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Licit Weapons as a Source of Instability – Implementing Domestic Legislations & Reforms in Pakistan

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Abstract *In the Contemporary Conflicts of the post-Cold War period, the question of what comes first, Conflict or Weapons, becomes irrelevant in the face of the quantity and sophistication arms available to actors involved. Pakistan is a country that shows many of the symptoms which are a characteristic of small arms diffusion into the larger social fabric. Given the complex nature of politics, the country is affected not only by external but domestic sources and drivers that have complicated the issue over the decades. For academic purposes, these sources and problems can broadly be divided into four categories canvassing the range of regulated and non-regulated drivers and causes both at the domestic as well as external level. The study aims to examine at length the impact of how regulated sources of SALW in the private armament sector have gradually emerged and cast an impact on the security profile of the country.*

Key Words:

Small Arms & Light Weapons, Darra, Khyber Pakhtunkhwa, Deweaponization, MQM, LEAs

Introduction

In the *Contemporary Conflicts* of the post-Cold War period, the question of what comes first, Conflict or Weapons, becomes irrelevant in the face of the quantity and sophistication in the nature of arms available to actors involved. Not only this but weapons also provide people with a false yet superficial sense of security and empowerment which they need in the face of the loss of faith and trust in the states' diminishing ability to better protect its citizens. Both the intensity and the duration of violence are determined by the availability of small arms and their proliferation in any specific regions of conflict. This violence takes the shape of an extremely vicious and vehement cycle, which not only breeds from the frustrations arising

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out of socio-economic and political inadequacies and injustice but also in its wake leads to further social anomalies.

The aim of this study is to examine at length the impact of how regulated sources of SALW have gradually emerged and cast an impact on the security profile of the country. Since Pakistan is a country that shows many of the symptoms which are a characteristic of small arms diffusion into the larger social fabric. Given the complex nature of politics, the country is affected not only by external but domestic sources and drivers that have complicated the issue over the decades. For academic purposes, these sources and problems can broadly be divided into four categories canvassing the range of regulated and non-regulated drivers and causes both at the domestic as well as external level. With regards the manufacture, production and sale of weapons, these four broad categories could be;

1. State manufactured or Public-Sector Armament Industry
2. Private Producers & Vendors
3. Non –regulated Darra Armament Industry
4. Weapons Supply line from external zones of conflict

However, drawing a clear and distinctive line is very difficult as over the years these sources, as well as the actors involved, have not only become very complex but also the distinction between the academically defined spaces has largely blurred.

Neighboring the forever-turbulent conflict zones of Afghanistan and Kashmir, the conditions within the country have also given rise to a gradual but dangerously spiralling of small arms. The CIA-ISI nexus during the Soviet invasion and the resulting arms pipeline passing through Pakistan. The centuries-old flourishing arms bazaar in the north of the country, a perpetual environment of conflict with the neighboring India, freedom struggle in the Indian occupied Jammu & Kashmir and the culture of romancing with a gun by large contribute to the dilapidating human security parameters within the country.

Small Arms Proliferation in Pakistan

Though ranked *medium* in terms of manufacturing of small, medium and major firearms; Pakistan, however, stands in the category of top fifteen arms manufacturing countries of the world. Regulated by the government, the guiding armament policy of the country primarily has been the *1965 Pakistan Arms Ordinance* (Text of the ordinance, n.d.). Although still functional at the federal level, after devolution of powers and increased provincial autonomy with the passage of 18th amendment to the constitution (Mukhtar, 2014), individual provinces have also further legislated gun policies and have evolved their individual regulations over the time.

Besides the import, the export of firearms, legislation with regards illicit arms (The Surrender of Illicit Arms Act, 1991), licensing of weapons and public as well as private vendors is state-regulated and monitored. Yet, in the case of South Asia and more specifically Pakistan, source of weapons supply and acquisition has been myriad: ranging from the illicit influx, transfer or trade to local production facilities both licit and illicit. Several. (Lumpe, 1999).

Before moving further, the point to be stressed is that when studying weapons proliferation, an important aspect is to keep in perspective the *demand & supply factor*. Excessive and destabilizing accumulation and transfer of small arms is closely related to the increased incidence of conflicts and a high level of crime and violence. It is observed that sub-state or non-state forces make extensive use of such arsenal due to its merits of easy accessibility, storage and handling, and use these weapons with impunity. The most perturbing aspect of these conflicts is that more than 80% of the causalities are civilians, non-combatants - mostly women and children. (Khan, n.d., p. 02).

