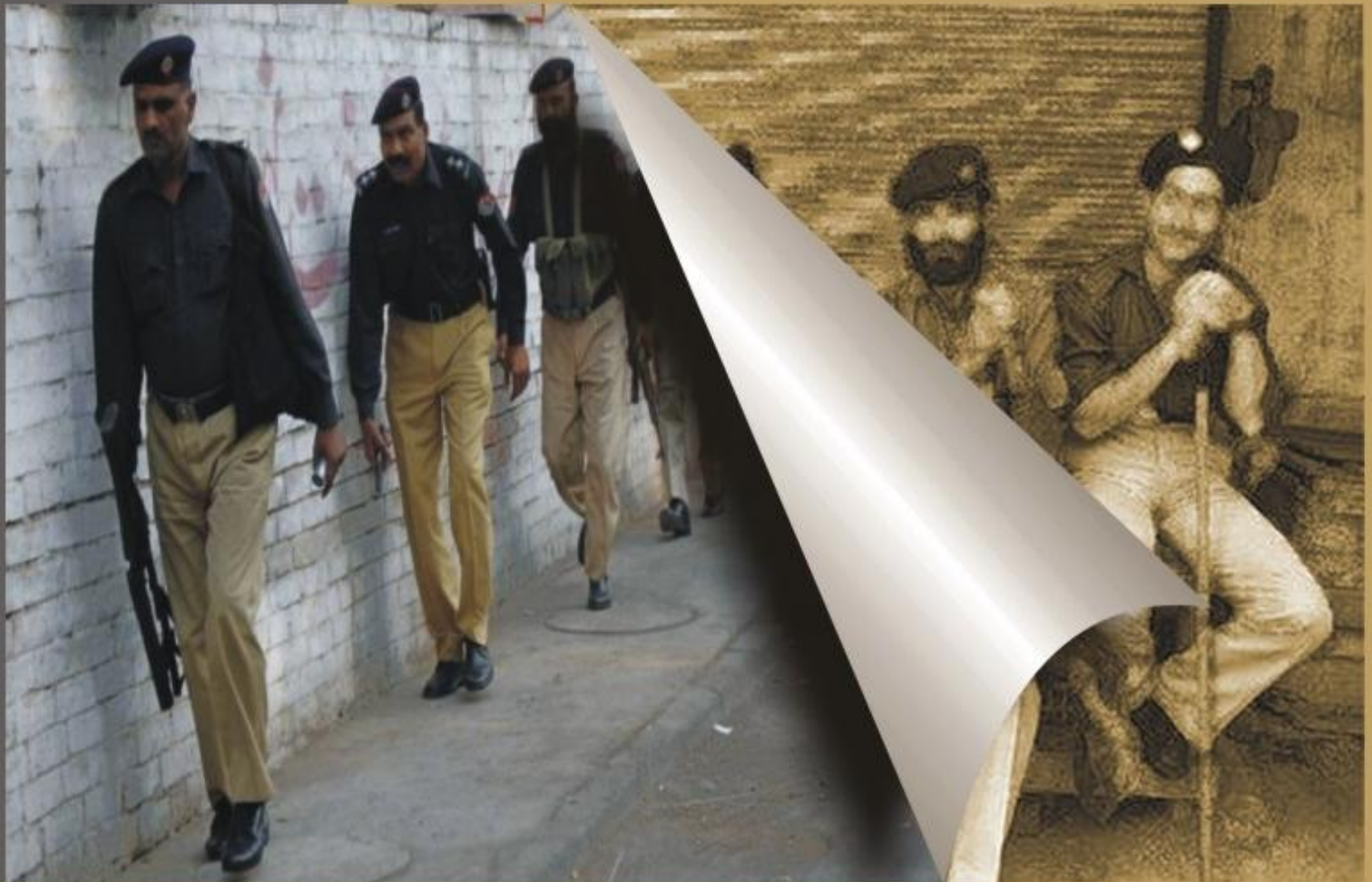


# Revisiting Police Laws



Compiled and edited by  
**Asad Jamal**



**Human Rights Commission of Pakistan**

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## **Acknowledgements**

The Human Rights Commission of Pakistan (HRCP) wishes to thank Asad Jamal, Advocate, for compiling and editing this publication, the representatives of the Punjab Police Department and the civil society who attended the HRCP consultation on reform of police laws, and the Commonwealth Human Rights Initiative for their valuable input.

### **Published by**

Human Rights Commission of Pakistan  
Aiwan-i-Jamhoor, 107-Tipu Block, New Garden Town, Lahore-54600  
**Tel:** +92-42-35864994 **Fax:** +92-42-35883582  
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**URL:** [www.hrcp-web.org](http://www.hrcp-web.org)

### **Printed by**

Rashid Ahmed Chaudhry  
Maktaba Jadeed Press  
14-Empress Road, Lahore  
**Tel:** +92-42-36307639-40

**January 2011**

**Cover design:** Visionaries, Lahore  
**Layout and formatting:** Rehan Latif Khan

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## **Abbreviations**

<b>CrPC</b>	Code of Criminal Procedure, 1898
<b>PPC</b>	Pakistan Penal Code, 1860
<b>HRCP</b>	Human Rights Commission of Pakistan
<b>CHRI</b>	Commonwealth Human Rights Initiative
<b>DPPA</b>	Draft Punjab Police Act, 2010
<b>SC</b>	Supreme Court of Pakistan
<b>LHC</b>	Lahore High Court
<b>FIR</b>	First Information Report

# Introduction

For decades the police in this country have been castigated for being one of the most ineffective state institutions in the criminal justice system. Crime prevention and investigation are the main duties of the police and hence their performance in this respect can provide a good measure of their effectiveness and efficiency. The police seem to be failing on both counts. They are fast turning into a weak public service and a useless instrument of coercion that can neither provide the people minimum guarantee of safety and security nor maintain law and order or detect crime. Additionally, the police have completely lost the trust of the public. Instead of being the first port of call in an emergency they have become an instrument of the last resort.

The ineffectiveness of the police is illustrated by the low conviction rate in the country as well as the rising trend in crime and lawlessness in general. It is now widely acknowledged that the conviction rate is no more than 10 per cent and the main reason for this is poor investigations by the police.<sup>1</sup> A recent report compiled by the Punjab Public Prosecution Service reveals that for 1,324 cases registered under the Anti-Terrorism Act, 1997 from January 1 to September 30, 2010, the conviction rate stood at a little over 15 per cent with 199 convictions by the trial courts. 437 accused in such cases have already been acquitted.<sup>2</sup> An overwhelming number of the accused out of the 688 undecided cases are likely to be acquitted along with scores of those who will be acquitted by the appellate courts. If past record is any measure, it can be safely assumed that the conviction rate is not likely to rise above the 10 per cent mark. If this is the state of affairs regarding cases of terrorism, that are by law required to be judged strictly, the conviction rate in less serious cases may be even lower.

The Nominal Justice Gap<sup>3</sup> is an important measure of the quality of police investigations. The link is quite clear — the better the investigation, the greater is the likelihood of conviction. The Nominal Justice Gap in Punjab in 2003 was believed to be around 88.4 per cent (conviction rate of 11.6 percent). Clearly, there has been no visible improvement in police effectiveness and efficiency. Similar or rather even more disappointing figures are available for other parts of the country. Conviction rate for the province of Sindh is said to be below 10 per cent.<sup>4</sup> Incidents of mob justice have also risen in recent years indicating, among other things, that a growing number of citizens no longer rely on the police or for that matter the criminal justice system as a whole. A number of incidents in recent past are a stark reminder of how a law enforcement agency can degenerate itself into a helpless bystander before the growing tendency of mob justice and power of the vigilantes.<sup>5</sup> The Nominal Justice Gap for the whole of Pakistan is said to be around 90 per cent.<sup>6</sup>

Incidence of torture at the hands of the police is also on the rise despite serious notice taken by the superior courts as well as the hue and cry raised in the Parliament. According to a report compiled by a civil society organisation, 441 women, 340 men, and 417 children were tortured by the police from January to November 2010. The organisation has recorded 9,364 cases of police torture in the last nine years. The main reasons for police torture in Pakistan are said to be: (i) to recover weapon of crime or some other piece of evidence; (ii) to extract confession or other

information; or/and (iii) extortion.<sup>7</sup>

If the public are getting a raw deal so are the police too. They have their own share of problems. Some are systemic, others have to do with outsiders,<sup>8</sup> but a great many they have brought upon themselves. They too easily allow themselves to be wrongfully used by their political masters and invent far too many excuses for doing so. Their unwillingness to face this problem has meant that their operational efficiency has been badly compromised and their chain of command broken and disrupted by unconscionable political interference at every level of policing.<sup>9</sup> Today, the police are functioning with a greater willingness to obey the unwritten and informal orders to subvert legitimate democratic and legal processes, for personal gain and political patronage or simply for lack of courage to resist the political pressure.

An example of this subversion is the continued pattern of extralegal killings in staged encounters with the police. Human Rights Commission of Pakistan (HRCP) recorded 226 executions in police encounters in 2009. Out of the 226 killings in police encounters recorded by HRCP, 181 took place in Punjab, 31 in Sindh, 13 in Khyber Pakhtunkhwa and one in Balochistan. The Inspector General of Punjab Police is reported to have admitted that 253 gangsters were killed in 308 encounters with the police in 2009. He claimed all the 307 encounters were genuine except one that aroused suspicion and was under investigation.<sup>10</sup>

Other public complaints against the police range from generally rude and impolite behaviour and refusal to register First Information Reports (FIRs)<sup>11</sup> to other serious violations of constitutional guarantees etc. such as illegal confinement (*See Table 2*).

In recent years, failure to prevent ordinary crime (in general) and incidents of terrorism (in particular) and to investigate cases has further exposed the ineffectiveness of the police across Pakistan. According to newspaper reports, during the ten years (1999-2009) Punjab<sup>12</sup> saw an overall crime increase of 46 per cent, whereas Balochistan saw a 47 per cent increase. Khyber Pakhtunkhwa showed the lowest increase of 24 per cent, whereas in Sindh, total recorded crime of 44,189 in 1999 rose to 60,414 (36 per cent increase) in 2007 and 90,202 in 2009, an increase of 104 per cent in ten years (1999-2009). The crime rate for 2009 in Pakistan's capital city Islamabad was reported to be 112 per cent higher than the crime figures of 1999. In 1999 the total number of crimes registered in Islamabad was 2,623 which rose to 4,397 (67.6 per cent increase) by 2007 and climbed to 5, 552 in 2009.<sup>13</sup> Seen in the context of rising allocation of funds to the police this trend makes the police appear more inefficient and ineffective.

The following Table 1 provides an outline of budget allocations for the Punjab Police showing an overall increase of 248 per cent from 2000 to 2008. The budget allocation for Punjab Police has reached the mark of Rs. 49.208 billion for year 2010-11, that is 589.8 per cent increase since 2001. Though the police in other provinces have not been as fortunate as the Punjab Police, the rising trends in allocation of funds can be found there too without a visible improvement in efficiency, effectiveness and integrity.<sup>14</sup> The Sindh Police budget was increased by more than 65 per cent from 2007-08 to 2009-10.<sup>15</sup>

**Table 1:**  
**Expenditure on Punjab Police, 2000-08**

Financial Year	Expenditure (Rs.)
2000-01	8,343,029,000
2001-02	9,213,952,000
2002-03	11,350,321,000
2003-04	16,523,480,000
2004-05	16,515,677,000
2005-06	20,460,196,000
2006-07	27,541,322,000
2007-08	29,108,636,000
<b>Increase since 2000-01</b>	<b>248%</b> <sup>16</sup>
<i>Source: Annual Budget Books, Finance Department, Government of Punjab</i>	

An important indication pertaining to complaints against the police in Punjab is the records published by the Lahore High Court in its annual reports. These reports indicate that complaints of illegal confinement increased 8 times during 2002 to 2009. Complaints of harassment by the police increased around 52 times and Complaints for non-registration of FIRs increased 139 times for the same period. (*See Table 2*).

Poor performance of the police stems from a number of factors. First, among others, is the tremendous political interference in the functioning of the police. Second, there are very few functional mechanisms to hold the police accountable for either their performance or for wrongdoing. Whatever there is in the name of accountability is not allowed to work effectively both by the police and the political

executive. Third, the police are ill-equipped and ill-trained to meet the challenges posed by violent insurgency (specifically), and ordinary crimes and law and order situations (generally). Their training needs are not given the priority their job requires.<sup>18</sup>

All these factors contribute to make the police an ineffective and inefficient organisation. However, another important reason why the police are unable to function as an effective and efficient organisation, accountable or responsive to the public needs,

is the missing democratic legal framework that is crucial for any public service institution in a democracy.

The Police Act, 1861, which held the field for 54 years after independence and was repealed by the existing Police Order, 2002, was criticised, among other things, for being a law born out of colonial needs. It was also criticised for incorporating the principle of duality of control over the police (paragraph 2 of section 4 of the Act).<sup>19</sup> Under this principle, the police officers were subject to the general control of the District Magistrate in certain areas of their functions especially those relating to their interaction with the public. However, there was no guarantee that control or superintendence was exercised to make the police function in accordance with law.

The 1861 Act was further criticised for the ill-defined and vague relationship between the District Magistrate and the Police and its impact on the latter's autonomy.<sup>20</sup> The Act vested superintendence of the police in the provincial governments. At the district level, it put the police under the command of the District Superintendent of Police, but subject to the "general control and direction" of the District Magistrate, a bureaucrat belonging to the District Management Group of Civil Services. But neither the word "superintendence" nor the phrase "general control and direction" was defined in law. This enabled the government of the day to use the police to serve the partisan interests of the regime in power, whenever required.<sup>21</sup>

However, at the same time, the magisterial controls were said to serve two important purposes namely:<sup>22</sup>

- a. To provide an inexpensive and local police accountability mechanism; and
- b. To ensure availability of police for effective delivery of regulatory services by various government functionaries.

The district magistrate provided a kind of barrier to the police excesses under the Police Act, 1861, which was removed by the Police Order, 2002, without providing an effective and efficient alternative.<sup>23</sup>

The offices of the District Magistrate and other executive magistrates were abolished through amendments in the Code of Criminal Procedure, 1898. Amendments to the Police Act, 1861 in 2001 and later police reform under the Police Order, 2002 accommodated the police views on duality of control.<sup>24</sup>

Under the Police Order, 2002 the superintendence of the police vested in the hands of the political executive, i.e. the provincial government, and the control of the District Magistrate over the police were supposed to be abolished to the advantage of the citizens.<sup>25</sup> However, the promulgation and implementation of the Police Order, 2002 remained problematic right from the beginning.

First, it was introduced as a federal legislation in the absence of democratically elected representative

**Table 2:**  
**Complaints of Police inefficiency and highhandedness in Courts of Sessions, 2002-09<sup>17</sup>**

Year	Complaint Category		
	Harassment	Non-registration of FIR	Habeas Corpus
2002	608	1003	1970
2003	8614	20301	5577
2004	13443	45943	5974
2005	14244	56469	6136
2007	13224	47386	5678
2008	25,970	106,668	11,706
2009	31,648	139,527	14,979
<b>Increase since 2002</b>	<b>52 times</b>	<b>139 times</b>	<b>8 times</b>

*Source: Annual Reports of the Lahore High Court*



institutions. Consequently, due consultation could never take place and consent of the provinces was never sought.<sup>26</sup> The provinces generally did not own the new law and were not motivated to implement some of its essential features, such as the provisions prescribing public oversight of the police functions.

Second, it was tagged with the local government project of the military regime of the time. This created problems as the local government project ran into severe resistance from the provincial governments that were elected later that year.<sup>27</sup> Also, the provincial political executive resisted any idea of granting autonomy, howsoever nominal, to the police. Bowing to the pressure, amendments had to be introduced to the Police Order, which diluted the original intent of the legislation. As if depriving the provinces of the power to enact police related laws was not enough, the military ruler played another trick on the people by including the Police Order, 2002 in the constitutional list of protected laws (under Sixth Schedule of the Constitution) which could not be altered or repealed by any provincial legislature without his prior permission. It is another matter that the unelected ruler did not hesitate to amend the law to suit the demands of his collaborators in the provinces.

The reluctance of the political executive to accept the reforms propounded in the Order of 2002 led first to the dilution of its original provisions and later to its tardy and half-hearted implementation. The Police Order had diluted the powers of provincial governments to exercise control over the police by conferring powers on the Zila Nazim and by prescribing formation of District and Provincial Public Safety Commissions. The provincial governments, therefore, showed unwillingness to implement the reforms envisaged in the Order. The Federal Government could not resist the pressures and came out with an Amendment Ordinance known as the Police Order (Amendment) Ordinance, 2004, that restored some of the powers to control police forces to the provincial political executive.<sup>28</sup>

The Amendment Ordinance was re-promulgated innumerable times. However, it was never passed by the Parliament. It was promulgated as the Police Order (Amendment) Ordinance, 2007 by the Musharraf-led government in July 2007 and was given protection under the Provisional (Constitution) Order, 2007. The Ordinance lost its validity after the Supreme Court in its famous judgment of 31 July 2009, directed all the ordinances protected under the Provisional (Constitution) Order, 2007, to be laid before the Parliament for validation. The ordinance was laid before the National Assembly as a bill in November, 2009; however, it never passed through the stage of consideration by the National Assembly's Standing Committee on the Interior.<sup>29</sup> This has created a serious legal confusion and vacuum. This shows the priority and the level of importance attached to issues of policing in the highest political echelons of this country.

Third, mechanisms of public oversight and accountability provided in the new law were resisted by the bureaucracy within the police and without. The Police Order, 2002 provided two mechanisms for police oversight and accountability. The first pertained to the superintendence powers of the government that related to oversight at the institutional level.<sup>30</sup> The second set of mechanisms related to public oversight of police through the Zila Nazim<sup>31</sup> and the District Public Safety Commissions and Complaints Authorities.<sup>32</sup> The main domain of such institutions was police accountability at local level on a case-to-case basis.

The Police Order of 2002 proposed the establishment of Public Safety Commissions at the federal, provincial and district levels. One of the important functions of the commissions at the provincial and district levels was to "take steps to prevent the Police from engaging in any unlawful activity arising out of compliance with unlawful or mala fide orders"<sup>33</sup>.

Another important function of the Commissions was oversight of the police. The District Public Safety Commission comprising six elected (members of Zila Councils, national and provincial assemblies) and three non-elected members was mainly responsible for:<sup>34</sup>

- a. Disposal of complaints pertaining to incidents of police neglect, excess or failure or against a federal law enforcement agency when acting in aid of civil power;
- b. Approval of local policing plan and while doing so ensuring that the policing priorities and allocation of police resources is in line with the citizen's requirements. The Commissions are also required to monitor performance against targets set in the policing plans;
- c. Preventing collusive relationship between Zila Nazim and the district police;
- d. Disposal of unclaimed properties taken in possession by the district police;

- e. Encouraging police-public cooperation; and
- f. Submitting reports to the provincial government and the provincial public safety commission on the above matters.

The commissions have however failed miserably to address public grievances. A survey of the performance of commissions in Punjab in 2004 pointed out the following incapacities of the commissions:<sup>35</sup>

- a. Out of 1,262 complaints entertained by the Commissions, directions were issued only in 393 cases (33 per cent).
- b. The Commissions seemed to be ineffective in getting their directions implemented by the district police. Overall, out of 393 directions less than half (193 directions) were implemented. In addition, there were also many districts where the police did not comply with even a single direction.
- c. Only six district police departments submitted policing plans to the Commissions, a poor response by any standard. To make matters worse, out of these only three plans were approved.
- d. Only six Commissions undertook any steps for encouraging police-public cooperation which betrays a low degree of interest in this matter. Similarly, only five Commissions undertook measures for the disposal of unclaimed properties.
- e. Sialkot district was the only district in 2004 that submitted a report to the government on its performance.
- f. Overall, only one Commission reported positive attitude of district police towards their activities.<sup>36</sup>

Fourth, an important reason for the abysmal performance of the Commissions is lack of adequate legal powers vis-à-vis implementation of their decisions.<sup>37</sup> In addition, the complex and slow processes of decision making in the Commissions is said to be another major impediment in the effective exercise of oversight function.<sup>38</sup>

Further, the provisions relating to the Commissions were borrowed mainly from the Japanese and the United Kingdom (UK) local police oversight models.<sup>39</sup> However, these models have been implanted without giving due consideration to the differences between the organisation of the justice sector and socio-cultural structures in these countries and Pakistan. It has been pointed out that:

- a. The police organisation in both UK and Japan is local. In case of Pakistan police is a provincial organisation that has an extended rigid hierarchy.
- b. The office of the Head of District Police enjoys far greater institutional strength than the Commissions due to, among other things, legal provisions in the Order of 2002 and socio-political environment, historical legacy etc.
- c. Civil society has traditionally remained far weaker in Pakistan and the state much more authoritarian. “Even in the case of the UK, there are reservations on the capacity of their police authorities to effectively exercise their powers in the face of police resistance. It has been variously observed that there is a culture of compliance amongst police authorities and a ‘reluctance or inability to challenge the authority of chief constables and senior officers’<sup>40</sup>”.

