Government Publications


Government Documents

These documents are mainly in the form of eleven internal memorandums obtained from various government departments.


Acronyms

AMP – Anjuman Islamiya Punjab
BoR – Board of Revenue
DC – Deputy Commissioner
DSF – Deputy Superintendent Police
EDOR – Executive District Officer Revenue
G-HQ – General Headquarters
ICG – International Crisis Group
ISPR – Inter Services Public Relations
LG – Local Government
LHCC – Lahore High Court
MDF – Military Dairy Farm
MNA – Member National Assembly
OMF – Okara Military Farms
PMU (IQ) – Pakistan Muslim League Quaid-Azam
PTA – Punjab Tenancy Act
RAW – Research and Analysis Wing, India intelligence agency
SF – Superintendent Police
SHNP – Sindh Bhorishwas/SWF/F/Punjab
UC – Union Council


Police Order 2002: Police Reforms in Pakistan

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Abstract

The local government reforms based on the principle of devolution of powers were introduced in Pakistan in 2001. Along with came the much awaited police reforms in the form of the Police Order 2002, enacted through the Chief Executive's Order No. 22 of 2002, which came into force on 14 August 2002. The dire need for police reform is evident from the fact that as many as 25 different commissions and committees had been set up since the formation of Pakistan to recommend changes in police laws to align them with the progress of the country as a whole. For various reasons however, no government whether political or military, managed to develop these reforms. Finally, the Police Order was promulgated with a stated aim to 'redirect police role, its duties and responsibilities' and to 'reconstruct the police for efficient prevention and detection of crime and maintenance of public order.' This case study discusses the implemented reforms.

The local government reforms based on the principle of devolution of power were introduced in Pakistan in 2001. Along with came the much awaited police reform in the form of Police Order 2002 (the Police Order), enacted through the Chief Executive's Order No. 22 of 2002, which came into force on 14 August 2002. This Order was part of the seven point reform agenda of General Pervez Musharraf to address the institutional crisis in Pakistan.

The need for police reform in Pakistan is evident from the fact that as many as 25 different commissions and committees have been set up since the creation of Pakistan to recommend changes in the police laws and to bring them in line with the requirements of the modern age. The common theme in the recommendations of all the commissions and committees was aimed at bringing about structural changes in the existing police set up to transform it from a police force to a police service. These attempts at reform indicate the existence of fundamental deficiencies in the system, because of which a need for radical reforms was felt. For various reasons, however, no government, whether political or military, managed to evolve these reforms. Finally, the Police Order was promulgated with the stated aim to 'redirect police role, its duties and responsibilities' and to 'reconstruct the police for efficient prevention and detection of crime and maintenance of public order.'
The Police Order introduced some basic structural changes in the entire policing framework. While this Order generated enthusiasm and support from certain quarters, in particular the Police Department itself and the National Reconstruction Bureau (NRB), it also had its detractors. Among its major opponents were the bureaucracy, particularly the district magistracy (magistrate, assistant commissioner, and deputy commissioner), and the political elements that later formed the national and provincial governments following the October 2002 elections.

The process undertaken to formulate the Police Order lacks in various areas. Even though some effort appears to have been made to involve the main stakeholders, it is quite evident that they were not adequately engaged during the consultation stage. In particular, the police department itself was not fully involved in discussions with police officers, especially those at junior and middle ranks, clearly show that they were not fully aware of the changes that had been introduced, the reasons for such changes, and their possible effect on the working of the Department. Moreover, the magistracy, which was substantially affected by the Police Order, was also not fully consulted. Furthermore, the political parties and their functionaries, who went on to become members of the legislature after the 2002 elections, were not consulted either. In light of this, it would be accurate to say that the manner in which the Police Order was formulated left a lot to be desired. Consequently, notwithstanding the merits of the Police Order, the deficiencies in the process, as mentioned earlier, were likely to cause problems in the implementation of the reforms.

It was probably in view of these issues that the Police Order was given constitutional protection by adding it to the Sixth Schedule of the Constitution of the Islamic Republic of Pakistan, to ensure that the newly constituted assemblies could not amend the Police Order without the prior approval of the President. It may be argued by the military government that it was given a mandate by the Supreme Court of Pakistan to work on its agenda, and part of that agenda was the reconstruction of institutions. In view of the unstable state of affairs in Pakistan, it was important to give such laws constitutional protection till such time that the reconstructed departments/structures were in place. Furthermore, there was a danger that the politicians who would form governments after the 2002 elections would want to make amendments to the Police Order as it provided for less control over the police by the provincial governments (discussed in the later part of the paper). However, since these problems only arose because the stakeholders were not consulted at the time the laws were being made, the aforesaid argument does not have much weight.

