

CPDI-Pakistan

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The Police Order 2002: An Introduction



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mentions that "...it is expedient to reorganise the police and to make it a more efficient instrument for the prevention and detection of crime". This has led to frequent assertion by the police that they have no other societal role to play.

- d) The Police Act, 1861 was weak in almost all the parameters that must govern democratic police legislation.
- e) The Act has made it easier for government to abuse and misuse the police organisation. It has been possible for people in positions of power to do so because of the following reasons:
 - i. The Act gives the government, the authority to exercise "superintendence" or prescribing some guidelines to ensure that the use of power will be legitimate.
 - ii. The Act does not establish any institutional and other arrangements to insulate the police from undesirable and illegitimate outside control, pressures and influence.
 - iii. The Act does not recognize the responsibility of the government to establish an efficient and effective police force.
 - iv. The Act does not make it necessary to outline objectives and performance standards, nor does it set up independent mechanisms to monitor and inspect police performance.
 - v. The Act is antiquated in its charter of duties, which is narrow and limited.
 - vi. The Act does not mandate the police to function as a professional and service oriented organization.
 - vii. The Act is not in consonance with the requirements of democratic policing.

In short, the Act has obstructed the establishment of the rule of law and retarded the growth of a professional system of policing.

MAJOR FEATURES OF POLICE ORDER 2002

The police Order 2002, in its preamble, acknowledges the necessity to redefine the police role, its duties and responsibilities. It also recognizes the need to reconstruct the police for efficient prevention and detection of crime, and maintenance of public order. To attain stated goals, it is essential that new legal framework should contain the features that introduce some essentially new ideas regarding law enforcement in Pakistan. These are:

- I. Separation of Police and Magistracy
The new legislation envisages separation of police and magistracy. It is a

THE 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 (V of 1861). It contained 19 chapters, 188 articles and 4 schedules. Its primary objective was to reform the police in such a way that it could "function according to the Constitution, law, and democratic aspirations of the people of Pakistan". It aims to create a police service, which is "professional, service-oriented and accountable to the people". Furthermore, it envisages a police service, which is also efficient in prevention and detection of crime as well as maintenance of public order.

In order to achieve the objectives set out in the Preamble of the Police Order 2002, a number of institutions for public oversight and establishing checks and balances are to be established. These included, among others, public safety commissions at the district, provincial and federal 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 number of obligations on police leadership.

Why we needed to replace Police Act 1861?

The adversarial nature of police-public relationship stems mainly from the legacies of the 1861 Police Act. The Act provided for a policing model best suited to the post-1857 political and social milieu when main emphasis was on enforcement of laws rather than service-delivery. With the independence of the country in 1947, the act swiftly lost its rationale but was not replaced with a more people friendly and service oriented legislation. Today the government and police faces challenge of guaranteeing a climate of peace in which people feel secure in the exercise of their rights and the protection of their freedoms. Because these sentiments are not reflected in the legislation governing the police, it was replaced by Police Order 2002. The main arguments in advocacy of replacement of Police Act 1861 can be summarized as follow:

- a) The Police Act, 1861 vests the superintendence of the police directly in the hands of the political executive.
- b) Police misconduct and the failure to effectively respond to situations were undermining public confidence in the system.
- c) The Police Act, 1861 was enacted with a limited purpose. Its preamble

clear departure from the previous system which was colonial in mindset, slow and based on the inefficient law of dual control.

2. Public Accountability of Police

The public accountability of police is based on “Japanese Model” of community policing by transferring the image of the police as a body to help the people and not merely to control them. For this, the forum of Public Safety and Police Complaint Commission was constituted. These forums would be available at district, provincial and national levels.

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. This was attained in police Order as implemented in 2002. However, the situation was reversed by inducing politicians in District Public Safety and Police Complaints Commission, and merging police complaint Authority with the commission. It was further politically tinged by giving the column which was earlier reserved for DCs in ACRs (now called Performance Evaluation Reports (PER)) of Head of District Police to *Zila Nazim*. It was argued that *nazims* come from non-political circles and his 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. Separation of Investigation and Watch and Ward at *thana* level
The separation of Investigation and Watch and Ward at *thana* level was also a step in forward direction. It was, however, almost rescinded through amendments made in the Police Order by placing the investigation staff under SHO at police station level. The efficient working of investigation staff also requires proper training of the investigation team and scientific forensic support which do not seem to be forthcoming.

