

Police Order 2002: A Critique

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Abstract

Pakistan inherited police law from British and there was a need to change it according to the requirements of the new state. A number of committees and commissions were formed to reform the police but their recommendations could not be implemented. Military government of Pervez Musharraf took it on itself to bring reform in policing and promulgated Police Order 2002 replacing the colonial Police Act 1861 with an aim to make police a truly professional, service oriented, operationally autonomous and democratically accountable organization. The new law introduced some new institutions of public oversight and accountability of police at district, provincial and national levels. These include Public Safety Commissions and Police Complaint Authorities. Members of these institutions are to be taken from law makers and civil society. Through these institutions a system of accountability of police by independent bodies was introduced on the one hand and the police was insulated from political interference on the other. Some objections were raised on the Police Order by provinces and civil society members. Under the pressure from the provinces, some basic amendments were made in the law in 2004 which diluted the authority of oversight bodies and increased the role of executive bureaucracy and politicians in key police appointments.

Key words: Reforms, Police Order, Public Safety, Complaints Authority, Oversight Accountability,

Introduction

The deliberations to reform the police system set up under Police Act of 1861 began with the Fraser Commission in 1902. However in 1947 the law was in force and Pakistan inherited it along with other laws. The law was enacted in

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the aftermath of Mutiny of 1857, with the principal aim of deterring such revolts in future. The maintenance of order was the top priority of the government. The main function of police under this act was to coerce rather than to protect the subject population. (International Crisis Group, 2008). Police was also tasked to help in collection of land revenue. Both these tasks were entrusted to a single officer in the district, the Deputy Commissioner or District Magistrate. The police in a district was subject to dual control. It was responsible to the Inspector General of Police in administrative, organizational, financial and professional matters, while for operational matters it was under the control of District Magistrate. (Suddle, 2001). After independence, economic development and emergence of big urban centers made the society complex. The Act of 1861 failed to meet the emerging policing needs and police system was rendered ineffective. Failure of political/democratic institutions and rise of bureaucracy to prominence further aggravated the situation. In such a dispensation the police became a coercive arm of civil bureaucracy. A need was realized for a fundamental change in policing of the country as the police organization designed for colonial rule had broken down under the strains imposed by a variety of factors including politicization of the institution, growth of terrorism, emergence of ethnic and sectarian tensions, radicalization of society, proliferation of weapons, population explosion, youth bulge and emergence of metropolitan centers with modern conditions of life. The serious constraints undermining the police system were;

- a. Outdated legal and constitutional framework
- b. Arbitrary and whimsical use of police by politicians and civil bureaucracy
- c. Inadequate incentive system
- d. Poor accountability mechanism
- e. Widespread corruption
- f. Severe under resourcing of law and order. (Suddle, 2001).

When General Musharraf took over as Chief Executive of Pakistan in 1999, he set up a National Reconstruction Bureau (NRB) to suggest reform in governance sector. The NRB included police reform in its agenda and established a think tank of senior police officers (retired and serving) called "Focal Group on Police Reforms" for the purpose. The Focal Group after thorough deliberations and lengthy discussions presented its recommendations which were included in the new police law named Police Order 2002. The Police Order 2002 was promulgated on 14th of August 2002 as Chief Executive's Order No. 22 of 2002 and it replaced the Police Act of 1861.

Objectives of the Police Order 2002

Preamble to Police Order 2002 lays down its objectives by stating that the police have an obligation and duty to function according to the constitution, law and democratic aspirations of the people of Pakistan and such obligations of police require it to be professional, service oriented and accountable to the people. To expect from the police to meet these obligations, it is necessary to reconstruct it. Police Order 2002 seeks to make the Police efficient in the prevention and detection of crime and maintenance of public order. (Police Order 2002). In contrast to the Police Act 1861, the Police Order, 2002 has clearly defined the role of police. In order to achieve the stated objectives, a number of institutions for public oversight and accountability of police were to be established. These, inter alia, included public safety commissions and police complaint authorities at different levels. It also listed a large number of reforms in terms of the structure of the police service (e.g. separation of watch & ward from investigation) and put a number of obligations on police leadership.