Therefore, despite the fact that the Police Order was difficult to amend, this did not stop its opponents from obstructing its implementation. Consequently, according to rough estimates, only about 40 to 45 per cent of the Police Order has been implemented so far.

The Chairman of the National Reconstruction Bureau and the Interior Secretary recently admitted that the Police Order 2002 had not been implemented so far in its true spirit.

Similarly, the Ombudsman of Baluchistan took strong notice of the non-implementation of the Police Order 2002 in the province. As a result of continued pressure from the provincial governments to amend the Police Order, some major amendments were introduced in it in November 2004 (the Amendment) by the President.

This case study discusses the provisions of the Police Order in the light of the experience of the Police Act 1861 (the Police Act) and analyzes whether the Police Order can achieve its stated objectives, especially in its modified form.

A Review of the Police Act, 1861

The Police Act 1861 (the 1861 Act) was based upon the recommendations of Sir Charles Napier, who was the Governor General of Sind and who had also served in the Irish Constabulary. The 1861 Act was essentially a military model of policing and was introduced in the background of the 'sepoy mutiny' later called the War of Independence 1857. Its primary aim was to suppress the natives and to ensure complete subservience to the British Raj. The 1861 Act was introduced keeping in view the ground realities at the time and more specifically, the short-term goal of completely suppressing the native population. It was the clear intention of the British Parliament that the system of policing in the subcontinent after the initial period of transition, would in the near future, be made to conform with the system in place in Britain. Unfortunately, that did not happen and the 1861 Act continued to be operative till the Police Order was promulgated in 2002.

Structural Defects in Police Organization

The primary objective of the 1861 Act was not to serve a free society but to keep the public under control. With the passage of time, it became apparent that the provisions of the 1861 Act were outdated and they were neither suitable nor adequate to serve a free society. Hence, it was observed by Dr Muhammad Shauib Suhail in his paper 'Reforming Pakistani Police: An Overview', that there is a fundamental difference between a colonial police and a police meant for a free country. Whereas the former was granted at raising semi-militarized, semi-literate, underpaid bodies of men for maintaining order by overlooking the often turbulent and hostile native population, the latter was aimed at creating quality professionals tasked to protect and detect crime in plural, multi-ethnic and socially conscious communities, through just and impartial enforcement of laws. The former knew how to rule, the latter to serve. This distinction makes a colonial police, designed to serve as a public-frightening, and not a public-friendly agency, unsuitable for operating in a free society.

Perhaps the most serious defect in the 1861 Act was that it created a duality of command in the Police Department. The effectiveness of an organization is contingent upon unity.
of command. Under the 1861 Act, the provincial police was headed by the Inspector General under the general superintendence of the provincial government. Following the same principle, the district police was placed under the general direction and control of the Deputy Commissioner (or the District Magistrate) as provided in Section 4 of the 1861 Act, which states, inter alia:

The administration of the police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Provincial Government shall consider necessary.

This not only negated the principles of effective organization but was also contrary to the principle of separation of powers, since the District Magistrate was vested with both executive and judicial powers. The rationale for doing this was to keep the police under strict control through magisterial superintendence. The executive's viewpoint was effectively articulated by George Campbell, Lieutenant Governor of Bengal, amongst others, who expanded the idea that the principle of separation of powers was alien to the oriental psyche which bowed to concentrated power. He argued that the District Magistrate, as the executive head of the District, was the visible symbol in the eyes of the people in the interior and whatsoever the Police look to as their local rules, the people soon acquire the habit of also so regarding. He concluded that if the police were kept separate, then it would be impossible for the District Magistrate to retain his prestige as 'executive head of the District and local representative of the government.'

As a result, the District Magistrate was allowed to interfere in all matters of police administration including appointment, removal, deployment, discipline, as well as day-to-day affairs to such an extent that the Inspector General and other officers of the police became effectively subservient to the District Magistrate. The District Magistrate was not only an appointee but also a part of the government and was primarily there to serve the interests of the government. The government at times, through the office of the District Magistrate, interfered in police matters and used the police as a tool to achieve its own political ends. Furthermore, certain important powers of the police could only be exercised with the prior approval of, or at the behest of, the District Magistrate. For instance, the decision to use force against a procession was that of the Magistrate. This created a sense of disillusionment in the Police Department and it was felt that whereas the responsibility to maintain law and order was that of the Police Department, the authority lay elsewhere.