Seen in this context, the Police Order, 2002 prescribed a model which, as shown by experience, was ill-suited to the social and political demands of the country. It was too ambitious and too much had been borrowed and implanted in an environment which was not ready to receive it.

The experience with the Police Order, 2002 in the past decade and before that with the Police Act, 1861, teaches us a few lessons: One, that it is futile to introduce new laws without a broad democratic set-up in the country. Laws introduced without political agreement lose utility even before they are enforced. In the absence of political will institutions like the police cannot be made responsive to the citizen’s aspirations and needs. Two, police

legislation is a provincial subject that has to be carried out by the provincial legislatures with broad-based consultation among all the stakeholders, especially the civil society organisations and the public at large. Laws passed without public debate are owned neither by the citizens they are supposed to serve, nor the institution that is supposed to be regulated. Without due public involvement, the police will not feel accountable. Three, the bad colonial laws must be done away with, but not to be replaced with laws strange to the institutional, political and cultural environment.

Upon the expiry of the constitutional protection to the Police Order, 2002 (under Sixth Schedule of the Constitution<sup>41</sup>), provinces started considering ways to amend or repeal the law altogether. The Punjab Government moved a step ahead of other provinces with the plan and constituted a committee for the purpose of reconsidering the mechanisms of accountability of the police in 2009.

A Draft Punjab Police Act, 2010, (DPPA) was proposed in January 2010 by the Punjab Police. However, this initiative, coming from within the police establishment itself, has borrowed selectively from the democratic models in ways that have the effect of strengthening the police establishment and the hold of the political executive without due guarantees of accountability or responsiveness to the public.

The accountability provisions have been seriously weakened with the justification that the internal accountability of the police will be sufficient to discipline errant officers. The model for superintendence and oversight in the form of the Provincial Police Council is not one that clearly defines the Police-Executive relationship or ensures accountability for wrongdoing. This will only increase the corrosive influence of politics on policing, while embedding a culture of impunity within the police at the same time.

Overall, the DPPA is not a strong, progressive piece of legislation designed to meet the modern day needs of society or the police. If passed in its current form it will not ensure improved police functioning and the Punjab Police will remain a force that imposes the law instead of becoming a service that upholds the law.

Democratic nations need democratic policing. There are alternatives to the present way of policing but we seem to be ignoring them. Of course, taking models from the West and implanting them without due consideration to the local conditions may not be the solution. But what the country needs is to look at the best and adapt it.<sup>42</sup>

In a democracy the first thing to recognise is that the police are not mere *enforcers* alone. They are *upholders* of the law. Enforcement has the connotation of unquestionable authority. It assumes all power to the police and no challenge to it: the notion of upholding the law adds the dimension that in doing their duty the police must also act always in accordance with the law, never fall outside it and ever be answerable to it.

If the police are to be transformed from a *force* into a *service* their functions must be restated to take account of many things that are today taken for granted as basic constitutional assumptions but which had no place in the colonial policing. At the moment, the public has little faith in the police, which it views as abusive, corrupt and broken. The people of Pakistan deserve first-rate policing and nothing less.

This compilation of police laws is meant to serve as a resource for those who are engaged in efforts to reform the police through better legislation. For this purpose, an analysis on the proposed draft along with the Draft Punjab Police Act, 2010, the Police Act, 1861, and the Police Order, 2002 are included in this publication. A report on a consultation held to discuss the working of the Police Order, 2002 is also placed as **Annex-B** to the Order.

The analysis of the Draft Punjab Police Act, 2010, has been jointly prepared by Human Rights Commission of Pakistan (HRCP) and Commonwealth Human Rights Initiative (CHRI), two organisations that have joined hands to work for police reform. For this purpose, input was also obtained in a consultation held at Lahore on 12 February 2010, in which Punjab Police representatives also participated along with lawyers and other civil society members. It was heartening to see the police officers receiving criticism with an open mind. It is hoped that the points raised in the analysis will be given due consideration and accommodated in drafting the final bill. It may also be said that the analysis presented by HRCP and CHRI is by no means exhaustive though it does give a direction that the police laws should take in Pakistan.

— Asad Jamal  
*Editor*

### *Notes: Introduction*

- 1 "Low conviction rate", *Dawn* (Editorial), 21 April 2010: <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/editorial/low-conviction-rate-140>; Also see Tanoli, Ishaq, "Criminal prosecution yet to take off", *Dawn* 22 January 2008.  
It may be added that ineffective prosecution is mainly due to ineffective evidence gathering procedures and poor police training and resources in this respect, tampering with evidence, and failure to build a case with available evidence.
- 2 Hasnain, Khalid, "ATCs acquit about 700 for a lack of evidence", *Dawn*, 17 October 2010: <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/lahore/atcs-acquit-about-700-for-a-lack-of-evidence-700> as on 20 December 2010.
- 3 Nominal Justice Gap is defined as the ratio of convictions to reported crimes, or the number of cases not resulting in convictions as proportion of total number of cases submitted for trials. Figures stated in a report prepared by the Home Department, Government of Punjab, 2009, *Police Performance in Post Police Order Context*, with reference to Asian Development Bank's "Independent Prosecution Service Brief".
- 4 See Tanoli in Supra note 1.
- 5 For instance, two young men were killed by a mob in Sialkot August, 2010 while the members of police stood by and watched the gory drama. Later, cases against 14 police officers were registered. See Iqbal, Nasir, "SC orders probe into lynching of two brothers", *Dawn*, 21 August 2010: <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/sc-orders-probe-into-sialkot-lynching-of-two-brothers-180> as on 20 December 2010.
- 6 Asian Development Bank, Completion Report Pakistan: Access to Justice Programme, page 3; Various sources quoted in *Independent Prosecution Service Brief*, Asian Development Bank as mentioned in *Police Performance in Post Police Order Context*, a report prepared by the Home Department, Government of Punjab, 2009.
- 7 Madadgar Helpline website, *9364 cases of police torture reported during the last nine years*: <http://www.madadgaar.org/Press%20Releases/police-torture2008.htm> as on 20 December 2010.
- 8 Nadeem, Azhar Ahsan, (2002) *Political Economy of Lawlessness*; p. 285. In a survey of ninety police officers conducted by a researcher revealed that 64.44 per cent felt insecure from the illegal transfer or suspension caused by political influence; 50 per cent felt insecure from the suspected victimisation of their high ups; 57.78 per cent did not feel secure with their monthly salaries and housing facilities; 47.78 per cent felt insecure about the future of their children; 52.22 per cent felt insecure about the sophisticated weapons in the hands of criminals, and 47.78 per cent felt there was no guarantee of proper legal action against the accuse.
- 9 Mirza, Shafqat Tanvir, (1999), *Police-Shehri Muashrey ka Aham Bazoo*; for a detailed background on political interference and the role of police in submitting to such interference see pp. 286 to 338.
- 10 Human Rights Commission of Pakistan's annual report, *State of Human Rights in 2009*, page 77: <http://www.hrcp->

web.org/pdf/Annual%20Report%202009.pdf (as on 18 December 2010).

- 11 The courts continue to be approached by the general public for registration of First Information Reports even in serious cases. See for example, “LHC CJ takes suo moto notice of rape case”, *Daily Times*, 12 May 2009: [http://www.dailytimes.com.pk/default.asp?page=2009\05\12\story\\_12-5-2009\\_pg7\\_25](http://www.dailytimes.com.pk/default.asp?page=2009\05\12\story_12-5-2009_pg7_25); The Lahore High Court took notice of non-registration of FIR in case of abduction and murder of a girl.
- 12 Punjab is Pakistan’s most populous province with approximately 60 per cent of the total population. Sindh is the second most populous province with Khyber Pakhtunkhwa and Balochistan following at third and fourth number respectively. Visit Federal Bureau of Statistics at <http://www.statpak.gov.pk/depts/index.html>.
- 13 See Abbasi, Ansar, “The 10-year crime picture gets dirtier”, *The News*, 23 March, 2010: <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=230503&Cat=2&dt=3/23/2010> as on 20 December 2010.

Also see *Crime reported by type*, Social Statistics - Federal Bureau of Statistics, Government of Pakistan website: [http://www.statpak.gov.pk/depts/fbs/statistics/social\\_statistics/crimes\\_website.pdf](http://www.statpak.gov.pk/depts/fbs/statistics/social_statistics/crimes_website.pdf) as on 20 December 2010.

- 14 Integrity is inherently linked to efficiency and effectiveness of the police. The Police Order, 2002 does not define efficiency, effectiveness or integrity but emphasises on efficiency and effectiveness of a police officer; e.g. Sub-Clause xxii-a under Article 2 or the Order defines a responsible officer in terms of efficiency and effectiveness. Similarly, Provincial Public Safety and Police Complaints Commission is supposed to make recommendations for promoting “promoting, integrity, efficiency and effectiveness of Police”, (*See Article 80*).

Increased recorded crime could also mean increased registration of FIRs. It may also mean people are coming forward to file ever more complaints. Increased population could be another reason for increased recorded crime. Whatever the factors, the police performance is clearly far below the mark. It may also be noted complaints against the police have also recorded a sharp increase as shown below.

- 15 “Sindh budget 2010-11 unveiled” *The Express Tribune*, 11 June 2010: <http://tribune.com.pk/story/20537/sindh-budget-2010-11-unveiled/> as on 25 December 2010. For the year 2009-10, the Khyber Pakhtunkhwa police were allocated 9.7 billion rupees, an increase of 47 per cent over the preceding year. The allocation was further raised to 21 billion rupees for 2010-11; Hassnain, Zakir, “Khyber Pakhtunkhwa presents Rs 294bn budget with zero deficit”, *Daily Times*, 13 June 2010: [http://www.dailytimes.com.pk/default.asp?page=2010\06\13\story\\_13-6-2010\\_pg1\\_3](http://www.dailytimes.com.pk/default.asp?page=2010\06\13\story_13-6-2010_pg1_3). Balochistan has been the least fortunate. It presents a different set of problems which may be discussed in a different space.
- 16 The budget allocation for the Punjab Police reached Rs. 49.208 billion for year 2010-11; See “Budget for Police dept raised by 13 pc” *The Nation*, 15 June 2010: <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Regional/Lahore/15-Jun-2010/Budget-for-Police-dept-raised-by-13-pc> as on 25 December 2010.
- 17 Figures do not include complaints entertained by the High Court. Also, desegregated statistics for different criminal courts subordinate to the High Court are not available.
- 18 Jamal, Asad, (2010), *Police Organisations in Pakistan*, A CHRI-HRCP joint publication; For an outline of training being imparted to the police recruits see at pp. 33-40: [http://www.hrcp-web.org/pdf/Police\\_Organisations\\_in\\_Pakistan\[1\]](http://www.hrcp-web.org/pdf/Police_Organisations_in_Pakistan[1]).
- 19 Suddle, Mohammad S., *Reforming Pakistan Police: An Overview*, 120th International Senior Seminar on Effective Administration of Police and the Prosecution of Criminal Justice, 2001: [http://www.unafei.or.jp/english/pdf/PDF\\_rms/no60/ch05.pdf](http://www.unafei.or.jp/english/pdf/PDF_rms/no60/ch05.pdf) as on 20 December 2010. Dr. Suddle, one of the authors of the Police Order, 2002 and former Inspector General of Police, has argued that the main consideration of the drafters of the Police Act, 1861 was to keep “the natives on a tight leash”, and not to design a politically neutral outfit for fair and just enforcement of law’ The police organisation was thus ‘designed to be a public-frightening organisation, not a public-friendly agency’ to be used by the colonial government. He has also argued, among other things, that as a result of dual control the police were rendered “to act as agents of the political executive rather than as instruments of a democratic state”.
- 20 Ibid. Also see Suddle, , Mohammad S., *Police-Executive Relationship in Pakistan*, paper read at a conference titled Police Reform in South Asia: Sharing of Experiences organised by Commonwealth Human Rights Initiative New Delhi, 23-24 March 2007: [www.humanrightsinitiative.org/.../police/.../Police-Executive%20Relationship%20in%20Pakistan%20\(20032007\).doc](http://www.humanrightsinitiative.org/.../police/.../Police-Executive%20Relationship%20in%20Pakistan%20(20032007).doc) as on 20 December 2010.
- 21 Chaudhry, M. A. K. (1997), *Policing in Pakistan*; See pp. 47-49 for a background discussion on how words “general control and direction” in section 4 of the Police Act, 1861 were left undefined by the British government and how the diarchy created thus may have led to indiscipline in the police organisation. Sections 3 and 4 of the Police Act, 1861, vested superintendence in the provincial government and administration of the police under the general control and

direction of the Magistrate.

- 22 *Police Performance in Post Police Order Context*, supra note 6.
- 23 Comments made by I. A. Rehman (Secretary General Human Rights Commission of Pakistan) at “*Police Reform in Pakistan: Beyond Analysis*”, a Joint CHRI-HRCP Consultation, Lahore, 28 November 2008 attached as **Annex - B** with the Police Order, 2002 (Chapter 2)
- 24 Code of Criminal Procedure (Amendment) Ordinance, 2001 dated 13<sup>th</sup> August, 2001 amended the Cr PC in the light of the decision to abolish district magistrate’s office to devolve powers to local governments. Similarly, the Police (Amendment) Order (Chief Executive’s Order 7 of 2001) dated 13<sup>th</sup> August, 2001 removed references to the District Magistrate and transferred most of the powers to the police.
- 25 The preamble envisaged the police to become an institution which would be publicly accountable, professionally efficient, democratically controlled and responsive to the needs of the community. Articles 3, 4 and 5 of the Police Order, 2002 dealt exclusively with attitudes, duties and responsibilities of the police towards the public. Public oversight mechanisms were introduced at the district level by establishing public safety commissions, and Zila Nazim (a term coined as equivalent of mayor in Urdu), elected at the district level (under the powers devolved to the local governments established in 2001), was given powers to oversee the police.
- 26 “Since law and order issues are better dealt with at the local level, policing is therefore a provincial responsibility. There is a general understanding and consensus that police legislation is a provincial subject and it is at the provincial level that legislation on police needs to be passed”, see Jamal, supra note 18, for constitutional status of police laws at pp. 8-9 and footnotes 4 to 11 at pp. 64-65. Also see International Crisis Group Asia Report No. 157, *Reforming Pakistan’s Police*, 14 July 2008 at page 6.
- 27 It may also be noted that since the local bodies completed their terms in 2010, no elections have been held by the provincial governments. Consequently, wherever the Police Order, 2002 prescribes for representation of Zila Council, it is not being followed. For instance, one-third members of the District Public Safety Commissions are supposed to be members of the Zila Council. Since there are no Zila Councils, there can be no representation from local bodies. The fact is that just as the federal governments have been unwilling to devolve powers to the provinces, the same way provinces are averse to the idea of devolution to the local bodies. Seen in this context the Constitution (Eighteenth Amendment) Act, 2010 is a remarkable advancement in the direction of devolution. But how long will it take for the provincial governments and legislatures to come around the idea of devolution to local governments? It is anybody’s guess. It is for this reason, among others, that tagging police reform with local governments was not a good idea, though it may well be argued that some of the most successful models of policing have been built around the concept of policing at or around the local level.
- 28 For a comparative idea of the Police Order, 2002 before and after the amendments and discussion on the Order, see *Feudal Forces: Reform Delayed – Moving From Force to Service in South Asian Policing*, (2008), Commonwealth Human Rights Initiative, pp. 56-74: [http://www.humanrightsinitiative.org/publications/police/feudal\\_forces\\_reform\\_delayed\\_moving\\_from\\_force\\_to\\_service\\_in\\_south\\_asian\\_policing.pdf](http://www.humanrightsinitiative.org/publications/police/feudal_forces_reform_delayed_moving_from_force_to_service_in_south_asian_policing.pdf). The Police Order, 2002 provided in this volume includes the original provisions as footnotes to the amended text. Also see International Crisis Group Asia Report No. 157, *Reforming Pakistan’s Police*, 14 July 2008 at page 7 onwards.
- 29 See Sindh High Court Bar Association versus Federation of Pakistan: PLD 2009 SC 879. The SC issued direction that all the ordinances given protection under the Provisional (Constitution) Order, 2007 (Order No. 1) should be laid before the Parliament for consideration. The ordinance was laid before the National Assembly as a bill in October, 2009; see National Assembly of Pakistan website, “Ordinances Laid” at serial no. 39. However, it never passed through the stage of consideration by the National Assembly’s Standing Committee on the Interior. Though the Ordinance was repromulgated in November, 2009 by the President of Pakistan as the Police Order (Amendment) Ordinance, 2009 (XLIV of 2009) which lapsed in late March 2010, whereafter it has not been repromulgated. Section 27 of the Constitution (Eighteenth Amendment) Act, 2010 (w.e.f. 19 April 2010) prohibited repromulgation of presidential ordinances once they lapse at the expiry of one hundred and twenty days. Ordinances may further be extended by the National Assembly through resolution only once for a period of one hundred and twenty days.
- 30 Article 9 of the Police Order, 2002.
- 31 Under Article 33 of the Police Order, 2002, Zila Nazim may visit a police station to find out if any person is in unlawful detention and in appropriate cases may also direct action in accordance with law against the police officers responsible

for violation of law. Article 44 for the functions of the District Public Safety Commissions.

Article 80 of the Police Order, 2002 describes functions of the Provincial Public Safety Commission and Complaints Authority that include power to “make recommendations to the Government for promoting integrity, efficiency and effectiveness of Police”. The original paragraph b of clause 1 under Article 80 empowered the Commission to “take steps to prevent the police from carrying out any unlawful or mala fide orders or directions from any authority to any functionary of the police through-out the Province and in case such orders are brought to the notice of the commission it shall have the powers to intervene and its decision shall prevail” which was amended under the Amendment Ordinance of 2004 to “take steps to prevent the Police from engaging in any unlawful activity arising out of compliance with unlawful or mala fide orders”

Presentation by Jawad Dogar, SSP, Punjab Police at “Police Reform in Pakistan: Beyond Analysis”, a Joint CHRI-HRCP Consultation, Lahore, 28 November 2008. Mr. Dogar felt that the Order faced a lot of resistance due to the organisational and personal resistance to change displayed repeatedly by Pakistan’s institutions, coupled with the psychological barriers of those with influence.