THE POLICE ORDER 2002- AN INTRODUCTION

In the following pages, major features of Police Order 2002 are described briefly.

DUTIES AND RESPONSIBILITIES OF POLICE

The Police Order 2002 enumerates the duties of police as follow:
Attitude and Responsibilities of Police towards the Public
It shall be the duty of every police officer to:

- a) Behave with the members of the public with due decorum and courtesy;
- b) Promote amity;
- c) Guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places; and
- d) Aid individuals who are in danger of physical harm particularly women and children.

Duties of Police

1. Article 4 of the Police order defines the duties of police as to:

- a) protect life, property and liberty of citizens;
- b) preserve and promote public peace;
- c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- d) prevent the commission of offences and public nuisance;
- e) collect and communicate intelligence affecting public peace and crime in general;
- f) keep order and prevent obstruction on public roads and in the public streets and thoroughfares at fairs and all other places of public resort and in the neighbourhood of and at the places of public worship;
- g) regulate and control traffic on public roads and streets;
- h) take charge of all unclaimed property and to prepare its inventory;
- i) detect and bring offenders to justice;
- j) apprehend all persons whom he is legally authorized to apprehend and for whose apprehension, sufficient grounds exist;
- k) ensure that the information about the arrest of a person is promptly communicated to a person of his choice;
- l) enter and inspect without a warrant on reliable information any public place, shop or gaming-house where alcoholic drinks or narcotics are sold or weapons are illegally stored and other public places of resort of loose and disorderly characters;
- m) obey and promptly execute all lawful orders;
- n) perform other duties and exercise powers as are conferred by this Order, or any other law for the time being in force;
- o) aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;

- p) assist in preventing members of public from exploitation by any person or organized groups;
 - q) take charge of lunatics at large to prevent them from causing harm to themselves or other members of the public and their property;
 - r) prevent harassment of women and children in public places.
2. Police officer shall make every effort to:
- a) afford relief to people in distress situations, particularly in respect of women and children;
 - b) provide assistance to victims of road accidents;
 - c) assist accident victims or their heirs or their dependants, where applicable, with such information and documents as would facilitate their compensation claims;
 - d) cause awareness among the victims of road accidents of their rights and privileges; and
3. It shall be the duty of a police officer to lay information before a competent court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.

ORGANIZATION OF POLICE IN A DISTRICT

The District Police Officer (DPO) is head of the district police and is responsible for annual policing Plan, management, command, postings and transfers, operational deployment, maintenance of discipline and efficient performance of all duties in respect of the police force placed at his disposal. He is subjected to dual control: for maintenance of general law and order in the district, the DPO will work under the command of *Zila Nazim*, whereas he is accountable to Provincial Police Officer (PPO) in matters pertaining to the administration of the police force and investigation of crimes. The investigation of crimes has been separated from watch and ward duty of the police. A separate chain of command for investigation of the crimes has been created in the districts which go through the DPO down to the Police Stations. Inter-district coordination is the responsibility of PPO

Relationship of DPO with *Zila Nazim*

1. The DPO will prepare Annual Policing Plan in coordination with the *Zila Nazim*. The plan would be approved by District Public Safety and Police Complaints Commission.

2. The *Zila Nazim* may visit a police station to find out any unlawful detention and may also direct action in accordance with law.
3. The *Zila Nazim* may direct DPO to take appropriate actions including registration of FIR where he has reasons to believe that any police official have committed an act of neglect, excess or has been failed to perform his duty.
4. The *Zila Nazim* shall write the manuscript report of the DPO in the specified part of the Form of Performance Evaluation Report.
5. If the District Police Officer considers any order of the *Zila Nazim* unlawful or *malafide*, it may seek recourse to the District Public Safety and Police Complaints Commission whose decision will be final and binding on the District Police Officer as well as the *Zila Nazim*.

