistan revealed that terrorism reduces support for democratic institutions which are perceived not able to handle terrorism; therefore, terrorism threatens not only individuals but also democratic institutions.¹¹³ Therefore this research has serious implications for Pakistan's nascent democracy.

As stated above, one of the biggest shortcomings in Pakistan's inability to deal with terrorism is its overly flawed police system, and as a result, police at present do not have a bigger role in country's internal security compared to other Western countries where internal security is the almost exclusive domain of the police. Historically, Pakistan, with its colonial past, had an authoritarian police system which was not community-focused, unlike many Western countries. Pakistan police were trained and modelled on the Irish Constabulary Police model deliberately, in the colonial setting to suppress any dissent from the ruled; thus, the police were heavily politicised and authoritarian. The British had a

¹¹⁰ Tariq Parvez and Mehwish Rani, 'An Appraisal of Pakistan's Anti-Terrorism Act' (US Institute of Peace 2015) <<http://www.jstor.org/stable/resrep12399>> accessed 14 March 2017.

¹¹¹ Mehram Ali versus Federation Pakistan (PLD 1998 SC 1445)

¹¹² Parvez and Rani (n 110).

¹¹³ Faiz Ur Rehman and Paolo Vanin, 'Terrorism Risk and Democratic Preferences in Pakistan' (2017) 124 *Journal of Development Economics* 95.

choice of implementing the softer London Metropolitan Police model, but they deliberately chose the harsher Irish Constabulary model.¹¹⁴ After the British left the Indian subcontinent, police remained an authoritative force because Pakistan's leaders kept it politicised to suppress political dissent. The police remain one of the most politicised institutions with police also being one of the least trusted government institutions according to the surveys and government reports.¹¹⁵ To free police from its colonial legacy, the Police Order 2002 is widely regarded as a genuine attempt to reform the police. Former president Pervez Musharraf initiated it. However, Musharraf later succumbed to the pressure of his political allies and took out the most reformatory sections of the police order, thus rendering the reforms ineffective, taking those main sections out of the legislation made the Act in letter and spirit futile and fruitless.¹¹⁶

Another criticism of Pakistan counterterrorism measures is the lack of role of Pakistani policewomen in countering insurgency. Only one police officer out of 100 is a woman, Peters report on the lack of policewomen in countering terrorism in Pakistan states that the advantage of policewomen in countering terrorism is that they, "improve the operational effectiveness of these forces by building trust with local communities, more effectively de-escalating violence, and collecting vital intelligence that men could not."¹¹⁷

1.3.1 Terrorist prosecution challenges, military courts and human rights abuses

The Anti-Terrorism Act of 1997 (ATA) lays down the basic legal framework for counterterrorism prosecutions in Pakistan. ATA 1997 defines "terrorism" as the use or threat of action where: (a) The action falls within the meaning of sub-section (2), and (b) The use or threat is designed to coerce and intimidate or overawe the government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or (c) The use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause. Subsection 2 contains a long list of actions which fall under ordinary criminal acts such as kidnapping, contempt of religion; subsection 2 states that An "action" shall fall within the meaning of sub-section (1) if it:

¹¹⁴ Rabia Chaudhry, 'Policing, Custodial Torture and Human Rights: Designing a Policy Framework for Pakistan' (Centre for Public Policy and Governance 2013) 36 <<http://cppg.fccollege.edu.pk/wp-content/uploads/2013/01/PB.pdf>> accessed 20 March 2016.

¹¹⁵ Human Rights Watch, "'This Crooked System' Police Abuse and Reform in Pakistan' (2016) <https://www.hrw.org/sites/default/files/report_pdf/pakistan0916_web.pdf> accessed 21 August 2020.

¹¹⁶ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

¹¹⁷ Allison Peters, 'Countering Terrorism and Violent Extremism in Pakistan: Why Policewomen Must Have a Role' (2014) <<https://www.inclusivesecurity.org/wp-content/uploads/2014/03/IIS-Pakistan-Memo-v5c-web.pdf>> accessed 26 August 2020.

- (a) Involves the doing or anything that causes death;
- (b) Involves grievous violence against a person or grievous body injury or harm to person;
- (c) Involves grievous damage to property;
- (d) Involves the doing of anything that is likely to cause death or endangers a person's life;
- (e) Involves kidnapping for ransom, hostage-taking or hijacking;
- (f) Incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- (g) Involve stoning, brick-battling or any other form of mischief to spread panic;
- (h) Involves firing on religious congregations, mosques, imam bargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
- (i) Creates a serious risk to safety of public Or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civil (civic) life;
- (j) Involves the burning of vehicles or an other serious form of arson;
- (k) Involves extortion of money (bhatta) or property;
- (l) Is designed to seriously interfere with or seriously disrupt a communications system or public utility service;
- (m) Involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or
- (n) Involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.

Sub section 3 states that "The use or threat or use of any action falling within sub-section (2) which involves the use of fire-arms, explosives or any other weapon, is terrorism, whether or not subsection 1 (c) is satisfied."¹¹⁸

The ATA 1997 Act mandated that special courts to be set up for anti-terrorist trials because, in the antecedent courts, there were long delays and the backlog of cases. Delays can seriously hamper the legal case because the witnesses can forget the events, and it can be hard to trace witnesses after a long time in the event if the case is going on for years.

¹¹⁸ Anti-Terrorism Act 1997

Therefore, it was envisioned that special terrorist courts would be set up for anti-terrorist trials that will deal with one case at a time and expediently deliver justice. However, this vision did not become a reality in part due to the flaws of the terrorism definition. As it can be seen, the current definition of terrorism in ATA 1997 is too broad and includes many offences which also fall under ordinary criminal laws, because of this overlap, anti-terrorism courts, are overloaded with cases both related to and not related to terrorism, contributing to significant backlogs. As of 2014, there had been eighteen amendments to the ATA. Each one has systematically addressed the escalation of terrorism in Pakistan by making punishments stricter, increasing the number of offences tried under the ATA, and expanding the definition of terrorism within the law's scope.¹¹⁹

Despite this, the criticism of ATA is that it has failed to secure a reasonable conviction rate for terrorists, and it offers a very weak deterrence against terrorism. Despite so many amendments in ATA over the years, terrorists continue to slip through the cracks. According to the former judge of Supreme Court of Pakistan Justice Zahid, the ratio of conviction in the country is less than 10 per cent for all criminal cases.¹²⁰ ICG states that the conviction ratio is between 5 to 10 percent.¹²¹ For example, in the KPK province, the province hardest hit by terrorism, the conviction rate since 2012 was 4 percent.¹²² This is due to the inability of the prosecution system to deal with terrorism cases effectively. Prosecution system criticism includes poor case management in courts¹²³, lack of protection to witnesses and judges, the flawed investigation by the police¹²⁴, over-reliance on witness testimony rather than using the latest forensic techniques.¹²⁵ This low conviction rate has worried the country's security authorities resulting in a lack of trust in the judicial system and eventually resulting in enforced disappearances and other human rights abuses such as unlawful detention, torture,

¹¹⁹ Parvez and Rani (n 110).

¹²⁰ International Crisis Group, 'Reforming Pakistan's Criminal Justice System | Crisis Group Report No.196' (2010) <<https://www.crisisgroup.org/asia/south-asia/pakistan/reforming-pakistan-s-criminal-justice-system>> accessed 21 August 2020.

¹²¹ *ibid.*

¹²² M Nawaz Wahla, 'Trial of Civilians before Military Courts of Pakistan' (2020) 35 Connecticut Journal of International Law 209 <<https://heinonline.org/HOL/P?h=hein.journals/conjil35&i=244>> accessed 15 August 2020.

¹²³ Zaidi (n 17) 5.

¹²⁴ *ibid.*

¹²⁵ *ibid.*

execution without the trial¹²⁶, by security authorities who are dissatisfied with the country's weakness in dealing with the terrorism offence.¹²⁷

As a result of the weakness in the civilian prosecution system, in 2015, after the Peshawar children's school massacre,¹²⁸ Pakistan's military put up pressure on the civilian government to form military courts to try civilians accused of terrorism. Military courts were created because of country's dissatisfaction at the civilian anti-terrorist courts, thus, making Pakistan the only country in South Asia to try civilians in military courts.¹²⁹ (Military courts were formed through amendments twice in the constitution, they worked for four years and ceased to exist since 30th of March 2019). Although the military court's conviction rate was over 90 %¹³⁰, they have been widely criticised for human rights abuse and their inability to provide a free and fair trial. They have been condemned widely by the human rights organisation inside and outside the country for failing to adhere to basic fair trial principles.¹³¹

Military courts were criticised for the reasons, including lack of legal qualification of the judges. According to the UN, those in charge of executing justice need to have the appropriate legal knowledge, whereas military courts judges in Pakistan had no legal background.¹³² The defence was only allowed counsel from a military-appointed lawyer; they could not have independent counsel. Military courts are accused of not being transparent because the judgements and their reasonings were not publicly released or given to the accused or their families. The only source of information on the judgements and suspects whereabouts was revealed through a military press release.¹³³

The Pakistani state has been widely criticised for its failure to protect fundamental human rights like fair trial and rights to privacy when dealing with terror suspects. It is submitted that the country is currently ill-equipped to deal with terrorist violence. Therefore, it resorts to strict laws and short-term

¹²⁶ SHAKOOR AHMAD WANI, 'The Changing Dynamics of the Baloch Nationalist Movement in Pakistan' (2016) 56 *Asian Survey* 807 <<https://www.jstor.org/stable/26364389>> accessed 20 June 2020.

¹²⁷ Dawn News, 'Low Rate of Terrorists' Conviction Worries Military - Pakistan - DAWN.COM' (12 June 2011) <<https://www.dawn.com/news/636094/low-rate-of-terrorists-conviction-worries-military>> accessed 21 August 2020.

¹²⁸ BBC News, 'Pakistan Taliban: Peshawar School Attack Leaves 141 Dead - BBC News' (n 61).

¹²⁹ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

¹³⁰ International Commission of Jurists, 'International Commission of Jurists Military Injustice in Pakistan Briefing Paper' <<https://www.icj.org/wp-content/uploads/2019/01/Pakistan-military-courts-Advocacy-Analysis-brief-2018-ENG.pdf>> accessed 21 August 2020.

¹³¹ *ibid.*

¹³² *ibid.*

¹³³ *ibid.*

measures such as the formation of military courts, leading to severe injustices such as the unfairness of military court trials and providing legal cover to the abuses of law enforcement agencies. Human rights abuses can be used as a tool by terrorists for recruitment. For example, former president of the United States Barack Obama stated that Guantanamo Bay, due to its perceived human rights abuses is being used as a propaganda tool by terrorists.¹³⁴

Military courts ceased working in 2019 because the constitutional amendment had a sunset clause; hence, the only enduring long-term solution for the country is to develop its civilian institutions such as civil judiciary and police. It is evident that military courts were short term measures as all the outstanding terrorism cases after the military courts ceased operating have now gone back again to the Anti-terrorism courts, which were deemed incapable of dealing with terrorism cases in the first place.

The government enacted new strict counterterrorism legislation in July 2015. The Human rights organisations have criticised the Protection of Pakistan Act 2014 (POPA 2014) as a "broad and ambiguously worded document,"¹³⁵ which grants the security forces broad powers to implement preventive detention and carry out arrests without warrants. Human Rights Watch states, "such provisions can easily provide legal cover for abuses by law enforcement agencies and open the door for the violation of fundamental rights to freedom of speech, privacy, peaceful assembly, and a fair trial."¹³⁶ These fundamental rights are guaranteed under the 1973 constitution of Pakistan (article 8-28). As an example of the human rights abuse in the country, Pakistan security authorities over the years secretly detained terror suspects.¹³⁷ Families of the secretly detained sought relief from the courts, after a long wait in 2012, the Pakistani courts gained unprecedented access to individuals secretly detained by the country's security authorities. According to media reports, approximately 1,050 missing persons had been freed by the intelligence and other law-enforcement agencies since

¹³⁴ Andrea Birdsall, "'A Monstrous Failure of Justice'? Guantanamo Bay and National Security Challenges to Fundamental Human Rights' (2010) 47 International Politics 680 <<https://doi.org/10.1057/ip.2010.25>> accessed 10 June 2020.

¹³⁵ Privacy International, 'Tipping the Scales : Security & Surveillance in Pakistan' <https://privacyinternational.org/sites/default/files/2018-08/PAKISTAN_REPORT_HIGH_RES_20150721_0.pdf> accessed 21 August 2020.

See also: Furhan Hussain and Gul Bukhari, 'Pakistan Dominates the Surveillance Hall of Shame' (2014) <https://www.giswatch.org/sites/default/files/pakistan_dominates_the_surveillance_hall_of_shame.pdf> accessed 21 August 2020.

¹³⁶ Human Rights Watch, 'World Report 2015: Pakistan | Human Rights Watch' (2015) <<https://www.hrw.org/world-report/2015/country-chapters/pakistan>> accessed 21 August 2020.

¹³⁷ Tariq Hassan, 'The Supreme Court of Pakistan and the Case of Missing Persons.' (2009) 10 Asia-Pacific Journal on Human Rights & the Law 23.

2012, after receiving strict directives from the Peshawar High Court.¹³⁸ These enforced disappearances by security authorities are counter-productive. They have increased the support of the insurgents demanding separation in Baluchistan province in Pakistan¹³⁹, and they corrode trust in security agencies and are contrary to the rule of law and international human rights laws.

Another criticism of the current counterterrorism strategy is its failure to protect the right to privacy, which is guaranteed under the constitution of Pakistan. However, surveillance conducted by the authorities in Pakistan exceeds legal capacity from domestic and international standards, according to Privacy International.¹⁴⁰ Besides, Global Information Security Watch has sharply criticised Pakistan's new Investigation for Fair Trial Act 2013, which states, "it allows almost any type of surveillance with little or no judicial oversight."¹⁴¹ Privacy International and Global Information Security Watch have suggested reforms. This thesis aims to examine how a human rights friendly approach should be developed, which would provide a fair trial as guaranteed under 1973 Pakistan's constitution.

Pakistan is a democratic country. It is imperative that a study is conducted as to what is the way forward in a democratic Pakistan, what does the presence of military courts signify in Pakistan and what alternative measures can the democratic state take to preserve the human rights while countering terrorism. It needs to be recalled that the right to a fair trial is guaranteed under Article 10-A in the 1973 Constitution of Pakistan, which states that "for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process". Areas like separate military trial courts, their adequacy in relation to the fair trial have only surfaced in the recent past. Though academic research in Pakistan is scarce, it is submitted that with an ongoing threat from terrorism increasing, the government is willing to do anything to stop terrorism, and this may be at the cost of human rights abuse.

It is submitted that a coherent academic analysis in this field of studies will help to introduce a benchmark for further research on the anti-terrorism framework in Pakistan. This research will help the civilian government and military to better understand the subject of role of police in

¹³⁸ US Department of State, 'PAKISTAN 2013 HUMAN RIGHTS REPORT' (2013)

<<https://www.justice.gov/sites/default/files/eoir/legacy/2014/04/09/Pakistan.pdf>> accessed 21 August 2020.

¹³⁹ Yunas Samad, 'Understanding the Insurgency in Balochistan' (2014) 52 *Commonwealth & Comparative Politics* 293 <<https://doi.org/10.1080/14662043.2014.894280>> accessed 10 March 2020.

¹⁴⁰ Privacy International (n 135).

¹⁴¹ *ibid.*

counterterrorism from a domestic, global, and legal perspective. It is submitted that by identifying the obstacles in police counterterrorism roles, the country will be able to deal with those obstacles, and thus, it will be able to lower the socio-economic impact of terrorism. In addition, this research will provide academics with a comparison on the police counterterrorism's role between Pakistan and the UK as none exist on this topic before.

The thesis will evaluate the role of the civilian police in countering terrorism in Pakistan and use the UK as a comparator to the main cause. This research aims to determine whether Pakistan can shift from a military-centric approach to a civilian-led¹⁴² approach in countering terrorism like that carried out in the UK?

1.3.2 Contemporary nature of this research

Terrorism and the role of the police is a contemporary issue, and ever since embarking on the thesis, numerous changes have occurred in the political and terrorism landscape of Pakistan. Pakistan has recently seen a sharp decline in the number of terrorist attacks in the country; this sharp decline has been seen after 2015.¹⁴³ The question one can ask is that because of the current successes in containing terrorist threats through the military-centric approach, the scope of the civilian-led reformed approach will be limited. This thesis argues that a military-centric approach is not sustainable, as contended by Abbas, Tajik, Perito, Parvez, Fair, and others, therefore the current success will be only temporary without a reformed police force. The opponents of a civilian-led approach could present a few possible reasons for this sharp decline of terrorism in the country; the few reasons amongst others could be:

- 1) After the Peshawar children massacre in which 140 died (including 132 children), Pakistan then resolved to fight all terrorist and stopped distinguishing between good and bad terrorist groups. One could argue that this genuine resolve has taken away all space from terrorists to operate in the country and has resulted in a decline in terrorism. However, the PIPS report says that there is still a lack of clarity and ambiguity in government stance when it comes to certain terror groups.¹⁴⁴ (In the

¹⁴² Civilian led' approach is in which democratically elected civilian executives have almost complete control over national security and counter-terrorism policy

¹⁴³ Sara Mahmood, 'Pakistan' (2015) 8 Counter Terrorist Trends and Analyses 57 <<http://www.jstor.org/stable/26369567>> accessed 8 October 2019.

¹⁴⁴ Azam Khan and others, 'Comprehensive Review of National Action Plan' (2015) 7 Pak Institute for Peace Studies Research Journal, Conflict and Peace Studies <http://www.pakpips.com/web/wp-content/uploads/2017/11/Final_A-PIPS-Research-Journal-Final-vol-7-no2.pdf> accessed 21 August 2020.

past Pakistan has been routinely accused of playing the double game with the West by supporting some militant groups which the West believes to be terrorists. Pakistan is accused of using these groups in Afghanistan to keep it as its "client state" or use them in Indian administered Kashmir to use them as militant proxies)

- 2) Pakistan started operation in North Waziristan (FATA region). Pakistan was reluctant to start the operation in North Waziristan, which the government repeatedly said would be too much for the country as it is already fighting insurgency in different parts of the country. (With a large number of the armed force deployed to fight different operations, e.g., South Waziristan (FATA region), and operations in Baluchistan province against the Baloch separatist movement). Hence, one could argue that starting operation in North Waziristan could be the reason for the sharp decline in the domestic terrorism, though it is pertinent here to mention that the United States has requested Pakistan a few times in the past to start operation in North Waziristan, however, Pakistan resisted the US demands out of fear that this operation could lead to more terrorism to urban parts of the country in the form of retaliation from the terrorists against this operation.
- 3) After Peshawar attacks, Pakistan reinstated the death penalty, for the last few years Pakistan had a policy on the restriction of death moratorium. It lifted the ban on the death penalty in the wake of terrorist attacks in Peshawar, and it could be argued that it sent a strong message to the prospective terrorists that there are severe punishments, and no concessions will be granted.
- 4) After the Peshawar attack, Pakistan created a 20-point National Action Plan (NAP). Part of the plan was to create military courts to try those civilians accused of terrorism in the military courts. In the past, it has been said that due to a fragile civilian criminal justice system, militants were able to slip through the cracks even if they were arrested. This was due to procedural and structural flaws in the civilian legal system, and by creating military courts, the militants would no longer be able to escape from the punishment, and this would be a deterrent for them. Perhaps it could be argued that the military courts have led to a sharp decline in terrorism. PIPs report states that

military courts are a “dark spot on the country’s nascent democracy”¹⁴⁵ due to lack of fair trial. Besides, Sara Mahmood states that it is difficult to establish a direct relation between NAP and a decrease in terrorist violence.¹⁴⁶

- 5) Pakistan has been using illegal means to deal with terrorism, such as unlawful detention of terror suspects, torture, extrajudicial killings. The action of the security agencies could imply that this heavy-handed approach works, and this, therefore, has acted as a deterrent.
- 6) Pakistan merged FATA into KPK province through a constitutional amendment in 2018. Therefore, those volatile regions are no longer outside the jurisdiction of Pakistan police.

However, it is submitted that all the above actions could not replace the benefits for what the police led approach upholding the rule of law could achieve. These are short-term measures and not sustainable though they may act as a deterrent temporarily, terrorism can emerge again if the rule of law approach is not followed. Firstly, it will bear fruits for Pakistan to stop distinguishing between good and bad terrorists, as supporting terrorism in any form can be disastrous for the country. However, that in itself cannot replace the need for reformed police counterterrorism role. Secondly, the military operation in North Waziristan again is a good indicator. However, military operations are temporary measures, as stated by Abbas,¹⁴⁷ therefore, they are not an alternative to a reformed police force having a greater role in terrorism. Thirdly, in a country like Pakistan with a highly flawed legal system by restoring the death penalty, there is a too high potential for injustice,¹⁴⁸ such injustice could contribute to more terrorism. PIPs report reveals that there is no direct relation between the decline in terror attacks and the resumption of the death penalty because most people who have been executed under the death penalty are in non-terror related cases.¹⁴⁹ Fourthly, there are grave concerns about the fairness of the military trial and the protection of human rights.¹⁵⁰ Fifthly,

¹⁴⁵ *ibid.*

¹⁴⁶ Mahmood (n 143).

¹⁴⁷ Abbas, ‘Reforming Pakistan’s Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?’ (n 77).

¹⁴⁸ Vasja Badalič, ‘Death Sentences on Twitter: Civilian Victims of Secret Military Courts in Pakistan’ (2019). <https://doi.org/10.1007/978-3-030-12406-9_9> accessed 20 August 2020

¹⁴⁹ Khan and others (n 144).

¹⁵⁰ International Commission of Jurists (n 130).

grievances against human rights abuse do more damage to the image of armed forces. Successful theatres across the globe show that curbing terrorism heavily relies on cooperation between security forces and communities.¹⁵¹ Conversely, terrorists can use human rights violations to prepare propaganda material for recruitment. Finally, the FATA-KPK merger has been welcomed by all quarters. Through this, police have taken over the security in FATA, their role in effectively dealing with counterterrorism becomes even more critical. Although some welcome changes such as non-distinction between terrorist groups and FATA merger, however, other heavy-handed and unlawful measures contrary to the rule of law risk doing more damage. There is no real substitute to a reformed police force having a greater role in countering terrorism, which this thesis intends to investigate into detail.

1.4 How? Methodology and work already undertaken

The research being conducted is doctrinal, library-based study, and will critically analyse various primary and historical legal materials. Doctrinal research will allow this study to recognise multiple general rules of law that require a specified legal result when certain facts are present in a situation, outlines a specific factual situation. Critical legal scholarship then allows the researcher to determine the value and or validity of those legal approaches and where appropriate suggesting alternative forms of methods of regulation that may better serve as a solution.

This study will draw on existing qualitative and quantitative research to determine whether present legal instruments on policing terrorism are adequate to address the issues aforementioned within this report. This thesis will follow a three-pronged approach. Firstly, it will provide a systemic exposition of the current counterterrorism regime, analyse the relationship between civilian institutions countering terrorism, explain the obstacles, and make future recommendations. Secondly, it will intensively evaluate the adequacy of the existing counter-terror regime and recommend reforms to the current system. Finally, this research will foster a complete understanding of the conceptual basis of current counterterrorism efforts and their combined effects.

The preliminary research has demonstrated that Pakistan's governments have failed to deal with terrorists due to the flawed police system and other issues mentioned above. The thesis will look at questions of policing institutional reforms for improving a state's ability to deal with the threat of terrorism while conforming to the international human rights standards. The thesis endeavours to

¹⁵¹ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

formulate an institutional framework that demands reforms in policing, intelligence, police-military cooperation, and judicial reforms. References will be made to international bodies such as ICG and the United States Institute of Peace (USIP).

Most of the research on Pakistan's countering terrorism has been carried out by academics or organisation based outside Pakistan; for example, ICG is based in Brussels, whereas USIP is located in the United States. Research in Pakistan is scarce and not valued properly. In particular, social sciences are "seriously neglected in Pakistan".¹⁵² In addition, there are widespread censorship practices in Pakistan on writing and publishing material that criticises Pakistan's military.¹⁵³ As the military is in charge of counterterrorism policy, the research on countering terrorism has been ignored on various academic scores. The reason for this lack of research is also due to the limited access to official sources of information on the grounds of confidentiality and secrecy.¹⁵⁴

As aforementioned, there is lack of scholarly work available on Pakistan's ability to in policing terrorism whereas conviction rate for all criminal trials is less than 10 percent, it seems there is a need to address the role of police in counterterrorism and propose an alternative framework to deal with terrorism. The research will provide grounds for institutional reform, and enable Pakistan to either strengthen the existing military-led approach or to do away with it completely, and replace it with a more robust, effective police led system to deal with the issues facing the country to combat terrorism.

Pakistan's fight in addressing terrorism would also, in turn, help the USA, United Kingdom, and other Western countries. There have been numerous allegations and reports suggesting that many Jihadists who want to launch an attack on the UK are trained in Pakistan or may have a connection with Pakistan. The UK former prime minister Gordon Brown said that 75 percent of the terror threats to the UK originate in Pakistan.¹⁵⁵ Faisal Shahzad, a Pakistani born American citizen who attempted

¹⁵² Geof Wood, 'Architects and Contractors: Political Economy Analysis of Policy Research in Pakistan' (Sustainable Development Policy Institute 2013)

<https://webarchive.nationalarchives.gov.uk/20140722072328/http://r4d.dfid.gov.uk/pdf/outputs/PubPolRes/61045_Paper1A_SummaryVersion_Architects_and_Contractors_PEA.pdf> accessed 4 August 2020.

¹⁵³ Muhammad Badar Alam, 'Notes from a Pakistani Newsroom' (2019) 10 *BioScope: South Asian Screen Studies* 234 <<https://doi.org/10.1177/0974927619896772>> accessed 5 July 2020.

¹⁵⁴ Irfan Ghauri, "Remnants of Colonialism: Anything Can Be a Secret under the Official Secret Act" (*The Express Tribune*, 18 March 2014) <<https://tribune.com.pk/story/684110/remnants-of-colonialism-anything-can-be-a-secret-under-the-official-secret-act>> accessed 21 August 2020.

¹⁵⁵ Seth G Jones and Christine Christine Fair, *Counterinsurgency in Pakistan* (RAND Corporation 2010) <<http://www.jstor.org/stable/10.7249/mg982rc>> accessed 10 April 2019.

car bomb attack in New York's Times Square, confessed he received bomb-making training in Pakistan.¹⁵⁶ Hence, Pakistan's domestic counterterrorism fight would, in turn, help other Western countries like the UK and the US.

Despite the flaws in the Pakistan counterterrorism regime, there is a high resolve in Pakistani society to deal with terrorism. Pakistani agree on the inadmissibility of extremism and terrorism as a whole. 93% of the population thinks terrorism as a major problem facing Pakistan, according to Yusuf.¹⁵⁷ Lalwani states that Pakistan is making good progress in its counter-militancy efforts. Which includes operations against its former assets and the country's decision to tackle militant and extremist organisations once considered too valuable or too dangerous and its denial of social space to militants such as serious enforcement of regulations on hate material.¹⁵⁸ Zaidi states that there are "islands of excellence" within the system, such as Punjab Forensic laboratory. He further says that there are undoubtedly hundreds if not thousands of dedicated police officers, judges, prosecutors, and lawyers doing their best to reform the system, albeit in their individual capacity.¹⁵⁹ Thus, this demonstrates there is scope for reforms in the counterterrorism regime.

In January 2017, the Pakistan government surprised its critics (who accuse Pakistan of supporting some terror groups) by putting Hafiz Mohammed Saeed, the leader of Pakistan's Jamaat-Ud-Dawa (JUD) under house arrest. Saeed is long accused of receiving the backing of Pakistan's security authorities, albeit unofficially. However, since 2002 his organisation is banned both domestically and internationally. Rana states that Saeed's arrest "appears to be a genuine effort by Pakistan authorities to combat non-state actors within its borders."¹⁶⁰ This arguably shows that there appears to be a genuine resolve in eliminating all terrorist groups from Pakistan. Thus, this thesis will build further on the progress made by Pakistan in its counterterrorism efforts, illuminating the need for further reforms and balancing the state's legitimate security interests with human rights.

¹⁵⁶ Seth G Jones, 'The Terrorist Threat from Pakistan' (2011) 53 *Survival* 69 <<https://doi.org/10.1080/00396338.2011.603563>> accessed 19 May 2019.

¹⁵⁷ Yusuf (n 8) 208.

¹⁵⁸ SAMEER LALWANI, 'Actually, Pakistan Is Winning Its War on Terror – Foreign Policy' (*Foreign Policy*, 10 December 2015) <<https://foreignpolicy.com/2015/12/10/actually-pakistan-is-winning-its-war-on-terror/>> accessed 21 August 2020.

¹⁵⁹ Zaidi (n 17) 18.

¹⁶⁰ Sophia Saifi and Juliet Perry, 'Mumbai Attack Suspect Hafiz Saeed Detained by Pakistan - CNN' (*CNN*, 31 January 2017) <<https://edition.cnn.com/2017/01/31/asia/hafiz-saeed-house-arrest-pakistan/>> accessed 21 August 2020.

1.5 Thesis structure

This thesis aims to compare the role of police in counterterrorism in the UK and Pakistan. It describes the security apparatus of both countries and where the police fit in with the primary focus being on Pakistan, and the UK is used as a comparator to the main cause.

Chapter 1 will give an account of terrorism challenges facing Pakistan and answers what? Why? How? Questions of this thesis. Explain the prevalent issues in the Pakistan counterterrorism landscape.

Chapter 2 will survey relevant literature on the topic.

Chapter 3 will explain the history and role of religion in the development of terrorism in Pakistan.

Chapter 4 will describe the role of police in counterterrorism in the UK. It describes multi-agency cooperation and role police plays in that the relationship between CPS and the police, how police play a central role in Prevent (de-radicalisation program). How police and security services (MI5, MI6) co-operate? Relations between police, public, and its impacts on counterterrorism in the light of community policing in the UK. Finally, it discusses counter terrorism and human rights in the UK.

Chapter 5 describes Pakistan's counterterrorism security apparatus and the role of police in it. In addition, it describes an increased role of the military in the country's security infrastructure. It analyses the military-led approach's impacts on terrorism and human rights. It examines cooperation between police and prosecution in Pakistan. It further investigates relations between police and the public in Pakistan. It describes the role of the police in de-radicalisation. Moreover, it analyses cooperation between police and the military-led security agencies in Pakistan.

Chapter 6 concludes the discussion and makes recommendations by presenting the summary and findings.

CHAPTER TWO

2 LITERATURE REVIEW

There is abundant literature available discussing Pakistan's ability to fight counterterrorism. Most of the literature has been written post 9/11, and it discusses Pakistan in the light of the US war on terror in Afghanistan and its role as a US ally. Authors such as Hassan Abbas, Eamon Murphy, Brian Cloughley look at the terrorism problem in Pakistan from a historical perspective. Authors such as Ahmed Rashid¹⁶¹, Hussain Haqqani¹⁶², look at Pakistan terrorism problem from an international politics and foreign affairs perspective, less so from a legalistic and domestic perspective. In addition, some of the literature draws the roots of terrorism in Pakistan back to the country's role in the war against Soviet forces in Afghanistan. Pakistan's ISI (Inter-Services Intelligence) created Mujahedeen with the help of its American counterpart CIA (Central Investigation Authority) to covertly fight Soviet forces in Afghanistan.¹⁶³ Numerous books and articles discuss the Pakistan army and its use of militant proxies; there is literature, which discusses Pakistan military and its stronghold on power, making it the most powerful institution in the country.¹⁶⁴ Though considerable research has been done on Pakistan counterterrorism fight, yet the role of the police is still under-researched area comparatively.

On the subject of police Rana, Abbas, Pervez, Perito and Tajik have made a valuable contribution to the literature on the subject of Pakistan police and its counterterrorism challenges.

The following review covers the broad range of literature on the current counterterrorism challenges faced by Pakistan and the role of its security agencies in countering that threat. The aforementioned literature covers the terrorism problem in Pakistan, its causes and solutions. The literature reviews the role of police in counterterrorism primarily in Pakistan and its principal comparator United Kingdom. The literature also looks at the police counterterrorism role globally in countries such as the United States and Israel. The literature

¹⁶¹ Ahmed Rashid, *Descent Into Chaos: The US and the Failure of Nation Building in Pakistan, Afghanistan, and Central Asia* (Viking 2008).

¹⁶² Husain Haqqani, *Magnificent Delusions: Pakistan, the United States, and an Epic History of Misunderstanding* (PublicAffairs 2013).

¹⁶³ Eamon Murphy, *The Making of Terrorism in Pakistan : Historical and Social Roots of Extremism* (Routledge 2014).

¹⁶⁴ Fair (n 64).

reviews what role police ought to have in dealing with terrorism. Further, the literature looks at the police-community relations impacts on counterterrorism in Pakistan and the United Kingdom. Moreover, the literature looks at the terrorism prosecution and human right issues in Pakistan largely and in the UK to a lesser extent. Finally, due to the unique nature of power dynamics in Pakistan, any study discussing Pakistan security inevitably ought to discuss its military because the military oversees the country's national security. Therefore, the Pakistan military's role in national security and country's polity are also discussed.

2.1 Pakistan Counterterrorism challenges:

*Pakistan's counterterrorism challenge*¹⁶⁵ edited by Moeed Yusuf is a welcome addition to the existing Pakistani literature; it is one of the rare books, which looks at the subject of counterterrorism from a holistic perspective also distinguishing counterterrorism from counter-insurgency efforts. The book brings practitioners and academics from Pakistan and international arena to holistically review the subject of counterterrorism. The book takes the reader through several dimension of Pakistan counterterrorism challenges. It is a continuous theme in the book that civilian-led enforcement is better in dealing with counterterrorism. The book recommends Pakistan to address the civil-military imbalance to deal with terrorism. It discusses Pakistan's counterterrorism challenge through the viewpoint of the US, Pakistan military use of traditional means of force through military warfare in countering terrorism and its results. It states that the insurgency faced by the country was unprecedented because of it fighting its own people compared to a foreign enemy. Hussain and Malik highlight the weakness of political parties in the country and its resulting drawbacks in the form of not having a coherent counterterrorism policy. They state that lack of strong big political parties and division of society into factions is a hurdle in the way of development of coherent counterterrorism policy. They state civil-military imbalance is another hurdle in coming with a unified counterterrorism policy. (When the book was written Pakistan did not have a counterterrorism policy; however, later Pakistan developed a counterterrorism policy; however, as revealed in chapter 5 the newly developed counterterrorism policy suffers from serious flaws). Hussain and Malik¹⁶⁶ state that due to disconnect between civil and military

¹⁶⁵ Yusuf (n 8).

¹⁶⁶ SAVAIL MEEKAL HUSSAIN and MEHREEN ZAHRA-MALIK, 'Political Instability and Its Implications for an Effective National Counterterrorism Policy in Pakistan' in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.11>> accessed 22 August 2020.

the parliamentarian are not briefed as they are ought to; hence they do not appreciate the gravity of the situation, which if they are aware may help in making easy passage of laws and changes in the constitution to deal with counterterrorism effectively.

Tajik's in his chapter *Counterterrorism Efforts of Law Enforcement Agencies in Pakistan*¹⁶⁷ describes the effort of civil law enforcement agencies. He exposes some of the weakness in the civilian law enforcement structure, though he talks about police getting a bigger role in all aspects of counterterrorism; nevertheless, he does not discuss what role police ought to have in de-radicalisation. He provides a good insight into how a lack of cooperation between intelligence and police is proving detrimental to dealing with terrorism.

Moeed Yusuf's chapter *Pakistan's Militancy Challenge: From Where, to What?* Describes the political nature of terrorism in Pakistan by giving an insight into the history of terrorism in Pakistan and how Pakistan transformed from a relatively peaceful country to chaos after 9/11. He explains how the US views Pakistan's counterterrorism fight and how Pakistani view the US role as an instigator to Pakistan's problems with terrorism rather than a solution to Pakistan's problem. He mentions that the West is too quick to dismiss the lack of capacity issue that Pakistan is facing in dealing with terrorism and the West is placing more focus on the lack of will issues when it comes to Pakistan's counterterrorism fight. He further states that Pakistan has consistently failed through its heavy-handed approach be it losing East Pakistan now Bangladesh, re-emergence of the Baloch separatist movement in 2006 and the instability in Karachi in the last decade. He argues for a more law enforcement focused approach when it comes to counterterrorism. He lays out Pakistan state support for militant proxies and using them in Kashmir against India. He states that after the withdrawal of the Soviet forces through Jihad, the Pakistani security establishment realised the effectiveness of Jihad. He further states that nowhere in the world the access to militant infrastructure is easier than in Pakistan today, and he argues that youth unemployment also plays a role in it. He states that the Western world is insensitive to the acuteness of Pakistan counterterrorism challenge.

¹⁶⁷ Tajik (n 36) 103.

Haider's chapter *Counterinsurgency: The Myth of Sisyphus?*¹⁶⁸ Describes Pakistan's military operations and the necessity of them being complemented by the police effort. He argues that the Pakistan army (though they have learned on the job) have performed well. However, their achievements can only be sustainable if it is complemented by a proper police force. He states that the lack of a comprehensive national Counter insurgency policy has contributed to early setbacks in operations against the militants. He says Pakistan insurgency is more challenging because the state is fighting its own people compared to a war with a foreign enemy. He further states that successes in military operation have resulted in more urban terrorism and bombings. Therefore, in the absence of the proper law enforcement structure in urban centres, Pakistan cannot successfully fight counterterrorism. Pakistan army hesitated in opening new battlefronts against the militants out of the concern of the militant's capacity to attack urban cities as an act of revenge. Therefore, arrest and prosecution are critical in counterterrorism.

Weinbaum, in his chapter *Militancy and Extremism in Pakistan: A US Perspective*, states¹⁶⁹ how Pakistan fears the Indian dominated Afghanistan; as a result, it is struggling to abandon support for proxies. Further, he states that Pakistan is facilitating certain militants' groups in return for them not attacking Pakistan. He states the case of LeJ (Lashkar-e-Jhangvi) as an example of an organisation which Pakistan army is complacent is stopping despite the organisations reach extending beyond Pakistan's borders. He states that LeJ has had ties with the Pakistan ISI historically. He explains that Pakistan's former army chief General Ashfaq Pervez Kiyani for the first time in country's history included in the military doctrine that the war Pakistan that the country is fighting internally is its own war. (Contrary to the popular conception that Pakistan is fighting the US's war). This ownership of war by the military has been welcomed from all quarters. He further states that Western countries should respect Pakistan in terms of drone strikes and acknowledge Pakistan's India centric fears. At the same time, from a Western perspective, Pakistan needs to change its policies towards distinguishing between extremist groups, which is leading to the trust deficit. Hence, this will enable to bridge the gap amongst Pakistan and the West.

¹⁶⁸ HAIDER (n 72) 63-82.

¹⁶⁹ MARVIN G WEINBAUM, 'Militancy and Extremism in Pakistan': in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.9>> accessed 22 August 2020.

Soofi, in his chapter *Legal Challenges to Military Operations in Pakistan: The Case of the Federally and Provincially Administered Tribal Areas*,¹⁷⁰ says the military did not have any legal permission of engaging in military operations. However, in 2008 the civilian government officially asked the army under article 245 of the Pakistani constitution (the terms army and military are used interchangeably throughout this thesis). Article 245 allows the army to aid the civilian government in dealing with an insurgency. Nevertheless, article 245 is for periodic and isolated incidences it does not cover or makes clear when dealing with a sustained insurgency. Nevertheless, the military has also launched operations unlawfully unilaterally without asking the government.¹⁷¹ Soofi explains there being lack of laws in terms of detaining the terrorism suspects and lack of legal oversight regarding military conduct. He lays out the human rights violations by the military in terms of military operations, illegal detentions, and lack of a mechanism for compensation where there has been collateral damage. He further states that the country's security agencies are frustrated with the current criminal justice leading them to disregard the laws and dealing with suspects in unlawful manners. He says Pakistan does not have a legal framework to deal with detained militants; detention can be for an unlimited time. Its military operations do not have proper legal cover, nor do they have proper external oversight of these operations to protect the human right and maintain fairness. He states that there is no law relating to the conduct of military operations, nor is there any code of conduct for military personnel. Therefore, he states that the lack of laws and not ironing out the procedures of handling detained militant create a messy situation.

Soofi explains that Pakistan says that the counterterrorism it is fighting is not Nonintentional Armed Conflict (NIAC) however; some commentators call it Nonintentional Armed Conflict. The reason Pakistan does not recognise it as NIAC is that the acknowledgement that it is NIAC would mean allowing International Red Cross access to detainees and evaluate if any war crime has been committed. He says like India, Pakistan needs to have a legal mechanism to define if any operation is NIAC or not. It is inexcusable when Soofi states that armed forces in Pakistan have “rightly” been granted legal cover for detention under the law of The Actions (in Aid of Civil Power) Regulation, 2011 (AACP) until the end of the conflict, which effectively could be unlimited.

¹⁷⁰ AHMER BILAL SOOFI, 'Legal Challenges to Military Operations in Pakistan': in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.13>> accessed 22 August 2020.

¹⁷¹ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25) 5.

Soofi contradicts himself by providing a record of military human rights abuses whilst stating that the Pakistan army has voluntarily largely observed International Humanitarian Law. Whilst Amnesty International says there is compelling evidence of Pakistan military human rights abuses.¹⁷² Soofi mentions the recent ruling of a recent Supreme Court case in which the court said that the security of the state takes precedence over all other human rights. This ruling raises serious issues because the individuals make the state, the state is too powerful, and the courts should rather protect the weaker party, which is the individuals. Fayyaz argues that ultimately world peace will be achieved when an individual's security is the primary focus rather than the state.¹⁷³

Soofi says that lack of procedures, regulations of military conduct is contributing to human rights violations. He says that Pakistan tried the Crown prosecution service type model and blames its failure on a fresh batch of lawyers, rather than prosecutorial training or lack of regulations or procedural issues relating to the conduct of the prosecution. Soofi points out how it affects the morale of security officers and wastes time and effort when due to weakness of the judicial system, the perpetrators are able to get away from criminal penalty. Soofi further discusses several weaknesses in the court system, overload of cases, lack of experience of prosecutors, lack of cooperation between investigators and prosecutors, lack of protection of judges, lawyers, witnesses in court trials and lack of skills and training of prosecutors.

While Amir Rana in his chapter *Choking Financing for Militants in Pakistan*¹⁷⁴ states that choking militant financial capacity is also a crucial part of counterterrorism efforts, he states that special focus needs to be given and efforts should be made to stop non-traditional methods such as alms, money laundering, drug trade and other organised crime money being used for terrorism.

¹⁷² Amnesty International, "THE HANDS OF CRUELTY" ABUSES BY ARMED FORCES AND TALIBAN IN PAKISTAN'S TRIBAL AREAS' (2012) <https://www.amnesty.nl/content/uploads/2016/11/p4026_end_impunity_in_tribal_areas.pdf> accessed 21 August 2020.

¹⁷³ Shabana Fayyaz, 'Pakistan Response towards Terrorism: A Case Study of Musharraf Regime'.

¹⁷⁴ MUHAMMAD AMIR RANA, 'Choking Financing for Militants in Pakistan' in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.14>> accessed 10 June 2020.

Khan, in his chapter *Cyberia: A New War Zone for Pakistan's Islamists*,¹⁷⁵ explains the use of cyberspace by terrorists. He states that though in 2008, Pakistan's parliament came up with resolutions to combat terrorism comprehensively by framing policies on denying terrorist cyberspace of Information Communication Technology (ICT). However, these remained mere words, and they needed to be translated in terms of action. He says, in Pakistan, where so many dominant dangerous conspiracies have grabbed hold of people opinion, such as the war against terrorism is the war against Islam and Pakistan and its nuclear assets, an alarming number of people believe those conspiracies. In this backdrop, he makes a plea to all stakeholders to get together and to deny space to extremists on ICT, and for media to have voluntary code of conduct regarding denial of platforms to extremists. He further states that school textbooks which spread the message of hate should be reformed, and media training should be facilitated to wipe out all these narrow-minded ideologies from public discourse. Khan says it is possible to limit access of extremists to these platforms by stating that YouTube and Facebook have been banned in Pakistan due to the court orders because these organisations allowed material against the prophet Muhammad (PBUH) on their platforms. He states that although emotionally charged on this occasion; in the same manner, it is possible for Pakistan to block access to extremist material. Thus, Pakistan needs to develop comprehensive cybercrime laws with proper enforcement.

Tariq Khosa book '*The Faltering State' Pakistan's internal security landscape*¹⁷⁶ published by Oxford University Press sheds light on Pakistan police counterterrorism policing challenges. Although unexpectedly the book does not contain a bibliography and it is not a memoir as well. Khosa claims it is written for Policymakers and professionals; however, lack of bibliography makes this literature somewhat weak. Nevertheless, because of Khosa's experience as a police officer and serving at most senior policing roles, it is worthy of consideration. Khosa was chief of Baluchistan province police and Director General Federal Investigation Authority (FIA) both are crucial organisations involved in Pakistan security apparatus. His book deals with Pakistan's recent security challenges from 2009-2016.

¹⁷⁵ ZAFARULLAH KHAN, 'Cyberia': in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.15>> accessed 20 August 2020.

¹⁷⁶ Khosa (n 109).

He starts with the fact that policing is now a provincial subject rather than a federal responsibility after the 18th amendment in Pakistan's constitution. He explains how the country's provincial governments are still hindering policing reforms by repealing reformed policing laws and going back to outdated draconian police laws which have no place in modern society. For example, the government of Sindh province repealed a modern policing law, which had its own flaws with a completely flawed draconian old police law, these types of issues he says are at the heart of the policing problem in Pakistan, that people with influence or in power want to politicise police and keep it under their control.

He mentions that Baluchistan province following Sindh province footsteps also repealed the Police Order 2002 and implemented replica of Police Order 1861 with a new name. In Baluchistan police only covers 5% of the province and the other 95% is covered by Levies. Levies are forces which are answerable to Sardars (tribal leaders). He suggests that police mean the rule of law, while Levies means the rule of Sardar through the bureaucracy. He argues strongly for whole Baluchistan province to be covered by police thus abolishing the Levies. When he was the chief of Baluchistan, he brought the whole province under police cover; however, successive governments later reverted to Levies forces control.

The gist of his argument is that the police need to be operationally autonomous with no political interference. The police need to be the head of internal security structure; the military needs to take a back seat when it comes to dealing with internal security challenges and assist the police. Military needs to accept civilian supremacy. He argues for coordination between all state agencies by having a national coordination centre and having a national counterterrorism security strategy, which he says is missing.

He states that military-backed intelligence agencies which are in charge of national security structure operate outside the legal ambit and warns of the dire long-term consequences of this utter disregard of the rule of law by these agencies. He gives examples of human rights abuses, extrajudicial killings and illegal detention by the military of those fighting the separatist cause in Baluchistan province. He warns that Baluchistan Pakistan is heading for East Pakistan like situation due to deep grievances and military's unlawful practices. He says Baluchistan will be separated from Pakistan if this utter disregard of the rule of law and human rights abuse by the military continues. (In 1971 East Pakistan now Bangladesh was separated from West Pakistan fuelled by political grievances).

Khosa supports the community-policing model and states that in Pakistan, the big cities should have metropolitan police like the UK metropolitan policing models. He suggests that Pakistan need to invest in policing and law and justice due to their vitality to human developments. When the book was written, Pakistan was suffering from huge internal security attacks daily. He also makes a plea to police officers to defy illegal, political orders by those higher in the political system.

He states the reason for the National Counter Terrorism Authority (NACTA) ineffectiveness is due to the tussle between the government and the military about control of the organisation. He states that NACTA is a headless organisation now because the government cannot have its chief due to the problem that the government wants it to be under interior ministry's control but according to the law, it ought to be under the direct control of the Prime Minister, which is what the military wants. The Joint Intelligence Directorate (JID), which was envisioned under NACTA, is also redundant and failed to take off because the military establishment intelligence does not take ownership of it. He suggests that NACTA should be a pivotal multi-agency civilian-led institution to deal with terrorism.

He says an overwhelming reliance on military institutions has diverted capacity/ resources and public trust away from the police. He further states that police are an organisation in crisis with police being perceived as the most corrupt institution of the country. He states that police colonial background where it was used as an oppressive force needs to be changed to reform the police force. He states that the police mindset needs to be changed to police, which serves, rather than dominate, where the rule of law should prevail rather than the law of the ruler. He explains the police poor working conditions where they have to work seven days a week often without taking a break for more than a month. He says the police are under-resourced compared to their military counterparts, and the military spends per capita Pakistani Rupee (PKR) 11,40,000 on its soldier; whereas, the police spend PKR 3, 40,000.

He suggests that in different government organisations of Pakistan, including law enforcement organisations, there is a culture of working in silos but what they need is a coordinated approach. He states that Afghanistan produces 90% opium, out of which 40 to 50% is transported through Pakistan, therefore, it is a challenge for Pakistan because the drug money goes to organised crime gangs and terrorists.

On the issue of internal security, he suggests that there should be a national security advisor who should have its own office. He states that Pakistan does not have a national counterterrorism strategy, nor does it have a central counterterrorism authority. He suggests that the Defence Committee of the cabinet should meet regularly and iron out the issues between civilian and military on the issues of national security.

He states that Police order 2002 in its original form was a good piece of legislation, and it gave police operational autonomy. However, due to the vested political interest and pressure from civil services, the act was amended with the most reformatory parts taken out, thus making the reforms futile and ineffective. He says that Khyber Pakhtunkhwa (KPK province) government introduced the Police Act 2017, which was an improvement of police order of 2002. He suggests that KPK police reforms are a classic case that when police are given operational autonomy, resources and independence, it can improve law and order and develop trust between citizen and police.

He states that military is ceding more space in internal security matter whilst their 'kill and dump' strategy has not worked, and the rule of law approach should be followed, which is led by the police. He says nowhere in the world counterterrorism is outside the purview of the police. He states that military and its agencies should disassociate itself from militant proxies, which they have used in the past and not distinguish between any terrorists' groups. General Kayani acknowledgement that the war against terrorism is our war rather than the US is a step in the right direction he states.

He says that those in the legal justice system should be protected, such as judges, witnesses, prosecutors, and investigators as numerous incidences have happened where the militants have attacked them. He gives a special focus to witness protection.

He states that the challenges faced by Pakistan are also faced elsewhere, and Pakistan could draw the experience of the other countries on some of the issues. He says the community-policing model, which acts as a bridge between citizen and the state ought to be introduced in Pakistan, as there is a strong trust deficit between the state and its citizens. In the end, he says Pakistan is not a failed state, it has a strong and resilient society, and it can face those challenges with good governance and honest leadership.

Eamon Murphy Book *“The making of terrorism in Pakistan” Historical and social roots of extremism*¹⁷⁷ is an excellent addition to the literature on the history and root causes of terrorism in Pakistan. The book explains the nature and origins of terrorism in Pakistan. It examines the role played by social, political, economic factors in the creation of terrorism in Pakistan since the country’s creation in 1947. The main argument of the book is that terrorism in Pakistan has been manufactured to suit the interests of its elite, military, religious and political actors in their shared effort to strengthen their hold on power. Therefore, addressing the terrorism problem in Pakistan requires addressing the aforementioned issues. The author got the idea of writing this book whilst he was in Pakistan, deeply sceptical of its conservative society. Still, when he interacted with students, he realised the students were saying that Islam is misunderstood as it spreads peace, and there are misconceptions in the Western world against Islam and Pakistan. Hence, he was motivated to investigate this issue in more detail. The author states that labelling terrorism in Pakistan, as Islamic terrorism is an oversimplification of the problem. Therefore, when Western media labels it as Islamic terrorism they are not acknowledging the political and historical context of terrorism in Pakistan, it creates a sense of “them against us” which creates more insecurity and misunderstanding; therefore, it is counterproductive.

Murphy states that terrorism problem cannot be understood without reference to Kashmir issue with India, Afghanistan, and US-led war on terror in Afghanistan. He mentions how Pakistan ISI has supported militant proxies in Afghanistan and Kashmir. He starts with stating currently Western media and its leaders portray Pakistan as the epicentre of global terrorism, ignoring the fact that the main victims of terrorism have actually been Pakistani themselves. He explains the violent fallout of Musharraf decision to abandon support for the Taliban and become a key ally of the US, after which Pakistan state became a target. He says currently in Pakistan religious tolerance is diminishing, and secular voices are being silenced due to fear generated by the militants.

His book looks at the question, Is Islam the primary cause of terrorism in Pakistan? He looks at the issue from the Critical Terrorism Studies perspective (CTS), drawing mainly upon theoretical and research traditions. Therefore, challenging the orthodox views. He suggests that the orthodox view is far too biased towards supporting the foreign and domestic policies of Western governments. Whilst making a case that religion is not responsible for terrorism

¹⁷⁷ Murphy (n 163).

in Pakistan, he states that we should not completely ignore the complex link between religion and terrorism altogether but very carefully explore this issue. He further mentions that terrorist may justify their actions bases on Islam this is not the cause, but a mere justification used by them.

He says Islam in its early years in the subcontinent was inspired by the practices of pre-Islamic Buddhist, Hindus and other practices of religion and traditions. He suggests that with a very low number of Muslims rulers ruling the Indian continent, it was physically impossible for them to impose Islam on such vast land. Sufi Islam, which was the predominant version in the Indian subcontinent, was spread due to people's perception that they have special divine inspired sanctity due to their ancestral links to the saints. This is the main sources of Islam in Pakistan today. There were economic and political considerations as devotees would give the saints extravagant gifts, including land, which allowed Sufis more power. Majority of Pakistanis are a follower of Sufi Islam, and there was little intolerance between different sects of Islam until the early years of the creation of Pakistan. The intolerant version of Islam Wahhabi or Deobandi was regarded as "heretical lunatic fringe of Islam" he says. Jihad was just a concept in isolated tribal regions independent of Pakistan. Therefore, he states that the development of terrorism in Pakistan, therefore, should be looked from non-religious aspects of Pakistani society.

Murphy states Ideology played little role in the creation of Pakistan except for Bengal. He suggests that kinship and patronage were at the heart of the struggle for Pakistan and to this day plaques the Pakistani system. A view also echoed by Lieven in his book *Pakistan The Hard Country*.¹⁷⁸

Murphy states that the creation of Pakistan ensued an identity dilemma. What was going to be the role of Islam in this new country? He explains how after independence the dream of Jinnah did not materialise. The leaders after him were not able to effectively run the government and the military conquered that space. When the British left India, they left the matter of Kashmir unresolved; as a result, Pakistan and India had a war in 1948. This also resulted in the first instance of state-sponsored militancy by Pakistan. In 1958, the country fell directly in the hand of the army, and according to Murphy, the state of democracy in Pakistan was virtually dead by then. Its leaders in order to keep their hold on power did not have a national election until 1970.

¹⁷⁸ Anatol Lieven, *Pakistan : A Hard Country* (Public Affairs 2012).

Murphy tracks the seeds of terrorism starting from the erosion of democracy in the early years of Pakistan's formation and appeasement of the illegitimate demands of the religious party by the dictators in the following years to keep their hold on power. This he states later resulted in sectarian violence, initially against the Ahmadi sect later also involving Shia and Sunni sect. The sectarian violence between Sunni and Shia sect was also funded by Iran and Saudi Arabia. The leaders failed to act like a statesman. Prime Minister Bhutto in order to appease the religious pressure groups and keep his hold on power agreed to declare the Ahmadi sect non-Muslim which resulted in the plantation of the seed of intolerance, although General Ayub was a secular person he also appeased the conservative religious forces in order to gather their support. From the constitution of Pakistan in 1962, the name Islam was removed. However, General Ayub backtracked after the pressure from religious groups. Bhutto also failed to resolve the issues of Islam and Pakistan from the state's discourse and the entrenched power by military and bureaucracy. Bhutto Populist Party never became a democratic party but rather remained a property of Bhutto family. Bhutto failure to see the danger in his support for Zia had disastrous consequences not just for Bhutto himself but also for the entire country. As General Zia later assassinated Bhutto.

Murphy states Zia Ul Haq decision to participate against Soviet's in Afghanistan was a watershed moment in the history of terrorism in Pakistan. He states that Zia Ul Haq sided with ultra-conservative parties, which until now had little space in the electoral process of Pakistan, General Zia himself was a conservative Muslim. He Islamised Pakistani society on a grand scale. He Islamised Pakistan according to a very narrow Deobandi interpretation of Islam he implemented a plethora of measures to implement this version of Islam. The rapid growth of madrassas (religious seminaries) took place during his time, which were particularly Deobandi influenced. The participation in Afghan Jihad introduced Jihad on a wholesale level. It desensitised the gun culture with the wide availability of gun culture with militant Jihad in its full swing with Jihadist mushrooming all across the country.

Therefore, based on his analysis of history and politics, he argues that Pakistan terrorism problem is of its own making and religion has been used and abused by the leaders to progress their own objectives. He states that accidents of history and the choices its leaders have made have caused Pakistan to become the hotbed for terrorism. Murphy states that terrorism development in Pakistan is neither unpredictable nor unexpected, looking at the history and choice Pakistani leaders have made the current terrorism problem is rather predictable.