- 32 Articles 37, 73 and 85 of the Police Order, 2002 provide for establishment of District, Provincial and National Public Safety and Police Complaints Commissions and National Public Safety Commissions respectively. These commissions have somewhat similar roles to play but at different levels. However, performance of district commissions alone has been discussed as it is the first point of contact for the aggrieved public.
- 33 Articles 80 (1) (b) & 44 (e) of the Police Order, 2002.
- 34 See Article 38 for composition of the District Commission, and Article 44 for functions of the Commission, *ibid*.
- 35 Analysis and data presented in *Police Performance in Post Police Order Context*, *supra* note 6. Due to the non-availability of data for more recent years 2004 figures have been quoted. It would appear to be outdated but the writer is of the view that the performance of the commissions never improved. In fact, the commissions at all levels of district, provincial and federal are non-functional at present. See **Annexure B** to the Police Order, 2002: a report on *Police Reform in Pakistan: Beyond Analysis*., a Joint CHRI-HRCP Consultation, Lahore, 28 November 2008
- 36 *Police Performance in Post Police Order Context*, *supra* note 6.
- 37 No consequences are prescribed if district police do not follow the directions of District Public Safety and Complaints Commissions. This rendered the status of such directions recommendatory.
- 38 All business of the Commissions is to be conducted in its meeting which shall be participated by at least one-third of its total (not present) members. For example, see Article 47 of the Police Order, 2002.
- 39 Suddle, *supra* note 19.
- 40 Jones and Newburn (1997) quoted in Walker, N, *Policing in a changing constitutional order*, p. 141, as referred to in *Police Performance in Post Police Order Context*, *supra* note 6.  
In Pakistan, the police are a rigidly hierarchical organisation bound by a culture of conformity and submission with a high resistance to change in all forms. There are physical and infrastructure constraints on the quality of training that the police can receive in order to successfully absorb change. This was stated by senior police officer, Jawad Dogar, SSP, at “Police Reform in Pakistan: Beyond Analysis”, a Joint CHRI-HRCP Consultation, Lahore, 28 November 2008 (Attached as **Annexure-B** with the Police Order, 2002; Chapter 4).
- 41 The Sixth Schedule was omitted by the Eighteenth (Constitution Amendment) Act, 2010. However, the protection extended to the Police Order, 2002 expired earlier on 31 December 2009.
- 42 *Feudal Forces: Democratic Nations Police Accountability in Commonwealth South Asia*, (2007), Commonwealth Human Rights Initiative:  
[www.humanrightsinitiative.org/.../feudal\\_forces\\_democratic\\_nations\\_police\\_acctability\\_in\\_cw\\_south\\_asia.pdf](http://www.humanrightsinitiative.org/.../feudal_forces_democratic_nations_police_acctability_in_cw_south_asia.pdf)

# The Punjab Police Act, 2010 (Draft)

ACT No. — OF 2010

An Act to constitute and regulate the police in Punjab;

WHEREAS respect for and promotion and protection of the fundamental rights of the people is the primary concern of the State;

AND WHEREAS the police has an obligation and duty to function according to the Constitution, law, and democratic aspirations of the people;

AND WHEREAS such functioning of the police requires it to be professional, service-oriented, and accountable to the people;

AND WHEREAS it is expedient to redefine the role of the police, its duties and responsibilities, by taking into account the emerging challenges of policing and security, the imperatives of good governance, and respect for human rights;

AND WHEREAS it is essential to appropriately empower the police to enable it to function as an efficient, effective, people-friendly and responsive service;

AND WHEREAS it is necessary to reconstruct the police for efficient prevention and detection of crime, and maintenance of public order;

NOW, THEREFORE since it is necessary for this purpose to enact a new law relating to the establishment, management, oversight and accountability of the Police in the province of the Punjab, it is hereby enacted as follows:

## CHAPTER I

### PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be called the Punjab Police Act, 2010.  
(2) It extends to the entire Punjab unless otherwise notified by the Government.  
(3) It shall come into force at once.
2. Definitions. -(1) In this Act, unless the context otherwise requires, -
  - a. ‘Act’ means the Punjab Police Act, 2010;



- b. 'Administration' includes management of administrative, operational and financial functions;
- c. 'Code' means the Code of Criminal Procedure, 1898 (Act V of 1898);
- d. 'Council' means the District Police Council or the Provincial Police Council established under this Act
- e. 'District Police Officer' means the head of district police who is posted under section 15;
- f. 'Division' means a police jurisdiction comprising one or more sub-divisions in a district established under section 18;
- g. 'Exigency of service', in relation to posting and transfer, means an urgent or unforeseen situation which, for the reasons to be recorded in writing, requires premature transfer of a Police Officer for performance of specific tasks or duties but not as a replacement for what should be rightly treated as an efficiency and discipline matter;
- h. 'Federal Law Enforcement Agencies' include Federal Investigation Agency, Pakistan Railway Police, Anti-Narcotics Force, National Highways and Motorways Police, Islamabad Police, Frontier Constabulary, and any other Federal and Provincial organization notified as such by the Government from time to time;
- i. 'Government' means the Government of the Punjab unless otherwise specified;
- j. 'junior ranks' means members of the police of and below the rank of Inspector as set out in the First Schedule;
- k. 'place' includes. –
  - i. any building, tent, booth or other structure, whether permanent or temporary; and
  - ii. any area, whether enclosed or open.
- l. 'place of public amusement' means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided etc. to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted;
- m. 'place of public entertainment' means any place of boarding and lodging to which public are admitted by any person owning, or having any interest in, or managing, such place;
- n. 'Provincial Police Officer' means an officer of the rank of Inspector General of Police posted under section 11 as the head of Punjab Police
- o. 'Police Officer' means a member of the police who is subject to this Act;
- p. 'Police or Punjab Police' means the Police Department referred to in section 6 and includes
  - i. all persons appointed as special police officers or additional police officers under this Act; and
  - ii. all other employees of the police.
- q. 'prescribed' means prescribed by rules made under this Act;
- r. 'property' means any moveable property, money or valuable security;
- s. 'public place' means any place to which the public may have access;
- t. 'Public nuisance' is an act or omission that causes injury, loss or damage to or obstructs or inconveniences the rights of the community as a whole or its members.
- u. 'rules' means rules made under this Act;
- v. 'schedule' means a schedule to this Act;
- w. 'senior ranks' means members of the police above the rank of Inspector as set out in the First Schedule;
- x. 'specialist cadre' means a group of members of Punjab Police recruited and trained for a specific branch, unit or bureau performing technical or specialised functions requiring skills and competencies of an advanced degree relevant to the tasks assigned to the branch, unit or bureau;
- y. 'street' includes any highway, bridge, way, causeway, arch, road, lane, footway, square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily;

- z. 'sub-division' means a jurisdiction comprising one or more police stations and headed by an Assistant or Deputy Superintendent of Police
- aa. 'transfer of investigation' takes place when a head of district police, a Regional Police Officer or the Provincial Police Officer takes the investigation of a case away from one officer and hands it over to another officer or a team of officers within his jurisdiction by an express order in accordance with section 22;
- bb. 'vehicle' includes any conveyance of any description mechanically propelled or otherwise.

(2) All references in respect of District Superintendent of Police in any law in force shall mean head of district police posted under section 15 of this Act.

(3) Words and expressions used in this Act but not defined specifically shall have the same meaning as provided in the General Clauses Act 1897, the Code of Criminal Procedure 1898, and the Pakistan Penal Code 1860.

## CHAPTER II

### RESPONSIBILITIES AND DUTIES OF THE POLICE

**3. 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 harmony in the community;
- (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.

**4. Duties of police.** -(1) Subject to and in addition to those conferred by any other law in force, it shall be the duty of every police officer to -

- a. protect life, property and liberty of citizens;
- b. maintain law and order and security;
- 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. detect and bring offenders to justice;
- f. collect intelligence relating to matters affecting public peace, and all kind of crimes including social offences, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting, as appropriate on it themselves.
- g. 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;
- h. regulate and control traffic on public roads and streets;
- i. take charge of all unclaimed property and to prepare its inventory;
- j. apprehend all persons whom he is legally authorised 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 Act, the Code or any other law for the time being in force;
- o. provide all possible help to people in situations arising out of natural or man-made disasters, and to provide active assistance to other agencies in relief and rehabilitation measures and aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities
- p. take charge of the mentally disabled persons at large to prevent them from causing harm to themselves or other members of the public and their property; and
- q. prevent harassment and abuse of women and children.
- r. aid individuals, who are in danger of physical harm to their person or property, and to provide necessary help and afford relief to people in distress situations and victims of road accidents and their dependants; and
- s. create and maintain a feeling of security in the community, prevent conflicts and promote amity by obtaining cooperation of community and supporting alternative dispute resolution mechanisms.

(2) 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.

**5. Emergency duties of police with regard to essential services.** -(1) The Provincial Government may, by notification in the official Gazette, declare any specified service to be an essential service to the community:

Provided that such notification shall remain in force for one month in the first instance, but may be extended, from time to time, by a similar notification.

(2) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every Police officer to obey any order given by any superior officer in relation to employment upon or in connection with the service specified in the declaration; and every such order shall be deemed to be a lawful order within the meaning and for the purposes of this Act.

### CHAPTER III

#### CONSTITUTION AND ORGANIZATION OF THE POLICE

**6. Police service for Punjab.** -The Government shall maintain a police service for the province of the Punjab. The service shall constitute the Police Department with the Provincial Police Officer being *ex officio* Secretary to the Government of the Punjab with full financial and administrative powers.

**7. Constitution of police.** -(1) The Police Department shall consist of such numbers in the senior and junior ranks and have such organization as the Government may from time to time determine. While determining the numbers the Government shall maintain a minimum ratio of one constable to 250 citizens. The number of officers in other ranks shall be determined according to prescribed rules.

(2) The recruitment criteria, pay and allowances and all other conditions of service of the police shall be such as the Government may from time to time determine.

(3) The recruitment in the Punjab Police other than ministerial staff and specialist cadres shall be in the rank of Constable and Sub-Inspector. The recruitment in the rank of Constable shall be on the basis of the district of domicile and that of a Sub-Inspector on the basis of the region in which his district of domicile is located.

(4) Constables shall be recruited on recommendation of a selection board comprising a Deputy Inspector General of Police as its Chairman and two officers not less than the rank of Superintendent of Police as members appointed by the Provincial Police Officer.

(5) Up to 50% posts in the rank of Sub-Inspector shall be filled directly through the Punjab Public Service

Commission. The remaining posts shall be filled through promotion as prescribed in the rules.

(6) Members of Punjab Police working in the Telecommunications and Transport Wing, Computer Bureau, Finger Print Bureau and Legal Branch shall constitute a separate Specialist Cadre in each case. The Provincial Police Officer may constitute more Specialist Cadres with such number and ranks of members as required. Seniority of each rank in a cadre shall be maintained at the provincial level. A member of Punjab Police recruited in a specialist cadre and trained for a specialist branch, bureau or section shall not be posted out of that branch, bureau or section.

(7) A sportsman may be recruited as a constable or Assistant Sub-Inspector on the basis of the district or region of his domicile respectively through a standing board constituted by the Provincial Police Officer. It shall be headed by an Additional Inspector General of Police and including two Deputy Inspectors General of Police one of whom shall be the Director Sports, Punjab Police. The criteria for recruitment, promotions, and seniority shall be determined by the said board from time to time with approval of the Provincial Police Officer.

**8. Powers of a police officer.** -Every police officer shall have all the powers and privileges a police officer throughout Punjab and be liable to serve at any time in any branch, bureau and section etc.

**9. Superintendence of police.** -The superintendence of police shall be exercised by the Provincial Government in accordance with the provisions of this Act.

**10. Administration of police.** -(1) Administration of police in the province of the Punjab shall vest in the Provincial Police Officer.

(2) The Provincial Police Officer shall exercise such powers and perform such functions and duties and shall have such responsibilities as may be provided by or under this Act and any other law for the time being in force.

**11. Provincial Police Officer.** -(1) The Government shall post a police officer of the rank of Inspector General of Police as Provincial Police Officer of Punjab .

(2) During temporary absence of the Provincial Police Officer, the Government may empower an Additional Inspector General of Police to exercise all or any of the powers, perform all or any of the functions and duties, and discharge all or any of the responsibilities of the Provincial Police Officer.

(3) The Provincial Police Officer may, by a general or special order, empower any officer subordinate to him to exercise and perform all or any of the powers, functions or duties to be exercised or performed under this Act or rules.

**12. Term of office of Provincial Police Officer.** -(1) The term of office of Provincial Police Officer posted under section 11 shall be at least three years from the date of his posting.

**13. Posting of Additional Inspectors General of Police.** -The Provincial Police Officer may, with the approval of the Government, post such number of Additional Inspectors General of Police to assist him in the efficient performance of his duties as the Government may deem fit.

**14. Posting of Deputy Inspector General, Senior Superintendent, Superintendent, Assistant Superintendent, Deputy Superintendent.** -(1) The Provincial Police Officer may, with the approval of the Government, may post such number of Deputy Inspectors General of Police as the Government may deem fit.

(2) Provincial Police Officer shall post Senior Superintendents, Superintendents, Assistant and Deputy Superintendents of Police.

(3) Every officer posted under clause (1) and clause (2) shall exercise and perform such powers, functions and duties, as assigned to him under this Act, or any other law for the time being in force.

**15. Posting of the head of district police.** -(1) The Provincial Police Officer, with the approval of the Government, may post an officer not less than the rank of a Senior Superintendent of Police as the head of district police who shall be called the District Police Officer.

Provided that in a district where the size of police establishment is more than five thousand the head of district police shall be called the City Police Officer who shall be an officer not less than the rank of Deputy Inspector General of Police and posted as provided in section 14(1).

Provided further that the head of police in the provincial metropolis of Lahore shall be called the Capital City Police Officer who shall be an officer not below the rank of an Additional Inspector-General of Police.

(2) The term of office of the head of district police shall be at least three years from the date of his posting.

(3) Under exceptional circumstances due to exigency of service or on grounds of misconduct and inefficiency that warrant major penalty under the relevant rules, the head of district police may be transferred, with the approval of the Government, before completion of the term of office.

**16. Administration of police and its functions in a district.**-(1) Subject to this Act, the administration of police throughout a district shall vest in the head of district police posted under section 15.

(2) The head of district police shall be responsible for maintenance of law and order, prevention and detection of crime and performance of other police functions in the district.

(3) The head of district police, with approval of the Regional Police Officer, may delegate any of his powers and functions conferred on him to an officer subordinate to him.

**17. Posting of heads of police training institutions.** -(1) Provincial Police Officer shall post an officer not less than the rank of Additional Inspector General of Police as Commandant of the Police Training College.

(2) The Provincial Police Officer shall post an officer not less than the rank of Senior Superintendent of Police as Principal of each Police Training School.

(2) In training institutions where promotion courses are conducted regularly, the Principal shall be an officer not less than the rank of a Deputy Inspector General of Police.

**18. Constitution of regions and posting of Regional Police Officers.** -(1) The Provincial Police Officer may with the approval of the Government constitute police regions comprising one or more districts.

(2) A police region shall be headed by a Regional Police Officer not less than the rank of Deputy Inspector General of Police. In a region where the size of police establishment is more than ten thousand the Regional Police Officer shall not be less than the rank of Additional Inspector General of Police.

**19. Police jurisdictions in a district.** -(1) The Provincial Police Officer may, with the approval of the Government, determine the area of jurisdiction of police divisions, sub-divisions, police stations and police posts in a district.

(2) A police division shall be headed by an officer not less than the rank of a Superintendent of Police, a police sub-division by an officer not less than the rank of an Assistant or Deputy Superintendent of Police, a police station by an officer not less than the rank of an Inspector and a police post by an officer not less than the rank of a Sub-Inspector.

(3) The term of office of an officer in charge of a police division, sub-division or police station shall be a minimum of three years and he may be transferred before completion of his term only due to exigency of service or misconduct warranting major penalty. While making a pre-mature transfer of an officer in charge of a police station the head of district police shall record reasons in his order and communicate it to the Regional and Provincial Police Officer.

**20. Police to be organized on functional basis.** -(1) The Provincial Police Officer may organise Police Department into any number of branches, bureaus and sections and define the responsibilities, functions and area of responsibility of each.

(2) Every police officer may be posted to any branch, bureau and section, or anywhere in or outside the police.

(3) Posting to any specialist branch, bureau or section shall be subject to necessary training and experience in accordance with the rules.

**21. Promotions.** -(1) The police officers appointed by the Punjab Government shall be promoted in the following manner.

(a) The Provincial Police Officer shall promote an officer to the rank of Superintendent or Deputy

Superintendent of Police, as the case may be, on the recommendation of a promotion board. The Provincial Police Officer shall chair the board and nominate two officers in the rank of Additional and Deputy Inspector General of Police each as members of the board.

- (b) The Provincial Police Officer shall promote an officer to the rank of Inspector on recommendation of a promotion board. The Provincial Police Officer shall nominate an officer in the rank of Additional Inspector General of Police as chairperson and two officers in the rank of Deputy Inspector General of Police and Senior Superintendent of Police each as members of the board.
- (c) The concerned Regional Police Officer or Deputy Inspector General of Police shall promote an officer to the rank of Assistant Sub-Inspector or Sub-Inspector, as the case may be, on recommendation of a promotion board. The concerned Regional Police Officer or Deputy Inspector General of Police shall chair the board and nominate two officers in the rank of Senior Superintendent and Superintendent of Police each as members.
- (d) The concerned head of district police or Senior Superintendent of Police shall promote an officer to the rank of Head Constable on the recommendation of a promotion board. The concerned head of district police or Senior Superintendent of Police shall chair the board and nominate two officers in the rank of Superintendent and Assistant or Deputy Superintendent of Police each as members.

(2) Officers in specialist cadres shall be promoted to higher ranks in the manner prescribed by the Provincial Police Officer in accordance with section 7 of this Act.

**22. Separation of Investigation from other Functions.** – (1) All registered cases shall be investigated by the investigation staff in a police station under the supervision of the Officer in Charge of the police station. The investigation staff shall not be employed for duties other than investigation except with prior approval of the head of district police.

(2) The head of district police and the officers in charge of a police station, sub-division and division shall supervise all cases under investigation in their jurisdiction. During investigation any of them may summon the investigation officer, review the case file, evaluate the evidence and issue instructions to the investigation officer in the form of a case diary. Upon completion of an investigation each of them may verify its correctness by taking into account all evidence collected by the investigation officer and recording a case diary on the case file containing his opinion.

(3) Supervision and verification of an investigation by the supervisory officers mentioned in sub-section (2) above shall not be deemed a transfer of investigation.

(4) For reasons to be recorded in writing, the head of district police may order a first transfer of an investigation from an officer to any other officer or a team of officers of a rank higher than the rank of the previous investigation officer within his jurisdiction.

(5) For reasons to be recorded in writing, the Regional Police Officer may order a second transfer of an investigation, after it has been transferred once by the head of district police, to another officer or a team of officers of a rank higher than the rank of the previous investigation officer within his jurisdiction or to the Regional Investigation Branch.

(6) The Provincial Police Officer may order a third and final transfer of investigation to an officer or a team of officers of a rank higher than the rank of the previous investigation officer. He may seek the opinion of a standing review board that he shall constitute for the purpose. The board shall be headed by a Deputy Inspector General of Police and have two officers not less than the rank of Superintendent of Police as members.

**23. Criminal Investigation Agency.** – (1) In each district a Criminal Investigation Agency (CIA) shall investigate *ab initio* all cases of terrorism, kidnapping for ransom, vehicle theft or snatching, cyber crime and crimes against minorities. The Provincial Police Officer may revise this list from time to time.

(2) The CIA in a district shall be headed by an officer not less than rank of a Superintendent of Police and comprise such ranks, numbers, and organization as the Provincial Police Officer may determine from time to time. So far as possible, the CIA shall comprise of several specialised Wings each being responsible for investigation

of cases of one or more types of offences mentioned in sub-section (1) above.

(3) The supervisory officers in CIA may verify an investigation being carried out by a subordinate officer in the manner provided in section 22(2) above.

(4) In a district where the size of police establishment is more than five thousand the head of CIA shall be an officer not less than the rank of a Senior Superintendent of Police. In the provincial metropolis of Lahore the head of CIA shall be an officer not less than the rank of a Deputy Inspector General of Police.

(5) The head of CIA shall be directly responsible to the head of district police.

(6) During investigation if a case is found to be of a nature that is beyond the purview of CIA, the head of CIA shall, with the approval of the head of district police, remand the case to the concerned police station where it shall be investigated further. Such remanding of a case shall not be deemed to be a transfer of investigation. Similarly, if an officer in charge of a police station believes that a case under investigation at the police station falls in purview of CIA he shall hand over the investigation to CIA with the approval of the head of district police and this handing over shall not be deemed a transfer of investigation.

(7) Cases investigated by CIA shall only be transferred to another officer of a higher rank in CIA, the Regional Investigation Branch, or the Provincial Investigation Branch in accordance with section 22 above.

**24. Appointment of junior ranks and followers.** -(1) Subject to rules, head of district police shall be the appointing Authority for junior ranks and followers in a district.

(2) Apart from district police, a Senior Superintendent of Police or an officer of equivalent rank or pay scale working in a position in Punjab Police shall be the appointing authority for junior ranks, followers and positions of BS 16 and below in specialist cadres.

(3) In case of provincial metropolis of Lahore, an officer in the rank of Senior Superintendent of Police shall be deemed to be the appointing authority for Junior ranks and followers. Subject to rules, the appeals against decisions of Senior Superintendents of Police in Lahore shall lie with the CCPO.