The police also complained of financial dependence on the bureaucracy. Under the old scheme, the Home Secretary was responsible for financial and administrative affairs of the Police Department at the provincial level. He was an officer outside the Police Department, usually of a lower rank than the Inspector General of Police and in no way responsible or accountable for policing. Furthermore, being a government official, he could and usually did use his position to influence the police and hence increase the chances of political interference in matters of policing.

The 1861 Act also failed to adequately provide for functional specialization in the Police Department. The various functions that the police was required to perform, such as watch and ward, investigation, intelligence, traffic planning and management, recruiting and training, were vested in one office and led to a concentration of power. For instance, the Station House Officer (SHO) was the main officer in the field and was responsible for patrolling, registration as well as investigation of crimes. The overworked SHO, with a very low salary, was a junior officer in the police ranks and yet was vested with vast powers. Thus, the SHO was under resourced in terms of time, men and logistic support, and was not able to perform any of his duties satisfactorily. Furthermore, since he was a lower ranking officer with very little income, there was a lot of temptation which could lead him to indulge in corrupt practices. Along with this, he was vested with immense powers, and there was a very ineffective mechanism of accountability to check the exercise of his power. This led to corruption and dishonesty, where those who had money and influence could violate the law with impunity under the protection of the law. More often than not, this created a great deal of misery for the weak and the indigent.

Finally, the 1861 Act was also defective in that it did not provide the general structure and institutions necessary for a modern police force. There appears to be a general consensus, which is also evident from the findings of the various commissions and committees set up for reviewing the police framework, that the internal and external checks on the police were not very stringent and the accountability mechanisms were weak. There was no well-defined policy for recruitment or training either, and since the 1861 Act was designed to suppress the people rather than to serve them, it had no philosophical basis through which it could provide a police force that had a mind-set to serve the people, be friendly and cooperative with them and win their confidence. Moreover, the leadership in the country for the past five decades had been undermining the institutions and the rule of law. As a result, the working of the Police Department has continued to decline and the police is criticized in all quarters. The department inspires no confidence in the public and is viewed with apprehension and mistrust. The members and officers of the police force appear disillusioned. Corruption, dishonesty, incompetents and lack of professional integrity are some of the ills usually associated with the working of the Police Department and its employees. In the recent past, it has been observed that the police have failed to control crime, since they have to deal with highly advanced and well-trained lawbreakers. The situation has been further aggravated with the rise of sectarian disputes and the 'war on terrorism.' The weaknesses of the Police Department are exposed when they are required to deal with well-trained criminals equipped with the most modern weapons.
Police Order 2002

It is against this backdrop that the Police Order, which is aimed at making the police professional, efficient, service oriented and accountable to the people, was introduced. As a starting point, the police is required to change its attitude towards the public. Section 3 of the Police Order lays down the general requirements regarding the attitude and responsibility of the police towards the public. This section provides inter alia that every police officer is under obligation to behave with decorum and courtesy, to promote amity, and to guide and assist the public, particularly the disadvantaged and the helpless. The purpose of this is to inculcate a spirit of professionalism and a sense of responsibility in the police and to ensure that the police is consciously aware of its role and duty towards the public. Though it is a good starting point, mere words in a statute book are not enough to ensure the desired improvements in the attitude of the police.

It is therefore important to analyze the reasons for the hostile attitude of the police and to take practical steps to remove the underlying causes for it. A high-ranking police official said:

The police has low self-esteem, unlimited working hours, appalling working conditions and very low wages and allowances. Under such circumstances polite and courteous behavior is simply impossible. On the other hand, the example of the Motorway Police (MP), which has established its reputation as a police, helpful yet firm police organization. The major factors contributing to the difference in attitude are that the MP’s allowances are three times higher than those of the rest of the police force. They have eight hour work shifts with a day off every week, in addition to better working conditions. In order to improve the attitude of the police towards the public, the government and society will have to invest in the police so that the quality of policing is improved.