Crisis Group report *Revisiting Counterterrorism Strategies in Pakistan: Opportunities and Pitfalls*¹⁷⁹ states that rule of law approach is the only sustainable answer to fighting terrorism in Pakistan. It states that after the Peshawar children massacre, Pakistan introduced a hastily made 20-point National Action Plan rather than a coherent policy. It states it is more a revenge and retribution strategy and it risks being counterproductive and helping the Jihadi propaganda mills. It states that despite saying the contrary, Pakistan military is still distinguishing between the good and bad terrorist groups. It states that properly empowered police, which is autonomous and has internal accountability mechanism is the long-term solution. Erosion of fundamental rights, which it states, occurs through the heavy-handed military approach, risks doing more damage. It states that the civilian government should take charge of the country's internal security matters, which now are under the complete control of its military. It states that the civilian government has agreed to excessive military demands of setting up military courts, lifting the moratorium on the death penalty, allowing military direct access into civilian bureaucratic decisions making through apex committees. It states that the civilian government needs to reverse the policy compromises it has made to the military. However, the report also states that more civilian control is only possible if the civilian government improves structural and governance reforms. It states that the civilian-led approach will not be the end in itself, but a pivotal precursor on which subsequent progress could be made. However, Nawaz says in the context of Pakistan "civilian supremacy is a myth."¹⁸⁰

Abbas, in his book *Pakistan's drift into extremism Allah the army and America's War on Terror*¹⁸¹, says the Pakistan army is unlikely to give up on Kashmir and says a "just" solution to Kashmir dispute has to be the foundation through which Pakistan army is likely to stop its support for militant proxies. He states that the Indian annexation of Kashmir was a mistake. He states that it is India, which initiated Kashmir conflict. The cost of which both India and Pakistan have paid by moving finances away from human development and investing in an

¹⁷⁹ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

¹⁸⁰ Qaisar Abbas, "Civilian Supremacy Is a Myth" (*The News on Sunday*, 12 July 2020) <<https://www.thenews.com.pk/tns/detail/685294-civilian-supremacy-is-a-myth>> accessed 21 August 2020.

¹⁸¹ Hassan Abbas, *Pakistan's Drift Into Extremism: Allah, the Army, and America's War on Terror* (M E Sharpe Incorporated 2004).

arms race. For India, it was bearable for Pakistan; it was a disaster. He states that in the case of Pakistan, the United States and Pakistan army has played a role in steering the country into extremisms. He states that the Islam, which came to subcontinent, was predominantly tolerant humanist Sufi Islam. Later the ‘mullah culture’ was developed. He explains Mullah Culture as a culture where uneducated people, who are not familiar with Islamic principles, use Islam politically for their own advantage and become self-confessed champions of the religion. Some of them ran seminaries or religious schools. He explains that the United States has focused on its short terms goals of supporting dictators and placed its own wishes above the long-term solution of strengthening democracy in the country. He states that General Zia Islamization of Pakistan and his decision of participating in the war in Afghanistan against the Soviet Union was a watershed moment, which brought gun culture to an unprecedented level, where one could rent an automatic gun for less than 2 dollars in Karachi. He looks at the historical development of extremist terrorism in Pakistan, which started soon after the creation of Pakistan. One of the key moments was when Z. A Bhutto succumbing to the pressure of those mullahs declared Ahmadis sect of Islam as non-Muslims. Jinnah, the founder of Pakistan, was a progressive Muslim when faced with similar demands Jinnah resisted and he was against declaring a sect non-Muslim based on doctrinal differences. He states that after the Soviet war was over, the US abandoned Pakistan. It strengthened ISI. ISI then employed those newly redundant proxies in Kashmir. He states that the military in Pakistan has weakened civilian institutions.

Anatol Lieven in his book *Pakistan A Hard Country*¹⁸² explains the distinguishing characteristics of Pakistani society and makes a case that the Western countries should understand Pakistan as it is, rather than it being understood through the Western prism. He states that there are great misconceptions of Pakistan in Western countries. He states that Pakistan has a very resilient society. Although its political institutions are very weak, yet it has a strong army. He states that the Pakistan army is a merit-based organisation in a largely meritless society in which kinship dominates extraordinarily. He states that in Pakistan, society is more powerful than the state because people do not rely on the state like Western countries. He states that Pakistan is not a failed state. He says Bangladesh separation cannot be used as a precedent of making an argument that Pakistan will be disintegrated further. He states that there are vast differences between that situation and the current Pakistan. Current

¹⁸² Lieven (n 178).

Pakistan's geographical unity is more than 1000 years old in some respects, whereas separated Bangladesh had a different ethnicity and was 1000 miles apart physically and it was difficult for it to survive. He states that it is difficult that terrorist will overtake Pakistan because many of the characteristics of current state also hold Islamist extremism at bay. However, they are also responsible for lack of social, political, and economic development.

He states that the Pakistan army getting Swat city in KPK province free from the terrorist hold is an example that terrorist will not overtake Pakistan. He states that Islamist militants have sympathy in FATA, which constitutes 5 percent of the Pakistani population. For Islamist militants to take over Pakistan, they need to have influence in Lahore and Karachi the metro cities, which they do not have. He states that no movement ever succeeds based only on terrorism. He states, although exaggerated, Pakistan has rational concerns of Indian influence in Afghanistan and of India treating Afghanistan as a client state by having a non-Pashtun rule in Afghanistan.

He states Pakistan suffers from lack of human rights, poor law and order, for that he holds society responsible instead of the government. He states the government is too weak even to control its own agencies such as police, other institutions, with only 1 percent of people in Pakistan paying taxes. He states that Pakistan is not a failed state if compared with other countries of South Asia. He states that Pakistan will not disintegrate on its own or by internal forces, it can only be disintegrated if the US or India or both together decide to invade Pakistan. Although it is a hard country to understand, the Western-influenced reforms should not be imposed on the country. The country should be given time and therefore let the country organically reform itself. According to Lieven climate change is a bigger threat to Pakistan's security than terrorism.

Gunaratna and Iqbal, in their book *Pakistan Terrorism Ground Zero*,¹⁸³ look at the current terrorism challenges facing Pakistan. They explain that the FATA region, which borders Afghanistan, has become the epicentre of global terrorism. They explain the dilemmas of that region, such as low economic activity and lawlessness. In this region, there is no police, and tribal elders through Levies are responsible for maintaining law and order. Pakistan's court

¹⁸³ Rohan Gunaratna, *Pakistan : Terrorism Ground Zero* (Khuram Iqbal ed, Reaktion Books 2011).

jurisdiction does not apply in this region. Historically these areas have been self-governed, and, on these borders, Pakistan military has not had a presence until 2001-2002. However, after the 9/11 attacks, they have become the hotbed of terrorism. *(Book was written in 2012, however, In 2018 FATA merged with KPK province through a constitutional amendment, hence is no longer outside the jurisdictions of Pakistani law)*. They explain the nature of terrorist groups operating in Pakistan, the profile of key people running these groups, their ideologies, and their sources of funding. Further, they look at the law and order situation in Pakistan largest city of Karachi, where they state that terrorist groups such as Al Qaeda have easily increased their presence and operating capability in the city. They state that the political elites and criminal gangs have a nexus in the city, terrorist are benefiting from this nexus. Terrorist groups have a reliance on criminal networks, therefore, making the problem direr. The police chief states that law and order are possible if they are given autonomy in decision-making. All Karachi political parties have links to criminal gangs on a dangerous scale. However, a police chief said that in the presence of nexus between criminal gangs and politicians, the police could not operate (because the politicians interfere in police matters and not allow it operational autonomy).

Gunaratna and Iqbal further state that Pakistan terrorist groups are also challenging regional stability with neighbouring, India and Iran. They state that before 9/11 Pakistan had only one suicide attack carried out by AL Qaeda since then, the figures go into several hundred. They state that the biggest cause of suicide attacker's recruitment is the collateral damage caused by Pakistan army operations and American drone strikes in the FATA region. However, they state this is not the only reason for suicide attack recruitment; it varies from glorifying death for the cause of Islam, exploiting Islamic doctrines for recruitment to extreme poverty. They state that statistically young people are the biggest target for recruiters as most suicide attacks have involved young suicide bomber. Therefore, they state that emphasis needs to put on de-radicalisation of these young people. They state that media should play a role in bringing awareness in the society because most suicide bombers are not aware of the teachings of the Quran. They state that pupils at the school level should be taught about terrorism.

They say although suicide attacks severity has increased yet it has not helped terrorists because of collateral damage by suicide attacks. The target of suicide bombers were security forces, but mostly it is the civilians who were killed. In Pakistan, the support of suicide attacks dropped down from 13 % to 5 % after the collateral damage caused by suicide

attacks. They state that Pakistan has made huge sacrifices in terms of personnel deaths and economically than any other country. In 2007, the deaths of Pakistan personnel exceeded the total number of deaths of coalition forces in Afghanistan. Therefore, they state that Pakistan sacrifices need to be acknowledged by the West and Pakistan technological capabilities need to be improved in dealing with terrorism.

2.2 Role of police in counterterrorism: the international situation

Bayley and Perito in their book *the Police in War Fighting Insurgency, Terrorism, and Violent Crime*¹⁸⁴ explain the primacy of police role in fighting the insurgency, terrorism and violent crime. They state that police contribute uniquely to winning hearts and minds of the population in contemporary COIN (counterinsurgency) doctrine. This function cannot be performed by local or foreign military. They explain the case of Iraq and Afghanistan in which the US, due to several planning failures, did not properly empower the local police, which resulted in setbacks in both countries. They state the governments confronting violence in any form should rely on the police to the maximum extent possible. They make a case for the primacy of police in confronting violence. They coin the term “Core Police” to describe the type of police, which acts of serving and protecting the local population in a manner consistent with democratic values. They state that law enforcement effectiveness and legitimacy is enhanced by core policing. They state that it is more efficient to task police with core policing role than to deploy them supplementing military counteroffensive operation. They state that police should not play a role in counterinsurgency offensive. They state that the time has come where police are used as a primary peacekeeper than the military in post-war conflict zones. They state that local force should be viewed as a force accountable to the rule of law not as auxiliary or paramilitary.

They make the case that experts have an agreement on an unprecedented scale on three principles of violence control, whether it is through insurgency, terrorism or criminality. The first principle is that the insecurity is not reduced by imprisoning, capturing or killing people who commit violent acts until perpetrators are identified by precise intelligence through targeted operations. Secondly, obedience and support from the public greatly enhance the use of state power against violence. Finally, police should be given the responsibility of security

¹⁸⁴ Bayley (n 78).

to the greatest possible extent for the government to gain public support. Especially police, which is, stationed among the population and who adhere to human rights standards. They state that there should be a clear-cut division of labour between military and police. They state a population centred approach is required rather than an insurgent centric approach.

They state that during the insurgency, the offensive operations designed to capture and kill should be performed by the military, which ought to be guided by accurate intelligence to minimise collateral damage to the general population. Following that, the defence barrier should be provided to the areas mainly cleared of insurgent violence. Police stations should be established within that barrier in which police provide essential police services and where the public have police recognised as friends, not the enemies of the average citizens. Within that barrier, police should apply the rule of law approach.

They state there are three ways in which police can prevent and control terrorism, all largely reliant on public cooperation. Firstly, based on threat assessment protecting vulnerable people and places. Secondly, investigation, arresting, prosecuting and thus deterring and finally, pre-emptive actions, stopping attacks before they occur based on intelligence.

They state although, with covert intelligence, the prosecuting becomes easier and less reliant on public cooperation. However, these methods should only be used to prevent exceptional harm, not ordinary crimes because they can affect the openness of prosecution, police reputation and public willingness to engage. They make the case of benefit of involving uniformed policing general duties officer in counterterrorism, as mentioned by Weisburd and others.¹⁸⁵ They state that when dealing with terrorism, Problem-Oriented Policing (POP) has been found to be efficient in crime prevention. POP is employed in hot spots, hot spots meaning the areas with a persistent problem with the disorder. POP mainly constitutes four activities, such as scanning instances of crime and disorder for underlying problems, analysing the reason for these problems, responding to the problems with the well-devised plan of action, and adjusting the program as needed for greater effectiveness.¹⁸⁶

They make the case that police should mobilise the public to become co-producers of public safety. The fundamental aim of insurgency is political; therefore, the central agency dealing

¹⁸⁵ Weisburd and others (n 24) 81-99.

¹⁸⁶ Bayley (n 78) 63.

with insurgency should be police, they say. They term this concept as ‘police primacy principle’. Military’s only role is to create conditions in which civilian policing can occur. Even in foreign force peacebuilding operations, the foreign forces should privilege policing over military activity. General duties police and criminal investigators are best positioned to do this. They state that in a particular situation whether core policing could be viable depends on three indicators a) whether the police will be preoccupied with their own safety or instead they can successfully protect and serve the population. b) Whether the level of violence is exceptional, and normal police operations will be submerged. c) Whether an ample number of police personnel could be recruited to serve as core police. In extraordinary conditions of insecurity, the default position is against core policing.

Whilst making the distinction of labour between police and military, they state the four reasons why the local police should not participate in the offensive operations, even in supplementary capacity. Firstly, they say it makes vague the difference between police and military in terms of use of force, rules of engagement and accountability of law. Secondly, the critical long-term function of winning support and of people by serving and protecting them is delayed as a result. Thirdly, police legitimacy erodes because the counterterrorism offensive has a high likelihood of collateral damage. Finally, police involved in counterinsurgencies often become a force within a force and stretch the limits of their legal remit.

They state that core-policing model suggested by them is not entirely defensive; part of its responsibility is prevention. The fundamental mission of protecting the public should be in accordance with the application of criminal law. Proactive force should only be used by the military, not the police. If the proactive force is applied by the military, it should only assist core policing not instead of it. The central question for police in all conditions is how they could be robust in prevention without eroding their legitimacy in the eyes of the population they are serving. They suggest that core policing should play a role beyond winning hearts and minds, which is the application of the laws, enforcing regulations, collecting intelligence. Nevertheless, the intelligence collected should not be covert intelligence.

They further state that in many developing countries in the world, people perceive the police as government’s police rather than public police. Hence, they make a case that government tackling any violence should rely on the police to the maximum extent possible. Police should play a primary role, not just any police but ‘core policing’ as suggested by them.

Military use should only be stopgap where core policing cannot be employed, not as a substitute. They define three central characteristics of core policing, which are availability, responsiveness and fairness. These attributes they suggest are similar to community policing characteristics. However, they state that community policing as a term has been overused, officers are sceptical about it due to its over expansion. Its operational activities are imprecise; some suppressive countries like China and the former Soviet Union have required the communities to work with the police. They state that imposing compulsory mobilisation by the governments in such cases is not community policing. Communities policing in the Western countries have developed based on these three traditions of availability, responsiveness and increased fairness. Without these foundations, community policing is difficult. They state that Western leaders who praise community policing abroad forget that the policing in their countries is based on these three principles. They say US research states that legitimacy depends on people personal evaluation of how police treat them when they need help from the police.

David Wiesburd *et al.*¹⁸⁷ in the book *To Protect and To Serve 'Policing in an Age of Terrorism*, outline the evolving role of police along with the evolved threat of counterterrorism. They look at the subject of policing terrorism. The books primary focus is on terrorism and its impacts of policing on Israel and the USA. However, they look a great deal at Europe and the UK policing challenges and practices. The book is a great resource in understanding how the police forces are adopting to the challenging threat of terrorism and the increased role of police in counterterrorism. They argue that the police placing countering terrorism as a central priority in Western countries such as the USA, UK, and Israel is a radical change from their traditional police role. In the 90's police reformed itself due to feud between police and public. However, before the '90s police followed a professional model which kept police distant from the public, nevertheless, in 90's the police changed from the police which was resistant to change to police which embraced innovation and flexibility. The extent of change by the turn of the century was not great, but innovation in policing was common. The innovation in policing by the turn of the century led to more public support of police and reduction in crime, and hence police emerged with a sense of mission and purpose from its past's crisis of legitimacy.

¹⁸⁷ Weisburd and others (n 24).

However, they state that 9/11 changed the face of policing. After 9/11, the two predominant forms of policing which emerged are community and problem-oriented policing. They argue that community policing might have re-established strong links between police and public, but its origins are not linked with terrorism prevention. In the police innovation era of 90 problem-oriented policing was common; it presented a model that was directly applicable theoretically to terrorism along with crime and disorder. The origin of problem-oriented policing (POP) is in developing strategies for specific crimes rather than general law and order. Whilst the police in the Western democracies was developing new homeland security role, the police in Israel and the UK already had developed a homeland security role due to the decades of terrorism facing both countries. In case of the UK, the Irish troubles were the predominant reason for police homeland security role, and in case of Israel, the attack on the school in Maalot was a decisive incident leading to a bigger police homeland security role. Scholars suggest that fundamental changes in Israel policing practices are bringing it closer to the US and UK. Mainly due to its policing terrorism focus.

The book greatly looks at the idea posed by the scholars that uniformed general duties police should have an increased role in counterterrorism. The authors look at the benefits and the drawbacks of giving the general policing uniformed full-service officer an increased role in counterterrorism, which could be outside their traditional policing role of dealing with crime and disorder. They state that the line separating counterterrorism from crime is imprecise and ambiguous. The question authors ask is whether by focusing more on counterterrorism, will the gain made over the last decades or so of dealing with crime and disorder be lost if the police focus more on homeland security. Whether police and public relationship gains will be lost?

Ganor, in his chapter *Trends in Modern International Terrorism*, looks at the difficulties of defining terrorism and the social and political problem it creates in democracies. He states that terrorists operate as a network; therefore, the world community should be united, and multi-disciplinary terrorism fighters network should triumph. He states that it takes a network to defeat a network. Ganor looks at the psychological- societal and political rationale, as two different schools of thoughts, to understand the root cause of terrorism. He states that a multidisciplinary understanding of terrorism is needed. He states that with regards to the Islamic terrorism outside its borders, the Western countries should not deal with it, but the pragmatic Muslim countries should be strengthened to deal with it. He further states that the

US could introduce a Marshal Plan type plan for Muslim countries to deal with this threat. Moreover, he states that demanding the Muslim states to be pragmatic can also be counterproductive. Finally, he states that the world needs a unified definition of terrorism because, in the absence of a definition, it is difficult to deal with a threat, which has not been defined yet.

LaFree and Dugan, in their chapter *Tracking Global Terrorism Trends 1970–2004* look at the statistic and trends of terrorist incidents between 1970 to 2004 and conclude four things regarding terrorism. Firstly, terrorist groups have a short life span; secondly, the probability of terrorist using weapons of mass destruction is limited due to complex training and handling required for their use, which is beyond the hold of many terrorists. Thirdly, change of terrorism is directly connected to political stability in the countries affected by terrorism. For example, terrorism is more likely where the state is transitioning from autocratic to democratic government. Finally, they state that contrary to popular conception, statistically, global terrorism is declining since 1993.

Bayley and Weisburd in their chapter *Cops and Spooks: The Role of Police in Counterterrorism* argue that scholars and laypeople take for granted that police should play a central role in the fight against terrorism. They state that ‘high policing’ police role is likely to endanger the gains of the establishment of police legitimacy in many communities, and it may also undermine control and order. They state that all terrorism is local; therefore, the extent to which police concerns itself with terrorism is similar to other local responsibilities of police such as crime and disorder. Nevertheless, they say at the same time, increased general duties uniformed police role in high policing can also put a strain on police traditional policing role.

They explain the role of police in counterterrorism. In the US, they say the police says that homeland security ‘towers above’ all other police agendas. There is little contention on the fact that police should be involved in counterterrorism; however, there are concerns that increased role of police in counterterrorism can change the character of policing in a democratic state. There is a concern that because of police prioritising covert prevention of terrorism, the publicly visible policing of individual criminal victimization will be neglected. This kind of policing has been referred to as high policing. High policing is distinct due to its focus and methods they say. Its focus is macro crimes, i.e., the crimes that are a threat to

society in general, such as illegal immigration and drug trafficking. Contrary to micro crimes, which effects individuals.

The difference between high and low policing is that in high policing the key objective is prevention, which is achieved through gathering covert intelligence, surveillance and disruption. Whereas in low policing deterrence is achieved through the application of criminal law and prevention is achieved through visible patrolling. High policing differs sharply with low policing because it is less accountable, less transparent, and less careful with human rights. High policing changes the sense of direction of police from service to controlling the population because it supports the top-down command structure. While stating the benefit of general duties uniformed police in counterterrorism, they state that full service or general duties uniformed police provide extraordinary access to the communities. Hence, they offer unique advantages and their role in counterterrorism should be utilized. With complete focus, it can be utilized in gaining information about the activities, which are signs and symptoms of terrorism.

When discussing public cooperation with the police, they state that police being responsive to day-to-day concerns of individual will make it likely, that the public will assist the police in providing information or accepting the direction of police in the event of a disaster. They state that role of general duties uniformed police can help foster good relations with marginalised communities, which are more vulnerable to fostering terrorism. They state that 'low policing' role in counterterrorism is not a distraction but rather important 'force multiplier'.

Highlighting the role of police in terrorism globally, they state that within most countries counterterrorism is divided through 3 ways: (1) National agencies, which specialised in counterterrorism (2) To one or more national police service (3) To all police service on any governmental level. Their criteria for defining a security agency as police are of an organisation that operates exclusively within a country.

They state that national counterterrorism agencies have a varying degree of powers depending on the country. Some are intelligence only, some include intelligence and disruption, and some have all three powers, which are intelligence, disruption, and prosecution. Hence, they argue that those with all powers should be regarded as police, e.g.,

Central Bureau of Investigation in India (CBI), SISDE Italy, PSIA Japan, CNI Spain, SAPO Sweden. They state that all national police engage in counterterrorism except Sweden. In Sweden, counterterrorism is exclusively under SAPO. To improve operational effectiveness, police in the centralised systems may delegate counterterrorism functions to subordinate levels of command. For example, the UK has a national security advisor, and all 43 national police forces have counterterrorism intelligence capabilities.

In the US, the police forces do not have specialised counterterrorism units; however, all police undertake counterterrorism as part of general crime control. One reason for this is the size of the average American police force is around 42 sworn police officer. Hence, they do not have the capacity to undertake counterterrorism. In the US, most counterterrorism intelligence is from federal sources other than New York and Los Angeles police. State police forces are persuaded to participate in FBI led Joint terrorism task forces. To sum up, in the US, all forces do high policing and low policing functions on a varied extent. They state that scholars have a consensus that high policing role has affected the activities of a full-service uniformed police officer. In addition, they found that all terrorists' attacks are local. Several US police forces collect their own intelligence through liaison officer posted abroad some are posted permanently in some big world cities, like London and Paris.

They state that police forces, which are organised at a national level, take high policing task with more ease. In addition, the increased role of police in high policing is dependent on several factors such as; the size of a police force, time the country has been under threat, intolerance of political dissent, legal mandate and financial encouragement for taking that role.

They state the advantages of using general duty full-service police in high policing are 1) general duty police forces are big forces compared to counterterrorism units. Therefore, they can become additional eyes and ears through training to identify precursors for terrorism. They have frequent contact with individuals hence can uncover potential terrorist and threats. 2) They have local knowledge and intimate contact with local communities. In addition, they have knowledge of local facilities. They can have the opportunity to observe and detect activism; also, community policing can be critical in marginalised communities, for example, PCSO in the UK. 3) They can identify links between ordinary crime and terrorism 4) they can easily build a partnership with local business and local security industry 5) they can narrow

down local investigation due to local knowledge. For example, In the US, the FBI has more leads than they can follow. 6) They have the advantage of blending in easily within local communities compared to agents brought from afar, however, for the same reason, in a small jurisdictions officer may not be able to effectively work well undercover due to being too well known in the community. 7) They can easily recruit informers due to their contact and grasp of local criminals.

However, there are disadvantages of involving full-service police to counterterrorism functions. 1) Investing already limited resources of police in counterintelligence comes at a cost. 2) Officer may attract more to counterterrorism role than ordinary police role due to perceived prestige attached to it. 3) High policing can lead to violation of civil liberties 4) high policing role changes the mind-set of an officer from service to suspicion where people are suspects to be watched rather than people to be helped police thus legitimacy and public trust can be lost.

Concluding the debate, they state that acting as high policing for uniformed full-service police has advantages but comes at a cost. They conclude that different personnel should conduct both roles, possibly by different levels of police.

Lum *et al.* in their chapter *Police Activities to Counter Terrorism: What We Know and What We Need to Know* highlight the wide variety of ways police are using to deal with terrorism. Ranging from the joint terrorism task force, interagency partnerships, biochemical hazards equipment, intelligence gathering, information sharing, and covert surveillance to guarding critical infrastructure. They state that little is known about the effectiveness of these police counterterrorism responses and strategies. They state that RAND and LEAS survey revealed that, large police forces are more likely to cooperate on inter-agency levels in the US. Whereas LEMAS survey in the US indicated that police preferred visibility than a community-oriented response to terrorism. However, large forces are more community oriented. The US law enforcement agencies focus more on inter-agency cooperation and general preparedness with more than half the forces conducting the emergency counterterrorism response drills. Their survey revealed that community-based interventions remained rarely utilised despite the rhetoric to the contrary in the countries of their study. In the UK, police established MCU (Muslim Contact Unit) which is modelled after police services community policy outreach Unit. It was established to enhance communication

between the London Metropolitan Police Service (MPS) and Muslim communities. MCU did not participate in the raids, but they were present in the aftermath of the raid to explain police actions and hence reduce the tensions. However, the MPS command officer revealed to the researchers that a stable communication process has not yet established between MCU and Muslim communities. The researchers found some jurisdictional overlap in the UK with local police thinking the intelligence gathering at street level falls under MI5. Whereas MI5 is involved in intelligence gathering and disruption, however, it has no arrest power; thus, it is not police in the traditional sense. Police in the UK established the Rainbow Unit to exchange information between MI5, SO13 at the local law enforcement level. The researchers found that the use of CCTV by MPS was a response tool in the aftermath of an incident rather than a systematic preventive approach.

Their research revealed that partnership with local communities was missing in most Western countries surveyed by them other than the UK. They state that the effectiveness of police counterterrorism methods in the absence of a rigorous scientific evaluation of these methods is inconclusive. Police mere use of these methods does not imply effectiveness. In addition, they suggest that police should employ evidence-based counterterrorism intervention methods rather than simply guessing.

David Lowe, in his book *Policing Terrorism Research studies into Police Counterterrorism Investigations*,¹⁸⁸ compares the laws in the UK, Australia, Canada, US and EU dealing with terrorism. Lowe is a former police counterterrorism detective; thus, he combines theory with practice. Lowe states that the UK is the country, which is facing the most threat from homegrown violent Islamist terrorists compared with any other EU country. He states that the dissimilarities in the legal definition of terrorism can be a hindrance in using the evidence in different jurisdictions, which could affect the cooperation between nation-states in terrorist prosecutions. He states that the terrorist threat is rising; similarly, the cooperation between different nation-states should rise.

Lowe analyses various clauses of the Terrorism Act 2000 of the UK and the corresponding case law in the prevention of terrorism in the UK. He states that the police powers in the UK have been widened in dealing with the terrorist threat. He emphasises the importance of

¹⁸⁸ Lowe (n 1).

intelligence in counterterrorism investigation and states that investigation weaknesses can be detrimental, as was the case in the Paris attacks of 2015. He states that surprisingly the US does not have a single definitive definition of terrorism unlike other comparable jurisdictions in his study. In the US the federal law enforcement agencies have their own definition of terrorism referring to FBI definition of terrorism, he states that the FBI definition of terrorism is too wide.

He states how different states are dealing with the distribution and possession of terrorist material. In the UK in particular section 57 and 58 of Terrorism Act 2000 deal with possession, collection and distribution of terrorist material. He states that the courts have interpreted those sections to balance state national security and individual liberties. He outlines the debate about whether religious cause should be included in the current definition of terrorism and thus concludes that religious cause should be included where it is violent than a mere passive nonviolent action.

He states all the comparable jurisdictions other than the US have a counterterrorism policy in a single document. He states that to prevent terrorism at early stages the *mens rea* evidential threshold of terrorism prosecution has been kept low as the Terrorism Act 2000 says that the information is “likely” to be used for terrorism. He states that the low *mens rea* threshold has made terrorist offence close to strict liability offences. He highlights the Terrorism Preventive Investigative Measures (TPIM) and the controversy surrounding them because inherently due to their quasi-criminal nature they are imposed on people who have not necessarily committed a crime but deemed a risk to national security. He states that TPIMs should have necessary judicial oversight, which is balanced with national security.

He discusses different statutes the governments are employing in preventing terrorism. He states that the comparable jurisdictions have all maintained a list of proscribed groups to stop their activities and those groups raising funds. He highlights that in police stop and search powers under section 7 of the Terrorism Act 2000, the officer does not need to have a reasonable suspicion, which is different from legislation dealing with ordinary crimes. He states that in balancing the national security and individual liberty the courts have come heavily in favour of individual liberty in the UK; however, in some instances, the courts have stated that the interest of national security can override individual liberties as per the Miranda case. He presents different legal tools employed by states in policing terrorism. He outlines

the debate around surveillance powers of the state in terms of national security, thus states that personal liberties and national security are both inclusive, not exclusive. He states that in terms of human rights, the EU's focus is on the dignity of the citizen compared to the US, where the latter is focused on liberty. He also outlines the debate about freezing orders, which are intended to freeze the financial accounts of those suspected of involvement in terrorism; however, it can affect the families; therefore, the courts have tried to strike a balance.

He states the mechanics of police counterterrorism investigation. His research reveals that the lower-ranking police officer in charge of counterterrorism investigations have less discretion compared to their uniformed normal duties police counterparts. A counterterrorism police officer can have a say over how the investigation is conducted; however, they do not have discretion on when it is conducted, and this decision lies in the hands of SIO. He states that in terms of human rights laws officer find it an inconvenience or obstacles; however, they accept the laws.

On counterterrorism police handling of informants, he argues for the need of a dedicated informant-handling unit, which is detached from investigating officers. He states that among different jurisdiction, which he compared in his study, the US does not have statutes regulating the handling of informants. They only have a policy document, and in some US states, even policy document does not exist. In comparison, UK RIPA (Regulation of Investigatory Powers Act 2000) law covers all aspects of informant handling in the UK. He says that the states in policing terrorism have some compatibility in their laws, such as, religious cause and asset freezing which could help the evidence in different jurisdictions being admissible, but more compatibility in terrorism laws is needed.

2.3 Role of police in counterterrorism: the domestic situation in Pakistan

Asia Society report *Stabilizing Pakistan through police reforms*¹⁸⁹ edited by Hassan Abbas is a great effort into looking into stabilising Pakistan through police reforms. The report brings Pakistan's practitioners who have served at the top level of Police in Pakistan to look at the challenges facing the police with the idea to propose reforms. The constant themes, which emerges from the report, is that the police force is under-resourced. Its colonial background is still an issue, as the successive governments have not made any serious attempts to change

¹⁸⁹ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

that. Hence, the police, which was built based on Irish constabulary during the British, rule to suppress colonial subjects continues to be a suppressive force rather than a service. The authors unanimously agree that in the contemporary setting, the police should now orient itself as a service like the other Western countries rather than a force. There is also a unanimous agreement between the authors that Police Order 2002 was a sound piece of legislation, which was based on UK police model, and it should be implemented in its original form. The authors agree that Police Order 2002 which introduced Police committees, protection of tenure and independent police complaint commission, is a way forward for Pakistan. The authors agree that presently the police force is corrupt with a very negative public image. They state police force should be a community-focused force. Moreover, by giving the example of Motorway police (MP) and National Highway police (NHP), the authors say due to freedom from political interference, merit-based selection, operational autonomy, three times higher salaries than their other police counterparts MP and NHP has earned public respect with great performance.

Authors stress on spending more money on police and encourage international donors to have more oversight of the police reforms projects, which they are funding. The authors state that international donors should balance the giving aid to Pakistan in terms of allocating funds for defence and police reforms. The authors say that police poor working condition needs to be improved, and police should live in close proximity to the public they serve rather than living in the improvised conditions. In the capital Islamabad due to the high cost and low salaries, police are forced to live in slums.

All authors agree that current central problem to police reform in Pakistan is political interference in police matters as has been the case throughout the history of Pakistan. Jinnah (the founder of Pakistan) envisioned a metropolitan style policing; however, after his death, the military ceded more space in the political matters hence using the police to suppress dissent. Military ruler General Ayub Khan and democratic Prime Minister Zulfikar Ali Bhutto both used police for persecution and revenge, General Zia was no different.

Khosa, in his article *Agenda for reforms*, states that during '90s political interference in police led to an unprecedented scale. Currently, he states that police morale is very low. The vast number of police officers are on low ranks; therefore, there are dismal prospects of career progression, and according to human resource expert's career progression is a very

important motivator for good performance. He states that police should be the leading internal security challenges. However, in the current climate, the political elite looks at the Chief of Army Staff for direction on terrorist and militant operations. He argues that police should be the leading force in de-radicalisation programs; he states the need for creating special police investigators and enhancing police investigation techniques to meet modern standards. He states that the inter-agency rivalries are proving detrimental for national security. He stresses upon implementing NACTA, which he states should be directly under the prime minister like the ISI, and IB. He states that police is at the forefront of fighting terrorism their sacrifices should be acknowledged. The country's premier intelligence agency should work under the remit of the law, and they should be given legal protection to investigate and arrest because their illegal detention of suspects has led to failure to secure a conviction in courts because their arrest is ultra-vires.

Pervez describes Pakistan's law enforcement agencies with explaining that law enforcement is a provincial subject with the additional help available from the federal government. The main organisations responsible for dealing with counterterrorism in Pakistan are local police, Special Branch, CID (Crime investigation department), FIA (Federal Investigation Authority), IB (Intelligence Bureau), ISI (Inter-Services Intelligence), FC (Frontier Corps), Rangers, MI (Military Intelligence), Directorate of military operations and NACTA.

He states that the current approach of the military establishment is to capture and kill without due process of law or discovering causes of terrorism and extremism. Although this has resulted in large militants being arrested, nevertheless, new recruits have joined. The current criminal justice system does not have a deterrence value due to lack of conviction and other dysfunctions. The country does not have a counterterrorism strategy, therefore, meaning it has no direction. Current counterterrorism is led by the military with police playing a secondary role. Lack of police role and the more military role has led to missing person phenomena he says. Missing person phenomena means that a large number of people have gone missing suspected to be illegally detained by the military. He states that it is vital to declare police as the lead agency in dealing with counterterrorism. He states NACTA was envisioned to have four wings including research wing, counterterrorism wing, intelligence wing and international liaison wing. Further, he states that research is under-appreciated in Pakistan; therefore, the research wing is pivotal in Pakistan' case. The issue of NACTA under interior ministry rather than directly under the Prime Minister has resulted in NACTA being

not implemented. He states that if NACTA were not placed directly under the prime minister, it would not get its due stature; therefore, the federal investigative agencies and the provincial government would not cooperate with NACTA, and consequently, it will remain a non-starter. He states that time has come for NACTA. Eventually, Pakistan would need to implement NACTA, sooner the better.

Humaira, in her article *Training and Curriculum*, states the flaws in current police curriculum. She states that with the introduction of Police Order 2002, it was envisioned that the police curriculum would reflect the police to be a service-oriented institution rather than the suppressive force. Nevertheless, she states that there are various shortcomings in the current police curriculum. There is a stark contrast between the courses designed for the junior-level police officer and higher rank police officer such as Assistant Superintendent Police (ASP), Superintendent Police (SP). The curriculum content for lower ranks is incoherent and obsolete, whereas the content for senior rank is of high quality she states. The subject of interrogation is covered in an incoherent way and not laid out clearly. She states that in a country like Pakistan where latest scientific techniques of collecting evidence are scarce the need of proper interrogation become more crucial however in junior-level courses at Chung academy it is not covered at all and covered in a superficial manner in higher rank courses. She said in her research when she asked the police officer why they resort to torture the answer was that they do not know any other method. It is ironic as torture is outlawed under article 14 (2) of the constituent of Pakistan and Pakistan ratified the international convention on torture in 2009. There are penal sanctions for torture in police custody; however, the current curriculum does not refer to article 14(2) nor does it cover torture as an illicit mean of obtaining evidence. She states that torture routinely is mentioned in media reports hence tarnishing police image. Therefore, it is crucial to include torture in the curriculum and made police aware of the law.

Further, she states that victim handling is also hardly covered in current police curriculum. When is covered, it is not user-friendly instead densely worded and fails to cover the handling of various reactions. Moreover, the courses are sprinkled with gender insensitive comments with superficial treatments of vulnerable groups such as children and minorities.

Tajik, in his article *Technology and Law Enforcement*, discusses lack of technology by police for counterterrorism or its efficient use. He says Afghan militants rely on drugs, but Pakistan

militants rely on kidnapping to raise money. Therefore, it creates fear for business resulting in a decline in employment. He states that the police lack state of the art technology, such as geolocators, geo-fencing technology, cellular data record analysis, vehicle tracking, GPS tracking solutions and information technology forensics. With the advancement in technology, the public and militant have benefitted from the upgrade; however, police has not benefitted and lacks the updated technology. Police also lack the authority to get cellular record from the main cellular companies, and police have to ask IB then IB has to request those cellular companies. This process can take weeks or months; therefore, the chances of catching the terrorists are largely reduced. Pakistan needs advancement in forensics technology, and amendment in law for police to directly access cellular data records.

Hassan Abbas in his article *Creating a Secret Service and Reforming the Intelligence Bureau* argues that a secret VIP service based on US model should be introduced to protect the VIPs, hence lessening the burden of currently overly burdened police force. At any given time, around 20% of the entire police force and some elements from the Civil Armed Forces are deployed on protocol duties for VIPs. Further, he states former Prime Minister Benazir Bhutto, former Punjab governor Salman Taseer and other high-profile politicians were killed due to security lapses. Pakistan should have a secret service based on the US models. It could also protect foreign dignitaries and diplomats. New service should be paid through the defence budget. He further states that Intra agency rivalries are hampering Pakistan counterterrorism struggle. He suggests creating a Joint intelligence committee similar to US fusion centres bringing all law enforcement agencies together. Moreover, he states that IB should be exclusively responsible for domestic intelligence. National Assembly and Senate should constitute committees to monitor the performance of intelligence agencies including the IB.

Asghar, in his article *Army-Police Cooperation*, states that the Pakistan Army is a competent and professional force; however, police are a force in complete disorder. Consequently, he suggests that due to police current dismal situation, it should be trained by the army until it becomes a force, which can stand on its feet's. He states that the army has vast experience of national security issues for more than six decades because it has been at the forefront of national security. The police could hone their skills as a result. Contrary to the claim of

Khosa, the army has taken away power from the civilian police.¹⁹⁰ He states that rather army is burdened due to civilian giving two tasks to military both of internal and external security. He acknowledges drawbacks of the army led approach, therefore, asks that eventually, police should be shouldering the responsibility of internal national security. In addition, he states that the army should provide police with custom-built vehicles, weapons and equipment's from its factories.

Khan, in her article *Policing and Women's Rights*, presents a bleak picture of the treatment of women in the criminal justice system. She says police misogynist behaviour, unfortunately, mirrors that of the society, which treats women in a shockingly discriminatory manner. She suggests that gender-sensitive laws should be made. She is not entirely convinced that more recruitment of women police officers would change the current dire states of affairs. Sadaf agrees with her.¹⁹¹ She suggests there is a need to educate the police and public of gender discrimination and those women should be supported throughout the entire legal process, which they currently are not.

Ahmed, in his article *The Federal Investigation Agency (FIA)* states that FIA is an investigative institution also involved in the investigation of terrorism in Pakistan. It has a varying degree of functions from border immigration control, human trafficking to predominantly investigating corruption cases against the public sector officials. However, during the '90s due to political interference, it was corrupted to an unprecedented scale. The root of the problem in FIA he states is a lack of autonomy and leadership security. The author, through several examples, highlights how various governments have routinely transferred the organisation's chiefs at the whim hence polluting it with political interference—consequently affecting the functionality and usefulness of the institution.

Alvi, in his article *Police and Counterterrorism in Khyber Pakhtunkhwa (KPK)*, describes modest reforms in police in KPK province, in terms of weapons upgrade and increase of police budgets. He asks the question that when police have lost so many lives and their weaknesses have been exposed during Swat city operations, whether we want the police to do the normal rule of law duties or specialist counterterrorism duties? Presently the issue has

¹⁹⁰ Khosa (n 109) 87.

¹⁹¹ Sadaf Ahmad, 'Pakistani Policewomen: Questioning the Role of Gender in Circumscribing Police Corruption' [2019] *Policing and Society* 1 <<https://doi.org/10.1080/10439463.2019.1611820>> accessed 13 May 2019.

been resolved in favour of the police, which is doing both duties. Despite its various shortcomings, he praises KPK police by saying that in those volatile conditions the police did not lose the ground to terrorist since the Swat city debacle. He stresses upon improving investigative capacity, more recruitment and good working conditions for police in the province.

Ahmed, in his article *Police Reform in Balochistan*, states that in Baluchistan, there is a debate about whether Levies should be replaced. There are arguments for and against it. Notwithstanding the dismal state of affairs in policing, some people say that levies are better than the police. At the same time, it is argued that Levies are under the rule of tribal leaders; accordingly, having them means the rule of the leader as the tribal leader controls the levies through the bureaucracy.

Arif, in his article, *The US Model* gives the example of US policing reforms by stating that the US historically suffered from a range of law and order issues, political interference and lack of professionalism. However, the policing reforms in the last few decades have changed the police to a force, which is well-reputed. Arif acknowledges that lack of community-oriented policing during the reforms process in the US meant that police and community relations were swayed due to police professionalism approach, in which police maintained a distance from the community, leading to misunderstanding and discrimination against the minorities. However, new reforms have led to Los Angeles and New York, making community-based policing model the predominant forms of policing in the states. The authors also praised the competence and professionalism of the country's top law enforcement institutions such as FBI, suggesting that Pakistan could learn from the policing reforms in the US.

Whilst the authors do mention the neighbouring countries policing, such as India, Bangladesh, Sri Lanka, as a model for reform. Altogether, they do not present a promising picture other than the Indian state of Goa and Kerala, which seem to be in the pursuit of some promising reforms though in a limited capacity. The Authors suggests that Indonesia and Turkey are good models for police reforms in Pakistan; Turkey's reforms are closely based on EU policing models. With enough oversight of public institutions such as parliament, independent police complaint authority, police public forums and liaison committees.

Several NGOs are working in Pakistan to improve police-public relations in Pakistan such as Rozan, Shehri Citizens and Citizen Police Liaison Committee (CPLC). CPLC is based on UK's neighbourhood Watch committees, and the authors suggest that CPLC with sufficient funding from private sectors should be replicated elsewhere in the country due to its success.

Hassan Abbas one of the foremost experts on Pakistan police and a retired police officer, in his report *Reforming Pakistan's Police and Law Enforcement structure: is it too flawed to fix?*¹⁹² makes a case that a police force is a better bet in dealing with terrorism as we could gauge from global experience. He states that some authors describe the act of terrorism as murder rather than war and hence make the case then naturally, police should be the antagonists. He describes the chronic issues, which are affecting Pakistan police in terms of poor training, lack of technological advancement, poor coordination between law enforcement agencies, lack of databases. Nevertheless, he says that due to the public consensus against militancy and improving security, there is no better opportunity than this to introduce far-reaching policing reforms. He states that the reforms need to be of two types, i.e. traditional and innovative. Traditional reforms mean improving the police training, equipment, salaries, technological advancements and strengthening the prosecution sector. In comparison, innovative reforms mean employing community policing and refining laws. He emphasises that along with capacity building the main thing in Pakistani context is the political will. The politicians want to keep the police under their control and not grant it autonomy because police can play a decisive role in the future of a politician through allowing rigging and intimidating the opponents. He states that nothing short of a cultural transformation is needed in the police, which has for decades treated people in a suppressive way. Consequently, police have a very negative image in public. Public avoids reporting crimes to police or expresses their injustices. He says National Highway and Motorway police presents a classic case of merit-based, professional, competent, well-equipped police. Hence, with the will, reforms are possible. He makes a case for restructuring Pakistan police force and bringing it under a central umbrella on the likes of Department of Homeland security in the US. He states that a reformed police force in Pakistan will provide dividends for the Western governments. He encourages the Western governments to provide financial aid in reforming Pakistan police because of the cases like Faisal Shahzad, who stated that he was trained in Pakistan. Therefore, the threat emanating from Pakistan to Western countries

¹⁹² Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

would largely be reduced. Although he says Pakistan police have serious shortcomings, yet he concludes that Pakistan police is not too flawed to be fixed.

Perito and Parvez in another report “*A counterterrorism role for Pakistan police station*”¹⁹³ build on their previous report and state that along with improvement of police public relations, police at station house level need to adopt standard operating procedures in dealing with terrorism. They extend on their previous report to include the role police stations can play within the community in counterterrorism. They ask for the end of political interference and granting autonomous powers to police leaders. They state inadequate facilities, the poor state of police stations, and the legacy of stations as a symbol as a government authority means it has a negative impact on public and consequently it lowers the morale of the police. They state inadequate modern protection equipment makes an officer a vulnerable target. They state that police at station house level have not accepted counterterrorism as part of its mission, and they believe counterterrorism is the responsibility of the specialist counterterrorist units. They remain focused on their traditional role. Police spend a large amount of time in dispute resolution. Pakistan has not devolved the police management responsibility to the subdivision level through restructuring. In comparison, in the London Metropolitan Police, the devolution of responsibility has led to improved management functions.

They state the importance of primacy of police role in counterterrorism and role of police stations in counterterrorism. They argue for the need to change Pakistan *thana* culture which they state demonstrates the colonial legacy of police as an oppressive force from which people are scared of and where people suffer common abuses at the hands of police brutality. They focus on improving police working conditions, upgrading decayed infrastructure. In addition, they emphasize that the police at the station house level have poor quality education and may struggle to read and write reports. They make a case for citizen-oriented policing in dealing with terrorism with police station being at the heart of it. They state that police stations enjoy an extensive presence at the local level in Pakistan. They are integrated into the local community, and the local police have local knowledge due to the local nature of their duties. They need to be utilized by proper training of counterterrorism. They further state that along with the increased role of police at station level, police stations need to have an

¹⁹³ Perito and Parvez (n 19).

upgrade of security in modern technological equipment so that the stations are not vulnerable to targets. They state that even senior police officers do not know how to handle terrorist crime scenes; therefore, standardised operating procedures (SOPs) needs to be developed at a station level which would require participation, training and distribution. Police public relations need to be fostered with providing ease of access to the police station to the public, especially vulnerable groups such as women.

On the matter of intelligence collection at a station level, they state that police have not yet given up the decade's old habit of having a record only in writing. Their record-keeping needs to be computerised. Moreover, they state that the intelligence is not passed to station level in a timely manner due to the absence of effective means. Time is crucial in a terrorism investigation, and delays can be costly. The police officers at the station level are unaware of the laws such as the Fair trial Act 2013, which permits covert intelligence gathering. They conclude the discussion with the argument that with the increase in violence the provincial governments in Pakistan, especially in Punjab and KPK, are developing specialised counterterrorism units at the cost of sidelining the ordinary police. The government is recruiting ex-military personnel and promising them up to six times more salaries. They state that given the scarcity of resources, the long term and cost-effective solution is to enhance the capacity of regular police. Creating the specialised forces at the cost of regular police could be risky and prove detrimental to already under-resourced regular police. Hence, across the board investment is required.

2.4 Police prosecution cooperation in Pakistan

Zaidi's report *Terrorism Prosecution in Pakistan*¹⁹⁴ published by United States Institute of Peace presents quite a depressing picture of Pakistan criminal justice system and its inability to deal with terrorism prosecution. It shows a thoroughly dysfunctional system where the whole system appears to be in a complete state of disorder and in the state of paralysis. There are glaring flaws throughout the criminal justice system his report reveals. He states that the lack of laws is not the problem in Pakistan, but the implementation of laws is the problem. He

¹⁹⁴ Zaidi (n 17).

states that the effort to create a new structure and new laws is futile in the absence of implementation of the existing laws. He states that the police, judiciary, prosecution, intelligence agencies operate in silos proving detrimental to the prosecution of terrorists. He mentions a widely talked about flaw in Pakistan Anti-Terrorism Act 1997 (ATA) that the definition is too broad and says that more than 80% of cases in specialist jurisdiction Anti terrorism courts are unrelated to terrorism. This leads to long delays and backlogs.

He further states that Anti-terrorism courts at the time of their formation were set to conclude a case in 7 days, but this vision never materialised, and currently, the case can take years to conclude. Despite laws of witness protection in ATA, he states “witness protection is paid lip service in Pakistan”. In a country where judges, police and prosecutors feel afraid, witness protection is almost a non-concern. There is an utter disregard of witness anonymity and protection, resultantly witnesses are too afraid to testify, and adding to the pressure that court overly relies on witness testimony this further compounds the problem. Police, prosecution and judiciary are engaging in the blame game to the benefit of suspected terrorists who slip through the cracks. Even though there are laws, which states that forensic evidence, can be sole evidence to prosecute, there was only one case in which forensic evidence was relied on, but the case also had witness testimony, which heavily corroborated the evidence. He states that because of the nature of terrorism attacks sometimes the only witnesses are police officers and taking into consideration that courts overly rely on witness testimony, the police routinely fabricate witnesses. Eventually, in the court, the fake witness testimony is exposed; hence, it leads to acquittal. Due to the dire state of affair in policing practices, police testimony is considered weak. Law in Pakistan does not allow confession obtained by police because they may be extracted through torture. He states that the police have an extremely poor investigation capacity. Police rarely use covert intelligence gathering.

He recommends sifting of cases and sending the cases, which are not terrorism-related back to the ordinary criminal courts. He emphasises on training police and prosecutors on common flaws and standard operating procedures (SOPs). He stresses the need for the police and prosecution to have better coordination and better working partnership. Due to the paralysis in the criminal justice system, the intelligence agencies, who themselves cannot legally detain suspects, arrest suspects and then detention of those suspects becomes their goal rather than prosecution because they think acquittal is a foregone conclusion. He says policing in Pakistan is reactive; police rarely act before the incidence happens. Police act only after the

attack has occurred. There is no DNA database, no court case law database. He presents the picture of a thoroughly dysfunctional system, procedural delays in almost all respects of trial in courts. He says that mere laws for the protection of witnesses would not be enough, therefore creating separate entrances and exits for witness along with witness shielding is necessary, anonymity along with physical security. He states that court case management and administration should be the heart of any reforms. He says that there is no punitive action for defence or prosecution lawyer's failure to appear, which results in frequent adjournments.

Parvez and Rani in their article *An Appraisal of Pakistan's Anti-Terrorism Act*¹⁹⁵ state the shortcomings in Pakistan Anti-terrorism Act 1997 and explain the need to amend the certain sections of the act. Besides, they highlight the implementation issues in the act. They state that due to these issues, the conviction rate in terrorism is extremely low; hence Pakistan's criminal justice system is a weak deterrent. They state the 1997 Act was aimed to conclude a case through the formation of specialist anti-terrorism courts (ATC) within seven days; however, currently, it takes years to conclude a case. They say the establishment of the military courts is a serious indictment of the current criminal justice system. The main problem with the ATA is the overly broad definition of terrorism in the act. The broad preamble, which includes heinous offences as terrorism opens the floodgates through which ordinary criminal cases are also included in terrorism courts. Due to the serious nature of terrorism offence, it being unbailable offence, different stakeholder unnecessary push ordinary cases into terrorist offences for their personal benefit. Hence, they suggest that ATA should be amended to include the offences only driven by terrorist ideology or furtherance of political agenda instead of personal motives. The act should include more explicit sections for the use of the internet for terrorism and hacking of computerised state system. Although the acts put several restrictions of travelling and use of banking facilities on banned militant outfits; however, in practice the provisions are not implemented. Police and other closely connected agencies are not aware of these provisions. This is the major reason for the non-enforcement of these provisions. There is also no central database of such persons between police and other agencies. Although Terror Financing Investigation Unit (TFIU) exists in FIA yet, it is not effective, with not even a single case being sent by TFIU to courts. They argue for witness protection to be added comprehensively in a new section in ATA. They state that the lack of coordination and illegal detention by intelligence agencies negatively affects the

¹⁹⁵ Parvez and Rani (n 13).

plausibility of the legal case in the court. Therefore, intelligence agencies should be made aware that their unlawful actions result in the acquittal of dangerous terrorists. Intelligence agencies fail to cooperate with the police despite the ATA law requiring them to cooperate, and failure to cooperate can result in imprisonment of up to 3 years. However, police officers are not aware of this law and hardly make use of it. Hence, police should be trained on these ATA provisions. The ATC judges are also not familiar with ATA provisions and overly rely on police First Information Report (FIR) for evidence. When in fact, in most ATA cases the culprits are unknown due to the nature of the threat; hence other evidential sources should be utilised.

2.5 Cooperation between security agencies in Pakistan

Nawaz in his report *Who Control's Pakistan's security Forces*¹⁹⁶? Describes the entrenched power of Pakistan's military in domestic affairs, especially security. He says through incompetence and mismanagement, the civilian governments have ceded power to the military to control Pakistan's internal security. The military has intervened in civilian affairs often due to the vacuum left by the civilians. The military power in the country's affairs has expanded over the years from military controlling foreign policy to economic policy. Often the civilians have ceded power due to being complacent and outsourcing the security matters to the military. He also states that the failed attempts from civilians to get more powers back from the military has been hasty and not well thought through, such as the notification to bring the ISI under interior ministry control. (Presently ISI is under the direct control of the Prime Minister). He states the civilian and military have no mechanism of working together on the matters and work together on an ad hoc basis. He states that lack of civilian competence; professionalism has led to the highly organised military taking charge. Military and retired military officers have their footprints in most security-related organisations, even those under civilian control. He states that the civilians have missed opportunities for more involvement in security matters such as NACTA. He states that civilian can get more role in security matters through expanding their knowledge and experience in the security sector. He further states that civilian can get more legitimacy and more control in national security by improved governance which can result in them garnering more public support. He makes a

¹⁹⁶ Shuja Nawaz, 'Who Controls Pakistan's Security Forces?' (US Institute of Peace 2011) <<http://www.jstor.org/stable/resrep12402>> accessed 23 June 2020.

case that greater civilian control in national security is not easy but worth the effort. The military should give civilian more space, which includes space of making mistakes.

Nawaz, in his report, *Countering militancy and Terrorism in Pakistan: the civil-military nexus*¹⁹⁷ states that Pakistan faces an existential threat due to the domestic terrorism.

Although the civilian-military rhetoric state that they are on the same page, the results point out the contrary. He states it was General Kayani who debunked the conception that the war in FATA region was America's war rather than Pakistan's war. He states that NAP (National Action Plan) and NISP (National Internal Security Policy) are important developments; however, they need to be properly resourced and develop effective coordination. He gives an example of under-resourced and ineffective National Counter Terrorism Authority (NACTA) that the creation of a new institution merely is not enough. He further states that military which does not have the legal authority to launch military operation without government permission under article 245 of Pakistan; nevertheless, it launched the North Waziristan operation unilaterally. On several levels, NISP fell far short of a proper strategy he says. He states that Peshawar children massacre forced Pakistan to make three important laws such as Protection of Pakistan ACT (POPA 2014), Amendment in ATA to give Rangers (a paramilitary force) authority in Karachi and amendment in the Army Act to introduce the military trial of civilians. These measures, according to him, created a virtual undeclared martial law in the country. Despite various shortcomings on a basic level, NISP was a step forward he says. He further states that the military has the upper hand in terms of organisation, access to resources, preparation, discipline and unity of command. Contrarily the civilian side is fragmented, under-prepared, and slower to response on crucial national issues. He highlights the increased role of the military in the civilian bureaucratic decision-making through the formation of provincial apex committees. He describes the working of apex committees. He states that civilian intelligence agencies such as IB should be the first line of defence against the militancy and terrorism. He warns of the risk of involvement of paramilitary forces in operations in Karachi. He states it can harm the image of the armed forces as recently videos appeared in the news, and political propaganda forces can use it against them, thus making their job difficult. He states that Joint Intelligence Directorate will also not take off like NACTA if it is not provided with better budget allocation.

¹⁹⁷ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

2.6 Police public cooperation in Pakistan and the UK

Innes in *Policing Uncertainty: Countering Terror through Community Intelligence and Democratic Policing*¹⁹⁸ states that the current threat posed by Al-Qaida is very uncertain, which is designed to undermine the democratic institutions of Western democracies. He gives the example of Spain in which Madrid bombings altered the results of the next election. He states that the UK's current National Intelligence Mechanism (NIM) is effective in dealing with threats in a traditional sense but maybe not as much with the new uncertain threats, which Al-Qaida presents. He states that the UK current intelligence models have developed because of dealing with IRA threat; however, IRA was organised and gave warning of the attacks whereas the current Al-Qaida operates autonomous and there are no warnings. He states that in a democratic setup involving more 'high policing' and more assertive legislation would lead to the suspension of some democratic fundamentals. He states that the strategic contact units heavily rely on interpersonal skills of the individual and sometimes maybe unlikely to ascertain who really represent the community. He makes the case that the neighbourhood police, which is tasked to make policing more democratic and is tasked to deal with localised police issues on a local level, could be used to gather intelligence—hence connecting the low policing with high policing. He states the shortcomings of using professional police informants. He states that this task would be comparatively easy for NP and effective because of the nature of their work in solving local crime problems. Their prolonged local presence enables them to build trust in the communities; hence, they are best placed to deal with the fluid nature of the threat presented by Al-Qaida. He acknowledges the experience of the US, where local police involvement in homeland security has eroded some trust between police and marginalised communities. Therefore, neighbourhood policing needs to be cautious, he says. He states that the diffused nature of the current terrorism threat requires that neighbourhood police can be used as intelligence feed.

Lambert and Parsons in *community-based counterterrorism policing: recommendations for practitioners*¹⁹⁹ state that fair treatment by police leads to more cooperation. They state that the expansion of focus from violent extremism to more broad extremism under current

¹⁹⁸ Innes (n 102).

¹⁹⁹ Robert Lambert and Tim Parsons, 'Community-Based Counterterrorism Policing: Recommendations for Practitioners' (2017) 40 *Studies in Conflict and Terrorism* 1054
<<https://doi.org/10.1080/1057610X.2016.1253989>> accessed 12 February 2019.

Prevent policy risks alienating allies in Muslim communities and could benefit terrorist's recruiters and radicalisers. They acknowledge that the government policymakers reject their perspective. They state that after the London 7/7 attacks police role has reduced and the more multi-agency role has increased in counterterrorism. They further state that the intelligence which might disrupt a terrorist attack is more likely to be understood by the community, in contrast to the intelligence, which is directed to challenging the ideology and beliefs of fellow citizens. MPS have adopted both sympathetic and hard-line against the teenage girls who went to Syria to fight for ISIS. They say a more pragmatic approach is needed, which is between the two as any successful police endeavour requires both legitimacy and effectiveness. They state that policing by consent thrust some responsibilities on a police officer, which are, outside the experience of civil services and inter-agency organisation included in community-based policing. Thus, they make a case for more independence for police when required. Along with that, they encourage more understanding amongst civil servants in endorsing a neutral and fair-minded approach towards those citizens who provide support in dealing with terrorism and violent extremism. They state respecting the legitimate beliefs of all communities is at the crux of community-based counterterrorism policing in London. They say endorsing or supporting only those Muslims who support the government agenda is not the best approach. They state that the conservative Muslims, who are loyal to police, have more credibility in providing a counter-narrative to violent extremists. They state that it is important to distinguish extremist Islamists from moderate or mainstream Islamists. London police should hear all strands of Muslim opinions. Along with its own unique advantages, it will also help in reducing divisions, which are exploited by the terrorists. Nevertheless, Lambert approach has been criticised and has been referred to as appeasing the terrorists.