Salient features of Police Order 2002

The Police Order 2002, in its preamble, acknowledges the necessity to redefine the police role, its duties and responsibilities for efficient prevention and detection of crime and maintenance of public order. To attain the stated goals, the authors of new legal framework tried to add some special features to the law that introduced some essentially new mechanism regarding law enforcement in Pakistan. The salient features of Police Order 2002 are given below.

1. Separation of Police and Magistracy

In the old law the District Magistrate was head of police in the district. The new law envisaged separation of police from magistracy and practically and clearly separated it. District Magistrate is no more responsible for law and order in the district. It was a clear departure from the previous system which was based on the idea of concentration of powers in a single office in the district for effective control over a hostile population.

2. Public accountability of Police

The authors of the new law tried to make the police answerable to the public representatives. The public accountability of police is based on “Japanese Model” of community policing to transform the police as a service-oriented and people friendly body to help the public and not merely to control them. For this

purpose, the institution of Public Safety and Police Complaints Commission was constituted. The law made provisions for setting up of such bodies at district, provincial and national levels. The different tiers of the police administration were made responsible to different public bodies/institutions. The District Police Officer has been made, in general, responsible to the *Zila Nazim*, except for the internal administration of the police force. He has been made responsible to provide assistance to all government functionaries and obey the directions of *Zila Nazim* in respect to complaints against police excesses, neglect or failure. In the repealed Police Act 1861, there was no concept of responsibility of police towards and its accountability by public institutions or public representatives. Through these institutions citizenry has been given an important role in the affairs of Police. The Police Order envisages the creation of citizen police liaison committees to establish an effective liaison between the Police and citizens. The main objective of the law is to create a people friendly Police that is more responsive to the aspirations of the public at large.

3. Reduction of Political Influence

One of the main purposes of replacing Police Act 1861 with Police Order 2002 was to increase the efficiency of the police by minimizing the political influence in Police department. An effort was made to attain this through Police Order 2002. However, the situation was somehow changed by inducting politicians in District Public Safety and Police Complaints Commission, and merging Police Complaint Authority with the Commission through amendments made in the law in 2004. It was further politically tinged by giving the column which was earlier reserved for DC in Performance Evaluation Reports (PER) of Head of District Police to *Zila Nazim*. It was argued that *nazims* come from non-political circles and their control of DPO would not have any political repercussions. Contrary to the argument, the strong political affiliations of the *nazims* are very clear in almost all districts.

4. Separate Police Establishments

The Police Act of 1861 declared whole of the province as a 'general police area' for which a single police force was established. However, the new law provided that the Capital City District, the City District and the remaining province may be declared as separate 'general police areas' and for each of them separate police establishment would be setup. It means that within a province, the Capital City District and City Districts would be 'general police areas' with a separate police force other than that of the remaining province. (Article 6, Police Order, 2002).

5. Organization of Police on functional basis

The new police law made provisions for the organization of Police on functional basis into branches, divisions, bureaus and sections to improve its efficiency and to inculcate professionalism in the service. Separation of investigation from watch and ward is the major initiative to achieve this objective. The former law was not specific on the functional separation of the police. The branches, divisions, bureaus and sections may include Investigation Branch, Intelligence or Special Branch, Watch and Ward, Reserve Police, Training Branch, Crime Prevention Branch, Traffic Planning and Management Branch, Legal Affairs Branch, Welfare Branch, Research and Development Bureau, Information Technology Section etc. (Article 8, Police Order, 2002).

6. Superintendence/Administration of Police

Similar to the repealed Police Act, the new law stipulates that the overall superintendence of police throughout a general police area shall vest in the appropriate government. However, the law makes it binding on the government to exercise the power of superintendence in such a manner as to ensure that police performs its duties efficiently and strictly in accordance with the law. Police is free not to act upon the unlawful orders passed by the political bosses. (Article 9, Police Order 2002).

The administration of the police shall be vested in the Provincial Police Officer, Capital City Police Officer or City Police Officer as the case may be in their respective areas of jurisdiction. The PPO will have full administrative and financial powers and will exercise operational control over whole of the police force in the province. The CCPO and CPO will exercise powers of the head of an attached department as regard to their force subject to operational control by the PPO. (Article 10, 16. Police Order 2002). In the Police Act 1861 the administration of the police at the provincial level was vested with the IGP and at the district level with the Superintendent of Police.