Interestingly, as far as Section 3 and its provisions are concerned, it is pertinent to note that the said provisions impose a statutory duty on the policemen by stating that it shall be the duty of every policeman... to be courteous, to promote amity, guide, and assist members of the public. It follows that a policeman, in breach of his duties under Section 3, could be exposed to an action or suit for damages under Tort or some other law although it would seem quite unlikely that the judiciary would give such a wide interpretation to the said provisions. In this regard, it is also important to note that Section 171 of the Police Order provides a police officer with a defense against penalty or payment of damages on account of acts done in good faith in pursuance of his duty. However, prima facie, it seems unlikely that the provisions of Section 171 could shield a police officer from an action for damages where the police officer is in clear violation of his duties under section 3.

Police and the Bureaucracy

As already discussed, one of the fundamental structural defects in the 1861 Act was the role assigned to the District Magistrate. This led to a system of dual control, which was viewed by many as the root cause of a vast number of problems, including political interference in police matters and the use of the police as a tool to further the political aims and objectives of the ruling party. Those opposed to this view, however, suggest that the Police Department has used this argument as an excuse to cover up their inability to perform well over the years and that there were merits in the earlier set up. Whether or not there were any merits, there is no denying the fact that an organization is better served if it is subject to unity of command rather than a system of dual control.

Under the new reforms, the office of the District Magistrate was abolished through the Local Government Ordinance, which became effective 14 August 2001. The powers relating to the police that vested with the District Magistrate under the 1861 Act, as well as various other pieces of legislation, are now vested in the officers of the police at different levels. This in effect means that the responsibility to administer law and order now rests unambiguously with the police. Policing is no longer subject to dual control and it is now the Police Department that is solely responsible for the maintenance of law and order and all matters connected therewith. In practical terms, it means that political interference in matters of policing through the bureaucracy is likely to decrease and the police can no longer shift the burden of any incompetence or malpractice on their part to any other department.

One of the major areas of concern to the police under the previous regime was related to its financial dependence on the bureaucracy. Under the new regime, the Provincial Police Officer (PPO) is responsible for the administrative and financial matters of the police at the provincial level. He is an ex-officio Secretary to the Government on financial and administrative matters of the police and has thus replaced the Home Department in this regard. This change not only helps eliminate subordination of the police to another department, it also has the advantage of shutting another door through which interferences by incumbent governments in police matters were made.

However, things have been given an interesting twist by the definition ascribed to the term "Ex-officio Secretary" through the Amendments in the Police Order. A major confusion in this area after the promulgation of the Police Order was the exact nature of the administrative and financial powers of the PPO. More particularly, it was not clear whether the PPO could operate independently under the Provincial Government or whether the bureaucracy, through the Home Department, would continue to act as the link between the PPO and the provincial government. Now it seems clear that the Home Department will continue to play a role in this regard as the PPO is required to perform his functions subject to the policy, oversight, and guidance given by the Chief Minister through the Chief Secretary and the Home Department. It remains to be seen how this potential power struggle between the police hierarchy and the Home Department...
will develop, but it appears that the bureaucracy, backed by the provincial governments, is once again likely to come out on top.

Functional Specialization

The Police Order provides for the internal reconstitution and reorganization of the Police Department. Section 8 of the Police Order requires the police establishment to be constituted as far as practicable, on a functional basis into branches, divisions, bureaus and sections. This means a separation of investigation, watch and ward (patrolling) and public order functions. The reorganization of the police on a functional basis, if done, would mean that the authority is no more vested in one place but is divided in specialized wings and branches. In this scenario, if not only would the Police Department reap the rewards of specialization but the opportunity for corruption and dishonesty would also decrease. Under the new regime, the Operations Branch, of which the SHOs are a part, will be responsible for watch and ward and the registration of crime only. Once a case is registered, it is transferred to the Investigation Branch, headed by the Additional Inspector General of Police. A relevant officer is assigned to investigate the matter depending upon the importance of the case.12