Spalek, in her book *Terror Crime Prevention with Communities*,²⁰⁰ makes a case for cooperation between communities and the stakeholders. She states that currently, the state policies are dominated by right-wing type policies and makes a case to look at the issue of terrorism as a concept instead of a label. Whilst referring to the fact there is no definitive definition of terrorism, she states that counterterrorism should be looked as a conflict transformation or conflict resolution rather than the popular notion of war on terror. She further states that conflict means struggle, incompatibility, collision, disagreement; hence,

²⁰⁰ Spalek (n 103).

countering terrorism should be to deal with the issue within conflict framework as terrorism itself is a contested notion. She talks about the issue of collaborating with the community for counterterrorism.

She states that developing credibility is crucial in counterterrorism due to popular misconceptions and conspiracies, which exist, and people are increasingly cynical about the information ruling elites produce. Hence, developing credibility in the sea of confusion of creditability of information is important for counterterrorism. She states that credibility is holding a position “which seeks to achieve social justice within an unjust world”. She makes a case for positionalities when engaging with others to develop trust and respect.

She emphasizes on police-community engagement in counterterrorism. She supports Lambert approach in which he treated Salafist and Takfirist as partners rather than suspects. Whilst supporting localised approach to policing terrorism, she disagrees with Innes stance in which he states that the neighbourhood police can be used as intelligence feed for the police. She warns of potential dangers of using neighbourhood police for intelligence. She says it could lead to erosion of trust and widened the trust deficit between the communities and police. She states that a focused approach on the Muslim community’s active and passive support for terrorism is divorced from the wider political and social factors, which nurture such support. The division of Muslim into radicals and moderates based on theology and political beliefs risks alienating large sections of Muslim society. Deeming their grievances being legitimate or not based on their beliefs, risks doing the same.

She states that MCU was remarkable in that they were able to build a relationship with Muslim communities after 9/11 in circumstances of distrust and fear between police and Muslim communities. She makes a case for creating a partnership for counterterrorism with the communities; she states that partnership should be based on respect, trust, participating in wider political issues, and understanding. She states that partnership should not be based on ideologies. The fundamental point in the relationship should be to consider whether the partners condone violence or condemn violence. Therefore, even those considered radicals should be partnered with if they are non-violent. She states that the partnership should be genuine, not superficial. Considering the power imbalance between police and the community; she says the police should create space so that all partners are considered equal.

In his book, *Countering Al Qaida in London Police and Muslims in partnership*²⁰¹ Lambert explains the formation of police and Muslim partnership in London to deal with Al-Qaida threat in London. He explains that from most media outlets, there was strong criticism against this partnership. He treated Muslim Salafists and takfirist as partners rather than suspects. He states that commitment to problem-solving was the hallmark of their (MCU) commitment to the partnership. He lays out the pitfalls of using the Muslims as informers, such as loss of legitimacy and creditability. On that basis, he justifies his partnership concept. He describes the development of MCU, which started from just two officers and had a maximum staff of eight people in 2004. He states that providing those alienated Muslims a platform to express their genuine grievances against British foreign policy was at the heart of its work in the Muslim police partnership. MCU was shut down by the government, and media outlets have called them terrorist appeaser. However, Lambert shows an understanding of root cause of British Muslim grievances which the Al-Qaida can abuse hence addressing those grievances through a lawful platform was at the heart of their work. MCU did not intend any public attention; it was envisioned to be low key. However, civil servants discovered its existence; hence it got public.

He says the former British Prime Minister Tony Blair and other allies in the US and the UK state that moderate Muslims who accept British values should be engaged; however, the traditional conservative Muslims have more legitimacy in the community than those so-called moderate Muslims that the government wants to engage with. He states that supporting modernist would be counterproductive. He explains how with the help of Muslim partners, MCU was able to get back London Finsbury Mosque from Abu Hamza and his violent supporters. In addition, through police partnership, London Muslims were able to reduce the influence of Abu Qatada from the Brixton mosque. He highlights the sustained key role played by Jeremy Corbyn who was MP in Islington the constituency in which Finsbury Mosque was based. He explains the crucial role Muslim Association of Britain (MAB) and Muslim Welfare House (MWH) played in countering the spread of Al-Qaida ideology in the community by their charity work along with their partnership with MCU. Their protests against the war in Iraq and Palestine were organised so that they could express their grievances. In addition, he contended to police that anti-terrorism operations by the police should be conducted in consultation with MSF (of which MWH was the leading member).

²⁰¹ Lambert (n 100).

Thus, demonstrating the advantage of collaborating with police and avoiding possible fallout of those operations. He argues for police partnership response in dealing with Al-Qaida in London rather than a high policing heavy-handed approach. Lambert followed a bottom-up approach in MCU.

Lambert states that the military-style policing in Ireland was counterproductive and states the crucial separation of military and police in Britain by stating that “it is only that absence of military-style thinking that allows British policing to build partnerships with minority and marginalised communities”. Hence makes a case for policing by consensus. He further states that if genuine community grievances are addressed, Al-Qaida will be defeated in Britain. He states that according to his experience, Islamists and Salafist are not anti-democracy nor are they against social cohesion but its more to do with their political difference with British foreign policy. However, former Prime Minister David Cameron in 2011 stated that the MCU type approach is abandoned.

Parvez and Perito, in their report “*Empowering the Pakistan Police*”²⁰² mainly focus on improving police public relations in Pakistan. They discuss how the colonial background, which is at the core of birth of Pakistan police, has made it a force rather than a service. The 1861 Police Act, which is still in use, has draconian clauses. They state that police-community relations are pivotal in winning the war against terrorism. They state that despite heroic sacrifices by police in the line of duty in protecting citizens from terrorism, the ordinary people are scared of police who has suppressed them for decades and hence police assistance is sought as a last resort. They state that with the increase in violence from terrorism, the police in Pakistan were given heavy firearms, but little attention was paid to improving police-public relations. They state that despite the predominant culture of police brutality against the public, there are some competent people in Pakistan police, who are employing innovative techniques to foster police public relations to change their perception against the police. They state that sadly, their innovations were not institutionalised and with the transfer of the officer, the reforms project ended. In addition, they state that the success of those innovative projects presents some very valuable lessons that could be learned and applied in policing organisations elsewhere in the country.

²⁰² Perito and Parvez (n 43).

Those innovative police officers introduced several reforms, such as making the police stations more welcoming. Most police stations in Pakistan are in fortress-like buildings with heavily armed uniformed police presence. They create a sense of fear in public. The innovative police officers replaced them with corporate style buildings in some cases the public, did not have to enter the police station and separate entry to the compound was made available and hence providing people ease of access. They formed police-citizen committees such as conciliatory committee to resolve the dispute between parties, citizen committee to improve police-public relations, peace committee to plan major security for festivals and religious events, vigilance committee for the prevention of crime, neighbourhood watch committees and police response committee to monitor police response to reported crimes. Along with that, some officers introduced radio and TV broadcast to improve police image and foster police public relations. They state that police forces, which are responsive, available and fair, are rewarded by the public through the provision of information, which can be crucial for the safety of the public and the safety of police with police being the victim of countless terrorist attacks. In addition, this type of policing helps the legitimacy of the government, meaning it could be a very powerful tool of giving legitimacy to the civilian government in Pakistan. They state that better police performance leads to more government legitimacy. The reforms in those projects brought positive results and should be institutionalised. Finally, they state that police should be empowered to protect and serve the community.

2.7 Pakistan military role in country's polity and security

Nawaz in his book *Crossed Swords: Pakistan, Its Army, and the Wars within*²⁰³ explains in depth the history of Pakistan army and how it evolved from a weak army after the partition of the Indian subcontinent to a powerful army. Jones states about this book that 'to understand Pakistan you need to understand its army and to understand its army you need to read this book'. Nawaz explains Pakistan army journey chronologically. He says the reason for the military running the country over 30 years through coups is in part due to the weak political civil system, which is geared towards, nepotism, favouritism, poor governance and putting personal interest above national interest. Nevertheless, he states that army leaders who have ruled the country also had some traits of favouritisms, and they too have put their personal

²⁰³ Shuja Nawaz, *Crossed Swords: Pakistan, Its Army, and the Wars Within* (2nd edn, Oxford University Press 2018).

interest above national interests. However, as an institution, the army is well organised. He explains how the army has used religion to grasp its hold on power, especially during General Zia regime who infused the army with religion.

He states that although the army Generals who ruled the country as a Martial law administrator and as presidents promised initially that their coup was temporary but later derived from their promise and ruled the country until an unavoidable crisis forced them out of power. He states Pakistan division into two parts in 1971 (East Pakistan now Bangladesh separated from Pakistan in 1971) was in part due to the policies of the army. The subsequent ill-conceived war with India in 1971 led to a humiliating defeat for Pakistan. He states Pakistan army has a culture of secrecy and many of the inquiry reports never see the light of the day, such as, Hamood-ur-Rahman report which was commissioned to find the reasons for Pakistan shocking and thorough defeat with India in 1971, resulting in the division of Pakistan into two parts.

He states that the soldiers and low cadre army soldiers of Pakistan are ranked amongst the best in the world; however, the senior leadership over the last six decades have let them down. He states that the way forward for Pakistan and its army is to transition into the civilian-led system and he asks the army to make way for it. He also points out that the civilian control will come if the strong political parties improve governance, get knowledgeable in security matters, and rise above their vested interests. This can make that transition smooth and possible; otherwise, it may remain an unaccomplished dream.

Further, he explains the crucial role the United States has played in empowering footholds of Pakistan army in the nation's foreign policy. Army, on the other hand, has exploited the fears of the United States of communism, Soviets and Taliban. Behind the scenes, it has been preparing for its arch-rival India. United States defence aid always was conditional on it not being used against India; however, Pakistan though agreed at the time, but secretly its own insecurities against India remained dominant in demanding the US for defence aid. He outlines the role played by Pakistan higher courts in rubber-stamping the military rule in the country under the so-called "doctrine of necessity." Those judges who refused to take oath under army emergency order were removed from the office.

There have been few Generals who have wanted the army to focus on their professionalism and not take part in politics likes of General Asif, General Kiani. Whereas General Ayub khan repeatedly stated that he has no interest in politics, but once in the lure of circumstance with his sights on power, he entered into it. Pakistan army directly controls Pakistan foreign policy, especially in the Middle East and the US. Nawaz outlines the history of civilian and military leadership, which has ruled Pakistan. When directly out of power, the army, through its premiere agency, has funded their favourable political parties to maintain their domestic influence. Their influence was already there, but it was more about casting the net wide. He talks about the military being the biggest enterprise in the country. Nawaz states that given that India is expected to be mightier economically by 2030, 16 times the size of Pakistan. Therefore, trying to match India's military might will be futile and stifle more resources away from human development. For that reason, Pakistan needs to reform itself internally by investing in its people and education. He states that for Pakistan's long-term progress, the military has to take a back seat and let the civilian run the affairs and even allow them to make mistakes. He states that due to an inherently authoritarian nature of military power, the resentment towards the military has strongly grown over the last few decades because of the military's role in the country's polity. He states that the longer the country remains under military dominance, the greater the chances of the country's failure. Hence, he pleads with the military for nation building sake to make way for the democratic norms to thrive in the country for the sake of the country's future.

Fair in her Book *Fighting to the End the Pakistan's Army's Way of War*²⁰⁴ gives a damning picture of Pakistan's army. She gives a very pessimistic picture of reforms in Pakistan because of its military's dominance. She states that most countries have an army; in Pakistan, the army has a country. Pakistan army dominates defence and foreign policy. She states how the Pakistan army, which is the most powerful organ of Pakistan, has locked Pakistan into perpetual rivalry with its arch-rival India at the huge detriment of the Pakistani state. It suffered defeats in all wars with India in 1965, 1971 and 1999.

She states that the Pakistan army's anxieties with India are more ideological driven then security driven. She states that the army has distorted the result of the wars from the public. She states that army distorts and shapes how the facts are presented; thus, it manufactures

²⁰⁴ Fair (n 64).

truth and presents its version of the truth. The army cultivates journalist to cultivate its version of the truth, and those journalists who do not comply are threatened with punitive actions or threats. She states that Pakistan army is revisionist or a greedy state, which wants India to give up Kashmir, however, its quest to wrestle Kashmir has done the opposite; India has further hardened its stance on Kashmir. She states that no matter what the price to pay, the Pakistan army cannot give up their revisionist agenda with India. Acquiescence to India is humiliation, defeat and the army consider it as its death, and therefore, it will continue fighting regardless of the consequences. She states that the Pakistan army not giving up to India can be seen in the case of division of Pakistan into two parts and its corresponding war. In that, even in the face of catastrophic defeat in 1971 in which 90,000 of its soldiers became prisoners of war; nevertheless, it did not give up the revisionist agenda. Hence, it proves it will not give up its revisionist agenda no matter what the cost. For the Pakistan army as long as it is fighting India, it is a victory, because of this Pakistan will remain an economically weak and dangerous country for the world.

She states that the chances of the army changing its course are bleak. She states that in most civilian countries, it is the study of civilian strategic culture but to understand Pakistan its army need to be studied because it has directly led the country for more than three decades since the country's independence. She states that the army regularly interferes with civilian matters and the civilian structures it leaves after ruling the country are structured in such a way that the military retains control. Those civilians who act against the army are ousted from the office.

Fair states the army uses militant proxies against India in Kashmir and Afghanistan against Indian influence. It fears Indian influence in Afghanistan and wants to treat it as a client state. She states that the sooner Pakistan accepts the reality and power of India, the better. It can still cooperate with India and can get some advantage, but after some time, it may even be not in such a position.

She presents few scenarios in which the Pakistan army dominant hold on power may be weakened, thus enabling more civilian-led control. However, because the army has been so effective in instilling their view of ideologically driven war with India and instilling existential fear from India using Islam, the civilians are unlikely to walk away from their ideology for the near future. Thus, the change in civilian may not change the course of things.

Although the prospects of Pakistan giving up its revisionist agenda against India are virtually nil, however, if the change does come, it is more likely to be internally driven rather than driven through global superpowers. Although there is an extremely low probability of Pakistan abandoning its revisionist agenda with India, she states if it comes, it is more likely to be within the army because the army is so powerful and very reluctant to change. Therefore, externally driven change is almost impossible.

She states that the Pakistan army's quest is not only to protect Pakistan's territorial fronts but its ideological fronts. It wants to be treated as equal with India despite numerous defeats in wars. Ideological front means protection of two-nation theory. Not only has it wanted Kashmir it wants to stop India dominance in the world to maintain its fighting prospects against it. She states that the civilian-led approach is a prerequisite for Pakistan to change but that in itself is insufficient for Pakistan to abandon its revisionist agenda. She states that civilian-led control though US Kerry Lugar bill in 2009 failed because the army did not support it and the US focused on its short terms goal in Afghanistan rather than long-term goal of democratic Pakistan, which is at peace with its neighbour India. Army routinely interferes in politics, if the opposition leaders ask for its help in weakening their opponent's, military generally obliges. On the other hand, those civilian leaders who interfere in the army or foreign policy found their governments dismissed as the military wants to keep these issues in its domain. She asks civilians for consolidation of democratic institutions, toughening control over the military, creating political consensus amongst parties, withstanding political fighting amongst themselves, anticipating military interference and making economic reforms in the country. However, she thinks it is an arduous task.

Brian Cloughley's in his book *War Coups and Terror Pakistan's Army in Years of Turmoil*²⁰⁵ explains the role of Pakistan army domestically and internationally after the war of 1971 to 2008. He states that the Pakistan army is a professional and competent force. He calls himself an admirer of Pakistan army. His analysis reflects that Cloughley himself being army personnel looks at the army from a practitioner's prism. Cloughly served in the United Kingdom and Australian army. Cloughley states that the Pakistan army is the guardian of the Pakistani nation; however, it must never become its master. He exposes some human rights abuse of the Pakistan army. The case of army grabbing land from farmers in Okara district in

²⁰⁵ Brian Cloughley, *War, Coups and Terror: Pakistan's Army in Years of Turmoil* (Skyhorse 2008).

Punjab province and cruel treatment of these farmers by the paramilitary rangers. He states that he is writing about this to persuade the army to be free of malpractices.

He states that the military also has not been able to run the country successfully, which is similar to civilian governments. He states that democracy is a way forward for Pakistan. Cloughley defends Pakistan military role as the biggest enterprise in the country. He states that Pakistan being a developing country the military has to look after its personnel in post-retirement. He also defends the high employment of ex-military personnel at top civilian bureaucracy jobs by saying that military personnel have the skill set of leading large organisation and thus their experience is valuable. However, some see the military's role in civilian affairs and running industries as a divergence from its primary purpose of defending the motherland.²⁰⁶ Overall, Cloughley states that the military has fared well through these various difficult challenges.

2.8 The gap in the existing literature and expression of originality

The foremost gap in the existing literature is that while different studies identify and analyse the role of police in countering terrorism in Pakistan, there is not a single study that has compared Pakistan police with the UK police in countering terrorism. While various journal articles, human rights organisations evaluate the role of Pakistan's civilian and military institutions in countering terrorism, they do so in a piecemeal fashion. This study thus attempts to holistically investigate the part of the police in counterterrorism in Pakistan and the UK by following a structured approach as per the central themes discussed in chapter 1.

The role of police in countering terrorism, from the perspective of academic scholarship, is an under-researched subject.²⁰⁷ Besides, the UK has not been used as a comparator despite there being shared history between the UK and Pakistan police systems, as the latter is based on the former. In addition, Pakistan has followed numerous policies that are inspired by UK's policies, such as the creation of DIS (Directorate of Intelligence and Security Services), which has a close resemblance with the UK's JTAC.

²⁰⁶ Ayesha Siddiq, *Military Inc. - Second Edition* (2nd edn, Pluto Press 2017)

<<http://www.jstor.org/stable/j.ctt1h64kvc>> 139 accessed 7 August 2018.

²⁰⁷ Policing is an under studied profession in Pakistan.

See Zoha Waseem, "Brothers in Arms"? A Police-Paramilitary Partnership in Karachi' [2019] *Policing and Society* 1 <<https://doi.org/10.1080/10439463.2019.1705824>> accessed 11 April 2020.

Naturally, one can question why compare Pakistan with the UK; Why not use comparable jurisdictions like India or Turkey. The answer to this question is that Pakistan and the UK have a shared historical background. Most of the laws in Pakistan in existence today are British made laws. Pakistan and the UK have a common legal and administrative system. Therefore, the shared common legal and administrative system is a substantial reason to compare both countries. Pakistan is in dire need of police reforms, and there is no better and more relevant country to compare with than the UK. There exists no comparison on police counterterrorism role between Pakistan and the UK. When Pakistan has looked for policing reforms models, it has predominantly looked at the UK to seek inspiration for reforms. When President Musharraf came with his police reforms agenda, he introduced Police Order 2002. Police order 2002 is based on UK policing law.²⁰⁸ When presented with an opportunity to follow the Japan model or UK model, President Musharraf chose the UK police model.²⁰⁹

It is also submitted that it has only been post 9/11 that Pakistan faces conditions that it has never experienced before. Before 9/11, Pakistan had only one suicide bombing.²¹⁰ Since then, it has had 469 suicide bombings, killing at least 7232 people.²¹¹ Pakistan, at this standpoint, lacks sustained critical legal research to fill crucial theoretical gaps in the comparison role of police in countering terrorism between Pakistan and the UK.

The thesis will provide a discourse on the increasing challenges faced by Pakistan in countering terrorism by looking at the issue of terrorism and the role of police due to its far-reaching effect on the country's social structure, economic development, and political system. Pakistan is a country most affected by terrorism after Iraq, as Khan's 2014 report reveals. Still, if the severity of the incidents is considered, Pakistan even surpasses Iraq according to his report.²¹² Pakistan faces an acute counterterrorism challenge. In his last state of the Union address, former US president Barack

²⁰⁸ Iram Khalid, 'Counter Terrorism Police in Pakistan and Role of Police: A Way Forward' (2017) 32 *South Asian Studies* 387.

²⁰⁹ Khosa (n 109) 373.

²¹⁰ ALEX RODRIGUEZ, 'In Pakistan, Suicide Bombings Are Part of Rhythm of Life - Los Angeles Times' (*LOS ANGELES TIMES*, 5 September 2011) <<https://www.latimes.com/world/la-xpm-2011-sep-05-la-fg-pakistan-911-20110906-story.html>> accessed 21 August 2020.

²¹¹ South Asia Terrorism Portal, 'Fidayeen (Suicide Squad) Attacks in Pakistan 2002-2018' (2018) <<https://www.satp.org/satporgtp/countries/pakistan/database/Fidayeenattack.htm>> accessed 21 August 2020.

²¹² Ismail Khan, 'Pakistan Most Terror-Hit Nation' (*Dawn.com*, 23 February 2014) <<https://www.dawn.com/news/1088864>> accessed 21 August 2020.

Obama warned that both Afghanistan and Pakistan were among the countries that would continue to face instability and turmoil for decades.²¹³

Around 64,000 people have lost their lives in terrorist violence in Pakistan from 2001 to 2019.²¹⁴ The country's economy has lost over 100 billion US dollars²¹⁵ due to terrorist activity carried out by domestic terror groups like Tehreek-e-Taliban Pakistan (TTP). TTP is an 'umbrella organisation'²¹⁶ of local domestic terror groups and was formed after 9/11 attacks as a result of the US-led coalition war in Afghanistan. Pakistan is the neighbour of Afghanistan, the instability in Afghanistan, not only caused severe damage to Pakistan's economy but has also been held responsible for widespread terrorist attacks in the country.²¹⁷

Moreover, ICG, in its July 2015 report, states that Pakistan is currently unable to deal with terrorism.²¹⁸ The discourse of this topic will provide reforms that are urgently required by many other developing countries fighting the war on terrorism. I hope to bring the current ability of the current system to police terrorism under scrutiny in a manner never attempted previously. The scarcity of academic material available on the question is coherent evidence of the theoretical consequences this thesis will entail. This will consequently benefit many countries that are facing terrorism at their doorstep. The thesis will not only provide a framework grounded in theoretical research with recommendations for not only domestic government institutions but also for the other comparable jurisdictions, which are struggling to deal with terrorism, for example, countries like India, Bangladesh, and Turkey.

In all countries, the issue of countering terrorism has faced the opposite need to protect human rights. Londras discussed the necessity of striking a balance between the state's legitimate security concerns and the state's obligation to protect the human rights of all those under its jurisdictions in detail.²¹⁹ She has debated the role of UK and US counterterrorism policies and their impact on human

²¹³ Anwar Iqbal, 'Pakistan among States That Will Face Turmoil for Decades: Obama - Newspaper - DAWN.COM' (*Dawn.com*, 14 January 2016) <<https://www.dawn.com/news/1232875>> accessed 21 August 2020.

²¹⁴ South Asian Terrorism Portal (n 10).

²¹⁵ Afridi (n 9).

²¹⁶ Siddiqa (n 21). See figure at 153

²¹⁷ Government of Pakistan, 'Impact of War in Afghanistan and Ensuing Terrorism on Pakistan's Economy' (n 11).

²¹⁸ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

²¹⁹ Fiona de Londras, 'SIAC: Striking the Balance between National Security and Human Rights | The Guardian' (*The Guardian*, 19 May 2010) <<https://www.theguardian.com/law/2010/may/19/siac-deportation-terrorist-suspects-torture>> accessed 21 August 2020.

rights.²²⁰ The issue of proportionately and the necessity of counterterrorism measures is being discussed all over the world. In this sense, this study contributes to the overall debate on how the states can balance those two interests, the interest of state security: and the interest of the individuals in the preservations of their human rights through police-led counterterrorism response.

2.9 Conclusion

It is evident from the literature that Pakistan is in urgent need of policing reforms. It is somewhat surprising that Pakistan's police role in counterterrorism has not been compared with UK police counterterrorism role. As demonstrated above, there is a strong consensus amongst experts that Pakistan's UK based act Police Order 2002 is a sound piece of legislation with the caveat that it should be implemented in its original form, not its watered-down version. All authors favour Pakistan to follow the UK community police model, but none have compared Pakistan police counterterrorism role with the UK police role. In addition, several authors argue for the metropolitan style of policing in Pakistan based on the UK model. The success of a community liaison committee based on the UK neighbourhood watch committees established in Pakistan also demonstrates that the UK experience is valuable in case of Pakistan.²²¹ The case of motorway police in Pakistan, which is widely regarded as a professional, competent, reputable force, demonstrates that reforms are possible in Pakistan.

²²⁰ Saul Ben and Kai Ambos, *Research Handbook on International Law and Terrorism / Edited by Ben Saul* (Cheltenham, England 2014).

See also: Fiona De Londras, *Detention in the 'war on Terror' : Can Human Rights Fight Back?* (Cambridge : Cambridge University Press 2011).

²²¹ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 146.

CHAPTER THREE

3. HISTORY OF TERRORISM IN PAKISTAN

3.1 Introduction

The Global Terrorism Index reports religious extremism as the main cause of terrorism around the world.²²² The vast majority of terrorism in Pakistan is attributed to religiously motivated terrorism.²²³ Therefore, to understand the terrorism problem in Pakistan, it is imperative to understand the role of Islam in the creation of terrorism in the country.

Firstly, this chapter aims to look at the history of the development of terrorism in Pakistan. It seeks to look at the complex mix of politics and Islamic beliefs in the creation of terrorism in Pakistan. Secondly, it aims to examine how Pakistan's failure to get concessions on Kashmir from India has made it feel frustrated due to which it has sought to use religion as a cause to fight a militant proxy war with India.²²⁴ This also has domestic repercussions. Thirdly, it discusses Pakistan's insecurities around having a government in Afghanistan free of Indian influence with a view that it can treat Afghanistan as a client state.²²⁵ Fourth, the role of its military dictator General Zia ul Haq's decision to participate in a proxy war against Soviet occupation in Afghanistan is discussed. Fifthly, Pakistan response after 9/11 is discussed. Finally, the current emerging threats are discussed.

Pakistan's military is regarded as a supreme manager of all state affairs and policies.²²⁶ India (especially dispute on Kashmir) and Afghanistan are crucial factors in understanding Pakistan's internal and external security dilemmas. Pakistan has consistently followed Afghanistan versus India policies, albeit to its detriment, notwithstanding the fact that it has suffered diplomatic isolation and failed to achieve its goals.²²⁷

²²² Institute for Economics and Peace, "GLOBAL TERRORISM INDEX 2014, MEASURING AND UNDERSTANDING THE IMPACT OF TERRORISM" (2014) <<http://visionofhumanity.org/app/uploads/2017/04/Global-Terrorism-Index-Report-2014.pdf>> accessed 21 August 2020.

²²³ Douglas Johnston and others, 'Countering Violent Religious Extremism in Pakistan' [2016] White Paper, March. International Center for Religion and Diplomacy.1 <<https://icrd.org/wp-content/uploads/2017/12/Countering-Violent-Religious-Extremism-in-Pakistan-White-Paper.pdf>> accessed 28 March 2020.

²²⁴ Fair (n 64) 1.

²²⁵ Ted Galen Carpenter, 'The Unintended Consequences of Afghanistan' (1994) 11 World Policy Journal 76 <<http://www.jstor.org/stable/40209351>> accessed 13 July 2020.

²²⁶ Fair (n 64) 2.

²²⁷ *ibid.*

Concurrently on the domestic front, Pakistan, in its 72-year history, transformed from a moderately peaceful country²²⁸ to a country, which is currently regarded as an epicentre of global terrorism. The leaders in Pakistan after Jinnah, the founder of Pakistan, steered the direction of Pakistan from a modestly liberal Pakistan to a Pakistan, which became a strict and conservative Muslim country. The cause of its change of course could be put down to the choices its leaders, including its powerful military, have made, and the accidents of history the country had to face. Even before the creation of Pakistan, the spread of Islam in the Indian sub-continent was mostly peaceful. Thus, it could not have been predicted that the country would evolve into a religiously fanatic state.

3.2 Terrorism in Pakistan and Islam- the connection

A historical look at the spread of Islam in the Indian subcontinent shows that most Muslim rulers in India were pragmatists. They were irreligious people.²²⁹ Islam in the Indian subcontinent came through Arab fisheries and merchants who came to India mainly to trade spices out of India. Then they immersed into society and married locally, and therefore many people converted to Islam. Islam in the Indian subcontinent came in waves.

Contrary to the popular belief of Islam coming to the Indian subcontinent through force, many people were attracted to Islam because of the existing caste system in India, which discriminated heavily against the lower castes, and Islam gave those lower castes Hindus a sanctuary and dignity at the time. It was more of a symbolic change towards attaining dignity for low caste Hindus as materially little changed in their life.²³⁰ Although there have been battles between the Muslim and the Hindus and subsequently where some Muslim leaders have used brutal force and destroyed Hindu temples, however, a thorough look at the history shows that these instances have been rare.²³¹ In the last periods, the spread of Islam in India was through Muslim ascetic and mystics, which practices more tolerant²³², kinder, gentler Islam²³³ called Sufi Islam.

²²⁸ Yusuf (n 8) 16.

²²⁹ Murphy (n 163) 16.

²³⁰ *ibid.*

²³¹ *ibid.*

²³² Rachid Acim, 'The Reception of Sufism in the West: The Mystical Experiences of American and European Converts' (2018) 38 *Journal of Muslim Minority Affairs* 57 <<https://doi.org/10.1080/13602004.2018.1432145>> accessed 18 March 2020.

²³³ Pervez Hoodbhoy, 'Roots of Pakistani Extremism- How Pakistan Is Being Saudi-Ized and What This Means for Our Future' (2008) 1 <<http://eacpe.org/content/uploads/2014/02/Roots-of-extremism.pdf>> accessed 21 August 2020.

3.2.1 Islam: its sects and support for terrorism

There are numerous sects of Islam, other than them believing in Prophet Muhammad being the final prophet (Peace.Be.Upon.Him)²³⁴ and oneness of God there is very little which is common amongst those sects in their practices and rituals. There are two main sects of Islam in Pakistan, i.e., Sunnis and Shias. Shias make up roughly 15-20 percent of Muslims in Pakistan and Sunnis, making the rest. Around 2 to 5 percent of the population of Pakistan are non-Muslims. The Sunnis are then subdivided into many other sects, with approximately 50 percent being Barelvi's and 25 percent being Deobandi and 5 percent being Ahle Hadith.²³⁵ Ahmadis also claim to be a sect of Islam; however, Ahmadis have been declared non-Muslims in Pakistan since 1974 by law. The majority Sunnis call Ahmadis as non-Muslims because they believed, followers of the Ahmadi sect hold its founder as a prophet, a claim largely regarded as blasphemous by most Muslims.

Most of the terrorists have been accused of close association with the Wahhabism sect (locally referred as Ahle Hadith) and some being connected to the Deobandi sect. Wahhabism is considered a narrower interpretation of Islam. They claim to bring back the Islam that was according to them the purer form. Only 5 % of Pakistanis belong to this sect. Wahhabism is the sect which is also largely associated with Al Qaida and Osama Bin Laden. Nevertheless, Hellmich says the direct connection between Al Qaida and Wahabbism is somewhat short-sighted.²³⁶ Nonetheless, Wahhabism has been accused of being a source of global terrorism with some Muslims denouncing them as the "vile sect".²³⁷

However, the largest Sunni sect, Barelvi's, which has been derived from Sufism, has mostly been considered as a tolerant sect of Muslims.²³⁸ Most of them belonging to the rural population. Generally, the rural population is considered more conservative, but Pakistan differs in that sense. In Barelvi sect on the yearly saints' events, singing, chanting, drumming,

²³⁴ Peace Be Upon Him or in short P.B.U.H is a phrase religious Muslims say whenever they refer to the name of any prophet and any messenger. Divine blessings on Prophet Muhammad (Peace be upon him) is the highest and the most meritorious act in Muslim religion. This divine blessing is called Durood Shareef.

²³⁵ Muhammad Suleman, 'Institutionalisation of Sufi Islam after 9/11 and the Rise of Barelvi Extremism in Pakistan' (2018) 10 Counter Terrorist Trends and Analyses 6 <<http://www.jstor.org/stable/26358994>> accessed 25 July 2020.

²³⁶ Christina Hellmich, 'Creating the Ideology of Al Qaeda: From Hypocrites to Salafi-Jihadists' (2008) 31 Studies in Conflict & Terrorism 111 <<https://doi.org/10.1080/10576100701812852>> accessed 25 July 2020.

²³⁷ Simon Ross Valentine, *Force and Fanaticism: Wahhabism in Saudi Arabia and Beyond* (C Hurst and Co Publishers Ltd 2015) 16.

²³⁸ Suleman (n 235).

and even dancing on trance is allowed.²³⁹ However, Philip and Keown state that Wahhabi Muslims oppose Barelvi practices in all its forms.²⁴⁰ The idea of religious terrorism through Wahhabism and Deobandi based terrorism is alien to Pakistan.²⁴¹ It is argued that such intolerant beliefs in Pakistan and across the globe have been the result of Saudi funding which is promoting Wahhabism and creating divisiveness.²⁴² Wahabism itself is used to further political agendas. However, some regard the correlation between Sufism-Wahhabism theologies and violence baseless.²⁴³

Understandably it is dangerous labelling different Islamic doctrines with terrorism; hence, to use the word fundamentalism, Wahhabism, Salafism as a synonym for terrorism is incorrect. These are different ideologies which different Muslim practice in different parts of the world and most of these ideologies do not condone terrorism. These various doctrines and ideologies are not necessarily an indicator of terrorism. It is the use of these doctrines to progress one's own violent interests which is problematic. For example, Saudi Arabia has funded the spread of Wahhabism in Pakistan in order to achieve its own political goal, such as spreading hatred against its arch-rival Iran and Shias²⁴⁴ (the sect of Islam practised by the majority of Iranians). Wahhabism, therefore, has been used to achieve political objectives.

Although in the Western press, it is widely stated that global terrorism is due to religious extremism, which is to say that the misguided religious leaders are using ignorant or viscous religious fanatics for terrorism. However, in the context of Pakistan, this notion ignores the political dimension or other related consideration of terrorism problem. It is easy to relate terrorism with religion, whereas terrorism is more complicated than that. It is a multicausal phenomenon. To connect terrorism in Pakistan with religion is an oversimplification of the problem. Therefore, it could not have been predicted by looking at the history of Islam in the subcontinent that Pakistan will become a state that it is today, that it would be so badly infested with religious terrorism.

²³⁹ Philip Broadhead and Damien Keown, *Can Faiths Make Peace?: Holy Wars and the Resolution of Religious Conflicts* (IBTauris 2006) 71.

²⁴⁰ *ibid.*

²⁴¹ Murphy (n 163) 164.

²⁴² James Dorsey, 'Creating Frankenstein: The Impact of Saudi Export Ultra-Conservatism in South Asia' [2016].

²⁴³ Mark Woodward and others, '*Salafi* Violence and *Sufi* Tolerance? Rethinking Conventional Wisdom' (2013) 7 *Perspectives on Terrorism* 58 <<http://www.jstor.org/stable/26297065>> accessed 20 January 2020.

²⁴⁴ Dorsey (n 242).

At the same time, the role of religion cannot be disregarded entirely in causing terrorism in Pakistan, but there is a need to understand the complex problem of the infusion of religion in terrorism. Murphy says terrorists may justify their actions based on Islam, however, this is not the cause, but a mere justification used by them.²⁴⁵ Religion had been used as a means of political violence, especially the history of terrorism in Pakistan demonstrates. Those in power have favoured extreme ideology groups to obtain political advantage to prolong their own rule as it is revealed later in this chapter. First, the seeds of religion-based nationalism were sowed advertently/inadvertently in demanding a separate country for Muslims (Pakistan) upon which the idea of Pakistan is based; therefore, it needs to be understood.

3.2.2 Islam: a cause for a separate country

Pakistan, as a country, was born when the British separated the Hindustan (British India) into two countries in 1947, i.e., India and Pakistan. The creation of Pakistan was based on the 2-nation ideology that Muslim and Hindus in British India have irreconcilable differences between each other because of their religious practices and have had numerous religiously motivated violent conflicts. Therefore, they should live separately in two separate countries, hence the separation of Hindustan into two states, i.e., India and Pakistan.

At the time of separation in 1947, Pakistan was born out of much controversy, and bloody violence erupted within the whole of India when people were migrating towards predominantly Hindu side (rest of India), and the Muslim sides (Pakistan) as a result of violence over 1 million people died.²⁴⁶ This massacre was based on religion. Pakistan being smaller in area than the rest of India was less resourceful, had less infrastructure, less organised army, and weak financial resources compared with the rest of India. Accordingly, Pakistan was born as a weak state trying to protect its very existence against the threat of a larger Indian state.

Pakistan's existential fears emanated from the fact that Gandhi, the leader of the Indian Congress Party, the biggest political party in India, was against the separation of India and strongly opposed the separation. Along with his opposition of separation, the leaders on the Indian side claimed and wished that Pakistan was weak and would dissolve back into India

²⁴⁵ Murphy (n 163) 9.

²⁴⁶ Mushirul Hasan, 'Memories of a Fragmented Nation: Rewriting the Histories of India's Partition' (1998) 33 *Economic and Political Weekly* 2662 <<http://www.jstor.org/stable/4407270>> accessed 29 July 2020.

soon.²⁴⁷ Most of the bureaucracy remained in the larger India, leaving Pakistan less organised and institutionally weak. This put the Pakistani state from the start on a fight for its existence, from much larger and powerful neighbour India. At separation, Pakistan was allocated part of the Indian arm force. Pakistan was significantly weak at the time of the crisis, and the Pakistan army was comparatively the only organised institution within the country. Henceforth, the Pakistan military made the transition of becoming the most powerful organ of the state. The military later cemented Pakistan's status as an Islamic ideological state and used religion as a cause to protect the country's frontiers.²⁴⁸

Although the case for Pakistan was based on Muslims and Hindus having irreconcilable differences; however, the Muslim leader Jinnah wanted a religiously tolerant state. There is a debate about whether Jinnah was secular or not²⁴⁹ ; however, he was a liberal.²⁵⁰ He wanted to build an equal rights state for the Muslim majority, yet he was very much aware of equal rights for Hindus in Pakistan and their rights to be treated fairly, equally, and their religious freedom. There is broad consensus amongst the academics that Jinnah's intention was to achieve a liberal Pakistan.²⁵¹ However, later the military dictators through one-step after another made Pakistan a conservative Muslim country, thus bringing a plethora's of problems as a result. Nonetheless, Jinnah famously stated:

"If you change your past and work together in a spirit that everyone of you, no matter to what community he belongs, no matter what relations he had with you in the past, no matter what is his colour, caste or creed, is first, second and last a citizen of this state with equal rights, privileges, and obligations, there will be no end to the progress you will make.

I cannot emphasise it too much. We should begin to work in that spirit and in course of time all these angularities of the majority and minority communities, the Hindu community and the Muslim community, because even as regards Muslims you have Pathans, Punjabis, Shias, Sunnis and so on, and among the Hindus you have Brahmins, Vashnavas, Khattris, also Bengalis, Madrasis and so on, will vanish".²⁵²

²⁴⁷ SM BURKE, 'Britain's "Cut and Run" Departure and Its Consequences', *Mainsprings of Indian and Pakistani Foreign Policies* (NED-New, University of Minnesota Press 1974)

<<http://www.jstor.org/stable/10.5749/j.ctttv444.6>> accessed 29 July 2020.

²⁴⁸ Fair (n 64) 5.

²⁴⁹ Pervez Hoodbhoy, 'Jinnah and the Islamic State: Setting the Record Straight' (2007) 42 *Economic and Political Weekly* 3300 <<http://www.jstor.org/stable/4419894>> accessed 29 July 2020.

See also: Hamza Alavi, 'Social Forces and Ideology in the Making of Pakistan' (2002) 37 *Economic and Political Weekly* 5119 <<http://www.jstor.org/stable/4412987>> accessed 29 July 2020.

²⁵⁰ Madiha Afzal, *Pakistan Under Siege Extremism, Society, and the State* (issuer of work Brookings Institution ed, Washington, DC : Brookings Institution Press 2018) 34.

²⁵¹ *ibid*

²⁵² TY Tan and others, *The Aftermath of Partition in South Asia* (Routledge 2000) 43-44.

Jinnah's Muslim League was not a religious party.²⁵³ Interestingly many Muslim religious parties in India were against the separation of the Indian sub-continent because they thought this would divide the Muslims population of India as they envisaged the creation of a secular state.²⁵⁴ However, when Pakistan became an independent country, they became enthusiastic about the idea of separation because this created an opportunity to build a country based on sharia.²⁵⁵ The Islamic parties, after the creation of Pakistan, later turned into Islamic pressure groups who claimed to be the champion of the independence movement. Soon after that, Jinnah's dream faded as the leaders after him steered the direction of the country and followed the policies of Islamization.

When fighting for a cause of a Muslim country, the leaders, including Jinnah, did not envisage that their cause would pave the way for religious bigotry and how difficult it would be to put the genie of religious-based nationalism back into the bottle. Ayesha Jalal suggests that Pakistan needs to rewrite its history of the partition. She argues that Jinnah did not want a separate country; she states Jinnah's cause for Pakistan was his ploy to get political advantage. Because he wanted, his party, Muslim League to be taken seriously in the negotiations about the future of India after the British left India, therefore, in reality, Jinnah wanted to achieve these goals while remaining within the Indian system.²⁵⁶

3.2.3 Pakistan's shift from a liberal vision to Islamization:

Pakistan was at the beginning called the Republic of Pakistan; however, President Ayub Khan, a military General who came to power forcibly through a coup (*in office* 1958-1969), changed the country's name to the Islamic Republic of Pakistan after succumbing to the pressure of religious groups²⁵⁷. He wanted to win their support to strengthen the centrist power structure by having them onboard and accepting their exceeding demands.²⁵⁸

After coming to power, Zulfikar Ali Bhutto (*in office as president* 1971-1973, *as prime minister* 1973-1977) recognised Pakistan as an Islamic country and brought in a new constitution that brought a whole range of Islamic laws in the country. Along with that, he

²⁵³ Alavi (n 249).

²⁵⁴ Farzana Shaikh, *Making Sense of Pakistan* (Hurst 2009).

²⁵⁵ Sharia is Islam's legal system. It is derived from the Koran, fatwas and the rulings of Islamic scholars.

²⁵⁶ Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Cambridge University Press 1985) 57.

²⁵⁷ Husain Haqqani, *Pakistan: Between Mosque and Military* (Carnegie Endowment for International Peace 2005) 43-44 <<http://www.jstor.org/stable/j.ctt6wpjrx>> Accessed 29 July 2020.

²⁵⁸ *ibid.*

established sharia courts as per the new constitution. According to the new constitution, which was implemented in 1973, all laws of the country had to conform to Islamic teaching, any law being in nonconformity with Islamic teaching was thus declared null and void. In 1974 Bhutto declared Ahmadis non-Muslims. This was soon after the general elections, which were marred with the allegations of rigging. Bhutto, who himself was labelled as an un-Islamic leader taking these actions of Islamization of the constitution, were legitimacy gimmicks according to Fayyaz as he wanted to win popular support after strong protests of electoral rigging allegations.²⁵⁹ According to Abbas, measures such as declaring Ahmadis non-Muslims amounted to "opening a Pandora's box for the genie of divisiveness to crawl out and afflict people whose very fate depended on unity."²⁶⁰ He says Jinnah, the founder of Pakistan, was a progressive Muslim when faced similar demands Jinnah resisted, and he was against declaring a sect non-Muslim based on doctrinal differences.²⁶¹ However, when General Zia seized power after Bhutto, the Islamization was readily available to secure legitimacy for his regime like his predecessors.

3.2.4 General Zia Islamization programme

General Zia Ul Haq (*in office: 1978-1988*), a military General, came to power after a coup and ousted and jailed the then Prime Minister Zulfikar Ali Bhutto. In his era, Pakistan more readily and quickly transitioned towards the Wahhabism sect of Islam.²⁶² General Zia used the Islamic card to get legitimacy throughout his rule. There is a consensus amongst the academics that it is the General Zia Islamization programme which sowed the seeds of sectarian terrorism in Pakistan and paved the way for groups with Jihadist agenda, which ultimately turned them into setting up training camps which produced a whole generation of radicals.²⁶³ In 1984 General Zia held a referendum, and the question he put before the electorate was, do you want Islam? Those who would have voted yes were deemed as immediately agreeing to General Zia's whole Islamization programme for which they knew

²⁵⁹ Fayyaz (n 173).

²⁶⁰ Abbas, *Pakistan's Drift Into Extremism: Allah, the Army, and America's War on Terror* (n 204) 82.

²⁶¹ *ibid.*

²⁶² Aliva Mishra, 'Islamic Fundamentalism in South Asia: A Comparative Study of Pakistan and Bangladesh' (2012) 68 *India Quarterly* 283 <<http://www.jstor.org/stable/45072558>> Accessed 30 July 2020.

²⁶³ *ibid.*

little. Not surprisingly, the overwhelming result was yes to the question. The opposition described the referendum as an unprecedented fraud.²⁶⁴

General Zia berated democracy as a thing of the West. He was not the only Pakistani General to criticise democracy. His predecessor General Ayub Khan famously said that "We must understand that democracy cannot work in a hot climate. To have democracy we must have a cold climate like Britain."²⁶⁵

Throughout the history of Pakistan, military rulers have ruled Pakistan for over three decades, as the military dictators are not the elected representative of people, i.e., they do not come through public polling; instead, they have seized power via coups. Military dictators face a challenge in justifying their takeover of the country's civilian structure as their actions are unconstitutional. According to the constitution of Pakistan the military cannot have any role in politics. The officer takes the oath that he/she will not become politicised. Article 244 of 1973 constitution states that "I [name] do solemnly swear that I will bear true faith and allegiance to Pakistan and uphold the Constitution of the Islamic Republic of Pakistan which embodies the will of the people, that I will not engage myself in any political activities whatsoever and that I will honestly and faithfully serve Pakistan in the Pakistan Army (or Navy or Air Force) as required by and under the law".²⁶⁶

When the military dictators have seized power by breaching their oath, they look for legitimacy to justify them taking control from civilians. They have justified their coups by blaming the civilian government of corruption, abysmal governance, where they felt it was necessary to protect the country from anarchy and chaos which would have ensued if they had let the country followed that course. As this is the breach of the constitution, their first point of them getting legitimacy has been to ratify their rule through the courts. The courts have rubber-stamped its approval of the dictators²⁶⁷ based on so-called "doctrine of necessity" which means that in the circumstances in the interest of state security and protection it is unavoidable that the military rule is imposed. The military rule in Pakistan has been called "Martial Law". In the case of Pakistan, the military dictators have made alliances with opposition political parties and have offered incentives to political leaders of the

²⁶⁴ William L Richter, 'Pakistan in 1984: Digging In' (1985) 25 Asian Survey 145
<<http://www.jstor.org/stable/2644298>> accessed 29 July 2020.

²⁶⁵ Tariq Ali, *The Clash of Fundamentalisms: Crusades, Jihads and Modernity* (Verso 2002) 183.

²⁶⁶ Article 244 1973 Constitution of Pakistan THIRD SCHEDULE Oaths of Office MEMBERS OF THE ARMED FORCES <<https://pakistanconstitutionlaw.com/3rdschedule-oaths-of-office/>> accessed 19 December 2018

²⁶⁷ Nawaz, *Crossed Swords: Pakistan, Its Army, and the Wars Within* (n 203).

mainstream parties to join them. They have also intimidated politicians through several means to avoid them gathering support against political dictators by jailing them or using any other forceful means which they have found necessary.²⁶⁸ As the military has ruled Pakistan for over 30 years, it has played its pivotal role in locking Pakistan in battle with India on the deeply emotive of the issue of Kashmir. It is Kashmir and this India centric security policy, which is at the root of state's sponsored terrorism.²⁶⁹

3.3 The Kashmir issue

To understand the history of terrorism in Pakistan, the Kashmir dispute between India and Pakistan cannot be overlooked. India and Pakistan have fought four wars and consider each as perpetual enemies. After the independence of Pakistan in 1947, the dispute arose around the territory of Kashmir as the British left it on the Kashmiris to decide which nation they wanted to join. Kashmir had a majority Muslim population; therefore, Jinnah and the Muslim league were confident that it would join Pakistan. Jinnah believed that Kashmir would fall into Pakistan's lap 'like a ripe fruit'²⁷⁰ and did not give enough time and importance in coming to Kashmir in persuading the ruler to join them.²⁷¹ In hindsight, this was their big mistake as the Indian side frequently visited Kashmir to convince the ruler to merge with India.²⁷²

The ruler Maharaja Hari Singh however, wanted to keep his state independent and was against the fact that the British were leaving India. After the independence, both Pakistan and India, along with the viceroy Lord Mountbatten, demanded Hari Singh joins either India or Pakistan as per the other states of India. Maharaja Hari Singh was indecisive because he did not support the Indian Congress party; neither did he support Jinnah a Muslim leader because he himself was a Hindu leader.²⁷³ Hari Singh was an authoritarian leader who was disinterested in its people and was unpopular in Kashmir because of his treatments of

²⁶⁸Shah (n 58).

²⁶⁹ Seth G Jones and C Christine Fair, 'The Militant Challenge', *Counterinsurgency in Pakistan* (RAND Corporation 2010) <<http://www.jstor.org/stable/10.7249/mg982rc.10>> accessed 7 November 2018.

²⁷⁰ Christopher Snedden, 'Would a Plebiscite Have Resolved the Kashmir Dispute?' (2005) 28 *South Asia: Journal of South Asian Studies* 64 <<https://doi.org/10.1080/00856400500056145>> accessed 29 July 2020.

²⁷¹ Murphy (n 163) 61.

²⁷² *ibid.*

²⁷³ Snedden (n 270).

Muslims.²⁷⁴ While he was taking his time to decide on the fate of Kashmir, law and order problems arose in parts of Kashmir, and the rebels had the support of Pashtuns in Northern Pakistan who joined and supported the rebellion. The then Prime minister of Pakistan, Liaquat Ali Khan, was aware of it, and he made no effort to prevent it.²⁷⁵

Maharaja Hari Singh reluctantly called India to his rescue India agreed on the condition that he would agree to sign an act of accession with India.²⁷⁶ There was a dispute on the date when the act of accession was signed because if the act of accession was signed after the date of deployment of Indian forces, then India is an illegal invader under international law.²⁷⁷ After the arrival of Indian forces in the Kashmir Pakistani army also moved in Kashmir in 1948, both countries had an undeclared war as a result. UN on 1 January 1949 brokered an agreement with India controlling two-third of Kashmir and Pakistan controlling the other third.²⁷⁸

The outcome of the conflict in 1948 and its subsequent agreement left both countries deeply dissatisfied. Kashmir is a deeply emotive issue in India and Pakistan. Kashmir demonstrates, in a way, the cause of independence for Pakistan, which is Muslim having self-rule. On the other hand, for India, the unrest in Kashmir presents an enormous challenge in defending their image of being a secular state.

As Pakistan felt helpless and frustrated with the outcome of the 1948 war with India, it started using militant proxies to create instability in Kashmir in the hope of getting it independent from India.²⁷⁹ So that it can make Kashmir become part of Pakistan or else it can have favourable leaders in Kashmir who would have closer ties with Pakistan than an India which is predominantly a Hindu state. In Kashmir, Pakistan's government practices its first state-sponsored terrorism using religion as it claimed to get 'Muslims of Kashmir free from Hindu Indian occupation' thus using religion to achieve its strategic political goal.²⁸⁰

Whenever there has been movement or protest in Kashmir, Pakistan's point of view is that they are indigenous protests because of the grievances of the local people and their wish for self-rule. Pakistan supports its self-determination cause. However, India blames Pakistan for

²⁷⁴ *ibid.*

²⁷⁵ Murphy (n 163) 62.

²⁷⁶ Snedden (n 270).

²⁷⁷ Murphy (n 163) 62.

²⁷⁸ *ibid.*

²⁷⁹ Jones and Fair (n 269).

²⁸⁰ *ibid.*

the internal troubles in Kashmir. India's argument is also plausible because Pakistan has supported the internal or external groups creating instability in Kashmir by either directly sending Jihadis or by supporting the natives who are at planning an uprising against India.²⁸¹ Still, there have been local protests with no outside hand involved due to grievances people have against India. The major reason behind this is that the Kashmir has not been granted their promised right to hold a plebiscite as per UN resolution.²⁸²

President General Musharraf (*in office 1999-2008*) took a stance that the violence that was taking place in Jammu and Kashmir could not be described as terrorism. He continued to claim that the bloodshed in the state was nothing but the people's battle for freedom.²⁸³ Kashmir is a heavily militarised zone. Protest and use of force are not new to Kashmir. It remains under curfew conditions frequently. India was criticised heavily for using rubber bullets, which resulted in mass blinding.²⁸⁴ India has seen various protests in Kashmir over the decades with heavy casualties. To date, the law and order situation in Kashmir is at its worst, and the people's revolt against Indian rule is constant.²⁸⁵

3.4 Pakistan covert war against the Soviet Union and its everlasting impacts on creating domestic terrorism

Concurrently on Pakistan's western border with Afghanistan, there were fears that Pashtuns from both sides in Afghanistan and Pakistan, who were against recognising any border against Pakistan and Afghanistan would stir up tension in creating a Pashtun country²⁸⁶, thus claiming and separating Pakistan's now Khyber Pakhtunkhwa and tribal administrative areas where the majority of the Pashtun populations lives. It is also this area where most of Pakistan military operations are currently taking place. The border between Afghanistan and Pakistan is called the Durand line. It was this fear that the Pashtun separatist movement from

²⁸¹ *ibid.*

²⁸² Ather Zia, 'Blinding Kashmiris' (2019) 21 *Interventions* 773
<<https://doi.org/10.1080/1369801X.2019.1607527>> accessed 12 August 2020.

²⁸³ Owen Bennett-Jones, 'MUSHARRAF'S KASHMIR POLICY' (2007) 38 *Asian Affairs* 305
<<https://doi.org/10.1080/03068370701538449>> accessed 21 December 2018.

²⁸⁴ Zia (n 282).

²⁸⁵ Soutik Biswas, 'Is India Losing Kashmir? - BBC News' (26 April 2017) <<https://www.bbc.co.uk/news/world-asia-india-39702303>> accessed 22 August 2020.

²⁸⁶ Barnett R Rubin and Abubakar Siddique, 'Resolving the Pakistan-Afghanistan Stalemate' (US Institute of Peace 2006) <<http://www.jstor.org/stable/resrep12397>> accessed 27 July 2020.

both sides would divide northern Pakistan, which was a cause of concern for Pakistan.²⁸⁷ Therefore, Pakistan wanted to have a friendly government in Afghanistan or ideally a subordinate government in Afghanistan.

Therefore, when the opportunity of participating in the Soviet war came, Pakistan proceeded with it. The single most significant event which changed the course of Pakistan and introduced wholesale terrorism in Pakistan was Pakistan's decision to participate and be a front state to fight the Soviet Union in Afghanistan as an ally of the United States.²⁸⁸ General Zia and the military elite at the time acted, for what they then termed as "strategic compulsions." The Soviet war era introduced Pakistan to Kalashnikov culture. It brought the lethal weapons to the country, and it mainstreamed drug trafficking.²⁸⁹

Pakistan, with the financial and weaponry support of the American Central Investigation Authority (CIA), trained the guerrilla fighters from Afghanistan and Pakistan and called those fighters' Afghan mujahedeen's'.²⁹⁰ The CIA, in its most expensive and longest covert operation, supplied billions of dollars in arms to the Afghan mujahedeen militants.²⁹¹ The CIA assisted the fundamentalist insurgents through the Pakistani ISI, in a program called Operation Cyclone. Saudi Arabia, Britain's MI6 and SAS, Egypt, Iran, and the People's Republic of China, also supported this covert operation. Huge funding of over \$3 billion created an infrastructure for Pakistani Intelligence, who was responsible for training and overseeing the whole operation.²⁹² The US and its allies did succeed; however, as soon as their goal of Soviet defeat was achieved, they left Afghanistan and Pakistan. They left the operation without curbing the activities of those trained mujahedeen's.

After the withdrawal of the Soviet Union in Afghanistan in 1989, a civil war started in Afghanistan, and Northern Alliance emerged as a force that was supported by India, Russia, and Iran. This development was alarming to Pakistani leaders who have feared that Indian influence and involvement in Afghanistan would make Pakistani a vulnerable state and eradicate its goal of having a friendly government in Afghanistan.²⁹³

²⁸⁷ *ibid.*

²⁸⁸ Abbas, *Pakistan's Drift Into Extremism: Allah, the Army, and America's War on Terror* (n 181).

²⁸⁹ *ibid.*

²⁹⁰ Robert D Billard, 'Operation Cyclone: How the United States Defeated the Soviet Union' (2010) 3 Undergraduate Research Journal at UCCS 25 <<https://urj.uccs.edu/index.php/urj/article/view/103>> accessed 22 August 2020.

²⁹¹ Zahid Hussain, *Frontline Pakistan: The Struggle with Militant Islam* (IB Tauris 2007) 147.

²⁹² Billard (n 290).

²⁹³ Rubin and Siddique (n 288) 11.