7. Functional Autonomy to Provincial Police Officer (PPO)

Unlike the repealed Police Act, the new law gives the powers of ex-officio secretary to the government to the Provincial Police Officer in all administrative and financial matters. The PPO can make postings/transfers of officers up to the rank of Deputy Inspector General of Police in case of City Police Officers and all other officers of the rank of Senior Superintendent of Police and below. He will direct and regulate all the matters of recruitment,

training, postings, transfers, arms, drill, discipline, clothing, distribution of duties and any other matter concerning efficient performance of police. (Article 11, 27. Police Order 2002).

8. Distinction between Ranks and Posting Positions

Under the Police Act 1861, the posting positions of police officers generally matched with their ranks. The Inspector General of Police (IGP) when posted as head of police in a province would be designated as IGP. Likewise the Deputy Inspector General, posted as head of police in a Range would be called as DIG and head of District Police as Superintendent (SP) or Senior Superintendent of Police (SSP). The Police Order 2002 made distinction between posting positions and original ranks of police officers. Under this law, the Inspector General of Police, when posted as head of provincial police would be designated as Provincial Police Officer (PPO), an Additional Inspector General, when posted as head of Capital City Police or City Police would be called as CCPO or CPO. Likewise the designations of Regional Police Officer (RPO) and District Police Officer (DPO) would be used for heads of Regional and District Police Officers, though they would be Deputy Inspector General and Senior Superintendent of Police by their ranks. A comparison of designations under Police Act 1861 and Police Order 2002 is given below.

Comparison of designations under Police Act 1861 and Police Order 2002

Sr. No.	Posting Position	Rank	Designation under Police Act 1861	Designation under Police Order 2002
1	Head of Provincial Police	Inspector General of Police	Inspector General of Police (IGP)	Provincial Police Officer (PPO)
2	Head of Capital City Police	Additional Inspector General of Police	No provision	Capital City Police Officer (CCPO)
3	Head of City District Police	Additional/Deputy Inspector General of Police	No provision	City Police Officer (CPO)
4	Head of a Police Range/Region	Deputy Inspector General of Police	Deputy Inspector General of Police (DIGP)	Regional Police Officer (RPO)
5	Head of District Police	Superintendent of Police/	Superintendent of Police/	District Police Officer (DPO)

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		Senior Superintendent of Police	Senior Superintendent of Police (SP/SSP)	
6	Head of Sub-Division Police	Deputy/Assistant Superintendent of Police	Deputy/Assistant Superintendent of Police (DSP/ASP)	Sub-Divisional Police Officer (SDPO)

Source: Police Act 1861, Police Order 2002

9. Sanctity to tenure posting

The Police Order 2002 ensured completion of tenure of posting for various positions of Police Officers. The Police Act of 1981 did not provide any such assurance in explicit terms. Under the new law the terms of the offices of PPO, CCPO, CPO, DPO and heads of federal Law Enforcement Agencies would be three years. However, if the federal government wants it may recall its officer from the province before the expiry of this his term. The provincial government may also repatriate the officer with the approval of federal government. (Article 12, 15. Police Order 2002).

10. Separation of Investigation and Watch and Ward

Fundamental restructuring and reform of Police Stations includes complete separation of prosecution from the police by creating an independent Prosecution Service. Maintenance of public order and investigation of crimes remained the responsibility of the police but these two functions have been separated from each other. This functional separation was intended to achieve continuity of investigations, develop requisite expertise and promote greater efficiency leading to better results. Previously, in Police Stations, there was no functional segregation or separation between the police responsible for maintenance of public order and the police responsible for investigation. The investigation staff was also utilized for maintenance of law and order. The Police Order 2002 made a provision for separate investigation staff at every Police Station which should not be engaged for the performance of law and order duties. The SHO would provide administrative support to these investigators. It was intended that restructured Police Stations be headed by officers of the rank of Assistant Superintendent of Police (ASPs)/ Deputy Superintendent of Police (DSP). The restructuring of Police Stations was planned to be started from City Districts and may eventually cover all Police Stations in the country. (Sukhera, *et. al.* 2003).

