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Policing and Formed Police Units during Democratic Transitions

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Abstract

In post-conflict situations, safety and security are major concerns. Increased levels of crime, violence and disorder associated with post-conflict environments may exceed the ability of the police to maintain order, particularly if the police are expected to reform in-line with human rights, democratic values and citizen safety. If the police are given a paramilitary function which will enable them to fight militias and insurgents, this can easily destroy their legitimacy and create a police culture that does not promote democratic development. In addition, the military forces present in a post-conflict environment typically lack the skills to facilitate a transition from rule by force to stability and the rule of law. It may therefore be necessary to create a unique police force that can both provide security and also promote a transition to a more stable and accountable environment, thus allowing conventional police forces to focus on developing according to democratic values. This paper considers this unique force, its roles, and relationships with conventional police forces, military and peacekeeping forces, and the population in post-conflict situations.

Introduction: Societal Destruction, Crime and the Post-Conflict Environment

War destroys the social bonds of a community; the bonds are replaced by anomie or normlessness (Durkheim, 1933). The destruction of social bonds creates an environment in which individuals can perpetuate warfare, undermine social order and commit crimes against humanity. In the field of post-conflict reconstruction, the period between the cessation of hostilities and stability is problematic (Dziedzic and Stark, 2006). Military factions that can re-ignite the conflict may remain active; while groups (including state actors such as the police, military and intelligence services) might seek to maintain their privileges, be loathed to relinquish power and be held accountable for their past crimes. Civil society may be weak and feel alienated from the reconstruction process and fracture along ethnic, religious, or other social bounds. In this chaos, non-state actors such as militias, warlords and criminal groups exploit the anarchy for their personal benefit, profiting from crime and maintaining their power through criminal activities. Non-state actors may have at their disposal the arms to reinforce their power, and upset the efforts made by local and international actors towards conflict resolution, stability and development. As a result of these factors in a post-conflict environment, crime and disorder can continue unchecked and perpetuate the unstable environment as well as increase the suffering of the population.

Police reforms and the creation of sustainable security for future development are paramount in a post-conflict environment (Marenin, 2005), but police reforms are also incredibly difficult, long term and complex (Jones and Wilson, 2005, Wilson, 2006, Jones *et al* 2006 and Stone and Ward, 2000). Police reform does not occur in a vacuum, and in post-conflict situations historical, economic, political, and social realities must be taken into account as they will impact on the reform process. A current example is the international efforts to support the training of police in Iraq as part of a police reform programme. The training of Iraqi police has been negatively impacted by the historical legacies of colonialism and totalitarian repression. This is further compounded by the current problems of ethnic conflict, the formation of militia groups tied to powerful interests, a weak government, inadequate training of officers, and issues of legitimacy (Mullick and Nusrat, 2006).

In this paper, the authors present a different way of thinking about security, social development, and the police role in post-conflict situations. The paper argues that Formed Police Units (FPUs) can perform various functions in order for the police to support stability and development as part of a democratisation process without overburdening the military. The discussion on FPUs is then extended to help clarify their mission as part of a larger transitional strategy to support sustainable development and the democratisation process while adhering to human rights standards.

Crime and Societal Bonds

Before the issue of crime and its impact on security in a post-conflict society can be addressed, the first step must be to establish a better understanding of crime and preventative solutions. It has been argued that the levels of crime in the community can be reduced by the construction of social capital (Paxton, 2002), increases in informal social control (Sampson, Raudenbush, and Earls, 1997), and the creation of forms of community justice (Clear and Karp, 1999) and community policing (Trojanowicz and Bucqueroux, 1993). Social capital is created when relations among people change in ways that can facilitate collective action (Coleman, 1988). Networks of relations between people generate trust and enforce norms of behaviour, and informal social control involves the evolution of trust and confidence through non-official means (parenting, telling strangers and non-strangers to stop doing something, a disapproving glance, etc.). Community policing and community justice are two examples of collective action that can increase informal social control in a neighbourhood or community. Community policing employs the methods of crime prevention and criminal justice that have the goal of enhancing community quality of life, and involves community members and groups in their processes. Community policing involves co-productive activities between community members and the police geared toward reducing and preventing crime and promoting quality of life. If people work together to build social capital (for example, within and between the citizenry and the police), it can lead to civic activities geared toward crime and disorder reduction such as citizen-police patrols around drug hot spots, community programs to keep guns out of the hands of children, and graffiti removal projects. Success in these areas can further build social capital that can be used in all sorts of community enhancement efforts. (Pino, 2001).