Interestingly, the provision of separation of watch and ward in urban areas existed under Police Rules 193413 but was never implemented mainly because of the shortage of personnel and resources, and lack of organization within the Police Department. Whether or not the functional specialization envisaged by the Police Order now produces any fruitful results depends on the adequacy of resources and personnel. At present, it appears that despite some attention given by the government in this regard, the requisite resources and personnel are quite inadequate. Another factor that is very important regarding the practical implementation of the above provisions is the extent to which the Police Department understands the Police Order. It has been observed during meetings with police officers, especially of the middle and lower ranks, that their awareness of the nature of the Police Order, and the changes introduced by it, is extremely limited. This results in apathy on their part, which can lead to resistance when changes are introduced. For example, there are SHOs and other field officers who feel that their task to control and maintain law and order in their area has become more difficult because the investigation powers have been taken away from them and they are not certain that alleged criminals arrested by them will be properly investigated and punished. They feel that while technically they are responsible for the law and order in a particular area, it is the Investigation Branch that is legally vested with the authority to make sure that the accused is properly investigated and punished.14 This is not to suggest that the concept of functional specialization is not a good one. What is important is that police officers at all levels are taken into confidence and made to understand that the changes introduced by the Police Order are for the overall betterment of the Police Department in the long run. It is quite obvious that if the changes introduced in this regard are implemented in letter and spirit, it would increase the quality of Police Operations and Investigation and lead to better quality decision making and internal accountability.

Control of the Police

One of the main aims of the Police Order is to make the Police Department politically neutral and subject to strict external checks based on democratic principles. In order to achieve the stated objectives, various changes have been introduced through the Police Order. The provisions that have generated the greatest interest and debate and have probably led to amendments being introduced in the Police Order, are the control of the police at the district and provincial level and the creation of new institutions and public bodies for the purpose of keeping external checks on the Police Department.

The question as to who controls the police at the provincial and district level has always been an extremely important one. There is a general impression that the police is excessively controlled at all levels by the political forces and is therefore, unable to uphold the rule of law whenever pressure is exerted from such political forces. It would be naïve to believe that political pressure is the only reason why the police has not acted in accordance with the law in the past, but this is definitely one of the salient factors.

The question as to who controls the police in a province largely depends upon the design of the office of the Provincial Police Officer (PPO) and the District Police Officer (DPO). The office of the PPO is important as the PPO is the head of the police at the provincial level and the DPO, being the head of the police at the district level, is an extremely important officer for control of affairs at the district level.

Provincial Police Officer

Consistent with the old scheme of the 1861 Act, the Police Order provides in Section 9 that superintendence of police in a province is vested in the provincial government. Under the original scheme of the Police Order, the provincial government had the power under Section 11 to appoint the Provincial Police Officer (PPO) from among three officers recommended by the National Public Safety Commission (NPSC) from a list provided by the federal government. The Amendments have scrapped the role of NPSC in relation to the appointment of the PPO, and the provincial government shall now appoint the PPO from a list of three names recommended by the federal government.

The term of office of the PPO is stipulated as three years under Section 12 of the Police Order. Section 12(2) however, provides for the procedure for the transfer of the PPO before the expiry of his term. Originally, the provincial government could only transfer a PPO under Section 12(2) with the agreement of the Provincial Public Safety Commission (PPSC). Subsequent to the Amendments, the provincial government now requires only the approval of the federal government in order to exercise the said powers of transfer and thus, the role of the PPSC in this matter has been scrapped. Though this
opens the door for the arbitrary transfer of the PPO, the stipulation of the three-year term is still an improvement from the 1861 Act, which had no such provision and it should help in providing at least some degree of security of term for the incumbent of the office of the PPO.

**District Police Officer**

The district serves as a fundamental level of organization for the Police Department in a province. As such, the District Police Officer (DPO) is the officer responsible for all police matters in a district, and control over the office of the DPO is an extremely vital issue in the struggle for political and organizational control in a district and thus in a province.

The Police Order originally vested the PPO with the power to post DPOs 'in consultation with' the provincial government.14 However, through amendments in the Police Order, the requirement of the 'approval of the government'15 for posting of the DPO has been introduced and for all practical purposes, the power to post a DPO now lies unquestionably with the Provincial Government or more particularly, the Chief Minister of the Province.

Similarly, the term of office for the DPO has been stipulated as three years under Article 15 of the Police Order. However, as in the case of the PPO, Article 15(3) provides that the DPO can be transferred before the expiry of his term of office. It provides that the DPO may transfer a DPO before the expiry of his term with the approval of the provincial government under exceptional circumstances such as exigency of service or on grounds of misconduct or inefficiency, which warrant penalty under the relevant rules. Despite the possibility or likelihood of arbitrary transfers, this is still an improvement as the transfer can only be done under certain circumstances and upon the satisfaction of certain conditions, no matter how vague and general those conditions and circumstances may be.