After the Soviet war was over, Pakistan had these trained militias ready for the next task which they had none. Those purposeless militant mujahedeen were then given the task of participating, which in part chose themselves, which was to join in the cause of freedom of Kashmir. Consequently, numerous organisations in Pakistan emerged which were working for the freedom of Kashmir from 'Indian occupation'.²⁹⁴

It was in the 1990s where these mujahedeen started to form an agenda of their own. Some would decry the West and its practices and build harsh resentments towards its policies and practices. Thus, they called them immoral and therefore made their case for the Islamic State, which was, according to them, based on a very strict and narrow interpretation of Islam. They created guerrilla warfare in Kashmir, and they had the support of the Pakistani secret services, Inter-Services Intelligence (ISI).²⁹⁵

These groups collected their funds from their sympathiser in the West. Especially Europe and Britain²⁹⁶, as Britain had a big population of Kashmiri people who settled here in the '60s and the '70s. They had numerous other streams of money coming in to fund their activities. In the 1990s, the Jihadist, with the help of Pakistani intelligence agencies, ISI, were let loose to do their preaching.²⁹⁷ They were going to the mass rallies with their message for their recruitment drive; their Jihadist anthem or songs became very popular, which glorified dying for their Islamic cause and promised life in heaven after their death from this world.²⁹⁸ They started distributing Jihadi stickers, putting them on the shirts, on the cars, making them readily available. The publications of Jihadi material were widely circulated and readily available.²⁹⁹ They came up with a whole range of decorations and flags to make their Jihadist cause attractive. They had training videos. They had a presence across most cities of Pakistan as they had their central offices in the big cities. The Jihadist ideology they brought in was quite a narrow interpretation of Islam. Their enemies and causes were mainly non-Muslim, but it did not take them long to turn against other Muslims whom they considered being a

²⁹⁴ Husain Haqqani, 'Pakistan's Endgame in Kashmir' (2003) 2 *India Review* 34 45-46
<<https://doi.org/10.1080/14736480412331307072>> accessed 23 July 2020.

²⁹⁵ Shaun Gregory, 'The ISI and the War on Terrorism' (2007) 30 *Studies in Conflict & Terrorism* 1013
<<https://doi.org/10.1080/10576100701670862>> accessed 4 July 2010.

²⁹⁶ LEWIS HERRINGTON, 'British Islamic Extremist Terrorism: The Declining Significance of Al-Qaeda and Pakistan' (2015) 91 *International Affairs* 17 <<https://doi.org/10.1111/1468-2346.12184>> accessed 15 June 2020.

²⁹⁷ Gregory (n 295).

²⁹⁸ Victor Asal, C Christine Fair and Stephen Shellman, 'Consenting to a Child's Decision to Join a Jihad: Insights from a Survey of Militant Families in Pakistan' (2008) 31 *Studies in Conflict & Terrorism* 973
<<https://doi.org/10.1080/10576100802400201>> accessed 13 March 2020.

²⁹⁹ Hoodbhoy (n 235) 6.

threat. Some of them considered other Muslims to be a bigger threat than non-Muslims because, to them, they were the "wrong" and they were the ones who were distorting the image of Islam by doing un-Islamic practices by not being a true follower of the religion. It seems this is the natural progression of extremist mind-set. When President Musharraf came in power through a bloodless coup by ousting Prime Minister Nawaz Sharif, the remnants of General Zia era mujahedeen's were mushrooming—spreading their message unhindered.

3.5 Impact of 9/11 on terrorism in Pakistan and Musharraf regimes response to it

Although Pakistan has had a history of trouble with religious terrorism and sectarian violence, however, it had not witnessed the sustained intense terrorism which came after the World Trade Centre attacks on 11 September 2001. The United States and its allies launched an operation against the Taliban in Afghanistan because the Taliban (who were ruling Afghanistan at the time) were the suspected perpetrators of those attacks. Pertinent to say, after the withdrawal of Soviet Union forces from Afghanistan, Pakistan was pleased to help and facilitate a friendly government in Afghanistan, which was anti-India and pro-Pakistan. Therefore, Pakistan was supporting Taliban government in Afghanistan. When the US launched its operation in Afghanistan, it gave Pakistan a choice to support the US and its allies, or it will be bombed back to Stone Age.³⁰⁰ Pakistan was forced to abandon its policy of supporting the Taliban government almost overnight. In the history of Pakistan, this was another most critical moment. President Musharraf shifted the foreign policy and sided with the US and its allies in their war against terrorism. Musharraf, in a landmark speech, banned two prominent Pakistani militants' groups in Kashmir; however, Jones states that Musharraf allowed another leading militant group because that group was not active in Afghanistan.³⁰¹ Any change is met with resistance, and any change takes time, and this is what Pakistan had to encounter—violent resistance. For Pakistan, it was a long-standing policy of participating in Afghan Jihad against the Soviet Union, training the militant for that, having a friendly government in Afghanistan as it did not want conflict at its borders with Afghanistan. In addition, it has a heavy military presence at its eastern borders with India. However, with it being forced to abandon its support for the Taliban, its new policy was severely resisted from

³⁰⁰ Haqqani, 'Magnificent Delusions: Pakistan, the United States, and an Epic History of Misunderstanding' (n 163) 311.

³⁰¹ Bennett-Jones (n 283).

both sides of the Afghan borders. It led to the most effective terrorist organisation being formed in the country, which escalated the terrorist attack on the urban cities to an unprecedented scale. The Tehreek-i-Taliban was an umbrella organisation which effectively managed to get the leading terrorist supporter and sympathiser parties under one umbrella.³⁰² Before 9/11, Pakistan had only one suicide bombing incident. However, in November 2013, the number reached 358, the highest anywhere in the world.³⁰³

Although President Musharraf told the US and its allies that Pakistan has abandoned the support of the Taliban in Afghanistan and has wholly sided with the US and allies, nonetheless, there remained a deep distrust between Pakistan and the US whether Pakistan has completely abandoned the support of terrorist groups in Afghanistan and Kashmir. UK, USA regularly disputed the Pakistani claim and accused Pakistan of playing a double game. Till date the distrust has only been widened with President Trump in his tweet in 2018 said:

"The United States has foolishly given Pakistan more than 33 billion dollars in aid over the last 15 years, and they have given us nothing but lies & deceit, thinking of our leaders as fools. They give safe haven to the terrorists we hunt in Afghanistan, with little help. No more!"³⁰⁴

When President Musharraf was made to give up his office in 2008, he left Pakistan at the peak of terrorist violence. Musharraf, as per the previous dictators excluding General Zia ul Haq was a secular person.³⁰⁵ He rolled out his "enlightenment moderation" program by introducing a range of measures to root out extremism from Pakistan. Musharraf on the extremist cause for Jihad stated that "In Islam, Jihad is not confined to armed struggles only. Have we ever thought of waging jihad against illiteracy, poverty, backwardness and hunger? This is the larger jihad. Pakistan, in my opinion, needs to wage jihad against these evils."³⁰⁶ However, Fayyaz states that Musharraf's plans never materialised. Musharraf in his quest to find legitimacy as a military dictator and to keep his hold on office succumb to the demands of hard-line religious groups.³⁰⁷ After Musharraf departed from his office, the military started

³⁰² Siddiq (n 21).

³⁰³ Ismail Khan (n 212).

³⁰⁴ Donald J Trump, "Pakistan US Aid: Deceit and Lies" (*Twitter*, 1 January 2018)

<<https://twitter.com/realDonaldTrump/status/947802588174577664>> accessed 28 August 2020.

³⁰⁵ Humeira Iqtidar and David Gilmartin, 'Secularism and the State in Pakistan: Introduction' (2011) 45 *Modern Asian Studies* 491 <<https://www.cambridge.org/core/article/secularism-and-the-state-in-pakistan-introduction/CB72E239BDAC50CAEC6F57E56A9E67DB>> accessed 19 May 2020.

³⁰⁶ Samina Yasmeen, *Jihad and Dawah: Evolving Narratives of Lashkar-e-Taiba and Jamat Ud Dawah* (C Hurst & Co (Publishers) Ltd 2017) 30.

³⁰⁷ Fayyaz (n 173).

operation in North Waziristan (Operation Zarb-e-Azb) though reluctantly, because the military was required to take action after the attacks of Jinnah airport Karachi in 2014. The military claims that the operation has been a “phenomenal success”³⁰⁸, and it has dramatically reduced terrorism incidence, especially in urban Pakistan. Weinbaum says its long-term effects are yet to be seen.³⁰⁹ Nonetheless, there are new threats emerging and challenging the writ of the government.

3.6 New emerging threat-Tehreek-e-Labbaik

Lately, the Bareilvi sect, which has traditionally been regarded as the most tolerant sect of Islam, has also been tainted with terrorism since the killing of governor of Punjab Salman Taseer. Mr Taseer was killed by his bodyguard publicly. Later the gunman revealed that he killed the governor because of his criticism of the country’s strict blasphemy laws. There is a new movement that emerged after that attack called Tehreek-e-Labbaik Pakistan (TLP) which is condoning such violence. TLP has been very successful in mobilising the people to fight for their cause³¹⁰, which, according to them, was the protection of blasphemy law and protection of the honour of the prophet Muhammad (PBUH). In Rawalpindi last year the TLP was very successful in setting up a standoff protest against the government when the government tried to change the law which would have made it easier for the non-Muslims including Ahmadis to take public office and become part of the government by removing some of the barriers from the oath of public office which have made it difficult for non-Muslims to participate.³¹¹

This was met with severe resistance from different segments; thus, TLP was considerably successful in creating anarchy and instability. It defied the government orders of not holding the protest and also defied the Supreme Court orders to stop the protests. They were able to block the main highway linking the capital Islamabad with the major cities, with different parts of the country getting momentum and gripped with the waves of street protest. Their leader was Khadim Rizvi, a newly appeared leader who was willing to use foul words to get his message across. He was known for his foul language, which he used to describe political

³⁰⁸ Marvin G Weinbaum, ‘Insurgency and Violent Extremism in Pakistan’ (2017) 28 *Small Wars & Insurgencies* 34 <<https://doi.org/10.1080/09592318.2016.1266130>> accessed 20 August 2020.

³⁰⁹ *ibid.*

³¹⁰ Farhan Zahid, ‘The Potential for a New Strand of Islamist Extremism in Pakistan - Jamestown’ (2018) 16(4) *Terrorism Monitor* <<https://jamestown.org/program/potential-new-strand-islamist-extremism-pakistan/>> accessed 22 August 2020.

³¹¹ *ibid.*

leaders and those who opposed his cause. According to him, he was doing all this for the cause of defending the honour of Prophet Muhammad (PBUH). He was again infusing extremism into religion. Bareilvis have comparatively been a humanist and tolerable sect of Islam³¹², but Khadim Rizvi and his party were able to provoke the sentiments of "Prophet Honour in danger" along with usual "Islam in danger" slogan and gather support.

The protestors blocked the main highway linking the capital Islamabad with the other major cities. The government was ordered by the courts to get the road opened as it disrupted the daily lives of people in and out of the capital. The protectors were enthused with the idea of its leader and were ready to die for their cause of "protecting the honour of Prophet Muhammad" (PBUH). The government did not want to use weapons on protestors; it used tear gas with little success. The government was not ready to use a more lethal method because it was already untangling the mess it created when police killed 14 protestors and injured 85 in Lahore.³¹³ Model Town was widely covered by all media outlets and further led to an inquiry, which held the government responsible.³¹⁴ Hence, the government was in no position of using force again after all those troubles for the past two years since the Model Town protestor's killings.

Eventually, the military dived into the TLP protest issue, and they ordered to shut off all media channels in case there was any resistance or any casualty; as a result, the media blackout lasted for a day or two. The military started to disperse the crowd. The military acted as a guarantor and agreed to the demands of the protestors. The military General on the ground handed over the money envelopes with money between PKR 1000 (£7) to PKR 2000 (£14) to the protestors.³¹⁵ As a result, the military was able to disperse the crowds. The military was heavily criticised for its dealing with the whole issue. The Judge of Islamabad High Court Justice Shaukat Siddiqui remarked that under what capacity the military has acted as a guarantor? He stated that the military has no role in politics under the constitution, thus could not act as a guarantor or could not become a party to the whole issue.³¹⁶ As a result of

³¹² *ibid.*

³¹³ Rana Yasif, 'Model Town Massacre: Slapping of Witness Brings New Twist in Case' (*The Express Tribune*, 15 September 2018) <<https://tribune.com.pk/story/1803609/model-town-massacre-slapping-witness-brings-new-twist-case>> accessed 28 August 2020.

³¹⁴ ARY News, 'Full Inquiry Report of Model Town Incident' (*ARY News*, 5 December 2017) <<https://arynews.tv/en/model-town-incident-full-inquiry-report/>> accessed 22 August 2020.

³¹⁵ Amir Wasim and Munawer Azeem, 'Faizabad Sit-in Ends as Army Brokers Deal' (*Dawn.com*, 28 November 2017) <<https://www.dawn.com/news/1373274>> accessed 28 August 2020.

³¹⁶ Zahid Mahmood and Muhammad Iqbal Chawla, 'Theory of Separation of Power: Balancing the Civil-Military Relations in Pakistan 2013-2018.' (2020) 35 *South Asian Studies* (1026-678X) accessed 3 March 2020.

his later public remarks that the ISI interferes in court cases, Justice Siddiqui was removed from the office.³¹⁷

After ending of the protest, a year later, the state interior minister Ahsan Iqbal was shot in the arm. He survived the attack. He was attacked by an armed man who claimed to have been inspired by the TLP, and the police found evidence he was a worker of the same party.³¹⁸ The attacker admitted that he attacked the minister for the same cause that was the cause of the protestors. Then the newly disqualified Prime Minister Nawaz Sharif, who was holding the office at the time of protest, sharply criticised the military and stated that this attack on the interior minister is the result of handing over money envelopes to the protestors.³¹⁹ That the military has been too lenient to the protestors who have challenged the writ of the state for weeks and the military have not dealt with them strictly and too soon jumped in as a mediator, his statement implies that he was not taken on board in the mediation process between the military and protestors. Some blame the whole protest of TLP was orchestrated by the military to weaken the political government of Mr Sharif, who has been a sharp critic of the military.³²⁰

The military is still carrying the baggage of its past support of Jihadi groups, which it has used as strategic assets in Afghanistan and Kashmir. It still does not seem to shake off the baggage. Some analysts say the military want to keep these groups in their pocket so that they can use them when needed, albeit using them internally in the form of destabilising the political government.³²¹ Besides, there is a history of Pakistan's involvement in the creation of Mujahedeen to fight Soviet forces in Afghanistan and using militant proxies in Kashmir.

³¹⁷ Haseeb Bhatti and Mohammad Imran, 'Justice Shaukat Siddiqui Removed as Islamabad High Court Judge' (*Dawn.com*, 12 October 2018) <<https://www.dawn.com/news/1438358>> accessed 28 August 2020.

³¹⁸ BBC News, 'Gunman Injures Pakistan Interior Minister Ahsan Iqbal in Punjab' (*BBC News*, 6 May 2018) <<https://www.bbc.co.uk/news/world-asia-44024183>> accessed 28 August 2020.

³¹⁹ Mahmood and Chawla (n 316).

³²⁰ *ibid.*

³²¹ The ISI's manipulation of Islamic radical groups is not limited to foreign policy objectives; it is also used in a domestic context. See: Frederic Grare, 'Reforming the Intelligence Agencies in Pakistan's Transitional Democracy' (2009) <www.carnegieeurope.eu> accessed 24 October 2018.

3.7 Conclusion

Throughout the 73-year history of Pakistan, unfortunately, its leaders have failed to act in a statesman fashion by putting their interest above the national interest. Islam has played an indispensable role in shaping Pakistan and its military. Islam in Pakistan has been exploited, abused, and used to achieve political objectives.³²² From Ayub Khan to Imran Khan, the current premier of Pakistan, they have given in to the demands of religious parties or religious fanatic alike or either used them for their advantage. They have been unable to implement Jinnah's vision of a liberal Pakistan. To legitimise its India-phobic policy, its military has passed on the insecurity from India and made it their perpetual enemy to sustain its role as a defender of state and get a hefty chunk in the form of the defence budget.³²³ Pertinent to say Pakistan military is the biggest business enterprise in the country, with their business expanding into almost all parts of the economy.³²⁴ The military dictators and civilian leaders alike have accepted intolerable demands of religious parties, whereas some were secular in their vision, at least publicly.³²⁵ However, when under pressure from religious parties, they failed utterly to stand for the values of religious harmony and inclusion; instead, when challenged, they abandoned their values.

At present, it seems like history has been repeating itself, and the leaders continue to sleep behind the wheel and have failed to learn from history. Recently the newly elected Pakistan Tehreek-I-Insaf government, whose leader Imran Khan whom many thought would bring moderation and thus make Pakistan a more inclusive society for other religious minorities because of his history of being educated and living in the West. However, few weeks into power Imran Khan appointed a renowned economist Atif Mian as an advisor for his newly formed Economic Advisory Council, later the news came that Atif Mian belonged to Ahmadis sect; therefore, Imran Khan's party again conceded to the pressure from religious party and made Atif Mian resign.³²⁶

³²² Murphy (n 163) 165.

³²³ Pakistan spent 4.88 percent (on average, 1980-2012) on defence which is almost 10 times higher than health and education expenditure.

See: Muhammad Haseeb and others, 'The Macroeconomic Impact of Defense Expenditure on Economic Growth of Pakistan: An Econometric Approach' (2014) 10 Asian Social Science.

³²⁴ Siddiq, *Mil. Inc. - Second Ed.* (n 206) 2.

³²⁵ Afzal (n 250). 51-75

³²⁶ James Dorsey, 'Pakistan and Its Militants: Who Is Mainstreaming Whom?'

<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3263124> Accessed 4 July 2020.

While there has been will from Pakistani military dictators and civilian leaders to invest in human development, but it has not materialised, and both countries India and Pakistan have invested heavily in arms, thus ignoring human development. Fayyaz states that investing in human development is the way forward for a prosperous Pakistan. She further states that throughout the history of Pakistan, the leaders of Pakistan have put the security and needs of the state first while ignoring the need for human security.³²⁷ It is this imbalance that has created a void between the rulers and the ruled, thus causing a disconnection between the state and its people. The state's territorial integrity was the chief aim of state security policies. There was no investment in the economic, cultural, social, political advancement of people of the country. The state has used its human capital as a strategic tool against India versus Afghanistan.

³²⁷ Fayyaz (n 173).

CHAPTER FOUR

4. ROLE OF POLICE IN COUNTERTERRORISM IN THE UK

This chapter describes the UK counterterrorism challenge and its response to terrorism through its counterterrorism strategy called CONTEST. It describes the role of police in counterterrorism in the UK. It describes the UK's multi-agency cooperation and role police play in it. The relationship between Crown Prosecution Service (CPS), Police, and Security Services is also discussed. It describes how police, Security Services (MI5), and Secret Intelligence Service (MI6) cooperate? Further, it explains how the police play a key role in preventing radicalisation. Moreover, it describes relations between police, public, and its impacts on counterterrorism, considering community policing in the UK. Finally, it discusses counter terrorism and human rights in the UK.

4.1 Introduction

The United Kingdom is one of the countries which has a history of fighting terrorism on a sustained basis due to the Northern Ireland 'Troubles' between (1968- 1998) in which 3667 people were killed in IRA-based terrorism, including 303 police officers, 709 soldiers, 536 terrorist, and the remainder were mainly civilians.³²⁸ During the troubles, the bombing took place in major UK cities such as London and Birmingham for which Irish Republican Army (IRA) and its affiliated groups claimed responsibility. The UK has been fighting Northern Ireland related terrorism since the 1860s; however, the peak of the violence from the Northern Irish terrorist groups was between 1968-1998. Consequently, over the years, the UK's counterterrorism structure has developed. Initially, Special Irish Branch (SIB) was created to deal with terrorism from Northern Ireland; afterwards, the words Irish was taken out, and in 1885 it was called Special Branch³²⁹ (SB), later called Metropolitan police Special

³²⁸ Police National Legal Database (England) and others, *Blackstone's Counter-Terrorism Handbook* (Oxford University Press 2009) 101.

³²⁹ Andrew Staniforth, *The Routledge Companion to UK Counter-Terrorism* (Fraser Sampson ed, Abingdon 2013) 13.

Branch (MPSB). The Special Branch has a long history of dealing with terrorism. Predominantly MPSB function was protecting the country from Ireland based terrorism. Afterwards, Security Services (MI5) and Secret Intelligence Services (SIS, also referred to as MI6) were developed in the early 20th century mainly to contain the threat from Soviets and Germans. Later, MI5 was given exclusive responsibility to collect domestic intelligence and surveillance, whereas SIS was given exclusive responsibility for intelligence overseas. It was the treaty of Westminster in 1931, which separated the roles of these security agencies.³³⁰ In the meantime, Special Branch continued to focus on domestic threats, mainly the IRA threats. Special Branch's work was also mainly intelligence-led, and it was staffed with police officers with small staff from Security Services.

However, after the signing of the Good Friday Agreement in 1998, the threat from IRA reduced significantly where the Irish terrorist groups stated that they are going to abandon violence and seek a political solution to the Irish nationalist cause as they see it.³³¹

Nonetheless, after 11 September 2001 (9/11) terrorist attacks on the World Trade Centre in the US, UK faced another threat from Islamist terrorism. The threat from Islamist groups was there in the 1990s; however, it was significantly grown to become an alarming and urgent threat and compounded by the fact that the UK was a frontline ally of the US on the war on terror in US-led allied operation in Afghanistan. Besides, the UK was a frontline ally of the US during the war in Iraq in 2003. Therefore, it faced a substantial threat from al-Qaida and its ideologically driven terrorists both at home and abroad. Although the UK security forces and intelligence were prepared to deal with terrorism, however, the terrorists were able to plan and orchestrate the worst attack on British soil on 7 July 2005 (7/7) in London public transport bombings on underground tubes and buses. In which 56 people were killed, including the four bombers.³³²

³³⁰ *ibid* 41.

³³¹ Matthew Whiting, 'Moderation without Change: The Strategic Transformation of Sinn Féin and the IRA in Northern Ireland' (2018) 53 *Government and Opposition* 288 <https://www.cambridge.org/core/product/identifier/S0017257X16000191/type/journal_article> accessed 22 August 2020.

³³² Yasmin Hussain and Paul Bagguley, 'Securitized Citizens: Islamophobia, Racism and the 7/7 London Bombings' (2012) 60 *The Sociological Review* 715 <<https://doi.org/10.1111/j.1467-954X.2012.02130.x>> accessed 20 May 2020.

After 9/11 and before 7/7, UK police and security services were engaging in different approaches to pre-empt and disrupt terrorist attacks, such as community engagement, forming Joint Terrorism Analysis Centre (JTAC) in 2003 as a multi-agency organisation to develop intra-agency cooperation to another level because the 9/11 commission revealed that one of the weaknesses of US security, which the terrorists exploited was that the US federal agencies were working in isolation. Nonetheless, the terrorists were still able to orchestrate the worst attack on 7/7 in British history since World War 2. In 2005, UK introduced quasi-criminal measures, such as control orders, which were later replaced by the Terrorism Prevention and Investigation Measures (TPIMs) to reduce the threat from those whose convictions cannot be secured due to evidential problems, but they were deemed a threat to national security. Although it placed restrictions on the liberty of those who are not convicted per se in the court of law, but the government and security agencies stated they could not risk further the security of its citizen, as former MI5 head Buller noted that "there is no liberty without security."³³³ Nonetheless, the measures came under sharp criticism and scrutiny by civil liberties groups. Middleton states that TPIMs ultimately should die out in favour of prosecution and intelligence strategies.³³⁴

4.2 UK recent terrorist incidents and challenges

Presently in the UK, the main terrorist threats are posed by Daesh (also referred to as ISIS and ISIL) and Al Qaida. Osama Bin Laden started Al Qaida. In contrast, Daesh claimed to be a caliphate movement which came to global prominence after capturing large swathes of territory in Syria and Iraq in 2014. They are the most prominent threats to the UK. Daesh and Al Qaida are both driven by Islamist ideologies that are against liberal democracy, and they cherry-pick and distort Islamist religious ideas to justify their cause. Also, there is a growing threat of extreme far-right. There is also a low-level threat from far-left environmentalist groups. There is still Northern Ireland related threat; however, significant improvement has been made over the years due to the signing of the Good Friday peace agreement. After the attacks by individual radicalised by far-right at Christchurch Mosque New Zealand in 2019,

³³³ Eliza Manningham-Buller, *Securing Freedom: The Former Head of MI5 on Freedom, Intelligence, the Rule of Law, Torture and Security*. (Profile Books 2013).

³³⁴ Ben Middleton, 'Terrorism Prevention and Investigation Measures: Constitutional Evolution, Not Revolution?' (2013) 77 *The Journal of Criminal Law* 562 <<https://doi.org/10.1350/jcla.2013.77.6.880>> accessed 8 November 2019.

there is a growing concern from far-right groups, with terrorist methods becoming more sophisticated. The biggest platform for communication for terrorists is through the internet. The UK faces a threat from lone terrorists who may not be affiliated with any group but are inspired by the Jihadi elements through internet from inside and outside the UK.³³⁵ These types of attacks are harder to predict compared to attacks by established groups such as IRA. Therefore, this new terrorism is more dangerous.³³⁶

In the last decade, the UK has had numerous terrorist attacks. One of those was an attack on Lee Rigby an off duty British Army soldier in May 2013, which shocked the whole country.³³⁷ The attacker stated that this was revenge against the presence of the British forces in Islamic countries. The police arrived at the scene, as the attackers were carrying knives and brandishing a gun at the police; hence, police fired shots and wounded the assailants.

The Manchester terror attack was the second-worst attack on British soil by terrorists after 7/7. The attacker Salman Abedi attacked the singer Ariana Grande concert at Manchester Arena. It was a suicide attack, and Abedi did not act alone as per the conclusion of the police investigation.³³⁸ It is believed he was radicalised abroad as his parents were from Libya who lived in Manchester but moved back to Libya. It has been said that he was known to security services as a person of interest and subject to review. However, he was not known to the government's Prevent deradicalization scheme. Abedi's brother, Hashim Abedi, who planned and helped him, was transferred from Libya to the UK and was convicted of 22 murders.³³⁹

2017 saw another appalling attack by Islamic extremists with Westminster Bridge attack in March 2017 in which six people were killed and 50 injured.³⁴⁰ The attacker, Khalid Masood, drove a car into pedestrians. PC Keith Palmer who was unarmed at the time, confronted the knife-wielding terrorist bravely and was killed by the terrorist. PC Keith Palmer received the George Medal the second-highest bravery award for gallantry "not in the face of the enemy" for his extraordinary bravery.

³³⁵ UK Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism' (n 48) 17-18.

³³⁶ Innes (n 102).

³³⁷ David McKendrick, 'Internet Radicalization and the "Woolwich Murder"' [2015] Revisiting moral panics 149-158.

³³⁸ Nazia Parveen, 'Manchester Bombing: Police Say Salman Abedi Did Not Act Alone' *The Guardian* (6 July 2017) <<https://www.theguardian.com/uk-news/2017/jul/06/manchester-bombing-police-believe-salman-abedi-did-not-act-alone>> accessed 22 August 2020.

³³⁹ BBC News, 'Manchester Arena Bombing: Hashem Abedi Guilty of 22 Murders' (*BBC News*, 17 March 2020) <<https://www.bbc.co.uk/news/uk-england-manchester-51926162>> accessed 22 August 2020.

³⁴⁰ BBC News, 'London Bridge: Steve Marsh Relives 2017 Westminster Bridge Attack' (2 December 2019) <<https://www.bbc.co.uk/news/uk-wales-50637420>> accessed 22 August 2020.

The same year a few months later, another attack with similar modus operandi was carried out by three assailants on London Bridge in which three assailants rammed a van into pedestrians and carried out stabbing on London Bridge. In this attack, 11 people were killed, including the assailant, and injuring 48 people.³⁴¹

Shortly after the London Bridge attack, Finsbury Mosque attack took place in which Darren Osborne attacked the Muslim congregation outside the Finsbury mosque, who were dispersing after the prayer, again in a similar way as per previous attacks that year. Osborne ran the van into pedestrians, killing one and injuring 10. The court, in his trial, was told that Osborne was radicalised by far-right material. The note left in his car revealed that he had hatred towards senior politicians, particularly Jeremy Corbyn, Sadiq Khan, and Muslims in general.³⁴²

In all the above-mentioned major attacks, it is the police, which has been confronting the terrorists with a response time of a few minutes.³⁴³ The UK police are well trained to deal with all incidents with all forces having their armed units. The police are involved in the post-incident raids and investigation. However, they are assisted by the MI5 and SIS and vice versa. Besides, in the above cases, either all terrorists were killed or successfully prosecuted with their sentences ranging from whole life order to life imprisonment.

Police prepare the case for the prosecution. However, police get advice from the Crown Prosecution Service (CPS), but it is the police who send the case for prosecution to the courts. The police are the leading agency when it comes to counterterrorism and is at the heart of the UK counterterrorism strategy called CONTEST.

³⁴¹ BBC News, 'London Bridge Attack: What Happened' (3 May 2019) <<https://www.bbc.co.uk/news/uk-england-london-40147164>> accessed 22 August 2020.

³⁴² Lizzie Dearden, 'Finsbury Park Attack: Why Darren Osborne Was Not Charged with Terror Offences' (*The Independent*, 2 February 2018) <<https://www.independent.co.uk/news/uk/crime/finsbury-park-mosque-attack-terror-terrorism-darren-osborne-jailed-life-murder-jo-cox-mair-rigby-a8192326.html>> accessed 22 August 2020.

³⁴³ Steve Hewitt, 'Eight Minutes on London Bridge: Years of Training Led to Lightning Police Response' (4 June 2017) <<https://theconversation.com/eight-minutes-on-london-bridge-years-of-training-led-to-lightning-police-response-78815>> accessed 22 August 2020.

4.3 UK counterterrorism strategy- CONTEST

UK's deals with counterterrorism through its counterterrorism strategy called CONTEST. It is this policy, which guides the government and all agencies who are involved in dealing with terrorism in the country, including the private partners of the government. It provides direction to those agencies. The government says that it has been reviewed independently and has been found to be effective and a valid policy. Its latest version was published in 2018. Reviewed from its 2011 version and lessons learned from London and Manchester attacks were embedded in the updated version of the policy. Improvement in the light of those were suggested. CONTEST has four strands. The four 'P's or pillars of CONTEST are Prevent, Pursue, Protect, and Prepare. Prevent broadly deals with preventing radicalisation. In comparison, Pursue deals with the prosecution. Protect deals with protecting the border, ports, and critical infrastructure and Prepare deals with mitigating the effects of terrorist attacks through appropriate emergency response. The overall aim of the CONTEST is "to reduce the risk to the UK and its citizens and interests overseas from terrorism. So that people can go about their lives freely and with confidence".³⁴⁴

It is a very comprehensive policy with multiples layers. The single dominant purpose of the policy is to reduce the risk to the UK, as stated in its aim statement. The government says that it is not possible to stop every attack while the aim is to reduce the likelihood of the attack by giving the legal tools and providing mechanisms that stop terrorist attacks. The strategy deals with preventing radicalisation to post-incident involvement. Overall, the strategy reveals that it is flexible as per the ever-evolving threat from terrorism. The government aims to keep its legislation and options under review. The government, however, places extreme emphasis on the safety of its citizen, and it wants to ensure that its response provides value for money, as well as being proportionate. For that, there are structures in place to independently review the effectiveness of this strategy, and the actions of all law enforcement agencies could be challenged through independent tribunals.

The policy explains the role of the agencies involved in the UK counterterrorism structure. It could be said that while all security services play a critical role, the police are at the heart of its counterterrorism strategy. There is a strong will to invest in police capabilities, making borders secure, learning lessons from past incidents. Police are involved in all four strands of counterterrorism. There is a new statutory duty on public sector organisation to report any

³⁴⁴ UK Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism' (n 48).

individual they see as a risk to radicalisation or vulnerable to terrorism. There are referrals platform provided to the organisations to refer these individuals to the police or other appropriate partners. Those organisations, which have a statutory duty, are mainly public sector organisation such as the health sector, universities, and schools.

There is a strong emphasis on successfully prosecuting terrorism cases by the collection of evidence and presenting prosecutable cases. The government acknowledges the need for prosecution department expansion as the number of arrests is increasing. The terrorism conviction rate was 90% according to the statistics in the strategy.³⁴⁵ Besides, there is a focus on the value of partnership with international allies in reducing risk to the UK. Also, it talks about understanding terrorism and training those who are at risk of terrorism through the government's police co-ordinated "Channel programme." There is a strong emphasis on raising awareness among the public to refer those they see are at risk of radicalisation or committing terrorism to the Channel programme.

The policy strongly stresses on multi-agency and partnership approach to casting the net wide to protect the country so that all vital national public and private sectors can see the alert soon and the risk is either eliminated or managed.

The government states that due to strict gun laws, the ability of criminals to obtain illegal firearms is very low. The threat from aviation is the most significant threat to the UK, and the government states that it has learned lessons from Islamic inspired Etihad Airways terrorist plot in Australia in 2017.³⁴⁶ There are more than 7000 counterterrorism police officers. The UK police and emergency services periodically conduct exercises to check the effectiveness of its response. There are numerous organisations involved in counterterrorism apparatus. There is a strong emphasis on border security and detecting prohibited goods and catching people who are a threat to national security.

The policy also stresses making the UK the safest country to be online and the removal of harmful content online through a partnership with leading internet companies, such as Google, Facebook, Twitter, and Microsoft. The police and security services now have an excellent relationship. In several aspects, the UK is leading the world, especially in high-level technologies and methodologies, which it is adopting in dealing with counterterrorism. In the

³⁴⁵ *ibid* 49.

³⁴⁶ Khaled Khayat, 51, conspired to bring down the Etihad flight from Sydney to Abu Dhabi in July 2017. He has been convicted in Australia in 2019 of plotting to blow up a flight on behalf of the Islamic State (IS) group using a bomb hidden inside a meat grinder.

policy, there is a section that lays out the plan of how these policies will be implemented. The UK is increasing the armed police. The police are at the forefront of all aspects of this policy; however, in exceptional circumstances, the police can be assisted by the military. Due to the nature of the threat the UK is facing, there is also a focus on stopping terrorism threats from overseas, which is directed towards the UK. The policy places emphasis on taking actions concerning the further strengthening of its technological abilities of data analysing, using artificial intelligence, detecting behavioural patterns to deal with terrorism. Countering violent extremism is also given attention to in the policy.

The government intends to make as much information as possible around its counterterrorism plans available because transparency is valued by the public and leads to more cooperation³⁴⁷. However, due to the secret nature of terrorist's plans and security agencies' undercover work, it is not possible to reveal some classified information. Still, there is a desire for transparency; the government has set up several bodies to have a legal oversight on the effectiveness of its counterterrorism legislation and strategies³⁴⁸.

Out of all the strands of CONTEST, Prevent predominantly came under most scrutiny in academic literature.³⁴⁹ CONTEST generally and within it, Prevent has been described as a policy to govern Muslims, with its initial scope of security engagement expanding to community cohesion. Archer states that Muslims in the UK though being British citizens, also have a transnational identity, and there is a fear of Muslim otherness as reflected by government security governance.³⁵⁰

It could be argued that the UK has been successful in stopping terrorist attacks within the UK through the CONTEST strategy. Different internal reviews have found the government policy to be effective.³⁵¹ It could be argued that domestically the success of UK counterterrorism

³⁴⁷ Lambert (n 100) 60.

See also: Martin Innes and others, 'Assessing the Effects of Prevent Policing: A Report to the Association of Chief Police Officers' [2011] University Police Science Institute.

³⁴⁸ Office of Independent Reviewer of Terrorism Legislation (IRTL) provides independent oversight

³⁴⁹ Therese O'Toole and others, 'Governing through Prevent? Regulation and Contested Practice in State-Muslim Engagement' (2015) 50 *Sociology* 160 <<https://doi.org/10.1177/0038038514564437>> accessed 20 January 2019.

³⁵⁰ Toby Archer, 'Welcome to the Umma: The British State and Its Muslim Citizens Since 9/11' (2009) 44 *Cooperation and Conflict* 329 <<https://doi.org/10.1177/0010836709106219>> accessed 20 January 2019.

³⁵¹ In 2018, the report of the National Security Capability Review (NSCR) found CONTEST to be a well-organised and comprehensive response to terrorism, with strengths in terms of powers, resources, reach and resilience See: HM Government, 'National Security Capability Review' (2018) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705347/6.4391_CO_National-Security-Review_web.pdf> accessed 9 September 2020.

efforts is evident from the fact that more British citizens were killed by terrorist attacks outside the UK than inside the UK. Therefore, the inability of terrorists and frustration to cause damage internally has made them look outside the UK and target innocent people in vulnerable spots around the world to send their message across. Even domestically, it is impossible to prevent every attack. Still, the number of live investigations and attacks foiled presents a promising picture to the countries around the world to benefit from the UK's experience. The UK has a prosecution system, which is mostly deemed fair³⁵² and has adequate oversight. Besides, the cooperation between its intelligence agencies was not effective in the past compared to now. According to research conducted by Fayaz, he found the UK detention of terror suspects to be compliant with human rights laws.³⁵³

The UK is amongst the very few countries in the world, which has stringent gun laws. Most frontline police are unarmed, with only 5% of police being armed³⁵⁴. It has historically remained unarmed; however, there is currently pressure on the UK to have more armed security in the light of certain terror incidents.³⁵⁵ Nevertheless, A study by Yesberg *et al.* revealed that when police were armed, people had a negative response towards the police and even supplying them the reason of terrorism made no difference to people response. Nonetheless, it was suggested that the police officer who died in the Westminster attack could have been saved had he had a firearm.³⁵⁶ However, most police continue to be unarmed with armed units at the back, ready to step in when required.

Hobbs and Gash state that the UK counterterrorism system is the envy of the world.³⁵⁷ MI5 former Director Eliza Manningham-Buller states that "Our systems for terrorist protection

³⁵² Krista Jansson, 'Public Confidence in the Criminal Justice System – Findings from the Crime Survey for England and Wales (2013/14)' (2015)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/449444/public-confidence.pdf> accessed 27 August 2020.

³⁵³ Muhammad Fayaz, 'The Vires of Pre-Charge Terror Detention in Pakistan and the UK : A Liberal Critique and Comparison'.

³⁵⁴ Home Office, 'Police Use of Firearms Statistics, England and Wales: April 2018 to March 2019' (2019).

³⁵⁵ Julia A Yesberg, Ben Bradford and Paul Dawson, 'An Experimental Study of Responses to Armed Police in Great Britain' [2020] *Journal of Experimental Criminology* <<https://doi.org/10.1007/s11292-019-09408-8>> accessed 12 June 2020.

³⁵⁶ Lizzie Dearden, 'Westminster Attack: PC Keith Palmer Could Have Been Saved If Met Put Armed Police on Parliament Gates, Coroner Finds' (*The Independent*, 3 October 2018)
<<https://www.independent.co.uk/news/uk/crime/westminster-attack-terror-keith-palmer-met-police-security-failings-inquest-latest-a8567261.html>> accessed 22 August 2020.

³⁵⁷ Tom Gash and Richard Hobbs, 'Policing 4.0 Deciding the Future of Policing in the UK' (2018)
<<https://www2.deloitte.com/content/dam/Deloitte/ie/Documents/PublicSector/deloitte-uk-future-of-policing.pdf>> accessed 20 October 2019.

and advice are the envy of the world."³⁵⁸ UK counterterrorism cooperation includes not only security services but also other government departments. UK security apparatus is a comprehensive body of institutions with a variety of role which has over the years developed closed cooperation with each other. Intelligence is at the core of its counterterrorism operations. Intelligence plays a crucial role in counterterrorism. Compared to other areas of policing and law enforcement, counterterrorism is more dependent on intelligence. The failure and flaws in intelligence can have disastrous consequences because the stakes are high due to the danger to the people's life and limb.

4.4 Role of police in UK counterterrorism infrastructure

The UK has developed the most sophisticated infrastructure to deal with counterterrorism in the world.³⁵⁹ As stated earlier, counterterrorism is mainly an intelligence-led approach because of the necessities of a covert approach. There are three primary organisations involved in intelligence-led work. The MI5 is primarily responsible for domestic intelligence; however, due to evolving threats from terrorists abroad now, a vast amount of their work involves foreign intelligence, as stated in the CONTEST strategy large part of terrorist threats directed towards the UK are from overseas. Secondly, SIS (also referred to as MI6) is mainly tasked with foreign intelligence. In contrast, GCHQ is the third organisation, which is authorized for surveillance-related work and protects the UK Critical National Infrastructure (CNI).

The role of MI5, as defined in the Security Service Act 1989, is "the protection of national security and in particular its protection against threats such as terrorism, espionage and sabotage, the activities of agents of foreign powers, and from actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means."³⁶⁰

SIS, in its mission statement, says, "Our mission is to provide Her Majesty's Government with a global covert capability. We collect secret intelligence and mount operations overseas to prevent and detect serious crime and promote and defend the national security and economic wellbeing of the United Kingdom. We work closely with the MI5 and GCHQ, and

³⁵⁸ Buller (n 45).

³⁵⁹ Staniforth (n 329) xxiv.

³⁶⁰ The Security Service, 'What We Do: MI5 PROTECTS THE UK AGAINST THREATS TO NATIONAL SECURITY' <<https://www.mi5.gov.uk/what-we-do>> accessed 22 August 2020.

the secret nature of our work means we operate within a strict legal framework and report to government ministers. It takes people from a wide range of backgrounds with a variety of different skills to help counter the increasing number of threats to the UK. But they all share the same mission – to protect the country, its people and interests".³⁶¹ The activities conducted by SIS are legislated by the Intelligence Services Act 1994 (ISA).

GCHQ, in its mission statement, says that "Our Mission is to keep Britain safe. We bring intelligence and technology together to counter increasingly sophisticated threats. GCHQ intelligence helps keep our forces safe, prevents terrorism and crime and protects against cyber-attack".³⁶²

While overseas defence intelligence on behalf of the armed forces is carried out by Defence Intelligence (DI), which is a crucial part of the Ministry of Defence (MOD), DI states, "It provides timely intelligence products, assessments, and advice to guide policy decisions and the commitment and employment of the Armed Forces; to inform defence research and equipment programmes, and to support the military operations."³⁶³

The MI5, MI6, and GCHQ are tasked with protecting national security. However, domestically the police Special Branches, which are now known as counterterrorism branches, because recently their predominant focus has been on counterterrorism work, are the principal police led organisations involved in arresting and prosecuting terrorists. It is only the police, which has the arrest power. Though MI5 can disrupt an attack, however, they do not have arrest powers. Police counterterrorism branch work is also mainly intelligence-led, which is to obtain and develop intelligence on individuals who may be of interest concerning national security. They also play a valuable role in protecting the VIPs and monitoring extremist activity. Regional Special Branches and special units are also part of their network.³⁶⁴ Special Branch plays a unique role in bridging gaps between neighbourhood safety and national security. They act as a bridge between 'high' and 'low' policing.

³⁶¹ Secret Intelligence Service MI6, 'About Us' <<https://www.sis.gov.uk/about-us.html>> accessed 28 August 2020.

³⁶² GCHQ, 'About GCHQ: Our Mission' <<https://www.gchq-careers.co.uk/about-gchq.html>> accessed 28 August 2020.

³⁶³ 'Defence Intelligence' (UK government) <https://www.gov.uk/guidance/defence-intelligence> accessed 7 April 2020

³⁶⁴ Home Office, 'Counter-Terrorism Policing and Special Branch: Have You Got What It Takes?' <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/512166/ct-special-brancharchive.pdf> accessed 22 August 2020.

Along with the aforementioned bodies involved in protecting UK security, in 2003, the UK government realising the value and potential of a collaborative approach created the Joint Terrorism Analysis Centre (JTAC). It was an innovative system as it brought together 16 agencies in a centralised location. The strength of JTAC is that, along with its workforce from 16 agencies, it can further take assets and workforce from all 16 agencies depending on its need and complexity of work to be carried. The multi-agency workforce working at JTAC also has access to its own agencies' intelligence products, systems, and procedures. JTAC is an independent organisation. It is a vital part of UK national intelligence machinery.

JTAC sets the UK security threat level. Intelligence relating to international terrorism, at home and overseas, is assessed and analysed by JTAC. JTAC says that "it issues warnings of threats and other terrorist-related subjects for customers from a wide range of government departments and agencies, as well as producing more in-depth reports on trends, terrorist networks and capabilities."³⁶⁵

Through JTAC, each agency provides its officers with the agency-specific IT terminals to enable a truly joint working environment with commentary from all the key agencies on the terrorist-specific threat. Consequently, the returning officers upon their return to parent organisation are more willing to work collaboratively with their colleagues in other agencies sharing their expertise. JTAC encourages exchange tour posting and cross-fertilisation tours. After Butler Report in 2004, the three Intelligence agencies MI5, MI6 and GCHQ no longer operate in complete secrecy, without any oversight or vigorous legislation.

JTAC website further states that "JTAC works especially closely with MI5's International Counterterrorism branch, which manages investigations into terrorist activity in the UK. This enables it to assess the nature and extent of the threat in this country. The Head of JTAC is accountable to the Director-General of the MI5, who in turn reports to the government's Joint Intelligence Committee on JTAC's activities. An Oversight Board, chaired by the Cabinet Office, monitors how effectively JTAC engages with departments and ensures that it provides appropriate analysis and information. This model has provided an authoritative and effective mechanism for analysing intelligence on the terrorist threat".³⁶⁶

³⁶⁵ MI5, 'Joint Terrorism Analysis Centre' (*MI5 - The Security Service*) <<https://www.mi5.gov.uk/joint-terrorism-analysis-centre>> accessed 22 August 2020.

³⁶⁶ *ibid.*

JTAC was also an important milestone in countering the “digital divide” in UK counterterrorism, with the intention of collective power being greater than the agencies working separately, JTAC brought in one location several officers from each of the main agency, along with access to their own tools and databases. The Intelligence and Security Committee noted in 2013 that inter-agency collaboration in the UK went through in “a huge change for the better, sweeping away the tired old turf wars of ten or twenty years ago. Each Agency has found that the skills of the others are critical to the success of their own operational mission”³⁶⁷

While JTAC has brought the truly multi-agency partnership to another level, the leading force in dealing with terrorism has been the police ever since its establishment. Historically the police and security services understood the value of partnership. Even though there were times of rivalry amongst the organisations but for the most part, they have built a great partnership, which is now at an unprecedented level. After World War 2, the police and security services developed a good working partnership, which has evolved during the Irish troubles, further strengthening after the 9/11 attacks on the World Trade Centre.

Police Special Branch, the key body in counterterrorism, has played a critical role in protecting the UK from terrorism. It has been the leading domestic intelligence organisation with gradually its focus expanding on all matters of national security. In 1921, it came under the Metropolitan Police Service (MPS), whereas in the past it was semi-independent. Even in the early years of establishment of Security Services, there was this need to improve the relations between police and security services; therefore, Scotland Yard and security services sent representatives to work in each other departments to enhance liaison, communication, and interoperability.³⁶⁸ Security Services’ main responsibility was surveillance and monitoring, whereas MPSB main focused remained on domestic threats, especially from the IRA. Special Branch has worked closely with the MI5 together; they have formed a good working partnership. Notwithstanding, most terrorism investigations start after a lead by the MI5.³⁶⁹

³⁶⁷ Sir Malcolm Rifkind, ‘Intelligence and Security Committee of Parliament Annual Report 2012-2013’ (2013) <<http://www.nationalarchives.gov.uk/doc/open-government-licence/>> accessed 22 August 2020.

³⁶⁸ Staniforth (n 329) 34.

³⁶⁹ Lowe (n 1) 102.

In the past, MI5 was keen to have arrest power. Therefore, police detective joined MI5 to ensure that arrest swiftly followed prosecution. There were also calls for merging the security services with secret services; however, the Bland report stated that SIS should remain autonomous.³⁷⁰ Mostly the work of Special Branch is intelligence related. MI5, in the past, did not have a statutory basis until 1989. The passage of the Secret Services Act 1989 was the first time it came under a legal footing. In the past, the basis of its operation was home office warrant, which was ultimately derived from a royal prerogative; however, the origin of its authority remains unclear.³⁷¹ The 1989 Act ensured that it remained the lead organisation all aspects of a terrorism investigation. However, the inclusion of police detective into MI5 continued a long tradition of partnership and collaboration to counterterrorism in the interest of national security.

Although MI5 has a great track record, some incidents have slipped through the cracks. The assassination attempts of the British Prime Minister Margaret Thatcher (1979-1990) at the Brighton hotel in 1984 was one of them. Questions were raised about how the IRA was able to plant a bomb at such a high-security sensitive place. There was an overlap of who was responsible as a lead organisation. MI5 thought that MPSB was the lead organisation, which was illogical as per Staniforth.³⁷²

However, after the growing home-grown threat after 9/11, police and MI5 have been successful in foiling several Islamist attacks through working jointly. Operation Rhyme and Crevice have been successful in thwarting Islamist based terrorist attacks which, if materialised had the potential of committing mass murders. In 2004, Prime Minister Tony Blair (1997-2007) personally invited Director-General of Security Services to the full cabinet meeting first time in the history of MI5 to congratulate him on the success of recent operations.³⁷³

Ever since the dawn of this century, the main threat facing the UK is Islamic terrorism based on the ideology of Al Qaida and, more recently, Daesh. For the last two decades, they have looked into intuitive ways to kill innocent people and undermine the efforts of the security forces. They have tried suicide bombing, planting explosive devices, carrying liquid bombs to

³⁷⁰ Daniel WB Lomas, 'the Defence of the Realm and Nothing Else': Sir Findlater Stewart, Labour Ministers and the Security Service' (2015) 30 *Intelligence and National Security* 793
<<https://doi.org/10.1080/02684527.2014.900268>> accessed 12 August 2020.

³⁷¹ Staniforth (n 329) 93.

³⁷² *ibid.*

³⁷³ Christopher M Andrew, *The Defence of the Realm : The Authorized History of MI5* (Penguin 2010).

aircraft, plan hijacking, attacking critical infrastructure. Some of the terrorists justify their actions based on British foreign policy; however, the attacks have been towards ordinary working-class citizens.

Increasingly the police are operating on the supranational level to support the defence of the state. The police are best placed to understand the local emerging terrorism threat. It is also best placed in co-ordinating the first response to terrorist incidents. A new counterterrorism police network is the most significant change to UK counterterrorism. Traditionally terrorism was dealt with in isolation, and over the years, the approach evolved from the need to know to need to share mentality.

4.5 Multi-agency cooperation and role police play in that. How police and security services (MI5, MI6) cooperate

Traditionally the police covert and overt work have been separate; however, recently after the 9/11 attacks, due to the intensity of the terrorist threat, the expertise of both have been brought together. The UK's JTAC was created after learning the lessons from the US when the 9/11 commission revealed that the federal agencies were operating in isolation from each other.³⁷⁴ Therefore, there was a need to create a collaborative organisation where their expertise could be brought together. Counterterrorism is now a collaborative approach in which all the national law enforcement agencies bring their expertise together in the national interest. It was realised that since the window of opportunity to detect, disrupt, and deter has significantly reduced; therefore, covert and overt counterterrorism should be brought together. Thus, in the light of 9/11, the UK created Counterterrorism Units (CTU) units across the country to expand the reach of counterterrorism units beyond London. In the past, MPSB were the central counterterrorism organisation, and officers would be dispatched from London if required elsewhere in the country. The terrorist threat was mainly seen as a London-centric threat. However, 7/7 showed that the threat was dispersed. Therefore, four regional officers were established in the Northeast, Northwest, Midlands, and Thames Valley.³⁷⁵ The pilot of the CTU unit in Birmingham Alum rock and its subsequent success

³⁷⁴ *ibid.*

³⁷⁵ Eric Halford, 'The Emergence of the Counter Terrorism Command Policing Model and Its Impact on Intelligence Sharing between the Police and the Security Services' (Salford University 2008) <<http://library.college.police.uk/docs/Counter-Terrorism-Dissertation.pdf>> accessed 22 August 2020.

led to further restructuring and expansion of CTU units.³⁷⁶ In 2006 MPSB and Anti-terrorism Branch S013 were merged to bring together covert and overt assets under one command. Consequently, Counter Terrorism Command (CTC) was established. The changes that the UK made in 2006-2009 in terms of restructuring in the light of 9/11 and 7/7 dramatically increased its capacity to deal with terrorism.³⁷⁷

The most critical aspect of UK counterterrorism success is its more than 100 years old long and unfaltering relationship between the police and its security services. However, any partnership has its challenges, but the relationship that they enjoy is unmatched.³⁷⁸ Even in the developing world, it is viewed with envy from comparable jurisdictions. They regard the UK as a flag bearer. Deputy Assistant Commissioner (DAC) Peter Clarke of the Metropolitan police department states that it is the beacon of good practice and other countries look at the UK with envy.³⁷⁹ Head of the Northeast Counterterrorism unit highlighting the benefits of collaborations states that closer work allows a more focused approach is maintained.³⁸⁰ Therefore, the current efforts of two arms of the states are beyond any approximation. It is this relationship, which is critical to success in counterterrorism. DAC Osborne believes that there is a need for a counterterrorism network to become very interoperable.³⁸¹ However, when there are multiple agencies, the division of labour is critical; because ambiguity, lack of clarity, the confidence of the role of position and responsibility have the potential to expose weaknesses of counterterrorism law enforcement agencies. The UK understands the value of the collaborative approach. Therefore, over the years, more and more partners have joined to tackle terrorism, which includes most government departments and private partners. As it also recognised that increasingly the technological advances have meant that private partners are critical such as the big technology companies like Google, Facebook, and Microsoft.³⁸²

³⁷⁶ Staniforth (n 329) 288.

³⁷⁷ *ibid.*

³⁷⁸ David Blakey, 'A NEED TO KNOW HMIC Thematic Inspection of Special Branch and Ports Policing Her Majesty's Inspector' (2003) <<https://www.justiceinspectorates.gov.uk/hmicfrs/media/a-need-to-know-20030101.pdf>> accessed 22 August 2020.

³⁷⁹ Staniforth (n 329) 337.

³⁸⁰ *ibid.*

³⁸¹ *ibid.*

³⁸² UK Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism' (n 48).

As the police and Security services have worked together, they have successfully foiled many terror attacks. One of those successful operations was operation *OVERAMP*.³⁸³ Which was a two yearlong joint police and MI5 operation where the police discovered outdoor terrorist training camp, and the two key suspects Mohammed Ahmet and Attile Ahmet were successfully prosecuted under section 6 and 8 of the Terrorism Act 2000. First-ever prosecution under those sections of the Act. One of the critical factors in their successful prosecution was the infiltration of the undercover officer who attended this training session; therefore, he was able to gather crucial prosecutable evidence leading to the conviction of both defendants. A further seven men were charged from which five were found guilty, and two pleaded guilty. Another successful operation was operation *GAMBLE*³⁸⁴ in which Parvaiz Khan who was radicalised after a visit to Pakistan. He planned to kidnap and kill a Muslim soldier as an act of revenge against him for participating in an overseas mission in Islamic countries, both police and MI5 after a long and thorough investigation secured his conviction where khan admitted his guilt and was sentenced. Operation *SEAGRAM* was another operation launched after the failed suicide attack on Glasgow airport and attack on Tiger Night club in London.³⁸⁵

In operation *LARGE*³⁸⁶ police and security services working together discovered the first Islamist bomb factory in 2000 through covert intelligence gathering; fifteen security services officers were involved in the investigation.

One of the interesting aspects of the UK prosecution system is that in many major surveillance and security operations, the suspects have pleaded guilty. It is submitted that because the authorities made a robust case for the prosecution. One of the biggest anti-terror operations was Operation *Rhyme*.³⁸⁷ It was a major covert operation; however, the suspect Borat pleaded guilty because the police and MI5 built a competent case against him.

³⁸³ Cale Horne and Samuel Bestvater, 'Assessing the Effects of Changes in British Counterterrorism Policy on Radical Islamist Networks in the UK, 1999–2008' (2016) 8 Behavioral Sciences of Terrorism and Political Aggression 87 <<https://doi.org/10.1080/19434472.2015.1054413>> accessed 7 April 2020.

³⁸⁴ Awan Imran, 'Muslim Communities, Conflict and Terrorism: A Study of Alum Rock' (2012) 11 Safer Communities 195 <<https://doi.org/10.1108/17578041211271463>> accessed 7 April 2020.

³⁸⁵ HERRINGTON (n 296).

³⁸⁶ Staniforth (n 329) 175.

³⁸⁷ Michael Clarke and Valentina Soria, 'TERRORISM IN THE UNITED KINGDOM' (2009) 154 The RUSI Journal 44 <<https://doi.org/10.1080/03071840903097647>> accessed 7 April 2020.

The accomplice of the Shoe bomber plot on an American airline Sajid Badat also pleaded guilty after the police and the MI5 jointly worked on the operation. Badat, who was linked to Richard Reid, a British citizen who tried to explode a bomb in his shoes on an American airline, was arrested in America. Investigators found that Reid was radicalised in London. Reid was linked to Sajid Badat, another British citizen. After investigation, MI5 and police uncovered Sajid Badat's involvement in the plot, and he pleaded guilty in involvement to destroy US-bound aircraft. Investigators discovered that Badat was trained in Afghanistan and Pakistan.³⁸⁸

Operation *Cervice*³⁸⁹ (2004) was another landmark case. The police, MI5, and prosecution authorities brought a complicated case to an end, which was called the most complex and the largest counterterrorism investigation conducted by UK authorities³⁹⁰. In which five men were convicted of a fertiliser bomb, which could have killed hundreds of people.

Operation *Overt* was another significant success³⁹¹ of UK police and Security Services as the longest terror trial in the UK. The three defendants were convicted of bombing the plane. The case was linked to the terrorist having a Pakistan connection and being trained in Pakistan.³⁹²

The UK has a long tradition of holding public inquests in order to ascertain responsibility and learn lessons from public tragedies and terrorism alike. After the 7/7 attacks on the London transport system, the worst terrorist coordinated suicide attacks on British soil after the Second World War. The inquest was held to learn lessons from the attack, different aspects ranging from emergency response to whether the attack could have been prevented. The inquest ruled that MI5 could not have prevented the attack.³⁹³ However, it made some recommendations in light of the attacks to learn and to further tighten the security measures. One of the things it suggested was improved recording of the decision-making within the organisation. DCC Parkinson said that the main lesson 7/7 is that joined-up working is the key to managing risk.³⁹⁴

³⁸⁸ *ibid.*

³⁸⁹ Horne and Bestvater (n 383).