11. Offences and punishments to police officers

The Police Order 2002 declared certain types of misconducts and vexatious, delinquent and erroneous acts by Police Officers as criminal acts and specified punishments for these acts. If a police officer fails to do his job properly, involves himself in a specific type of misconduct, submits a false statement before officers or grossly insubordinates to his superior will be punished with imprisonment up to three years and a fine. If he abuses his lawful authority or commits some vexatious acts against citizens, he may be sentenced with an imprisonment up to five years and a fine. If an officer causes unnecessary delay in production of an accused before the court of law, he may be punished with the imprisonment up to one year with fine. (Article 155, 156 and 157. Police Order 2002).

Institutions of Public Oversight and Accountability

Police Order 2002 made provisions for the establishment of different public bodies for accountability of police and redressal of public complaints against it at the federal, provincial and district level. The following public bodies and institutions have been created at various levels as oversight and accountability bodies.

- District Public Safety and Police Complaints Commission
- Provincial Public Safety and Police Complaints Commission
- National Public Safety Commission
- Federal Police Complaints Authority

The basic idea behind the establishment of Public Safety Commissions and Police Complaints Authority was to insulate the police, on one hand, from extraneous interference and on the other hand to hold the police accountable to the public bodies. The democratic concept of Public Safety Commission to oversee the police functioning was first introduced in Japan in 1947. The concept of Public Safety Commission has been borrowed from Japanese system and has been adapted with some modifications. This system of Public Safety Commissions is an amalgamation of the concept of Police Authorities in Britain and the Public Safety Commissions in Japan. The Public Safety and Police Complaints Commissions shall be constituted at district and provincial levels. While at national level, the National Public Safety Commission and the Federal Police Complaints Authority would be established separately.

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District Public Safety and Police Complaints Commission (DPS&PCC)

The District Public Safety and Police Complaints Commission will be established by the Provincial Government in each district which will provide relief to the people who have been subjected to the excesses and atrocities by the police. It will also review the performance of district police through policing plan and will provide a shield to it against extraneous influence.

The District Public Safety and Police Complaints Commission will have nine members, one of whom will be its chairman. One-third of the members will be appointed by the Government from the Members of Provincial Assembly and National Assembly of the district. Other one third will be appointed as independent members by the Government and last one-third will be elected by the Zila Council from amongst its members.

The District Public Safety and Police Complaints Commission shall approve the annual Policing Plan prepared by District Police setting out the arrangements for policing during the year. The Commission shall evaluate the delivery of performance targets contained in the Local Policing Plan. In a District, its main task is to protect the people from the excesses of, or exploitation, by the Police. It can direct the DPO to take action against a police official who has refused to register an FIR. Simultaneously, it would take steps to prevent the Police from engaging in any unlawful activity arising out of compliance with unlawful or mala fide orders. (Article 44, Police Order 2002).

Provincial Public Safety and Police Complaints Commission (PPS&PCC)

Provincial Public Safety and Police Complaints Commission will be established by the provincial government in each province. It will be a provincial body having an independent secretariat attached with Services and General Administration Department of the province. It will be having twelve members and will be headed by the Provincial Home Minister as its ex-officio Chairperson. (Article 73, Police Order 2002). Half of the members of PPS&PCC will be selected by the Speaker of the Provincial Assembly from amongst its members, four from the Treasury and two from the Opposition. The other half will consist of independent members and shall be appointed by the government on the recommendations of a selection panel comprising of Provincial Ombudsman, Chairman of Provincial Public Service Commission and a nominee of the Chief Minister concerned. (Article 74, 77. Police Order 2002).