Societies are typically organised and peaceful not because of the presence of the police but through the host of formal and informal social processes and institutions that create order (Kelling and Coles 1996, Paxton, 2002; Sampson, Raudenbush, and Earls, 1997). Social order, stability and a sense of safety are part of a complex and fragile web of relationships. They are not a product of force, fear and coercion supplied by the police, tribunals and prisons where human rights, accountability and transparency are lacking. Tyler (1990) argues that people obey the law not through fear, but through the recognition that investments in themselves, their families and their communities help promote sustainable social order. The role of the community is important in this process of development. In post-conflict states, the police often have to be reconstructed before they can confront the task of restoring order and providing stability, but the police must understand that they are not the sole determinants of social order but part of the complex and fragile web of relationships.

There is little fundamental understanding about reforming police roles and functions in a post-conflict society, and even less on how to implement reforms (Pino and Wiatrowski, 2006). During many conflicts the military, security, intelligence and police forces were actively

involved in maintaining the autocracy and the oppression that supported the *de facto* government (Da Silva, 2000; Stavenhagen, 1996). One of the first crises confronting the post-conflict society is an explosion of crime after the breakdown of the old oppressive social order (Nield, 1999). Nield (1999) blames this explosion of crime on the availability of guns, the lack of gainful employment, and the opportunities for corruption. Following the cessation of hostilities, the repressive order that existed prior to the conflict breaks down, as a result, armed groups can quickly evolve into criminal gangs with the capacity to coerce and intimidate the citizenry, and more powerful groups can compete for political and economic power and organise criminal enterprises. Former government officials and groups tied to government can directly or indirectly support militias to consolidate and preserve the prerogatives of power and resources. Elements of the former regime that do not have access to legitimate avenues to participate in a transition may metastasize and criminalise in the vacuum of law and order created (Nield, 1999).

In this environment, formal social control institutions such as the police and military and informal mechanisms such as social capital becomes disrupted. This leads to social disorganisation that inhibits the ability of citizens to re-establish social order and maintain it in the face of severe disruptions and the overwhelming needs of society. As a result, military forces or heavily armed peacekeepers are often necessary in post-conflict situations because of the abundance of weapons and conflicting groups mentioned above. However, tackling the criminal issues faced in a post-conflict environment, facilitating the transition of the police and creating a rule of law is difficult for indigenous conventional police, or even enhanced United Nations police, due to a gap in their capabilities.

Post-conflict Policing and the Para-militarisation of the Police

In post-conflict environments, the safety of the police as they perform their duties is one of the most critical issues. The police are particularly vulnerable during the immediate post-conflict stabilisation period, as they become targeted by insurgent groups and criminal organisations. In response to perceived security threats to themselves and to the wider community, the police may increasingly assume the functions and attributes of a paramilitary organisation with the increased capacity to use force. The para-militarised nature of the police is seen in both post-conflict environments and in developed nations. For example in the United States, a country very active in exporting policing and police practices abroad, police departments have undergone a process of militarising their forces. They achieved this through military tactics training, Special Weapons and Tactics squads (SWAT), and by purchasing military equipment such as weapons and armour while claiming at the same time to participate in community policing (Kraska, 2007).