³⁹⁰ *ibid.*

³⁹¹ Sara Thornton and Lucy Mason, 'Community Cohesion in High Wycombe: A Case Study of Operation Overt' (2007) 1 *Policing: A Journal of Policy and Practice* 57 <<https://doi.org/10.1093/police/pam012>> accessed 18 February 2020.

³⁹² 'Operation Overt' (2009) 15 *Strategic Comments* 1 <<https://doi.org/10.1080/13567880903375577>> accessed 18 February 2020.

³⁹³ Staniforth (n 329) 320.

³⁹⁴ *ibid* 322.

4.6 Police and prosecution cooperation in the UK

After all, it is the prosecution under the law which matters, without the prosecution investigation, seems pointless. For that, the police and prosecution need to have a proper working relationship. As petty rivalries or dysfunctions can benefit the terrorist. Police and prosecution need to be armed with adequate legislation for proper prosecution. Adequate legislation for terrorism is crucial because it is this legislation that triggers police powers. Therefore, it has a real operational and practical importance. Having a clear terrorism definition is vital for public and government confidence; for example, if the government is saying that terrorism is increasing or threat level is severe, it can be meaningless in the absence of a specific public understanding of what terrorism is. The specific definition also provides a basis for those making key strategic decisions. It is also very important for international cooperation, as it helps in making evidence admissible in different jurisdictions.³⁹⁵ Furthermore, it allows police to differentiate between legitimate and illegitimate political activities.

In terms of legislation, historically, the UK has been quick in responding to the growing terrorism challenges presented by the IRA groups as it passed the Prevention of Terrorism Act 1974 (PTA 1974) in 3 days after the Birmingham attack.³⁹⁶ However, there were few instances of injustices such as Guildford 4³⁹⁷ and Birmingham 6.³⁹⁸ Nonetheless, the government created the commission to learn lessons that led to the creation of the Criminal Appeal Act 1995, the Criminal Cases Review Commission in 1997. The government introduced these measures even when there was sustained threat from IRA because it wanted to ensure that the criminal justice system remained just and also in the light of past incidences such as bloody Sunday that any disproportionate response, heavy-handed approach, allegations of torture or not following a just system can be used by the terrorists.

³⁹⁵ Lowe (n 1).

³⁹⁶ House of Lords Constitution Committee, 'Fast-Track Legislation: Constitutional Implications and Safeguards' (*Memorandum by Professor Clive Walker, School of Law, University of Leeds*, 29 April 2009) <<https://publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/9042901.htm>> accessed 15 September 2020.

³⁹⁷ Alastair Logan, 'Guildford Four: How the Innocent Were Framed and the Truth Buried – The Justice Gap' (6 March 2020) <<https://www.thejusticegap.com/guildford-four-how-the-innocent-were-framed-and-the-truth-buried/>> accessed 22 August 2020.

³⁹⁸ Christopher Stanley, 'Lessons from the Birmingham Pub Bombing Inquest – The Justice Gap' (30 April 2019) <<https://www.thejusticegap.com/lessons-from-the-birmingham-pub-bombing-inquest/>> accessed 22 August 2020.

The UK has had its terrorism legislation reviewed since the 1970s with reporting on an annual basis since 1983.³⁹⁹ Terrorism in Northern Ireland has provided the experience to the UK legislators and security services in constructing counterterrorism legislation. However, Sir David Omand states that the Jihadist threat presented new challenges due to change in their modus operandi and their ideological cause.⁴⁰⁰ In the preceding 80 years before 9/11, the UK made five laws relating to terrorism, which are Prevention of Violence (temporary provisions) Act 1913, Prevention of Terrorism (temporary provisions) Act 1974, 1976, 1984, and 1989. However, after 9/11, it made five new laws in just eight years due to an unprecedented threat.

The UK government appointed Lord Lloyd to review terrorism legislation, he suggested four guiding principles for terrorism legislation.⁴⁰¹ Which are:

- 1) Terrorism legislation should be as close as possible to ordinary criminal legislation
- 2) The extra statutes, which are only deemed necessary, should be introduced. However, the balance between the need for security and individual liberty should be struck
- 3) With any additional powers to security agencies, there should be additional safeguards and
- 4) UK terrorism laws must comply with the UK's broader obligation in international law.

As per his review, Lord Lloyd suggested that all terrorism laws should be consolidated in a single statute; hence the terrorism Act of 2000 came into force. Terrorism Act 2000 remains the primary piece of legislation on terrorism and remains in force though it faced several amendments over the years. It broadened the definition of terrorism to include attacks on critical infrastructure. Having a concise yet all-encompassing definition of terrorism is very important.

The UK government has come to realise the value of an independent review of legislation over the years. The reviewer is independent and consults most stakeholders, including security agencies and terrorist suspects, and its recommendation can vary from a legislative amendment to changes in operational practices.

³⁹⁹ Independent Reviewer of Terrorism Legislation, 'History' <<https://terrorismlegislationreviewer.independent.gov.uk/history/>> accessed 15 September 2020.

⁴⁰⁰ Staniforth (n 329).

⁴⁰¹ Staniforth (n 329) 299-300.

There is a concern of laws intended for a particular terrorist threat slippage into different threats and ordinary criminal laws. However, Blackburn states that while there has been legislative slippage of UK anti-terror laws, in that legislation intended for one type of terrorism, i.e. to counter Northern Ireland terrorism has been subsequently enacted for all types of terrorism. However, there has largely been very little practical slippage in that the counterterrorism legislation tailored for one type of terrorism being used for other types of terrorism, this is because the laws have been tailored to counter the particular threats. For example, the laws enacted to counter Islamic international terrorism threats have not been applied to counter Northern Ireland threat.⁴⁰² One key lesson from her analysis is that anti-terrorism laws should be drafted narrowly considering the vast regime of contemporary anti-terrorism laws. Thus, she argues UK anti-terrorism laws practical use largely corresponds to its legislative intention.⁴⁰³

Armed with the legislation, it is the Crown Prosecution Service, which makes the prosecuting decisions for terrorist trials. It has specialist terrorism prosecutors, which are at the heart of terrorist prosecutions. After the growing threat from terrorism pushing the caseload, there was felt a need to create specialist division to deal with terrorism; hence Counterterrorism Department, along with several other serious crime departments, were created in the CPS in 2005. The caseload was increased due to the increased capability and capacity of police services and MI5 after 9/11. CPS manages the terrorism cases in the same way as any other criminal, although the case may be a specialist in nature.

Consequently, the CPS code is applied to cases. According to the CPS code, all cases have to meet the evidential and public interest tests. In other words, the evidential test is to ensure that the prosecutors are satisfied that there is enough evidence to provide a "realistic prospect of conviction" which means that a jury or a bench of magistrates, properly directed in accordance with the law, will be more likely than not to convict the defendant of the charge alleged. If the case does not pass the evidential stage, it must not go ahead, no matter how

⁴⁰² Jessie Blackburn, 'The UK's Anti-Terrorism Laws: Does Their Practical Use Correspond to Legislative Intention?' (2013) 8 *Journal of Policing, Intelligence and Counter Terrorism* 19 <<https://doi.org/10.1080/18335330.2013.789595>> accessed 10 July 2020.

⁴⁰³ *ibid.*

important or serious it may be. If the case passes the evidential stage, then the prosecutor must determine the prosecution is in the public interest.⁴⁰⁴

Hemming says that despite the challenges of the complexity of terrorism cases within the strict legal framework, the ability to prosecute terrorists is profoundly strengthened by the strong trilateral relationship build over the years between prosecutors, police, and intelligence services.⁴⁰⁵ The UK maintains a clear separation of power between the prosecution and the investigators. Therefore, the CPS is independent, although it works in collaboration with police and security services.

No matter how abhorrent the behaviour of terrorism, there should be a morally just response to terrorism. The human rights abuse, such as allegations of torture of British citizen abroad, such as the Guantanamo Bay detainee Shaker Aamer case with him claiming that the authorities in the UK were tacit about his torture taints the government image.⁴⁰⁶ In addition, President Musharraf of Pakistan stated that the UK gave tacit approval to torture.⁴⁰⁷

Staniforth states, "Pursuing terrorists through a public criminal justice system preserves and protects the democratic values of the prosecuting state while ensuring the rights of all concerned are maintained".⁴⁰⁸ As time is of the essence during the terrorism investigation, there is debate about how many days are enough for detention without charge. After 9/11, the UK introduced the indefinite detention of foreigners who are accused of terrorism, which was struck down by the courts based on it being incompatible with human rights. The government allowed the detention of terrorism for up to 28 days; however, it went back to 14 days.

Professor Clive Walker states that there is no empirical evidence suggesting that terrorism investigation is significantly different from other serious crimes; thus, it is difficult to justify a long period of detention for terrorist cases.⁴⁰⁹ However, Lord Carlisle states that it is not the number of days it is about how well scrutinised the system is.⁴¹⁰

⁴⁰⁴ The Crown Prosecution Service, 'Terrorism: Guidance in Relation to the Prosecution of Individuals Involved in Terrorism Overseas' (September 2019) <<https://www.cps.gov.uk/legal-guidance/terrorism-guidance-relation-prosecution-individuals-involved-terrorism-overseas>> accessed 22 August 2020.

⁴⁰⁵ Staniforth (n 329) 306.

⁴⁰⁶ Ruth Blakeley and Sam Raphael, 'British Torture in the "War on Terror"' (2016) 23 *European Journal of International Relations* 243 <<https://doi.org/10.1177/1354066116653455>> accessed 9 April 2020.

⁴⁰⁷ BBC News, 'Pervez Musharraf: UK "Gave Torture Tacit Approval"' (14 March 2011) <<https://www.bbc.co.uk/news/av/world-south-asia-12739836>> accessed 22 August 2020.

⁴⁰⁸ Staniforth (n 329) 307.

⁴⁰⁹ *ibid* 308.

⁴¹⁰ *ibid* 309.

There may never be an agreement on the definition of terrorism, but the upholding of the rule of law is a fundamental human right, is being observed in the UK. Lowe states that UK counterterrorism police have little or no discretion in applying the law because of a team environment, having Senior Investigation Officer (SIO) who makes the decision, and for the reason to cover the police for all eventualities. Otherwise, the prosecution could fail, and the burden would lie on SIO.⁴¹¹ Hence, UK police and security services engage in collecting evidence and surveillance to build a robust prosecution case which will secure a conviction through the criminal justice system.

4.7 Role of police in preventing radicalisation

Counterterrorism methods in the world have gone through significant reforms after 9/11, 7/7, and several attacks in Europe. In the UK, this reform has taken place in the shape of the Prevent programme. It is aimed at preventing radicalisation and extremism. The UK started working on its counterterrorism strategy called CONTEST since 2003 and Prevent was part of the strategy. However, the policy was not public knowledge. It was later that the strategy became available for public consumption after the 7/7 attacks in 2006.⁴¹² It is under the Prevent strand of CONTEST strategy through which the UK deals with preventing radicalisation. In November 2007, the UK government gave additional funds of £240 million to the police specifically to prevent violent extremism, which included the hiring of 3500 neighbourhood police officers to address radicalisation.⁴¹³ Prevent seeks to stop violent extremism, preventing radicalisation. Consequently, enhancing community resilience and addressing community vulnerabilities.

Prevent is also the heavily criticised part of UK counterterrorism strategy. Prevent was perceived as a hearts and minds approach with the aim of supporting mainstream voices and challenging the extremist ideologies. However, Muslims whose partnership it sought felt it as a mechanism of surveillance of the Muslim population. Prevent envisaged prevention of violent extremism through community cohesion. The Home Office defined a cohesive community as one where ‘there is a common vision and sense of belonging for all communities’ and where ‘strong and positive relationships are being developed between people from different backgrounds in the workplace, in

⁴¹¹ Lowe (n 1) 101.

⁴¹² Staniforth (n 329) 268.

⁴¹³ PNLD and others (n 329) 88-90.

schools and within neighbourhoods.’ However, the overlap between the cohesion/integration and Prevent came under strong criticism because it made them indiscernible and thus undermining both.⁴¹⁴ Consequently, it led to a review; the review found Prevent to be inherently flawed because of the overlap and thus recommended that the cohesion efforts and Prevent must be separate.⁴¹⁵ However, it is still proving challenging in practice to keep them separate as they can be interacting fields of policy.⁴¹⁶

Prevent institutionalises police overt counterterrorism capacity whereas traditionally police role was mainly covert capacity and very narrowly overt capacity. Prevent significantly altered that. In the past, it was primarily about disrupting the plots and plotters. Whereas now that comes under the Pursue strand of CONTEST strategy, which can work together with the Prevent strand. The more overt nature of policing in the UK has developed organically. Prevent for police was a complete change of mind-set in terms of prevention work.⁴¹⁷ Critically Prevent carved out space over time for itself and positioned itself between overt and covert policing.

Neighbourhood police play a key role in Prevent. The local police are in a unique position due to their knowledge of the local communities. Therefore, the police, along with other local agencies, can play a critical role in tackling extremism. In the UK, neighbourhood policing is at the heart of policing. Perito and Weisburd⁴¹⁸ state that localised police are best placed to handle terrorism. Their core policing concept means that police should be involved in counterterrorism to the maximum extent possible. As per their argument, all sorts of serious crimes should be handled by the police, including terrorism. Police could improve the quality of life for individuals and their communities. Matt Baggot, who led the national Neighbourhood policing programme, stated that Neighbourhood policing works and that "confidence in local policing is improving",⁴¹⁹ therefore local policing is given more stake in policing.

⁴¹⁴ Therese O’Toole, Daniel Nilsson DeHanas and Tariq Modood, ‘Balancing Tolerance, Security and Muslim Engagement in the United Kingdom: The Impact of the “Prevent” Agenda’ (2012) 5 *Critical Studies on Terrorism* 373 <<https://doi.org/10.1080/17539153.2012.725570>> accessed 23 July 2020.

⁴¹⁵ *ibid.*

⁴¹⁶ *ibid.*

⁴¹⁷ Innes and others (n 347) 18.

⁴¹⁸ Bayley (n 78) 78.

⁴¹⁹ Staniforth (n 329) 327.

It is a significant change in policing in the UK. Prevent teams bridge between neighbourhood and counterterrorism police. Transparent counterterrorism approach is valued by the public, according to Innes *et al.*⁴²⁰ There is broad public acceptance of Prevent being delivered openly. Prevent engagement activity is mainly performed by the Neighbourhood policing team. Community support officers are not just involved in the policing but build police-community relations. It is more "Brooke Bond than James Bond" approach an officer stated in an interview by Innes *et al.*⁴²¹; by this, he means that the actual work of police working on Prevent is working on community concerns in a collaborative manner.

However, sometimes communities want to solve their problems discreetly through speaking to elders or getting the Imam involved in the case of Muslim communities, thus excluding the police. Briggs *et al.* state that the community should be able to self-police as they know the precursors of people being radicalised.⁴²² Bayley and Perito suggest that in counterterrorism, police and the public should be co-producers of security in fighting counterterrorism.⁴²³ Innes states that co-producers are when both work together and achieve an outcome which none would be able to achieve had they worked on their own. Such as the case in Birmingham Alum Rock area where a terrorist group Al Muhajiroon were trying to radicalise the community there, and both community and police worked together to stop them.⁴²⁴ This was a very pragmatic approach and provided a map for future policy community partnerships in an intervention.

The Prevent review states that "The police have played a central and a vital role in implementing the last Prevent strategy." It further says that police had played a "galvanising" role in creating Prevent partnerships and support among several Prevent stakeholders.⁴²⁵

As stated earlier, police play a central role in Prevent strategy. The role of the police in the development of the Prevent program has been substantial; however, Lord Carlisle stated that Prevent is not a police programme and should not become a police programme, it ought to be a multi-agency programme.⁴²⁶ However, Prevent has facilitated cooperation between police

⁴²⁰ Innes and others (n 347) 19.

⁴²¹ *ibid* 30.

⁴²² Briggs, Fieschi and Lownsbrough (n 101).

⁴²³ Bayley (n 78) 67.

⁴²⁴ Innes and others (n 347) 43-44.

⁴²⁵ Home Office UK government, 'Prevent Strategy Review' (2011) 99

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf> accessed 22 August 2020.

⁴²⁶ *ibid.* para 3.43

and communities on matters of security. The police are a delivery partner of Prevent program. The Prevent Review in 2011 noted that it was envisioned that Prevent could also look into expanding into other forms of counterterrorism, and the role of the police was especially notable in dealing with extreme-right wing terrorism.⁴²⁷ Prevent police work in 2011 received the largest funding for Prevent.⁴²⁸ Police have raised concerns that their workload for Prevent agenda is too much; the number of people employed by the police for Prevent are more than the number of people used by the local authorities.⁴²⁹ Although the UK government gave the biggest chunk of funding to the police, it was also aware that this could create problems as people can fear that this program is used by the police to spy on them or only for the Muslim community. It can raise concerns about the data gathering, as stated by Qurashi,⁴³⁰ Spalek and Lambert.⁴³¹ Therefore, people can fear that even expressing some views which may not be illegal as per the law and thus come under the freedom of speech domain but could nonetheless be used to incriminate them.

Prevent police authorities have developed a closer dialogue with the communities regarding their counterterrorism work explaining to especially Muslim communities that their counterterrorism work is not against Islam, unlike the opponents of Prevent claim. Police community outreach has many purposes. Prevent police funding is spent on building resilience and cohesion in the community. All terrorists seek to radicalise people for their cause, and young people are a significant target for them. It is essential to recognise the factors which encourage people to terrorism, and it is crucial to understand those factors so that the policy could be drawn to tackle those factors—the CONTEST strategy emphasised on the need for understanding the causes of extremism.⁴³²

CONTEST strategy state that evidence suggests that support for terrorism comes due to rejection of parliamentary democracy, non-acceptance of multi-faith, non-acceptance of an integrated and cohesive society. Lord Carlisle stated that the new strategy far more strongly defines Prevent as an integral part of counterterrorism policy.⁴³³ Prevent strategy involves

⁴²⁷ *ibid.*

⁴²⁸ *ibid.* para 11.34

⁴²⁹ *ibid.* para 6.69

⁴³⁰ Fahid Qurashi, 'The Prevent Strategy and the UK "War on Terror": Embedding Infrastructures of Surveillance in Muslim Communities' (2018) 4 *Palgrave Communications* 17 <<http://dx.doi.org/10.1057/s41599-017-0061-9>> accessed 7 April 2020.

⁴³¹ Basia Spalek and Bob Lambert, 'Muslim Communities under Surveillance' (2007) 68 *Criminal Justice Matters* 12 <<https://doi.org/10.1080/09627250708553274>> accessed 7 April 2020.

⁴³² UK Government, 'The United Kingdom's Strategy for Countering Terrorism' (n 48).

⁴³³ UK Government, 'Prevent Strategy Review' (n 425) 3.

police, voluntary organisations, local communities, frontline staff, probation, social services, the education sector, and the health sector. Universities are also obliged to play their part in this strategy; there is a duty on the universities to prevent terrorism at their campuses under the legislation of Counterterrorism and Security Act 2015 (CTSA). Universities are listed in the Act as ‘specified authorities’ and must “in the exercise of their functions, have due regard to the need to prevent terrorism.”⁴³⁴ Whilst also recognising the fundamental right of freedom of expression at the universities. The role of police in preventing radicalization is at the heart of Prevent strategy, Special Branch, and counterterrorism police engage in preventing radicalisation. As a result of Prevent, police understanding of the Muslim community has also improved. Relations between Muslims and police have also been improved. Notably, the police programme’ operation Nicole training received positive feedback.⁴³⁵ Operation Nicole was specially designed to break down barriers between the police and communities by explaining them about the counterterrorism work. Through that, Isa Ibrahim was arrested for planning to blow up Bristol shopping mall after a Muslim community member who attended a Prevent awareness workshop contacted the police.⁴³⁶

Prevent work is carried out by several police teams, including family liaison officers, community police teams, police community support officers, Prevent engagement officers, Channel coordinators, and intelligence officers.

UK’s multi-agency channel program was found to be successful⁴³⁷ and plays an important role in identifying those who present a future threat.⁴³⁸ Over 1 million people have received counterterrorism training.⁴³⁹ With over 1500 people being referred to channel program who were considered vulnerable since 2012.⁴⁴⁰ The channel programme is confidential. It is police co-ordinated program. UK channel program identifies and supports people who are at risk of radicalisation. Theresa May the then Home Secretary and Minister for Women and Equalities

⁴³⁴ Counter-Terrorism and Security Act 2015 cl 26(1)

⁴³⁵ Her Majesty’s Inspectorate of Constabulary, ‘Inspecting Policing in the Public Interest -Prevent Progress and Prospects’ (2009) 32.

⁴³⁶ Sean O’Neill, ‘Former Public Schoolboy Isa Ibrahim Convicted of Planning “Carnage” | The Times’ (18 July 2009) <<https://www.thetimes.co.uk/article/former-public-schoolboy-isa-ibrahim-convicted-of-planning-carnage-jv86lzwkjpt>> accessed 22 August 2020.

⁴³⁷ UK Government, ‘Prevent Strategy Review’ (n 425) 1.

⁴³⁸ Thomas Martin, ‘Governing an Unknowable Future: The Politics of Britain’s Prevent Policy†’ (2014) 7 Critical Studies on Terrorism 62 <<https://doi.org/10.1080/17539153.2014.881200>> accessed 7 April 2020.

⁴³⁹ UK Government, ‘The United Kingdom’s Strategy for Countering Terrorism’ (n 48).

⁴⁴⁰ HO News Team, ‘Factsheet: Prevent and Channel - Home Office in the Media’ (5 November 2019) <<https://homeofficemedia.blog.gov.uk/2019/11/05/factsheet-prevent-and-channel/>> accessed 22 August 2020.

stated that through its Prevent strategy, the government would engage with all but not those organisations who are against the fundamental British values such as the rule of law, democracy, full participation in society and our values of universal human rights.⁴⁴¹

The Prevent strategy covers deradicalization and countering violent extremism. In which police work alongside the key sectors such as education, health sector, internet technology companies, criminal justice, and faith groups. Police newly established Prevent Enforcement officers (PEO) connect Neighbourhood policing and communities. PEOs develop an understanding of community issues, develop contacts in the community, thus identify Prevent related tasks. There are numerous police departments tasked with building connections with communities and keeping the community safer. For example, Police Community Support Officers (PCSOs) help PEOs and local communities about reducing the threat to terrorism in ways, which were difficult to imagine a few years ago.⁴⁴² There are a high number of police from black and ethnic minority communities in Prevent policing compared to the general policing average of 4.6% for police officers and 7.4% of police staff national average.⁴⁴³

PEOs PCSOs and CTIOs work together to decide how the police and partners' resources should be allocated to deal with any threat, to inform and guide their community engagement. Since 2011-2012 CTIOs, the future funding of CTIO ceased due to the concern that their work is covert rather than overt. The review noted that it is essential that Prevent policing develop community trust hence the cessation of funding for CTIO.⁴⁴⁴

Prevent review suggested that the police officers are more familiar with counterterrorism than others and therefore adapt faster to Prevent. The review also noted that Prevent is not owned by the police authorities; however, these authorities have a central role to play with police receiving over 70% of direct funding under Prevent. Spalek noted that allegations that Prevent is used for spying harm the trust; therefore, Prevent must never be used for this purpose.⁴⁴⁵ Prevent review in 2011 said that it is essential that prevent policing develops community trust.

⁴⁴¹ UK Government, 'Prevent Strategy Review' (n 425) 1.

⁴⁴² *ibid.* 11.21

⁴⁴³ *ibid.* 11.22

⁴⁴⁴ *ibid.* 11.26

⁴⁴⁵ Spalek (n 103) 50.

Spalek and Lambert⁴⁴⁶ state that Prevent approach has alienated Muslim communities. Where it sees them as a suspect community, however, Innes state that data from the British Crime survey suggest that such effects are more nuanced. Innes points out the result of the surveys, which show results that Muslims are more likely to have trust in police than the general population on various indicators such as reliance and confidence in the police. Muslims highly rate the police than the general population. Innes states that if Prevent has had a detrimental impact on police-community relations, we would not see such indicators. However, he also says that when it comes to young men between 16-24, fewer Muslim men will rate police good or excellent compared to the general population, still withstanding the figure for older Muslim men of police approval remains high. He states that perhaps Prevent could have moderately influenced negatively on young age groups Muslim men. Overall, there is no strong anti-police position in Muslims, according to his report⁴⁴⁷.

Professor Silke states that Prevent strategy is good at recognising that there is a process element to terrorist psychology.⁴⁴⁸ It does not happen instantaneously. Prevent had made significant achievements. Research shows that the rise in the trust level within the Muslim community.⁴⁴⁹ Therefore, Prevent has proved to the public and parliament that communities could defeat terrorism. UK CONTEST strategy is a success that could also be gauged from the fact that the EU adopted CONTEST. EU says it is effective⁴⁵⁰. Therefore, making the UK forbearer in the EU in tackling terrorism. In addition, the Obama administration's National Strategy for Countering Violent Extremism (CVE) issued in 2011 is widely acknowledged as having been principally influenced by Prevent.⁴⁵¹ Hence CONTEST could be argued as the most refined counterterrorism strategy in the developing world. Though UK counterterrorism evolution could be stated as reactionary, however, the collaborative approach which could be seen now has developed because of action on counterterrorism. The US also accepts that community contact in tackling terrorism is integral. Complacency in counterterrorism is unwise.

⁴⁴⁶ Spalek and Lambert (n 431).

⁴⁴⁷ Innes and others (n 347) 47.

⁴⁴⁸ Staniforth (n 329) 328-329.

⁴⁴⁹ *ibid* 332.

⁴⁵⁰ Martin Innes, Colin Roberts and Trudy Lowe, 'A Disruptive Influence? "Prevent-Ing" Problems and Countering Violent Extremism Policy in Practice' (2017) 51 *Law & Society Review* 252.

⁴⁵¹ *ibid*.

On the other hand, Aly criticising the Prevent approach says it is based on four flawed assumptions. Which are marginalisation, the primacy of religion and ideology; focus on radicalisation and narrow construction of audience that terrorist seeks to influence. Firstly, marginalisation assumption came out due to the suggestions that the 7/7 bombers were marginalised. She says there is little evidence which supports the link between social-economic inequity, disengagement from society and terrorism. Secondly, she says religion and ideology are not the sole motivators for violent extremism. Thirdly, the focused approach on radicalisation does not distinguish between violent and nonviolent radicalisation that rejects the use of violence, and finally, singling out on Muslim community limits the scope of collective social resistance that is required to counter terrorist influence. She makes the case on the like of Bali Peace Park Association Inc. Initiative (BPPAI), which formally collectively constructs a counter-terrorist narrative and thus promotes collective response by involving multiple audiences because the terrorists aim to influence multiple audiences.⁴⁵²

4.8 Relations between police, public, and its impacts on counterterrorism in the light of community policing in the UK

The UK terrorism response has been tough yet sensitive to avoid damaging the trust of the communities. It engages through the principle of policing by consent, and the police have over the years, developed a good relationship with the public.⁴⁵³ The police routinely state that they rely on the public for guidance, a big chunk of the CONTEST strategy focuses on fostering the relations between police and communities. Police in all countries relies on the public to be on their side. For the public to cooperate, police need to provide them with an environment where they can speak freely and confidentially and know that police would act based on their information. Metropolitan police state that it relies on public and part of its mission is to cater for the needs of victims and provide the best need-based platforms that victims or member of the public can report a crime, updating them on the action on their complaint, police keep individuals needs into consideration, be it physical, mental, or any other vulnerabilities and tender their approach accordingly.⁴⁵⁴ Police and crime

⁴⁵² Anne Aly, 'The Policy Response to Home-Grown Terrorism: Reconceptualising Prevent and Resilience as Collective Resistance' (2013) 8 *Journal of Policing, Intelligence and Counter Terrorism* 2.

⁴⁵³ Public confidence in their local police has seen a sustained increase – from 47% to 62% – between 2003/04 and 2011/12

See: David Brown and Paul Quinton, 'Integrity Programme Data Pack on Public Trust and Confidence in the Police'. <https://whatworks.college.police.uk/Research/Documents/Data_pack_Public_trust.pdf> accessed 21 May 2020

⁴⁵⁴ Metropolitan Police, 'Total Victim Care (TVC) Policy Statement and Equality Impact Assessment' (2019).

commissioners are elected through public elections. Police routinely hold meetings with faith leaders, community leaders, police public liaison committees. Police conduct for dealing with terrorism suspects is regulated by part H of the Police and Criminal Evidence Act 1984 (PACE 1984), which protects the rights of the suspects whilst they are in police custody. There is an audio recording of the interviews as per Part H of PACE 1984.

It is generally acknowledged that it was community policing that paved the way for policing practices to be legitimized from the very beginning of modern policing in 1829. Police in the Victorian era was met with ridicule in which people thought that the ruling elite had sent the police to control the working-class people.⁴⁵⁵ 1990's historians had a consensus that people's quality of interactions also influenced their perception of the police. Scandals of the metropolitan police in 1920 corruption, torture, harmed the trust in the police.⁴⁵⁶

Police conduct is also regulated by the Independent Police Commission, which is an independent public body. They are an independent institution dealing with police complaints; any death in police custody is automatically referred to the Independent police commissioner regardless of the circumstances. There is a culture of compensation for the police's failure to adhere to the laws and could lead to further disciplinary actions. Police recruitment and vetting is very competitive and go through the highest level of scrutiny known as Developed Vetting (DV) to join the force. Most public travel networks run a campaign of reporting suspicious activity to the specially designated transport police or normal police force. Counterterrorism Police have launched several Communities Defeat Terrorism⁴⁵⁷ campaigns encouraging the public to assist the police. The government says that previous public campaigns have resulted in an increase in intelligence by up to 50 percent.⁴⁵⁸

Dunn *et al.* findings affirm the utility of community policing for counter-terror work⁴⁵⁹ they state that abandoning community policing and reverting to traditional counterterrorism policing due to terrorism threat would be counterproductive. Traditional policing will create distance, whereas community policing will enhance trust and confidence.⁴⁶⁰ It is suggested

⁴⁵⁵ David Churchill, 'Polychronicon: Reinterpreting Police-Public Relations in Modern England' [2014] Teaching History 26 <<http://www.jstor.org/stable/43260869>> accessed 11 March 2020.

⁴⁵⁶ *ibid.*

⁴⁵⁷ National Counter Terrorism Security Office, 'New Communities Defeat Terrorism Campaign Launched - GOV.UK' (23 January 2019) <<https://www.gov.uk/government/news/new-communities-defeat-terrorism-campaign-launched>> accessed 22 August 2020.

⁴⁵⁸ *ibid.*

⁴⁵⁹ Dunn and others (n 82).

⁴⁶⁰ John Murray, 'Policing Terrorism: A Threat to Community Policing or Just a Shift in Priorities?' (2005) 6 Police Practice and Research 347 <<https://doi.org/10.1080/15614260500293986>> accessed 23 April 2020.

that aggressive tactics and invasive technology will fail to reduce the threat of terrorism and that strategies based on the fundamental tenets of community policing could be effective against terrorist organizations.⁴⁶¹

Dunn *et al.* state that in the current war on terror context, the criminal justice approach is more useful than the military approach, as the military approach scarcely leads to an end of radicalised groups. They state that the criminal justice model is more comprehensive in counterterrorism as the trust of the community is vital, and the efforts of anti-radicalisation within the community context require consultations and partnership with the communities.⁴⁶²

Community support is critical for successful policing. Community trust, confidence, and participation are particularly important in crime prevention. Dunn *et al.* say about the success of police-community counterterrorism initiative in Australia that the fundamental reason for the success was the trust, confidence, and cooperation between the Muslim community and community engagement unit of the Counterterrorism and Special Tactics Command.⁴⁶³

Police free from political influence is critical for cooperation from different stakeholders. They state that policing with consent has greater depth and reach in which the community is involved.⁴⁶⁴ When police develop a good relationship with sections of the community, it can also obtain valuable intelligence. However, the community policing use to collect intelligence is contested about its usefulness and harms.

Dunn *et al.* state that in Western societies, the role of the police has become proactive rather than reactive. From responding to crime, it has become defending the citizen in a democratic state.⁴⁶⁵ Community policing is classed as a proactive approach rather than a reactive approach. Police require the public to help them, and trust in police will lead to more cooperation.

It is accepted in the Western world that cooperation of the community is critical to reducing the risk from terrorism. Foundation of effective community engagement is *trust* as per

⁴⁶¹ Ben Brown, 'Community Policing in Post-September 11 America: A Comment on the Concept of Community-Oriented Counterterrorism' (2007) 8 *Police Practice and Research* 239 <<https://doi.org/10.1080/15614260701450716>> accessed 7 April 2020.

⁴⁶² Dunn and others (n 82).

⁴⁶³ *ibid.*

⁴⁶⁴ *ibid.*

⁴⁶⁵ *ibid.*

Cherney and Hartley.⁴⁶⁶ For that public needs to have trust with the police intentions. Bayley and Weisburd say that preoccupation with intelligence gathering can undermine the community counterterrorism policing efforts.⁴⁶⁷ Global counterterrorism needs to be fought at a local level. Therefore, justifying the need for community-based policing models. There is a consensus that people are more likely to cooperate with police when they view law enforcement as legitimate⁴⁶⁸ and when police are fair in their treatment and decisions; thus, they attain public legitimacy.

Community policing has become the almost unchallenged definition of good and democratic policing.⁴⁶⁹ The purpose of the adaption of community policing is to build a relationship with the public. Positive perception and relationship building with police leads to the reporting of more crimes, both terrorism, and non-terror related crimes.

The essence of community policing is developing partnerships between police, citizen and partner agencies, identifying problems, creating a solution to those problems; hence the police and citizen become co-producers of security. For police to properly deliver security, a multi-agency approach is needed, despite the decentralised police command structure in many countries. Partnership within the police force or other law enforcement organisation is necessary for police to do their job properly. Communities that engage in partnership with clergy, schools, neighbourhood watch groups have a lower crime rate as per the evidence.⁴⁷⁰ The creation of community policing doesn't have roots in counterterrorism. In the US, it rather arose due to the legitimacy crisis because police were involved in radicalised tactics and detached from the communities they were serving. In response, the police developed community policing, which made "police part of the community."⁴⁷¹

⁴⁶⁶ Adrian Cherney and Jason Hartley, 'Community Engagement to Tackle Terrorism and Violent Extremism: Challenges, Tensions and Pitfalls' (2017) 27 *Policing and Society* 750 <<http://dx.doi.org/10.1080/10439463.2015.1089871>> accessed 7 April 2020.

⁴⁶⁷ Weisburd and others (n 24) 96.

⁴⁶⁸ Erin M Kearns, 'Exploring Officer Views of Community Policing in Counterterrorism' (2020) 21 *Police Practice and Research* 18 <<https://doi.org/10.1080/15614263.2018.1428900>> accessed 7 April 2020.

⁴⁶⁹ Donna Sedgwick, Jason Callahan and James Hawdon, 'Institutionalizing Partnerships: A Mixed Methods Approach to Identifying Trends and Perceptions of Community Policing and Multi-Agency Task Forces' (2020) 00 *Police Practice and Research* 1 <<https://doi.org/10.1080/15614263.2020.1712204>> accessed 7 April 2020.

⁴⁷⁰ *ibid.*

⁴⁷¹ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 125-126.

Kenneth and others say community policing is a philosophy, not a program.⁴⁷² People cooperate more with police when they perceive that police are acting in a procedurally just manner. Many law enforcement officers agree at the usefulness of the community policing model. Officers who have used or had experience in using community police are more likely to support community policing in a survey done by the Washington Metropolitan police by E.M. Kearns.⁴⁷³ Older officers are more supportive of community policing in counterterrorism.⁴⁷⁴ In his research, he found that especially in the Washington area, terrorism was a key concern; therefore, there was more support for community policing, however, where the terrorism is not a key concern the community police support may be less. Although the public may like a tough and hard approach to crime, however, it is the relationship-building between police and public, which can gain most cooperation. Officers think that community policing is well suited for terrorism.⁴⁷⁵ Community policing is a strong instrument to build police-public relations. Bayley and Perito state that community policing is something everyone talks about, but no one knows about it.⁴⁷⁶ They say that community policing as a term is misused; therefore, they coin their own term for police that is responsive, fair, and available. They call this 'core policing'.

There is often low trust between police and communities. Initially, the Metropolitan Police Service (MPS) Muslim Contact Unit (MCU) introduced community policing in tackling terrorism. Lambert states that transparency is better than the use of informants as per his experience at MCU⁴⁷⁷. In 2008 neighbourhood policing was introduced to harness relations between police and communities. Spalek states that by being responsive to the routine concerns of individuals in terms of hate crime and discrimination, the trust could be built by police officers. Therefore, when it comes to counterterrorism, communities will also get involved. This view is also supported by Bayley and Perito⁴⁷⁸ and Weisburd *et al.*⁴⁷⁹ Community-based policing allows trust to be built between communities and police, especially the minority communities. They can perceive themselves as suspect communities due to counterterrorism measures. Community policing is a new concept within policing. Historically, Police officers have been more comfortable with traditional action-oriented

⁴⁷² Kenneth Novak, Gary Cordner and Roy Roberg, *Police and Society* (Oxford University Press 2016).

⁴⁷³ Kearns (n 468).

⁴⁷⁴ *ibid.*

⁴⁷⁵ *ibid.*

⁴⁷⁶ Bayley (n 78) 86.

⁴⁷⁷ Lambert (n 100) 60.

⁴⁷⁸ Bayley (n 78) 67.

⁴⁷⁹ Weisburd and others (n 24) 81-100.

policing rather than service-oriented policing. Murray states that it is challenging to make community policing a fundamental approach due to the conventional focus of police being crime-fighting compared to problem-solving.⁴⁸⁰

On the other hand, when community policing is accused of intelligence gathering exercise, it can significantly reduce its impact.⁴⁸¹ Qurashi states that intelligence is at the heart of the Prevent programme and it is Islamophobic in that it is constructed and targeted in such a way where it treats the whole Muslim community as a suspect community, which it perceives is infused with extremists.⁴⁸² The government response is alienating Muslim communities whom it should engage. The growing grievances of the Muslim community and sense of injustices are unwittingly being used by terrorists to progress their aim with or without their consent, according to the report *Bringing it Home*.⁴⁸³ It states that security is always delivered through consent, never through force. They say that communities should be at the heart of the counterterrorism approach because they hold valuable information and intelligence. It further states that the communities are likely to know the precursor of terrorism within the community, and they could self-police. Moreover, the report says that although state should take a role community should take a lead role in tackling problems which breed radicalisation and finally that the police and security service cannot act without the consent of the community they are there to protect.

The gist of this debate is that it is the community policing which paved the way for the policing to gain legitimacy at the time of the police legitimacy crisis. This expansion of community policing across various countries expanded; thus, there is a minimal challenge to its existence. However, there are isomorphic pressures and institutional pressures as well, which make for the police to use it as its preferred approach. Community policing was introduced in the 1980s, however more recently, especially in the 1990s, police have evolved, and community policing has been used widely in the Western countries. Community policing has been found useful not just with regards to ordinary crimes but also counterterrorism. Community policing uses the problem-oriented policing, and it is customised according to the needs of the specific communities and problems affecting them. It is different from traditional policing; over the years, it has carved out a position for itself in policing practices. It has been successfully employed in Australia, the US, UK. However, because community policing can

⁴⁸⁰ Murray (n 460).

⁴⁸¹ Spalek and Lambert (n 431).

⁴⁸² Qurashi (n 430).

⁴⁸³ Briggs, Fieschi and Lownsbrough (n 101).

focus on specific problems, but when it is used for intelligence gathering purposes, it can raise issues of certain communities being branded as suspects communities. Therefore, risking alienating and isolating certain communities as the human rights equality commission felt that Muslim and non-Muslim were living a parallel life due to their experience with police.

The Northern Ireland experience has also taught the UK that counterterrorism measures can stigmatise the whole communities. The same could happen with the Muslim community, according to the report by Equality and Human Rights Commission⁴⁸⁴ Concerning counterterrorism measures, the report revealed that Muslim and non-Muslims are living a parallel life in terms of their experience of counterterrorism measures where many Muslims feel the effect of counterterrorism measures, whereas non-Muslims do not feel the effects. Many Muslims felt alienated, isolated and being treated as a suspect community, which could be in breach of their human rights law of equality. Section 7 stops at the airport were the single most issue, having a negative impact on the Muslim community; however, some officers believe that the benefit of section 7 stops outweighs the negative impact. Targeted Prevent funding also made Muslims felt as a suspected community.⁴⁸⁵ Over-policing can lead to this kind of thinking. Understandably, it is difficult to strike the delicate balance of gathering intelligence for security and fostering good relations between community and police. However, it need not done in such a way where it risks alienating the whole community whose consent and legitimacy are sought.

4.9 Counter terrorism and human rights in the UK

Although as argued above, the UK since 9/11 has achieved considerable success but the system is far from perfect. A closer scrutiny of the UK counter terrorism record reveals several miscarriages of justices, human rights breaches, lack of following of adequate procedural safeguards, police torture, collusion between the security forces and paramilitary forces. Prominently, in Northern Ireland the collusion between security forces and loyalist paramilitary forces led to the killings of human rights lawyers namely Patrick Finucane and

⁴⁸⁴ Tufyal Choudhury and Helen Fenwick, 'The Impact of Counter-Terrorism Measures on Muslim Communities' (2011) 25 *International Review of Law, Computers and Technology* 151
<<https://doi.org/10.1080/13600869.2011.617491>> accessed 5 April 2020.

⁴⁸⁵ *ibid.*

Rosemary Nelson.⁴⁸⁶ There are various other casualties due to the collusion between the security forces and the loyalist paramilitary forces.

A growing body of evidence establishes that in Northern Ireland there was systemic and institutionalised collusion between the state (British Army, Royal Ulster Constabulary (RUC), Ulster Defence Regiment (UDR)) and the paramilitary loyalist forces.⁴⁸⁷ De Silva report⁴⁸⁸ shockingly revealed that the 85 percent of intelligence held by the loyalists derived from the state intelligence files and this intelligence was used by the loyalists to organise their escalating campaigns of killings in the late 1980s.⁴⁸⁹ Therefore, most Ulster Defence Association (UDA) targeting and attacks could be traced back to the security forces intelligence leaks. McGovern argues that this collusion can be based on the ‘doctrine of necessity’ under the ‘liberal ideology of collusion’.⁴⁹⁰ Nevertheless, he states the collusion not only raises major ethical questions, but it takes an enormous effort not to see this as a strategy of targeted assassination by proxy.⁴⁹¹ This is serious indictment against the state security forces about their conduct during the ‘Troubles’.

Throughout the ‘Troubles’ it was a problem to bring erring police officers to justice for their violence against terrorist suspects.⁴⁹² Police sometimes condoned abuses committed through the ‘noblest cause’.⁴⁹³ Whereas in the rest of the UK as well, the CPS failed to prosecute the police officers when there were deaths in custody or when the High Court found that police officers had tortured the suspect during interrogation.⁴⁹⁴

⁴⁸⁶ Patricia Lundy and Mark McGovern, ‘Truth, Justice and Dealing with the Legacy of the Past in Northern Ireland, 1998–2008’ (2008) 7 *Ethnopolitics* 177 <<https://doi.org/10.1080/17449050701847319>> accessed 31 May 2021.

⁴⁸⁷ Mark McGovern, ‘Informers, Agents and the Liberal Ideology of Collusion in Northern Ireland’ (2016) 9 *Critical Studies on Terrorism* 292 <<https://doi.org/10.1080/17539153.2016.1175274>> accessed 31 May 2021.

⁴⁸⁸ Official report by Desmond de Silva QC into state collusion in the 1989 loyalist killing of human rights lawyer, Pat Finucane, in his Belfast home led to a public apology issued by British Prime Minister David Cameron.

See: Henry McDonald, ‘Pat Finucane Report: David Cameron Apologises over Killing’ (*The Guardian*, 12 December 2012) <<https://www.theguardian.com/uk/2012/dec/12/pat-finucane-report-david-cameron-apologises>> accessed 3 June 2021.

⁴⁸⁹ McGovern (n 487).

⁴⁹⁰ *ibid.*

⁴⁹¹ *ibid.*

⁴⁹² Brice Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland* (OUP Oxford 2012) 186.

⁴⁹³ Clive Walker and Keir Starmer, *Miscarriages of Justice: A Review of Justice in Error* (Blackstone Press 1999) 5.

⁴⁹⁴ *ibid* 374.

4.9.1 *Shoot to kill policy*

Another stain on procedural justice and proportionate response is the ‘shoot to kill’ policy employed in Northern Ireland during ‘Troubles’. Although the British government never admitted its existence, however, Bamford argues it was authorised at the highest level of British government.⁴⁹⁵ The allegation is that the RUC and British army followed the shoot to kill policy when the suspects could have been arrested instead. This was in part driven by revenge and partly due to the higher threshold of evidence required by the judiciary when the testimony was based on informers and intelligence.⁴⁹⁶ The alleged shoot to kill policy went against the declared British counter terrorism policy of prevention and detection. Maguire states that the security forces changed their approach and set ‘ambushes [that] had to be carefully organized because security forces could obtain convictions only if the terrorists were caught in the act – a smoking gun scenario’.⁴⁹⁷ White et al. state that the pursuit of the shoot to kill policy by the police could be linked with the marked success of Sinn Fein in 1982 elections as this threatened the status quo.⁴⁹⁸ Therefore, the RUC officers on the ground, on their own accord initiated the shoot to kill policy and then later passed this on to SAS and British Army’s 14th Intelligence Unit. Afterwards, the political and military elite exploited this policy.⁴⁹⁹

4.9.2 *Use of special terrorism legislation in Northern Ireland*

In 1971 the Northern Ireland government using its special powers under Civil Authorities (Special Powers) Acts (NI) 1922–43 commonly known as Special Powers Act (SPA) reintroduced internment without trial to reduce the violence, but Dickson states that it rather exacerbated it.⁵⁰⁰ When the violence got out of control the Northern Ireland came under direct rule by the British government and they introduced the special acts. Such as the Northern Ireland (Emergency Provisions) Act 1973 (EPA) which not only retained internment but in addition, it introduced the concept of scheduled offences. Those accused of the ‘scheduled offences’ could be tried without the jury in courts known as ‘Diplock Courts’.

⁴⁹⁵ Bradley WC Bamford, ‘The Role and Effectiveness of Intelligence in Northern Ireland’ (2005) 20 *Intelligence and National Security* 581 <<https://doi.org/10.1080/02684520500425273>> accessed 28 May 2021.

⁴⁹⁶ *ibid.*

⁴⁹⁷ Keith Maguire, ‘The Intelligence War in Northern Ireland’ (1990) 4 *International Journal of Intelligence and CounterIntelligence* 154 <<https://doi.org/10.1080/08850609008435136>> accessed 28 May 2021.

⁴⁹⁸ Robert W White and others, ‘The Role and Effectiveness of Intelligence in Northern Ireland’ (2021) 4 *Intelligence and National Security* 145 <<https://doi.org/10.1080/02684520500425273>> accessed 28 May 2021.

⁴⁹⁹ *ibid.*

⁵⁰⁰ Dickson (n 492)21.

EPA was somewhat less draconian than SPA.⁵⁰¹ Still, the preferred approach of the Westminster government during the troubles was to create more special legislation for effective prevention and detection of unlawful paramilitary activities. It learned this concept was flawed later in the years through several reviews as argued above. At present, most of NI laws regarding anti-terrorism are completely uniform across the UK and NI has only a very few measures only applicable in NI.⁵⁰²

The partisan attitude of police in Northern Ireland, cover ups, lack of adherence to human right have led to the police trust being damaged in Northern Ireland. When the Good Friday Agreement (GFA) was formed at the heart of this agreement were changes in the Criminal justice system and in particular building trust in the policing in Northern Ireland.

4.9.3 Patten Report (*Independent Commission on Policing for Northern Ireland*)

In the backdrop of abuse of police powers during the Troubles and lack of strict adherence to the human rights, the Patten report came in 1999 to start a new beginning for the policing in Northern Ireland. At the heart of the report was to make the Northern Ireland police compliant with the ECHR and the Human Rights Act 1998.⁵⁰³ There was a strong emphasis on bridging the gap between police and the public by introducing police practices and police cooperation with the public through Problem Oriented Policing through Neighbourhood Policing by introducing community policing at the station level. This experience is relevant to Pakistan as stated in chapter 5 due to the lack of trust between police and public.

There is emphasis in Patten report on tenure security and making police serve for a period of at least 3 years in the same neighbourhood.⁵⁰⁴ This recommendation is applicable to Pakistan because the average tenure of a Station House Officer (SHO) of 60 to 90 days results in failure in effective leadership and fair accountability.⁵⁰⁵

Another lesson from NI experience for Pakistan is in terms of the appearance of the police buildings. The Patten report recommended that the police buildings should have the appearance of ordinary buildings with low perimeter walls and should be clearly visible form

⁵⁰¹ *ibid.*

⁵⁰² *ibid.*

⁵⁰³ 'A New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing for Northern Ireland' (1999) <<https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf>> accessed 4 June 2021.

⁵⁰⁴ *ibid* para 7.11.

⁵⁰⁵ Tariq Pervaiz, 'An Obstacle To Police Reform: Brevity of Tenures' [2015] Institute for Policy Reforms <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.195.9029&rep=rep1&type=pdf>>.

the streets.⁵⁰⁶ This is a solution which Perito and Parvez recommended as the fortress type buildings in Pakistan made in the British era creates a sense of fear in public.⁵⁰⁷ Also, the Patten report recommended armoured Landrovers should be replaced and police patrol vehicles should be substituted for them.⁵⁰⁸ This was to create a sense of normality in public. The security features in buildings and armoured vehicles could be used but in limited threatening situations rather than making them a general norm.

Patten report recommended that the military role should be reduced.⁵⁰⁹ This is the point this thesis emphasises and re-emphasises, that the military role needs to be decreased again the experience from NI supports this argument in the thesis.

Patten report recommends that the special legislation for Northern Ireland should be discouraged and the use of same legislation in the whole of UK is ought to be encouraged. It recommended the civilianisation of the jobs which do not require police powers, along this, there is emphasis on relocating police training to the outside venues to broaden its accessibility and to embed police to the communities.⁵¹⁰

4.9.4 *Role of the European Convention on Human Rights (ECHR) in Northern Ireland*

Dickson states that regrettably the role of ECHR in Northern Ireland conflict has been inadequate⁵¹¹. In the case of *Ireland vs United Kingdom*, the European Court of Human Rights (ECtHR) stated that ‘in the circumstances prevailing in the Ireland at the time, the indefinite detention without trial is compatible with the ECHR because the UK government has validly derogated from the applicable convention rights.⁵¹² Derogation is allowed under the article 15 of the convention in a time of "war or other public emergency threatening the life of the nation". Further, when the onus of proof was shifted to the defendant regarding firearms and explosives in certain conditions during the ‘Troubles’, it was the domestic common law which came to help the suspect and maintained the integrity of the process by requiring that the burden entirely rests on the prosecution rather than ECHR contributing in

⁵⁰⁶ ‘A New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing for Northern Ireland’ (n 503) para 8.5.

⁵⁰⁷ Perito and Parvez (n 43).

⁵⁰⁸ ‘A New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing for Northern Ireland’ (n 503) para 8.8.

⁵⁰⁹ *ibid* para 8.11.

⁵¹⁰ *ibid* para 10.23.

⁵¹¹ Dickson (n 492)53.

⁵¹² *Ireland v The United Kingdom* 5310/71.

this regard.⁵¹³ ECHR was largely irrelevant in NI troubles with its political role being minimal.⁵¹⁴ The Human Rights Act 1998 would have been passed in the UK and applied in NI regardless of the ECHR.⁵¹⁵ *Ireland vs UK* was another opportunity missed.

One of the instances where ECHR use was prominent was the case of *Ireland vs United Kingdom*. The practices which the police followed in Northern Ireland and lack of strict adherence to human rights led to Ireland suing the UK in 1971 for human rights breaches in Northern Ireland. As ECHR allows interstate application, Ireland brought a claim against the UK. It was the UK government Compton report which was a substantial piece of evidence used against the UK by Ireland as the Compton report stated that the 5 techniques used by the investigators were in contravention with article 2 (right to life), article 3 (Freedom from torture and inhuman or degrading treatment), article 14 (Protection from discrimination) of the ECHR.⁵¹⁶ The idea to sue the UK was also based on the fact that this would make military solution to the conflict more difficult and the UK would become more open to a political solution.⁵¹⁷

On the merits of the Ireland applications, the European commission on human rights, in its report unanimously found that the 5 techniques employed during the detaining and interrogating of suspects amounted to ‘torture’.⁵¹⁸ The UK government did not dispute that those techniques had been officially authorised and employed. However, the decision of the European commission of human rights was overturned by the ECtHR who held that although the techniques were inhuman and degrading but did not amount to torture. Dickson states that the subliminal message by the ECtHR to UK government was that it need not worry about the harsh international criticism for heavy handed interrogations.⁵¹⁹ Unsurprisingly the British soldiers were using these 5 interrogation techniques in Iraq 30 years later.⁵²⁰ In *Selmouni vs France* the court indicated that its decision in *UK vs Ireland* should have been different.⁵²¹

⁵¹³ Dickson (n 492) 223.

⁵¹⁴ *ibid* 363.

⁵¹⁵ *ibid*.

⁵¹⁶ William A. Schabas and Aisling O’Sullivan, ‘Politics and Poor Weather: How Ireland Sued the United Kingdom Under the European Convention on Human Rights by William A. Schabas, Aisling O’Sullivan :: SSRN’ (2007) 3 *Irish Yearbook of International Law* 37
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2483226> accessed 4 June 2021.

⁵¹⁷ *ibid*.

⁵¹⁸ *ibid*.

⁵¹⁹ Dickson (n 492).

⁵²⁰ *ibid*.

⁵²¹ *ibid*.

Nevertheless, Ireland initial success at the level of European Commission of Human rights led to reduction of the abuse of prisoners.⁵²²

4.9.5 UK Human rights cases in ECtHR

Often the UK's heavy-handed approach has resulted in the human rights breach claims succeeding in the ECtHR. The claims have been varied from failure to inform the accuse of the case against him (Article 6 ECHR) to breach of right of free movement (Article 5 ECHR). In *Chahal vs United Kingdom*⁵²³ the use of secret evidence against which the defendant could not challenge amounted to violation of his due process rights under article 5(4) of the Convention. Due to the threat to national security, the states are sometimes unwilling or unable to disclose the incriminating material to the accused or their lawyers. However, this secrecy and failure of disclosures undermines the fairness of the proceedings under the general norms of public law. The UK has resorted to deal with this through the appointment of special advocates for the accused. Special advocates are government security cleared advocates. They are given access to the material in Closed Material Proceedings (CMP). They act on the subject's behalf as the individuals and their legal representatives are excluded in such proceedings.

In the case of *Gillan and Quinton v United Kingdom (Application no 4158/05)* (also applied in *Beghal v. the United Kingdom (application no. 4755/16)*) the applicant successfully challenged the legality of section 44 of Terrorism Act 2000 regarding the Stop and Search powers on the basis that they breach Article 8 of the ECHR. ECtHR accepted their claim because it held that section 44 powers were too broad and there was a potential for abuse of this power as it did not require police officer to have reasonable suspicion to use this power.

In another case of *A and others v Secretary of State for the Home Department [2004] UKHL 56* the indefinite detention of foreign national under the Terrorism Act was challenged, The House of Lords stated that UK cannot rely on article 15 derogation as the act discriminates based on nationality. Later, on appeal the ECtHR in *A and Others v. United Kingdom*, (Application no. 3455/05) confirmed that the detention of applicants did not fall with the derogation to the right to liberty set forth in Article 5 (1) (f).

⁵²² O'Sullivan and Schabas (n 516).

⁵²³ *Chahal v UK [1996] 23 EHRR 413*.

4.9.6 *Police training for human rights*

O’Rawe on the policing reforms in post conflict societies like Northern Ireland and Pakistan states that the training in Human rights is the key to achieve the policing reforms.⁵²⁴ Looking at the Northern Ireland, she states that the training initiated as a result of the recommendation of Patten report is formal and superficial and does not effectively achieve the real attitudinal change which is required in a post conflict transitioning society.⁵²⁵ Therefore, expecting the human rights culture to develop organically in these societies is imprudent and futile. A favourable formal stance on human rights in policing organisations is not enough. Unless an attitudinal change takes place the subcultural values of these organisations can inhibit the real change. Often the language of crime control, effectiveness can dominate rather than the accountability and inclusiveness.⁵²⁶

The drawback of the police human rights training in Northern Ireland is that it has not incorporated acceptance of past human rights abuses by the RUC and admittance of the police cover ups. For a deeper attitudinal change, there needs to be admittance and recognition of these human rights abuses in the training.⁵²⁷ Therefore, the program for human rights training needs to be designed with the legacy of the conflict being in mind for it to be fruitful and need based.

The design of human rights training program should get engagement from a gut level and should have reference to practical and real examples.⁵²⁸ Thus, recognising that the issues of human rights, inclusion and diversity cannot be taught purely on a cognitive level. The NI experience offers valuable lessons for Pakistan.

⁵²⁴ Mary O’Rawe, ‘Human Rights and Police Training in Transitional Societies: Exporting the Lessons of Northern Ireland’ (2005) 27 *Human Rights Quarterly* 943 <<http://www.jstor.org/stable/20069816>> accessed 20 March 2021.

⁵²⁵ *ibid.*

⁵²⁶ *ibid.*

⁵²⁷ *ibid.*

⁵²⁸ *ibid.*

4.10 Conclusion

Despite human rights concerns highlighted above, overall, the UK counterterrorism strategy is a well-documented plan to fight terrorism, which has been found to be effective by independent reviews. The UK faces extraordinary counterterrorism challenges. It is the country most at risk of home-grown terrorism in all Europe.⁵²⁹ Throughout the country's history, police through its Special Branch has played a key role in counterterrorism, complemented by the security services, the secret services, and GCHQ. Initially, the work of Secret Services was not under any statutory footing; however, over the years, due to concerns regarding their conduct, it came under the legislation footing.