Private Manufacturers

This category of weapons' manufacturers comprises of private entities, i.e. licensed producers and manufacturers, as well as sellers of designated non-prohibited bore weapons. Although this market is as old as the creation of the country but between the state-owned enterprise and the completely illicit market, the private manufacturers have traditionally had a very restricted space to operate. Although, initially operating mainly in the provinces of Punjab and Khyber Pakhtunkhwa (then North-West Frontier Province, NWFP) as well as Karachi city, given the nature of the business, as domestic and personal security dynamics underwent a radical change, not only has the number of organized legal arms manufacturers increased, but it is also not uncommon for many *front companies (*A subsidiary or shell company…) to be operating in the open as licensed gun dealers, even when they lacked the necessary permit. Many of these vendors would sell merchandise from the black market under cover of legitimate business.

Stringent licensing requirements have ideally restricted the manufacturers from producing anything other than the exact configurations of the armaments irrespective of the market trends; thus, leaving little room for any kind of tampering or alterations. Given that the main incentive or motivation for private manufacturers is profit generation and capitalizing the market, with the exception of few major vendors, smaller businesses have immensely suffered not only due to the non-availability of alloys and gun-related material but also that there have been little incentives and heavy taxations levied. Instead of regulation, as per government's design, these measures proved counter-productive, as many vendors in order to cover production cost as well as to maintain a proportionate profit level; not only started to use sub-standard material but as mentioned previously, they

have also been involved in unauthorized manufacturing. Accordingly, in many cities, there are fewer licensed manufacturers, but there are found many dealerships and repair, license holders. The end-users in this regard are usually sub-state sectors or outfits which purchase these items for coercive activities (Clark, 2006).

Arms dealers and manufacturers have also suffered from time to time because of the embargoes being placed on the sale and purchase of weapons, and furthermore with many sources of weapons' supply available, with a variety of firearms to choose from; the traditional weapons' trader faces very stiff competition. Due to mixed approach of the government towards de-weaponisation or disarmament measures, at best vague attempts such as the ban on weapons' display or open carriage has been placed intermittently in response to a sudden rise in militancy or civil unrest. As a result, the prices of firearms instead of registering a downward trend, increase manifold, and so does the demand factor (Khan, 2007).

According to various arms' vendors (Khan, 2007),[i] the domestic demand for weapons has primarily risen due to their popularity during celebrations and wedding ceremonies. Also, the increased risk in keeping the weapons and the fear of cancellation of selling permits had pushed up the prices after the government imposed a ban on carrying the weapons, with or without a permit. Not only would the prices of SALW produced or available in the domestic market go up, but that of bullets and ammunition register a price hike (Khan, 2007).

Besides the rural areas based on feudal agrarian set up have an increased appeal and utility for weapons due to their decades' long enmities, as well as lawless land stretches which are commandeered by dacoits and bandits. In a media interview, a Punjabi landlord stated, "I have disputes and enmities over my agricultural land. How can I consider myself safe without carrying weapons, since my rivals can use illegal weapons against me?" Another landlord from Faisalabad, said, "I will not carry weapons if the government ensures my security (Khan, 2007)."

Data-Basing & Licensing Issues

At present, the number of legal weapons' license holders, as well as legal and registered vendors, varies between the government quoted figures and what have been reported by non-governmental arms watch groups. One main reason for the discrepancy in figures is that the country has not undergone census since the year 1998, and the registered figures of licensed gun holders, as well as registered units, have multiplied manifold since the last fifteen plus years. According to open sources, the number of licensed gun holders was two million in the year 1998, with unlicensed weapons being conservatively estimated to be around 18 million. However, the most recent data collected reveals alarming statistics, with 65-67 million weapons abound in the country, with 05-07 million licensed and over 60 million are either illicit or unlicensed (Over 60m weapons in Pakistan, 2014).

The demand for firearms by civilians increased manifold, primarily due to the rising problems of personal security and safety and failing governance standards. Though an interesting parallel development is the mushrooming of private security firms and contractors who are offering specialized services and operating countrywide, yet this has not curbed the demand not only for individual gun licenses but also for possession of arms in any capacity. Various governments initiated measures to discourage and curb the illicit weapons network, at times banning the issuance of arms licensing all together (Ban imposed on new arms licences, 2013), trying to maintain a controlled and regulated weapons' licensing procedure (Gishkori, 2011) or the latest being an attempt to computerize and tabulate data regarding arms traders and vendors, their sales as well as individual gun license holders (Arming arms licenses with the power of IT, 2014) under the *National Database Registration Authority (NADRA)* at both federal and provincial levels.