However, this paper argues that para-militarising the police by giving them heavier weapons, less restrictive rules of engagement and heightened powers to arrest, interrogate and detain individuals on "security" grounds is dangerous and counterproductive. The use of paramilitary police can result in force being used inappropriately and can alienate a population from the police who should seek to serve them (Kraska and Cubellis, 1997; Pino and Wiatrowski, 2006). Para-militarisation of police units has resulted in human rights abuses and numerous other problems (Jones et al, 2006; Kraska and Cubellis, 1997). For example, US police assistance to Brazil dictated that the police should be subordinated under the military so that Brazil's internal security would be more closely tied to national executive power (Higgins, 1998). As a result police systems became more militarised, secret, and violent through increased centralising initiatives that reduced civil liberties. Different police forces competed with each other, and leaders lost control of units that had turned into vigilante death squads that also increased political arrests and the torturing and elimination of alleged political subversives (Huggins, 1998).

In post-conflict environments, the para-militarisation of police is counterproductive if warlords or militias have a greater military capacity. This can lead to an escalation of violent incidents, the corresponding negative impact on human rights and a potential increase in instability. Secondly, the level of training and intelligence needed to minimise casualties when using greater firepower or coercive methods rarely exists in post-conflict environments, organisations as the police have not developed the educational, cultural and professional characteristics of the military (Pino and Wiatrowski, 2006). Furthermore, para-militarisation diminishes the ability of police forces to interact with populations because there is a further degree of separation of the police from the people they are supposed to protect and serve. Reducing the capacity of warlords and criminal gangs for violence is initially the remit of a partnership between the police, (who will be outgunned) the military, and the public. During the post-conflict period, the public often has little basis for trust and their security may be severely comprised by the activities of armed militias and criminal gangs competing for power and control of criminal commerce. The military goals of neutralising an enemy can create more hostile relations between the public and the police, and give the public the impression that crime is out of control. These factors can increase the fear of crime and the fear of police, which could then weaken levels trust between the public and the police. This trust, in a democratic society, is the basis for obtaining information about crime, assisting victims, conflict resolution, and collecting intelligence on terrorism and insurgency counteraction.

Societies must be capable of responding to foreseeable threats; not just to one dangerous individual, but also to small groups and scenarios involving riots and mass disasters. However, at some point the capabilities of the police may be exceeded. When a state of emergency is declared, larger forces such as the National Guard and active military may be brought into operation. These larger forces have the mobility, logistics and organic capabilities to restore order, provide food, feed, shelter, and medical care, but military functions and police functions are

inherently different in a society. In post-conflict and democratising contexts these two types of units must stay separated so that the democratisation process is not undermined by the creation of an unresponsive, overly militarised police force that is not distinguishable from the military. Therefore, new approaches must be considered for separating the role of the police and the military in transitional states.

Democratic Policing

As highlighted above, the challenges of post-conflict environments are multilateral and complex and stretch beyond the capacities of the indigenous police. Militarising the police in the longer term is a counterproductive means of dealing with the challenges faced. This section will address the democratic policing philosophy that instructs indigenous conventional police forces to operate based on democratic values.

The post-conflict transition can take place when conventional police reconceptualise their role from a primary role of enforcement to a more fundamental role involving extensive interaction with the society and participating in recreating informal social control. While the presence of the police may suppress lawlessness in its immediate area, the lawlessness is likely to return unless an integrated response, involving all the above groups is created to promote the development of civil society, social efficacy and social control (Pino and Wiatrowski, 2006).

The understanding of the role of security and order maintenance in the development of stable democratic societies is articulated in the emerging democratic policing philosophy. In theory, democratic institutions are created to support the viability of a democracy. These institutions should be based on a legal foundation, be accountable, transparent, and subordinate to civil authority (Pino and Wiatrowski, 2006). The protection of human and individual rights is at the core of democratic police theory (Alderson, 1994; Bayley, 2006; Pino and Wiatrowski, 2006). The concept of citizen security must therefore be embedded in democratic policing as a foundational element. This requires the development of sufficient trust and social capital to enable the society to engage in the development of trust-based social relations that allow social, economic, governmental and other forms of development to take place (Paxton, 2002).