In view of the above, it is quite clear that the issue of organizational control of the police has still not been satisfactorily resolved. Subsequent to the amendments, vast powers are now enjoyed by the Provincial Government in relation to the appointment, removal, and posting of the PPO and the DPO and the amendments have, according to some people, undone much of what the Police Order originally set out to achieve. These people are of the opinion that the state of affairs arising from the Police Order subsequent to the amendments may well be worse than that under the 1861 Act. The Police Order has all the democratic trappings without ensuring that the control exercised over the police is democratic rather than based on the vices and vices of everyday pettiflites. In the words of a former Inspector General Police (IGP), this encourages "institutional political interference."16

Another area of great significance relating to the office of the DPO is the process of evaluating the performance of a DPO. It is pertinent to note that DPOs are officers in Basic Pay Scale (BPS) 19. BPS 19 officers are middle-ranking officers and at a stage of their career where the annual performance evaluation reports (PER) play a critical role in determining their career prospects. Whoever is assigned the role of evaluating a DPO's work performance has substantial influence and leverage on the district police.

Section 33(3) of the Amended Police Order authorizes the District Nazim to initiate the PER of the DPO. The relevant portion of Part III of the PER states:

> The Annual Manpower Performance Report must be concluded by definitively recording the performance to be stated as very good, good, average or below average, as the case may be. The final sentence in the assessment will state whether the officer is fit or unfit for promotion.

As per the amended Police Order, the first countersigning officer of the DPO's PER is the DPO, the provincial head of the Police Department. However, he has so many tasks at hand that he is unlikely to have first-hand knowledge to assess the performance of a particular DPO since he is two steps removed from the DPO. The second countersigning officer is the Chief Minister (CM) of the province. In this entire exercise, the Regional Police Officer (Deputy Inspector General rank), the DPO's immediate police supervisor, has been bypassed, although he would be the most suitable person to professionally assess the performance of a DPO.

To sum up, both posting and transfer of a DPO can only be done subject to the approval of the Provincial Government. The Zila Nazim is the one who initiates the PER of a DPO while the countersigning officer is the Chief Minister. It is perhaps on the basis of this that the former IGP remarks, 'With a Zila Nazim and Chief Minister from the same political party, the PPO will also lose his relevance as commander of the force.'17

**Public Bodies**

The Police Order provides for the creation of a number of public bodies at federal, provincial and district levels. The idea seems to have been borrowed from the west and it was not provided for anywhere prior to the promulgation of the Police Order. The composition and role of these bodies was originally designed to encourage public participation in exercising politically non-partisan and democratic control over the police. However, in the aftermath of the amendments, it remains to be seen to what extent the newly created public bodies would perform the function in the spirit envisaged by the original Police Order.

Amongst the most important of these newly created public bodies are the National, Provincial and District Public Safety and Complaints Commission formed under Chapters V, VIII and IX of the Police Order.
District Public Safety and Police Complaints Commission

The Police Order originally provided only for the creation of a District Public Safety Commission (DPSC) under Chapter V. The DPSC was to comprise 8, 10 or 12 members depending upon the area and population of the district. Half of these members were to be elected by the Zila Council from amongst its councillors and the other half were to be independent members appointed by the Governor from a list of names recommended by the District Selection Panel.

However, drastic changes have been introduced in the composition, functions, powers, removal and other matters of the DPSC. The DPSC has now been made the District Public Safety and Police Complaints Commission (DPSPPC). Whereas originally, the DPSC was only to perform functions of a safety commission, now the police complaints commission has formally been introduced at the district level on the same lines as the complaint authorities which were to be formed under Chapter X of the Police Order prior to the amendments. The composition of the new DPSPPC has also been altered and it will now consist of nine members. One-third of these members will be appointed by the government from amongst the members of the Provincial and National Assembly of the district concerned, one-third will be appointed as independent members by the government from a list of names recommended by the Selection Panel and the remaining will be elected by the Zila Council from amongst its members.

Provincial Public Safety and Police Complaints Commission

Changes have also been made to the composition and functions of the Provincial Public Safety and Police Complaints Commission (PPSPC) on the same lines as those on the district level. Originally, the Provincial Public Safety Commission (PPPC) was to comprise 12 members and the ex-officio chairperson. Half of these were to be nominated by the Speaker of the Provincial Assembly from amongst the members of the Assembly in consultation with the Leader of the House and the Leader of the Opposition, three each from the opposition and treasury benches. The remaining half were to be appointed by the provincial Governor from a list provided by the Selection Panel. Following the amendments, the members of the Speaker consist of four members from the treasury benches and two from the opposition and as far as the independent members are concerned, the power to appoint them has passed from the Governor to the provincial government.

