1 Introduction

Policing Is Hard on Democracy, or Democracy Is Hard on Policing?

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Conceptual Framework

Global trends in terrorism and transnational crime have direct effects in both local *and* international contexts. Although the problems of terrorism, organized crime, and corruption are not new phenomena anywhere in the world, governments have shifted the nature of their law enforcement structures, functions, and practices in manners that reflect local internal and external political and socioeconomic forces. In many countries, responses to serious threats have typically resulted in an increasingly centralized and specialized force, even to the extent of merging police and military responsibilities. Such responses in times of threat have occurred in even strongly democratic societies, such as the United Kingdom, even though it has long been taken for granted that the roles of the military and police should be clearly separated in societies built upon the basic tenets of democratic governance (Kraska, 2001).

Issues of national security involving threats from other nations fall clearly within the domain of military responsibility, whereas those surfacing as a result of general criminality or lawlessness are the responsibility of local law enforcement. Where the functions and responsibilities of the military and police have merged, governments are characterized as repressive by those claiming to operate according to the principles of the rule of law. Within a changing global context, the difficulty of balancing due process and public safety needs is a paramount issue that challenges the

very legitimacy that is fundamental to the effectiveness of law enforcement. Drawing upon the lessons learned and best practices of comparative policing systems is particularly important in contemporary times.

The extent to which changes in perceptions of the legitimacy of authorities affect the level of compliance with the law in everyday lives is an important question, particularly where we are dealing with countries at different levels of democratization (Cohn & White, 1997). Much of this perceived legitimacy is based on notions of government transparency and citizens' beliefs that they can participate in the establishment of a lawful society both on an individual community level and at the level of national social change.

For example, although democratic rule has returned to many countries in Latin America, "Relations between governments and society, particularly the poor and marginalized members of society, have been characterized by the illegal and arbitrary use of power" (Pinheiro de Souza, 2006, p. 1). While the end of dictatorships brought hopes of human rights and a rule of a lawful society, the reality is that there is a significant disparity in many of these countries "between the letter of the bill of rights, present in many constitutions, and law enforcement application and practice" (Pinheiro de Souza, 2006, p. 1). Access to "justice" in many cases is bought with money, a tool more available to narcotraffickers than the average citizen.

Many countries throughout the world have accepted a semimilitary model of policing in which police administrators see their role as fighting the enemy (crime) regardless of the constraints on arbitrary enforcement meant to be offered by the law and the criminal justice system. Although decreasing, this military ethos has helped to maintain a legal context in which the practices of torture and use of deadly force to suppress social movements has not disappeared. The use of special squads is common throughout Latin America, with many of them becoming the law unto themselves. Specifically this is illustrated in the Brazilian case.

A driving force behind the abuses and citizen perceptions of police impunity in general stems from corruption, beginning with low-level bribes and extending to include protection rackets. Chevigny (1999, p. 62) argues that corruption and police brutality are interrelated because "together they show the power of the police, their independence from the rest of the criminal justice system, and their ability to administer justice as they see fit." Paying bribes is a common practice in countries such as Mexico, not just as a means of bypassing the criminal justice system but also for avoiding a potential beating at the hands of officers for those who refuse to pay.

The above legal context will obviously not go a long way toward socializing citizens as to the value of rules and laws and their enforcement in society. The importance of this cannot be underestimated; legislation is meaningless unless the government is able to "anticipate that the citizenry as a whole will . . . generally observe the body of rules promulgated" (Fuller, 1964, p. 201). Given the fact that laws are created to enforce behavior that

many people would often rather avoid, legal authorities are best served by "establish[ing] and maintain[ing] conditions that lead the public generally to accept their decisions and policies" (Tyler, 1990, p. 19). A government that needs to rely on coercion as a means of maintaining compliance with the law will be faced with an insurmountable task, both in terms of resources and practicality.

In a climate of global change, in which traditional boundaries and the presence of a clearly defined enemy are no longer realities, law enforcement has also tried to evolve internationally. For example, from a U.S. perspective, turning points such as the passage of the Patriot Act and the continued reexamination of the Posse Commitatus Act have led to the further blurring of military/police lines that began after the Cold War with the military taking on some drug enforcement responsibilities.