**25. Oath or affirmation by members of police.** -Every member of the police shall on appointment make and subscribe before Provincial Police Officer or head of a training institution, an oath or affirmation according to the form set out in the Second Schedule.

**26. Certificate of appointment.** -(1) Officers of junior ranks shall on appointment receive a certificate in the form provided in the Third Schedule. The certificate shall be issued under the seal of such officer as Provincial Police Officer may by general or special order direct.

(2) A certificate of appointment shall become null and void whenever the police officer named therein ceases to belong to the police.

**27. Appointment of special police officers.** -(1) Subject to rules, head of district police may appoint special police officers for special purposes or occasions when the police available to him is not sufficient to assist the police under his command.

(2) Every special police officer so appointed shall, on appointment

(a) receive a certificate in the prescribed form;

(b) have the same powers, and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as a regular police officer.

**28. Appointment of additional police.** -(1) The head of district police, subject to the approval of the Provincial Police Officer, may appoint additional police officers of such rank and for such time as he may deem fit for the purposes stated in their employment orders.

(2) Every additional police officer so appointed shall on appointment

(a) receive a certificate in a form approved by Provincial Police Officer;

(b) be vested with all or any of the powers, privileges and duties of a police officer;

(c) be subject to orders of the head of district police.

(3) The employment of additional police may be made at the request of any person reasonably requiring such police and the cost of such employment shall be recovered in such manner as provided under this Act or rules made there under.

**29. Ministerial staff etc.** -(1) Subject to rules, Provincial Police Officer or Regional Police Officer may appoint ministerial staff and other employees to assist the police.

(2) Any person employed under clause (1) shall be under the direction and control of Provincial Police Officer or Regional Police Officer as the case may be.

(3) The powers of direction and control referred to in clause (2) shall include the powers of discipline.

(4) Subject to rules, Provincial Police Officer may delegate his powers and authority under this section to an officer of appropriate rank.

**30. Appointment of experts.** -(1) The Provincial Police Officer may, with the approval of the Government, appoint one or more experts to assist the Punjab Police.

(2) The qualifications, eligibility, terms and conditions of service of experts shall be as prescribed.

## CHAPTER IV

### REGULATION, CONTROL AND DISCIPLINE

**31. Rule making by Provincial Police Officer.** – (1) The Provincial Police Officer may, with prior approval of the Government, by notification in the official gazette, make rules for carrying into effect the provisions of this Act.

(2) While exercising powers to regulate and control contained in section 32 below, the Provincial Police Officer may issue standing orders not inconsistent with the Act or rules made hereunder for the efficient functioning of the police.

**32. Powers of Provincial Police Officer to regulate and control** - Subject to this Act and rules made there-under, Provincial Police Officer shall direct and regulate all matters related to:

- (a) maintenance of law and order;
- (b) prevention and investigation of crime;
- (c) organisation and deployment of members of Punjab Police and distribution of their work;
- (d) recruitment, training, postings, transfers, performance evaluation, career planning, promotions and other aspects of management of human resource of Punjab Police;
- (e) arms, clothing, drill and any other matter concerning discipline;
- (f) structures, buildings and other premises used by the Punjab Police;
- (g) procurement, logistics and other aspects of the Punjab Police supply chain;
- (h) finance, budget, accounts and audit;
- (i) regulation and inspection of the organisation,
- (j) internal accountability and vigilance;
- (k) manner and form of records and returns;
- (l) working of police stations, offices and units;
- (m) administration of welfare projects and funds;
- (n) and any other matter concerning the efficient fulfilment of duties by the police under his control.

**33. Conduct and Discipline.** -Notwithstanding anything contained in any law, rules or regulations in force concerning conduct and discipline of Government servants, the members of Punjab Police shall be subject only to Punjab Police Efficiency and Discipline Rules, 2010 contained in the Fourth Schedule of this Act.



**34. Code of Conduct.** -(1) Provincial Police Officer shall issue Code of Conduct to regulate police practices, particularly -

- (a) the exercise by police officers of statutory powers of stop and search;
- (b) the searching of premises by police officers and the seizure of property found by police officers on persons or premises;
- (c) the detention, treatment and questioning of persons by police officers; and
- (d) the identification of persons by police officers.

(2) Subject to rules, a police officer contravening the Code of Conduct may be awarded one or more penalties provided under law and rules.

**35. Police officer considered to be always on duty.** -Every police officer shall considered to be always on duty and be liable to the same responsibilities, privileges and protections.

**36. Withdrawal from duty.** -No police officer shall withdraw from the duties of his office unless expressly allowed to do so in writing by the controlling officer.

*Explanation:* A police officer who being absent on leave fails without reasonable cause to report for duty on the expiration of such leave shall be deemed within the meaning of this section to withdraw himself from the duties of his office.

**37. Police officer not to engage in any other employment.** – No police officer shall engage in any private employment while he is a member of Punjab Police.

## CHAPTER V

### POWERS TO ISSUE ORDERS

**38. Power to issue orders.** – (1) The head of district police shall issue orders under section 144 of the Code of Criminal Procedure as and when required. Each order shall be presented to the District Police Council for its consent. If no consent has been granted within forty-eight hours under signature of the Chairman of the Council the concerned order shall cease to have effect.

(2) The head of district police may, in an emergency, for the maintenance of public order or preventing public nuisance, issue orders to give effect to the provisions of any municipal law, rules or bye-laws for the time being in force.

**39. Penalty for contravening orders under section 38(2).** -Whoever contravenes or abets the contravention of any order made under section 38(2) or any of the conditions of a licence issued under such municipal law, rules or bye-laws shall, on conviction, be fined up to fifty thousand rupees.

**40. Power to give direction to the public.** – (1) Subject to rules, a police officer not below the rank of a Sub-Inspector may, give such directions as may be necessary to:

- (a) direct the conduct and behaviour or actions of persons constituting processions or assemblies on roads or streets;
- (b) prevent obstructions –
  - (i) on the occasion of processions and assemblies;
  - (ii) in the neighbourhood of places of worship during the time of worship; and
  - (iii) when a street or public place or place of public resort may be thronged or liable to be obstructed.
- (c) keep order on streets, mosques, churches or other places of worship and places of public resort when these may be thronged or liable to be obstructed.

(2) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under

this section shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

**41. Regulation of public assemblies and processions and licensing of same.** -(1) The head of district police, a Superintendent of Police, or an Assistant or Deputy Superintendent of Police may as the occasion requires, direct the conduct of assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect any assembly in any such road, street or thoroughfare, or to form a procession which would, in his judgement, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such processions shall apply for a licence.

(3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section.

Provided that no fee shall be charged on the application for, or grant of any such licence.

**42. Licences and written permissions to specify conditions, etc.** -Any licence or written permission granted under the provisions of this Act shall specify the period, locality, conditions and restrictions subject to which the same is granted and shall be given under the signature of the competent authority.

**43. Revocation of licence or permission.** -Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority after due notice if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

**44. When license or permission is revoked, the grantee would be deemed to be without license.** -When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

**45. Licensee to produce license and written permission when required.** -Every person to whom any such license or written permission has been granted, shall, while the same remains in force, at all reasonable times, produce the same if so required by a police officer.

**46. Powers with regard to assemblies and processions violating the conditions of license.** -(1) The head of district police, a Superintendent of Police, Assistant or Deputy Superintendent of Police, Inspector of Police or an officer in-charge of a police station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly, which neglects or refuses to obey any order given under clause (1) shall be deemed to be an unlawful assembly.

**47. Powers to regulate events at public places.** - The organiser of a circus, fair, exhibition or any event, excluding events for and open to families only, in a hall, park, playland, club or another public place shall seek permission from the head of district police for holding the event.

**48. Power to prohibit certain acts for prevention of disorder.** -(1) The head of district police may, whenever and for such time as he may consider necessary by notification publicly promulgated or addressed to individuals prohibit in any urban or rural area, the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks, lathis or any other article, which is capable of being used for causing physical violence and the carrying of any corrosive substance or explosives, the carrying, collection or preparation of stones or other missiles or instruments of means of casting or impelling missiles.

(2) If any person goes armed with any article as is referred to in clause (1), such article shall be liable to be seized from him by a police officer.

**49. Power to give directions against serious disorder at places of amusement, etc.** -(1) For the purpose of preventing serious disorder or breach of the law or imminent danger to those assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub Inspector or above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations or orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and lawful conduct of the proceedings and maintaining the public safety, at such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to obey every such reasonable direction.

(2) Every police officer while on duty shall have free access to any place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of clause (1) and to any direction made there under.

**50. Penalties for contravention of order, etc. under sections 47 to 49.** -(1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under sections 47 to 49 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

(2) Whoever contravenes a notification or an order made under clause (1) of section 48 shall be punished with imprisonment for a term which shall not be less than three months but may extend to two years and with fine up to one hundred thousands rupees.

**51. Erecting of barriers in streets, etc.** -Any police officer may in an emergency temporarily close any street or public place through erection of barriers or other means, to prohibit persons or vehicles from entering such area.

**52. Penalty for contravention of orders made under section 51.** -Whoever contravenes, or abets the contravention of any order made under section 51 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to one hundred thousand rupees or with both.

**53. Power to search suspected persons or vehicles in street, etc.** -When in a street or a place of public resort a police officer on reasonable grounds suspects a person or a vehicle to be carrying any article unlawfully obtained or possessed or likely to be used in the commission of an offence, he may search such person or vehicle; and if the account given by such person or possessor of the vehicle appears to be false or suspicious, he may detain such article after recording in writing the grounds of such action and issue a receipt in the prescribed form and report the facts to the officer in-charge of the police station for informing the court for proceeding according to law against the person.

## CHAPTER VI

### SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY

**54. Employment of additional police to keep peace.** -(1) The head of district police, subject to approval of Provincial Police Officer, may on application of any person depute any additional number of police to keep the peace, to preserve order, to enforce any provisions of this Act, or any other law, in respect of any particular class or classes of offences or to perform any other duties imposed on the police.

(2) Subject to rules, such additional police shall be employed at the cost of the person making the application.

(3) If the person upon whose application such additional police are employed gives one month's notice for the withdrawal of the said police, he shall be relieved from the cost thereof at the expiration of such notice.

(4) If there is any dispute on payment, head of district police on an application by the aggrieved party may refer the matter to the Government for final decision.

**55. Employment of additional police at the cost of organizers, etc.** - (1) Whenever it appears to head of district police that

- (a) any large work which is being carried on, or any public amusement, or event at any place is likely to impede the traffic or to attract a large number of people; or
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any

railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place, necessitates the employment of additional police at such place;

he may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to be expedient.

(2) Subject to rules, the cost of such additional police shall be borne by the organisers of such events or employers of such works or concerns, as the case may be, at rates approved by the appropriate government from time to time.

**56. Compensation for injury caused by unlawful assembly.** -When any loss or damage is caused to any property or when death or grievous hurt is caused to any person or persons, by any thing done in furtherance of the common object of an unlawful assembly, the trial court may determine the amount of compensation which, in its opinion should be paid by members of the unlawful assembly to any person or persons in respect of the loss or damage or death or grievous hurt caused in addition to the penalty awarded under any other law.

**57. Recovery of amount payable under sections 55 and 56.** -Any amount payable under sections 55 and 56 shall be recovered in the same manner as if it were arrears of land revenue.

**58. Recovered amount to go to treasury.** -Amounts payable under section 55 and 56 shall be credited to the treasury.

**59. Banning of use of dress resembling uniform of police or armed forces.** -(1) If Provincial Police Officer is satisfied that the wearing in public, by any member of any body, association or organization, of any dress or article of apparel resembling the uniform worn by police or members of the Armed Forces or any uniformed force constituted by or under any law for the time being in force, is likely to prejudice the security of the state or the maintenance of public order, he may by a special order prohibit or restrict the wearing or display, in public of any such dress or article of apparel by any member of such body or association or organization.

(2) Every order under clause (1) shall be published in the Official Gazette.

*Explanation:* For the purpose of clause (1) a dress or article of apparel shall be deemed to have been worn or displayed in public if it is worn or displayed in any place to which the public have access.

**60. Control of camps, parades, etc.** -If the head of district police is satisfied that it is necessary in the interest of maintenance of public order, he may by a special order prohibit or restrict throughout the district or any part thereof all meetings and assemblies of persons for the purpose of training in the use of arms or taking part in any such camp, parade or procession.

**61. Penalty for contravention of orders under sections 59 and 60.** -Whoever contravenes any order made under section 59 and 60 shall, on conviction, be punished with imprisonment for a term, which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

**62. Authority of head of district police over the village police.** - The head of district police shall for the purpose of carrying this Act into effect, exercise authority and control over village watchmen or village police officers if appointed.

## CHAPTER VII

### OFFENCES AND PUNISHMENTS

**63. Causing mischief in street by animal or vehicle.** -No person shall cause damage, injury, danger, alarm or mischief in any street or public place by negligent or reckless driving or by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation.

**64. Causing obstruction in a street.** -No person shall cause obstruction in any street or public place-

(a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for

such purpose; or

- (b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or
- (c) by using any part of a street or public place as a halting place for vehicles or cattle; or
- (d) by causing obstruction in any other manner.

**65. Wilful or negligent conduct in respect of dogs.** -No person shall in any street or public place -

- (a) let loose any dog wilfully or negligently so as to cause danger, injury, alarm or annoyance; or
- (b) suffer a ferocious dog to be at large without a muzzle; or
- (c) set on a dog to attack any person or horse or other animal.

**66. Penalty for offences under sections 63 to 65.** -Any person who contravenes any of the provisions of sections 63 to 65 shall, on conviction, be punished with fine, which may extend to ten thousand rupees, or, in default of payment, with imprisonment for a term not exceeding thirty days.

**67. Suffering disorderly conduct.** -Whoever being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers disorderly behaviour or any gambling or any other criminal act, whatsoever, in such place, shall, on conviction be punished with fine which may extend to ten thousand rupees.

**68. Penalty for obtaining employment as a police officer through fraudulent means.** -Any person who makes a false statement or a statement which is misleading in material particulars or uses a false document for the purpose of obtaining employment as a police officer shall on conviction be punished with imprisonment for a term which may extend to one year, or with fine up to fifty thousand rupees, or with both.

**69. Warning to first offender.** -It shall be lawful for head of district police or any other officer authorized by him not less than the rank of Inspector, to request the relevant court to issue in lieu of prosecution, a warning in writing to the accused in relation to first commission of any offence mentioned in sections 63 to 65.

Provided that for any subsequent offence mentioned in this section the offender on conviction will be awarded at least half of the prescribed punishment.

**70. Defiling water in public wells, etc.** -Whoever shall defile or cause to be defiled water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nullah or other source or means of water supply, so as to render the same unfit for the purpose for which it is set apart, shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees, or with both.

**71. False alarm of crime, fire or another emergency** -Whoever knowingly gives or causes to be given a false alarm of a crime, fire or another emergency to a police officer or an officer in an emergency service shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

**72. Penalty for unauthorized use of police uniform.** -If any person not being a member of the police wears without authorisation and with fraudulent or mala fide intent, the uniform of police or any dress having the appearance or bearing any of the distinctive marks of police uniform, he shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

**73. Penalty for frivolous or vexatious complaint.** – Any person who files a complaint against a police officer, which on enquiry made on instance of the Provincial or District Police Council is held frivolous or vexatious, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine up to fifty thousand rupees, or with both.

**74. Certain offences to be cognizable.** -Notwithstanding anything contained in the Code, offences falling under sections 40, 47, 48, 49, 59, 60, 68, 70, 71, 72, and 73 shall be cognizable.

**CHAPTER VIII**  
**POLICE ACCOUNTABILITY AND OVERSIGHT**

**Part I**  
**DISTRICT POLICE COUNCIL**

**75. Establishment.** – (1) There shall be a District Police Council in each district.

**76. Composition.** – (1) The District Police Council shall have seven members including

- (a) Three MPAs from the concerned district to be nominated by the Chief Minister at least one of whom shall be from the opposition ;
- (b) Chairman of the District Council;
- (c) Head of the municipal body of the district's largest urban centre ;
- (d) President of the District Bar Association; and
- (e) Head of District Police as the Council's secretary.

(2) If an opposition MPA has not been elected in the district, then all three may be from the treasury benches.

(3) Each member shall have right to cast a vote in the matters of the Council except the head of district police.

**77. Chairperson.** – (1) The Chief Minister shall appoint the Chairperson from among the voting members of the Council. In case the office of the Chairperson becomes vacant, another Chairperson shall be appointed within thirty days.

(2) The Chairman shall continue to hold office for two years from the date of his appointment.

(3) The Chairman may be removed from office by a majority vote of the total voting members of the Council if he

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the District Police Council into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

**78. Meeting in the absence of the Chairperson.** -In the absence of the Chairperson the Council shall elect one of its members to preside over a meeting.

**79. Powers and Functions of the District Police Council.**-(1) The Council shall perform the following oversight functions:

- (a) to aid and guide the district police in discharge of its functions and responsibilities under this Act
- (b) to redress grievances against police
- (c) to identify shortcomings regarding infrastructure and equipment in police; and
- (d) to promote citizen-police cooperation
- (e) any other item with the permission of the chair.

- (2) With respect to sub-section (1)(b) above the Council shall perform the following functions:
- (a) receive from an aggrieved person a complaint, in writing of neglect, excess or misconduct by a Police Officer;
  - (b) refer it to the concerned District or Regional Police Officer to take action under the Punjab Police Efficiency and Discipline Rules, 2010 and furnish a report of findings of the enquiry and any action taken;
  - (c) inform the complainant of the outcome of the matter in writing as soon as possible;
  - (d) in case of any frivolous, false or vexatious complaint, initiate legal action against the complainant under section 73 of this Act;
  - (e) report the matter to the Provincial Police Officer where the appropriate authority does not submit a report.

**80. Terms of members of the District Police Council.** -An elected person among the members shall continue to hold office till the expiry of his term unless he resigns at any time before the expiry of his term or ceases to be a member of the concerned body.

**81. Removal of Members.** -On grounds contained in section 77 above the Chief Minister may terminate the Council's membership of any of his nominees.

**82. Meetings and conduct of business of the District Police Council.** -(1) The business of the District Police Council shall be conducted by the Council in a meeting.

(2) The meeting may be convened either by the Chairperson on his own or by the Secretary on the requisition of one-third of total members.

(3) Quorum for a meeting of the District Police Council shall be a half of its total membership.

(4) Members shall attend meetings of the Council as and when required for which at least a week's notice, with agenda, shall be given. The Council shall meet at least once a month. An emergency meeting may be held at a short notice of not less than twenty-four hours.

(5) Decisions of the Council shall be by a simple majority vote of voting members present unless provided otherwise.

(6) The Council may frame rules of procedure for conduct of its business.

**83. Secretarial services.** -(1) The head of district police shall provide secretarial support to the Council from the resources at his disposal.

## **Part II** **PROVINCIAL POLICE COUNCIL**

**84. Establishment.** - (1) There shall be a Provincial Police Council in the province.

**85. Composition.** -(1) The Provincial Police Council shall have eleven members, including:

- (a) Chief Minister as Chairperson;
- (b) Law Minister
- (c) Two members of the Provincial Assembly nominated by the Chief Minister at least one of whom shall be from the opposition;
- (d) Three independent persons of proven reputation for integrity and competence from the fields of academia, law, public administration, media, human rights or other relevant fields to be appointed by the Chief Minister;
- (e) Chief Secretary of the Punjab;
- (f) Secretary to the Government of the Punjab, Prosecution Department;

- (g) Secretary to the Government of the Punjab, Home Department; and
- (h) Provincial Police Officer as the Council's secretary.

(2) Any vacancy in the Council shall be filled up as soon as practicable, but not later than one month of occurrence of the vacancy.

(3) Each member shall have a right to cast a vote in the matters of the Council except those mentioned at (e) to (h) in sub-section (1) above.

**86. Gender Representation.** -There shall be at least two women among the members nominated by the Chief Minister.

**87. Meeting in the absence of the Chairperson.** -In the absence of the Chairperson the Law Minister shall preside over a meeting.