As stated earlier in many aspects, the UK is the flag bearer or beacon of good practice, especially its remarkable asset in its counterterrorism strategy is the collaboration between Special Branch and security services, greatly complemented by the secret services. The UK follows the model of policing by consent, and through this, the country has developed policing, which is largely high approval rating; however, its approval rating has dropped over the last few years, yet overall, it remains high. Police play a big role in preventing radicalisation still, focused measures on the Muslim community have raised concerns about using the Prevent program for spying and therefore branding Muslims as suspect communities. Nonetheless, the approval of police in the Muslim population remains high, except the young Muslims who are less likely to have trust in police compared to the general population. Police accept its reliance on improved relations with the public as a vehicle to fight terrorism, the neighbourhood policing teams harnessing those relationships with the communities. The terrorism prosecution rates also remain high, with 73% of those convicted in 2019 pleading guilty, and the overall conviction rate remains high.⁵³⁰ However, there are growing concerns about the effectiveness of the UK de-radicalisation program as the London Bridge attacker Usman Khan was known to Prevent and had completed de-radicalisation program in prison,⁵³¹ besides the fact that prison can be a hotbed for radicalisation. There are

⁵²⁹ Lowe (n 1)21.

⁵³⁰ Home Office, 'Operation of Police Powers under the Terrorism Act 2000 and Subsequent Legislation: Arrests, Outcomes, and Stop and Search' (2019) 13
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/850457/police-powers-terrorism-sep2019-hosb3019.pdf> accessed 9 April 2020.

⁵³¹ Bill Bostock, '24 People Have Been Killed by Terrorists Who Went through Government "deradicalization" Programs, Showing Why These Efforts Are Crucially Flawed' (*Business Insider*, 7 December 2019)
<<https://www.businessinsider.com/deradicalization-terrorists-does-it-work-london-bridge-2019-12?r=US&IR=T>> accessed 22 August 2020.

also concerns regarding the counterterrorism measures being targeted on a specific community. Along with that, there are concerns that the UK government has tacitly approved torture overseas in places such as Pakistan and Guantanamo Bay, although the government denies it. The trust of police is also evident from the fact that in many cases, the ordinary citizens have alerted police, which has resulted in successful terrorist prosecution. Overall, the country police have fared well in foiling and disrupting terrorist attacks as the government has placed increased reliance on them. The police are largely free from political influence, and corruption has decreased considerably over the last few decades. Although there are debates about providing more firearms to the police, it comes at the cost of people's response towards police becoming more hostile, given that trust, legitimacy, and cooperation of public are now accepted as a prerequisite to successful counterterrorism fight.

CHAPTER FIVE

5. ROLE OF POLICE IN COUNTERTERRORISM IN PAKISTAN

This chapter describes Pakistan's counterterrorism security apparatus and the role of police in it. In addition, it describes the increased role of the military in the country's security infrastructure. It analyses the military-led approach's impacts on terrorism and human rights. Moreover, it analyses cooperation between police and the military-led security agencies in Pakistan. It analyses cooperation between police and prosecution in Pakistan. Further, it describes the role of police in preventing radicalisation. Finally, it examines the relations between police and the public in Pakistan.

5.1 Introduction:

Pakistan has consistently been ranked as the top 5 countries on the Global Terrorism Index. Despite the recent immense successes in counterterrorism, especially after 2015, Pakistan is still ranked at no.5 in Global terrorism index 2019.⁵³² Concurrently, despite the alarming growth of terrorism during the peak period (2001-2016), Pakistan has been unable to prosecute terrorists who have been able to slip through the cracks due to the dysfunctions in its criminal justice system. These flaws include the lack of role of police in counterterrorism, lack of coordination between its security agencies, and lack of trust between police and public where people see reporting a crime to the police as a very last resort, and most people believe police to be the most corrupt public institution in the country with judiciary closely following in negative public ratings.⁵³³ Whilst Pakistani police and prosecution play a blame game to the benefit of the terrorists who benefit from these legal lacunae.⁵³⁴

⁵³² Institute For Economics and Peace, 'GLOBAL TERRORISM INDEX 2019 MEASURING THE IMPACT OF TERRORISM' (2019) <<http://visionofhumanity.org/reports>> accessed 22 August 2020.

⁵³³ Transparency International, 'Global Corruption Barometer- Asia Pacific' (*Transparency International*, 2017) <<https://www.transparency.org/en/gcb/asia-pacific/asia-pacific-2017/results/pak>> accessed 22 August 2020.

⁵³⁴ Zaidi (n 17) 5.

Pakistan is the 5th most populous country in the world, the only nuclear state in the Muslim world⁵³⁵, bordering India, China, Iran and Afghanistan, Pakistan has the 7th largest military in the world.⁵³⁶ Uniquely Pakistan army is the most powerful organ of the state, although a democratic country; however, its military has taken hold of power through coups and directly ran the country for over three decades, whilst rest of the time when out of direct power, the military continues to have dominance in country's polity indirectly. Besides being the most dominant institution in the country, the military is also the biggest enterprise in the country,⁵³⁷ which strengthens its entrenched hold on power.

5.2 Pakistan recent incidents and counterterrorism challenge:

Pakistan has suffered numerous terrorist attacks since 2001. Before 9/11, there had been only one suicide attack, since then there have been over 479.⁵³⁸ Before 9/11, Pakistan was the only country, apart from the UAE, to recognise the Taliban as a legitimate government ruling Afghanistan. After the Taliban's involvement in 9/11 and the US subsequent war in Afghanistan, Pakistan abandoned its support for the Taliban and sided with the US. Pakistan's foreign policy change made the Pakistani state become a target from the terrorists from both sides of the border. Most of the attacks directed towards the country originated and were planned from these porous border regions between Afghanistan and Pakistan, areas within Pakistan's side are called Federally Administered Tribal Areas (FATA). The border between Afghanistan and Pakistan is extremely porous⁵³⁹ and like an open door. These regions have previously been governed through separate rules and laws than mainland Pakistan. Even at the time of the British rule in the Indian subcontinent, these regions were ruled indirectly through the tribal elders called 'Maliks'.⁵⁴⁰ However, due to terrorism problems radiating from this region and high concentration of militants, Pakistan decided to launch an operation at these historically military no go areas. Retaliation of this operation led to urban terrorism in major cities and widespread terrorism in the country, which the country could have never envisaged, and neither was it able to cope.

⁵³⁵ Alexandra Ma and Shayanne Gal, 'The 9 Countries with Nuclear Arms, and Allies They've Vowed to Defend - Business Insider' (26 September 2019) <<https://www.businessinsider.com/these-are-the-9-countries-with-nuclear-weapons-2018-10?r=US&IR=T>> accessed 22 August 2020.

⁵³⁶ Tajik (n 36) 103.

⁵³⁷ Siddiq, *Mil. Inc. - Second Ed.* (n 206) 2.

⁵³⁸ South Asia Terrorism Portal (n 211).

⁵³⁹ Alexander Neill, 'Towards Cross-Border Security' (2010) <www.rusi.org> accessed 22 August 2020.

⁵⁴⁰ Anatol Lieven, 'Counter-Insurgency in Pakistan: The Role of Legitimacy' (2017) 28 *Small Wars and Insurgencies* 166 <<https://doi.org/10.1080/09592318.2016.1266128>> accessed 20 January 2019.

The operations in FATA led to the development of an organisation called Tehreek-e-Taliban Pakistan (TTP), which was an umbrella organisation and it provided different factions of Islamic pre-existing terrorist organisations a place to launch attacks on their common enemy—state of Pakistan. These organisations were able to set aside their doctrinal differences and attack the state of Pakistan in a manner never witnessed before by the country. The assumption that FATA operations could be contained within its territory and not cause urban terrorism proved wrong.⁵⁴¹

TTP led attacks that resulted in mass casualties in the country. The primary victims of these attacks were the security agencies and police. At these ferocious attacks, police were the mere bystanders due to being poorly equipped in dealing with terrorism. The terrorist's primary tool was suicide bombers. Most of the terrorism problem was concentrated in the Khyber Pakhtunkhwa (KPK) province, which borders the volatile FATA areas. Nevertheless, the attacks took place in most of the country's big urban cities like Lahore and Islamabad. It led to even the Chief Minister of Punjab province pleading to the Taliban to stop the attacks, saying to terrorists that if they are against the Pakistan alliance with the US, then "we are fighting the same cause."⁵⁴² This caused extreme concern and anger, seeing him appeasing the terrorists. The main target of terrorists were the security forces, critical infrastructure, mosques, political parties' rallies, shrines of saints. Shrines were attacked because the terrorist groups had a particular disagreement with the Sufis or Barelvis sect because of strong doctrinal differences with them, they branded Barelvis as infidels due to their use of shrines for dancing, beating drums and chanting, the rituals they termed un-Islamic.⁵⁴³

The most prominent terrorism attacks include the attack on Pakistani leaders, including President Musharraf and Prime Minister Shaukat Aziz, both of whom survived the terrorist attacks. When Prime Minister Benazir Bhutto returned to Pakistan after eight years of self-exile on the day of her return, her rally of supporters was attacked, killing over 149 people, and injuring 402.⁵⁴⁴ Two months later, in the city of Rawalpindi, which is next to the capital Islamabad, at a political rally, Benazir Bhutto herself, and 23 others got killed.⁵⁴⁵ The crime

⁵⁴¹ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁵⁴² HUSSAIN and ZAHRA-MALIK (n 166).

⁵⁴³ Jon Boone, 'The Saints Go Marching out as the Face of Islam Hardens in Pakistan | The Guardian' (15 January 2014) <<https://www.theguardian.com/world/2014/jan/15/islam-pakistan-barelvi-saudi-wahhabi>> accessed 22 August 2020.

⁵⁴⁴ Owen Bennett Jones, 'Benazir Bhutto Assassination: How Pakistan Covered up Killing - BBC News' (27 December 2017) <<https://www.bbc.co.uk/news/world-asia-42409374>> accessed 22 August 2020.

⁵⁴⁵ *ibid.*

scene was washed in a few hours, leading to conspiracies that the people behind the attack got it cleaned. Perhaps this was sheer incompetence of security authorities who ignored the basics of crime scene preservation. Farhat states that police do not have (SOPs) for crime scene preservation.⁵⁴⁶ Those who were truly behind the Benazir Bhutto killing are not yet known despite the help of UN investigators and Scotland Yard investigators.⁵⁴⁷ This is due to poorly managed police inquiries, inadequate investigation, and careless work by police.⁵⁴⁸

Another big event that resulted in a massive wave of terrorism in the country was the Lal Masjid (*literally Red Mosque*) military operation in the capital Islamabad. The Lal Masjid was a religious seminary that was educating thousands of men and women. Most of the students belonged to KPK and FATA. The student of Lal Masjid started attacking the movie stores, which to them were selling sleazy, pornographic material which to them was un-Islamic. Soon, they kidnapped Chinese workers in the capital Islamabad whom they accused of providing sexual services. The students were further flexing their muscles by protesting and demanding the government to impose Sharia (the literal form of Islam) in the country. The standoff between the student and the government started when police wanted to raid the mosque in relation to the investigation of the London 7 July bombing, it was stopped by baton-wielding female students. Sometime after that, a gun battle ensued between security forces and students, which left nine dead and several injured. Negotiations between the protesters and the government, in which the mosque leaders demanded amnesty failed.⁵⁴⁹

The government launched a military operation against the protestors in the backdrop of increased usage of violence by students and the students having the stock of a heavy weapon available. This led to operation by the military, resulting in more than 100 deaths and injuring more than 40.⁵⁵⁰ This operation led to terrorist gathering more support, with several prominent politicians opposing the government operation. Abbas states his research reveals that effective police action could have prevented this operation from happening; however, police did not have the state's authority backing it and legal permission to pursue rebel

⁵⁴⁶ Fasihuddin, 'Terrorism Investigation in Pakistan: Perceptions and Realities of Frontline Police' (2012) 3 Pakistan Journal of Criminology 64 <<http://www.pjcriminology.com/wp-content/uploads/2019/01/4-22.pdf>> accessed 30 May 2019.

⁵⁴⁷ Owen Bennett Jones (n 544).

⁵⁴⁸ *ibid.*

⁵⁴⁹ SK Saini, 'Storming of Lal Masjid in Pakistan: An Analysis' (2009) 33 Strategic Analysis 553 <<https://doi.org/10.1080/09700160902907092>> accessed 16 June 2020.

⁵⁵⁰ *ibid.*

clerics.⁵⁵¹ The fallout of the Lal Masjid operation resulted in never before seen terrorism in the country with some urban cities like Karachi and Lahore attacked daily.

Other attacks included the attack on the Karachi Airport and Karachi naval academy attack. Two five-star hotels, namely, Pearl Continental (PC) Peshawar and Marriott hotel Islamabad, were also attacked. In PC 15 were killed and 60 injured.⁵⁵² Whilst in Marriot, at least 40 got killed, and further 250 were injured, the deceased included many foreigners. In the Marriott hotel blast, the explosive used was laden on the truck weighing more than 800 pounds.⁵⁵³

The terrorist attack on the Sri Lankan cricket team in 2009 was another deadly attack, after this attack, the cricket the most popular support in the country was stopped for about a decade with no team willing to come and play in Pakistan due to security concerns.

Peshawar school children's massacre was one of the most inhuman and cruel attacks in the history of Pakistan. The target this time was school children, although the police and security agencies have been attacked at the police academies, and even the army General Headquarters has been attacked. However, the attack on children in which the terrorist chased and heartlessly killed over 140⁵⁵⁴, mainly children and injuring many left a big scar on the country.

The most recent terrorist attack in 2018 was on a political rally in the Baluchistan province on a political party gathering in which over 150 were killed; this was the most significant mass-casualty attack in Pakistan since 1970.

These attacks just show a picture of the Pakistan terrorism problem. Looking at these attacks, one can grasp the seriousness of Pakistan's terrorism situation and the argument behind the labelling of Pakistan as the most dangerous country in the world.

⁵⁵¹ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁵² BBC NEWS, 'Suicide Attack on Pakistani Hotel' (10 June 2009)

<http://news.bbc.co.uk/1/hi/world/south_asia/8092147.stm> accessed 22 August 2020.

⁵⁵³ Bridget Rose Nolan, 'The Effects of Cleric Statements on Suicide Bombings in Pakistan, 2000-2010' (2013) 36 *Studies in Conflict and Terrorism* 219 <<https://doi.org/10.1080/1057610X.2013.755913>> accessed 13 August 2019.

⁵⁵⁴ Pamir H Sahill, 'The Terror Speaks: Inside Pakistan's Terrorism Discourse and National Action Plan' (2018) 41 *Studies in Conflict & Terrorism* 319 <<http://dx.doi.org/10.1080/1057610X.2017.1284448>> accessed 12 May 2020.

5.2.1 Fatalities in Terrorist Violence in Pakistan 2000-2019⁵⁵⁵

Year	Civilians	Security Force Personnel	Terrorists/Insurgents	Total
2000	45	0	0	45
2001	29	9	0	38
2002	88	7	44	139
2003	140	24	25	189
2004	435	184	244	863
2005	430	81	137	648
2006	608	325	538	1471
2007	1522	597	1479	3598
2008	2155	654	3906	6715
2009	2324	991	8389	11704
2010	1796	469	5170	7435
2011	2738	765	2800	6303
2012	3007	732	2472	6211
2013	3001	676	1702	5379
2014	1781	533	3182	5496
2015	940	339	2403	3682
2016	612	293	898	1803
2017	540	208	512	1260
2018	369	165	157	691
2019	97	75	56	228
Total*	22657	7127	34114	63898

⁵⁵⁵ South Asia Terrorism Portal (n 10).

The current terrorism threat emanates from ISIL as they were behind the latest attack in Baluchistan, which killed 150 people.⁵⁵⁶ TTP still poses a significant challenge to Pakistan. Although the deaths due to their attack saw a decline, 2018/2019 saw a 56 percent decline since 2017.⁵⁵⁷ Sectarian groups Lashkar-e- Jhangvi is another terrorist outfit that poses a threat to Pakistan. Jamat Ud Dawa (JUD, previously known as Lashkar-re-Taiba) is another terrorist group operating in Pakistan, although it poses more risk to India than Pakistan. However, it can turn towards Pakistan. Baluchistan separatist movement Baluchistan Liberation Army (BLA) is another prominent threat. Sectarian group Sipah Sahaba Pakistan (SSP) is another threat to Pakistan. Tehreek-e-e Labaik Pakistan (TLP) is another threat.

Despite being labelled as the most dangerous country in the world, Pakistan did not have a counterterrorism policy until the arrival of NISP. Part of the reason lies in the lack of narrative against terrorism in the public discourse. The governments have been unable and to rebut the deeply held assumptions in the society which sees the war against terrorism in Pakistan, not as Pakistan's war but rather a US war, which Pakistan is fighting for them. Hence, labelling the Pakistani leaders as US puppets. Religion is a deeply sacred thing in Pakistan; therefore, when terrorists infuse religion into their cause and package US and allies' operations in Afghanistan and Iraq as a war against Islam, many people believe them, in a society where majority resents the US. In a Pew Global Attitudes survey conducted in 2010, roughly six-in-ten (59%) Pakistanis describe the US as an enemy.⁵⁵⁸ It is through this lens that terrorists justify their attacks on the state of Pakistan, which they say is not representing its people but are rather foreign agents. Hence, for them, the attacks against Pakistani forces are equal to attacking US forces because both are foreign agents.

5.3 Pakistan counterterrorism strategy- NISP

Seeing the critical shortcomings in Pakistan's response to terrorism, the last government produced a National Internal Security Policy (NISP), rather than it being a forward-looking policy, it is a catalogue of failures. It just shows the inabilities, lack of coordination, not having a coherent strategy. Rather than providing direction, it discusses the flaws in the system. The policy is vague, with no evidential back-up of the plan or plans underpinned by

⁵⁵⁶ Institute For Economics and PeaCE (n 532).

⁵⁵⁷ *ibid.*

⁵⁵⁸ Pew Research Center, 'Concern About Extremist Threat Slips in Pakistan' (29 July 2010) <<https://www.pewresearch.org/global/2010/07/29/concern-about-extremist-threat-slips-in-pakistan/>> accessed 22 August 2020.

statistics. It does not provide any realistic timeline. It is a very ambitious plan with no concrete measures being taken⁵⁵⁹. Niaz states that NISP uses a lot of impressive jargon; however, an inquiry after the Quetta bomb blast uncovered that NISP exists almost entirely on paper.⁵⁶⁰

NISP says that presently Pakistan's security apparatus is unable to cope with the threat of terrorism. It says that terrorism presents an existential threat to Pakistan. It states that terrorists continue to instil a sense of insecurity among people at large; it states that Pakistan's entire security apparatus acts in a reactive manner rather than a proactive way. Nawaz says this is because when institutions are not in place, the policy becomes reactive and ad hoc.⁵⁶¹

The policy lacks serious timeframe and concrete steps to achieve the plan. There is no discussion of an independent review of government security policy to judge its effectiveness and robustness. Although the policy mentions its implementation costs, there is no breakdown of where the money will go. It says that NISP will develop a de-radicalisation program; however, it does not mention who will be leading the program or who would be involved in the development of the de-radicalisation program.⁵⁶² It implies that the provision of employment opportunities will provide stability; thus, reduce the terrorism threat and states that investment will be made. It gives no details of how much investment will be required for this or the specifics of the plan. However, it does state the estimated cost of the policy.

The policy is full of vague statements of achieving things. It says that the National Internal Security Apparatus (NISA) "suffers from inadequacies to identify threats, analyse it, and respond quickly at all tiers."⁵⁶³ It states that civilian capacity is inadequate. The military after an operation gets the area cleared, beyond that, the civilian law enforcement struggles to hold, build, and integrate to make counter insurgency successful. CAF (Civilian Armed Forces) were rendered ineffective in certain tribal areas hence requiring the military to launch operation. It states that on internal security threats, "there is no integrated mechanism for

⁵⁵⁹ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁵⁶⁰ Ilhan Niaz, 'Pakistan'S Crisis of Governance and the Resurgence of Terrorist Violence Since August 2016' (2017) 48 Asian Affairs 271 <<https://doi.org/10.1080/03068374.2017.1313619>> accessed 20 June 2020.

⁵⁶¹ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁵⁶² *ibid.*

⁵⁶³ Ministry of Interior, Government of Pakistan, 'National Internal Security Policy 2014-2018' <<https://nacta.gov.pk/wp-content/uploads/2017/08/National-Internal-Security-Policy-2014.pdf>> accessed 25 August 2020.

civil-military intelligence sharing."⁵⁶⁴ It does state some successes of the military in capturing areas from insurgents. Such as Swat operation. However, it acknowledges that total reliance on armed forces remains a major weakness of counterterrorism response. It highlights various weaknesses, especially deficit of intelligence sharing at various levels of the different law enforcement organisations. It states that the criminal justice system is ill-equipped to punish terrorists. It says that the country is still waiting for a coherent response to counterterrorism, extremism. Nonetheless, Nawaz states that NISP is a step in the right direction⁵⁶⁵; having an inadequate policy is better than having no policy.

After NISP Pakistan made National Action Plan (NAP) but International Crisis Group⁵⁶⁶ (ICG) and Nawaz⁵⁶⁷ state that NAP was a hastily made plan with no real substance, lacking clarity, which failed to set management responsibility or benchmarks for success. NAP brought three significant changes. Firstly, it allowed the military-backed rangers to aid civilians, such as police in Karachi. It gave the military authorities power to hold suspects for virtually indefinite periods under the Protection of Pakistan Act (POPA 2014) and allowed the military court trials of civilians accused of terrorism.

5.4 Role of police in Pakistan's counterterrorism infrastructure

Pakistan has a federal system of government in which there are two types of law enforcement organisations, firstly, those who come directly under the federal government and secondly, those who come under provincial governments. There are 19 major federal Law Enforcement Organizations (LEO's) in Pakistan having varied authority and answerable to different organisations.⁵⁶⁸ Provincially there are five police forces; in addition, there is a separate Azad Kashmir police force as it is a self-governing region. Federal and Provincial LEO rarely cooperate with each other. Hence collective policy planning is scarce, which results in failure in implementation.⁵⁶⁹ After the 18th constitutional amendment in 2010, law enforcement is mainly the responsibility of provinces. Punjab is the biggest province (52.95) percent population), Sindh is the second biggest province (23.04 percent population), whilst Khyber

⁵⁶⁴ibid.

⁵⁶⁵ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁵⁶⁶ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁵⁶⁷ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁵⁶⁸ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁶⁹ ibid.

Pakhtunkhwa (KPK) is third (14.69 population), Baluchistan although largest province area wise comes fourth (5.94 percent population), finally newly created province of Gilgit Baltistan has a population of less than 1 percent.⁵⁷⁰ FATA and PATA two fault lines due to their self-governing status where Pakistan constitutional jurisdictions did not apply recently merged into KPK province through a constitutional amendment in 2018 and thus now fall within Pakistan's jurisdiction.

Police in Pakistan is the most berated institution in the country⁵⁷¹; there are various reasons for this. With main issues consisting of corruption, police brutality, incompetence, political manipulation, lack of training, lack of resources, and so forth. One of the main reasons for the dismal police situation is its colonial past, which Parvez and Perito⁵⁷² say are at the roots of the origin of its abusive behaviour. Police are based on Police Act 1861, which was introduced by the British to suppress the colonial subjects, this framework provided the British unaccountable, oppressive, authoritarian police force. Police Act 1861 was enacted after an insurrection against the British in 1857; it inherently makes police a force which relies on fear, intimidation, and officially authorises violence for state protection. Ironically even after 70 years of independence of Pakistan in 1947, this act continues to be in force in most of the country.

President Musharraf introduced Police Order 2002 to free police from the shackles of its colonial legacy and turn it into a police force that serves rather than dominates. However, most modern reformative sections were taken out after he succumbed to the pressure of vested interests to keep his hold on power, not long after that many provinces reverted to the old 1861 Act. Abbas states that one police Act should govern the whole of Pakistan.⁵⁷³ Soofi states that when officers are transferred to different provinces, this dis-uniformity of laws creates a difficulty for them as they are not aware and familiar with laws governing them.⁵⁷⁴

⁵⁷⁰ Government of Pakistan, 'PROVINCE WISE PROVISIONAL RESULTS OF CENSUS - 2017' (*Pakistan Bureau of Statistics*, 2017) <http://www.pbs.gov.pk/sites/default/files/PAKISTAN_TEHSIL_WISE_FOR_WEB_CENSUS_2017.pdf> accessed 29 August 2020.

⁵⁷¹ Khosa (n 109) 89.

⁵⁷² Perito and Parvez (n 19).

⁵⁷³ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁷⁴ Soofi in Center for Research and Security Studies, 'Counter Terrorism and Pakistan Police: Capacity and Challenges.' (2015) <<https://crss.pk/wp-content/uploads/2010/07/Counter-Terrorism-and-Pakistan-Police.pdf>> accessed 22 August 2020.

Over the last few decades, when the world was going through progressive policing reforms, such as introducing community policing, Pakistani leaders have resisted those reforms to keep their manipulated control on police. Khosa thinks political manipulation lies at the heart of the problem, which is that people in power use and abuse police for their agendas.⁵⁷⁵ Abbas states that police is used for helping win elections and win personal vendettas. Abbas states that over the last 60 years, two dozen commission reports were made on policing reforms, but it is rare for those recommendations to be implemented.⁵⁷⁶ Zaidi states that implementation is the main problem. New structures and organisations are created; however, implementation is not given much focus.⁵⁷⁷ Developing new specialised police units is also not the answer; it is the improvement in the existing structures which will bear fruit.⁵⁷⁸ The government has created new forces due to poor performance of the old structures, but the new structures just pile up on already existing poor structures.

Unusually, police are overly involved in providing VIP duties, which diminishes its overall capacity. Haqqani *et al.*, in their report, state that "at any given time around 20% of the entire police force and some elements from the Civil Armed Forces are deployed on protocol duties for VIPs".⁵⁷⁹ They further state that "VIP protection consumes roughly 30% of the total police budget in rural areas and roughly 50% in major urban centres of the country."⁵⁸⁰ Abbas says the solution to this is creating a separate secret service to protect VIPS, embassies, and foreign dignitaries to the likes of the United States Secret Service, which will reduce the burden on regular police.

Career tenure security is another big problem; officers are removed at whim with their average tenure being a couple of months make the police dispassionate according to Parvez⁵⁸¹. The average tenure of a Station House Officer (SHO) of 60 to 90 days results in failure in effective leadership and fair accountability.⁵⁸² Lack of tenure security has resulted in the police, which looks at politicians for promotion, posting in good areas. This has

⁵⁷⁵ Khosa (n 109) 5-9.

⁵⁷⁶ Hassan Abbas, 'Role of Pakistan Police in Counterinsurgency' [2009] Brookings Counterinsurgency and Pakistan Paper Series.

⁵⁷⁷ Zaidi (n 17) 3.

⁵⁷⁸ Perito and Parvez (n 19).

⁵⁷⁹ C Christine Fair, *Mapping Pakistan's Internal Dynamics: Implications for State Stability and Regional Security* (National Bureau of Asian Research 2016) 27.

⁵⁸⁰ *ibid.*

⁵⁸¹ Tariq Parvaiz, 'An Obstacle To Police Reform: Brevity of Tenures' [2015] Institute for Policy Reforms <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.195.9029&rep=rep1&type=pdf>> accessed on 20 April 2020.

⁵⁸² Perito and Parvez (n 19).

resulted in an elitist type of policing in which both elites and police favour each other, whereas ordinary citizens resent both.

Since the birth of Pakistan, police have been used to suppress political dissent. Khosa states that interfering in police led to an unprecedented scale in the 1990s.⁵⁸³ The politicians, due to their internal feuds, have exposed state security vulnerabilities to the terrorists. For example, when Chief Minister Shahbaz Sharif was removed by the court and consequently governor rule was imposed in the Punjab province, the governor changed most of the police force as per his favourable officers resulting in a team that excluded many competent officers.⁵⁸⁴

Abbas states that "Some of the major reasons relevant to police engagement in counterterrorism activities are insufficient numbers and scant resources, institutional disconnect, political challenges, corruption, and lack of modernization."⁵⁸⁵ Lower rank officials manage investigations for which they are either not legally allowed or untrained.⁵⁸⁶ Thus, the training needs to focus on them, whereas currently, it is focused on senior officers.

Police officers have poor working conditions and very few prospects of career progress. Police are forced to live in slums in Islamabad as they cannot afford to live in the capital. They have no standard hiring, promoting, transferring procedures.⁵⁸⁷ There is no nationwide training procedure or coordination; the provincial forces work independently of each other. Research by Farhat Ullah and others revealed that the police do not get adequate intelligence related training regarding counterterrorism, and they found that proper intelligence training led to more arrests. In contrast, lack of proper training hampered police abilities.⁵⁸⁸

In most of the country, police can influence the fate of the politicians through allowing or curbing election rigging; hence politicians appoint their favourable police officers.⁵⁸⁹ Abbas states that poor police performance is no different than other government bureaucratic departments; however, police face the blame of people because they are visible, and they are

⁵⁸³ Tariq Khosa, 'Agenda for Reform' [2012] Stabilizing Pakistan through Police reforms.

⁵⁸⁴ Abbas, 'Role of Pakistan Police in Counterinsurgency' (n 576).

⁵⁸⁵ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁸⁶ Tajik (n 36) 122.

⁵⁸⁷ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁸⁸ Farhat Ullah, Basharat Hussain and Imran Ahmad Sajid, 'Intelligence Aspects in Police Basic Training and Countering Terrorism in Khyber Pakhtunkhwa, Pakistan' (2015) 7 Pakistan Journal of Criminology 101.

⁵⁸⁹ *ibid.*

expected to do everything from dispute resolution to managing crisis. They face the blunder committed by the political leadership and the military.⁵⁹⁰

ICG, in its report, stated, " Police investigations are undermined by the absence of professional autonomy, poor training, and reliance on blunt investigative tools."⁵⁹¹ Abbas states that police regularly use torture⁵⁹², Humaira says when asked why they use torture, the officer mentioned they do not know any other way.⁵⁹³

In the backdrop of these chronic shortcomings, the police were thrust into fighting terrorism after 9/11 for which they were not prepared. The police, which was faltering in dealing with law and order being pushed into counterterrorism for which it is ill-prepared, was disastrous, over 2000 police officers got killed due to terrorism.⁵⁹⁴ A senior police officer said, "police are writing their history in blood."⁵⁹⁵ Although suicide attacks constitute 4 % of total terrorist attacks, yet they are responsible for 45% of casualties, with over a quarter of fatalities being police officers.⁵⁹⁶ Pakistan ranks 2nd in terms of terrorist attacks on police.⁵⁹⁷ Despite these sacrifices, police do not enjoy the trust of the police due to the aforementioned issues.

Counterterrorism is an inevitable part of police duty; hence they need to be resourced and supported. Despite the increase in terrorism, Pakistan has not made any investment in specialised expertise. e.g., in FIA, the dedicated terrorism investigation group number has merely risen from thirty-seven to 87 in the face of insurmountable threat.⁵⁹⁸

5.4.1 Military's increasing role in internal security

Policing and subsequently, its reforms have never been a priority for the political leadership, which lies at the heart of the policing problems, says Abbas.⁵⁹⁹ With unprecedented security threats and under-resourced police, the military has tried to fill that vacuum. The military has

⁵⁹⁰ *ibid.*

⁵⁹¹ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁵⁹² Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁵⁹³ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁵⁹⁴ Tajik (n 36) 108.

⁵⁹⁵ *ibid.*

⁵⁹⁶ *ibid.*

⁵⁹⁷ Jennifer C Gibbs, 'Terrorist Attacks Targeting the Police: The Connection to Foreign Military Presence' (2018) 19 *Police Practice and Research* 222 <<https://doi.org/10.1080/15614263.2017.1295245>> accessed 24 April 2020.

⁵⁹⁸ Abbas, 'Role of Pakistan Police in Counterinsurgency' (n 576).

⁵⁹⁹ *ibid.*

been shouldering the burden of Pakistan's internal security ever since the independence of the country in 1947. The military has gained limited success in large scale operations against militant groups. Whilst its police and other law enforcement institutions remain weak. Khosa states that "an overwhelming reliance on military institutions has diverted capacity, resources and public trust away from the police."⁶⁰⁰

The military directly or indirectly controls about 64 percent of the Pakistan security infrastructure.⁶⁰¹ The military is providing internal security in different areas of Pakistan. In the Baluchistan province, the army oversees security. Besides, in Karachi operations army oversees security. However, the Rangers who come under army command work in collaboration with the police in Karachi, the biggest city of Pakistan. However, their relationship has created an atmosphere of competition where the police are the weak partner.⁶⁰²

Peters states that police are more effective at fighting counterterrorism compared to the military force, as revealed in research. She says that unique police advantage is its permanent presence in cities, towns; hence they have a better knowledge of the threat and better human intelligence.⁶⁰³ Police stations have a permanent presence and, therefore, could play a critical role in counterterrorism. However, presently, police at the station house level have not accepted countering terrorism as part of their duty. There are no standard operating procedures (SOP's) around counterterrorism.⁶⁰⁴ Peters states that "Police are also better positioned to execute a citizen-centric approach to fighting militant groups—a strategy shift that could more effectively counter a growing Pakistani insurgency."⁶⁰⁵

Tajik suggests that a more positive strategy would be where civilian law enforcement agencies such as the police have a more significant role. He stresses on empowering those civilian agencies by giving them facilities such as Cellular Calling Data Analysis, communication interceptions, mobile tracking system, and geolocators to make them more

⁶⁰⁰ Khosa (n 109) 87.

⁶⁰¹ Tajik (n 36) 116.

⁶⁰² Waseem (n 207).

⁶⁰³ Peters (n 117).

⁶⁰⁴ Perito and Parvez (n 19).

⁶⁰⁵ Allison Peters (n 117).

operationally autonomous.⁶⁰⁶ Strikingly, the police, despite being the leading agency in counterterrorism has limited access to country security facilities, which are primarily controlled by the military and its backed agencies, e.g., in Rawalpindi police did not have access to forensic laboratory except in the special circumstances such as high-profile cases.⁶⁰⁷ Similarly, to gain mobile phone data, police has to request the military-backed intelligence agencies to obtain phone data. This results in a waste of crucial investigation time.

At the height of terrorist violence, the police operated on almost half the capacity. Lack of resources includes transport, arms, and poor buildings. Senior police officers state that how is the police going to maintain law and order when ordinary citizens have lethal sophisticated battle guns, and police are either without arms or have low-level firearms. The investigation officers investigating the high-profile case of the assassination of Benazir Bhutto were not given a single penny to investigate the incident.⁶⁰⁸ In KPK province, the worst-hit province by terrorism, Fasihuddin revealed that police got less than Rs. 150 (USD 1.7) for each case it was investigating.⁶⁰⁹ In the KPK, as a result of a lack of resources, the low morale of the police force was evident when half of the police force in Swat district abandoned the police force due to the fear of being killed by the Taliban.⁶¹⁰

Lack of technical facilities also hampers the investigation; for example, the clothes of the suicide bomber in the Benazir Bhutto case were sent to the American FBI for examination. Police conduct their terrorism investigation without a crime scene unit, e.g., the crime scene of Benazir Bhutto was washed within minutes by hosepipes of emergency vehicles. There are no ballistic experts, explosive laboratories, a national database for DNA, weapons, or vehicles. Pakistan's data collection and gathering are very poor. Police have no criminal and crimes database expertise of analysing data trends or creating data profiles. Reform efforts so far have been reluctant and half-hearted and thus have had little impact.⁶¹¹ In addition, the investigation teams do not have power. The power falls in the hands of individuals or Pakistan Penal Code (PPC) and the Criminal Procedure Court.

⁶⁰⁶ Tajik in Abbas (ed.), 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁶⁰⁷ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁶⁰⁸ Tajik (n 36) 117.

⁶⁰⁹ Fasihuddin (n 546).

⁶¹⁰ *ibid.*

⁶¹¹ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

Tajik states that traditional policing is less dominant because the threat has changed to become a trio of" insurgency-terrorism-radicalisation."⁶¹² However, he stresses the use of police for terrorism. He states that success like Swat operation in KPK province is only sustainable if complemented by other changes in criminal justice system institutions that are tackling terrorism. Abbas says that police should play a central role in countering insurgency and the military providing backup to support the police.⁶¹³ The military action can provide no more than a temporary respite, and stability comes with police.

Abbas states that the police have performed certain operations well, but it is rare. He states that the reason behind those well-performed operations is political backing, autonomy, and resources. Abbas thinks the fundamental reason behind the dismal police state is the state's persistent failure to invest in police despite the extraordinary security crisis. He states that police have a potential, where they have challenged militants in Punjab and Karachi; therefore, it means when properly given authority, backing, and resources it can perform.⁶¹⁴

Pakistan cannot meet its own security needs and relies on outside support from countries like the US, UK, and the EU. When Pakistan became a US ally in the war in Afghanistan, it received over \$19 billion of US aid between 2002-2010.⁶¹⁵ However, out of that aid, the thinnest slice was spent on policing. For example, in 2007, the US spent \$723 million to help Pakistan military, but only \$4.9 million was spent on the police.⁶¹⁶ Pakistan's prosperity is dependent on domestic security, supporting police means the rule of law approach is strengthened. Improved policing will even help the military because it could deploy its human resource elsewhere. Asghar states that the military is burdened by these domestic security tasks because of police weakness and would be happy to hand over the security to police when they are capable.⁶¹⁷ However, Fair says that the military wants greater control in the country's affairs that includes security; therefore, it does not want to cede security to a civilian administration.⁶¹⁸

⁶¹² Tajik (n 36) 103.

⁶¹³ Abbas, 'Role of Pakistan Police in Counterinsurgency' (n 576).

⁶¹⁴ *ibid.*

⁶¹⁵ S AKBAR ZAIDI, 'Who Benefits from US Aid to Pakistan?' (2011) 46 *Economic and Political Weekly* 103 <<http://www.jstor.org/stable/23017764>> accessed 12 May 2020.

⁶¹⁶ Abbas, 'Role of Pakistan Police in Counterinsurgency' (n 576).

⁶¹⁷ Asghar in Abbas (ed.), 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁶¹⁸ Fair (n 64) 3-8.

Most of the activities considered critical for terrorism are already performed by the police, such as surveillance, gathering intelligence, crime scene investigation, monitoring, profiling, maintain databases, and the use of undercover agents. Hence police are well suited for terrorism. Nowhere in the world that terrorism is outside the purview of the police. The military is not well suited to fight internal conflicts.

Through the criminal justice approach or community partnership approach, police have a vital role to play in counterterrorism. Through routine law and order matters, police can detect an individual susceptibility to extremism, and they could be critical in guiding the individual to the relevant organisation where he can be rehabilitated. Routine law and order situation can detect terrorism. Weisburd and others state that there are numerous occasions in general law and order situations were routine police stop, such as suspicion of reckless driving, could lead to the discovery of terrorist plans. For example, the Oklahoma City bombing suspect, Timothy McVeigh, was tried after being stopped for having an invalid license plate.⁶¹⁹ In KPK province, according to a former police Inspector General, "prevention of regular crime, which often funds terrorist activities, is out the window"⁶²⁰ Khosa states the police itself is colluded with mafias⁶²¹, with 20% of police being involved in crimes themselves.⁶²² A Punjab police official unhappy at lack of severity of punishment said, "and yet keeping an unlicensed Kalashnikov is a bailable offence, and the average punishment is 500 rupees (around \$5)⁶²³. The police state that civilians are better armed than the police, the easy availability of firearms has meant that civilians have warfare weapons, whereas police lack proper equipment; their weapons are old and not fit for purpose.

Besides the military controlling 64% of the country's security infrastructure, it is increasingly involved in police administrative issues. Through the NAP, the country created Apex committees; these committees allowed direct military involvement in police regulatory matters. It gave them power in police postings, overseeing them doing their job; it affected their authority. One official said the military makes all decisions on security in Baluchistan provincial apex committees. Military involvement hampers police efforts. For example: in

⁶¹⁹ Weisburd and others (n 24) 91.

⁶²⁰ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12).

⁶²¹ Khosa (n 109) 96.

⁶²² Farhat Ullah and others, 'Factors Influencing Police Image in Public (A Study of University Students Perception in KPK Pakistan)' (2016) 8 Pakistan journal of criminology 140.

⁶²³ International Crisis Group, 'Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls' (n 12) 19.

Baluchistan province, the negotiation efforts with separatist insurgents failed because the police could not guarantee suspension or end of the military operation against them. Military operations include extrajudicial killings and enforced disappearance because it accuses those separatists of partnering up with Indian Research and Analysis Wing⁶²⁴ (RAW).

The military has also undermined police efforts by setting the arrested terrorist free from police custody. There is a history of the military-backed intelligence agencies supporting the terrorist groups, which it has used as proxies in the past. Some police officers say that when they arrest suspects, they receive the request of setting them free from the military-backed ISI.⁶²⁵ Consequently, many police officers hesitate to arrest those terrorists with close links to ISI. This issue came to the forefront when the story of the leaked meeting came in Dawn newspaper, where Chief Minister of Punjab province allegedly confronted the army about setting the arrested free whom the police arrested.⁶²⁶

5.5 Multi-agency cooperation and role police play in that. How police and security agencies (ISI) cooperate

Terrorism can be tackled more effectively if all government departments have an inclusive approach. Pakistan security apparatus, Tajik states, is like a "jigsaw puzzle" with several organisations coming under the federal and provincial government's responsibilities. He states that these organisations have overlapping responsibilities, which leads to the ineffectiveness of the whole system because they all look at each other for taking responsibility.⁶²⁷

The institutions which are part of the national security apparatus against counterterrorism are local police, specialised provincial counterterrorism departments are known as Criminal Investigation Department (CID, in Punjab province known as Counterterrorism Department (CTD)), Inter-Services Intelligence (ISI), Federal Investigation Authority (FIA), Military Intelligence (MI), Civilian Intelligence Bureau (IB), Anti Narcotic Force (ANF), the Frontier Corps (FC), the Pakistan Rangers and National Counter Terrorism Authority (NACTA). ISI is Pakistan's premier military-backed intelligence agency. IB is a civilian intelligence agency,

⁶²⁴ *ibid.*

⁶²⁵ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁶²⁶ Almeida Cyril (n 56).

⁶²⁷ Tajik (n 36) 104.

whereas MI is the intelligence branch of the military constituting only of uniformed officers. FIA is a premier police investigation agency at a federal level; it maintains the database for the terrorists. It investigates complex terrorism cases mutually agreed by the federal and provincial governments for the agency to handle. In its vision statement, it says that it wants to be a role model for provincial police forces.⁶²⁸

By law, local police are the lead agency in counterterrorism. However, in practice, ISI is the lead counterterrorism agency and the police act as a secondary agency. Parvez states it is a flawed approach because it leads to missing person phenomena.⁶²⁹ ISI has been accused of engaging in unlawful detentions because thousands of people who have gone mysteriously missing in Pakistan are believed to be in their secret custody. The Supreme Court Chief Justice Iftikhar Chaudhry stated that the courts have overwhelming evidence that they have been detained by the intelligence agencies, namely ISI.⁶³⁰ Parvez states that the ISI has become inward-looking. It has behaved as if it is above the law and has operated ruthlessly.⁶³¹ Though IB is a leading intelligence agency; however, due to political control by both the military and civilian in the past, it is in a state of total disorder.

Similarly, FIA is also in a grim state due to shocking political manipulation over the years. ISI has filled the vacuum left by these civilian agencies. At the same time, it is also responsible for playing its part in causing this dismal state of these civilian agencies because of its secret role in interfering in the country's politics. ISI is under control of Pakistan's powerful army. ISI works similarly to the British MI5; by law, the ISI is subordinate to the government, but in practice, it is subordinate to the army. Constitutionally the army is subordinate to the government, but in practice, it has entrenched its hold on power, and it is considered more influential than the government.

Abbas says that the heart of the problem in Pakistan counterterrorism is the failure of coordination between IB, police, and ISI.⁶³² Intelligence gathering and intelligence sharing is a weak component in Pakistan counterterrorism fight; besides, the police training curriculum does not prepare them for adequate intelligence training.⁶³³ There are no station house

⁶²⁸ 'Federal Investigation Agency' <<http://www.fia.gov.pk/en/vision.php>> accessed 22 August 2020.

⁶²⁹ Parvez in Abbas (ed.), 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁶³⁰ Hassan (n 137).

⁶³¹ Parvez in Abbas (ed.), 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁶³² Lieven (n 540).

⁶³³ Ullah, Hussain and Sajid (n 588).

intelligence gathering and intelligence sharing infrastructures other than at a few newly developed 'model' police stations.⁶³⁴ There is a very poor record-keeping at station house levels. Most of the record-keeping is still done by handwriting, which sometimes is illegible due to poorly educated police officers.⁶³⁵

The criticism of Pakistan law enforcement agencies is that they operate in isolation from each other. This leads to storing and hiding information and create an atmosphere of competition between different organisations who have overlapping jurisdictions on the issues. The judge remarked in one of the high profile cases in which a military General was killed in a bomb blast (this was the highest-ranking officer casualty in the military) the trial judge stated at the lack of coordination that the investigative agencies should work jointly otherwise the real culprits will remain at large.⁶³⁶ Tajik states that the disunity in different law enforcement creates an impression of various organisations working as an island with each island watching other islands amicably falling victim to terrorism.⁶³⁷

Even within the police organisations, there is a failure of information sharing between the provincial police department. Police stations and specialised police branches such as Special Branch, CTD do not have an efficacious intelligence sharing mechanism. In one instance, Punjab police got hold of information that the terrorists were planning an attack on an oil terminal in Sindh, this information was not shared with Sindh police, and the incident happened afterwards. At other times when the information is shared, it doesn't reach the appropriate department or appropriate leaders in the organisation.⁶³⁸ Pildad report says that "Inspectors General of Police with more operational autonomy need to establish integrated police intelligence sharing structures where information from field units, SB and CTD is shared to create multiplier effect in prevention and detection of crime and maintenance."⁶³⁹

In another inquiry, it was stated that the accused was under investigation by the intelligence agencies; however, no intelligence was passed on to the police. Thus, the investigation could not have helped the prosecution in establishing the guilt of the accused, the lack of

⁶³⁴ Khalid (n 208).

⁶³⁵ Perito and Parvez (n 19).

⁶³⁶ ATC-II (Anti-Terrorism Court II), February 25, 2008. Case Number 3.

⁶³⁷ Tajik (n 36) 116.

⁶³⁸ Ibid 119.

⁶³⁹ Muhammad Ali Nekokara and Muhammad Shoaib Suddle, 'Policy Brief Recommendation for Reforms in Police' (2016) <<http://www.millat.com/wp-content/uploads/pdf/democracy/PolicyRecommendationsforReformsinPoliceSystemofPakistan.pdf>> accessed 22 August 2020.

coordination and cooperation of the agencies means that the intelligence and police investigation do not correspond.

In the purview of these critical shortcomings, after the Peshawar school terrorist attack in Pakistan drew a 20-point National Action plan, and at the core of the plan was bringing harmony and cooperation between state law enforcement apparatus⁶⁴⁰. Therefore, the establishment of Joint Intelligence Directorate (JID) was envisioned, which would be effective at cooperation. NACTA states that "JID was predicated on the idea of intelligence fusion, analysis and assessing future trends. JID was conceived with a vision to establish professionally dedicated, operationally focused, technologically competent, and highly adaptive national fusion setup "Intelligence Collection and Fusion Center (ICFC)" which will be capable of delivering timely and relevant intelligence product based on input from various agencies and departments. JID's goals is to manage and pool effective intelligence works undertaken by both civilian and the military intelligence agencies of the country, and has aims to increase intelligence sharing with the Police Departments, Provincial & Federal LEAs."⁶⁴¹

The Pakistan former Army Chief, General Raheel Sharif, on the need for cooperation between states institution said, "the key to success lies in the wholehearted participation of society and ensuring harmony among all intelligence and law enforcement agencies at every level."⁶⁴²

However, this vision did not materialise. Pakistan has not yet developed DIS or JID. It seems likely that it is going to be slashed.⁶⁴³ The directorate decision was postponed, but no decision has been taken yet.⁶⁴⁴ It has been suggested that organisation performance was unsatisfactory. The reasons are unknown; one could not rule out the imbalance of power between police and friction between the intelligence agencies. In the past, the army has

⁶⁴⁰ 'Joint Intelligence Directorate (JID) – NACTA – National Counter Terrorism Authority NACTA Pakistan' <<https://nacta.gov.pk/joint-intelligence-directorate-jid/>> accessed 22 August 2020.

⁶⁴¹ *ibid.*

⁶⁴² The Express Tribune, 'Fight against Extremism: Failure Is Not an Option, Says Gen Raheel' (4 January 2015) <<https://tribune.com.pk/story/816903/fight-against-extremism-failure-is-not-an-option-says-gen-raheel>> accessed 22 August 2020.

⁶⁴³ Imran Mukhtar, 'Nacta Wants to Abolish Joint Intel Directorate, Law Wing' (*The Nation*, 11 November 2018) <<https://nation.com.pk/11-Nov-2018/nacta-wants-to-abolish-joint-intel-directorate-law-wing>> accessed 29 August 2020.

⁶⁴⁴ Asad Ullah Khan, 'NATIONAL ACTION PLAN: ACHIEVEMENTS AND LIMITATIONS' (2019) <http://issi.org.pk/wp-content/uploads/2019/02/IB_Asad_Feb_4_2019.pdf> accessed 29 August 2020.

shown rivalry towards a civilian force because it feared the loss of status.⁶⁴⁵ Besides, the ease at which the intelligence can detain someone illegally, investigate them, torture them, kill them. In such an atmosphere, they could shy away from the formal process of prosecution, which could set the arrested free as has been in many terrorist trials. Notwithstanding, sometimes, it suits the agencies not to arrest the suspects who they want to use as assets to fight their proxy wars.

Pakistan introduced the NACTA Act 2013, the purpose of which was to make an authority on the likes of Fusion centres across the world. Purpose of the Directorate of Internal Security (DIS) was stated in NACTA Act Section 4 (a), which mandates the authority to receive, collate and disseminate intelligence and coordinate between all relevant stakeholders to formulate threat assessments.⁶⁴⁶ Section 47 of the National Internal Security Policy (NISP 2014-2018) spelt out the need for the establishment of Directorate of Internal Security (DIS) under NACTA where thirty-three civilian and the military intelligence and operational agencies are represented, having clear articulation of command and control by integrating all grids of tactical, operational and strategic intelligence, civil and military, under one roof.⁶⁴⁷ Nawaz states that "none of the suggestions made in the NISP for coordination of intelligence and joint planning by civil and military organizations have been visibly implemented."⁶⁴⁸ Farhat emphasises on the vitality of information sharing because it is the information sharing between agencies that make police personnel proactive rather than reactive.⁶⁴⁹

Pakistan law enforcement agencies do not have a mechanism to cooperate. When their partnership has been created, this has resulted in petty rivalries. The military and its backed agencies have had the upper hand, which mirrors the power dynamic between the military and civilian government. The military has entrenched its hold on power, besides the fact that military-backed agencies are more organised and well-trained than the civilian police. The partnership between police and the military-affiliated Rangers in Karachi is a case in point.⁶⁵⁰ In Karachi (Pakistan's largest city), due to prolonged unrest caused by gang violence and terrorism, police and military-affiliated Rangers were partnered to quell violence. Waseem

⁶⁴⁵ AQIL SHAH, 'RECAPTURING THE STATE', *The Army and Democracy* (Harvard University Press 2014) <<http://www.jstor.org/stable/j.ctt6wpr4x.9>> accessed 1 June 2019.

⁶⁴⁶ 'Joint Intelligence Directorate (JID) – NACTA – National Counter Terrorism Authority NACTA Pakistan' (n 640).

⁶⁴⁷ *ibid.*

⁶⁴⁸ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁶⁴⁹ Ullah, Hussain and Sajid (n 588).

⁶⁵⁰ Waseem (n 207).

states that this unstructured cooperation has led to inter-agency conflicts and competition, which proves detrimental to the morale of civilian police who perceive themselves as a younger brother in the relationship dynamics, thus suffering from the self-legitimacy crisis. The working of the police and military-backed rangers has led to rivalries, low morale, a crisis of self-legitimacy for police. Therefore, she suggests that an independent regulatory mechanism should regulate their partnership as the inferiority and superiority complex is detrimental to the partnership. Further, she states that lack of accountability and illegality of Rangers action encourages police to illegal practices, to which police comply due to their inferiority complex.⁶⁵¹ Military undercuts police authority regularly; if there is military personnel involved in crime, the military uses its influence to get them free.⁶⁵²

Nevertheless on the rare occasion when the police and ISI have jointly worked together, they have had crucial success, such as, collaborative efforts between the police in Lahore and the ISI after terrorist attacks on a local ISI office and a police training centre in 2009 led to the dismantling of a major terrorist network that had established several large ammunition depots in and around Lahore.⁶⁵³ The police and ISI need to consider the idea of the fusion of power rather than intra-agency rivalries, competitions, and information hoarding; they make the whole system ineffective and detrimental to the interests of all concerned.

5.6 Police and prosecution cooperation in Pakistan

The criminal justice system consists of police, prosecution, and the courts. Therefore, they are interdependent to each other. Hence, it is essential when discussing the police prosecution cooperation to highlight the corresponding issues around their collaboration. After the 2002 Police Act, several provinces created independent prosecution services, which in the past used to be directly under the command of the police. ICG states that it was a step in the right direction⁶⁵⁴; however, as it is revealed here, the prosecution system continues to be marred with severe deficiencies.

⁶⁵¹ *ibid.*

⁶⁵² Center for Research and Security Studies (n 574) 19.

⁶⁵³ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 14.

⁶⁵⁴ International Crisis Group, 'Reforming Pakistan's Criminal Justice System | Crisis Group Report No.196' (n 120).

At present, the criminal justice system is in a state of complete disorder when it comes to prosecuting terrorists. The criminal justice system is filled with multiple shortcomings at various levels, from investigation to throughout the trial process. Saying the system is dysfunctional would not be an understatement. Flawed investigation (sometimes inherently) by police starts the chain of a woeful process, which leads to a catalogue exposure of incompetence of the criminal justice system throughout the trial process. Despite there being many laws requiring police and prosecution to cooperate and regulate their conduct; however, either the police are not aware of the laws, or they do not adhere to them.⁶⁵⁵ At the same time, prosecution who is assumed to be aware of the laws makes similar mistakes and hardly use those laws and prosecutorial code, which allows effective coordination.⁶⁵⁶ Besides, the Supreme Court judge stated that the ATC judges are also not aware of the laws properly.⁶⁵⁷ Zaidi states that Pakistan does not suffer from a lack of laws on terrorism. The main problem is the implementation of the laws.⁶⁵⁸ Soofi states that the laws are too lenient and not a sufficient deterrent⁶⁵⁹; however, Zaidi states that it is not about the strictness of the laws; the certainty of punishment is the most significant deterrent.⁶⁶⁰

Over the years, Pakistan has made its laws stricter; however, terrorists continue to slip through the cracks. Pakistan has been unable to prosecute terrorists effectively. The terrorist conviction rate in the KPK province, the province hardest hit by terrorism, remains between 5 to 16 percent.⁶⁶¹ Nonetheless, hardly any effort has been made on improving the effectiveness and proper application of the laws. Police, prosecution, and the judiciary are all responsible for this failure. Besides, there are grave human rights concerns because the lack of conviction has led to irregularities, illegal practices, and human rights breaches from the security authorities.⁶⁶² The system is swamped with problems; however, only a few of the main ones are discussed here.

⁶⁵⁵ Research Society of International Law, 'Counter-Terrorism and Human Rights : A Review of Anti-Terrorism Court Trial Procedure in Pakistan' (2018) 9.

⁶⁵⁶ Ibid 19-20.

⁶⁵⁷ Nasir Iqbal, 'Judge Wants Anti-Terror Law Examined' (*Dawn.com*, 25 January 2015) <<https://www.dawn.com/news/1159335/judge-wants-anti-terror-law-examined>> accessed 29 August 2020.

⁶⁵⁸ Zaidi (n 17).

⁶⁵⁹ SOOFI (n 172) 140.

⁶⁶⁰ Zaidi (n 17) 3.

⁶⁶¹ Fasihuddin (n 546) 64.

⁶⁶² AQIL SHAH, 'THE MILITARY AND DEMOCRACY', *The Army and Democracy* (Harvard University Press 2014) 231 <<http://www.jstor.org/stable/j.ctt6wpr4x.12>> accessed 12 April 2019.

It needs to be recalled here before discussing the flaws in terrorism prosecution, that due to a weak ordinary legal system, Pakistan set up special Anti-terrorist courts (ATC) to deal with terrorism. It armed those courts with special legislation called the Anti-terrorism Act 1997 (ATA 1997). This act continues to be in force today; however, more than 18 amendments have been made to the act over the years. By virtue of being a special law, the ATA takes precedence over ordinary criminal laws referred to as the Criminal Procedure Code (CrPc). Later, even when ATC's were found to be abysmally deficient, the country in the face of unprecedented threat set up military courts to deal with terrorism in 2015, the only country in South Asia to try civilians in military courts.⁶⁶³ Although in military courts, the conviction rate increased to 97 percent; nevertheless, military courts raised grave human rights concerns regarding the fair and transparent trial.⁶⁶⁴ Military courts were set up after a constitutional amendment that had a sunset clause, and therefore military courts ceased to exist after 30 March 2019.

5.6.1 ATA broad terrorism definition

One of the biggest problems in terrorist prosecution is the problem in ATA regarding the definition of terrorism. The definition of terrorism in ATA 1997 is too broad; therefore, approximately 80 percent of non-terror-related crimes end up in anti-terrorism courts, thus, increasing the backlog and burdening the system.⁶⁶⁵ In addition, the aggrieved parties who do not have sufficient faith in the ordinary legal system want to press for the harshest penalties, thus want to include the anti-terrorism clauses because the application of terrorism clauses could make it a non-bailable offence, and the aggrieved parties are fearful of the offender fleeing on bail, committing further offences or intimidating the witnesses.⁶⁶⁶ According to them, not pressing terrorism charges may mean no prosecution at all, and the offender is set free from the largely flawed legal system. Police also apply ATA in ordinary cases because it wants to be seen in the immediate aftermath of an incident that police and government are giving sufficient importance to a case. Sometimes, there is pressure from the community and politicians to apply ATA because the offence is so barbaric such as rape of a minor. In addition, at times, police apply ATA so that it can demand higher bribes from the accused if

⁶⁶³ International Commission of Jurists (n 130).