As policing moves away from its traditional responsibilities related to the control of local disorder, it will become increasingly less effective in meeting its objectives. Although it is easy to see how local law enforcement has seen a need to change its practices—viewing itself as the front line and first responder in the war on terror—the danger of further building a military ethos for policing is that it challenges the very legitimacy that makes it effective as noted above. Countries that have battled issues of terrorism for many years, such as Israel, recognize this distinction, seeing law enforcement as a support function to the "takeover" and engagement units responding to terror.

A growing body of useful comparative policing texts introduces the diversity and complexity of policing systems around the world. Important works such as *Policing Change, Changing Police* (Marenin, 1996) provide an overview of selected policing systems, highlighting the relationship between police and the state. Works such as Mathieu Deflem's *Policing World Society* (1998) explore the challenges and issues involved in cross-national cooperation and international policing. Recent efforts such as Das and Lab's *International Perspectives on Community Policing and Crime Prevention* (2002) contrast community policing models in countries as diverse as Canada, Israel, India, and Mexico. Other approaches, such as Ebbe's *Comparative & Criminal Justice Systems* (1996) and Dammer, Fairchild, and Albanese's *Comparative Criminal Justice* (2006) examine police systems within the context of the entire criminal justice system.

These efforts have provided important foundations for the fields of comparative policing and international policing studies, yet the following chapters will offer still new directions. In addition to providing a comprehensive comparative context of policing in the selected countries that will serve as a basic introduction to new students to the field, the material is presented in such a way as to highlight the critical global trends discussed, and thus link the comparative framework with current developments in the fields of democratic governance, legitimacy, human rights, and transnational crime.

The book will also provide some important political, social, and historical contextual information, so that connections between external

authorizing environments and police responses can be introduced to the readers.

Topics introduced and discussed through the chapters circle around the following themes:

- Level of democratization
- Police professionalism, including preparation to perform the police function, merit recruitment, formal training, structured career advancement, systematic discipline, full-time service, extent to which police operations are conducted in public, and specialization
- Community oriented policing
- Use of force
- Accountability
- Human rights
- Forces for change and success/failure of these responses
- Responses to terrorism and organized crime, including the effects of such responses on legitimacy of the police force
- The extent of collaboration between the military and local policing

Countries have been selected for inclusion in the volume across a continuum of the democratization of policing practices. The country chapters are presented in a certain order that reflects their position on what the editors defined as the "Continuum of Democracy." By introducing the placement of countries on a continuum, the editors illustrate how no country can operate perfectly within a perfect rule of law. Social forces and the negative actions of human agents can move a country's law enforcement agencies away from democratic governance operating with community consensus and toward more coercive, autocratic practices. Being cognizant of these factors in the context of emerging responses to global terrorism and crime is a necessity and a key ingredient of the current volume.

The Continuum of Democracy: An Innovative Approach

To facilitate cross-fertilization of best practices and lessons learned with respect to policing, a democratization continuum is operationalized, and each country is analyzed along the continuum. Again, each country was selected based on its potential applicability to the continuum and the degree to which best practices and/or lessons learned could be drawn according to the book's themes, as described above.

A country's position on the Continuum of Democracy is therefore operationalized as its overall score based on the following five dimensions: the history of a democratic form of government, the level of corruption within governmental organizations and the oversight mechanisms in place, the scope

of and response to civil disobedience, organizational structures of police departments, and operational responses to terrorism and organized crime.

On the scale of 1 to 12 (based on the number of countries represented in this book) the editors assigned a rank order to each country as a representation of the number they scored, measured on the five practical dimensions representing the operationalized definition of the Continuum of Democracy. Therefore, they identified China as the country that scored the lowest on each of the five dimensions, because it has no history of a democratic form of government, a high level of corruption in governmental organizations, and a history of a violent response to civil disobedience, representing a rather archaic structure of policing and a repressive response to problems of terrorism and organized crime. On the other end of the spectrum, representing the highest level on the continuum, they placed the United States, followed closely by or even competing for first place with Canada. Although the history of its democratic government is not as long as the United Kingdom's, the decentralized nature of the U.S. police force, the oversight mechanisms in place to deal with instances of corruption, the accountability required when dealing with civil disobedience, the structure of police organizations, and the modalities of response to the phenomenon of organized crime and terrorism earned the country its first place on the Continuum. It is imperative to note that the five dimensions are measured within the context of policing in the most recent years; therefore, the history of a democratic form of government (the first dimension) provides a context for the other four dimensions.