The Provincial Public Safety and Police Complaints Commission, inter alia, will prepare recommendations and suggestions for promotion of integrity, efficiency and effectiveness of police and send these to the Government. It will

keep a check on the police and take steps to prevent it from any unlawful activity and compliance of any unlawful or *mala fide* orders. (Article 80(1), Police Order 2002). The PPS&PCC will receive complaints against police, inquire into these complaints and shall recommend departmental action against the delinquent police officers. (Article 80(2), Police Order 2002). Further, the PPS&PCC will prepare and submit an annual report to the Government and the Provincial Assembly about the performance and functioning of the Police Establishment as well as general law and order situation in the province. (Article 80, Police Order, 2002).

The National Public Safety Commission (NPSC)

The National Public Safety Commission will be established at national level. It will consist of twelve members with federal Interior Minister as ex officio Chairperson. (Article 85, Police Order 2002). Half of the members shall be nominated by the Speaker of the National Assembly from amongst its members, three each from the treasury and the opposition. The other half comprising independent members shall be recommended by a National Selection Panel headed by Chief Justice of Pakistan or his nominee judge of Supreme Court. (Article 86, Police Order 2002).

The National Public Safety Commission shall oversee the functioning of the Federal Investigation Agency, Pakistan Railways Police, Anti-Narcotics Force, Frontier Constabulary Pakistan Motorway and Highway Police, any other Federal Law Enforcement Agency and Anti-smuggling Wing of Customs exercising police powers. It will oversee implementation of plans prepared by heads of the respective law enforcement agencies, setting out arrangements for achieving objectives during the year. (Article 92, Police Order 2002)

A Comparison of Public Safety Commissions of three levels.

Subject	DPS & PCC	PPS & PCC	NPSC
Membership	Nine	Twelve	Twelve
Composition	MNAs/MPAs=3 (ex-officio) Independent =3 Elected by Zila Council=3	Provincial Assembly members=6 (treasury = 4, opposition = 2) Independent = 6	National Assembly Members = 6 (treasury =3, opposition = 3) Independent=6
Reserved Women Seats	three	four	four

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Selection/Election of Chairperson	Elected from amongst members	Ex Officio	Ex Officio
Term of Office of Chairperson	three years	Ex Officio	Ex Officio
Term of office of Members	three years	three years	As that of National Assembly
Re-election/re-appointment of members	Eligible for 2 nd term but not for 3 rd term	Eligible for 2 nd term but not for 3 rd term	Not eligible for 2 nd term
Re-election of Chairperson	Eligible	Ex Officio	Ex Officio
Chairperson's right to vote.	No mention	No right except in case of tie	No right except in case of tie
Composition of Selection Panel for Selection of Independent Members	District & Session Judge; 1 nominee of Provincial Government; 1 nominee of Provincial Public Safety and Police Complaints Commission	Provincial Ombudsman; Chairman, Provincial Public Service Commission; 1 nominee of CM	Chief Justice of Supreme Court; 1 nominee of President; 1 nominee of Prime Minister
Minimum quota of meetings/month	one	one	one
Quorum	Two-third of membership	One-half of membership	Two-third of membership
Decision Making	Simple majority	Simple majority	Simple majority

Source: Police Order 2002, CPDI-Pakistan

Federal Police Complaints Authority

For inquiring serious complaints against the members of the Federal Law Enforcement Agencies, a Police Complaint Authority will be established at federal level. The Authority consists of a Chairperson and six members. The members of the Police Complaints Authority will be a diverse group of eminent persons of impeccable integrity, with relevant skills, knowledge, experience and responsibility. The Federal Police Complaints Authority shall receive complaints of neglect, excess or misconduct against Islamabad Police or any

member of any Federal Law Enforcement Agency, process the complaint, conduct or cause an inquiry to be conducted and will take action against delinquent police officers.

Objections raised on Police Order 2002

The new police law was not free from opposition and serious objections were raised on it. The objections were basically raised by two mutually opposing groups. The first group raised objections on the original Police Order which was promulgated on 14th August, 2002 were mainly over the constitutional and legal position of the law. The objections of the other group were raised on amendments made to the law in 2004. These amendments affected the autonomy of police operations, which was given by the original law, by diluting the powers of police officers vis-à-vis political offices and changing the structure and powers of accountability and oversight bodies. In the following lines we will have a brief discussion on the both types of objections.