**88. Powers and Functions of the Provincial Police Council.** – (1) The Council may

- (a) frame policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law;
- (b) identify performance indicators to evaluate the functioning of the Punjab Police. Such indicators shall, *inter alia*, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards;
- (c) direct Provincial Police Officer to evaluate performance of the Punjab Police using performance indicators identified by the Council and submit to the Council by the end of August this evaluation in an annual report for each completed financial year;
- (d) review performance of the police in the Punjab as a whole as well as district-wise in the light of the annual report from the Provincial Police Officer keeping in view the resources available with and constraints of the police;
- (e) refer a complaint to a District Police Council for action under section 35.

(2) The report mentioned in sub-section (1)(c) above shall be deemed to be the annual administration report of the Police Department as required by rules or any other law.

**89. Terms of members of the Provincial Police Council.** -(1) A Member of the Provincial Assembly shall continue to be a member of the Council till the expiry of his elected term unless he ceases to be a Member of the Provincial Assembly.

(2) The term of an independent member shall be three years unless he resigns or is removed under section 90 below.

**90. Removal of Members.** – (1) On grounds contained in section 77 above the Chief Minister may terminate the Council's membership of any of the MPAs.

(2) An independent member may be removed by a majority vote of the total voting membership of the Council on grounds contained in section 77 above.

**91. Meetings and conduct of business of the Provincial Police Council.** -(1) The business of the Provincial Police Council shall be conducted by the Council in a meeting.

(2) The meeting may be convened either by the Chairperson on his own or by the Secretary on the requisition of one-third of total members.

(3) Quorum for a meeting of the Provincial Police Council shall be a half of its total membership.

(4) Members shall attend meetings of the Council as and when required for which at least a week's notice, with agenda, shall be given. The Council shall meet at least once a month. An emergency meeting may be held at a short notice of not less than twenty-four hours.

(5) The Council may frame rules of procedure for conduct of its business.



**92. Secretarial services.** -(1) The Provincial Police Officer shall provide secretarial support to the Council.

## CHAPTER IX

### CRIMINAL JUSTICE COMMITTEE

**96. Establishment.** – There shall be a Criminal Justice Committee in a district.

**97. Composition.** -The Criminal Justice Committee shall consist of -

- (a) District and Sessions Judge (Chairperson)
- (b) Head of District Police
- (c) Head of District CIA (Secretary)
- (d) District Public Prosecutor
- (e) District Superintendent Jail
- (f) District Probation Officer
- (g) District Parole Officer

**98. Functions of the Criminal Justice Committee.** – (1) The Criminal Justice Committee shall -

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system;
- (d) formulate co-coordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the District Criminal Justice Committee.

(2) The meeting of the Criminal Justice Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

## CHAPTER X

### MISCELLANEOUS

**99. Citizen Police Liaison Committees.** – (1) Citizens in a locality, village, town, or district may establish a Citizen Police Liaison Committee as a voluntary, self-financing and autonomous body to

- (a) create and maintain effective contact with the police;
- (b) help police improve delivery of its services;
- (c) increase awareness in the community with respect to crime and anti-social activity
- (d) facilitate flow of information between the community and the police;
- (e) check domestic violence and help improve access of vulnerable members of community to police services;
- (f) assist in traffic education

(2) The members shall be concerned citizens and persons of proven reputation for integrity and competence from the fields of academia, law, media, human rights or other fields.

(3) The head of district police and other police officers concerned shall extend assistance to the members of the citizen police liaison committees.

**100. Provision of advice and assistance to International Organizations etc.** -The Punjab Police, with the permission of the Government, may provide advice and assistance to an international organization or to any other person or body engaged in investigation of criminal cases.

**101. Provision of assistance to Federal and Provincial Governments.** -The Punjab Police, with the permission of the Government, shall provide assistance to the Federal and other Provincial Governments.

**102. Police support to Government functionaries, etc.** -Any functionary of the Federal Government, the Provincial Government, any statutory body or any body or corporation owned, set up or controlled by any such Government or in which such Government has a controlling share or interest, municipal body or Cantonment Board may for the discharge of his official duties which in his opinion require police assistance, ask for police support from the concerned head of district police who shall provide the requisite support.

**103. Assistance to other Law Enforcement Agencies.** -(1) The Punjab Police may transmit statistics and reports to other law enforcement agencies in the country with respect to offenders, criminal proceedings and the state of law and order in the province.

**104. No police officer to be liable to any penalty or payment of damages on account of acts done in good faith in pursuance of duty.** -No police officer shall be liable to any penalty or to payment of damages on account of an act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, order or direction made or given therein.

**105. Suits or prosecutions in respect of acts done under colour of duty not to be entertained if not instituted within the prescribed period.** -In case of an alleged offence by a police officer, or a wrong alleged to have been done by him or by any act done under colour of duty or in exercise of any such duty or authority of this Act or when it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted after more than six months from the date of the action complained of.

**106. Notice of suit to be given with sufficient description of wrong complained of.** - (1) In the case of an intended suit on account of an alleged wrong referred to in section 106 by a police officer, the person intending to sue shall give two month's notice as prescribed in section 80 of Civil Procedure Code 1908, of the intended suit with sufficient description of the wrong complained of.

(2) The provisions of section 80 of the Civil Procedure Code, 1908, shall *mutatis mutandis* apply to the notice referred to in clause (1).

**107. Public notices how to be given.** -Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in local newspapers in regional languages and English or Urdu, as the said authority may deem fit, or by electronic media, or by any two or more of these means and by any other means it may think suitable.

**108. Consent of competent authority how to be proved.** -Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by the competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be evidence thereof.

**109. Signature on notices may be stamped.** -Every license, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Act, or by any rule hereunder, to bear the stamp and the signature of head of district police and it shall be deemed to be properly signed if it is a facsimile of the document bearing his signature.

**110. Persons interested may apply to annul, reverse or alter any rule or order.** -In the case of any rule or order made under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent for any interested person to apply to the authority issuing such rule or order to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

**111. Powers to prosecute under any other law not affected.** -Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other law for the time being in force for any offence made punishable under this Act.

**112. Repeal and savings.** -(1) The Police Order, 2002 hereinafter referred to as the said Order, is hereby repealed.

Provided that

- (a) all rules prescribed, appointments made, powers conferred, orders made or passed, consent, permit, permission of licences given, summons or warrants issued or served, persons, arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under the said Order shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred hereunder;
  - (b) all references made to the said Order or in any law or instrument shall be construed as references to the corresponding provisions of this Act.
- (2) Notwithstanding the repeal of the said Order, the repeal shall not
- (a) affect the validity, invalidity, effect or consequence of anything duly done or suffered under the said Order;
  - (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Order;
  - (c) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any Order or offence committed against the said Order;
  - (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;  
and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or penalty may be imposed, as if the said Order has not been repealed; and
  - (e) affect any proceeding pending in any court or before any authority under the said Order, and any such proceeding and any appeal or revision arising out of such proceeding shall be continued, instituted or disposed of, as if the said Order had not been repealed.

**113. Existing police deemed to be constituted under this Act.** -Without prejudice to the provisions contained in section 112, the police functioning in Punjab immediately before the enactment of this Act shall on such enactment be deemed to be police constituted under this Act.

**114. Power to remove difficulties.** -(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification in the Official Gazette, make such provisions as appear to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Act.

- (2) Every notification issued under this section shall be laid before the Punjab Assembly.

**FIRST SCHEDULE****SENIOR AND JUNIOR RANKS***[Section 2 (1)(k) and (w)]***1. Senior Police Ranks**

- (i) Inspector-General
- (ii) Additional Inspector General
- (iii) Deputy Inspector General
- (iv) Assistant Inspector General/Senior Superintendent
- (v) Superintendent
- (vi) Assistant Superintendent/Deputy Superintendent

**2. Junior Police Ranks**

- (i) Inspector
- (ii) Sub-Inspector
- (iii) Assistant Sub-Inspector
- (iv) Head Constable
- (v) Constable

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**SECOND SCHEDULE***(Section 25)***FORM OF OATH OR AFFIRMATION BY MEMBERS OF POLICE**

I \_\_\_\_\_ do hereby swear/solemnly affirm that I shall be faithful and bear true allegiance to Pakistan and to the Constitution of the Islamic Republic of Pakistan; that as member of the Police I shall honestly, impartially and truly serve the people without fear, favour or affection, malice or ill-will; that I will to the best of my ability, skill and knowledge discharge, according to law, such functions and duties as may be entrusted to me as a member of the police and in such a manner as to uphold and protect the dignity and rights of the citizens; that I shall abide by the principles contained in the Code of Conduct for police officers.

**THIRD SCHEDULE***(Section 26)***CERTIFICATE OF APPOINTMENT****SEAL**

No \_\_\_\_\_

**Certificate of appointment issued under section 26 of the Police Act, 2010**

Mr./Ms. \_\_\_\_\_ has been appointed \_\_\_\_\_ and is invested with the powers, functions and privileges of a police officer under section 8 of Police Act, 2010, in the District Police/ Area \_\_\_\_\_ under the charge of Provincial Police Officer on this day of \_\_\_\_\_.

Signature \_\_\_\_\_

Designation \_\_\_\_\_

\*\*\*\*\*

**FOURTH SCHEDULE***(Section 33)***PUNJAB POLICE EFFICIENCY AND DISCIPLINE RULES, 2010**

**1. Short title and commencement.** -(1) These rules shall be called the Punjab Police Efficiency and Discipline Rules, 2010.

(2) They shall come into force at once.

**2. Application.** -(1) These rules shall apply to all members of Punjab Police. No member of Punjab Police shall be departmentally proceeded against otherwise than as provided in these rules.

(2) For the purpose of disciplinary proceedings the members shall be deemed to include

- (a) all members of Punjab Police appointed by the Punjab Government;
- (b) members of Punjab Police lent to other governments and organizations; and
- (c) officers borrowed by Punjab Police from other government departments and organisations.

**3. Definitions.** -In these Rules, unless the context otherwise requires

- (a) “accused” means a member of Punjab Police who is to be proceeded against departmentally under the Act and the rules;
- (b) “act” means the Punjab Police Act, 2010;
- (c) “tribunal or appeals tribunal” means the Punjab Services Tribunal established under the Constitution of the Islamic Republic of Pakistan and any other law in force by the Punjab Government in relation to members of the Punjab Police;
- (d) “Authority” means the Government or an officer or authority empowered to exercise the powers of the Authority under rule 23 below;
- (e) “inquiry officer” means a police officer appointed by the Authority to carry out an inquiry under the act;
- (f) “inquiry committee” means a group of police officers (headed by a convener) appointed by the

Authority to carry out an inquiry under these rules;

*Explanation.* – *The inquiry committee shall have similar authority, exercise the same powers and perform the same functions as an inquiry officer wherever the latter is mentioned in these Rules. While awarding a penalty, the committee shall be deemed to have the same powers as its convener.*

- (g) “misconduct” includes
- (i) conduct prejudicial to good order or discipline of the police,
  - (ii) conduct unbecoming of a police officer and a gentleman,
  - (iii) any commission or omission which violates any provisions of law, rules or standing orders regulating the functions and duties of a member of Punjab Police,
  - (iv) bringing or attempting to bring political or other extraneous influence directly or indirectly in respect of any matter relating to the appointment, promotion, transfer, award, punishment, leave, retirement, or other conditions of service;
  - (v) deliberate and uncalled for acts or attempts to delay or frustrate any departmental proceedings;
  - (vi) negligence in performance of duties and acts covered under sections 3, 4 and 8 of the act;
- (h) “Penalty” means any punishment which may be imposed under the act or these rules;
- (i) “Supervisory officer” means an officer in a senior rank responsible for supervision of a particular officer.

**4. Grounds for penalties.** -A member of Punjab Police, who

- (a) is inefficient or has ceased to be efficient;
- (b) is guilty of misconduct;
- (c) is corrupt, or may reasonably be considered to be corrupt because;
  - (i) he is, or any of his dependants is, in possession of pecuniary resources for which he cannot reasonably account for or of property disproportionate to his known sources of income;
  - (ii) he has assumed a style of living beyond his ostensible means;
  - (iii) he has a reputation of being corrupt;
- (d) is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is therefore prejudicial to national security;

shall liable to be proceeded against under this Act and these rules and one or more of the penalties hereinafter mentioned may be imposed on him.

**5. Penalties.** -(1) Subject to these rules the Authority or the inquiry officer may award one or more of the following penalties in any proceedings under these rules.

- (2) Minor penalties:
- (a) Censure;
  - (b) Forfeiture of approved service up to two years;
  - (c) Withholding of promotion up to two years;
  - (d) Stoppage of increment for a period not exceeding two years without cumulative effect;
  - (e) Fine not exceeding one month’s pay;
  - (f) In case of constables and head constables
    - (i) confinement to quarter guard for a period not exceeding 15 days, and
    - (ii) extra drill for a period not exceeding 30 days; and

- (g) recovery of any loss caused to the Government.
- (3) Major penalties:
  - (e) reduction in pay;
  - (f) reduction in rank;
  - (g) compulsory retirement;
  - (h) removal from service; and
  - (i) dismissal from service.
- (4) Reversion from an officiating rank as a consequence to an administrative order shall not be deemed a penalty under these rules.
- (5) Removal from service does not, but dismissal from service does, disqualify for future employment;
- (6) Removal or dismissal from service does not include discharge of a person
  - (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him;
  - (b) appointed otherwise than under a contract to hold a temporary appointment, on the expiration of the period of appointment;
  - (c) engaged under a contract, in accordance with the terms of the contract.

**6. Suspension.** -(1) An officer or Authority mentioned in rule 7 below may place a member of Punjab Police under suspension if it deems fit.

- (2) An officer while under suspension shall;
  - (a) unless he is especially allowed in writing in this regard, deposit his official weapons, ammunition and belt with the officer tasked to issue such items;
  - (a) in case he is of junior rank, attend all roll-calls;
  - (b) perform such duties as may be lawfully assigned to him by his senior officers;
  - (c) continue to be responsible to his next higher officer in respect of discipline as if he had not been suspended;
  - (d) be entitled to such emoluments and allowances as may be admissible, from time to time, to other government servants in similar situation;
  - (e) be put under surveillance, subject to orders of the Authority, with or without escort, or his movements confined to the place of his duty.
- (3) An officer while under suspension shall not be
  - (a) issued any arms or ammunition during the period of his suspension;
  - (b) assigned duties that involve the exercise of any power or Authority by him; or
  - (c) subjected to any undue hardship.
- (4) An officer while under suspension shall, if the allegations against him are not proved or when he is acquitted, be paid all emoluments as per his entitlement, if not already paid, less the amount already drawn by him for the period of his suspension.

**7. Power to suspend an officer.** -(1) An officer or Authority empowered to punish a police officer working under his supervision may suspend him when he is guilty or is reasonably suspected of misconduct. The officer under suspension shall be reinstated only by the Authority competent to award major penalty to that officer as prescribed in these rules. Each suspension shall be reported immediately to the head of district police, the concerned Senior Superintendent of Police, or a supervisory officer in BS-19.

(2) Only the Provincial Police Officer may suspend an officer in the rank of a Deputy Superintendent or Superintendent of Police.

(3) No officer shall remain suspended for more than three months unless his suspension is extended by an officer not less than the rank of Deputy Inspector General for junior ranks and by the Authority for senior ranks. The officer extending the suspension shall record the reasons for such extension.

**8. Suspension in judicial cases.** -A police officer accused of a criminal offence may be placed under suspension from the date of his nomination as an accused in the case. Suspension is compulsory during any period in which a police officer is committed to prison. A police officer arrested by order of a civil court in execution of a decree or otherwise shall be considered as under suspension from the date of arrest till his release from custody.

**9. Suspension in departmental inquiries.** -During a departmental inquiry, the inquiry officer may require an accused officer to proceed on leave or place him under suspension with the consent of the Authority for a period not exceeding three months, if his suspension is considered necessary or expedient on the following grounds:

- (a) Where the accused officer is facing disciplinary proceedings on charges of misconduct ordinarily warranting award of a major penalty.
- (b) Where the accused officer is involved in activities prejudicial to the interest and safety of the State.
- (c) Where the accused officer obstructs the course of justice.

Provided that the Authority may suspend, reinstate or extend the period of forced leave or suspension for a period not exceeding another three months.

**10. Preliminary inquiry.** -(1) On receipt of information of misconduct the concerned supervisory officer of senior rank may forthwith conduct a preliminary inquiry either himself or cause it to be conducted through any other officer.

(2) The Inquiry Officer so appointed shall not be junior in rank to the officer complained against.

(3) The accused officer shall be apprised by the Inquiry Officer of the nature of the alleged misconduct and the substance of his explanation shall be recorded.

(4) The Inquiry Officer appointed under sub-rule (1) shall submit his report to the supervisory officer within seven days of his receipt of the order of his appointment or initiation of the inquiry, or finalise it within seven days if the inquiry is being conducted by the supervisory officer himself.

**11. Action on preliminary inquiry report.** -(1) If as a result of the preliminary inquiry, the supervisory officer is satisfied that prima facie no case is made out against the accused officer, he shall close the matter under intimation to the Authority.

(2) If as a result of the preliminary inquiry, the supervisory officer is satisfied that prima facie a case warranting a penalty is made out and he himself is not competent to award any penalty, he shall refer the matter to the Authority.

(3) If in the opinion of the supervisory officer the misconduct has been such as to warrant minor penalty and he is competent to do so, award one or more minor penalties adopting the summary proceedings under rule 12 and inform the Authority accordingly.

(4) If the Authority for reasons to be recorded in writing finds itself in disagreement with the course taken or recommended, it may appoint a different Inquiry Officer for holding "further inquiry" into the matter. The procedure for further inquiry shall be the same as for preliminary inquiry.

(5) If as a result of the preliminary inquiry or further inquiry the misconduct has been such as to warrant major penalty, the Authority shall either award one or more major penalties after summary proceedings under rule 12 or proceed under rule 13 for a regular departmental inquiry.

**12. Summary Proceedings.** -If, on the basis of his own knowledge or information placed before it as a consequence of preliminary or further inquiry, the Inquiry Officer or the Authority decides that it is not necessary to have a regular departmental inquiry conducted against the accused, he shall

- (i) inform the accused forthwith by an order, in writing, of the action proposed to be taken in regard to him and the grounds of the action; and
- (ii) give him a reasonable opportunity of showing cause against that action within a period of 14 days from the date of receipt of order under clause (i).
- (iii) The accused may make a representation to the Authority against the summary procedure adopted against him within seven days of the receipt of the orders. In case the representation is preferred,



the Authority shall decide the same within seven days and communicate decision to the accused. In case of rejection of the representation, the accused shall be given seven days to show cause against the proposed action.

Provided that no such opportunity as is referred to in clauses (ii) & (iii) shall be given where, in the interest of the security of Pakistan or any part thereof, it is not expedient to do so, the Authority may proceed with the case but before denying the opportunity, the Authority shall obtain prior approval of the Provincial Police Officer, where the Authority is not itself the Provincial Police Officer.

- (iv) Within seven days of the receipt of the explanation, if any, of the accused, the Authority shall determine whether the charges have been proved. If it is proposed to impose any of the penalties under rule 5, Authority shall, after affording the accused an opportunity of personal hearing against the proposed action, pass orders accordingly.

**13. Regular departmental inquiry.** -(1) The Authority shall either proceed itself or direct the Inquiry Officer to initiate a regular departmental inquiry if it is of the opinion that sufficient grounds exist for awarding major penalty to the accused on the basis of its own knowledge or information placed before it as a consequence of preliminary or further inquiry, or where the Anti Corruption Establishment has, under rule 15 (1) (b) of the Punjab Anti Corruption Establishment Rules, 1985, recommended departmental action.

(2) In case the regular departmental inquiry is to be initiated at the instance of a borrowing department or office or the Anti Corruption Establishment, the initiating agency or office shall send the draft charge sheet, list of witnesses and other relevant material to the Authority before initiation of proceedings.

(3) In a case where a police officer or civilian employee is accused of subversion, corruption or misconduct, he may be placed under suspension or required to proceed on leave by the Authority, provided that the continuation of the suspension or grant of any extension in leave shall require the prior approval of the Authority after every 3 months.

(4) If the Authority considers that a regular departmental inquiry is necessary it shall appoint an Inquiry Officer who, or an Inquiry Committee whose, convener shall be of a rank senior to that of the accused or if there are more than one accused senior to all the accused.