The police must recognise that the public perception of their legitimacy and authority comes from the manner in which their activities are consistent with democratic values. Policing should serve the needs of the community and not the needs of the police, and in democratic policing the community evaluates the police through civilian review mechanisms (Stone and Ward, 2000). Oversight should occur through a number of channels because having only one oversight mechanism can lead to cooptation or goal deflection. These different channels can include the media, civilian review boards, private businesses, advocacy and research

organisations, and community based and other non-governmental organisations (NGOs). Human rights groups can also work with the police in transitional societies to help develop democratic policing standards, monitor their implementation, and develop plans to prevent and even solve crimes. A wide variety of NGOs such as Human Rights Watch and the Soros Foundation assist in oversight of and working with the police. The United Nations and OSCE also undertake significant work in this area.

In summary, police operating in post-conflict environments must develop based on democratic values, resist para-militarisation, and not be asked to engage in operations or other tasks that are beyond their training or capacity. Civilian oversight and cooperation in police activities is also important. The establishment of FPUs can help this process unfold successfully and in a sustainable manner.

Developing and Creating FPUs

In order to allow conventional indigenous police to develop democratically, it may be more appropriate to take military and/or peacekeeping forces and train them in civil military operations and development activities so that once insurgent forces are controlled, these trained forces can provide the security required for the transition to civil authority and support development. For example, in international peacekeeping operations, "Formed Police Units" (FPUs) have been created by the UN to assist in restoring order during this security gap. "These units can fill the security gap between military forces and civilian police relieving some of the military units' heavy burden and establishing an environment in which civilian police can operate more effectively within the rule of law" (Bohn 2007: 1).

If FPUs are going to be created for a post-conflict environment, they should be created on the basis of an analysis of the unique post-conflict environment a particular country or region faces (rather than implementing a one-size-fits-all approach). A description of the functions of FPUs could involve riot control, use of firearms, human rights enforcement, code of conduct and ethical legal responsibilities of police officers, emergency medical services, SWAT and hostage negotiations, and crisis management (Bohn, 2007). These units are most suited to engaging in high-risk arrests, combating organised crime, and protecting the security of elections, prisons, sensitive facilities, VIPs, and borders, all within a human rights framework. FPUs should be used to maintain order while conventional police build relationships with citizens in their own communities. For example, Bohn (2007) has noted the use of FPUs in protecting civil authorities and guarding warehouses and compounds. FPUs have already been in operation in a limited way due to UN efforts through the Department of Peace Keeping Operations (DPKO) and its Standing Police Capacity programme. According to the DPKO website, police managers and other experts are utilised to train and inform police training, education, and capacity development in

numerous nations (for example, Liberia, Democratic Republic of Congo, Cote d'Ivoire, and Haiti) as part of larger peacekeeping and post-conflict efforts.

More research and thinking on the role of these units is needed in order to increase the chances of sustainable long-term success in different countries. The authors could find no independent evaluations of FPUs after conducting a literature search. Some UN websites offer various lists of accomplishments and goals for FPUs in a number of countries. However further independent research is required which provides greater detail of the successes and failures of FPUs and also the context in which FPUs have operated in order to properly evaluate FPUs' activities to-date. In the meantime, two related issues that should be considered are the types of countries used and the type of people recruited to participate in the creation and implementation of FPUs. Unit members might consist of citizens (including police and military members) from both recipient and donor countries, and international bodies such as the UN. Ideally participant members should be drawn from countries with democratic traditions and histories. However, given the nature of international relations it is possible that FPUs and police training might come from countries without democratic systems and/or histories. China is currently creating the capability to train FPUs and to contribute to peacekeeping missions in countries such as Haiti (UN News Service, 2007).

Peacekeepers and trainers from undemocratic regimes may not have the necessary skills or the capacity to provide recipient countries with the ability to transition into a democratically accountable force. Furthermore even where FPUs and policing training is provided by democratic countries or private consulting businesses such as Price Waterhouse Coopers and ATOS Consulting, it is demonstrable that significant sums of money are being spent without reference to that country's own local policing agencies. In turn this raises significant concern about the currency, ownership and legitimacy of these projects.