Additional Dimensions of the Innovative Comparative Approach

It is with the above framework in mind that international scholars have written chapters examining the differing contexts and police practices throughout the world. Although this edited work will allow for the traditional international comparisons common to current collections in the field, it is unique in that it is presented from an analytical context that challenges readers to critically assess global trends in policing. Based upon a review and operationalization of the contents provided throughout the chapter, readers and students of policing can attempt to identify the best universal practices (applicable to any democratic setting) for dealing with newly emerging issues based on the best practices and issues of the discussed countries. However, the need to clearly separate the roles of police and military, and the continued transparency and accountability of local law enforcement, will remain a central focus in international challenges to attain legitimacy. The reader will also be introduced to the basic principles of human rights law and practice in order to frame all of the above discussion.

Another central innovation of this work's conceptual framework is that it highlights how global trends in terrorism and transnational crime affect both local and international policing contexts. For example, departments internationally are rapidly trying to deal with the new threat posed by terrorism on the local level through first response, investigation, and coordination with other local and federal jurisdictions. Coordination with international policing efforts will also be essential. Therefore, rather than treating comparative and international policing as wholly separate fields as found in the rest of the literature, the volume's editors draw these linkages; the final section of the text thus offers an overview of current trends in international policing as a possible, partial, and practical solution to the democratization of the police process across the world.

Countries represented in this volume have been selected based upon both geographical location and underlying issues that can inform the larger analytical context of the work. By taking a brief look at some critical issues and concepts outlined in the following chapters, it is possible to compile a list of fundamental themes that shape and influence the democratization process of policing in each of the depicted countries. The same list however can be easily applied to many other countries struggling to reconcile the notion that democracy is hard on policing and that policing is hard on democracy.

The globalization process exposes many countries that have had marginal exposure to the Western world to rapid and demanding social change and thus new social and governmental challenges. Consequently, law enforcement, as one of the greatest social experiments, is a crucial indicator of the level of democratization.

In very concrete and operational terms, a country's level of democracy can be assessed by examining its law enforcement system(s) and its *modus operandi*. Similarly, the key to the level of developmental and economic success of the Western nations is their adoption of democracy. Within such nations, the police operate under internationally recognized democratic principles to ensure a harmonious society in which political, social, and economic life can flourish (Crawshaw et al., 2006, as cited in Chapter 5).

Cullen and McDonald (2008) argue in Chapter 5 that "democratic civilian policing is an essential component of good governance operating under a range of basic principles" (p. 121). Further argument advances the place of the military as having the primary role in securing the state from external threats, while the civilian police is destined to have "a primary and accountable role in citizen security and serving the law" (p. 121). Extraordinary circumstances, they argue, may require the military personnel to provide assistance to the civilian police in joint public safety operations.

In many countries, responses to serious threats have typically resulted in an increasingly centralized and specialized force, even to the extent of merging police and military responsibilities. When criminal threats, such as those in Israel, Brazil, Mexico, and Sierra Leone, become associated with national threats, the due process model tends to lose its validity, making room for

a more centralized rigid police force with special engagement units that respond to terrorist activities.

Law enforcement does not operate in a vacuum. As becomes quite apparent from the pages of this volume, law enforcement reflects the level of democracy in a country, and the democracy of the country is reflected in its organizational structure and operations. Consequently, countries with very long histories of democracy, like the United States, United Kingdom, Canada, and France, will have more democratic policing that cherishes due process over crime control. In fact, as outlined in Chapter 13 on the U.S. police systems, law enforcement in the United States was created on the basis of separating civilian police forces from the central government. Although law enforcement in the United States now is connected to the local government (i.e., the local police) and shares information with other federal agencies, the overall perception is that of democratic policing and the due process model. On the other hand, in countries in transition, like Sierra Leone, Russia, Brazil, and Mexico, it becomes apparent that law enforcement struggles in its attempt to digest and assimilate the concepts of democracy in general, and in particular the ideas embedded in democratic policing, into the standard operating procedures of daily enforcement.

As argued by Gideon and colleagues in Chapter 9 on Israel, law enforcement agencies reflect the priorities, divisions, and social economic conditions of societies in which they exist. Consequently, police forces will demonstrate adaptation to the changing and growing needs of their respective societies. Similarly, Dupont ends Chapter 10 on the French police arguing that "police organizations respond and their reforms are responses to contextual stimuli" (p. 272). Frequently, as argued in the cases of the United Kingdom, United States, France, Turkey, and Russia, such adaptations are also an outcome of a growing concern about threats to homeland security by broadly defined terrorist activities. Such adaptations will shift the pendulum of democratic policing toward a more centralized and thus less democratic police force, departing from due process as can be seen in the Russian Republic, the United States in the days following September 11, Israel, the United Kingdom, Turkey, and France. However, it is not just the threat of assorted terrorist activities that influences and changes the shapes of democratic policing. Countries like Mexico and Brazil that struggle constantly with organized crime, drug cartels, and high violent crime rates experience similar transformations. These are good examples of times where adaptation and customization to an event, a series of events, or a more institutionalized challenge take over the noble cause of protecting civil rights, and the need to maintain public order and safety gains an elevated priority—no matter what the cost.

The primary duty of the police is to maintain social control within the community. What distinguishes the police from the public is their ability to use coercive force to control any given situation. However, such force will be displayed in its most benign version if the public complies with the

demanded status quo. In Chapter 5 on the Sierra Leone police, Cullen and McDonald present President Tejan-Kabbah's vision of the role of the public vis-à-vis police work: "In order that . . . police officers can successfully fulfill our expectations, it is essential that all people of Sierra Leone help and support them at all times" (p. 129).

It is important to remember, in this context, that although the primary goal of the police is to maintain social control, the extent and nature of this control is guided by the governing body of any given country. As Haberfeld (2002, p. 15) notes, "Police forces, throughout the history, served and protected the ruler, the king, the politician, and never the public. The safety and security of the public was always secondary to the safety and security of the ruler, king, politician." This is the case in well-established democracies as well, and it can be better understood by examining the origin of the word *police,* which stems from the Greek word *polis,* meaning government center (see Haberfeld, 2002, p. 15). Consequently, while a law enforcement agency may operate in a democratic society, it is by definition not a democratic organization, and its goals are thus not democratic. Yes, it may serve democracy and its goals by maintaining public order, social control, and—more important—the status quo, but it should not be perceived as a democratic institution. Specifically, protecting the status quo suggests that law enforcement serves the government and its purposes. This is essential to understanding the swing of the pendulum of democracy with the challenges it faces: the shift in perception from a civilian police to a more militaristic organization with militaristic goals departing from due process and thus departing at times from the democratic principles.

As portrayed in the following chapters, and also mentioned in the onset of this chapter, responses to serious threats have typically resulted in an increasingly centralized and specialized force, even in the context of merging police and military responsibilities.

In this time and age, the public's demand and expectations of the criminal justice system may seem contradictory. Demands for more control are constantly rising versus demands for less violation of privacy. It is in this context that we raise the question: Is policing hard on democracy, or is democracy hard on policing? One good example of this query is the New York City Police Department's random checks at subway stations after the terror attack on the underground in the United Kingdom in 2005. The overall consensus, at least on the part of the operational police response, seemed to require an aggressive response to secure the subway system, while on the other hand a large segment of the public was infuriated with the police invading their privacy by searching their belongings.

"Democratic Policing"

Democratic policing is "a form of policing in which the police are accountable to the law and the community, respect the rights and guarantee the

security of all citizens in a non-discriminatory manner" (de Mesquita Neto, 2001, p. 2). Furthermore, democratic police organizations function within and are accountable to the rule of law. The rule of the law refers to the idea that equality and justice are inseparable and that laws are applied equally to everyone. It is the standard that guides decision making throughout the criminal justice system.

In comparison to any other group in a democratic society, law enforcement personnel are supposed to symbolize tolerance and acceptance of diversity. Teaching officers how to enable their views and beliefs to coexist with the different views and beliefs of other citizens—and other officers—is one of the greatest challenges in law enforcement training. With that in mind and on similar levels, it is argued that teaching officers to preserve democratic principles while displaying firearms is a difficult task that needs to be carefully and constantly balanced. Indeed, Cullen and McDonald argue in Chapter 5 that "unfortunately, democracy is a complicated and often elusive phenomenon" (p. 122). When such balance is not achieved, then corruption may emerge, pushing democracy aside, as demonstrated in Chapters 3–6 on Brazil, Mexico, Sierra Leone, and Russia, respectively.

A police force is a paramilitary organization by nature and is expected to be highly professional. Therefore, an important notation that readers need to keep in mind throughout this volume is that more frequently than not, police forces are a by-product of military regiments, where police officers are recruited directly from the military or have some military training in their background. This is a phenomenon that can be traced to the Roman Empire; it has its roots in the Praetorian Guard created by Augustus Caesar and follows through until the establishment of the first modern police force by Sir Robert Peel. Similar developments can be traced in the case of police forces in Israel, Sierra Leon, Mexico, Brazil, Russia, France, India, and many other countries that are not covered in this volume.

As an outcome of such historical developments, frequently law enforcement agencies are viewed as centralized, paramilitary organizations. As such, their ability to adapt and change this image in the face of changing social and political environments presents a formidable challenge, not just for the organization itself but also for the individual police officer.

Law enforcement officers have evolved into ever-broadened generalists who must instantly answer a wide range of difficult questions and take prompt and correct action, all in the name of social control and public safety. Therefore, the public expects its police to handle almost any problem that surfaces. While police officers must respond to situations within the parameters of the law, they should have the freedom to make a decision based on the circumstances of a particular case. Decisions by police officers are likely to have profound implications for the people with whom they come in contact and for the officers themselves. These decisions often affect people's liberty and personal safety. Often it is precisely during this critical, split-second decision-making process that democracy becomes hard on policing.

On the other hand, police response to society's needs, and more specifically during the times of increased public order and security needs, may hit a brick wall when it faces the challenge of Haberfeld's question: "To enforce or not to enforce, that is the question" (2002, p. 4). Once we agree to the fact that laws should be enforced to maintain public order and safety, a different question needs to be asked: "How to enforce?" Such a question is critical to the discussion of democratic policing and the ways in which law enforcement agencies in different countries interpret the need and magnitude of desired enforcement. It is here that we pose the question: Is policing hard on democracy? Or maybe democracy is hard on policing? As Haberfeld posits, "I don't know the key to success but the key to failure is trying to please everybody" (2002, p. 153).

As previously mentioned, the primary duty of the police is to maintain social control within the community. This rationale has its long roots in the early days of policing, when police officers served the king, the ruler, and the politician. It is within this historical context that the pendulum shifts between crime control and due process or democratic policing, as illustrated in Chapters 2–6 on China, Brazil, Mexico, Sierra Leone, and Russia, respectively. As demonstrated in all the 12 countries whose police forces are presented in this volume, police react to social change. In fact, policing is known to be one of the greatest social experiments ever to exist. Even in countries that can be referred to as strong and established democracies, when the need to maintain public safety and protect against internal and external threats becomes a main priority for its governing bodies, some basic civil rights are being abandoned, and new policing practices emerge to adjust to the new priorities. The emergence of the new deployment techniques and police practices is justified for the sake of maintaining public safety and social order, or at least this is how it is presented to the larger audience on the receiving end.

Within the context of crime globalization, law enforcement agencies around the world became exposed to new challenges that include new forms and scopes of criminal activities, which mandate new methods of crime investigation, collaboration, and intelligence sharing, in particular with regard to terrorism and organized crime. These developments become apparent in countries like China, Russia, Sierra Leone, and Turkey. Additionally and independently, globalization came along with democratization, the ambition to leave behind (in the past) the nondemocratic or less democratic forms of government, and a desire to transition to the principles of democracy. This transition, as depicted in Chapters 3–6 on Brazil, Mexico, Sierra Leone, and Russia and in many ways in Chapter 2 on China (although it is not a democracy), is a long and complex process that frequently causes law enforcement leadership to stray, sometimes unintentionally, from the democratic principles that the country declared in its new hymn, one which usually espouses it ambitions and goals.

The attempt to examine law enforcement organizations by placing them on the Continuum of Democracy is a disputable challenge. As mentioned, a law enforcement force by itself is a nondemocratic organization.