⁶⁶⁴ *ibid.*

⁶⁶⁵ *Waris Ali and others v. The State* (Criminal Appeal No. 104 of 2010).

⁶⁶⁶ Parvez and Rani (n 13).

they want to be declared innocent in a terrorism case.⁶⁶⁷ All this leads to a system in which already burdened courts are inundated with cases that should come under the ordinary courts. Zaidi states that this makes the whole creation of the separate parallel court system debatable when these specialist courts take more time to conclude a case than the ordinary session courts.⁶⁶⁸ Anti-terrorism courts at the time of their formation were set to conclude a case in 7 days, but this vision never materialised, and currently, the case can take years to complete.

Police are responsible for prosecuting the terror suspects in the form of presenting charge sheets, commonly referred to as *challans* in the courts. Police present these charge sheets, often there are flaws in the investigations, the police blame it on lack of resources, the overburden of work, and blame that judiciary is not taking these limitations into consideration.⁶⁶⁹ The courts seldom accept these considerations. There is no institutional framework that allows collective decision-making on charging someone for terrorism or deliberation with the prosecution.⁶⁷⁰ While prosecution is a link between the police and judiciary by deciding the plausibility of the cases to proceed to trial, often the prosecution lets the flawed cases to proceed to the trials and, as a result, these institutions engage in a blame game and whereas they ought to complement each other's work. Lack of institutional coordination exacerbates the situation with each institution operating in silos. Fasihuddin states that "The appointment of prosecutor is also a grey area; politician, bureaucrats and big lawyers heavily influence the recruitment process".⁶⁷¹ Hence, such meritless recruitments would contribute to further incompetence of the system.

RSIL reveals that despite having a code of practice that asks police and prosecution to cooperate, they rarely coordinate with each other. The police routinely do not share the First Instance Report (FIR) with the prosecution, even though FIR is considered a key document by the courts.⁶⁷²

Zaidi states that heads of prosecution and their police counterparts could set a central consultative committee to improve police and prosecution coordination. Through this committee, steps could be introduced to enhance coherent police-prosecution cooperation. This cooperation could range from consultation between the investigators and prosecutors to

⁶⁶⁷ *ibid.*

⁶⁶⁸ Zaidi (n 17) 8.

⁶⁶⁹ *ibid.*

⁶⁷⁰ Research Society of International Law (n 655) 20.

⁶⁷¹ Fasihuddin (n 546).

⁶⁷² Research Society of International Law (n 655) 25.

sharing the FIR with the prosecution. In addition, he states that at the court level, subcommittees can be set up, which includes the police and ATC prosecutors. These subcommittees should review case files to put right the procedural errors and meet fortnightly and report to the central committee. On top of this, a strict disciplinary mechanism that mandates cooperation between prosecution and investigators should be implemented, besides the following of the procedures to be taken seriously.⁶⁷³

5.6.2 The poor investigation by the police and lack of usage of advanced techniques

Police have an extremely poor investigation capacity. They rarely use covert intelligence gathering. At the same time, the prosecutors let the legally flawed case proceed to the trial despite being aware that the case lacks prosecutable evidence and will lead to an acquittal because they lack the courage to stop the case.⁶⁷⁴ ATCs are flooded by these cases every year. Prosecutors seldom challenge the police and judiciary jurisdiction despite in practice the prosecutors have the power to reject cases, but they rarely use this power.⁶⁷⁵ If the prosecutor seeks additional evidence from investigating officers, their requests go unheard. In such a case, the only option for the prosecutor is to ask the senior officers to hold disciplinary proceedings against the investigating officer⁶⁷⁶ and with the police having an extremely flawed disciplinary procedure which seldom penalises them. KPK saw some improvement where prosecution identified cases with poor evidence and got them dismissed by the courts. Even in high-profile cases, collected forensic evidence is of no real value, when produced, (e.g., just confirms the collected blood is human), leaving prosecutors to rely predominantly on eyewitness testimony.⁶⁷⁷

Too much reliance on witness testimony is outdated, and lack of use of forensic is part of the problem. However, even when there is forensic evidence, but it still has to be corroborated with witness testimony. Forensic evidence alone should be able to prosecute terrorists, even though judges may ask for the expert reports of medical, chemical, and serological experts to be produced; however, they seldom take time to read the reports or have a transcript made.

⁶⁷³ Zaidi (n 17) 20.

⁶⁷⁴ International Crisis Group, 'Reforming Pakistan's Criminal Justice System | Crisis Group Report No.196' (n 120).

⁶⁷⁵ *ibid.*

⁶⁷⁶ Zaidi (n 17) 14.

⁶⁷⁷ Case number 25, dated 21-4-1999, Malakand, Swat, ATC; case number 109, dated 8-4-2009, Faisalabad ATC; case number 384, dated 1-7-2008, Rawalpindi ATC 2

The prosecution also rarely relies on these reports to support their case, whereas defence routinely uses these reports to find flaws in the prosecution case.⁶⁷⁸

The nature of terrorism attacks sometimes is that the only witnesses are police officers, and taking into consideration that courts overly rely on witness testimony, the police routinely unintelligently fabricate witnesses. They use ‘stock witnesses’ such as those who are already on the fourth schedule list. i.e., police records for being involved in previous terror offences, eventually, in the court, the inconsistencies are exposed; hence, it leads to acquittal.⁶⁷⁹ Due to the dire state of affairs in policing practices, in practice, police testimony is considered weak. However, the Supreme Court said that the “police witnesses are good witnesses, unless there is evidence of mala fide otherwise”.⁶⁸⁰ Besides, the law in Pakistan does not allow confession obtained by police because they are presumed to be extracted through torture.⁶⁸¹

The evidential test for anti-terrorism is without the shadow of a doubt, compared to beyond reasonable doubt in ordinary criminal cases because of the severity of the sentences, which could lead to the death penalty. However, acts such as POPA 2014 put the burden of the proof on the accused⁶⁸², which raises serious concerns on the question of human rights and a fair trial because the state is too powerful and ordinary citizens are too weak to defend themselves against tyranny of the state.

5.6.3 Court delays and inefficient case management system

Pakistan does not suffer from a lack of legislation; on the contrary, there is too much overlapping legislation. The main problem is the case management system and implementation of the legislation. Lawyers also play their part in contributing to the inefficiency of the legal system, there is a culture of adjournments, there is no meaningful punitive action against the lawyers for getting frequent adjournments⁶⁸³, and the defence counsel may be absent leading to an adjournment. Strikes by lawyers on different domestic issues also contribute to the inefficiency of the system.

⁶⁷⁸ *ibid.*

⁶⁷⁹ Tajik (n 36) 118.

⁶⁸⁰ HAKIM KHAN VS State, 2013 SCMR- Supreme Court of Pakistan 547 (2012)

⁶⁸¹ Parvez and Rani (n 13).

⁶⁸² Zulfiqar Hameed, ‘CHANGES IN PAKISTAN’S COUNTER-TERRORISM LEGAL REGIME’ (New America 2015) <<http://www.jstor.org/stable/resrep10485.1>> accessed 15 May 2018.

⁶⁸³ Wajahat Masood, ‘Right to Fair Trial: A Journey through Criminal Justice System in Pakistan (*Democratic Commission for Human Development*) 50 <<https://docplayer.net/58484675-A-journey-through-criminal-justice-system-in-pakistan-report-by-wajahat-masood.html>> accessed 26 August 2020.

Zaidi recommends sifting of cases and sending the cases, which are not terrorism-related back to the ordinary criminal courts. He emphasises on training police and prosecutors on common flaws and SOPs. He stresses the need for the police and prosecution to have better coordination and better working partnership.⁶⁸⁴

5.6.4 Illegal activities by the security agencies

There are different counterterrorism units in all provincial police structures. FIA, ISI, MI, Pakistan Rangers, and Frontier corps also have counterterrorism units. However, the MI, FC, ISI, IB arrest terrorist, but they cannot prosecute them. In contrast, the provincial CID and FIA continue to prosecute terrorists but cannot arrest them in FATA because Pakistan police jurisdiction does not apply in FATA due to its unique self-governing system. This overlapping of jurisdictions does the damage to the plausibility of the legal case in the courts as the police have to concoct the story of the arrest from FATA, these discrepancies are later exposed in the courts, and it often leads to acquittal.⁶⁸⁵ (after the FATA merger into KPK province in 2018 the jurisdictional issues are no longer a concern).

Security agencies predominantly ISI arrests and detains two-third of terror suspects; however, by law, it has no arrest power neither can it detain terror suspects. Because the security agencies fear acquittal due to weaknesses in the criminal justice system, the detention of those suspects becomes the aim and adding the fact that it has exacerbated the situation by its ultra vires action. Therefore, detention becomes the aim, and acquittal becomes the foregone conclusion.⁶⁸⁶

Tajik⁶⁸⁷ says that ISI conduct should have legal cover. However, given the track record of ISI, it has a history of human rights abuses, censorship, enforced disappearance, the allegations of killings of journalists,⁶⁸⁸ giving it these sweeping powers raises grave concerns. He says ISI should be given legal footing where their testimony is allowed in court because their ultra vires actions lead to acquittals, and those agencies arrest two-third of terror suspects when they have no legal authority to arrest. However, he failed to elaborate on how it will work in practice and how it will empower the rule and law approach. Tajik also

⁶⁸⁴ Zaidi (n 17) 20.

⁶⁸⁵ Tajik (n 36) 116.

⁶⁸⁶ Zaidi (n 17) 8.

⁶⁸⁷ Tajik (n 36) 124.

⁶⁸⁸ Grare (n 321) 24.

acknowledges that due to already militarised Pakistan security infrastructure, the military principles of ‘engaging the target and eliminating it’ prevails rather than the policing principle of ‘detaining the target and prosecuting it.’ The successful policing experience across the globe follows the latter principle⁶⁸⁹. Giving ISI arresting and prosecuting power is not an alien concept on its own as in several jurisdictions in the world, these agencies enjoy these powers, i.e., in India, the CBI has the power of arrest and prosecute.⁶⁹⁰ However, ICG strongly opposes the greater role of the military and its backed agencies in Pakistan security because it leads to human rights abuses and weakens the civilian’s police.⁶⁹¹ Sattar goes further and states that "It is not infirmities in our criminal procedure code or the evidence act, but the predominant role of the ISI and the army in performing internal security duties not backed by law that largely explains the lack of convictions in terror cases."⁶⁹²

In addition, evidence collected by the ISI is not applicable in courts; for example, in Adiala 11 case, High court and Supreme court said that interception by ISI is not applicable.⁶⁹³ However, the Fair Trial Act 2013 change that, after the Fair Trial Act, if the ISI gets prior permission from the High Court for the interception, it is admissible evidence. Soofi states that this is model is close to UK RIPA.⁶⁹⁴ Therefore, under the Fair Trial Act, police can use covert surveillance, wiretapping. Through this, the police and intelligence can have greater cooperation, which could lead to the prevention of terrorism. However, Zaidi states that "to date, no reported cases have utilized this law, presumably because prosecutorial entities are either hesitant or not trained to use it."⁶⁹⁵

5.6.5 Lack of witness protection

Despite the laws of witness protection in ATA, Zaidi states, "Witness protection is paid lip service in Pakistan."⁶⁹⁶ In a country where judges, police, and prosecutors feel afraid, witness protection is almost a non-concern. There is an utter disregard of witness anonymity and

⁶⁸⁹ Tajik (n 36) 116.

⁶⁹⁰ Weisburd and others (n 24) 85.

⁶⁹¹ International Crisis Group, ‘Revisiting Counter-Terrorism Strategies in Pakistan: Opportunities and Pitfalls’ (n 12).

⁶⁹² Abbas, ‘Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform’ (n 32).

⁶⁹³ Soofi in Center for Research and Security Studies (n 574) 143.

⁶⁹⁴ *ibid.*

⁶⁹⁵ Zaidi (n 17) 3.

⁶⁹⁶ *ibid.*

protection, resultantly witnesses are too scared to testify, and adding to the pressure that court overly relies on witness testimony, which further compounds the problem.

The protection provided to the witnesses, police officers, prosecutors, and judges is very weak. Judges have been attacked a few times, the son of one of the high court judges was kidnapped.⁶⁹⁷ In some cases, the complainant has been attacked outside the courts.⁶⁹⁸

Therefore, there is a real fear for witnesses; in practice, witnesses are not shielded from the accused for their safety despite there being laws.

Witness protection is an area where sufficient resources and effort should be made. It needs to be learned from liberal democracies about the witness protection programs such as shielding the witness through screens, a practice that is done in most developed countries. Moreover, separate entrances and exits could be created for witnesses because judges, law enforcement agencies are targeted; thus, witnesses are even more defenceless. There should be exemplary punishment for attacks against witnesses, judges, and security authorities. In addition, the country should have a system that encourages witnesses to come forward through public education campaigns. Besides, it is challenging to get a private witness due to the trust deficit between police and public, fear of attacks from terrorists, witnesses not being compensated for the time, travelling a long distance, and the legal fatigue of being part of the case. These contribute to a lack of witnesses and witnesses due to the aforementioned issues often turn hostile.⁶⁹⁹ Lack of witness protection is the leading factor in acquittal in terrorism cases.

Dealing with accused in a professional, dignified manner, according to the human rights standards and implementing those standards throughout the whole process, from pre-charge detention to the conclusion of the trial is essential in counterterrorism.⁷⁰⁰ Besides, legal aid should be provided to the accused so that the accused can pay for travel expenses and hire a competent, independent lawyer to fight his case. At present, the accused has to fund himself, and many people have to sell their property to fight a lengthy trial.⁷⁰¹ RSIL report reveals that

⁶⁹⁷ International Crisis Group, 'Pakistan: Stoking the Fire in Karachi' [2017] International Crisis Group Asia Report <<https://d2071andvip0wj.cloudfront.net/284-pakistan-stoking-the-fire-in-karachi.pdf>> accessed 22 August 2020.

⁶⁹⁸ Mubasher Bukhari, 'Pakistani Family Sentenced to Death over "honor Killing" Outside Court - Reuters' <<https://www.reuters.com/article/us-pakistan-women-killings/pakistani-family-sentenced-to-death-over-honor-killing-outside-court-idUSKCN0J30SV20141119>> accessed 22 August 2020.

⁶⁹⁹ ATC-I (Anti-Terrorism Court I), State v. Fasiullah Tipu, July 17, 2007.

⁷⁰⁰ ALEX P SCHMID, 'Terrorism and Human Rights: A Perspective from the United Nations' (2005) 17 *Terrorism and Political Violence* 25 <<https://doi.org/10.1080/09546550590520546>> accessed 19 March 2020.

⁷⁰¹ Wajahat Masood (n 683).

throughout the entirety of the legal process of the prosecution system, the human rights of the suspects are ignored or abused.⁷⁰²

5.7 Role of police in preventing radicalisation

Prevention of crime is the responsibility of the police across the world. Terrorism being a crime, therefore, preventing terrorism would fall under that responsibility. It is broadly under this duty many police organisations across the globe engage in preventing terrorism and preventing radicalisation, also referred to as Countering Violent Extremism (CVE).

Radicalism is not a problem by itself. It is when radicalism becomes violent; it becomes a problem. Many ideas that are widely respected nowadays were regarded as radical in the past, such as the abolition of slavery or equal treatment of women; in that sense, non-violent radicalisation can be a force for good. Spalek suggests that that the police should engage with all groups except those who condone violence.⁷⁰³

Along with laws regulating hate speech, incitement to violence, the states are also putting other measures such as rehabilitating individuals who are susceptible to radicalisation. Police are the primary law enforcement agency; they are an integral tool of the state's efforts to stop radicalization and CVE. US Homeland Security says, "the term "countering violent extremism," or CVE, refers to proactive actions to counter efforts by extremists to recruit, radicalize, and mobilize followers to violence."⁷⁰⁴ The purpose of CVE is to reduce the vulnerabilities which make fertile conditions for enrolment and radicalization by violent extremists. "Where possible, CVE should be incorporated into existing programs related to public safety, resilience, inclusion, and violence prevention. CVE efforts do not include gathering intelligence or performing investigations for criminal prosecution."⁷⁰⁵

In many countries of the world, the police are playing an increasing role in preventing violent extremism. Most EU countries are countering terrorism through community policing by developing trust between police and communities. CVE should not be police only approach due to the limitations and challenges it can present, such as lack of specialised knowledge by police and police overinvolvement, which could reduce the cooperation by the public.

However, police are an essential part of the process by being part of a multi-agency partner in

⁷⁰² Research Society of International Law (n 655).

⁷⁰³ Spalek (n 103) 121.

⁷⁰⁴ US Department of Homeland Security, 'What Is CVE?' (*Countering Violent Extremism Task Force*) <<https://www.dhs.gov/cve/what-is-cve>> accessed 29 August 2020.

⁷⁰⁵ *ibid.*

preventing terrorism. It is widely accepted that CVE requires a partnership approach. Peters and Saeed state that police are better positioned to support a more community-centric and non-securitized approach to CVE as they have a permanent presence in the communities."⁷⁰⁶

RANS report states that police can play a vital role in countering terrorism through a deeply rooted relationship with the community in which an ethos of service and partnership is embedded in their mission.⁷⁰⁷ Police need to be responsive, fair, and just in their treatment. Increasingly police need to be transparent with the public except for very limited instances where because of national security, their work could be private. However, police need to be as open as possible. It is by being transparent that police can secure the trust of the community.⁷⁰⁸ Community policing can play an essential role in making police work transparent and thus countering violent extremism and countering terrorism. Community policing has been found to be a practical approach in dealing with terrorism in several countries across the world. With many countries and the US States like New York and Los Angeles have made it the dominant form of policing in those US states. It was suggested that in case of dealing with those radicalised EU citizens returning from Jihadist countries like Syria and Iraq, police played a significant role in developing contacts between the families of those returnees to win the trust and help the process of readjustment of those returnees into the society.⁷⁰⁹

In stark contrast to many countries in the world, Pakistan police hardly play any role in CVE. Their role is minimal. Nor does Pakistan have a collaborative approach to CVE, unlike most Western countries. People are not actively asked by the state to help the state and to become co-producers of security. Instead, people think it is the state's responsibility to prevent terrorism and deradicalize. Consequently, they do not take ownership of the counterterrorism problem⁷¹⁰. Besides, neither does Pakistan have a comprehensive deradicalization strategy. It

⁷⁰⁶ ALLISON PETERS and JAHANARA SAEED, 'PROMOTING INCLUSIVE POLICY FRAMEWORKS FOR COUNTERING VIOLENT EXTREMISM' (2017) <<https://giwps.georgetown.edu/wp-content/uploads/2018/04/Pakistan-CVE-Case-Study.pdf>> accessed 13 August 2018.

⁷⁰⁷ Organisation for Security and Co-operation in Europe, 'Preventing Terrorism and Countering Violent Extremism and Radicalization That Lead to Terrorism: A Community-Policing Approach' [2014] Article 41 <<https://www.osce.org/files/f/documents/1/d/111438.pdf>> accessed 20 April 2019.

⁷⁰⁸ *ibid.*

⁷⁰⁹ Steven Lenos and Wessel Haanstra, 'EX POST PAPER The Role of Police Officers in Dealing with Jihadist Returnees' (2017) <https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network/ran-papers_en> accessed 22 August 2020.

⁷¹⁰ Abdul Basit, 'Countering Violent Extremism: Evaluating Pakistan's Counter-Radicalization and De-Radicalization Initiatives' (2015) 15 Islamabad Policy and Research Institute <<http://www.brookings.edu/~media/research/files/papers/2015/01/us-islamic->>> accessed 22 August 2020.

is not given much comprehension in NISP other than a cursory mention. Peace Direct penal had a consensus that the National Action Plan is overly reliant on military and policing and does not focus on ways of CVE.⁷¹¹

After the Swat military operation, which was deemed as one of the most successful military operations against insurgents by its army, there was felt a need to run a rehabilitation program, as a large number of young people surrendered and were captured in operation. Therefore, the army started Pakistan's first-ever deradicalization program in the city of Swat in the KPK province.

The army set up de-radicalisation centres and provided a program to rehabilitate those who were once Taliban fighters to rehabilitate them into the communities. The military currently runs five major adult deradicalization centres—Mishal, Sparley, Rastoon, Pythom, and Helia. Sabaoon, a sixth centre, which was handed over to civilian establishment after its establishment by the military, administers juveniles. The only centre in Punjab which was run by the police was shelved after a lack of resources. It is unhelpful to suspend such a program when the country is going through such an acute counterterrorism challenge, with research suggesting that more police needs to be involved in all aspects of counterterrorism. It needs a civilian-led approach to CVE in the joint state-society effort. It is the community approach that is necessary to change that mindset. Community engagement lacks in Pakistan. Farhat Ullah states that police lack training, and they should be trained in community policing rather than traditional ways of fighting crimes.⁷¹²

The concept of de-radicalisation was alien to Pakistan before the Swat operation.⁷¹³ Dr Muhammad Farooq Khan, a moderate religious scholar, designed these projects, which was paid by the KPK provincial government; unfortunately, the Taliban killed Dr Farooq. The project consisted of four modules. 1) Education 2) counselling/ therapy challenging the ideology by confronting it with logic. 3) Social issues and incorporating family participation 4) vocational training to enable detainees to earn a living.⁷¹⁴ Rana states that the project only catered to low-level militants; however, he says that it could have expanded to higher-level

⁷¹¹ Peace Direct (n 29) 20.

⁷¹² Farhat Ullah, 'Editorial: The Need for Effective and Responsive Police Training to Counter Terrorism' (2019) 11 Pakistan journal of criminology I.

⁷¹³ Rana (n 88).

⁷¹⁴ *ibid.*

militants due to their influence in the organisation and turning them to valuable assets. Rana state that Swat programme was based on the Saudi model, which is deemed a professional, coherent, comprehensive counselling program. Jawaid states that the Pakistani model is a compromised model between Saudi and Denmark Aarhus programs, with Aarhus being deemed the best deradicalization program in the world.⁷¹⁵ Aarhus program aims to prevent radicalization and deradicalizes those who have already become radicalised. Pakistan's program mainly focuses on those who have already become radicalized and less so at those who are susceptible to radicalisation.

Jawaid states that the army led program is neither comprehensive nor replicable for other parts of the country.⁷¹⁶ It is not a voluntary program such as UK Channel or Denmark Aarhus. People are preselected due to them surrendering to the military or being detained by the military. The military selects those who it thinks do not have blood on their hands. Military claims very low recidivism of about 1 percent⁷¹⁷; however, due to the mandatory nature and not having a free choice the effectiveness of the program is a question mark and taking into account the poor track record of the military regarding human rights, unlawful detention, unlawful killings it hard to see the accurateness of this result. Jawaid states that the success of the programs in the world shows that where there is a voluntary selection of the participants, the programs are most successful.

Despite the project's shortcomings, however, the military is still contented that at least they are trying something where ten years ago, the concept of deradicalization was alien. The program in Pakistan focuses on the education part, like the UK. The key to the success of the Denmark program is police involvement in the program as a partner. Whereas in Pakistan, due to lack of police involvement, any progress made by the army is not complemented by the police as they continue to be under-resourced and detached from the army's de-radicalisation efforts.

⁷¹⁵ Arsla Jawaid, 'Understanding Pakistan's Deradicalization Programming' (United States Institute of Peace 2020) <https://www.usip.org/sites/default/files/2020-01/sr_461-understanding_pakistans_deradicalization_programming.pdf> accessed 26 August 2020.

⁷¹⁶ *ibid*

⁷¹⁷ *ibid*.

Rana states that the police are not involved in deradicalization because the public does not trust them. The fact that the police are the biggest target of terrorists also obstructs their participation in de-radicalisation, besides the fact that the police do not have counterterrorism training and operational capacity for involvement in deradicalization.⁷¹⁸ Therefore, he states the urgent need to reform police so that it can shoulder greater responsibility in this arena. Police are highly involved in many Muslim majority countries' deradicalization programs. Such as the Indonesian program that is based on the belief that police can change militants.⁷¹⁹

Prevention is not given many resources or attention in the current Pakistani counterterrorism system. Its counterterrorism response is reactive rather than proactive, with the army being overly involved in all aspects of countering terrorism. FATA, which was deemed as the epicentre of terrorism, did not even have police presence until 2018 because of its special autonomous status. They were policed by special forces called Levies and Khasdars. The second most affected province in Baluchistan also had less than 10% percent being covered by police; most of it is covered through the Levies forces. Levies forces are under the leadership of tribal elders and therefore are not democratic policing. However, after the merger of FATA into KPK through the constitutional amendment, the Levies and Khasdars forces have merged into the KPK provincial police. Twenty-eight thousand of them have been merged with the police.⁷²⁰ The Same needs to happen with the Baluchistan as per Khosa, who was the chief of Baluchistan police.⁷²¹

The army being at the forefront of these programs further lessens the already reduced role of police in national security and lowers police morale. The army still enjoys the trust of people. However, the resentment against the army is growing. Fair states that the army manipulates the public by distorting the truth and dictating their manufactured version of the truth to them.⁷²² Thus, this could be the reason for the army enjoying more trust. While in case of insurgency, it is understandable for the military to get the area cleared, but once the area is cleared, the police should be involved in security and rehabilitation programs within that cleared fence.⁷²³

⁷¹⁸ Rana (n 88).

⁷¹⁹ *ibid.*

⁷²⁰ Zulfiqar Ali, '28,000 Levies, Khasadar Personnel Join KP Police' (*Dawn.com*, 9 April 2019) <<https://www.dawn.com/news/1474825>> accessed 29 August 2020.

⁷²¹ Khosa (n 109) 130.

⁷²² Fair (n 64) 34-36.

⁷²³ Bayley (n 78) 53.

Peace Direct report states that Pakistan has not expanded the de-radicalisation projects to other provinces; they are mostly in Khyber Pakhtunkhwa.⁷²⁴ Moreover, it states that the government has not owned those military-run centres.⁷²⁵ Abbas states that the extreme situation of terrorism in Pakistan needs a well-resourced and well-devised deradicalization program under the civilian-led NACTA, which should be led by the police.⁷²⁶ Traditionally the police focus is on preventing crime and is reactive within the criminal justice system in terms of prosecuting, collecting intelligence, disrupting plots. However, recently the work of the police is becoming more integrated with preventing radicalisation. However, it needs to do in a partnership manner. Nawaz says, "A key element in his deradicalization efforts is the creation of a strong base of police officers with sound academic and field experience."⁷²⁷ While d'Estaing says that women must have a greater role in CVE in general, especially in security forces, because trust is essential in counterterrorism.⁷²⁸

Humane treatment by police can lead to disengagement, says Peracha.⁷²⁹ She states that after releasing from the army rehabilitation programme, a relationship should be built between the probational and law enforcement agencies to verify the individuals.⁷³⁰ The success of the Swat deradicalization program was due to military surveillance and monitoring, which police have been unable to complement according to Khan and others due to lack the resources for post-release supervision.⁷³¹

Often police and security services are the first to know about any individual at the risk of radicalisation or are in contact with such individuals; this provides them with a window of opportunity. Besides, if the individual knows they are under surveillance, it can stop them from committing the crime.⁷³² Multi-agency working is important because the partners may have more information than the police, therefore, making them essential.

⁷²⁴ Peace Direct (n 29).

⁷²⁵ *ibid.*

⁷²⁶ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁷²⁷ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁷²⁸ Sophie Giscard d'Estaing, 'Engaging Women in Countering Violent Extremism: Avoiding Instrumentalisation and Furthering Agency' (2017) 25 *Gender and Development* 103
<<https://doi.org/10.1080/13552074.2017.1279823>> accessed 14 March 2020.

⁷²⁹ Zubair Azam, Syeda Bareeha Fatima and Syeda Bareeha, 'Mishal: A Case Study of a Deradicalization and Emancipation Program in SWAT Valley, Pakistan' (2017) *Summer Journal for Deradicalization* 1.

⁷³⁰ Raafia Raees Khan, Raafia Raees and Feriha Peracha, 'Deradicalizing, Rehabilitating, and Reintegrating Violent Extremists' [2017] *Peace Brief*.

⁷³¹ *ibid.*

⁷³² Innes, Roberts and Lowe (n 450).

Pakistan does not have a counterterrorism narrative. The country needs to have a narrative so that people and police know what it is they are dealing with so that they can develop a joint response. The problem in the President Musharraf era was that Pakistan was unable to rebut the assumption that the war it was fighting was not the US war but its war. General Kayani owned for the first time that the war is the Pakistan war. This was a landmark moment. Having a common narrative can help people own the problem, as the government across the world agree they cannot fight terrorism alone; they need the public to be on their side.

The army is at the forefront in current deradicalization efforts due to resources, its knowledge, and the experience of fighting militancy in the country. Civil society and police involvement are under-resourced and scattered. Due to the obligatory nature of the participant's participation, they must go through post-release reporting to military and spot checks by the military, failure to adhere can result in arrest. Heavy-handed approach and utter disregard of human rights can lead to complying with it half-heartedly or forcefully, then embracing it wholeheartedly. The army is at the forefront, and lack of civilian Non-Government Organisations (NGOs) or police involvement makes the police ill-prepared and results in police struggling to rehabilitation post-release of detainees. Rehabilitation is the primary purpose of the whole deradicalization project. Nevertheless, rehabilitation is the weakest link in the program due to the overreliance on authorities to run the entire program without the Civil society organisations.⁷³³ Fair⁷³⁴ and Lievan⁷³⁵ consider Pakistan's vibrant and capable civil society its unique asset, in a country which is otherwise rampant with corruption.

The FATA region where the terrorist concentration is highest is renowned in its reputation of not being ruled by oppressors. It has consistently fought those who have tried to impose their ideology on them. However, winning hearts and minds approach could be very fruitful. Therefore, the army started a few peacebuilding approaches to help them build a cohesive community.⁷³⁶ However, the army approach has also been heavy-handed and selective. Reforms in police are inevitable for the functioning of a democratic society. Besides giving the army a more significant role in counterterrorism creates a civil-military imbalance, which

⁷³³ Jawaid (n 715) 14.

⁷³⁴ Fair (n 64) 265-267.

⁷³⁵ Lieven (n 178).

⁷³⁶ Muhammad Feyyaz, 'Winning Hearts and Minds in Pakistan's Tribal Areas' (2016) 10 Perspectives on Terrorism 53 <<http://www.jstor.org/stable/26297598>> accessed 24 June 2020.

harms democracy in the country.⁷³⁷ Giving the military a more substantial part in national security has severe implications for human rights.

5.8 Police-public relations and its impacts on counterterrorism

As discussed in chapter 4, there is little contention that police and public relations are imperative for counterterrorism. For many people, police are their first point of contact with the criminal justice system; therefore, the police are responsible for representing the positive authority of the state. If there is no trust between the police and the public, both tend to lose.

Currently, police do not enjoy the trust of the public. The police have not been able to get rid of the flawed colonial-era ethos, which is still ingrained in policing today of the police being used to suppress the political dissent and being used by the politicians, feudal lords, and aristocrats for their advantage. The gulf between the police and people has widened over the years, with the fear of police by ordinary citizens remaining constant. The police in colonial times were inherently organised in a way that ensured the police do not get too close to the local population.⁷³⁸ This troubling mindset continues to be deep-seated in police today. Khosa thinks the heart of policing reforms would be a change of this mindset⁷³⁹. The police stations (locally referred to as *Thana*) are usually based in a fortress-like building; it represents a sign of a frightening place to ordinary people. Frequently lack of faith in police and criminal justice system leads to street justice and mob violence.⁷⁴⁰

Police officers are transferred to different distant places on the direction of politicians or feudal landowners who routinely control police transfers directly or indirectly. In addition, the officers are regularly scolded by the seniors, and they take out their anger than on public.⁷⁴¹ The police have poor working conditions, low salaries, lack of training, dismal prospect of promotion, especially amongst junior ranks. When combined, these factors lead

⁷³⁷ Nil S Satana and Tijen Demirel-Pegg, 'Military Counterterrorism Measures, Civil–Military Relations, and Democracy: The Cases of Turkey and the United States' (2020) 43 *Studies in Conflict & Terrorism* 1 <<https://doi.org/10.1080/1057610X.2018.1499696>> accessed 23 July 2020.

⁷³⁸ Muhammad Bilal Saeed, 'COMMUNITY POLICING IN PAKISTAN AN ASSESSMENT' (2014) <<http://www.cpdipakistan.org/wp-content/uploads/2014/12/Community-Policing-in-Pakistan-An-Assessment.pdf>> accessed 22 August 2020.

⁷³⁹ Khosa (n 109) 347.

⁷⁴⁰ Justice Tankebe and Muhammad Asif, 'Police Legitimacy and Support for Vigilante Violence in Pakistan' (2016) 40 *International Journal of Comparative and Applied Criminal Justice* 343 <<https://doi.org/10.1080/01924036.2016.1217425>> accessed 13 November 2019 .

⁷⁴¹ Perito and Parvez (n 43).

to the police being indifferent towards the public. A study in KPK province found that a high number of police officers suffer from psychological pressures such as depression, anxiety, and stress.⁷⁴² Whereas Perito and Parvez state that medical care is not provided to police or is very limited.⁷⁴³ Hence when such legitimate needs are not catered for, this could lead to poor performance, reduced job satisfaction, and lack of concern for the public.

Police constables display military-style demeanour, heavy-handed approach, in which the public is dealt in an abusive and crude manner, which leads to public avoiding police stations, and police assistance is only sought as a last resource.⁷⁴⁴ Abbas says people avoid communicating grievances and avoid police. Police internal reports also acknowledge the poor credibility of police in public eyes.⁷⁴⁵ Corruption, nepotism, political manipulation further tarnish the police image. The incompetence of judicial systems also lowers the morale of police and vice versa. This amplifies overall public ill-feeling throughout the whole justice system.

Pakistan has also recently changed police uniform, in part, it is conscious of choosing uniform which creates a softer image of the police⁷⁴⁶, such as the uniform of National Highway Police (NHP) and Motorway Police (MP) were consciously chosen to be different than regular police uniform to represent a positive image.⁷⁴⁷ Centre For Research and Security also suggested change in police uniform because they say that MP has evidently a changed behaviour because of their uniform⁷⁴⁸, while for regular police, for about six decades their poor image is ingrained in people mind and uniform is part of that image.

Pakistan counterterrorism strategy NISP says that success on counterterrorism is dependent on people responding to the framework set in NISP and citizens playing an active role in saving the country from terrorism.⁷⁴⁹ However, Nawaz states that NISP failed to establish a

⁷⁴² Sage Publishing, *THE POLICE CULTURE AND WORK STRESS* (2017)

<https://us.sagepub.com/sites/default/files/upm-binaries/77481_cox_ch_8.pdf> accessed 29 August 2020.

⁷⁴³ Perito and Parvez (n 43).

⁷⁴⁴ *ibid.*

⁷⁴⁵ Abbas, 'Reforming Pakistan's Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?' (n 77).

⁷⁴⁶ Pakistan Today, 'Punjab Police to Have New Uniform' (5 March 2019)

<<https://www.pakistantoday.com.pk/2019/03/05/punjab-police-to-have-new-uniform/>> accessed 29 August 2020.

⁷⁴⁷ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁷⁴⁸ Center for Research and Security Studies (n 574).

⁷⁴⁹ Pakistan NISP (n 563) 45.

benchmark for success,⁷⁵⁰ Perito says that in counterterrorism the success is not the reduction of crime but also what is the level of trust between the police and public.⁷⁵¹

Good police behaviour influences law-abiding attitudes from the citizens. Good relations can foster trust, whereas poor behaviour can do the opposite. Police abusive relations can provoke aggression, criminality, and even terrorism—especially among youth, says Rana.⁷⁵² In some cases, the alleged terrorist wanted to return to normalcy; however, police alleged negative behaviour was found to be an impediment in them returning to normal life, a survey by Pakistan Institute for peace studies revealed.⁷⁵³

There is even lower cooperation between women citizens and police. The reason for this is the criminal justice system, which treats women in a shockingly discriminatory manner. It, unfortunately, mirrors that of the society, says Masihuddin.⁷⁵⁴ The number of policewomen is abysmally low, with only one in 100 police officers being a woman.⁷⁵⁵ In contrast, in the UK, as of 31 March 2019, 30% of all officers were female.⁷⁵⁶ Peters states that women are more likely to report gender-based violence to women officers. Through these roles, a more cooperative relationship could be formed between women citizens and police, whereas currently, the public seldom wants to cooperate with police due to their negative image.⁷⁵⁷

5.8.1 Community policing in Pakistan

Pakistan police formed after the model of Irish constabulary and, with its colonial background, as an authoritarian institution, is far removed from the concept of community policing. The two main components of community policing are partnership and problem-solving. The partnerships can be easily formed when there exists trust. However, a public survey conducted by Gallup Pakistan in May 2014 revealed that 24% of Pakistanis themselves or the people in their neighbourhood have no trust in police, 49% have very little

⁷⁵⁰ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25) 6.

⁷⁵¹ Perito in Center for Research and Security Studies (n 574) 145-149.

⁷⁵² Rana (n 88).

⁷⁵³ *ibid.*

⁷⁵⁴ Humaira Masihuddin in Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁷⁵⁵ Peters (n 117).

⁷⁵⁶ Home Office, 'Police Workforce, England and Wales, 31 March 2019 Second Edition' (2019) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831726/police-workforce-mar19-hosb1119.pdf> accessed 27 August 2020.

⁷⁵⁷ Peters (n 117) 2.

trust in police, and 27% have a lot of trust in police.⁷⁵⁸ Transparency International survey revealed that over 75% percent of people think that police take bribes and are involved in corruption. The report lists the police as the most corrupt public sector institution in the country.⁷⁵⁹ It is difficult to form partnerships when there is such mistrust.

Farhat Ullah and others say the biggest problem in the police is lack of accountability and citizen oversight in the police⁷⁶⁰; however, a study of the top 20 democratic countries revealed that over 60 % have a citizen oversight of police, in the US it goes to 80%. Nalla and Mamayek state that it is a significant achievement compared to a few years ago when the police mainly rejected citizen's oversight in the US.⁷⁶¹ In Pakistan, there were efforts to introduce civilian oversight agencies, but these were either not fully instituted or are now defunct.⁷⁶² Saeed states that in the past when attempts were made to introduce community policing by some police officers, those efforts were either abandoned when the officers got transferred or not adequately institutionalised.⁷⁶³ Amongst several community policing initiatives, Only Citizen Police Liaison Committee Sindh (CPLC) has survived the test of time, although it is privately funded, yet it is a great example.

In a survey conducted by Saeed, all District Police Officers (DPO's) stated that they do not have the budgetary allocation for community policy initiatives, which hampers their abilities. In addition, there is a lack of awareness both from police and public, lack of training for a community policing at the station house level. Although community policing training is part of the higher rank officers, nonetheless, junior ranks are not aware of it.⁷⁶⁴ Police state that one of the big reasons for lack of community policing is because the public is not interested⁷⁶⁵ in it; however, Farhat Ullah and others state that the *thana culture*⁷⁶⁶ is what discourages community policing.⁷⁶⁷

⁷⁵⁸ Saeed (n 738).

⁷⁵⁹ Transparency International (n 533).

⁷⁶⁰ Ullah and others (n 622).

⁷⁶¹ Mahesh K Nalla and Chae Mamayek, 'Democratic Policing, Police Accountability, and Citizen Oversight in Asia: An Exploratory Study' (2013) 14 *Police Practice and Research* 117 <<https://doi.org/10.1080/15614263.2013.767091>> accessed 12 March 2020.

⁷⁶² *ibid.*

⁷⁶³ Saeed (n 738).

⁷⁶⁴ *ibid.*

⁷⁶⁵ *ibid.*

⁷⁶⁶ Thana Culture-literally police station culture- a term used in Pakistan to describe a general police mind-set that accepts as common practice such abuses as demanding bribes for performing police services, illegal detention, and extraction of confessions through third-degree methods.

⁷⁶⁷ Ullah and others (n 622).

It is widely acknowledged Policing in Pakistan is reactive. The police only act when a crime has occurred; it very rarely acts before the commission of a crime. However, community policing is a proactive approach; which means the police and community identify policing tasks beforehand. Hence, implementing community policing can be a vehicle to make policing proactive. Saeed states that the answer to the current trust deficit between police and the public is enforcing and supporting community policing. His report recommends that community policing should be made a statutory obligation.⁷⁶⁸

There is consensus amongst academics and practitioners alike that community policing should be encouraged and supported in Pakistan. A community policing model cannot be implemented without public cooperation. For police to gather public cooperation, the procedural justice model is arguably a pivotal antecedent to cooperation with the police.⁷⁶⁹ It constitutes four things, respect, neutrality, trust, and voice.⁷⁷⁰ Especially in counterterrorism, it is crucial; there is a growing literature that confirms that police, which is perceived as procedurally fair, gets more cooperation.⁷⁷¹ In contrast, a lack of satisfaction in the criminal justice system will make the public less likely to cooperate.⁷⁷²

Brown suggests that "aggressive tactics and invasive technology will fail to reduce the threat of terrorism and that strategies based on the fundamental tenets of community policing could be effective against terrorist organizations."⁷⁷³ Research conducted by O'Neill *et al.* found that police officer involved in partnership work with the communities not only found it effective, crucial but also enjoyable.⁷⁷⁴ Partnership work leads police to pragmatic solutions instead of conflicting with traditional police culture.

Improvement in police will also bear fruits for the civilian government, which often struggles to stand up against the powerful army because of poor governance issues of civilian government. Perito state that improvement in policing will strengthen democracy in

⁷⁶⁸ Saeed (n 738).

⁷⁶⁹ Harley Williamson, 'Examining Cooperation with the Police in a National Security Environment' (2016) 11 *Journal of Policing, Intelligence and Counter Terrorism* 163 <<https://doi.org/10.1080/18335330.2016.1215508>> accessed 5 March 2020.

⁷⁷⁰ *ibid.*

⁷⁷¹ Ben Bradford, 'Policing and Social Identity: Procedural Justice, Inclusion and Cooperation between Police and Public' (2014) 24 *Policing and Society* 22 <<https://doi.org/10.1080/10439463.2012.724068>> accessed 5 March 2020.

⁷⁷² *ibid.*

⁷⁷³ Brown (n 461).

⁷⁷⁴ Megan O'Neill and Daniel J McCarthy, '(Re)Negotiating Police Culture through Partnership Working: Trust, Compromise and the "New" Pragmatism' (2012) 14 *Criminology & Criminal Justice* 143 <<https://doi.org/10.1177/1748895812469381>> accessed 13 May 2020.

Pakistan.⁷⁷⁵ The citizens reward the police, which promptly responds when citizens need assistance, fairly treats all citizens, and are available easily. They are paid through the provision of crucial information about the whereabouts about people who threaten the security of both.⁷⁷⁶

Police can be a source of legitimacy for the government; their good performance will gather more support for the government.⁷⁷⁷ In contrast, their abusive behaviour, corruption, and failure in protecting the community could sway people into joining criminal gangs and terrorism.⁷⁷⁸ As prevention is better than cure, for terrorism prevention, the police need information from citizens to identify the would-be terrorists.

Various police officers in Pakistan have a yearning to transform the weak police public image. They have tried several innovative reforms in police to improve its public image.⁷⁷⁹ Most of them worked in UN peacekeeping missions; thus, have seen the police-community partnership approaches around the world and its benefits and were keen to adopt some measures to change police image. Police officers involved in UN peacekeeping missions are the country's unique asset, with Pakistan being the third biggest contributor in the UN peacekeeping missions across the world.⁷⁸⁰

Those reforms included making the police stations more welcoming. The innovative police officers replaced them with corporate style buildings; in some cases, the public did not have to enter the police station because separate entry to the compound was made available, providing ease of access. FIR lodging is the biggest problem many citizens face. Those innovative officers introduced compulsory lodging of FIR. They formed several police-citizen committees, such as the conciliatory committee to resolve the disputes between parties, citizen committee to improve police-public relations, peace committee to plan major security for the festival and religious events, vigilance committee for the prevention of crime, neighbourhood watch committees and police response committee monitoring police response to reported crimes.

⁷⁷⁵ Center for Research and Security Studies (n 574)145-149.

⁷⁷⁶ *ibid.*

⁷⁷⁷ *ibid.*

⁷⁷⁸ *ibid.*

⁷⁷⁹ Perito and Parvez (n 43).

⁷⁸⁰ Muhammad Quraish Khan, 'Former UN Peacekeepers Agents of Cultural Change in Pakistan's Police' [2014] Peace Brief.

In addition, some officers introduced the radio and TV broadcast to improve police image and foster police public relations.⁷⁸¹ Perito and Parvez say those innovative reforms made by those police officers should be institutionalised.⁷⁸² They say those reforms produced positive results and could lead to an improvement in police-public relations.⁷⁸³ It just scratched the surface of the problem; nonetheless, it offers great hope.

Often progressive reforms do not gather public awareness; they should get more recognition, says Haider.⁷⁸⁴ Even though the Police Order 2002 (in its original form) was deemed as landmark legislation because it introduced citizen oversight and police-citizen cooperation mechanisms, however, it got little media attention.⁷⁸⁵ There is a need to invest in creating public awareness of the law, their rights, and police accountability platforms. Popular media routinely depicts police brutality; however, it rarely shows police good conduct.

5.9 Conclusion

Pakistan's infrastructure has thoroughly failed to cope with the growing menace of terrorism in the country. Pakistan police play a little role in counterterrorism, although being the lead force in counterterrorism yet in practice the vast majority of police officers are mere bystanders and lack basic training and are chronically deficient in responding to counterterrorism. Military dominance of the country security also hampers police abilities, yet the military cannot be the sole reason for police failings. Agreeing, increased military role in security has weakened civilian capacity, but political manipulation is an even more significant problem in a dire police state.

There is a lack of cooperation between the law enforcement agencies, which results in petty rivalries, information hoarding, overlapping responsibilities and unlawful actions by its intelligence agencies, where mutual trust and cooperation are not nurtured. Lack of cooperation mechanism, ad hoc cooperation in the aftermath of a terrorist event, friction between institutions and lack of budget makes a proper functioning Joint Intelligence Directorate (JID) an unaccomplished dream.

⁷⁸¹ Perito and Parvez (n 43).

⁷⁸² *ibid.*

⁷⁸³ *ibid.*

⁷⁸⁴ Haider in Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁷⁸⁵ *ibid.*

Similarly, a lack of cooperative mechanism between police and prosecution, parallel court structures, the blurred legal definition between terrorism and ordinary criminality in a dysfunctional justice system benefits the terrorists. Consequently, the lack of faith in the criminal justice system leads to unlawful, arrests, extrajudicial killings by the security agencies, which results in serious human rights abuses.

Police play little or no real in deradicalization efforts when they have a hugely important role to play in CVE and de-radicalisation programs as a partner in a multi-agency program. Lack of police role breaks the chain of rehabilitation processes. Whilst military-run rehabilitation programs do not have an independent oversight nor is the selection of participants voluntary. It further lessons the police counterterrorism role when prevention of terrorism is an inevitable part of their duty.

Police in Pakistan does not enjoy the trust of the public. Some officers have tried to breathe new life into the decaying police public relations, albeit in their individual capacity; however, it just scratched the surface of the problem. These changes produced positive results and gained people satisfaction, albeit their reforms were on a significantly small scale. All those officers who are keen to make radical changes should be encouraged with utmost sincerity. Police are, in fact, citizens in uniform, and the public needs to see them as such.

Perito states that the test for policing success is whether the parent will tell their children to seek police assistance if they are lost or distressed. This needs to happen to achieve the objective of controlling terrorism and violent crime.⁷⁸⁶ The people are keen to call the police ‘their police’ and be proud of them rather than avoiding them and fearing them. Police, too, will have more job satisfaction and increased public confidence. The country has been suffering for so long due to terrorism, and it needs a respite to heal and could not afford another wave of terrorism. Although there are some resource concerns, however, those could be achieved to some degree if the police can attain their greatest asset—the public trust.

There is an ongoing capacity vs will debate in terms of Pakistan counterterrorism response; however, Abbas says that many reforms in policing do not require much money, what they genuinely require is political will.⁷⁸⁷ Pakistan needs to fully appreciate the policing improvements and its vitality for human development. It needs to implement the far-reaching reforms, which will make police a proactive organisation rather than a reactive organisation.

⁷⁸⁶ Center for Research and Security Studies (n 574)149.

⁷⁸⁷ Abbas, ‘Reforming Pakistan’s Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?’ (n 77) 13.

The time has come for Pakistan to make its police a friendly service that serves the community. Several authors and practitioners have made a considerable contribution to the knowledge by shedding light on the drawbacks and some positive aspects of police to transform the image of the police. A mere change of uniform would not make any change to the police. A reformed police force can focus on prevention and be prepared to deal with the threat rather than being a passive force that merely witnesses and does nothing. Police in the face of insurmountable threats has made enormous sacrifices with their life. They have worked under harsh conditions and deserve respect and confidence of the public.

Moreover, the Motorway and Highway police have already been mentioned as a great example of a merit-based professional, competent police force. Further, there are indications that, in principle, the military wants to handover the security to the police. Police legitimacy will strengthen democracy in a country frequently subjected to coups. This is the direction the country needs to steer towards for a great future. The policing, though it has significant challenges, yet it is not too flawed to be fixed. As suggested earlier, improvement in policing will not just have positive effects on all organs of the criminal justice system; it will also have positive impacts on the whole of society. Sense of safety is a fundamental human concern along with dignified treatment from law enforcement. The current government is very conscious of making changes to police as it was a big part of their manifesto, it needs to put its words into actions, and the whole country will reap the dividends of a citizen-centric police force.

CHAPTER SIX

6. CONCLUSION

6.1 Introduction

This chapter will answer the research question raised in chapter 1— Whether Pakistan should and could develop a civilian-led approach to counterterrorism like the one followed by the United Kingdom, where police have a greater role in countering terrorism? This is a concluding chapter on the role of police in counterterrorism in the UK and Pakistan.

Pakistan is the principal focus, while the UK acts as a comparator to the main case. The study will weigh one against another to a considerable extent, the role of police in counterterrorism in both countries so that Pakistan can learn what role the police ought to play in counterterrorism within the criminal justice system.

Chapter 6 plausibly fills the niche—the absence of a comparison on the role of police in counterterrorism in the UK and Pakistan because there was none before this on the topic. This chapter will moreover support the evaluation in the context of Pakistan by juxtaposing the country with the UK’s experience on the topic for drawing some useful conclusions or lessons.

Firstly, it provides several recommendations on several policing counterterrorism roles for Pakistan to learn from and reform its policing accordingly. Some of the recommendations made in this research are corroborated by other academics in the field. However, some of the solutions recommended in this research have not been identified by other academics and are unique to this research work. These recommendations are related to:- lack of role of police in counterterrorism; lack of collaboration between law enforcement agencies, including cooperation within police departments; lack of cooperation between police and prosecution; lack of police role in CVE and de-radicalisation; the poor police public relations being an impediment to effectively dealing with the counterterrorism and a lack of interest in community policing practices.

This chapter will set forth some valuable recommendations for Pakistan to rectify its counterterrorism response along with the argument that civilian-led citizen-centric police can strengthen the rule of law and security at the same time. This will help Pakistan build a criminal justice system that is capable of effectively dealing with terrorism and respectful of democratic principles such as the rule of law and human rights.

Finally, it identifies more gaps for further research closely connected with this research project. It also provides implications for other similar jurisdictions to benefit from the findings and recommendations of this research project.

6.2 Lessons for Pakistan

6.2.1 Role of police in counterterrorism

"It is only that absence of military-style thinking that allows British policing to build partnerships with minority and marginalised communities". Robert Lambert (Head of MCU at Metropolitan Police Service)⁷⁸⁸

This research has revealed that one of the biggest problems in Pakistan counterterrorism response is the increased role of the military and military-style demeanour of the police. One crucial lesson Pakistan can learn from the UK experience is the absence of military-style thinking, which is a unique asset of British policing. In addition, the UK has learned from Northern Irish "Troubles" that the heavy-handed military approach in Northern Ireland was counterproductive and, therefore, presently crucial separation of military and police in Britain is the distinctive feature of its counterterrorism fight. This allows the UK to build partnerships. In counterterrorism, policing should be done by consensus, not through force.⁷⁸⁹

In comparison, Pakistan has predominantly followed the war model and outsourced its internal security to the military whose approach has often been heavy-handed and led to collateral damage and infringement of human rights. In contrast, the UK has predominantly followed the criminal justice model.⁷⁹⁰ Pakistan Police has also pursued a brutal approach and rarely policed through consent. The events like Bloody Sunday taught the UK that a heavy-handed military approach could isolate communities. UK police developed a bigger

⁷⁸⁸ Lambert (n 100) 21.

⁷⁸⁹ Briggs, Fieschi and Lownsbrough (n 101).

⁷⁹⁰ Walker states that the criminal justice model should be followed, not the war model.

See: Clive Walker, 'Clamping Down on Terrorism in the United Kingdom' (2006) 4 *Journal of International Criminal Justice* 1137 <<https://doi.org/10.1093/jicj/mql056>> accessed 12 June 2020.

homeland security role because of the Troubles. In contrast, Pakistan decreased its police internal security role due to terrorism. Pakistan needs to strengthen its police and increase reliance on them.

For Pakistan to follow a police-led approach like the one followed by the UK, the military needs to take a back seat and let civilian authorities make security decisions. Given the stronghold of the military in the country, any change in Pakistan towards more civilian control is more likely if the military itself wants to drive that change, and any externally driven change is virtually impossible.⁷⁹¹ Civilians need to gain expertise in security matters if they are going to get greater control of the country's security. It is submitted that good governance can be a vehicle for civilians to gain more legitimacy and therefore giving them more power in the country's security. Strengthening the police role in counterterrorism is the only viable solution to Pakistan's counterterrorism challenges. However, this would require wider democratisation of the system of government in Pakistan.

Simultaneously it is understandable; police reforms cannot be made in isolation. Police reforms are dependent on wider changes in governance and the criminal justice system. Pakistan does not have an adequate counterterrorism strategy, whereas the UK's CONTEST is a detailed counterterrorism strategy. Pakistan's NISP is not a comprehensive document compared to UK's CONTEST, as discussed in chapters 4 and 5. CONTEST is a multi-layered policy. Pakistan needs to independently review its counterterrorism strategy like the UK to check its robustness and effectiveness.

Pakistan does not have adequate electronic criminal records databases. Although the National Database and Registration Authority (NADRA) has made a significant improvement in creating a fingerprint database, still, the idea of having a criminal record database is a relatively new notion in Pakistan. Pakistan urgently needs to overhaul the system and create an electronic criminal record database; these databases can be crucial in checking an individual's susceptibility to reoffending. This research has found that, often, ordinary criminality could lead to terrorism. Pakistan needs to have a DNA database, vehicle database, weapons database, along with crime trends data analysing experts. UK database capabilities

⁷⁹¹ Fair (n 64) 276.

are well advanced; for example, until 2009, the UK had 4.5 million people on its DNA database.⁷⁹² In contrast, Pakistan does not have a comprehensive DNA database.

It is also acknowledged that the UK is currently not fighting any insurgency, whereas Pakistan is fighting insurgency in its tribal areas, namely FATA. The police need to be used to the maximum extent possible for all crimes, including insurgency and terrorism.⁷⁹³ Police are best placed in handling internal conflict. The studies of the successful ending of insurgencies have shown that police greater role was a critical factor in ending insurgencies.⁷⁹⁴ There is little contention that when it comes to terrorism, police need to be given a greater role. The only way forward for Pakistan is to have democratic police led approach. The excessive role of the military in Pakistan, according to Lieven, restricts Pakistan's ability to progress as a nation. Nevertheless, he says it is paradoxical because it also stops the country from completely going into the hands of terrorists.⁷⁹⁵ However, Shah states that Lieven "grossly understates the army's role in enfeebling Pakistan's political, administrative, and economic institutions."⁷⁹⁶ Nonetheless, until police response to terrorism is built, the military, despite all its flaws, has however at least contained the spread and impact of terrorism in Pakistan although it has also exacerbated a number of problems to it.

Due to the militarisation of national security, Pakistan police does not have access to crucial security facilities, such as special laboratories. This is despite police being in theory, the leading counterterrorism agency according to the law.⁷⁹⁷ The police need to be treated as equal partners, and they should be able to access specialised facilities and need to be entrusted with those responsibilities. Similarly, the police should be able to access mobile phone records without having to request the Intelligence Bureau (IB). All the high-tech facilities such as geolocators, geo-fencing technology, cellular data record analysis, vehicle tracking, GPS tracking solutions, and Information technology forensics should be easily accessible to police within the law.

⁷⁹² Helen Wallace, 'Keeping the Right People on the DNA Database?' (2009) 78 *Criminal Justice Matters* 2 <<https://doi.org/10.1080/09627250903385123>> accessed 13 May 2020.

⁷⁹³ Bayley (n 78) 78.

⁷⁹⁴ *ibid* 55.

⁷⁹⁵ ANATOL LIEVEN, 'Pakistan's Paradoxical Survival:' in Moeed Yusuf (ed), *Pakistan's Counterterrorism Challenge* (Georgetown University Press 2014) <<http://www.jstor.org/stable/j.ctt5vj8sf.16>> accessed 10 April 2019.

⁷⁹⁶ SHAH (n 662) 25.

⁷⁹⁷ As per the 18th amendment in the constitution of Pakistan, the law and order is a provincial matter and thus responsibility of provincial police forces. Nonetheless, the provincial government can ask military for assistance.

Intelligence is at the heart of UK policing, Special Branch, and recently the counterterrorism branch work is predominantly intelligence related. Pakistan police need to understand the cruciality of the intelligence aspect in the counterterrorism fight. Intelligence is even more important in counterterrorism compared to ordinary criminality. Intelligence is the very lifeblood of counterterrorism.⁷⁹⁸ The UK is continuing to invest in the latest intelligence gathering techniques, behavioural science, and artificial intelligence. Pakistan needs to invest in similar technological advancements. Police received a meagre portion of defence aid from the US. For example, in 2007, the US spent \$723 million to help Pakistan military, but only \$4.9 million was spent on the police.⁷⁹⁹ ISI does not trust the police and has denied space and resources to civilian government departments to perform their duties.⁸⁰⁰ Therefore, the police need to be well resourced, and in addition to advancing their intelligence gathering techniques, the police need to be trained on how to use them.