Constitutional Status of the law

Serious questions were raised on the constitutional and legal position of the Police Order 2002 from the very beginning. As it was promulgated by a military government and was never put before the parliament for debate and enactment, its constitutional position remained controversial. A section of society did not accept it as a legal and constitutional piece of law. They argued that the law has a dubious constitutional status and represented a lack of legitimacy and lack of input from various stakeholders. Another objection raised on the legitimacy of Police Order 2002 was that the provinces being main stakeholders should have debated it in provincial assemblies but it was not debated there and adopted as such. Even the amendments made to the law in 2004 were introduced through an Ordinance without any reference to the parliament or provincial assemblies. Some people are of the view that provincial assemblies should have passed resolutions demanding and supporting the proposed amendments before promulgation by the federal government. (Consumer Rights Commission of Pakistan. 2008).

Another argument put forward by the opponents of Police Order is that the military government by promulgating such an important law actually wanted to divert the public attention away from other core issues related to abrogation of the constitution and usurpation of democratic rights of people. They argued that the Police Order 2002 was a product of bad intentions, undemocratic process and in violation of provincial autonomy. (Consumer Rights Commission of Pakistan. 2008). A research report on implementation of Police

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Order 2002, quoted a senior police officer saying, “the only flaw is that Musharraf was never sincere about implementing it.” (International Crisis Group. 2008).

Policing: a provincial subject

Another objection raised against the promulgation of Police Order 2002 regarding jurisdiction of the federal government to legislate on a provincial subject. According to the constitution the policing and law and order is a provincial subject and federal government is not competent to pass law on this subject and impose it on provinces. The legislation by the federal government or the parliament on provincial subjects dilutes the provincial autonomy and undermines the authority of provincial governments on key policy issues. Sukhera *et al* (2003) while referring to the record of the Home Department, Government of the Punjab stated that at the time of promulgation of Police Order, the provincial governments were of the view that the law and order was a provincial subject, therefore, the new police law should be promulgated by the provinces. “Law and order came under purview of the provinces and new police order formulated by federal government created resistance and uneasiness among provinces”. (Ali *et al.* 2012). With such a background the provinces, where a lot of policing takes place, did not take its full ownership and accepted it half-heartedly. According to media reports, NRB, the institution tasked to draft the new law, overruled about 350 objections raised by the provincial governments and federal ministries and suggestions made by them to incorporate in the law. (*Dawn.* 2002, 8th August).

The proponents of the police law being a federal statute argue that no one claims that policing is not a provincial subject. It was a provincial subject when Police Act 1861 was a central law. Likewise the policing will continue to be a provincial subject under the Police Order 2002. Under the constitution of 1973, policing is a provincial while police law is a federal subject as other laws related to Criminal Justice System are federal laws. (Shigri, 2012). Policing and law and order are provincial functions, but these functions need to be performed under a legal framework coordinated by the federal government. The law and order situation in any province may escalate at any time into a threat to the federation itself. Therefore the provincial governments should exercise their authority regarding law and order and policing in coordination with the federal government to ensure that peace and order is maintained in all provinces. In the prevailing security environment a standard law enforcement system is needed to strengthen the police and enable it to meet the challenge of terrorism and organized crime confronting the country. In the

absence of uniformed criminal and police laws, any coordination amongst various police forces of the country will be a difficult task. The way forward to meet exceptional law and order challenges is to have standard police law and procedures rather than having a fragmented system. A plethora of laws, at variance with each other will be a recipe for disaster and will exacerbate the situation rather than improving it. (Shigri, 2012). Moreover, the officers of PSP cadre being federal employees have to serve all over the country and are subject to inter-provincial transfers. Different police laws in different provinces are bound to create confusion among these officers which may serve as a demotivator affecting their performance adversely. (Soofi, 2013).

Plethora of institutions

Serious objection were raised on the provisions regarding setting up of Public Safety Commissions and Police Complaints Authorities at district, provincial and national level. Many a people were of the view that setting up of too many institutions would not only create confusions and overlapping of responsibilities but also put a burden on public exchequer. In a resource-scarce country like Pakistan creation of such a number of new institutions would not be feasible, they argued. (Consumer Rights Commission of Pakistan, 2008). Media reports suggest that the provinces raised objections on the articles making provisions for too many institutions and expressed apprehensions that they might not be able to create and sustain such a number of bodies. "The provinces' representatives have contented that many organizations and entities, as envisaged in Police Order 2002 were not feasible and there was a fear the reforms would not be enforced". (Kamran, 2004).