Separation of Investigation and Watch & Ward

Fundamental restructuring and reform of Police Stations includes complete separation of prosecution from the Police by creating an independent Prosecution Service. As maintenance of Law & Order is being separated from investigation, the Police station would have following structure:

Maintenance of public order and investigation remain the responsibility of the Police but these two functions have been separated from each other. This functional separation is intended to achieve continuity of investigations, develop requisite expertise and promote greater efficiency leading to better results. Presently, in Police Stations, there is no functional segregation or separation between the police responsible for maintenance of peace and public order and the police responsible for investigation. The investigation staff is also utilised for requirements of law and order. Consequently, the investigation work suffers, pendency of cases increases, and delay in prosecution multiplies. It is, therefore, essential that separate investigation staff should be earmarked at every Police Station which should, under no circumstances, be engaged for the performance of law and order duties. The SHO should only provide administrative support to these investigators.

It is intended that restructured Police Stations be headed by officers of the rank of Assistant Superintendent Police (ASPs) / Deputy Superintendent Police (DSP). The restructuring of Police Stations is likely to start from City Districts and may eventually cover all Police Stations in the country.

PUBLIC SAFETY AND POLICE COMPLAINTS COMMISSIONS
The Public Safety and Police Complaints Commissions shall be constituted both at district and provincial levels. At national level, the National Public Safety Commission and Police Complaints Authority would be established separately.

District Public Safety and Police Complaints Commission

The District Public Safety and Police Complaints Commission will provide relief to the people who have been subjected to the excesses and atrocities of the police.

The composition of District Public Safety and Police Complaints Commission after the amendments is as follows:

- a. One-third members to be appointed by the Government from amongst the Members of Provincial Assembly and National Assembly of the district concerned as ex-officio members, including a women member;
- b. One-third members, of whom one shall be a woman, to be appointed as independent members by the Government from a list of names recommended by the Selection Panel; and
- c. One-third members, of whom one shall be a woman, to be elected by the *Zila* Council from amongst its members on the basis of each member casting only one vote in favor of any contesting candidate through secret ballot.
- d. In the first meeting after its constitution, the District Public Safety and Police Complaints Commission is required to elect its first Chairperson. The Chairperson is elected by the members of the Commission from amongst themselves every three years. The chairperson is eligible for re-election for second term.
- e. The term of office of a member will be three years, unless he resigns at any time before the expiry of his term, or in case of an elected member, ceases to be a member of the *Zila* Council. An independent member is not eligible for a third term.

Functions of the District Public Safety & Police Complaints Commission
The functions of District Public Safety and Police Complaints Commission have been stated in detail in Section 44 of Police Order 2002. These functions have been summarized below:

1. The District Public Safety and Police Complaints Commission

shall approve the annual Local Policing Plan prepared by the Head of District Police in coordination with the *Zila Nazim* setting out the arrangements for policing during the year. The Commission shall evaluate the delivery of performance targets contained in the Local Policing Plan. The Commission shall also submit an annual report to the Government through the provincial Public Safety and Police Complaints Commission. The report shall, among other, contain an abstract relating to the performance of District Public Safety and Police Complaints Commission and a report on the functioning of the District Police.

2. The District Public Safety and Police Complaints Commission shall encourage Police-Public cooperation. It would be done by supporting and promoting the establishment of Citizen-Police Liaison Committees and by other appropriate measures.
3. The District Public Safety and Police Complaints Commission has dual function to perform. 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, or has been found negligent to his duty or any act of excess or misconduct is proved against him. Viewed from this perspective, it is a people-friendly organisation. 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. Thus, it would help the police by taking necessary steps through which police would be prevented from political interference and also undue pressure from the superior authorities. Looking from this angle, the Commission would also be beneficial for the local police authorities.
4. The District Public Safety and Police Complaints Commission shall, for the purpose of this Order, have the same powers as are vested in a civil court under the Code of Civil Procedure (Act V of 1908), in respect of the following matters, namely:
 - (a) Summoning and enforcing the attendance of any person and examining him on oath;
 - (b) Compelling the production of documents;

- (c) Receiving evidence on affidavits; and
- (d) Issuing commission for the examination of witnesses.