If citizens of an emerging democracy are trained to be officers in FPUs, they must develop a skill-set with value in other similar occupations in civil society so that they can transfer after the FPUs are no longer needed. These occupations could include community organisations, economic development, social service administration and local government positions. Anticipatory socialisation for this new role, and the peace of mind that comes with job security, should greatly reduce the chances that these FPUs could turn into long-term militias or death squads. If FPUs are simply disbanded and there is no employment available for former members of those units, the unemployed members with weapons training may start joining insurgent groups and/or committing violent crimes. Further, they may use their knowledge of the emerging order and their training to disrupt the post-conflict transition (Nield, 1999). The dismantling of the Iraqi army during de-Baathification is a recent example of this phenomenon.

Once participating countries and unit members are established, the role that these units play relative to the military and the police must be considered. A new form of networked operations, combining military,

FPUs, conventional indigenous police, and international and civil reconstruction efforts must emerge to operate in post-conflict environments adequately. The military must not sit not at the head of a table, but at a round table with others engaged in the efforts to bring the conflict level down to where these FPUs can function and reconstruction can proceed. Each of these different groups must have clearly defined goals. FPUs should have military level capabilities but should not engage in the military role of offensive operations. Instead they can bridge security and police work, maintaining communicative relationships with different stakeholders in the process, and engage in capacity building and conflict resolution. The particular set of roles for FPUs allows the military and conventional police to play their roles appropriately and avoid turf battles, goal deflection, and the para-militarisation of conventional police forces.

FPUs need to have a spectrum of functions where they can restore order by using measured force whenever necessary. In addition, they must be able to quickly expand these functions following increased stability to include the co-production of safety and support for the promotion of individual, economic, political, and social development. The organisation and functions of these units must be done in a manner that supports specific training based on the need to assist in the reform and reconstruction of post-conflict environments. Fundamentally, they are trying to provide the physical elements of security while promoting environments where the social elements of security and policing can take place. These units should be able to conduct integrated joint operations with the military, police, NGOs and government agencies to facilitate this transition in a manner that is presently not been undertaken This is because existing organisations and doctrines are wedged into environments where they were not designed to operate. Thus, a structural reorganisation doctrine is required which is written in an open and collective manner to support the functions of these FPUs.

FPUs can assist conventional police in their efforts to work with community members and NGOs to increase collective efficacy and reduce crime, fear and disorder. In peacekeeping environments, the civilian population may appreciate the security provided in the cessation of conflict, but opposing groups may be embedding themselves into the civilian population, destabilising and disrupting reconstruction efforts. Conflict encompasses every element of society, and competing groups may provide elementary social services such as education, health care, and payments (as in Lebanon recently (See Rebuild Lebanon Project 2007)) to those who were injured and who had their houses destroyed. Therefore, working with the community and building local ownership is crucial to reconstruction efforts. For example, FPUs could coordinate activities with NGOs and the host government which sends the message that development - in all its primary forms - rather than occupation is the goal. The goal of reconstruction and FPUs then becomes one of establishing the ability of the developing government to provide for its people and promote development while destroying the legitimacy of the competing groups that use terror and fear to rule.

There are police organizations (in Chicago, for example) that have become adept at entering socially disorganised communities with high levels of crime and violence, and developing community based strategies with citizens and community groups in order to build social capital and collective efficacy (Skogan and Harnett, 1997). Even in highly stratified multiracial, multiethnic countries like the US, strategies involving problem identification and solution implementation, partnerships with community and governmental groups, and asset based development strategies have all been used to dramatically reduce fear and improve quality of life). For example, these strategies have been used to reduce gang violence in Boston, property crime in San Diego, mental illness issues in St. Louis, and neighbourhood disorder in Los Angeles. (Community Oriented Policing Service, 2000)