National Public Safety Commission

It is interesting to note that the Islamabad District Public Safety Commission, to be formed under Chapter VII of the Police Order, has not been touched except for one minor change.

Under the original scheme, the Public Safety Commissions were intended to have a balanced representation from the government, the opposition and the public so that no undue influence could be exerted on the police by anyone, especially the government. However, as discussed earlier, the balance of the Public Safety Commissioners at all three levels has been altered through the amendments, striking it strongly in favour of the government. It now seems unlikely that the Public Safety Commissions will be able to perform their functions in the spirit envisaged by the original Police Order.

Despite the above, the introduction of Public Safety Commissions and Police Complaints Authorities is a positive step. It will not only help to keep an external check on the police, but will also improve public-police relations and give the public confidence that the police is accountable for its actions. Keeping in view the existing practical realities and awkwardness of the public functionaries, it is perhaps understandable that any sitting government will not be too keen on the idea of independent Public Safety Commissions with equal representation from the opposition and independent members, as this could pose problems for the government. It is hoped that once the Public Safety Commissions and the Police Complaints Authorities are formed and start functioning in the true spirit, it would be realized by all that it is indeed in the interest of society to ensure that the police is independent, politically neutral and accountable for its actions, and that it is extremely important to devise control mechanisms to ensure this. With this realization, it would probably be easier to give a more free hand to such bodies so that they may perform their function without any political bias. Despite the lapse of almost four years, public safety commissions have been formed in very few areas and the National Public Safety Commission itself was only formed in June 2005. Consequently, it is very difficult to comment on the effectiveness of the various public safety commissions.

Conclusion

There was indeed a strong and urgent need for reform in the police laws. Considering that no government managed to introduce such reforms in the past, it is commendable that the present government took upon itself to introduce such reforms. However, as discussed earlier, the manner in which the reforms were introduced lacked stakeholder input, which not only led to the amendments but which also placed hurdles in the implementation of the reforms.

The Police Order, despite the amendments, has introduced some creditable changes. It eliminates dualty of command, which was contrary to the principles of effective organizational management, and envisages functional division and specialization within the Police Department. It provides a scheme whereby representative bodies may be established to improve the level of public cooperation and trust vis-à-vis police. The Order tries to inculcate in the police a spirit of professionalism and social responsibility by codifying duties and responsibilities of the police. It seeks to ensure a more merit-based recruitment and promotion regime in the Police Department. The establishment
of structures such as the National Police Management Board is expected to bring some level of cross-provincial coherence in police management. Finally, as discussed earlier, the Police Order aims to redress some of the complaints of the Police Department and providing them a degree of independence to run their affairs. This will give the Police Department an opportunity to deliver results in exchange for the trust reposed in its efforts.

The major concern is that there is opposition from certain quarters, including the provincial governments and the bureaucracy, and the political will to implement the police reforms in their true spirit seems to be lacking. One of the main reasons for this, in addition to vested political interests, is that the reforms are quite radical, the stakeholders, in particular the political parties, were not taken into confidence at the time the reforms were introduced or even when they were amended. There was genuine concern that if the Police Order were to be implemented in its original form, the provincial governments, which are responsible for law and order in the provinces, might find it difficult to control the police. It was also felt that the Police Department was not mature enough to handle the responsibility of operating on democratic principles.

If the reforms had been introduced gradually, perhaps their implementation would have been smoother and amendments would not have been needed at a later stage. The amendments in the Police Order and the expected amendments in the Local Government Ordinance indicate that the provincial governments are keen to revert to the previous system as far as possible. It has been pointed out by many critics that there was no participation by the genuine stakeholders in the amendments, and that these amendments were introduced to please the provincial governments who were unhappy at losing some of their control over the Police Department. According to these critics, the amendments have institutionalized the vested political interests of politicians and their continued political interference in the Police Department.

It is hoped that common sense and rationality prevail in this matter and that it is understood by all that an efficient, professional, service-oriented and most importantly an independent, honest and politically neutral police force is in the best interest of the country. A concerted effort should be made by all concerned, in particular the political parties and their leadership, that such a police force is formed. Under the circumstances, it would be advisable to find some way of reaching a wider consensus on the issues regarding the police reforms so as to ensure that any reforms that are introduced have the backing of all the stakeholders and are then implemented in their true spirit.