Provincial Public Safety and Police Complaints Commission
 A Provincial Public Safety and Police Complaint Commission is also established in each Province, consisting of 12 members and an *ex officio* Chairperson.

Composition

- a) Half of the members of Provincial Public Safety and Police Complaints Commission will be selected by the Speaker of the Provincial Assembly from amongst its members, four from the Treasury and Two from the opposition in consultation with the Leader of the House and the Leader of the Opposition. Out of these six members, at least two will be women. These members shall not be the members of the Standing Committee of the Provincial Assembly on Home Affairs.
- b) The other half of the members will consist of independent members and shall be appointed by the government on the recommendation of selection panel. At least two of the independent members shall be women.
- c) The Provincial Home Minister will be the *ex officio* chairperson of the Provincial Public Safety and Police Complaints Commission but he will not have the right of vote, except in case of a tie.
- d) The term of office of members of the Provincial Public Safety Commission is three years.
- e) The Provincial Police Officer and heads of the Prosecution Service, Prison and probation departments will attend meetings of the Commission as non-voting members when invited.

Functions of the Provincial Public Safety Commission
 The general functions of the Provincial Public Safety and Police Complaints Commission are to make recommendations to the governments for promoting integrity, efficiency and effectiveness of the police. It would take steps to prevent the police from engaging in any unlawful activity arising out of the compliance with unlawful and *mala fide* orders. The

commission would also facilitate the establishment and functioning of Citizen Police Liaison Committees.

Specific Functions

The Provincial Public Safety and Police Complaints Commission will coordinate the functioning of District Public Safety and Police Complaints Commissions. The Provincial Public Safety and Police Complaints Commission may seek premature transfer of the Provincial Police Officer (PPO) in the interest of efficiency, effectiveness or on grounds of misconduct. The Provincial Commission also processes financial grants to various police forces within the Province; determines the objectives of the policing of the Province for each financial year; approves a Provincial Policing Plan prepared by the Provincial Police Officer; and evaluates the delivery of performance targets on quarterly basis. The Provincial Public Safety and Police Complaints Commission also evaluates the performance of the District Public Safety and Police Complaints Commission within the Province on an annual basis and may move for the dissolution of a District Public Safety Commission if its performance is found unsatisfactory.

The National Public Safety Commission

The National Public Safety Commission will consist of twelve members and the *ex officio* Chairperson.

- 1. Half of the members of the National Public Safety Commission shall be nominated by the Speaker of the National Assembly from amongst its members, three each from the treasury and the opposition, in consultation with the Leader of the House and the Leader of the Opposition in such a manner that at least one member shall belong to each Province, and to Islamabad Capital Territory and that at least two members shall be women.
- 2. The other half comprising independent members shall be appointed by the President from a list of names recommended by the National Selection Panel. Again, at least one member shall belong to each Province, and to Islamabad Capital Territory and that at least two members shall be women.
- 3. When the National Assembly is not in existence, the independent members shall constitute the National Public Safety Commission.
- 4. The Federal Interior Minister will be *ex officio* Chairperson of the National Public Safety Commission.

The selection panel for the selection of independent members shall consist of Chief Justice of Supreme Court of Pakistan as Chairperson and one nominee each of President and Prime Minister.

Functions of the National Public Safety Commission

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, Federal Law Enforcement Agency and Anti-smuggling Wing of Customs exercising police powers. It would recommend to the Federal Government panels of three police officers for the appointment of Capital City Police Officer for Islamabad and for the appointment of head of Federal Investigation Agency, Pakistan Railways Police, Pakistan Motorway and Highway Police and Frontier Constabulary. It will also oversee implementation of plans prepared by heads of the respective law enforcement agencies and approved and published by the government.

The Commission will submit an annual report to the Government and the Parliament that shall include the following:

- ◆ An abstract concerning performance of the National Public Safety Commission during the year;
- ◆ A report on the functioning of the Federal Law Enforcement Agencies; and
- ◆ A report on matters connected with general law and order in the country.