FPUs must also use their networking capabilities to help build social capital in the community to complement community policing activities. FPUs can assist conventional indigenous police by acting as liaisons between government leaders and neighbourhood leaders, NGOs, and others, which can build social capital (trust, networks, and collective action) and lead to collective plans not only to reduce crime and restore order but also to increase government legitimacy and democratic governance. Kretzmann and McKnight (1993) wrote about building stronger communities based on the assets that already exist. There is evidence of social organisation even in the most war torn and underdeveloped areas. For example, small agricultural producers and other small business people will sell goods on the streets, sometimes as part of a robust informal economy (Guha-Khasnobis, Kanbur, and Ostrom, 2006). These networks should be maximised for strengthening communities by legitimising some of these informal activities and building social capital from the social networks that exist.

Conclusion

The United Nations has created FPUs to enter countries where the security system of a regime has collapsed or where conflict has rendered the country unable to protect its citizens (Bohn, 2007). However, more research and thinking is needed on how these units will carry out their duties in concert with other efforts to promote democratic, social, and economic development in transitional and post-conflict environments. This paper has argued that most police units of any post-conflict country will be unable to carry out these functions and that the police often do not include the possibility of promoting developmental ideas. FPUs require specialised knowledge requiring a constant level of exercise to maintain proficiency. As the transition from conflict to post-conflict levels of stability occurs, the immediate security issues should be treated as a specialised mission that requires specialised capabilities and training to support a democratic transition and peacekeeping rather than stretching policing and the military to fill this gap. At the "military end" FPUs will have military level defence capabilities, protecting themselves with automatic weapons, but FPUs will not go so far as to engage in offensive

operations. At the "police end", these units will restore order; interact with international community and local police. The FPUs must engage in activities that bridge security work and police work. They must therefore maintain communicative relationships with both military and conventional police units, acting as a liaison mechanism if only to promote better coordination.

FPUs must promote transitional activities and possess a skill-set where peacekeeping functions are integrated into the day-to-day activities. FPUs will aim to foster capacity building to bring together different groups, and offer conflict resolution to foster the cooperation necessary to reduce social tensions and territory oriented tensions between conflicting groups. The activities of the FPUs will also facilitate the perception of safety for the population and the reduction of fear. Security is a necessary but not sufficient requirement of social and economic development. Engaging in these various security and networking tasks (including capacity building) allows the police to engage in democratic policing, work with citizens and others, so that a militarized and non community based police culture is less likely to develop. FPUs must promote connections and communication between many of the different "development stakeholders" which can contribute towards building social capital (police, military, technocrats, civilians, NGOs) and promoting democratic development (Paxton 2002; Sampson, Raudenbush, and Earls, 1997). This can allow initial post-conflict activities to demonstrate the commitment of the government and the international community to provide solution to immediate problems of a post-conflict environment and thus begin to gain legitimacy for the post-conflict reconstruction.

The final argument in favour of FPUs is that they will not make local police responsible for security functions that would otherwise result in their para-militarisation and the use of extra-legal means for controlling crime and restoring order. In many parts of the world, the police are feared and tend to function more like coercive arm of the government. The task of FPUs is to promote a model of policing which is consistent with democratic values and a part of a society that is constructing the inherent ability to create order, not by force, but by creating dividends for the whole population from democratic development.

In summary, the combination of military units, FPUs and conventional democratic police forces may help countries in post-conflict situations maintain the level of order and security needed for successful and sustainable human, social, and economic development. Because of the presence of FPUs, military forces and conventional police forces can operate with clear mandates that do not exceed their training. This can promote a more stable transition. The functions of FPUs need to be performed by individuals who are proficient in their normal police role but who are receptive to the idea that the policing role in the community can be much more expansive. It is imperative to note that one cannot take a 'one-size-fits-all' approach to FPUs, roles and activities undertaken in one environment may not be suitable for another context and indeed even counter-productive, this is because the historical, cultural, political and economic aspects of transitional and post-conflict situations are unique to every country.

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