(5) Where an Inquiry Officer is appointed, the Authority shall communicate necessary record to the Inquiry Officer enabling him to frame a charge and communicate it to the accused along with the list of witnesses and documents, if any, to be taken into consideration and require the accused, within a reasonable time which shall not be less than 7 days or more than 14 days, from the day the charge has been communicated to him, to put in a written defence before the Inquiry officer.

(6) The Authority shall, while sending the record, appoint a suitable officer to act as a departmental representative to assist the Inquiry Officer. The departmental representative shall be responsible for the following:

- (i) He shall assist the Inquiry Officer on each day of hearing, as may be fixed by the Inquiry Officer. He shall be personally present fully prepared with all the relevant material on which the Charge Sheet is based.
- (ii) He shall render all other assistance to the Inquiry Officer during the Inquiry proceedings against the accused.
- (iii) He shall cross-examine the witnesses produced by the accused and also the prosecution witnesses in the event of their turning hostile, if so permitted by the Inquiry Officer.

(7) On receipt of the explanation of the accused or on the expiry of the stipulated period if there is no explanation or reply from the accused in his defence, the Inquiry Officer shall inquire into the charges and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine that witness.

(8) The Inquiry Officer shall proceed in a manner suited to expeditious completion of the inquiry. He may adjourn proceedings as and when required for reasons recorded in writing.

(9) Where the Inquiry Officer is satisfied that the accused is hampering or attempting to hamper the

progress of the Inquiry, he shall administer a warning and if, thereafter, he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect and proceed to complete the Inquiry in such manner as he thinks best suited to do substantial justice.

(10) If the accused absents himself from the inquiry on medical grounds he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for him, is sanctioned on the recommendation of a Medical Board. Where, in view of the serious condition of the accused, it may not be possible for him to appear before the Medical Board, the Board shall examine him at his residence -or another place where his is being treated -of which complete address must always be given in the leave application and at which he must be available.

Provided that the Authority may, in its discretion, sanction medical leave up to seven days without the recommendation of the Medical Board.

(11) The Inquiry Officer shall complete the inquiry proceedings within a period of sixty days, commencing from the last date of submission of the written defence by the accused or within such further period as may be allowed by the Authority.

(12) The Inquiry Officer shall, within ten days of the completion of the proceedings, in terms of sub-rule 6 above, determine whether the charge has been proved. Before the expiration of this period he shall inform the Authority of his finding and send the complete record of the case to the Authority.

(13) If the Inquiry Officer finds the accused officer guilty of misconduct, the Authority may award one or more penalties. A major penalty shall only be awarded after affording the accused an opportunity of showing cause during personal hearing.

(14) In case the Inquiry Officer finds the accused officer not guilty, the Authority may, within a period of thirty days either accept the recommendation of the Inquiry Officer or order initiation of a regular departmental inquiry *de novo* by passing a speaking order. In case the Authority does not pass an order within thirty days the recommendation of the Inquiry Officer shall be deemed to have been accepted by the Authority.

**14. Appointment of a friend.** -In cases where in the opinion of the Inquiry Officer an accused officer less than the rank of a Sub-Inspector cannot put up his defence properly, or on the request of an officer less than the rank of a Sub-Inspector, the Inquiry Officer shall appoint a "friend" to appear along with him to assist and advise him but not to represent him. The friend so appointed shall be a serving officer of not less than the rank of Sub-Inspector.

Provided that no officer appointed as friend shall appear as such in more than two departmental proceedings in a calendar year.

**14. Powers of inquiry Officer.** -(1) For the purpose of a regular departmental inquiry under these Rules the Inquiry Officer shall have the powers of a court trying a suit under the Code of Civil Procedure 1908 in the following matters:

- (i) summoning and enforcing attendance of any person
- (ii) requiring the discovery and production of documents
- (iii) Issuing commission for the examination of witnesses or documents.

(2) The proceedings under these rules shall deemed to be judicial proceedings within the meaning of section 193 and 228 of the Pakistan Penal Code.

(3) Witnesses summoned in departmental proceedings shall be entitled to traveling and other expenses as admissible to the court witnesses.

**15. When show cause notice to be given to the accused officer.** -In case the Authority decides to act on the recommendation of an officer made under rule 13, sub-rules (13, 14 and 15) the accused officer shall be issued a show cause notice with a copy of the Inquiry report, and asked to appear before the Authority on a date specified in the order. At least seven days shall be allowed to the accused officer before he is required to appear before the Authority.

**16. Representation by advocates not allowed.** -No advocate shall represent the accused officer in any proceedings under these rules.

**17. Effect of acquittal or conviction by court.** -(1) Acquittal by the court in a criminal case on the same issue as

is the cause of departmental proceedings shall not affect any minor or major penalties that may have been awarded or may be awarded to the accused officer under these rules.

(2) Conviction by the court for a period exceeding one month shall entail dismissal from service, unless it is set-aside in appeal.

**18. Appeal.** -(1) An appeal shall lie to the Appellate Authority within 15 days of the receipt of order to be appealed against except when reasonable cause is shown for the delay, a grace period of another 15 days may be allowed to the appellant.

(2) There shall be only one appeal to the Appellate Authority against the award of a minor or major penalty. No senior officer or forum has the authority to entertain any mercy petition, review petition, or appeal in this regard.

(3) The appeal shall be submitted through proper channel.

(4) The Authority may uphold, set aside or vary or modify the order appealed against. In case of enhancement of penalty, the Authority shall serve a show cause notice to the appellant.

(5) The Appellate Authority, while hearing an appeal, may obtain comments of the punishing Authority. The decision on an appeal shall contain detailed reasons in the order deciding the appeal in case the penalty is set aside, modified or reduced, against each of the points raised by the punishing Authority.

**19. Bar of appeal.** -No appeal to any court or tribunal exercising any jurisdiction, whatsoever, shall lie against any decision of an authorized officer or Authority, save as provided in these Rules.

**20. Previous record of the accused to be considered.** -While awarding a minor or major penalty, the Inquiry Officer shall peruse the entire record of the accused officer and make it a part of the proceedings. No penalty shall be awarded otherwise.

**21. Disciplinary proceeding pending under other rules.** -All disciplinary proceedings pending against members of the Punjab Police before the commencement of these rules shall be completed under the relevant rules.

**22. Proceedings under these rules no bar to any civil or criminal procedure.** -Proceedings under these rules shall not be a bar to any civil or criminal proceedings that may be instituted against the accused officer in an ordinary court of law, and *vice versa*.

**23. Officers and Authorities competent to award penalties.** – The officers and Authorities shall be competent to award penalty and hear appeals according to the following schedule. The ranks indicated in the schedule shall include equivalent ranks.

#### FOR POLICE OFFICERS

Rank	Officer competent to award minor penalty	Authority competent to award any penalty	Appellate Authority
Constable, Head Constable	Assistant or Deputy Superintendent of Police	Head of District Police, Senior Superintendent of Police	Capital City Police Officer, Deputy Inspector-General of Police
Assistant Sub-Inspector, Sub-Inspector, Inspector	Superintendent of Police	Head of District Police, Senior Superintendent of Police	Capital City Police Officer, Regional Police Officer, Deputy Inspector-General of Police
Deputy Superintendent of Police	Deputy Inspector-General of Police	Capital City Police Officer, Regional Police Officer, Additional Inspector-General of Police	Provincial Police Officer
Superintendent of Police	Capital City Police Officer, Additional Inspector-General of Police	Provincial Police Officer	Chief Secretary

## FOR MINISTERIAL STAFF AND SPECIALIST CADRES

Rank / Scale	Officer competent to award minor penalty	Authority competent to award any penalty	Appellate Authority
BS 1-7	Superintendent of Police, supervisory officer in BS-18	Head of district police, Senior Superintendent of Police, supervisory officer in BS-19	Capital City Police Officer, Regional Police Officer, Deputy Inspector-General of Police, supervisory officer in BS-20
BS 8-14	Head of district police, Senior Superintendent of Police, supervisory officer in BS-19	Regional Police Officer, Deputy Inspector-General of Police, supervisory officer in BS-20	Capital City Police Officer, Additional Inspector-General of Police, supervisory officer in BS-21
BS 15-17	Regional Police Officer, Deputy Inspector-General of Police, supervisory officer in BS-20	Capital City Police Officer, Additional Inspector-General of Police, supervisory officer in BS-21	Provincial Police Officer
BS 18-20	Capital City Police Officer, Additional Inspector-General of Police, supervisory officer in BS-21	Provincial Police Officer	Chief Secretary

**24. Dismissal.** -(1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be given to the length of service of the accused officer and his claim to pension.

(2) A police officer sentenced to rigorous imprisonment exceeding one month shall, if such sentence is not quashed on appeal or revision, be dismissed from service.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental Inquiry, the facts of the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full descriptive roll, with particulars of the penalties, shall be sent for publication in the Police Gazette.

**25. Confinement to quarters.** -A Constable and Head Constable confined to quarters shall be confined in the lock-up attached to the police guard in the district police lines. While so confined he shall perform extra drill or may be employed instead on an authorized fatigue duty. He shall not leave the lock-up during the period of his confinement, except under escort of one or more Constables in uniform, and in accordance with order, general or specific, of the Lines Officer or his supervisory officers at the headquarters.

**26. Extra drill.** -(1) Extra drill shall consist of drill with a rifle for not more than six or less than four hours in any one day, with an interval of at least 30 minutes between each hour. Only such days shall be counted towards the completion of an award of extra drill on which such drill is actually carried out.

(2) An officer awarding extra drill may direct that the constable or head constable so punished, if attached to the reserve, shall not leave the lines, except on duty during the days on which such penalty is to be carried out.

**27. Proceedings against an officer officiating in higher rank.** -The misconduct of a police officer shall be judged in relation to the position he occupied at a time when such misconduct allegedly took place. For award of penalty, therefore, an accused officer officiating in a higher rank shall be considered to be of that rank.

**28. Record of penalties.** -(1) A penalty register shall be maintained in each district or unit in a manner prescribed by the Provincial Police Officer.

(2) Every award of departmental penalty shall be entered therein.

(3) An award of dismissal in consequence of criminal conviction shall not be shown separately as a departmental penalty.

(4) If the award is one of extra drill not exceeding two days, the entry made in the Order Book shall be the only record of such penalty.

(5) All penalties required to be entered in the penalty register shall also be entered in service rolls. Entries of penalty, against which an appeal lies, shall not be made in character rolls until the appeal has been decided.

**29. Penalties Returns.** – Penalties returns shall be made in a manner prescribed by the Provincial Police Officer.

**30. Records in departmental cases.** -(1) In all departmental cases in which the alleged offence is such as to merit a major penalty, if proved, a record shall be kept, which shall contain:

- (i) the charge;
- (ii) the evidence supporting the charge;
- (iii) the defence of the accused officer;
- (iv) the statements of the defence witnesses, if any;
- (v) the finding of the Inquiry Officer/Inquiry Committee;
- (vi) the final order.

(2) In all cases against the junior ranks the record shall be in English or Urdu, but the finding, and the final order shall be in English.

(3) The record shall be paged like an ordinary file, and an index shall be attached to the first page.

(4) The record, together with any orders passed in revision or appeal, after the necessary entry has been made in the character roll, be filed with the Urdu personal file of the officer concerned. If the record concerns more than one officer, an attested copy of the final order in the case shall be attached to the Urdu personal file of each officer concerned.

(5) Each record shall bear the annual serial number of the entry in the penalty register relating to the case and a reference to this number shall be made in the remarks column of the Long Roll.

**31. Removal from promotion lists.** -Removal of a name from a promotion list may follow the award of a penalty. No formal charge be framed nor evidence recorded, but an order shall be recorded in writing and given effect through an entry in the Order Book. The Authority shall consider previous record of the accused while passing such an order. The original order of the Authority ordering removal shall be read out to the officer concerned. No appeal shall lie against it.

**32. Stricture passed by a court against an officer.** -(1) Whenever a court passes a stricture on the professional conduct of an officer, it shall send a copy of the judgment to the head of district police or the concerned supervisory officer not less than the rank of Senior Superintendent of Police. In case of the Lahore High Court the copies will be forwarded to the Provincial Police Officer.

(2) In case a stricture is passed on the conduct of police by a Sessions Court or by a Judicial Magistrate's court and no specific recommendation is made by the court passing such a stricture about an inquiry should be made, the head of district police will decide whether an inquiry into the matter is necessary.

*Draft Punjab Police Act, 2010*

# Analysis and Recommendation for Amendments

## Introduction

With policing in Punjab (specifically) and Pakistan (generally) largely unchanged since the British colonial period, the performance of law enforcement agencies throughout the country is often unprofessional, unaccountable and unsatisfactory. The deficiency stems from a number of factors. First, there is tremendous political interference in the functioning of police. Second, there are very few functional mechanisms to hold the police accountable for wrongdoing. Third, the police are seriously under-resourced and ill-equipped to meet the challenges posed by violent insurgency (specifically) and maintenance of law and order (generally).

The Police Order, 2002 was premised on police service's autonomy, public oversight, accountability and security of tenure. However, the Order failed to bring in the reforms it promised because, among other things, it was a federal law lacking provincial ownership; provincial governments resisted implementation as took away powers to control the police; it had an unrealistic organizational design; there was resistance amongst the police and civil bureaucracy; and finally several amendments through a Presidential Ordinance in 2004<sup>1</sup> took away the operational autonomy and distorted the accountability mechanisms.

A read of the Draft Punjab Police Act, 2010 (DPPA) suggests that it has borrowed from the Police Order with significant alterations. It makes an attempt to achieve greater operational autonomy for the police, flexibility in administration and a clear chain of command for the police. However, in the deviation several of the safeguards and the progressive elements of the Police Order have been lost. At the outset the tone of the DPPA is one that suggests the police are a force rather than a service. It fails to incorporate the principles of democratic policing that would provide the people of Punjab with a professional, efficient and accountable police.

The accountability provisions have been seriously weakened with the justification that the internal accountability of the police will be sufficient to discipline errant officers. The model for superintendence and oversight in the form of the Provincial Police Council is not one that clearly defines the Police-Executive relationship. This will only increase the corrosive influence of politics on policing.

Overall, the DPPA does not qualify as a strong progressive legislation to meet the modern day needs of

society or police. If passed in its current form it will ensure that police functioning will not improve and it will remain a force that imposes the law instead of becoming a service that upholds the law. At the moment the public has little faith in the police, which it views as abusive, corrupt and broken. The people of Punjab deserve first-rate policing and nothing less. This is the one chance to reform the police. There is no moment to be lost.

This submission represents a comprehensive consideration of the DPPA and our corresponding recommendations. There are several provisions which we feel need amendment or need to be deleted from the Draft Act. (Please note that our analysis does not discuss those sections in the Draft Act which we approve.) We hope that the Review/Drafting Committee and the Government will give our submission careful consideration. We also do not claim that the recommendations are complete in themselves. However, public input into legislative drafting is a welcome initiative and must be encouraged and continued.

## Analysis

### Preamble

A preamble is the foundation of a law and sets the purpose and principles of an Act. The Act itself will be interpreted in light of the preamble and it is therefore crucial that the preamble is carefully drafted.

The wording in DPPA is slightly generic at some points and should be replaced with terminology that is consistent with the objectives of democratic policing.

### Preamble Recommendation

In the 5<sup>th</sup> paragraph of the preamble, after the words “people friendly” add words “accountable, transparent”, thereby the 5<sup>th</sup> paragraph should read:

“AND WHEREAS it is essential to appropriately empower the police to enable it to function as an efficient, effective, people friendly, accountable, transparent and responsive service;”

## Chapter II: Responsibilities and Duties of the Police

### Section 3 – Attitude and responsibilities of police towards the public

The attitude and responsibilities of police towards the public under section 3 of the Police Order, 2002 included the following claused:

*“aid individuals who are in danger of physical harm particularly women and children”.*

However, this clause has been omitted in the section 3 of the DPPA. This unnecessary omission of an important aspect of police’s duties toward the vulnerable indicates an undue shift away from what is desirable. It is the responsibility of the police to come to the aid of people who in danger of physical harm especially women and children who are particularly vulnerable in general, and specifically in situations of law and order. It is therefore strongly recommended that the section 3 (d) of the Police Order, 2002 be retained under section 3 of this Act.

### 3(d) Recommendation

Section 3(d) should be added in the following form

**“3(d) aid individuals who are in danger of physical harm particularly women and children”**

### Section 4 – Duties of the Police

Under Section 4(b) of DPPA, one of the duties of police is to “maintain law and order”. This should be



replaced by “preserve and promote public peace”. This shift towards a “police service” rather than a “police force” should also be reflected in every meaningful accountability measure currently absent from the DPPA. The preservation and promotion of public peace must be included to ensure a holistic view of policing.

#### **4. b Recommendation**

Section 4(b) should be amended to read as follows:

**“4(b) maintain law and order and security and preserve and promote public peace”**

Section 4(c) directs the police to “ensure that the rights and privileges, under the law, of a person taken into custody, are protected”. This provision should be amended to ensure that the police are held responsible for every person in their custody.

#### **4. c Recommendation**

Section 4(c) should be amended to read as follows:

**“4(c) ensure that rights and privileges of all the citizens under the law including personal safety and well being of a person taken into custody, are protected”**

**Section 4(s)** requires the police to support alternative dispute resolution mechanisms. Alternative dispute resolution is not a function of the police and must be left to persons competent to handle the same. Since there is great potential for the police to abuse their substantial powers under the rubric of “alternative dispute resolution”, this part of section 4(s) must be deleted.

#### **4. s Recommendation**

Section 4(s) should be amended to read as follows:

**“4(s) create and maintain a feeling of security in the community, prevent conflicts and promote amity by obtaining the cooperation of the community”**

#### **Responsibilities of Police towards Prosecutors**

The Punjab Criminal Prosecution Service Act, 2006 prescribes responsibilities of police towards prosecutors in its section 12 which requires *officer incharge of a police station or the investigation officer* to (i) *immediately report to the District Public Prosecutor, the registration of each criminal case*, (ii) *send report under section 173 of the Code of Criminal Procedure, 1898 (CrPC)*, (iii) *convey reasons for delay in investigations*, (iv) *comply with the directions as regards the police report under section 173 of CrPC*.<sup>2</sup>

A lot of problems in the prosecution of offences arise due to the extremely slow paced action after the filing of FIRs and investigation of cases by the police. The provisions of the Punjab Criminal Prosecution Service Act, 2006 and CrPC are not being followed by the police.<sup>3</sup> It is important that the responsibilities laid down in the Punjab Criminal Prosecution Service Act, 2006 are acknowledged in the Police Act for the province in order to strengthen investigation and improve effectiveness relative to the time frame of investigations by the police.

#### **Section 4(3). Recommendation**

It is recommended that a sub-section should be added after Section 4(2) as follows:

(3) It shall be the duty of an officer incharge of a police station or the investigation officer to perform their duties in terms of Punjab Criminal Prosecution Service Act, 2006 or any other law for the time being in force, including but limited to

- (i) immediately report to the District Public Prosecutor, the registration of each criminal case;
- (ii) send report to the District Public Prosecutor under section 173 of the Code;
- (iii) convey reasons to the District Public Prosecutor for delay in investigations;
- (iv) comply with the directions of the District Public Prosecutor as regarding the report under section

173 of the Code.

### **Section 5 – Emergency duties of police with regard to essential services**

Section 5(2) states that any order given by a superior officer under Section 5(1) is deemed lawful simply by having been issued by the senior officer. We believe that no such *ipso facto* validation should be given. Rather, in line with the notion that all people are subject to the rule of law (including senior police officers), the DPPA should state “it shall be the duty of every police officer to obey any lawful order given by a senior police officer in relation to the declaration”.

#### **5 (2) Recommendation**

Section 5(2) should be amended to read as follows;

**“5(2) Upon a declaration being made under subsection (1) and so long as it remains in force, it shall be the duty of every Police officer to obey any lawful order given by any superior officer in relation to employment upon or in connection with the service specified in the declaration;”**

## **Chapter III: Constitution and Organization of the Police**

### **Section 9 - Superintendence of Police and Section 10 - Administration of Police**

Section 9 and 10 of the DPPA refer to the superintendence and administration of the police respectively. However, the terms need to be more clearly and specifically defined considering that this has historically been the root of the problem of policing in Pakistan.