The National Public Safety Commission has also been given the role of coordination among the Provincial Public Safety and Police Complaints Commissions. It will evaluate the performance of the Islamabad District Public Safety Commission on annual basis. If on the basis of the evaluation conducted by the National Public Safety Commission, the performance of the Commission is found unsatisfactory, the government may dissolve the Islamabad District Public Safety Commission and reconstitute the commission within forty five days of such decision. During the period, the Islamabad District Public Safety Commission stands dissolved, the National Public Safety Commission will perform its functions.

Public Safety Commissions-A Comparison

Head	District Public Safety and Police Complaints Commission	Provincial Public Safety and Police Complaints Commission	National Public Safety
Total Members	9	12	12
Composition	MNAs & MPAs= 3 (ex-officio Independent Members = 3 Elected by Zila Council= 3	MPAs=6(4 from treasury, 2 from opposition) Independent Members=6	MNAs=6 (3 from treasury, 3 from opposition) Independent = 6 (Appointed by President from list of names recommended by National Selection Panel)
Reserved Seats for Women	3	4	4
Selection/ Election of Chairperson	Elected from within its members	Ex Officio	Ex Officio
Term of Office of Chairperson	3 years	Ex Officio	Ex Officio
Term of office of Members	3 years	3 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
Right to Vote of Chairman	Not mentioned	No right to vote except in case of tie	No right to vote 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 Police Safety and 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	1	1	1
Quorum	Two-third of membership	One-half of membership	Two-third of membership
Decision Making	Simple majority	Simple majority	Simple majority

THE COMPLAINT HANDLING MECHANISM UNDER POLICE ORDER 2002

One of the main functions of District Public Safety and Police Complaints Commission is to process the complaints received from the public against police officials. Following procedure will be adopted by District Public Safety and Police Complaints Commission on receiving a complaint against police:

1. People often have complaint that officials of police stations do not cooperate in registering an FIR. The District Public Safety and Police Complaints Commission can receive the complaint from aggrieved person if police has refused to register FIR. If the members of the commission are satisfied that in-charge of police station has unjustifiably refused or avoided to register FIR, it will direct the Head of the District Police to conduct an inquiry into the matter and make arrangement for registration of FIR. The commission will also direct the Head of the District Police to present a report within 48 hours.

2. In case of general neglect by a functionary of District Police, the District Public Safety and Police Complaints Commission would direct the Head of District Police in writing to take appropriate action and submit a report within a specified period. The District Public Safety and Police Complaints Commission can also hold inquiry through two or more of its members or through an officer serving in the District, not below the rank of Basic Pay Scale 18. If the complaint is found correct, the District Public Safety and Police Complaints Commission will send the report to the Head of the District Police and will direct him to take legal action against delinquent Police Officer. If the Head of District Police does not submit a report or take action on the direction of District Public Safety and Police Complaints Commission, the matter would be referred to Provincial Government through Provincial Public Safety and Police Complaints Commission by the District Public Safety and Police Complaints Commission. The complainant would also be informed by the outcome of the inquiry and status of the complaint by District Public Safety and Police Complaints Commission.

3. If a complaint of excess committed by any member of Federal Law Enforcement Agency or civil armed forces is received, the District Public Safety and Police Complaints Commission will ask the appropriate authority of the concerned department to take remedial action and report within a specified period. If the concerned department does not take any action, the District Public Safety and Police Complaints Commission will make a reference to the Head of the concerned organization or the Federal Police Complaints Authority.

The complainant, however, should be very careful while launching any complaint against any official of the district police. If the complaint is found frivolous or vexatious, the District Public Safety and Police Complaints Commission will direct the appropriate authority to initiate action under the law against the complainant.

Complaint Handling under Provincial Public Safety and Police Complaints Commission

The Provincial Public Safety and Police Complaints Commission can also take up the cases against head of the District Police and Police officers not serving in a district of police neglect, excesses and abuse of authority. Any person can submit a complaint to the Provincial Public Safety and Police Complaints Commission to this effect. Such complaint should be supported by an affidavit. The Provincial Public Safety and Police Complaints Commission can also take up the cases on the report of District Public Safety and Police Complaints Commission or on a reference from the government. The Commission will inquire into the complaint either by itself or through any Government Officer not below the Basic Pay Scale 19. If the charges levied in the complaint are not proved in the inquiry, the complaint will be filed. If the charges are proved, the Commission will refer the matter to the concerned Head of the General Police Area for departmental action and report back. The Commission can order the registration of a criminal case under the relevant provision of Pakistan Penal Code, Police Order 2002 or any other law. If Commission is not satisfied with the action taken by the Head of the General Police Area, it will report the matter to the Chief Minister of the Province along with appropriate recommendation.