Creation of two wings in a Police Station

Objections were also raised on separation of investigation branch from operations branch. Having two separate wings in a Police Station a complainant has to face difficulties while interacting with different officers for registration of a case and then getting it investigated. "One view is that it has undermined the SHO which was repository of powers previously. People have to gratify more, first to get a case registered and then to get it investigated, despite the fact that first time investigation cost was given to the investigation officers". (Abbasi, 2011) (Azad, 2011). The issue of dealing with more officers while registering an FIR also came under criticism of courts more than once. On one occasion Supreme Court of Pakistan deplored the fact that the adoption of law had left the people to fend for themselves and that they have no option but to grease more palms than one just to register the FIR. (Iqbal, 2010).

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The proponents of the idea of separation of investigation from watch and ward are of the view that investigation is a special field which needs specialized training and skills to do the job properly and giving it in the hands of generalized officers results in poor investigation. The problem does not lie in the separation of investigation wing but it lies in the implementation of the law. The investigation branch has been separated but the officers posted in it are either incompetent or unwilling. The investigating a case and presenting it in the court of law requires hard work and continuous efforts. There is no incentive for the officers working on the job. In such a situation posting in the investigation branch is 3rd priority. The ranker officers having bad integrity mostly go to investigation while the directly commissioned officers prefer operations branch. Another reason for poor investigation is lack of manpower, transport, technology and technical knowhow. The investigation branch like other branches of police is understaffed and poorly equipped which affects its performance adversely to a large extent. (Abbasi, 2011).

The system of separation investigation branch from operation is not ill-conceived and is based on the concept of functional specialization. A specialized officer, trained in a specific job can perform well as compared to a generalized officer. However it requires a full commitment on the part of the government and other stakeholders. Trained and sufficient staff, fully equipped with modern technology and provided with favourable working conditions can bring an improvement in the investigation of crimes. Halfhearted measures are likely to further deteriorate the system. (Abbasi, 2011).

Objections on amendments

Having been discussed the objections raised on the original law, now we come to the objections of the other group. As noted earlier the second type of objections were made not over the original Order but on the amendments made to it in 2004 and 2006.

Appointment and status of Provincial Police Officer (PPO)

The original Police Order 2002 declared the PPO as ex-officio secretary to the government and made him autonomous in all operational, administrative and financial matters subject to the checks of appropriate authorities. However, the amendments made to the Order diluted the effectiveness of these provisions by putting the Chief Secretary and Home Secretary in the chain between the PPO and the Chief Minister of the province. Moreover, the original law made the PPO autonomous in appointment of DPO while after amendments, he will have to get approval of the CM for the appointment. This provision, according to a section of society, will increase the role and interference of political

bosses in the routine functioning of the police undermining the PPO's authority and politicizing the department. Now the DPO will be likely to give preference to the orders of political bosses over orders of the PPO if situation arises like this. (Consumer Rights Commission of Pakistan, 2005). However, the other group defends the role of the CM as they are of the view that the CM is chief executive of the province and is ultimately accountable for law and order situation in his province.

The other objection is about the appointment of the PPO. In the original law, the NPSC was tasked to give a panel of three officers to the provincial government to select one of them for the appointment. After amendments, the federal government and not the NPSC will give a panel of officers. This provision is likely to further empower the executive at federal level and would politicize the police undermining the neutrality of the force. Moreover, it will be taken as interference of the federal government in the affairs of provincial matters. (Consumer Rights Commission of Pakistan, 2005).

Performance Evaluation of DPO

The amended law empowers the Zila Nazim to write a manuscript report of the concerned DPO in a specified part of the PER Form and it will be taken into consideration at the time of promotion of the officer. (Article 33 (3), Police Order 2002). Opponents of this provision are of the view that such a power would be grossly misused by the Nazims and make the police prone to political pressure. The *Zila Nazim* being a political person will use the police for victimization of his/her opponents. Moreover, they say that the police as a force should be treated with unity of command and dichotomy of command will make it disarray. However, the other side is of the view that the *Zila Nazim* being responsible and accountable for the functions relating to local law and order in the district should have some powers to direct police. (Consumer Rights Commission of Pakistan, 2005).