It is well known that in any society, the police enjoy immense powers, which must be controlled to prevent their misuse. However, the task of controlling the police itself becomes a source of tremendous power that can be misused to serve partisan interests. Balancing these conflicting ideas of how is the control exercised and the type of relationship that should exist between the police and the political executive that establishes and controls them is what will lead to an efficient, accountable and transparent police service.

In both theory and practice, there is a strong distinction between the notions of “administration” and “superintendence”. The former term relates to the day to day management of the police. The latter term, superintendence, relates to overall control of policy, laying down guidelines, and setting province-wide standards for policing. In our view, these two functions are distinct and must be exercised by different parties in a modern democracy. Superintendence is the ultimate purview of the Provincial Government, whereas, administrative function can and must rest with the Police alone.

It is of extreme importance to define the areas where the political executive can and should intervene in policing matters. It is only through a clear expression of the dual roles of executive superintendence and police administration that the operational responsibility and accountability of police can be assured, without sacrificing the important function of legitimate political oversight and supervision. Illegitimate political interference in policing inevitably occurs when roles are not clearly defined.

The Provincial Police Officer’s responsibilities to the political executive (through the Minister in charge) and what duties and functions the police are *not* responsible to the executive must be clearly delineated. Section 9 needs to be thus amended to reflect this delineation.

#### **9. Recommendation**

Section 9 should be amended to read as follows:

**“9. Superintendence of the Police: The superintendence of the Police shall be exercised by the Provincial Government through the Minister-in-charge in accordance with the provisions of this Act.**

**(1) The Minister-in-charge may issue any direction to the Provincial Police Officer for the purposes of this Act provided that no direction from the Minister to the Provincial Police Officer may have**

the effect of requiring the non-enforcement of a particular area of law.

(2) The Minister must not give directions to the Provincial Police Officer in relation to the following:

- a) enforcement of the criminal law in particular cases and classes of cases;
- b) matters that relate to an individual or group of individuals;
- c) decisions on individual members of the police.

(3) If there is disagreement between the Minister and the Provincial Police Officer in relation to any direction under this section, the Minister must, as soon as practicable after the disagreement arises,

- a) provide that direction to the Provincial Police Officer in writing; and
- b) publish a copy in the Gazette; and
- c) present a copy to the Provincial Assembly.”

### ***10. Recommendation***

Section 10 should be amended to read as follows:

**“10. Administration of the Police: The supervision, direction and control of the police shall be vested in an officer designated as the Provincial Police Officer.**

(1) **Responsibilities and independence of Provincial Police Officer: The Provincial Police Officer shall be responsible to the Minister for:**

- (a) carrying out the functions and duties of the Police;
- (b) the general conduct of the Police;
- (c) the effective, efficient, and economical management of the Police;
- (d) tendering advice to the Minister;
- (e) giving effect to any lawful ministerial directions.

(2) **The Provincial Police Officer shall not be not responsible to, and must act independently of, the Minister regarding:**

- (a) the maintenance of order in relation to any individual or group of individuals;
- (b) the enforcement of the law in relation to any individual or group of individuals;
- (c) the investigation and prosecution of offences; and
- (d) decisions about individual Police officers.

### **Section 11- Provincial Police Officer**

In order to guarantee that the best possible candidates are considered for the important posting of PPO, and to minimize the possibility of illegitimate political interference in the selection of this position, we firmly believe that a properly constituted Provincial Police Commission (see Chapter VIII) should have an important role in the vetting process.

### ***11. Recommendation***

Section 11(1) should be amended to read as follows:

**“11. The Government shall, out of a panel of three police officers of the rank of Inspector General of Police recommended by the Provincial Police Commission, post a police officer as Provincial Police Officer of Punjab.”**

### **Section 13- Posting of Additional Inspectors General of Police**

### **Section 14- Posting of Deputy Inspector General, Senior Superintendent, Superintendent, Assistant**

## Superintendent, Deputy Superintendent

### Section 15- Posting of Head of District Police

As described above, given the distinction between superintendence and administration, it ought to be the responsibility of the Provincial Police Officer (PPO) to post his subordinates **as he deems appropriate** since this is an administrative duty and not a policy-related function. Thus, the PPO should only have to **consult** the government on his appointments **and not require their approval**. In addition, Section 12 and 15(2) guarantee the PPO and District Police Officer (DPO), respectively, a minimum tenure of 3 years. The rationale for this provision is that politically motivated transfers by politicians significantly undermine the work of police. By guaranteeing tenure of 3 years, the greater job security will permit the PPO and DPO with the space to do their job effectively and in accordance with the rule of law. It is for this same reason that a minimum tenure of 3 years should be extended to the Additional Inspector Generals, Deputy Inspector Generals and heads of Police Training Institutions.

### 13. Recommendation

Section 13 should be amended to read as follows:

**“Posting of Additional Inspector General of Police. - (1) The Provincial Police Officer may, in consultation with the Minister-in-charge, post such number of Additional Inspectors General of Police to assist him with the efficient performance of his duties as may be required or as the Provincial Police Officer deems appropriate;**

**(2) The term of office for Additional Inspectors General of Police shall be at least three years from the date of posting;”**

### 14. Recommendation

Section 14(1) should be amended to read as follows:

**1) The Provincial Police Officer may, in consultation with the Minister-in-charge, post such number of Deputy Inspectors General of Police to assist him with the efficient performance of his duties as may be required or as the Provincial Police Officer deems appropriate.**

Section 14(3) should be amended to read as follows:

**“Every officer posted under clause (1) and clause (2) shall exercise and perform such powers, functions and duties as assigned to him under this act, or any other law for the time being in force, and shall have a term of office of at least three years from the date of his posting;”**

### 15(1). Recommendation

Section 15(1) should be amended to read as follows:

**“(1) The Provincial Police Officer may, in consultation with the Minister-in-charge, post an officer not less than the rank of a Senior Superintendent of Police as the head of district police who shall be called the District Police Officer.**

**Provided that in a district where the size of the police establishment is more than five thousand the District Police Officer shall be called the City Police Officer who shall be an officer not less than the rank of Deputy Inspector General of Police and posted as provided in section 14(1).**

**Provided further that the District Police Officer in the provincial metropolis of Lahore shall be called the Capital City Police Officer who shall be an officer not below the rank of an Additional Inspector-General of Police.**

Although Section 15(3) provides for the *transfer* of the DPO due to exigency of service etc..., it does not provide for the *removal* of a DPO in exceptional cases.

### 15(3). Recommendation

Section 15(3) should be amended to read as follows:

**“In exceptional cases, a district police officer may be removed from his post before the expiry of his tenure for gross inefficiency and negligence or where a prima facie case calling for major penalty is established after a preliminary inquiry.”**

### **Section 21- Promotions**

The current scheme of promotions is generally well drafted in the DPPA. However, the issue of postings, transfers and tenure, which are of the utmost importance when it comes to the efficiency of the police, finds no mention in the Draft. It is impossible to effectively police an area if there is no security or certainty of tenure, especially in the command posts of the service. Therefore, it is imperative that the promotion boards also handle matters of postings, transfers and tenure, as they are most suitably placed to avoid any sort of interference. We recommend modifying the existing subsections u/s 21(1) to accommodate these new roles and a minimum security of tenure to be enumerated in sub-section (2), with exceptions laid out in sub-section (3).

In addition, it is important that promotions, postings and transfers are decided upon by the *concerned* senior police officials and not merely senior police officials. Thus, sub-section (1) has been amended to reflect that requirement.

Further, a separate Police Establishment Board consisting of the Provincial Police Officer and three senior officers of the Punjab police should be established which serves as an authority on transfers and postings as well as a redressal mechanism for complaints within the service on these matters for the ranks of Superintendent of Police and above. These provisions shall be added with a new subsection (4).

### **21. Recommendation**

Section 21 should be amended to read as follows:

**“21. Promotions, Postings and Transfers:** (1) The Police officers appointed by the Punjab Government shall be promoted, posted and transferred in the following manner:

- (a) The Provincial Police Officer shall promote, post or transfer officers to the rank of Superintendent or Deputy Superintendent of Police, as the case may be, on the recommendation of a Promotions, Postings and Transfer Panel. This Panel shall be composed of the Provincial Police Officer as chairperson who will nominate one Additional Inspector General of Police and one Deputy Inspector General of Police as members of the Panel.
  - (b) The Provincial Police Officer shall promote, post or transfer an officer to the rank of Inspector on the recommendation of a Promotions, Postings and Transfer Panel. This Panel shall be composed of one Additional Inspector General of Police, nominated by the Provincial Police Officer, as chairperson and the concerned Regional Police Officer or Deputy Inspector General of Police and the concerned District Police Officer as members of the Panel.
  - (c) The concerned Regional Police Officer or Deputy Inspector General of Police shall promote, post or transfer an officer to the rank of Assistant Sub-Inspector or Sub-Inspector, as the case may be, on the recommendation of a Promotions, Postings and Transfer Panel. This Panel shall be composed of the concerned Regional Police Officer or Deputy Inspector General of Police as chairperson and the concerned District Police Officer and one additional officer of the rank of Senior Superintendent or Superintendent of Police selected by the chairperson as members of the Panel.
  - (d) The concerned District Police Officer or Senior Superintendent of Police shall promote, post or transfer an officer to the rank of Head Constable on the recommendation of the Promotions, Postings and Transfer Panel. The concerned District Police Officer or Senior Superintendent of Police shall chair the board and nominate one officer in the rank of Superintendent and one officer in the rank of Assistant or Deputy Superintendent of Police as members of the Panel.
- (2) The Government shall secure minimum tenure of two years for all police officers posted or transferred under 21(1);
  - (3) The Government or the appointing authority may, without prejudice to any other legal or departmental

action or to sub-section (2), discipline a Police Officer in accordance with the Punjab Police Efficiency and Discipline Rules, 2010.

- (4) A Police Establishment Board shall be established and:
- (a) The Board shall have the Provincial Police Officer as the chair, and three other senior officers as the Provincial Police Officer may deem fit as its members.
  - (b) The Board shall discharge the following functions, namely:
    - (i) to decide on appeals, complaints and give general guidelines relating to all transfers, postings, promotions and other service related matters of police officers of and above the rank of Assistant Superintendent of Police, subject to the provisions of the relevant service laws as may be applicable to each category of police officers;
    - (ii) to function as a forum for appeal for disposing representations from officers of the ranks of Superintendent of Police and above regarding their promotion, transfer, disciplinary proceedings, or their being subject to illegal or irregular orders;
- (5) Officers in specialist cadres shall be promoted to higher ranks in the manner prescribed by the Provincial Police Officer in accordance with section 7 of this Act;”

### **Section 22- Separation of Investigation from other functions**

It makes sense for investigations to be under the supervision of the Officer in Charge (SHO) of the police station because it ensures that the SHO will have an understanding of everything emanating from his *thana* rather than merely law and order. In this way he can better manage resources at his disposal.

However, Section 22 as it currently stands permits up to three transfers of investigation for reasons to be recorded in writing. It is understandable that transfers under certain circumstances may be required when the investigation appears tainted, biased or faulty. However, the DPPA does not indicate what some reasons for transfer might be. Thus, transfers of investigation without guidance on when and how such transfers should take place could result in unnecessary delays in the already slow investigation process. It also has the potential at times of undue interference into an investigation. Finally, three investigations would involve huge additional costs to be borne by the department.

Thus, transfers of investigation without guidance on when and how such transfers should take place could result in unnecessary delays to justice and extra costs for the police. First, any transfer must be accompanied with an inquiry on why a transfer was necessary. Second, criterion should be clearly laid out as to when circumstances warrant a transfer of investigation.

Finally if an investigation is transferred sanctions need to be put in place against the Investigating Officer. This would lead to improved and conscientious investigations as well ensure greater accountability of the police in investigation matters.

### **22. Recommendation**

Sub-sections (4) and (6) of Section 22 should be amended, current sub-section (5) should be deleted and a sub-section should be added at (7). Amended Section 22 should read as follows (with (7) changing to (6) with the deletion of (5)):

22.(1) “All registered cases shall be investigated by the investigation staff in a police station under the supervision of the Officer in Charge of the police station. The investigation staff shall not be employed for duties other than investigation except with prior approval of the District Police Officer.

(2) The District Police Officer and the officers in charge of a police station, sub-division and division shall supervise all cases under investigation in their jurisdiction. During investigation any of them may summon the

investigation officer, review the case file, evaluate the evidence and issue instructions to the investigation officer in the form of a case diary. Upon completion of an investigation each of them may verify its correctness by taking into account all evidence collected by the investigation officer and recording a case diary on the case file containing his opinion.

(3) Supervision and verification of an investigation by the supervisory officers mentioned in sub-section (2) above shall not be deemed a transfer of investigation.

(4)(i) For reasons to be established by holding an inquiry, the District Police Officer may order a first transfer of an investigation from an officer to any other officer or a team of officers of a rank higher than the rank of the previous investigation officer within his jurisdiction;

(ii) The District Police Officer shall provide detailed criteria by which such transfer is to take place.

(5) The Provincial Police Officer in consultation with the District Police Officer may order a second and final transfer of an investigation to an officer or team of officers of a rank higher than the rank of the previous investigation officer(s).

(6) If an investigating officer is found to have deliberately conducted an investigation which warranted transfer or any other disciplinary action, s/he shall be proceeded against as per the prescribed rules.”

### **Section 27 – Appointment of Special Police Officers**

Section 27 vests with the DPO the power to appoint Special Police Officers (SPOs) for special purposes. The section however does not indicate under what circumstances such persons would be appointed and what criteria would be used to select them. A Special Police Officer appointed under this section would have the same powers and immunities as ordinary police officers, but it is not clear whether he would receive any training before appointment and before being afforded the powers and immunities of police officers.

Inclusion of SPOs would run the risk of expanding the ranks of the Punjab Police with poorly trained and unprofessional officers. Even trained officers seldom fail to understand the limits of police powers and duties. Having untrained officers with powers of a police officer could potentially lead to the creation of vigilante groups which at some point the provincial police would be unable to control.

Sweeping powers to create Special Police officers are thus unwarranted and should be removed in their entirety.

### **27. Recommendation**

Section 27 should be deleted in its entirety.

### **Section 28- Appointment of Additional Police**

Similarly, Section 28 outlines the DPO’s powers to appoint additional police. Even these additional police have the same powers and immunities as regular police personnel. Like in the case of SPO’s, the additional police recruited under the Section will not have the requisite training and knowledge to effectively police the area assigned to them. Additional police will also run the risk of abuse of power, as is seen so often around Pakistan. The police must make up its shortfall through direct recruitment and should not have to depend on hiring additional police. Thus, Section 28 in its present form should be removed. However, district police officers may be allowed to recruit **temporary** volunteers or *razakars* for specific duties on occasions such as elections, carnivals, religious processions, and natural disasters etc. only to maintain discipline, smooth functioning of the event. Such volunteers/*razakars*, however, should have no powers to arrest or use coercive force, arms or violence.

### **28. Recommendation**

Existing Section 28 should be replaced with the following:

## 28. Appointment of additional temporary volunteers' force:

(1) The head of district police, subject to the approval of the Provincial Police Officer, may appoint additional volunteers or *razakars* with such remuneration and reward as he may deem fit for the purposes stated in their employment orders.

(2) Such additional volunteers or *razakars* appointed under sub-section 1 shall be temporary and for specific duties on special occasions such as elections, carnivals, religious processions, and natural disasters etc. only to maintain discipline and smooth functioning of the event or disaster management.

Provided that such volunteers or *razakars* shall have no powers to arrest or use coercive force, arms or violence.

## Chapter IV: Regulation, Control and Discipline

### Section 34 - Code of Conduct

The passage of a Code of Conduct for the Punjab Police is a laudable objective. However, codes of conduct are more intended to guide standards of expected behaviour and professionalism of police officers. These are not intended to guide statutory obligations like those involved in search and seizures. Thus, guidelines for these should be included in rules and regulations which can be legally enforced.

#### 34. (1) Recommendation

Section 34(1) should be amended to read as follows:

##### “34(1). Code of Conduct:

(a) (i) The Provincial Police Officer shall prescribe a code of conduct for Police officers after consulting the public and other stakeholders.

(ii) The code shall be in accordance with the international standards for use of force and coercive measures by law enforcement agencies

(iii) The Code will state the standards of behaviour expected from Police officers.

(b) It will be the duty of every Police officer to conduct her/himself in accordance with the code of conduct.”

In order to ensure the adequate command and control of the Provincial Police Officer we recommend the inclusion of the below sections.

#### “34. (2) – (4) Recommendation

Section 34(2) in the current draft should be deleted in its entirety and replaced with the following:

“34(2) Every Police officer must obey the lawful commands of his superior.

(3) Subject to sub-section/clause 2, Every Police officer must obey and be guided by:

(a) general instructions;

(b) the Provincial Police Officer's circulars/standing orders;

(c) any applicable local orders.

(4) No Police officer may, while exercising any power, or carrying out any function or duty under this Act or any other law in force for the time being, act under the direction, command, or control of:

(a) a Minister; or



(b) a person who is not authorised by or under this Act or any other enactment or rule of law to direct, command, or control the actions of a Police officer.”

## Chapter VI: Special Measures for Maintenance of Public Order and Security

### Section 54 – Employment of Additional Police to keep the Peace

Section 54 vests in the DPO the power to depute additional police to keep the peace when an application is made. The cost of the additional police shall be borne by the person making the application. This seems an excessive provision contrary to provisions within this Act itself. Keeping the peace and preserving order is a police function which they are statutorily obligated to perform. Living in a peaceful and orderly society is a right of the citizenry and they cannot be made to pay anything extra for that service.

#### *54. Recommendation*

Section 54 should be deleted in its entirety.

## Chapter VII: Offences and Punishments

### Section 63: Causing mischief in street by animal or vehicle

### Section 64: Causing obstruction in a street

### Section 65: Wilful or negligent conduct in respect of dogs.

### Section 66: Penalty for offences under sections 63 to 65

### Section 67: Suffering disorderly conduct

Sections 63-67 deal with police response in case of mischief in relation to animals or vehicles that is likely to cause obstruction. These sections are an anachronism from the 1861 Police Act that is needlessly replicated in the DPPA. Even otherwise, the offences under sections 63-65 are provided for in the penal code.

#### *63-67. Recommendations*

Sections 63 - 67 should be deleted in its entirety.

### Section 68: Penalty for obtaining employment as a police officer through fraudulent means

The section envisages punishment for persons making false statements, providing misleading materials or uses a false document to obtain employment in the police, by imprisonment for on year or fine of 50,000 rupees or both. We are of the opinion that this clause should be entirely removed as a similar provision already exists under section under section 468 of the Pakistan Penal Code (PPC) which provides for 7 years imprisonment, and fine as punishment. Section 468 is adequate to deal with cases of this nature, hence does not need to be duplicated in this act with lesser punishment.

#### *68. Recommendation*

Section 68 should be removed in its entirety.

### Section 73 – Penalty for frivolous or vexatious complaint

Section 73 will have a chilling effect on people’s inclination to register a complaint against the police. This is a sure fire way of intimidating potential complainants and will act as a clear disincentive for persons already afraid of

complaining against the police. It is unlikely that a victim would put himself at the risk of not only complaining against the police, but also taking the risk of being imprisoned for a year and having to pay an onerous fine of 50,000 rupees in case his complaint does not meet the required standards of satisfying the PPO or the DPO of its veracity.

### **73. Recommendation**

Section 73 should be deleted in its entirety.

## **Chapter VIII: Police Accountability and Oversight**

### **Part 1 - District Police Council**

In a democracy every institution of state must bear with checks and balances to its power and open and repeated scrutiny of its functioning. The police must accept much more scrutiny and criticism than the ordinary because it is a coercive force of the state. Properly constituted accountability structures increase the likelihood of public trust and that a coercive force like the police does not run amok.

In a truly democratic state there must be sufficient and easily accessible channels whereby people can file complaints against police officers, without fear, for acts of misconduct or possible criminality, and expect to receive a prompt and proper investigation. There are certain imperatives for such a body – it needs to be independent, sufficiently empowered and given adequate resources. In this regard, the DPPA falls short in relation to all the imperatives.

#### **Section 75 – Establishment**

Section 75 lays down the establishment of the District Police Council. From the face of it appears that this Council is intended to act as an external accountability body to look into complaints against the police.

However, by its very terminology the body is weakened. By definition the word Council means an assembly of persons called together for consultation, deliberation, or discussion. Such a body is almost always an advisory body. Thus, calling an accountability and oversight body as a Council would dilute the intent substantially. In contrast, calling it an Authority or Commission would give it the status it is intended to have.