- b) The Committee will also initiate measures to promote better understanding, co-operation and co-ordination in the administration of the criminal justice system by exchanging information, formulating co-ordinated priorities, strategies and plans to the District, as well as upon locally agreed policies.
- c) The Committee should raise relevant issues with appropriate authorities, promote spread of good practices and review the implementation of any decisions taken by the Criminal Justice Committee.

Miscellaneous

Maintenance of Daily Diary at Police Station

A register of Daily Diary (*rooznamcha*) shall be maintained at every police station. This Daily Diary should be used to record the names of all complainants, persons arrested, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

The daily diary is an important instrument to stop the irregularities by police officials observed at almost all the Police Stations. The police officials at a police station normally do not use the numbered book issued from the office of the Superintendent of Police or the same are not being issued in adequate numbers to meet the needs of the police stations. This provides an excuse to the staff of police station to either use loose papers or an ordinary un-numbered note book. It was further observed that police officials use erasable lead pencils to make entries in *rooznamcha*. As these entries are not permanent and can be easily removed, police officials often change them to abuse their authority and hence fail the very purpose for which a *rooznamcha* is maintained.

The District and Sessions Judge can inspect this Diary.

Citizen Police Liaison Committees

The Government will establish Citizen Police Liaison Committees (CPLC) in consultation with National Public Safety Commission or Provincial Public Safety and Police Complaints Commission. These committees will be voluntary, self financing and autonomous bodies. The functions of these committees are:

Training and capacity building of members and staff of the Commission;
 Developing mechanism for liaison between aggrieved citizens and police for providing relief; and
 Assistance to Commissions, Federal Police Complaints Authority and the police for the expeditious and judicious discharge of their duties

Public Safety Fund

The Government will constitute Public Safety Fund at the Provincial and District levels. This fund will consist of:

Grants made by the Federal Government, the Provincial Government and the District Governments to the police;
 Contributions made in cash or kind by the public for the improvement of police service delivery to be credited to District Public Safety Fund;

The Provincial Government may credit one-half of the sums of the traffic fines to the Provincial Public Safety Fund.

The Public Safety Fund at Provincial level shall be operated by the Provincial Public Safety and Police Complaints Commission and at the district level by the District Public Safety and Police Complaints Commission.

The Public Safety Fund shall be applied for the purpose of:

- Improving facilities for public and service delivery at police stations;
- Improving traffic police; and
- Rewarding police officers for good performance.

POLICE ORDER 2002-BEFORE AND AFTER AMENDMENTS

A COMPARATIVE ANALYSIS

The Police Order 2002, which was still to be fully implemented, was massively amended in November 2004 through the Police Order (Amendment) Ordinance, 2005. The Amendment Ordinance introduced substantive changes in a number of sections, altogether affecting 54 Articles of the original Police Order 2002. It appears that most of the amendments have been introduced to please the provincial governments/ chief ministers and legislators, who were unhappy on losing some of their control on the police department as a result of institutional checks and balances

established under the Police Order 2002. Many argue that most amendments defy the very basic principles on which the whole Police Order 2002 was based. The table below present an analysis of the amendments made through Police Order Amendments Ordinance 2005:

Table: Comparison of Police Order 2002 before and after Amendments

S. No.	Issue	Before Amendment	After Amendment	Remarks
1	Recommendation body for posting of PPO [Art. 11 (1)]	National Public Safety Commission	Federal Government	Role of NPSC in recommending a panel of 3 police officers for appointment of PPO has been deleted. This will increase the powers of Government.
1	Pre-mature transfer/ Repatriation of PPO [Art. 12(2)]	Provincial Government with agreement of PPSC can repatriate PPO	Provincial Government can now repatriate the PPO after the approval of Federal Government. No agreement with PPS & PCC is now required.	This amendments substantially adds to the powers of Provincial Government/ Chief Minister
3	Recall of PPO or CCPO [Art. 12(6)]	The Federal Government could prematurely recall a PPO or CCPO but only with the agreement of the NPSC	The Federal Government can now pre-maturely recall PPO on its own accord. No agreement with NPSC is required now.	The change would erode the checks placed on the Federal Government's authority to appoint PPO or CCPO
4	Powers of PPO for posting of DPO [Art. 15 (1)]	PPO can post DPO in consultation with Government	PPO can post DPO in approval of Government	Again, a strong role for the government is devised through this amendment. This change would politicize the police

5	Premature transfer of CPO/ DPO [Art. 15(3)]	CPO or DPO can be transferred pre-maturely with the concurrence of Zila Nazim and DPSC but only after he has been heard in person by the District Public Safety Commission	CPO/ DPO can now be transferred with the approval of Government. No concurrence from Zila Nazim or District Public Safety and Police Complaints Commission is required.	The basic spirit of devolution/ police reforms enshrined at the altar of political expediency.
6	Separation of Investigation Branch [Art. 18]	Separate chain of command for investigation functions was created, which included specifically designated officers at the police station and district levels	Investigation Wing in the Police Station will now be under the general control of SHO, while it would be responsible to its own hierarchy for investigation functions.	It may lead to interference of SHO in investigation functions.
7	Term of Office for an Officer under whom a police division, sub-division, or police station is placed [Art. 21]	Term of Office was not clearly defined.	The term is now clearly defined. It would be 3 years.	It is a step forward, as it could promote security of tenure for officers at all levels including at the police station level.
8	Preparation of Policing Plan [Art. 32 (1)]	Head of District Police will prepare Policing Plan in consultation with Zila Nazim	Head of District Police will prepare Policing Plan in coordination with Zila Nazim.	
9	Difference of opinion between Zila Nazim and Government [Art. 33(2)]	In case of a difference of opinion between the Provincial Government on any matter concerning the district police, the Provincial Government shall prevail.	In case of a difference of opinion between the Zila Nazim and the Government on any matter concerning the district police, the decision of the Provincial Government shall prevail.	By omitting the word 'provincial' a role for federal government has also been created.

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13	Establishment of District Public Safety and Police Complaints Commission [Art. 37]	The Provincial Government shall establish a District Public Safety Commission	The Provincial Government shall establish a District Public Safety and Police Complaints Commission	One body, especially the way it is constituted, cannot effectively perform Public Safety as well as Police Complaints functions.
14	Composition of District Public Safety and Police Complaints Commission [Art. 37(1)]	The District Public Safety and Police Complaints Commission shall consist of 8, 10 or 12 members depending upon the area and population of the District	The District Public Safety and Police Complaints Commission shall consist of 9 members	
15	Composition of District Public Safety and Police Complaints Commission [Art. 38]	Half of the members would be elected by Zia Council; the other half would be independent members	Elected by Zial Council=3 Independent= 3 MNAs/ MPAs from concerned district= 3	The Role of MNAs/ MPAs has been crafted by reducing the role of independent members and Zia Council
16	Appointment of Chairperson of District Public Safety and Police Complaints Commission [Art. 39]	The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.	The Chairperson of the District Public Safety and Police Complaints Commission shall be elected by the members from amongst themselves every three years.	
17	Selection of independent members of District Public Safety and Police Complaints Commission [Art. 41(2)]	Selection will be by consensus	Selection will be by majority vote, one of whom will be the Chairperson of Selection Panel	It is only a 3 members Panel and, therefore, it makes sense that it selects people with consensus. The consensus principle would be more likely to ensure that right kinds of people are selected.