Notes
1. Preamble.
2. The Sixth Schedule provides a list of laws that cannot be altered, repealed or amended without the previous sanction of the President. The Police Order, 2002 (Chief Executive's Order No. 22 of 2002) is serial number 35 on the list. The Sixth Schedule to the Constitution is under Article 258(2) of the Constitution, which at present reads as follows:
   (2) The laws specified in the Sixth Schedule shall not be altered, repealed or amended expressly or impliedly, without the previous sanction of the President accorded after consultation with the Prime Minister.
   Provided that the laws mentioned in entries 27 to 30 and entry 35 in the Sixth Schedule shall stand omitted after six years.

3. News item in The Daily Times on 17 May 2003, where it was reported that NRB Chairman, admitted before the National Assembly Standing Committee for Interior that the provincial governments of Punjab and the NWFP had implemented around 30 per cent of the Order; news item in The News on 21 March 2004, where it was reported that the Interior Secretary, had admitted that the Police Order 2002 had not been implemented as far as its true spirit due to a variety of reasons; news item in The News on 2 February 2005, where the observations of the Balochistan Ombudsman were reported.

4. Dr Muhammad Shoaib Sattar, Reforming Pakistan Police, Resources and Materials Series No. 66.
5. Sections 3 and 4 of the 1851 Act.
10. Article 11(b) of the Police Order.
11. See s. 21(1)(vi-a) for the definition of the term 'Ex-officio Secretary'. Also in this regard see the definition of the term 'Superintendent' in s. 7(2)(vi-a).
12. Article 18 of the Police Order.
14. The situation is improved by the Amendments to the Police Order. It has been added in Article 18(3)
   'Provided that the Investigation Wing shall be located within the Police Station and shall be responsible to its own hierarchy in the District under the general control of the Officer-in-Charge of the Police Station.' This should improve the coordination between the two wings.
15. Article 15(1) prior to Amendments.
16. Article 15(1) of the amended Police Order.
19. The establishment of the National Public Safety Commission (NPSC) was announced by the Interior Minister on 12 June 2008 which was reported by all major newspapers and the media.

**Acronyms**

BPS – Basic Pay Scale  
CM – Chief Minister  
DIG – Deputy Inspector General  
DPO – District Police Officer  
DPSC – District Public Safety Commission  
DPSPCC – District Public Safety and Police Complaints Commission  
IGP – Inspector General of Police  
MP – Motorway Police  
NTSC – National Public Safety Commission  
NRB – National Reconstruction Bureau  
PER – Performance Evaluation Report  
PPO – Provincial Police Officer  
PPSC – Provincial Public Safety Commission  
PSPCC – Provincial Public Safety and Police Complaints Commission  
SHO – Station House Officer

**Gender and Devolution**

Amina Hassan and Shandana Khan Mohmand

**Abstract**

In March 2000, the military regime of General Pervez Musharraf launched its Devolution of Power Plan in Pakistan with the objective of devolving administrative and political power to the grassroots level. A distinctive feature of the three-tiered local government structure was the reservation of a significant 33 per cent seats for women in local councils at the union, Tahsil and district levels. The democratic and participatory effects of decentralization have been considered especially empowering for politically marginalized groups, primarily women and the poor. Moreover, quota systems, of which seat reservation is a variant, have been considered complementary to women's political participation.

The Local Government Ordinance, 2001, encompasses both decentralization and seat reservation. The international debate on both tools in their relation to politically empowering women necessitates a review in Pakistan's particular socio-political context—an attempt this case study undertakes. This study revises the relationship between decentralization, quota systems and women's political capacity. The objectives of this project are twofold, firstly, to use fieldwork to quantitatively and qualitatively enrich the existing literature on these issues with Pakistan's particular experience. Secondly, to use the collected data and international experience with quotas and decentralization to indicate possible recommendations for gender-progressive local government reforms in the county.

Two main arguments lie at the core of the case study. Firstly, it is proposed that the reservation of seats for women in Pakistan's local bodies is an effective means of increasing their representation as well as their political participation in the country's local level governance. Secondly, it argues that despite the first assertion, there is no direct causal relationship between local government formation and seat reservation on the one hand and women's political empowerment on the other; one does not inevitably translate into the other.

The impact of the reservation of seats for women through the Local Government Plan has to be analyzed at two levels: the impact of the structural changes on the de jure vs. de facto participation of elected women councilors is one concern; the other concern is the impact of reservation on the political representation and participation of non-
Devolution and Governance: Reforms in Pakistan

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