The *computerized arms license management system* was supposed to act both as a transparency measure as well as a deterrent for people who would often exploit the manual licensing system and maintain more than one weapon against the documentation, which more than often would be a prohibited bore (PB) weapon along with an unaccounted number of bullets. Yet a deeply entrenched system of political appeasement, institutional corruption and poor implementation has made it very easy for both sellers and purchasers to maintain a select inventory of arms. The provincial government of Punjab had initiated a 140-day phased project of replacing the old licenses with computer chip-based systems in April 2014 with a lot of enthusiasm. By December, the process was nowhere near completion, and from the data pieced together through various sources, the provincial interior minister informed that of the 1.8 million licenses issued throughout the province, not only were 50% fake but there was no record available that could corroborate the 900,000 licensed weapons in circulation (50pc of arms licences fake, 2014).

The same is true at the federal level as well. In one such scandal unearthed by the *Federal Investigation Authority (FIA*), brought forth an elaborate setup with fake bank receipts, forged signatures and fictitious stamps used by middle and junior ranking officials of the regarding the interior ministry (prior to the devolution process), who in violation of their authority had offered PB weapons' permits. It is very easy for the political elite and legislators to secure PB by citing security concerns (Rufi, 2016). Maintaining PB firearms is more a symbol of status and prestige than a genuine security concern for many such persons, as they also have security details provided for protection. Given the demand factor and facilitating each other's' interest, not only have licenses been issued with impunity, but there has also been a very liberal import licensing policy.

If political governments stand guilty of appeasement, non-representative governments have been no better. Suppose General Zia's regime stands guilty of introducing and legitimizing this endless wave of violence, which manifests itself

in different shades of political, factional, sectarian, ethnic as well as religious conflict, with weapons as a glorified tool to carry and exhibit. General Musharraf's regime despite an initial half-attempt at countrywide disarmament stands guilty of turning a blind eye to a new wave of weaponization in the country which corresponds with US entry into Afghanistan as well as importing weapons to garner domestic political support. Furthermore, legislators and parliamentarians alongside security personnel were also provided with an exemption of paying the license fee for the weapons they held, although there have been moves to repeal the waver of the license fee for legislators (Cabinet meeting: Arms license fee exemption for MPAs, 2012), yet given the political lethargy and apathy towards a problem as critical as this, not much progress has been made in streamlining licensing issues.

Import licenses worth Pak Rs. 450 million were issued by the concerned Minister for Commerce (Humayun gave 300-gun import licences last year, 2008), to oblige parliamentarians and political lobbyists whose support was needed by the government during the elections. Therefore, violence, the exhibition as well as the use of firearms during campaigning and elections should not be perceived as an extraordinary situation (Humayun gave 300-gun import licences last year, 2008).

According to estimates, during the 2013 elections, not less than 527 people were killed and 1102 injured due to use of firearms by supporters and musclemen of campaigning candidates (Violence against Political Leaders,2013). Despite a ban declared on such activities by the election commission (Candidates to be disqualified over a display of weapons, 2013), even entailing punitive measures in case an incidence takes place, given the empowerment and bravado guns provide, nothing could stop the trigger-happy candidates and their supporters from violating the norms. This figure does not factor in the candidates who had been target killed by militants or political opponents during this timeframe.

Unfortunately, half-baked governmental approach towards ridding the society off weapons, occasional bans and then compensating important stakeholders by awarding them extraordinary import permits, has resulted in a society, which is not only awash in weapons but maintaining unlicensed, PB weapons has increasingly become a norm and considered a status symbol. Ironically, on the one hand, political parties while participatory to the democratic process, press for deweaponization (MQM bill to cleanse the country of illegal weapons, 2011) but on the other hand have accumulated an alarmingly high number of weapons, engaged in extortion, abductions, harassment, target killings, politically and ideologically motivated killings, street and gang warfare, land, drugs and crime mafia as well as seeking political and physical turf. Where such incidents are common in virtually all the provincial capitals, with Peshawar, Quetta as well as Rawalpindi registering the highest number of the terrorist as well as violent incidents in the past, it is the city of Karachi, the financial backbone of the country,

a major port city and one of the biggest cities of the world, where all shades of crime, violence, ideological battles
have been fought increasingly over the decades (Hashmi, 2010).