Police are at the heart of the UK CONTEST strategy with police involved in all four strands of CONTEST. UK Police involvement routinely stretches from prevention to post-incident involvement⁸⁰¹; however, in Pakistan, the police are not involved; therefore, when an incident happens, neither do they have SOPs, nor are they prepared. The UK has SOPs for terrorism.⁸⁰² Besides, the UK has pre-emptive secret intelligence SOPs.⁸⁰³ Pakistan NISP accepts that total reliance on the military is a major weakness in Pakistan counterterrorism. UK police are proactive and conduct exercises to check the effectiveness of its preparedness.

Before the establishment of modern police in 1829, the UK routinely deployed the army to control civilian unrest and discontent. However, the heavy-handed army approach often bolstered the cause of the protestors.⁸⁰⁴ Similarly, army deployment in Northern Ireland produced similar results in the 1970s and 1980s. Britain withdrew its Diplock court strategies after realising it was a mistake, and it increased the support for IRA. Terrorists deliberately provoke the states to overreaction so that they can use it as propaganda material. Doing things

⁷⁹⁸ Tim Newburn, *Handbook of Policing* (2nd ed., Cullompton : Willan 2008) 567.

⁷⁹⁹ Abbas, 'Role of Pakistan Police in Counterinsurgency' (n 576).

⁸⁰⁰ SHAH (n 662) 225.

⁸⁰¹ *ibid* 573.

⁸⁰² Police Scotland, 'Building Security at Police Premises - Counter Terrorism Threat and Response Levels Standard Operating Procedure' (*Police Scotland*, 1 August 2018) <<https://www.scotland.police.uk/assets/pdf/151934/184779/building-security-at-police-premises-sop>> accessed 24 July 2020

⁸⁰³ Newburn (n 798) 567.

⁸⁰⁴ Connor Woodman, 'Spycops in Context: A Brief History of Political Policing in Britain' [2018] Centre for Crime and Justice Studies.

contrary to human rights is falling into the terrorist trap.⁸⁰⁵ Pakistan is facing similar challenges; UK experience offers some valuable insights. Pakistan can profit from the UK's experience.

UK police have never been divorced from politics, contrary to a widely held opinion.⁸⁰⁶ Woodman also furthers this view.⁸⁰⁷ However, the political influence in the UK police is on the ideological front and very nuanced. In contrast, political elites in Pakistan are involved in day-to-day operations of policing, which contribute to the incompetence and corruption of the police. It is another debate about whether police can be completely free of political ideology and is outside the scope of this thesis. However, the political elites' involvement in the police operational matters such as influencing posting, hiring, transferring is completely unacceptable, which hampers Pakistan police counterterrorism abilities. UK police enjoy 'operational independence' in part due to the common law doctrine built over the years. Hewitt states, "Lord Goddard's obiter dictum remains valid that no politician - or court for that matter - can tell a chief constable how he will discharge his legal powers, provided he does not totally abdicate from his duty to do so."⁸⁰⁸

Pakistan spends a huge police budget for VIP protection from 30% to 50%. It depletes the already limited police budget. Pakistan should review its VIP spending and spend the VIP protection money through a standardized assessment procedure, which is free from political influence. Pakistan could pay for VIP protection through the defence budget, as currently, there is a vast disparity between police and military per-person spending.⁸⁰⁹

Domestic security should be handed back to the police because the police are best at handling internal security. ISI should ask the police to carry out the arrest after their investigation like the UK MI5, and this would keep their actions within the law. Besides, they should outsource police to conduct investigations and assist them and vice versa.

⁸⁰⁵ Innes and Thiel in Newburn (n 798).

⁸⁰⁶ *ibid.*

⁸⁰⁷ Woodman (n 804).

⁸⁰⁸ Eric J Hewitt, 'Operational Independence — Myth or Reality?' (1991) 64 *The Police Journal* 321 <<https://doi.org/10.1177/0032258X9106400407>> accessed 13 May 2020.

⁸⁰⁹ Military spends per capita Pakistani Rupee (PKR) 11, 40,000 on its soldier whereas police spends PKR 3,40,000.

See: Khosa (n 109) 103.

6.2.2 Multi-agency cooperation and role of police in it

The 9/11 commission revealed the importance of a collaborative approach for terrorism. After 9/11, the US established Fusion centres and similarly UK established JTAC (The Joint Terrorism Analysis Centre) in 2003 to develop truly inter-agency cooperation. As this research has revealed that countering terrorism is a collaborative approach in which all the national law enforcement agencies bring their expertise together in the national interest. Since the window of opportunity to detect, disrupt, and deter has significantly reduced, given the technological advancements and threat is more dispersed and nuanced. Law enforcement agencies have more leads than they can follow; therefore, a collaborative approach is indispensable.

The UK expansion of CTU units after 7/7 dramatically increased its capacity to deal with terrorism.⁸¹⁰ However, Pakistan did not expand the capacity of FIA in the face of unprecedented threats. The most critical aspect of UK counterterrorism success is its more than 100 years old long unfaltering relationship between the police and its Security Services. The relationship that they enjoy is unmatched.⁸¹¹ Even in the developing world, it is viewed with envy from comparable jurisdictions, with the UK being regarded as a flag bearer. UK JTAC contributed enormously to bringing all these agencies together. JTAC has played a positive role in bringing UK counterterrorism stakeholders together and in promoting intelligence sharing to an extent where it becomes a norm, not an exception. Through the embedment of the officer of different agencies in each other's organisations. Their ease of fitting in and bring their expertise with easy access to their parent organisational databases take the cooperation to another level.

The UK counterterrorism intelligence cycle is effective.⁸¹² In contrast, Pakistan's intelligence sharing is not effective. All intelligence agencies operate in "stovepipes" and "silos" to some degree, which obstructs the discharging and distribution of intelligence to other stakeholders. However, in Pakistan, this is often the case, there is a failure of information sharing between the provincial police department, agencies still possess several traits such as, autonomy and interagency ego that obstruct the effective and efficient sharing of information and

⁸¹⁰ Staniforth (n 329) 320.

⁸¹¹ Blakey (n 378).

⁸¹² Burke (n 46).

intelligence.⁸¹³ Pakistan law enforcement agencies are engaged in petty rivalries, competition, and information hoarding. As this research has revealed, the reason for this is the lack of framework, which allows collective decision-making and information sharing. Well organised ISI has taken over domestic security tasks from poor performing police. However, their actions are not backed by laws. The friction and lack of trust between police and ISI impede information sharing.

Fundamental reform would be to remove political manipulation from the police, which will help in making it a competent, merit-based organisation. Further, the rule of law approach led by the police needs to be empowered. ISI needs to work under a legislative framework. Admittedly, the attempts to put it under parliamentary oversight have failed, but those attempts were hasty and not thought through.⁸¹⁴ Sirss states that a healthy and enduring democracy cannot emerge in Pakistan unless MI and ISI in Pakistan are stripped of their domestic powers.⁸¹⁵ He goes further and says that ISI should be disbanded altogether.⁸¹⁶ However, this is not a realistic solution as the military would not let that happen, and any externally driven change is virtually impossible.⁸¹⁷ Nonetheless, their domestic powers do need to be curtailed if not stripped.

ISI should put national interest above their fear of loss of status from civilian law enforcement and police. Collaborations will allow Pakistan law enforcement a more focused approach. Pakistan needs to appreciate that it requires a law enforcement network to defeat a terrorist network. Nevertheless, when there are multiple agencies, the division of labour is critical; because ambiguity, lack of clarity, the confidence of the role of position and responsibility have the potential to expose weaknesses of counterterrorism law enforcement agencies. Jurisdictional overlap can contribute to inefficiency as one organisation looks at another to take responsibility. There has been some jurisdictional overlap in the UK with local police thinking the intelligence gathering at street level falls under MI5.⁸¹⁸ However, this is infrequent, and the intelligence structure largely remains effective.⁸¹⁹

⁸¹³ Tajik (n 36) 118-119.

⁸¹⁴ Nawaz, 'Who Controls Pakistan's Security Forces?' (n 196).

⁸¹⁵ Owen L Sirrs, *Pakistan's Inter-Services Intelligence Directorate : Covert Action and Internal Operations* (London : Routledge 2017) 249.

⁸¹⁶ *ibid.*

⁸¹⁷ Fair (n 64) 276.

⁸¹⁸ Weisburd and others (n 24) 126.

⁸¹⁹ Innes (n 102).

See also: Paul Burke (n 46).

At the police station level, Pakistan does not have intelligence sharing and intelligence gathering infrastructures. In comparison, the UK follows Intelligence-Led Policing (ILP). ILP being a new concept in policing, originated from the UK, and it is at the heart of policing counterterrorism in the UK. US adopted ILP from the UK.⁸²⁰ There is an urgent need for Pakistan to develop the UK's counterterrorism intelligence sharing model.⁸²¹ Pakistan needs a uniformed national intelligence system across the federation, which increases its operational effectiveness.

In Pakistan, the failure of coordination has resulted in mass-casualty terrorist attacks, which could have been prevented if the information were shared timely and reached appropriate departments. The civilians and military have no mechanism of working together on the matters and work together on an ad hoc basis.⁸²² Although the civilian-military rhetoric state that they are on the same page, the results point out the contrary.⁸²³ The military has no legal power of launching military operations; despite that, it has unilaterally launched military operations without asking the civilian government.⁸²⁴ Nawaz's prediction on JID and NACTA has proven correct in that they have failed to take off because they have not been provided sufficient budget.⁸²⁵ On the contrary, UK police and MI5 joined-up working has prevented several mass-casualty attacks, as revealed in chapter 4 of this research.

UK experience suggests that for Pakistan Joint Intelligence Directorate (JID) need is indispensable. However, several years after being conceived, JID, which aimed to bring all law enforcement agencies under one roof, is still at the back burner due to resource allocation, whilst trust issues between civilian and military could not be disregarded.⁸²⁶ Military backed ISI has been a hindrance and often denied civilian departments space and resources to perform their job.⁸²⁷ The police and ISI need to consider the idea of the fusion of power rather than intra-agency rivalries, competitions, and information hoarding. These traits make the whole system ineffective and detrimental to the interests of all concerned.

⁸²⁰ Ullah, Hussain and Sajid (n 588) 102.

⁸²¹ *ibid.*

⁸²² Nawaz, 'Who Controls Pakistan's Security Forces?' (n 196).

⁸²³ Nawaz, 'Countering Militancy and Terrorism in Pakistan: The Civil-Military Nexus.' (n 25).

⁸²⁴ *ibid.*

⁸²⁵ *ibid.*

⁸²⁶ Daily Times, 'Joint Intelligence Directorate yet to See Light of Day Four Years On' (*Daily Times*, 16 December 2018) <<https://dailytimes.com.pk/334000/joint-intelligence-directorate-yet-to-see-light-of-day-four-years-on/>> accessed 29 August 2020.

⁸²⁷ SHAH (n 662) 225.

The difference between the UK and Pakistan is that the civilian government holds the most power in the former, however, in latter, its military holds most powers, and its interests hold precedence. The UK's intelligence community is cooperating on an unprecedented scale whereas, in Pakistan, the ISI perceive civilian institutions such as the police to be incompetent and continue to follow their ideas of detaining suspects without any legal authority rather than nurturing confidence between the intelligence services and the police. Their ability to get away from human rights abuses through their ultra vires actions is damaging the system. If there were strict upholding of the rule of law, then the ISI would be forced to change its course because currently, they have adopted a convenient method of detaining, torturing, rather than the policing ethos of arresting and prosecuting.⁸²⁸ The balance of power tilts in favour of the ISI due to its military backing, which hampers the technological advancement of the police.⁸²⁹ Counterterrorism should be a police role, a police officer at the imbalance of power between Pakistan military and police sarcastically commented that the policing should be made the fourth arm of the armed forces along with navy and air force.⁸³⁰ Military dominance of national security also leads to military-style thinking in the police.⁸³¹

The UK CONTEST and Pakistan NISP emphasise the value of the collaborative approach. In the UK, over the years, more and more partners have joined to tackle terrorism, which includes most government departments and private partners. It is also recognised that increasingly the technological advances have meant that private partners are critical such as the big technology companies like Google, Facebook, and Microsoft.⁸³² These types of partnerships lack in Pakistan.

The UK has a long tradition of holding public inquests in order to ascertain responsibility and learn lessons from public tragedies and terrorism alike. The 7/7 inquest was held to learn lessons from the different aspects of the attack, ranging from emergency response to whether the attack could have been prevented. The inquest ruled that MI5 could not have prevented the attack.⁸³³ However, it made some recommendations considering the attacks to learn and to further tighten the security measures. One of the things it suggested was improved recording of the decision-making within the organisation. The main lesson the UK learned

⁸²⁸ *ibid.*

⁸²⁹ Khosa (n 109) 87.

⁸³⁰ Tajik (n 36) 123.

⁸³¹ Khosa (n 109) 126.

⁸³² UK Government, 'The United Kingdom's Strategy for Countering Terrorism' (n 48).

⁸³³ Staniforth (n 329) 320.

from 7/7 is that joined-up working is the key to managing risk.⁸³⁴ Public inquiry commission reports could expose the security lapses so that lessons could be learned. Pakistan rarely makes its public inquiry reports public, which relates to military conduct⁸³⁵; in part, this is due to Pakistan's military being an extremely image-conscious organisation.⁸³⁶ The military is routinely accused of censorship practices of silencing journalists, torturing, and killings. Many journalists practice self-censorship due to the fear of reprisal. The Peshawar school children's massacre report has not yet been made public, despite the event being labelled as Pakistan's 9/11.⁸³⁷ Leaked Abbottabad commission report in which Osama Bin Laden was killed in a US Navy seal operation in the city of Abbottabad showed a thoroughly inept law enforcement infrastructure and intelligence-security failure.⁸³⁸

In the aftermath of the crisis, Pakistan has opted for quick fixes rather than durable solutions. Pakistan has created several agencies and platforms; however, the existing structures have been neglected. It lacks intelligence sharing mechanisms. Rather than creating new specialised units to deal with terrorism, Pakistan needs to invest in enabling intelligence sharing between its existing security agencies. It needs to bring its police out of this perpetual cycle of deprivation, corruption, political control, poor governance, and poor resources. If it does not change its course, the country will continue to suffer in the near future.

6.2.3 Police prosecution cooperation

The UK has followed the criminal justice model since the 1972 Diplock report instead of the war model because it wants its legislation to be as close to ordinary laws as possible as per Lord Lloyd's four recommendations. Walker states that the government should hold its nerve and not create special laws due to terrorism panic but should remain rational.⁸³⁹ In contrast, Pakistan has predominantly followed the war model. UK and Pakistan have both created special legislation; however, the UK uses the specific legislation sparingly⁸⁴⁰. Even 7/7 and other terrorist plots did not alter the UK approach to terrorism as it continues to use its ordinary criminal justice system to prosecute terrorists. Although because of national

⁸³⁴ *ibid* 322.

⁸³⁵ Siddiq (n 206) 114.

⁸³⁶ *Ibid* 319-334.

⁸³⁷ Irfan Haider, 'Make APS Attack Inquiry Report Public, PPP Tells Govt' (*Dawn.com*, 1 January 2016) <<https://www.dawn.com/news/1230064>> accessed 29 August 2020.

⁸³⁸ Phil Rees and others, 'PAKISTAN'S BIN LADEN DOSSIER' (*Al Jazeera English*) <<https://www.aljazeera.com/indepth/spotlight/binladenfiles/>> accessed 29 August 2020.

⁸³⁹ Walker (n 790).

⁸⁴⁰ Blackburn (n 402).

security, the laws allow an in-camera hearing in the UK, however, its use is relatively rare⁸⁴¹ because the country wants fair public trials.

The UK has considered terrorists as criminals and tried them through the mainstream criminal justice system. Metropolitan Police Service considers terrorism crime and making it a subject of law enforcement.⁸⁴² In several terrorist trials, the UK has prosecuted them by applying ordinary criminal offences rather than specific terrorist offences. For example, the suspects of operation *Cervice* were convicted of conspiracy to cause an explosion, whereas operation *Seagram* suspects were convicted of conspiracy to cause murder or conspiracy to cause explosions. In the UK, the trial process, investigative tools, and disclosure regime hardly differ because of national security.⁸⁴³ Terrorism prosecution is dealt in the same way as normal criminal cases. In contrast, Pakistan created military courts to try civilians, which raised grave human rights concerns.

The problem with Pakistan counterterrorism legislation is that it has opted for special legislation, and quick fixes which have not strengthened the existing structures; consequently, it has ignored or abused basic human rights. The UK has learned from the Irish Troubles experience that draconian powers such as detention without trial can have adverse consequences. However, Pakistan continues to follow the approach of allowing unlimited detention⁸⁴⁴ at the cost of human rights abuse despite the overwhelming opinion that these measures can be counterproductive.

Pakistan needs to strengthen the ordinary courts and laws. The UK acknowledges that terrorism laws need to be as close as possible to ordinary laws. Special laws have not enhanced Pakistan counterterrorism fight⁸⁴⁵; instead, they just pile up on already existing laws, which were not used effectively in the first place. For example, most offences under the newly created POPA 2014 act are already covered under the ATA 1997 and Pakistan Penal Code.⁸⁴⁶ It is the effective use of the legislation, which is the main problem, not the lack of laws. In addition, the Fair Trial Act 2013 allows covert surveillance as admissible evidence;

⁸⁴¹ Susan Hemming, 'The Practical Application of Counterterrorism Legislation in England and Wales: A Prosecutor's Perspective' (2010) 86 *International Affairs* (Royal Institute of International Affairs 1944-) 955 <<http://www.jstor.org/stable/40865005>> accessed 23 July 2020.

⁸⁴² Center for Research and Security Studies (n 574).

⁸⁴³ Hemming (n 841).

⁸⁴⁴ SOOFI (n 170).

⁸⁴⁵ Zaidi (n 17) 5.

⁸⁴⁶ *ibid.*

however, as of 2016, no case has made use of this legislation.⁸⁴⁷ One reason for this is the exclusive approach of capture/kill rather than arrest/prosecute approach by the security forces.⁸⁴⁸

In the UK, the cooperation between police and prosecution starts even before the investigation commences. The police can get advice on several issues before the commencement of the investigation. The cooperation between police and prosecution begins long before the arrest takes place. Their collaboration is crucial, especially in terrorism. Hemming states that the UK police and prosecutors embody the ethos of the prosecution team.⁸⁴⁹ The trilateral relationship of prosecutors, police, and intelligence services has strongly strengthened the UK prosecution ability. There is mutual trust and respect in their relationship. In Pakistan, Prosecution and police play a blame game. This research has found that prosecution in Pakistan at times is not even aware of the First Information Report (FIR) that holds principal value in the trial.⁸⁵⁰ The prosecution in the UK is routinely briefed on the outset on intelligence to make sure that prosecution goes smoothly without any hindrance. There is no cooperation between intelligence and prosecution in Pakistan. Effective cooperation can enable the prosecution to decide whether the case will secure a prosecution. In the UK, there is always consultation between police and prosecution when a decision is made on charging someone or releasing someone without charge. However, in Pakistan, there is virtually no cooperation before the trial, and even within the trial, there is hardly any cooperation.

Pakistan created independent prosecution service in provinces such as the Punjab Criminal Prosecution Service in Punjab province. They were based on the UK's Crown Prosecution Service. However, the crucial consultation between investigators and the prosecutor lacked; therefore, the cases suffered substantially.⁸⁵¹ The reason for the lack of consultation Soofi says it was due to the recruitment of a new batch of lawyers instead of using veteran prosecutors.⁸⁵² However, the veteran prosecutors also have not made a meaningful contribution to the antedating prosecution system.

⁸⁴⁷ *ibid.*

⁸⁴⁸ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32) 63-64.

⁸⁴⁹ Hemming (n 841).

⁸⁵⁰ Research Society of International Law (n 655) 22.

⁸⁵¹ SOOFI (n 170).

⁸⁵² *Ibid* 142.

The UK applies the same CPS evidential and public interest test regardless of the case. Hemming states that "The standard does not differ because the case is more serious, controversial or of political importance, or because evidence-gathering is more difficult or has to be done in a theatre of war or during the conflict."⁸⁵³ On the other hand, in Pakistan, there are different standards based on seriousness, political importance, and the context of war or insurgency. Consequently, these different standards are the biggest impediment in creating an effective system. The parallel system takes the trust away from existing structures, and the newly created system is inundated with cases relating to ordinary crimes. For example, over 80% of cases ending up in the specialist ATC courts are already non-terror related.

The parallel court system does not work, Pakistan experience shows. The UK does not have a parallel system for terrorism trials; hence it can focus its entire effort on enhancing its ordinary criminal justice system. Pakistan ought to do the same. Parallel structures or perceived justice through them take the trust away from existing structures. It is rendering both structures ineffective. Zaidi confirms that specialist ATC courts take more time to conclude a case than the ordinary session courts.⁸⁵⁴ These parallel specialist courts were supposed to conclude a case in 7 days, and currently, it takes years to conclude the case. This research recommends Pakistan to disband its parallel court structures and follow UK footsteps in enhancing and strengthening the existing criminal justice system.

In the UK, over 73 percent of those who have been tried in the courts have pleaded guilty.⁸⁵⁵ On the other hand, Pakistan terrorist acquittal rate is over 73 percent.⁸⁵⁶ Concerning the UK, one can base its high ratio of the guilty plea on the fact that this is because of prosecution building a strong case and effectiveness of the prosecution system. Offenders plead guilty due to the strength of evidence and the likelihood of conviction. There is no data available on the number of people pleading guilty in Pakistan in terrorist prosecutions which could unveil the level of the ineffectiveness of Pakistan prosecution system.

The UK has a system in place to review the robustness; effectiveness of its legislation, which Pakistan presently lacks. The Independent reviewer shapes legislation by making it human rights friendly because the review includes all stakeholders. In the aftermath of a terrorist

⁸⁵³ Hemming (n 841).

⁸⁵⁴ Zaidi (n 17) 8.

⁸⁵⁵ Home Office, 'Operation of Police Powers under the Terrorism Act 2000 and Subsequent Legislation: Arrests, Outcomes, and Stop and Search' (n 530).

⁸⁵⁶ Tajik (n 36) 120.

attack, the response can be revengeful; therefore, the reviewer can ensure that it remains proportionate. A disproportionate response can help terrorist propaganda. Through reviews, the UK has incorporated valuable lessons from cases such as Birmingham six and Guildford four in its subsequent legislation. For example, it led to PACE 1984, which changed several police powers. Pakistan lacks a review mechanism because the sanctity of the laws is not appreciated and generally law-making is not given sufficient importance. There is no government-sanctioned terrorism legislation review mechanism in Pakistan.

Although the UK increased the pre-charge detention for 28 days; however, it has used it very sparingly. For example, in 2006 and 2007, there are only three cases where the detention was for a full 28 days.⁸⁵⁷ Schedule 8 of terrorism act 2000 legally requires the prosecution to promptly end detention where there are no reasonable grounds for holding the suspects or lack of evidence.⁸⁵⁸ Whereas in Pakistan, detention instead of prosecution becomes the aim after arresting the suspect. Suspects can spend months and years without charge.⁸⁵⁹

Often police and prosecutors are not aware of the laws, or when aware they do not adhere to them.⁸⁶⁰ They hardly use laws and prosecutorial codes, which allows effective coordination.⁸⁶¹ Pakistan is focusing on creating new structures and laws, whereas hardly any effort has been made on improving the effectiveness and proper application of the laws. There is no institutional framework that allows collective decision making on charging someone for terrorism or deliberation with the prosecution. Meritless recruitments contribute to further incompetence of the system.⁸⁶²

Pakistan needs to benefit from the UK experience and start the cooperation of prosecution long before the arrest. Prosecutors should point the gaps in the evidence like the UK and stop weak cases from proceeding. Zaidi's recommendation of consultation committees between police and prosecution can be a worthwhile effort to enhance cooperation.⁸⁶³ UK experience shows CPS is involved throughout the legal process and sift the prosecutable cases. For example, in the UK, out of 2000 detentions, only 300 proceeded to trial as a stringent system

⁸⁵⁷ Hemming (n 841).

⁸⁵⁸ Terrorism Act 2000 Schedule 8 s.37(2)

⁸⁵⁹ Amnesty International, 'Pakistan: Enduring Enforced Disappearances' (*Amnesty International*, 27 March 2019) <<https://www.amnesty.org/en/latest/research/2019/03/pakistan-enduring-enforced-disappearances/>> accessed 9 September 2020.

⁸⁶⁰ Research Society of International Law (n 655) 9.

⁸⁶¹ *ibid.*

⁸⁶² Fasihuddin (n 546).

⁸⁶³ Zaidi (n 17) 20.

is in place to scrutinize the case before proceeding into the trial.⁸⁶⁴ However, Pakistan, at one point, had 4000 detentions, but the mechanism to sift the prosecutable cases is missing.⁸⁶⁵ It would require a momentous effort to prosecute such a large number of detentions without a scrutiny mechanism.⁸⁶⁶ UK prosecutors routinely seek further evidence to build a full picture. Pakistan prosecutor further evidence requests go unheard.⁸⁶⁷

Too much reliance on witness testimony in Pakistan is outdated. In contrast, the UK is a leading country in utilising latest technology where the prosecution can be secured solely on scientific evidence. Pakistan Police use of torture leads to them losing their credibility as a witness.⁸⁶⁸ The UK has rooted out torture from its policing. Article 3 of Human Rights law prohibits torture and is adhered to within the UK. Nonetheless, the UK is accused of allowing torture overseas.

Pakistan POPA 2014 puts the burden of the proof on the accused, which is quite an extraordinary derogation from a fair trial perspective.⁸⁶⁹ The UK continues to apply the ordinary burden of proof, which falls on the prosecution. Hence, this pushes the prosecutorial entities to prepare a case diligently and expediently.

One of the biggest problems in Pakistan terrorist prosecution is the case management system and implementation of the legislation. There is no meaningful punitive action against the lawyers for getting frequent adjournments. The UK has a stringent mechanism in place. UK s.13 of the Terrorism Act 2006 requires a compulsory preparatory hearing before the commencement of the trial so that parties can iron out some legal issues before the commencement of the trial. After a suspect is charged, the preliminary hearing takes place 14 days after the charge. In contrast, the analysis of the prosecution system clearly shows that in Pakistan, the laws are often not coordinated with one another, nor are they used or properly implemented.

UK's GCHQ, SIS, MI5 have parliamentary laws regulating their conduct, which leads to them adhering to the laws and following the rule of law approach. In contrast, Pakistan ISI does not have sufficient parliamentary laws regulating their conduct, which contributes to them engaging in illegal detentions and practices. UK has learned after the intrusion

⁸⁶⁴ Center for Research and Security Studies (n 574).

⁸⁶⁵ *ibid*

⁸⁶⁶ *ibid*

⁸⁶⁷ Zaidi (n 55) 14.

⁸⁶⁸ Human Rights Watch (n 115).

⁸⁶⁹ Hameed (n 682).

allegation and ECHR legal challenges⁸⁷⁰ and brought those security agencies under the parliamentary oversight where MI5 and SIS were not under proper legislation before 1989 and 1994, respectively. ISI conduct should be sufficiently covered under the law. Until ISI conduct is regulated, the courts should fearlessly uphold constitutional laws, stop their illegal acts, and penalize them for breaking the laws. As this research has found, their unlawful actions are a leading cause of terrorist acquittal.

UK intelligence routinely makes use of RIPA legislation to make evidence admissible, Pakistan prosecutorial entities hardly make use of similar legislation called the Fair Trial Act 2013 to make covert evidence admissible. They continue to gather evidence, which is deemed inadmissible, although this is critical evidence, it cannot be used to secure a conviction because it is obtained unlawfully.

This research recommends Pakistan to follow the guiding principles suggested by Lord Lloyd concerning terrorism legislation, as they are equally relevant for Pakistan. Despite the complex legal and evidential problems arising in terrorist prosecution, the UK experience shows that it is important to keep striking a balance between human rights and national security. Even in the face of these competing issues, UK has persevered; therefore, it offers valuable lessons for Pakistan.

6.2.4 Role of police in preventing radicalisation

Prevention and pro-activeness are missing from Pakistan counterterrorism response, and preventing violent extremism (PVE, also referred to as CVE) is no exception. In contrast, prevention is an integral part of the UK counterterrorism policy, it is given most comprehension in CONTEST, and it came under most academic scrutiny. From the creation of MCU to neighbourhood policing and PEO's, UK has created innovative ways to prevent terrorism. The UK is the forbearer in using community approaches to prevent terrorism ahead of the other EU countries.⁸⁷¹ The UK has relied on its police to foster this relationship yet being mindful of following pragmatic approaches and limiting police involvement where sensible. In contrast, Pakistan police have been bypassed from internal security tasks, including CVE. This research has found that the military takes the credit for successes and

⁸⁷⁰ Staniforth (n 329) 98.

⁸⁷¹ Lum C and others in Weisburd and others (n 24) 124-130.

whereas the police take the blame for shortcomings. CVE is a multi-agency approach; the experience around the globe shows that when several stakeholders work together, the threat which is dispersed and subtle can be detected. In addition to that, in the UK, the police have facilitated different Prevent partners to form partnerships with each other. Understandably, it would put enormous financial and other constraints if one organisation takes full responsibility for the entire de-radicalisation effort. In Pakistan, the military is solely responsible without the civilian organisation involvement, which would inherently restrict their level of success as the police fail to complement their success. In addition, the military-led efforts are too restricted, not replicable⁸⁷², and do not have any independent oversight to check their effectiveness, robustness, and accuracy of their results.

Terrorism is a crime; therefore, the prevention of terrorism is and will be the role of the police. Hence, the police detachment from CVE approaches, and de-radicalisation efforts is not a durable and sensible approach because their role is indispensable. The experience of Pakistan shows that when the CVE and de-radicalisation efforts are detached from police, it breaks the chain of the rehabilitation process.⁸⁷³ However, it is acknowledged that CVE and de-radicalisation should be a multi-agency approach. As over-involvement of police can have adverse effects. In addition, multi-agency working is essential because the partners may have more information or expertise in specific areas than the police, therefore, making them necessary. Humane treatment by security forces can lead to disengagement.⁸⁷⁴ In contrast, adverse treatment by the security agencies could do the opposite. For example, the collateral damage in FATA due to US drone attacks and Pakistan army operation was considered the most significant factor used by terrorists for the recruitment of suicide bombers.⁸⁷⁵

UK police are the lead force in de-radicalisation programs. Pakistan police do not have a role in de-radicalisation other than a nominal part of after release monitoring.⁸⁷⁶ Through comparing harsh Malaysia and the soft Indonesia de-radicalisation approach, Rana States that Pakistan should follow a humane approach of Indonesia, which is based on the philosophy that police can change militants.⁸⁷⁷ The police do not have counterterrorism training and operational capacity for involvement in de-radicalization. Police ought to be reformed so that it can shoulder greater responsibility in CVE.

⁸⁷² Jawaid (n 715).

⁸⁷³ *ibid.*

⁸⁷⁴ Azam, Fatima and Bareeha (n 729).

⁸⁷⁵ Gunaratna (n 183).

⁸⁷⁶ Rana (n 88).

⁸⁷⁷ *ibid.*

The UK has used informal methods such as MCU to engage with Muslim communities. MCU was remarkable in that they were able to build a relationship with Muslim communities after 9/11 in circumstances of distrust and fear between police and Muslim communities. Innes and Thiel call MCU "Lambert approach" and say it achieved some success. Besides, they say it seriously questioned the assumption that all counterterrorism work should be shrouded in secrecy.⁸⁷⁸ Increasingly UK police role has become transparent and overt with regards to Prevent. This is quite a significant achievement as it is a shift from a traditional policing approach that was more focused on action rather than collaboration. Still, in time, the police carved out a space between overt and covert policing. Neighbourhood policing has increased the trust in policing in the UK.⁸⁷⁹ It is a more "Brooke Bond than James Bond" approach.⁸⁸⁰ The case in Birmingham Alum Rock, where police and community worked collaboratively to stop the Al Muhajiroon radicalisation campaign,⁸⁸¹ provides a map for future police-community partnerships in an intervention. UK experience offers valuable insight for Pakistan to involve its police in building a relationship between its marginalised communities in FATA and Baluchistan, the areas most affected by terrorism.

The UK has been sensitive that its approach does not lead to damaging the trust between the community and police. Nevertheless, its Prevent approach is not free of problems; there is criticism of Prevent sometimes strong⁸⁸², especially the use of Prevent policing to gather intelligence and too focused approach on Muslims. Yet overall, there is no strong anti-police position in Muslims due to Prevent.⁸⁸³ Prevent had made significant achievements. Research shows that the rise in the trust level within the Muslim community.⁸⁸⁴

Women police officers can be crucial with engaging in de-radicalisation programs; extremely low numbers of women in the police force can largely hamper the success of police efforts in de-radicalisation. As stated earlier, only one police officer out of 100 is a woman in Pakistan. In contrast, in the UK, as of 31 March 2019, 30% of all officers were female.⁸⁸⁵ Pakistan is a largely very conservative Muslim society; allowing access to a male police officer in the home is outside the general norm. In those circumstances, having more women police

⁸⁷⁸ Innes and Thiel in Newburn (n 798) 562.

⁸⁷⁹ Staniforth (n 329) 327.

⁸⁸⁰ Innes and others (n 347) 30.

⁸⁸¹ *ibid* 43-44.

⁸⁸² Spalek and Lambert (n 431).

⁸⁸³ Innes and others (n 347) 47.

⁸⁸⁴ Staniforth (n 329) 332.

⁸⁸⁵ Home Office, 'Police Workforce, England and Wales, 31 March 2019 Second Edition' (n 756).

officers undisputedly can be beneficial for the police efforts as they can quickly gain access where men cannot. Women must have a more significant role in CVE in general, especially in security forces, because trust is essential in counterterrorism.⁸⁸⁶ Furthermore, there is a widespread belief that women can help reduce corruption.⁸⁸⁷ However, Ahmed thinks that in the case of Pakistan, gender is not a useful category to assess the impact of police corruption on women, because its strong police culture inhibits any progressive reforms in a profoundly corrupt organisation.⁸⁸⁸

UK and Pakistan both have a predominant threat from Islamist home-grown terrorists. The UK is becoming more and more proactive in dealing with terrorism. Its police are now more geared toward harm anticipation, risk governance discourse. It is employing crime prevention risk-based logic in its Prevent strand of Prevent policy.⁸⁸⁹ Pakistan's response needs to be proactive like the UK not reactive as it currently is. UK efforts have reaped dividends such as, Operation Nicole, which was designed to break down barriers between the police and communities by explaining them about the police counterterrorism work. Through that, Isa Ibrahim was arrested for planning to blow up Bristol shopping mall after a Muslim community member who attended a Prevent awareness workshop contacted the police.⁸⁹⁰

UK's multi-agency Channel program was found to be successful⁸⁹¹ and plays a vital role in identifying those who present a future threat⁸⁹², with over 1500 people being referred to the Channel program who were considered vulnerable since 2012.⁸⁹³ The Channel programme is confidential and voluntary. It is police co-ordinated program. In contrast, the Pakistan military-run programme selection is involuntary. The experience across the globe shows that where the selection is voluntary, the program is more successful.⁸⁹⁴ Denmark's Aarhus program deemed as the most successful de-radicalisation programs also underpins that voluntary selection leads to success, and police play an important role in de-radicalisation.

⁸⁸⁶ Giscard d'Estaing (n 728).

⁸⁸⁷ Ahmad (n 191).

⁸⁸⁸ Sadaf Ahmad, 'Pakistani Policewomen: Questioning the Role of Gender in Circumscribing Police Corruption' (2019) 0 Policing and Society 1 <<https://doi.org/10.1080/10439463.2019.1611820>> accessed 20 January 2020.

⁸⁸⁹ Innes, Roberts and Lowe (n 450).

⁸⁹⁰ Sean O'Neill (n 436).

⁸⁹¹ UK government 'Prevent strategy review' (n 425) 1.

⁸⁹² Martin (n 438).

⁸⁹³ HO News Team (n 440).

⁸⁹⁴ Jawaid (n 715).

The only police run de-radicalisation centre in Punjab was shelved because of a lack of resources. Police need to be trusted and resourced because their localised knowledge and permanent presence in the communities through the police stations can offer unique advantages in utilising them in CVE. Presently police in Pakistan are not utilised for CVE. In contrast, the UK spent over 70 percent of the prevent budget on police. Police newly established Prevent Enforcement Officers (PEO) connect Neighbourhood policing and communities. PEOs develop an understanding of community issues, develop contacts in the community, and thus identify Prevent related tasks. This is an approach Pakistan needs to follow because the tasks need to be identified, and intervention needs to occur before radicalisation takes place. Whereas currently, the intervention by the military is when the individuals have already become radicalised.

Pakistan could introduce a measure on the universities, such as a UK Prevent duty. Pakistan has a significant problem with students being radicalised at the university in several major cities including, Karachi and Lahore. University students are involved in a number of terrorist attacks in Pakistan, in particular, one university, International Islamic University Islamabad (IIUI) stands out due to its history of a large number of students being radicalised and involved in high-level terrorism cases, e.g., Ramzi Yusuf, the mastermind of 1993 World Trade Centre, studied at that university.⁸⁹⁵ As the IS is trying to establish its hold in Pakistan, there is an urgent concern to make the universities free from radicalisation. Therefore, Pakistan could introduce UK style CTSA 2015 and make it a statutory obligation on the university to report those who may be vulnerable to radicalisation.

Pakistan does not have a comprehensive de-radicalization strategy. It is not given much comprehension in NISP other than a cursory mention. Pakistan NAP is overly reliant on military and policing and does not focus on ways of CVE.⁸⁹⁶ There is a lack of narrative regarding terrorism; resultantly, people are confused. People do not take ownership of the counterterrorism problem and play an active part in CVE.⁸⁹⁷

Pakistan's program mainly focuses on those who have already become radicalized, and less so at those who are susceptible to radicalisation. In contrast, UK police are now intervening early by focusing on disrupting terrorism where the prosecution is not possible due to

⁸⁹⁵ Farhan Zahid, 'Radicalisation of Campuses in Pakistan' (2017) 9 Counter Terrorist Trends and Analyses 12 <<http://www.jstor.org/stable/26351567>> accessed 23 June 2020.

⁸⁹⁶ Peace Direct (n 29).

⁸⁹⁷ Abdul Basit, "Countering Violent Extremism: Evaluating Pakistan's Counter-Radicalization and de-Radicalization Initiatives." IPRI Journal 15, no.2 (2015): 44-68.

evidential problems, also disrupting by letting the people who may be deemed a security risk know that they are under surveillance. Often police and security services are the first to know about any individual at the risk of radicalisation or are in contact with such individuals; this provides them with a window of opportunity. Disruption has become an increasing focus of the UK policing agencies under its Prevent program.⁸⁹⁸

In Pakistan, the army being at the forefront of the de-radicalisation programs further lessens the already reduced role of police in national security and lowers police morale. Ahmed⁸⁹⁹ and Abbas⁹⁰⁰ state that Pakistan needs a well-resourced and well-devised civilian de-radicalization program, which should be led by the police. Hence, the UK experience offers valuable lessons for Pakistan.

6.2.5 Relations between police, public, and its impacts on counterterrorism

The public is the eyes and ears of the police. In counterterrorism, the public should be the co-producers of security. The policing should be public centric, not terrorist centric. Trust between police and public is crucial to building the relationship. The UK uses community policing to build that trust. However, community policing is missing from Pakistan. The foundation of British policing is based on the tenets of policing by consent. The policing with consent has greater depth and reach in the community due to the involvement of the community. However, in Pakistan policing is still done through force. Briggs *et al.*⁹⁰¹ and Lambert⁹⁰² state that in counterterrorism, policing should be through consent never through force. Lambert further states that an effective relationship between police and the public are compulsory for successfully dealing with counterterrorism.⁹⁰³ Soon after 7/7, Metropolitan Police Commissioner Sir Ian Blair said, ‘It is the communities that defeat terrorism, not the police.’⁹⁰⁴

⁸⁹⁸ Peace Direct (n 29).

⁸⁹⁹ Abbas, ‘Reforming Pakistan’s Police and Law Enforcement Infrastructure Is It Too Flawed to Fix?’ (n 77).

⁹⁰⁰ *ibid.*

⁹⁰¹ Briggs, Fieschi and Lownsborough (n 101).

⁹⁰² Lambert (n 100).

⁹⁰³ *ibid.*

⁹⁰⁴ Briggs, Fieschi and Lownsborough (n 101).

The UK police have developed a good relationship with the public.⁹⁰⁵ There are surveys to assess public perception of the police, such as the British Crime Survey (BCS), which can reveal to police the perception of them and therefore help them improve in the light of the feedback. However, at present, Pakistan has no institutionalised police survey to gauge the public perception of police. Recent Crime Survey for England and Wales indicates that the proportion of the public who think their local police do a ‘good or excellent job’ has risen to 63% in 2013/14, a consistent increase, year on year for a decade since 2003.⁹⁰⁶ Data shows that the police are still more trusted than any other criminal justice agency.⁹⁰⁷ In contrast, Pakistan police are considered the most corrupt public institution in the country.⁹⁰⁸

UK counterterrorism police have launched several Communities Defeat Terrorism⁹⁰⁹ campaigns encouraging the public to assist the police. These public campaigns have resulted in an increase in intelligence by up to 50 percent.⁹¹⁰ In contrast, in Pakistan, the public is reluctant to contact the police due to their fear of malpractice or the negative treatment of police. Police help is only sought as a last resort, often lack of trust in police leads to street justice because people do not want to bring their grievances to the police.

Although the UK has had its share of problems in police public relations, however, the police largely enjoy the public trust in the UK. However, in Pakistan, the relations between police and public have been soured due to police’s abusive behaviour, heavy-handed approach, and widespread corruption.⁹¹¹ Police in Pakistan is authoritarian. In contrast, police in the UK call themselves as a service rather than a force. Police are urged to refer to the public as clients and establish a customer-focused approach. The role of the police in the UK is to serve rather than to dominate.⁹¹² Pakistan created specialist anti-terrorist unit after the new waves of terrorism with giving police more body armours and more weapons that are lethal but ignored police public relations.⁹¹³ However, the police in the UK are largely unarmed and

⁹⁰⁵ Brown and Quinton (n 453).

⁹⁰⁶ Office for National Statistics, ‘Chapter 1: Perceptions of the Police, Crime Statistics from the Crime Survey for England and Wales and Police Recorded Crime.’ (26 March 2015) <<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/crimestatisticsfocusonpublicperceptionsofcrimeandthepoliceandthepersonalwellbeingofvictims/2015-03-26/chapter1perceptionsofthepolice>> accessed 27 August 2020.

⁹⁰⁷ Jansson (n 352).

⁹⁰⁸ Khosa (n 109) 89.

⁹⁰⁹ National Counter Terrorism Security Office (n 457).

⁹¹⁰ *ibid.*

⁹¹¹ Perito and Parvez (n 43).

⁹¹² Grabosky (n 95).

⁹¹³ Perito and Parvez (n 43).

enjoy the trust of the public. It is understandable Pakistan is facing a level of unprecedented violence, yet the experience across the world shows that success in terrorism depends on police gaining the trust of the community.⁹¹⁴

Pakistan police Act 1861 (in force in most of the country) does not have any mention of the police's role as a service provider or a force that encourages good community relations.⁹¹⁵ In contrast, section 34 of the Police Reform and Social Responsibility act 2011 (PRSRA 2011) underpins some of the essential tenets of community policing. It puts a legal requirement for chief officers to make arrangements to consult with the public in each neighbourhood, provide local information about crime and policing and hold regular public meetings. In the UK, there is democratic control on the police. Police and crime commissioners are elected through public elections since PRSRA 2011. Police in Pakistan is in the control of politicians, not even their own police departments.

Community policing can be a vehicle to harness good relations between police and the public in Pakistan. Community policing is the undisputed practice for terrorism, and there is unprecedented agreement among academics and practitioners alike that Pakistan needs to follow community policing, which is currently observed in the UK. This research agrees with Saeed's recommendation that community policing should become a statutory obligation in Pakistan.⁹¹⁶

It is generally acknowledged that it was community policing that paved the way for policing practices to be legitimized from the very beginning of modern policing in 1829. Sir Robert Peel's philosophies of policing through consent still hold true in British policing. In comparison, Pakistan policing still follows the colonial mind-set of an oppressive force.

Pakistan police *Thana* culture needs to change as it creates distance between police and the public. Junior ranks officer needs to be trained in community policing. The public needs to be made aware of democratic policing principles and not accept police rude, abusive behaviour as a given. The answer to the current trust deficit between police and the public is enforcing and supporting community policing. There is a growing literature that confirms that police, which is perceived as procedurally fair, gets more cooperation.⁹¹⁷ In contrast, a lack of

⁹¹⁴ *ibid.*

⁹¹⁵ *ibid.*

⁹¹⁶ Saeed (n 738).

⁹¹⁷ Bradford (n 771).

satisfaction in the criminal justice system will make the public less likely to cooperate.⁹¹⁸ Police can be a source of legitimacy for the government; their good performance will gather more support for the government.⁹¹⁹ In contrast, their abusive behaviour, corruption, and failure in protecting the community could sway people into joining criminal gangs and terrorism.⁹²⁰

The UK follows the community policing while Pakistan follows traditional policing. Community policing enhances trust and confidence, whereas traditional policing creates distance.⁹²¹ UK Police is operationally free from political influence. According to Dunn *et al.*, being free from political influence is critical for cooperation from different stakeholders.⁹²² In contrast, the biggest pitfall in Pakistan policing is political manipulation and control, which impedes policing reforms. Transparency in the police matters can loosen political manipulation and control from the police.

As stated earlier, community policing is a proactive approach rather than a reactive approach. Whereas Pakistan police only acts when a crime has occurred very rarely acts before the commission of a crime. Thus, through community policing by working together to establish the problem beforehand and dealing with those problems, will make its police proactive. Communities that engage in partnership with clergy, schools, neighbourhood watch groups have a lower crime rate as per the evidence.⁹²³

The foundation of effective community engagement is trust, legitimacy, and fair treatment. Adaption of community policing could recover the soured relationship between the public and police in Pakistan because positive perception and relationship building with police lead to the reporting of more crimes, both terrorism, and non-terror related crimes.⁹²⁴ This will protect both police and public, as Pakistan ranks 2nd in terms of attacks on police. The answer to the Pakistan police legitimacy crisis is to develop community policing, which will make the "police part of the community."⁹²⁵ Community policing has become the almost unchallenged definition of good and democratic policing.⁹²⁶ Officers who have used or had

⁹¹⁸ *ibid.*

⁹¹⁹ Center for Research and Security Studies (n 574) 146.

⁹²⁰ *ibid.*

⁹²¹ Murray (n 460).

⁹²² Dunn and others (n 82).

⁹²³ Sedgwick, Callahan and Hawdon (n 469).

⁹²⁴ *ibid.*

⁹²⁵ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32).

⁹²⁶ Sedgwick, Callahan and Hawdon (n 469).

experience in using community police are more likely to support community policing.⁹²⁷ Community policing is a philosophy, not a program.⁹²⁸ This is what Pakistan needs; it needs a change of philosophy to make its police service rather than a force.

Police corruption in the UK has reduced significantly over the last few decades,⁹²⁹ whereas Pakistan police continue to be marred with corruption. UK's Victorian era policing also had some of the traits of current Pakistan police, in that, it was considered an elitist style of policing where ordinary people thought that the elite had sent the police to discipline working-class people. The Metropolitan Police interrogation techniques were criticised in the press. However, after the 1980s, the police innovated itself and gathered more public support and emerged from the crisis of self-legitimacy, and community policing contributed heavily to police gathering more support.

Currently, consultation and engagement are the central part of the UK Government response to al Qaida inspired terrorism.⁹³⁰ In 2008, Neighbourhood Policing (NP) was introduced to harness engagement between police and communities. The Police Community Support Officers (PCSO) are an integral part of the Neighbourhood Police. NP and PCSO aim to build public confidence in policing. NP has two leading roles. Primarily they harness trust between police and communities. Secondly, they play a critical role in the Prevent program. NP "glue communities together and glue the counterterrorism officers to communities."⁹³¹, however, there are concerns regarding their role in collecting intelligence. This is a hotly contested policing role in UK public discourse.

Nonetheless, the trust and cooperation which the NP harbours is a practice Pakistan could also replicate, with the caveat that its focused approach on a specific community and intelligence gathering risks alienating them and should be used with caution. Theil says that evidence in his review supports the change of giving Neighbourhood style policing central role.⁹³² Research reveals the NP increased levels of confidence and public feelings of safety; consequently, it could increase the public willingness to cooperate on the matters of terrorisms with the police.⁹³³ National Reassurance Policing Programme (NRPP) that piloted NP-styles policing also showed promising improvements in crime reduction, confidence, and

⁹²⁷ Kearns (n 468).

⁹²⁸ Novak, Cordner and Roberg (n 472).

⁹²⁹ Lowe (n 1).

⁹³⁰ Darren Thiel, 'Policing Terrorism : A Review of the Evidence' (The Police Foundation 2009).

⁹³¹ Mcdonald (n 97).

⁹³² Thiel (n 930).

⁹³³ *ibid.*

feelings of safety. In addition, Chicago Alternative Policing Strategy (CAPS) in the USA, a program that is like the NP, led to an increase in confidence and trust in policing; however, in some groups, the results were less promising.⁹³⁴ Research conducted by O'Neill *et al.* found those police officers in the UK involved in partnership work through NP not only found it effective, crucial, but also enjoyable.⁹³⁵ Partnership work leads police to pragmatic solutions instead of conflicting with traditional police culture.

Through NP, by being responsive to the routine concerns of individuals in terms of hate crime and discrimination, the trust could be built by police officers; therefore, when it comes to counterterrorism, communities will also get involved.⁹³⁶ Historically, Police officers have been more comfortable with traditional action-oriented policing rather than service-oriented policing. Hence, it is challenging to make community policing a fundamental approach due to the conventional focus of police being crime-fighting compared to problem-solving.⁹³⁷

Learning from UK experience, Pakistan could create a similar program within its policing to build confidence and harness relations between the public and police. Neighbourhood Policing Community Support Officers constitutes 5% of UK total police force.⁹³⁸ Therefore, it is relatively not as resource intensive. Given that Pakistan police resources that are abnormally spent on VIP protection duties accounting to over 30% of the police force, 5% of those could be utilised on NP style policing. In addition, Pakistan could use its UN peacekeeping police returnees and deploy them in these roles. The trust level between police and public is abysmally low; hence, this could be a worthwhile effort in bringing the police and the public closer.

There is strong agreement that police, which is capable of winning the loyalty of the population, are crucial in controlling violence, whether it originates from insurgency, terrorism, or ordinary criminality.⁹³⁹ UK understands that NP has the potential to resolve some counterproductive aspects of counterterrorism legislation and practices by fostering trust, legitimacy, and cooperation with British Muslim communities.⁹⁴⁰ High policing has its own value, but it should be used sparingly. Muslim Contact Unit (MCU) style practices and

⁹³⁴ *ibid.*

⁹³⁵ O'Neill and McCarthy (n 774).

⁹³⁶ Spalek (n 103) 50.

⁹³⁷ Murray (n 460).

⁹³⁸ Home Office, 'Police Workforce, England and Wales, 31 March 2019 Second Edition' (n 756).

⁹³⁹ Bayley (n 78) 73.

⁹⁴⁰ Thiel (n 930) 3.

expertise are imported into NP. NP furthers the influence of locals on policing, including the marginalised Muslim communities.

One of the rare examples of sustained attempts in harnessing relations between police and public in Pakistan is the Citizen Police Liaison Committee Sindh (CPLC). It has been deemed successful in bridging the gap between police and public, principally because it does not rely financially on government or the politicians.⁹⁴¹ CPLC could be expanded to other parts of Pakistan. CPLC is based on the UK Neighbourhood Watch committees.

Eventually, Pakistan will have to move on to policing by consent; the sooner, the better. Although Pakistan police are based on British policing models, yet Pakistan needs to recognize that the British had a choice of applying the London Metropolitan Police model. Still, it deliberately chose to apply the harsh Irish constabulary model to suppress the colonial subjects in the colonial settings.⁹⁴² Now free Pakistan could benefit from the actual British police philosophy practised in Britain, which is that the public see police as part of them serving them in uniforms. The innovative and traditional policing reforms, which brought community policing during the 80s and 90s around the world, including Britain, have not been observed by Pakistan. The innovative reforms in the policing in Pakistan described by Perito and Parvez by police officers, albeit in their individual capacity discussed in chapters 2 and 5, present a picture of an oasis in the desert.

6.3 Conclusion:

This chapter concludes the debate and answers the question raised by this thesis of whether Pakistan should and could develop a civilian-led approach to counterterrorism like the one followed by the United Kingdom, where police have a greater role in countering terrorism? The first part of the question is straightforward to answer because conclusively, this research recommends that Pakistan should give a greater role to the police based on UK experience as it has strengthened the rule of law approach, led to innovative approaches of forming partnerships with the communities. However, the second part of the question, whether Pakistan 'could' give police greater role given its military stronghold in internal security matters; the answer is inconclusive.

⁹⁴¹ Abbas, 'Stabilizing Pakistan through Police Reform Asia Society Report by the Independent Commission on Pakistan Police Reform' (n 32)145.

⁹⁴² Chaudhry (n 114) 36.

Nawaz on the imbalance of power between civilian and military says, “civilian supremacy is a myth” in Pakistan.⁹⁴³ It is acknowledged that civilian takeover of internal security is an arduous task. It is also acknowledged that currently, Pakistan police are abysmally deficient in dealing with terrorism. Therefore, the transition from military to police will take time. However, conditions need to be created where police are handed back the security. For that to happen, political control in police needs to end. Pakistan’s vibrant civil society needs to play a decisive role in ending this menace of political involvement in the police, as this is the plague, which has been eating away the life from the police organisation. Once the police become a merit-based organisation, its transformation is inevitable. KPK province police’s recent improvements were principally due to operational autonomy.⁹⁴⁴ It offers some valuable insights into making progressive reforms into the policing elsewhere in the country.

The thesis has found several answers on the five themes that this thesis created to discuss the role of police in terrorism. Firstly, the asset of British policing is a lack of military-style thinking, which allows its police to build partnerships along with its preference of the criminal justice model over the war model. Secondly, the UK’s biggest asset is its long unfaltering relationship between its security agencies. UK JTAC has taken its multi-agency cooperation to an unprecedented level. Thirdly, police and prosecution in the UK, work as a team with the ethos of the prosecution team and their cooperation starts even before the investigation commenced. In addition, the UK is using the special terrorism laws sparingly and is largely staying close to the ordinary laws in dealing with terrorism as much as possible. Further, it does not have parallel court structures to deal with terrorism, which inevitably leads to it enhancing its ordinary criminal justice system. Fourthly, the police are entrusted with the responsibility of the prevention of violent extremism as a multi-agency partner. As police are responsible for the prevention of crime, preventing terrorism is an inevitable part of their duty. Hence, their detachment from countering violent extremism and de-radicalisation is not sensible. Finally, UK police rely on public support; it polices through consent. It has invested in building confidence, the trust of the community, and used community-policing practices to harness public cooperation. UK experience demonstrates public cooperation is the very basis of success in counterterrorism.

⁹⁴³ Qaisar Abbas (n 180).

⁹⁴⁴ Khosa (n 109) 179.

On those five themes, Pakistan needs to take the following measures. Firstly, despite the challenges, Pakistan needs to make a transition towards giving police a lead role in internal security. Secondly, it needs to make the JID fully functional and well resourced. It needs to understand the cruciality of effective coordination, as this is the lifeblood of counterterrorism. Thirdly, it needs to dismantle the parallel terrorist courts and overhaul its ordinary criminal justice system. In addition, it needs to create a hassle-free police prosecution mechanism, which has a robust oversight. Fourthly, it needs to handover CVE to police and involve civil society organisation in its CVE efforts. Lastly, it needs to underpin the tenets of community policing in its policing laws. It could create NP PCSO's whose principal aim should be to nurture good relations between police and the public. NP style policing is not just bound to the UK; it is practised across the world. Given Pakistan extremely poor police-public relations, Pakistan is in dire need of it. Finally, along with the aforementioned measures, Pakistan needs to create mechanisms to independently review the effectiveness of its policies, laws, and practices.

Further Research and Implications

Research, in general, is scarce in Pakistan and not appreciated, as it ought to be. On terrorism, there is limited research compared to many other countries across the world due to a lack of narrative.⁹⁴⁵ In addition, there is also a lack of research on policing.⁹⁴⁶ Therefore, the NACTA research wing was envisaged and created to facilitate research. However, it has hardly produced any meaningful research other than a few yearly reports.

Countries across the world are tackling the policing issues related to the five themes discussed in this thesis. Therefore, this thesis offers valuable insights for them to profit from understanding pitfalls and successes in counterterrorism policing practices of Pakistan and the UK.

This research has highlighted the civil-military imbalance as being one of the leading causes which hamper the police led approach in counterterrorism, like the one followed by the UK. Therefore, future research could be conducted to discuss at length how to address this

⁹⁴⁵ Muhammad Feyyaz, 'The Discourse and Study of Terrorism in Decolonised States: The Case of Pakistan' (2016) 9 *Critical Studies on Terrorism* 455 <<https://doi.org/10.1080/17539153.2016.1192261>> accessed 12 January 2020.

⁹⁴⁶ Waseem (n 207).

imbalance. In addition, the dismally low number of women in policing and counterterrorism has indicated a huge disparity in the number of women in policing between the UK and Pakistan. Even in comparable jurisdictions such as India, women make about 9 percent of the police force⁹⁴⁷. Further research is needed to understand the barriers faced by women to go into policing and whether a higher number of women police officers will enhance Pakistan's counterterrorism abilities. Women in policing in Pakistan is an area of research, which requires urgent attention.

⁹⁴⁷ Rahul Tripathi, 'Women Police Personnel Constitute a Meagre 8.98% of Police Force across India: BPR&D' (*The Economic Times*, 30 January 2020) <<https://economictimes.indiatimes.com/news/defence/women-police-personnel-constitute-a-meagre-8-98-of-police-force-across-india-bprd/articleshow/73736033.cms?from=mdr>> accessed 27 August 2020.

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