Amendments affecting the accountability and public oversight

The amendments brought under the Police Order (Amendment) Ordinance 2004 merged the Police Complaints Authorities with Public Safety Commissions at district and provincial level and changed the composition of the Commission giving more representation/role to government representative and curtailing that of independent members. Following changes were made in these institutions through the amendment.

- I. District and Provincial Police Complaints Authorities have been merged with the relevant Safety Commissions

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- II. In the DPS&PCC the number of independent members has been reduced from one half to one third.
- III. In the PPS&PCC the number of Treasury MPAs has been doubled.
- IV. Powers and functions of Public Safety Commissions have been changed.
- V. Provision of recourse to the police officers against illegal orders has been withdrawn.

The objections on merging of grievance redress and oversight institutions were raised under the argument that such a step may create serious problems as majority of members would be from the government side. It was also argued that Safety Commissions are largely recommendatory bodies and their capacity to provide redress in case of grievances would be limited.

Serious concerns were shown about the composition of oversight bodies which has been changed giving more representation to government side. This would undermine the independent status of these institutions and would adversely affect their performance. The public representatives should not be given a direct role in oversight bodies but they should play their role through policy formulation in assemblies and through parliamentary committees and standing committees of the assembly. (Consumer Rights Commission of Pakistan. 2008).

Conclusion

In Pakistan numerous commissions and committees were formed to suggest reforms in the police system introduced by the colonial rulers under the Police Act of 1861. The commissions and committees submitted their suggestions in the form of reports which were hardly implemented. The impediments in the way of reforming police were mainly erected by political elite and civil bureaucracy. The politicians often used police for their vested interests to garner political support and to intimidate and victimize opposition. Over the time many a evils crept into the system and it was rendered ineffective and inefficient. Outdated legal framework, political interference, understaffing and poor training, poor accountability and rampant corruption were few of the many constraints hampering performance of the police. When General Musharraf took over in 1999 he resolved to reform police. Accordingly a new law under the name of Police Order 2002 was introduced in August 2002 with the objective of making the police a professional, service-oriented, operationally autonomous and democratically accountable organization, efficient in prevention and detection of crime and maintenance of public order. It was the first major attempt to overhaul the police law since 1861 and, at

least on paper, gave Pakistan the most advanced policing legislation in the whole of South Asia. (Petzschmann, 2010).

The new law attempted to separate police from magistracy, reduce political interference in police matters, make the police financially and administratively autonomous and functionally accountable to the public. The law, *inter alia*, introduced the institutions of public oversight and accountability of police at district, provincial and national level which include Public Safety Commissions and Police Complaints Authority. These institutions envisaged to setup a public grievance redress system on one hand and to insulate police from extraneous influence on the other. Members of these institutions are to be taken from public representative bodies and civil society and are independent of government control. In addition the law also made provisions for setting up of institutions for coordination, research and development and policy input for policing at national level including National Police Management Board and National Police Bureau.

Within two years of its introduction, amendments were introduced in Police Order 2002 in the year 2004. These amendments enhanced the role of government in appointment of senior police officers and in composition and functioning of public oversight bodies. Though the introduction of new law was appreciated by a large segment of the society, it was not free of objections and according to some analyst has been a controversial piece of legislation because it was introduced by a military government. (Khosa, 2013). The objections were raised over both the original Police Order promulgated in 2002 and on amendments made in 2004. The first type of objections were mainly raised over the constitutional jurisdiction of federal government to introduce a law on policing which is a provincial subject. It was said that such an attempt will undermine the provincial autonomy. Provisions for creation of a number of new institutions also came under criticism labeling it an undue burden on public exchequer. The second type of objections were against the amendments enhancing the government's role in appointment of senior police officers and public oversight bodies thus undermining the autonomy of the police and increasing political interference in its functioning.

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