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10	Role of Zila Nazim in writing PER of Police [Art. 33(3)]	No Role	Zila Nazim now shall write the manuscript report which will be considered at the time of promotion of the officer	It can lead to a) collision between Zila Nazim and Head of District Police and b) duality of command for head of district police
11	Police Support to Government Functionaries [Art. 34(1)]	No Role	If police is unable to provide support it will inform the Head of District Police who will in turn inform Zila Nazim accordingly. If head of District Police is of the opinion that such request for District Police is unnecessary, unlawful or mala fide he may recourse to appropriate public Safety Commission and the decision of the Commission would prevail	The role of Public Safety Commission is further weakened by omitting the proviso in Art. 34(1)
12	Police Support to Government Functionaries [Art. 34]	On the direction of Zila Nazim, DCO will coordinate the provision of Police Services in case of exigencies threatening law and order, natural calamities, and emergencies. In case of unlawful or mala fide orders, Head of District Police can recourse to appropriate Public Safety Commission whose decision will prevail.	Art. 34(3) has been omitted signifying that Head of District Police does not have the channel of Public Safety Commission open in case of unlawful or mala fide orders form Zila Nazim.	It reduces the role of Public Safety Commission and enhances the powers of Zila Nazim whose orders for Police Support can not be challenged.

18	Term of the member of the District Public Safety and Police Complaints Commission [Art. 45(2)]	No member shall be eligible for a second term	An independent member shall not be eligible for appointment as such member for a third term	
19	Meeting and conduct of business of the District Public Safety and Police Complaints Commission [Art. 47(8)]	The Commission may frame rules of procedure for the conduct of business	The rules of procedure for conduct of business of the Commission shall be made by the Government.	This is another blow to the independent working of the Commission. It would have to work according to the whims of the government. The government also ensures that it has a strong control on the working of the commission.
20	Secretariat of the District Public Safety Commission [Art. 48]	Secretariat of the District Public Safety Commission shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Provincial Government	Secretariat of the District Public Safety Commission shall be headed by an officer of BPS 18 who shall be appointed in consultation with the Chairperson of the Provincial Government.	It would be better if the consultation process includes not just the Chairperson but all members of the Commission. This would reduce the possibility of a collusive relationship between the Chairperson and the Provincial Government.
20	Composition of the Members of Provincial Public Safety and Police Complaints Commission (from Provincial Assembly) [Art. 74]	3 from treasury and 3 from opposition	4 from treasury and 2 from opposition	The government gets majority by reducing the role of opposition. It can now accommodate more MPAs in the commission and simultaneously the interference from opposition would be reduced.

22	Selection of the independent members of Provincial Public Safety and Police Complaints Commission [Art. 77]	Selection Panel for independent members of the Provincial Public Safety Commission consisted of Chief Justice of the High Court (as Chairperson), and one nominee each of the Governor and the Chief Minister.	Provincial Ombudsman (as Chairperson), Chairman of the Provincial Public Service Commission and a nominee of the Chief Minister.	Now all members of the Selection Panel are effectively appointed by the Provincial Government. It needs to be changed to ensure that Provincial Government's interference in the selection process is minimal.
23	Secretariat of the Provincial Public Safety and Police Complaints Commission [Art. 84(2)]	Secretariat shall be headed by a Director of the rank of Senior Superintendent of Police who shall be appointed in consultation with the Provincial Government.	Secretariat shall be headed by an officer not below the Basic Pay Scale 20 who shall be appointed in consultation with the Chairperson of the Commission by the Provincial Government.	Consultation process must include all members of the Commission. As noted above, this would reduce the possibility of a collusive relationship between the Chairperson and the Provincial Government/ Chief Minister.

IMPLEMENTATION STATUS OF POLICE REFORMS

The federal cabinet approved the Police Order 2002 on August 6, 2002 and it was promulgated a few days later on August 14 simultaneously in four provinces, replacing the colonial Police Act of 1861. It was termed as a 'historic decision' and was hoped that its promulgation would transform the police from a 'repressive entity to an accountable and responsive setup' which would be enjoying the confidence and trust of people and the government.

There is no denying the fact that the new police order at least in theory represented a shift in the attitude of police officials towards people and the inclusion of public through its representatives in overseeing the performance of police and even in its accountability through public safety commissions and police complaints commission. Practically, more than four and a half years after the promulgation of the Order, its implementation has been slow and selective. In the following lines, only a few comments have been made on the implementation of the police order:

