

Lessons From Abu Ghraib: Change The Police Culture To Combat Terrorism

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Abu Ghraib, Saddam Hussein’s torture prison, became internationally notorious when the U.S. military abused prisoners there under new “interrogation” techniques authorized by senior U.S. government officials by re-defining “torture.” It came to symbolize humiliation, provoked blood-curling fury, and became one of the most effective tools for recruiting terrorists internationally, as U.S. military commanders themselves have come to acknowledge. This contains a very important lesson for India: torture of suspects is functionally worthless, and only fertilizes the environment for terrorists.

Our police have relied largely on such techniques, which has resulted in their isolation from the rest of society. The increasing frequency of terrorist attacks in India highlights the need to change this police culture. The brutalization of “suspects” - especially those rounded up after terrorist attacks based on nothing more than rumors and stereotypes - is not an individualized or isolated problem; it is fraught with systemic danger in today’s world. While these tactics rarely yield anything useful, they alienate the very community whose active cooperation is needed for preventive policing and investigative work. Combined with the strident rhetoric of irresponsible politicians, this only increases polarization of the communities and alienation of the police from the community, with a concomitant rise in brazen attacks.

The Standard Operating Procedure

When I heard that one killer in the recent Mumbai attacks had been captured by the cops, my first reaction - based on my years as a Mumbai lawyer - was: I hope he has not referred to

someone named “Mohammed” in Mumbai. Otherwise, every “Mohammed” - about 100,000, I’d speculate - will be rounded up for “interrogation” by the cops. All Mohammeds will have the daylight beat out of them, most will be released after a few weeks or months or years, or sometimes, die in an “encounter” (God bless their souls). And if some tangible evidence surfaces that any of them really had anything to do with the terror attacks, chalk it up to dumb luck, although a few medals will also be awarded for “smart” police work. That’s how it usually turns out; if it didn’t happen on this occasion, all Mohammeds should thank their stars.

Such blunderbuss roundups and “interrogation” - Indian police-speak for torture - is what has passed for criminal investigation by the police in India for several decades. Thus, after the Mumbai bomb blasts, I am told by someone who knows, you were plastered if your name happened to be Altaf. You see, the cops believed mafia don Dawood Ibrahim was responsible for the blasts; some “informer” (I often wonder who these guys are) told them that one of Dawood’s henchmen was called “Altaf.” So, every “Altaf” was brought in for an “interrogation,” followed by his brothers, cousins, friends, uncles, relatives, you name them, to find out whether “Altaf” was upto no good in some way.

I’m not sure if there are statistics kept, but I’m curious about how many of those “interrogated” in such mass sweeps were eventually convicted of anything, or how many provided information useful to nail the bad guys. The only guaranteed consequence of this huge waste of manpower and resources was that all rounded up “Altafs” learnt a lesson: the need to be named properly.

Antagonizing the Entire Community

Such mass roundups are hysteric reactions to the fear pervading the atmosphere after a

terrorist attack. That's not surprising; they soothe the political need of the hour - "Do Something!" They convey to the outraged and fearful public that "something" is being done. This is not unique to India: in the wake of 9/11 and the Bush administration's fear-mongering, roundups based on racial profiling took place even in New York.

That's of course, not much help if you are a victim caught up in the net. That is bad enough. But when terrorist attacks take place under the guise of religion, adherents of that religion are rounded up indiscriminately. When these "persons of interest", to use a Bush malapropism, are followed by third degree methods, serious systemic damage is inflicted on our capability to combat terrorism.

The innocent victims of such tactics (and their buddies and everyone else who knows or hears about it) are left traumatized, cringing in fear while seething in anger. Worse, such an experience resonates vibrantly to the inflammatory rhetoric of extremists peddling noxious parochialism - the cheap ticket to political power in India these days.

Thus, such tactics, apart from possibly converting laypersons into terrorists, antagonizes the entire community - the very community whose cooperation is imperative for timely action. After operation "Altaf", does anyone seriously expect any "Altaf" or, for that matter, anyone who even heard about anyone named "Altaf", to alert the cops about a couple of guys storing grenades beneath avocados down the street?

But unfortunately, the police force in India has been systematically abused and misused for decades with complete indifference to this pernicious long-term effect. The cops and their bosses (read, political leaders) apparently have not yet understood that third degree tactics for criminal investigations are as obsolete as the Morse code for communications, and worse,

singularly counterproductive. Apart from dehumanizing the perpetrators who increasingly secerenate themselves, it routinely produces unreliable information (and even “confessions”) because the victim will say anything just to stop the pain. This leads to wild goose chases, irresponsible charges, and ruined lives even in the ordinary course, but the systemic harm is especially pronounced with respect to combating terrorism.

Counter-productive in Combating Terrorism

As we know from experience, terrorist attacks most often are carried out by outsiders, not locals. The local involvement is most often minimal, and maybe even inadvertent. But the local population must be motivated enough to be proactive in cooperating with the cops, both before and after such attacks.

Locals have a natural incentive, and very good reason, to be proactive. The bulk of the local population - Hindus, Christians, Muslims and everyone else - comprises of peaceful, hardworking people making a living. Attaining martyrdom by killing multitudes of persons they don't even know is not part of their dreams. They have every reason to prevent terrorist attacks which, if anything, only hurts their livelihood, their residences, and maybe even their lives.

But this is outweighed by fear and anger, born of their own experience or perception. For example, recalling what happened to “Altaf” is enough to silence all locals. Unfortunately, this silence leaves the cops spinning their wheels in “investigations”, or worse, in complete ignorance of impending attacks.

As a result, as the Srikrishna Commission recorded, “The police appeared to be out of touch with the pulse of the public.” Not much appears to have changed since then. This is what makes a fertile milieu for terrorists - a local population that looks the other way wistfully hoping

that the terrorists strike elsewhere.

Lessons from the U.S.

While Abu Ghraib proved a boon for jihadists in Afghanistan and elsewhere, equally significant is that since 9/11, not a single terrorist attack has taken place in U.S. soil. This despite the fact that the United States continues to be labeled as “the great Satan”, the focus of hatred for terrorist Muslims the world over. President Bush enriched our vocabulary with “Islamic terrorism” (as if terrorism had a religion), and at least until recently, indulged himself with wanton provocation of the Muslim world. That provocation internationalized terrorism in an unparalleled way, but terrorist activity didn’t come into the U.S.

That’s not due to any extraordinary smartness of the U.S. police. They are no more intelligent than any other, but they do enjoy a major advantage: by and large, they have the cooperation of the local population. While mass roundups and police brutality do occur, those are exceptions, not the norm. As a result, the locals do not fear, and therefore, do not shy away from cooperating with the cops.

That cooperation is what is missing in India. So a major problem in countering terrorism is the brainless use of brawn by the otherwise brawnless India police.

Systemic Checks

Systemic dis-incentives to the routine use of third degree methods can be essentially two fold; unfortunately, neither exists in India. First, evidence obtained by the police through illegal methods should be inadmissible in courts. And if you think this will hamstring the police into impotent spectators, consider this: that is settled law and practice in the United States for about

100 years now. Evidence obtained from an illegal arrest, unreasonable search, or coercive interrogation - and anything consequentially obtained - *must* be excluded from a criminal trial, and prosecutorial misconduct can result in dismissal of all charges, even invalidate a conviction. As the legendary jurist Holmes explained, “the knowledge gained by the Government's own wrong cannot be used by it.” When the government itself violates the law, it only encourages lawless behavior.

Thus, when police know that their use of illegal techniques will jeopardize a potential conviction, not help obtain one, that is a good incentive to stay within legal limits, to avoid blunderbuss tactics and third degree, and to come up with creative policing techniques. Suspects acquitted at trials are no help in advancing police careers or obtaining medals. “Encounter killings” are not a healthy answer.

But this constraint is completely absent in India. It’s hardly a state secret that cops routinely obtain “confessions” by third degree methods and sustain convictions without any question raised about their misconduct. They just need to be careful enough to avoid extreme physical consequences (such as death). As a result, police brutality has gotten institutionalized as a standard operating procedure. There’s simply no need for our cops to rack their brains for creative ways of investigation; it’s a lot easier to just beat up the suspect and have him rack his brains to present a plausible solution to the crime.

A second systemic constraint is accountability in a court. For example, the Abner Louima case in New York - where an individual was brutalized by a rogue cop in a Brooklyn police precinct - led to serious criminal and civil consequences: the cops involved (including those who saw the brutalization and remained silent) were indicted, convicted, and sentenced to

as long as 30 years in prison, and the City of New York paid \$8.7 million to Mr. Louima for his serious injuries.

In some other cases, former U.S. Attorney General Ashcroft, Secretary of State Rumsfeld, and other senior U.S. government officials have now been required to answer in Court for wilfully implementing blatantly illegal policies violative of the Constitution. As is well known, those policies resulted in mistreatment of many Arab Muslims in the sweeps which took place after 9/11.

Obviously, such a prospect of being held accountable is a significant deterrent to misconduct. No such accountability exists for the police in India.

Conclusion

If India is to meet the challenge of 21st century terrorists capable of inflicting numbing casualties, the culture of policing needs to change very fundamentally. While we certainly need to develop a “Delta force” with sophisticated means and weapons, systemic changes are imperative to discourage cops on the street from resorting to third degree methods and tactics which are, put bluntly, dumb. Abu Ghraib and Guantanamo Bay are lessons to be learnt from, not emulated.

This is not to deprecate the Indian police en masse: they are underpaid, overworked, and face a host of other issues. Instead, it is to focus attention on the tough job they face on the streets, which has become considerably tougher. Unfortunately, as a result of decades of sustained neglect, the police now need to re-earn the trust of the common man. The man on the street and the cop on the street need to function as part of a team, and locals’ cooperation and alertness needs to be freely forthcoming. Without that, we would be as clueless before the next

terrorist action as we have been thus far.