The government as well as private entities, operating under strict governmental regulations of marking and registering firearms sold through their sources along with end-user certifications, have so far stood absolved off supplying weapons to NSAs as well as terrorist elements, but some recent incidents have brought to limelight use of licensed weapons in criminal activities, such as the weapons used by terrorists involved in the attack on Karachi airport, as well as many target killings that plague the city. The weapon of choice, 9mm pistols and their bullets are NPB weapons and were used by NSAs as well as political activists in terrorist and criminal activities and once traced, had been registered licensed weapons (Ayub, 2014). Despite computerization of armed licenses, there have been violations and fraudulent practices registered, although, with the NADRA registration process, these practices have decreased somewhat, with delayed and next to abysmal punitive actions, there is no incentive for arms dealers a well as people to abide by the law.

The violations have been so blatant, that in one of the many incidents, a lower cadre arms license clerk alone issued 27,000 bogus licenses in violation of 20-100 weapons' quota requisitioned per month for the particular district (Kharal, 2012). Though the case was registered in the year 2009, even 03-04 years later, no action had been taken against the responsible personnel. Similarly, misappropriation of licensing fees has been a norm and a main driving force behind these excess or bogus licenses issued. According to an audit report made public in the media, the Interior Ministry's relevant licensing division could not justify Pak Rs. 223 million against 44,558 new arms licences issued (Ghumman, 2009). Owing to this gross neglect, the country's overall law and order condition deteriorated to a very significant effect. The *Supreme Court of Pakistan (SCP)*, taking note of the issue, also passed a Suo moto action against the deteriorating law and order conditions specifically in Karachi (Suo Motu Action regarding law and order situation in Karachi, 2011). The government did carry out token measures of weapons crackdown, shutting down illicit activities, unregistered and fake weapons' dealer all over the country.

As mentioned previously, there is a huge number of private arms manufacturers and dealers operating across the country. Some big dealers operating, have a countrywide sales and distribution network, as well export licenses and work as legal entities, such as the *Daudsons* (Official website) (1954), *Elahee Buksh Group (EBG)* (Official website) (1835), *Tayabally Abdoolally & Sons (TAS)* (Official website) (1878), *Bolan Arms and Ammunition*, *Frontiers Arms Company* and many more, some of which as evident by their years of initiation, even predate the creation of Pakistan. These companies have improvised their merchandise, adapted themselves to changing trends to create a space for

themselves in the restrictive arms market of the country and abroad. And through fora such as the IDEAs as well as PHSADC, a platform for exports is also available. Yet companies such as Daudsons, Elahee Buksh as well as Tayabally & Sons have earned international repute for themselves in weapons manufacturing, as well as distribution, and also provide security equipment and accessories. The range of weapons available usually are rifles, pistols, revolvers, ammunition, shotguns, pump-action shotguns, handguns, anti-riot weapons and accessories. Interestingly, despite being 170 years into armament business, some companies such as the EBG entered real estate business and other ventures to grow, rather than rely on weapons' sale and purchase alone.

The products manufactured as well as distributed through these dealers is marked, registered, has end-user certification and licensing. The usual clientele of these bigger firearm houses are security companies, government entities as well as foreign clients, but given that these products are registered and licensed merchandise as well as NPBs, there is seldom any news of abuse or falling into the hands of NSAs. Under the stipulations of PoA in the year 2012, the Pakistani government also promulgated policy guidelines to regulate the import as well as the export of conventional weapons and ammunition. An *Inter-Ministerial policy group on Conventional Arms,* comprising representatives from ministries of defence production, defence, commerce, industries, interior and others, set guidelines for streamlining of licensing, imports as well as the implementation of the PoA, which also requires the country to seek end-user certificates from importers of Pakistani weapons (Govt issues guidelines for arms exports, 2012).

However, as mentioned earlier, due to excessive checks on gun metallurgy, allowing the only specific type of government-approved firearms to be manufactured or sold at the private-owned gun bazaar, and stringent regulations applied from time to time; many arms dealers have either left the business or those who still remain in the business have taken up the sale of prohibited bore weapons as well, in violation of the *1965 Arms Act as well as Illicit Weapons Act*. Although the law enforcement agencies (LEAs) voice their concern and commitment to crackdown on such violations, yet firstly there is no effective action taken, secondly the law enforcers themselves stand highly compromised due to financial irregularities and corruption and lastly, there is also little incentive for the dealers to give up illicit brokerage as it earns them both solid clientele as well as profit.

Driven purely by demand and profit-making, the arms dealers have to cater to the demands and needs of their clients, which have progressively tilted towards sophisticated weaponry, most of which is automatic firearms. According to a gun dealer in Rawalpindi, [C]lients demand sophisticated guns and pistols because the old ones do not meet their requirements. The arms dealers have licences to import various types of guns and pistols from abroad; People are no more interested in purchasing weapons. Only a particular class uses weapons for security and hunting. (Sumbal, 2009).