Although on the surface the police aims to serve the public through order maintenance, it is always subjected to the ultimate vision of the current governing body, which is also the body that creates and passes the laws and the rules. This point is best demonstrated by Benoît Dupont in Chapter 10, who argues that France often placed the interests of the state above those of the public. A law enforcement agency begins as a centralized organization that shifts toward decentralization as a result of exposure to globalization and the need for change; however, it rapidly and almost happily regresses to the centralized model to adapt to the newly emerged challenges in the face of increasing crime, terrorism, and threat to the regime/government.

By examining the following chapters, it becomes more apparent how the pendulum of democracy swings back and forth between the historically defined military designation and the present and future idealistic orientation of democratic policing. In the process of transition from totalitarian regimes toward a democratic form of government, all the newly emerged democracies, such as Sierra Leone, Russia, Brazil, and Mexico (and in many ways also China in the era of globalization) are experiencing rising levels of crime due to the vacuum created during the shifting processes. During such transitions, police are perceived as lacking the ability to function, corrupt, and consequently dysfunctional and almost an obstacle to the democratization process.

Frequently, such sentiments cause a reverse reaction. As an adaptation, law enforcement operations shift back into a more centralized model with stricter and more invasive governmental oversight and intervention. This in turn may be viewed as nondemocratic.

To summarize, when reading through the chapters of this volume, readers are asked to consider five dimensions that will assist them to critically evaluate and analyze the countries placed on the Continuum of Democracy. The editors argue that the level of democratic policing can and should be defined by the factors associated with the five dimensions. It is by no means an empirically grounded assertion but rather a testimonial approach to sociopolitical and economic features researched by the volume's contributors. The editors are open to arguments and criticisms related to a given country's place on the democratic scale of policing. It is, however, imperative to look at these five dimensions:

1. History of a democratic form of government
2. Level of corruption within governmental organizations and the oversight mechanisms in place
3. Scope of and response to civil disobedience
4. Organizational structures of police departments
5. Operational responses to terrorism and organized crime

Readers must recognize and acknowledge the relative contribution of these five dimensions to the idea of democratic policing. Rather than imposing on

the reader a strict and inflexible ranking order, the authors have opted for a tentative placement of the countries on the Continuum of Democracy, and have opened the floor for an academic discussion that will, undoubtedly, change and be heavily influenced by the current events at any given time and place that will accompany the reading of the chapters.

References

Chevigny, P. (1999). *Defining the role of the police in Latin America: The (un)rule of law*. Notre Dame, IN: University of Notre Dame Press.

Cohn, E. S., & White, S. O. (1997). Legal socialization effects on democratization. *International Social Science Journal, 49*, 151–171.

Dammer, H. R., Fairchild, E., & Albanese, J. S. (2006). *Comparative criminal justice* (3rd ed.). Belmont, CA: Thomson/Wadsworth Publishing.

Das, D. K., & Lab, S. P. (2002) *International perspectives on community policing and crime prevention*. Upper Saddle River, NJ: Prentice-Hall.

Deflem, M. (1998). *Policing world society: Historical foundations of international police cooperation*. New York: Oxford University Press.

Ebbe, O. N. (1996). *Comparative & international criminal justice systems, policing, judiciary and corrections*. Boston: Butterworth-Heinemann.

Fuller, L. (1964). *The morality of law*. New Haven, CT: Yale University Press.

Haberfeld, M. R. (2002). *Critical issues in police training*. Upper Saddle River, NJ: Prentice-Hall.

Kraska, P. B. (Ed.). (2001). *Militarizing the American criminal justice system: The changing roles of the armed forces and the police*. Boston, MA: Northeastern University Press.

Marenin, O. (1996). *Policing change, changing police: International perspectives*. London: Routledge.

de Mesquita Neto, P. (2001, March). *Paths toward democratic policing in Latin America*. Paper presented at the International Workshop on Human Rights and the Police in Transitional Countries, Copenhagen, Denmark.

Pinheiro De Souza, A. (2006). Narcoterrorism in Latin America: A Brazilian perspective. Retrieved May 25, 2007, from http://handle.dtic.mil/100.2/ ADA456509

Tyler, T. (1990). *Why people obey law*. New Haven, CT: Yale University Press.