Though categorically denying the sale of PB weapons and operating under the regulations imposed, most of the dealers lamented the closure of their business due to the occasional ban on weapons' license, higher costs involved, and customers preferring certain types of weapons over the regularly available hunting and sporting guns.

In order to avoid government sanctions, the prevalent trend amongst gun dealers is to sign partnership deals with traders from Darra, which is not permissible under the law, yet not only do they sign up fake partnership deed, but also PB weapons are being sold openly in the shops, very much in the knowledge of the LEAs, who at times play the role of informants, thereby alerting the gun mafia prior to any governmental raid carried out on the shops or carrier vehicles smuggling the merchandise interstate (Babar, 2013). According to media reports, 70% of gun dealers in Punjab have outsourced their businesses to Pashtun dealers from Darra, the same is reportedly true for other provinces as well. Since the dealership license cannot be transferred to a third party, therefore fake documents declaring partnerships are signed, and most of the original dealers have either moved on to new business, settled abroad and in some cases passed away, yet their original dealership remains intact and renewed on behalf of their *contract partners*, from the government agencies.

This has resulted in an open sale and purchase of Darra weaponry as well as PB weapons, such as the 44 bore, 7mm, 8mm, .222, .223, .303, AK-47 (Agha, 1999) under the very nose of the authorities concerned, instead of the legally allowed 22 bores (Babar, 2013). The gun mafia operates so openly, and without fear, that the PB weapons are available off the shelf and not eve rooms, in fact, many outlets don't even have a strong room, as per government regulations. As one dealer disclosed about these traders that they; … smuggle the prohibited arms of all sorts from Darra Adam Khail and sell them to everyone. They are prior informed about any raid by officials from the ammunition department, and they flee back to their native places. They get shops on contract and further smuggle the ammunition to Lahore, Sialkot, Sheikh Pura, Narowal etc. … where the arms are sold without the data entry in their register to avoid checking (Babar, 2013).

The LEAs response to such developments are that firstly, given the elaborate network of the gun mafia, it is a time-consuming job, though they are working towards an effective control, and secondly, the issue is so big and the mafia network extremely deep and widespread, that it is beyond the capacity of a district or provincial officers and requires the support of the federal government. With the 18th amendment to the constitution, which brought about the devolution of power, as mentioned before, handling of internal security affairs has also been divided as federal and provincial concerns; thus symptomatically there is a visible lack of coordination between the legislators, enforcers as well as differential perceptions about threat perception and security dynamics not only at the federal to provincial but also an inter-provincial level. If there is excess licensing witnessed in Sindh,

then KP is seen issuing countrywide firearm licenses, which several times include PB weaponry as well, Balochistan and Punjab are no exception as not only weapons of all categories pass through these provinces, but there are innumerable arms dealerships which are operating openly without any government crackdown or closure.

Interestingly, legislations placing curbs on illegal sale, purchase, handling and transfer of SALW are in plenty, and there have also been governmental as well as politically motivated demands for deweaponisation, especially of Karachi city, yet the outcome of all these measures and policies has been minimal as well as highly selective. Interestingly the public responds to deweaponisation very positively, as in the case of 2001-02 nation-wide campaign and even seeking such measures as in Karachi. But a combination of poor governance, dismal law and order as well as informalisation of security and violence has always played a strong deterrent.

Existing regulations such as the *Pakistan Arms Ordinance (PAO) 1965*, *Explosive Substances Act* 1908, *Explosives Act 1884, Arms Act 1878, Surrender of Illicit Arms Act 1991*, and partly *Anti-Terrorism Act 1997* and lately the *Protection of Pakistan Act 2014*, all carry soft to stringent measures in controlling, curbing and discouraging the usage as well as possession of illicit weapons and explosives. If the *PAO-1965* is criticized for being soft and having loopholes in allowing offenders to go scot-free, the *Surrender of Illicit Arms Act 1991*, enacted by the first Nawaz government in order to control the declining law and order situation in the country, enlists offences which are non-bailable to life imprisonment. However, firstly it cannot automatically come into force, and secondly, the federal government has to invoke it on the recommendation of a provincial government. And a visible nonchalance is shown by successive governments, which becomes further non-functional after the devolution of authority between federal and provincial governments (Butt, 2011). The need is not for more laws and regulations but implementing to the letter, the existing mechanisms and changing the culture and mindset of both the users and authorities towards firearms.

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