### **75. Recommendation**

Section 75 should be amended to read as follows:

“75. Establishment – there shall be a Police Complaints Authority in every district.”

#### **Section 76 – Composition**

Section 76 lays down the composition of the Council which would consist of seven members. Three of these members would be MPAs from the concerned district to be nominated by the Chief Minister, at least one of whom shall be from the opposition. The DPO would act as the Council’s secretary.

The neutrality and efficacy of the Police Complaints Authority (PCA) is directly linked to its composition. The main purpose of setting up civilian oversight mechanisms is to ensure that complaints against the police will not be influenced in an untoward or biased manner, particularly by the Executive. Independence is determined by the extent to which the body is separated from the police, the Executive and other external factors. It is established that independence and credibility are improved when the oversight body comprises leadership and staff drawn from outside government and police. The profile of the members as stipulated under Section 76 are not diverse enough to ensure that functioning will be truly independent and decisions will be unbiased and fair. The presence of a *servicing* police officer kills the spirit behind this body and entirely undermines the quest for independence.

The composition of the body must thus be amended to ensure that it is independent and diverse.

### 76.1. Recommendation

Section 76(1) should be deleted in its entirety and replaced with the following:

**“(1) The Police Complaints Authority shall have seven members including:**

- a) Retired District and Sessions Judge who shall be the Chairperson of the Authority**
- b) Retired Public Servant**
- c) Five Independent Members from the fields of law, academia, social work, human rights, and representative of the population of the district**

**Provided that there shall be at least two women from amongst the independent members.”**

**Section 76(2) shall be deleted in its entirety and replaced by sub-section (3) provided in the DPPA**

### Section 77 – Chairperson

Section 77 gives the powers of appointment of the Chairperson solely to the Chief Minister. This would not be perceived to be an independent appointment and thus needs to be amended.

### 77. Recommendation

“77 (1) The Chairperson of each Police Complaints Authority shall be appointed by the Chief Minister out of a panel of three retired District and Sessions judges suggested by the Chief Justice of the Lahore High Court.”

### Section 79 – Powers and Functions of the District Police Council<sup>4</sup>

Considering the high volume and nature of complaints against the police, having a body that will exclusively look at such complaints becomes exceedingly crucial. The present mandate of the DPC is manifold. It is assigned to aid the district police in the discharge of its functions, redress grievances against the police as well as identify infrastructure shortcomings in the police. For a complaints body to be effective and efficient it is urged that it only look at complaints and provide guidelines to the police to address the root causes.

### 79. (1) - (5) Recommendations

The functions of the Council thus need to be amended and Section 79 (1) and (2) in the DPPA should be deleted in its entirety and replaced with the following sub-sections.

“79(1) The Council shall inquire into allegations of “serious misconduct” against police personnel, as detailed below, either *suo moto* or on a complaint received from any of the following:

- (a) a victim or any person on her/his behalf;
- (b) the police; or
- (c) any other source.

*Explanation:* “Serious misconduct” for the purpose of this chapter shall mean any act or omission of a police officer that leads to or amounts to:

- (a) death in police custody due to unnatural causes;
- (b) hurt, as defined in Section 332 of the Pakistan Penal Code, 1860;
- (c) rape or attempt to commit rape; or
- (d) arrest or detention without due process of law.

*Provided that* the Council shall inquire into a complaint of such arrest or detention, only if it is satisfied *prima facie* about the veracity of the complaint.

- (2) The Council may also inquire into any other case referred to it by the District Police Officer if, in the

opinion of the Council, the nature of the case merits an independent inquiry.

(3) The Council may monitor the status of departmental inquiries or actions taken in pursuance thereto on the complaints of “misconduct” against officers through a quarterly report obtained periodically from the District Police Officer, and issue appropriate advice to the police department for expeditious completion of inquiry, if in the council’s opinion the departmental inquiry or departmental action is getting unduly delayed in any such case;

*Explanation:* “Misconduct” in this context shall mean any wilful breach or neglect by a police officer of any law, rule, and regulation applicable to the police that adversely affect the rights of any member of the public, excluding “serious misconduct” as defined in sub-Section (1)

(4) The Council may also call for a report from, and issue appropriate direction for further action or, if necessary, a direction for a fresh inquiry by another officer, to the DPO when a complainant, being dissatisfied by the outcome of, or inordinate delay in the process of departmental inquiry into his complaint of “misconduct” as defined above, by any police officer, brings such matter to the notice of the Commission; and

(5) The Council may lay down general guidelines for the district police to prevent misconduct on the part of police personnel.

#### **Powers of the Council:**

Using the powers vested in the Council under Section 79(2) the Council can receive a complaint from an aggrieved person of misconduct by a police officer and merely forward this to the DPO or Regional Police Officer (as required) to take action under the Discipline Rules. This reduces the Council to a mere post office tasked with the duty of accepting and forwarding complaints. Knowing the closed and opaque nature of internal inquiries, such a mandate in no way serves the accountability or oversight function of the body.

The mandate of the DPC as provided at section 79 of the DPPA also does not empower it to request from the police a *time-bound* enquiry report that examines the complaint. Second, the DPC is not able to make any of its own findings. Third, the DPC can only forward complaints to the PPO when a report is not furnished. If a report is furnished, but is inadequate in the opinion of the DPC, no recourse is given. All these weaknesses together add up to a powerless and impotent body.

#### **79. (6) - (11) Recommendation**

The powers of the Council must be laid down in the Act and therefore it is our suggestion that new sub-sections (6) – (11) be added to the DPPA to read as follows:

#### **79(6) – (9) Powers of the Council**

- (6) In the cases directly enquired by it, the Council shall have all the powers of:
- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
  - (b) discovery and production of any document;
  - (c) receiving evidence on affidavits;
  - (d) requisitioning any public record or copy thereof from any court or office;
  - (e) issuing authorities for the examination of witnesses or documents; and
  - (f) any other matter as may be prescribed.

(7) The Council shall have the power to require any person, subject to legal privilege, to furnish information on such points or matters as, in the opinion of the Council, may be useful for, or relevant to, the subject matter of the inquiry, and any person so required shall be deemed to be legally bound to furnish such information.

- (8) The Council shall have the power to advise the Administrator on measures to ensure protection of

witnesses, victims, and their families who might face any threat or harassment for making the complaint or for furnishing evidence.

(9) The Council may visit any police station, lock-up, or any other place of detention used by the police and, if it thinks fit, it may be accompanied by a police officer.

#### **79 (10) Decisions and Directions of the Council**

(10) In the cases directly inquired by the Council, it may, upon completion of the inquiry, communicate its findings to the District Police Officer with a direction to:

- (a) register a First Information Report; and/or
- (b) initiate departmental action based on such findings, duly forwarding the evidence collected by it to the police.
- (c) Such directions of the council shall be binding.

*Provided that* the Council, before finalising its own opinion in all such cases shall give the DPO an opportunity to present the department's view and additional facts, if any, not already in the notice of the Council:

*Provided further that*, in such cases, the Council may review its findings upon receipt of additional information from the District Police Officer that may have a material bearing on the case.

(11) The Council may also recommend to the District Police Officer payment of monetary compensation by the government to the victims of the subject matter of such an inquiry.

## **Part II - Provincial Police Council**

### **Section 84 – Establishment**

A Provincial Police Council is established per Section 84 of the DPPA. The proper formulation of this section is crucial in ensuring true reform of the police service. Such a body is set up with the intention of shielding the police from the undue interference of politicians and ensure appropriate policy directions. Using the same argument as discussed above in section 79 regards the terminology we recommend that Council be replaced with Commission.

#### **84. Recommendation**

We recommend that Section 84 be amended to read as follows:

**“Establishment – There shall be a Provincial Police Commission in the province”**

### **Section 85 – Composition**

Section 85 lays down the composition of the Provincial Police Council having 11 members.

The idea behind a such a body is for there to be a bi-partisan body which will lay down police policy and be a means by which the performance of the police as an entity is kept continuously under review with a view of assuring that year on year the police improves its performance for ensuring the safety of citizen's lives, property and liberty. It is only the shape and composition of the Commission that will ensure the impartial functioning of the police. The Commission must be designed so that it is not capable of being captured by any party. The bi-partisan nature of policy setting for a public service that can carry on continuously and with a certainty of directions aimed at constant improvement is especially important in a province like Punjab.

To achieve its objective it is crucial that the Commission be made up of both the responsible minister, the leader of the opposition, other elected representatives, experts, and credible members of civil society. The DPPA does not reflect such a composition. It is heavily dominated by the ruling party. The member of opposition on the proposed Council is nominated by the Chief Minister. This need not be the case if it is to be a neutral body. There are no criteria

laid down for the selection of the three independent members provided for under Section 85(d). The presence of the Law Minister on this body remains unexplained. Finally, the Council lacks any minority representation which seems unusual given the multicultural character of Punjab.

In view of the above we recommend that the section be modified as under.

### **85. Recommendation**

We recommend that Section 85 be amended to read as follows:

- (1) **“Composition: The Provincial Police Commission shall have as its members:**
  - (a) **the Chief Minister as its Chairperson;**
  - (b) **the Leader of the Opposition in the Provincial Assembly;**
  - (c) **a retired High Court Judge, nominated by the Chief Justice of the High Court;**
  - (d) **the Chief Secretary;**
  - (e) **the Secretary in charge of the Home Department;**
  - (f) **the Provincial Police Officer as its Member-Secretary; and**
  - (g) **five independent persons of proven reputation for integrity and competence (hereinafter referred to as “Independent Members”) from the fields including academia, law, media or NGOs.**
- (2) **The composition of the Commission shall reflect diversity of experience and ethnic and religious backgrounds, and will have not less than two women as its independent members.**
- (3) **No serving government employee shall be appointed as an Independent Member.**
- (4) **Any vacancy in the Provincial Police Commission shall be filled up as soon as practicable, but not later than three months after the seat has fallen vacant.**

### **Section 88 – Powers and Functions of the Provincial Police Council**

Section 88 lists the powers and functions of the Council which is to lay down policing policy, indicate performance criteria and to review police performance. When framing policy guidelines it is crucial that the Commission also come up with a strategic policing plan and an annual plan that is placed before the Provincial legislature for approval.

Section 88 should be amended by inserting three new sub-sections and at the same time deleting the sub-sections (c) and (d) of (1) in its entirety.

A new section 88(3) is added to the Draft to reflect the creation of the above mentioned plans.

### **88. Recommendation**

We recommend that Section 88 be amended to read as follows

- (1) **The Commission shall**
  - a) **frame policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law;**
  - b) **identify performance indicators to evaluate the functioning of the Punjab Police. Such indicators shall, *inter alia*, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards;**

“(2) The Commission shall:

- a) draw up a Strategic Policing Plan (hereafter the Strategic Plan) for a five-year period duly identifying the objectives of policing sought to be achieved during the period and setting out an action plan for their implementation;
- b) place the Strategic Plan before the Provincial Assembly within three months of this Act coming into force. Subsequent Strategic Plans shall, thereafter, be laid before the Parliament every three years.
- c) place before the Provincial Assembly, at the beginning of each financial year, a Progress Report on the implementation of the Strategic Plan as well as an Annual Policing Plan (Annual Plan for short) that prioritises the goals of the Strategic Plan for the year in question.

(3) the Strategic and the Annual Plans shall be prepared after receiving inputs on the policing needs of the province from the District Police Officers who, in turn, shall formulate the same in consultation with the community.

(4) the Strategic Plan, the Progress Report and the Annual Plan shall be made readily accessible to the public.”

## Chapter X: Miscellaneous

### Section 99 – Citizen Police Liaison Committees

The onus on the citizenry under Section 99 to create Citizen Police Liaison Committees (CPLCs) permits the Punjab Government to abdicate its role in nurturing healthy and effective community policing schemes. Research has shown that well conceived community policing initiatives are most likely to reduce crime and forge a better relationship between the community and the police. Thus, it is incumbent for the Punjab Government to do more than simply provide for the possibility that citizens will come together to create a CPLC. Rather, Section 99 should state that the Government shall create a CPLC for every police station, irrespective of size of the population or how crime prone it is.

In addition, the composition of the CPLC is what will determine its success or failure. The current draft suggests that members shall be concerned citizens and persons of proven reputation for integrity and competence from the fields of academia, law, media, human rights and other fields. For community policing to be truly effective, it should be inclusive and allow for maximum participation. Members of any effective CPLC should be able to adequately articulate the needs of the community as well as be representative of it. This needs reflection in the DPPA. We also urge that the language be amended so as to ensure that members be chosen in a transparent manner by a Selection Committee empanelled for the purpose.

Further it is extremely important to ensure that no person with any political affiliation shall be allowed to become a member of such Committee. While the backing of political powers is important for the institutionalisation of committees, having such people directly involved in the CPLCs will only lead to the unnecessary politicisation of the CPLCs and ultimately their failure.

Finally, the CPLC should meet at least once every month, to ensure that there is a constant two-way communication occurring between the police and the public. This communication is an essential element to building an effective police-public partnership. The DPO and the Officer in Charge of the police station should be present at all meetings of the CPLC so that the community can discuss pressing matters with the police outside of the police station.

### **99. Recommendation**

Section 99 of the DPPA should be deleted in its entirety and replaced with the following:

- (1) The Government shall establish a Citizen Police Liaison Committee for every Police Station area.
- (2) The objectives of the Citizen Police Liaison Committee shall be as follows:
- (a) establishing and maintaining a partnership between the community and the police;
  - (b) promoting co-operation between the police and the community in fulfilling the needs of the community regarding policing;
  - (c) promoting communication between the police and the community;
  - (d) improving the rendering of police services to the community at the district and local levels;
  - (e) improving transparency in the police and accountability of the police to the community;
  - (f) promoting joint problem identification and problem-solving by the police and the community.
- (3) The Citizen Police Liaison Committee shall have eight to eleven representatives. Persons wanting to serve in the Group shall submit an application to a Selection Panel constituted for the purpose consisting of the Officer in Charge of the Police Station, the area Judicial Magistrate and the District Police Officer. The Selection Committee shall induct members from the applicant pool in a transparent manner.
- (4) No person who is connected with any political party or an organization allied to a political party, or has a criminal record, shall be eligible to be inducted into the Citizen Police Liaison Committee.
- (5) The Citizen Police Liaison Committee will, in consultation with the Officer in Charge, identify the existing and emerging policing needs of the Police Station area and forward that document to the District Police Officer who will consider it when preparing the annual policing strategy and policing plan per the requirement under Section 88(3).
- (6) The head of the District Police, the Officer in Charge of the police station other concerned police officers must attend meetings of the Citizen Police Liaison Committee and extend assistance to its members.
- (7) The committee shall convene meetings whenever necessary and at least once every month.

**Section 104- No officer to be liable to any penalty or payment of damages on account of acts done in good faith in pursuance of duty**

Section 104 of the DPPA provides protection to members of the police force for wrong-doings in the due pursuance of their duty.

**104. Recommendation**

The existing Section 104 should be changed to read as follows:

**104. Police officer to be liable to disciplinary action and damages.** Any Police officer who transgresses his/her authority or acts in violation of law will be liable to disciplinary action and payment of damages as may be provided under law, unless he/she can show that the act done was in good faith.

**Section 105- Suits or prosecution in respect of acts done under the colour of duty not to be entertained if not instituted within the prescribed period.**

The limitation of six months on any suit instituted against a public officer acting under the colour of duty should be revised. A common man generally unaware of his rights pitted against the might of the State may not be able to successfully mount a case against the police in a limited period. Taking these factors into account we recommend that the period of limitation vary according to the gravity of the offence.

**Section 105 Recommendation**

Section 105, should be amended to read as follows:



(1) In case of an alleged offence by a police officer, or a wrong alleged to have been done by him or by any act done under the colour of duty or in exercise of any such duty or authority of this act or when it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid.

(2) The prosecution or suit, shall not be entertained or shall be dismissed if it exceeds the limitation period of; -

- a) Six months, if the offence is punishable with fine only;
- (b) One year, if the offence is punishable with imprisonment for a term not exceeding one year;
- (c) Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years from the date of action complained of.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

#### **Offences and Punishments for Police Officers**

Articles 155 to 157 of the Police Order, 2002 have been omitted in the DPPA. It is strongly recommended that the said section 155 of the Police Order be added as sections 106 to 108 in this Act, and the rest of the sections may be renumbered.

#### **106. Penalty for certain types of misconduct by police officers. – (1) Any police officer who-**

- (a) makes for obtaining release from service as police officer, a false statement or a statement which is misleading in material particulars or uses a false document for the purpose;
- (b) is guilty of cowardice, or being a police officer of junior rank, resigns his office or withdraws himself from duties without permission;
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;
- (d) is guilty of any violation of duty;
- (e) is found in a state of intoxication, while on duty;
- (f) malingers or feigns or voluntarily causes hurt to himself with the intention to render himself unfit for duty;
- (g) is grossly insubordinate to his superior officer or uses criminal force against a superior officer;  
or
- (h) engages himself or participates in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything,

shall, on conviction, for every such offence be punished with imprisonment for a term which may extend to three years and with fine.

(2) Prosecution under this section shall require a report on writing by an officer authorized in this behalf under the rules to be made by the Government.

#### **107. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc. Whoever, being a police officer. –**

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or

- searched any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) inflicts torture or violence to any person in his custody;

shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine.

**108. Penalty for unnecessary delay in producing arrested persons in courts. -**

Any police officer who vexatiously and unnecessarily delays the forwarding to a court or to any other authority to whom he is legally bound to forward any arrested person, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

### *Notes: Chapter 3*

1. The Police Order (Amendment) Ordinance, 2004 was repromulgated several times till 2007 but was never passed by the Parliament. It was last given a lease of life by the Police Order (Amendment) Ordinance, 2009 (XLIV of 2009). For further detail, see the Introduction at footnote 28.
2. Section 12 of the Punjab Criminal Prosecution Service Act, 2006 reads as follows: 12. Responsibilities of Police towards Prosecutors.— (1) An officer incharge of a police station or the investigation officer shall—
  - (a) immediately report to the District Public Prosecutor, the registration of each criminal case by sending a copy of the first information report;
  - (b) send the police report under section 173 of the Code, to the concerned Prosecutor within the period prescribed by law; and
  - (c) if an investigation is not completed or cannot be completed within the time provided under the law, record reasons for the delay and inform the Prosecutor.(2) An officer incharge of the police station or investigation officer shall, within the time specified by the Prosecutor, comply with the directions and remedy the defects pointed out by the Prosecutor in a police report under section 173 of the Code including report for cancellation of the first information report or request for discharge of an accused or suspect.
3. The National Judicial Policy (2009) for the expeditious disposal of cases notes and recommended at page 17 as follows: “7. Non-completion of investigation and non-submission of Challans in statutory period is a major cause of delays in disposal of cases. Since, Police plays crucial role in administration of justice, therefore, the District Police Officers may be asked to ensure that the police should conclude investigation and submit Challans within the prescribed period of 14 days. They may be asked that the SHOs who fail to comply with this statutory provision should be treated as inefficient officer under the Police Order and the court may also lodge complaint under section 166 PPC against him. The DPOs should also submit list of cases in which Challans are still pending for want of investigation for inspection and passing appropriate orders by the District and Sessions Judge.”
4. Note that modifications and amendments may be made to the proposed rules under Fourth Schedule to the DPPA wherever required.

# The Police Order, 2002

## Chief Executive's Order No. 22 of 2002

[14<sup>th</sup> August, 2002]

AN

### ORDER

**to reconstruct and regulate the police;**

WHEREAS the police has an obligation and duty to function according to the Constitution, law, and democratic aspirations of the people;

AND WHEREAS such functioning of the police requires it to be professional, service-oriented, and accountable to the people;

AND WHEREAS it is expedient to redefine the police role, its duties and responsibilities;

AND WHEREAS it is necessary to reconstruct the police for efficient prevention and detection of crime, and maintenance of public order;

AND WHEREAS the Chief Executive is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, and in exercise of all powers enabling him in that behalf, the Chief Executive of the Islamic Republic of Pakistan is pleased to make and promulgate the following Order:-

### CHAPTER I

#### PRELIMINARY

1. **Short title, extent and commencement.** – (1) This Order may be called the Police Order, 2002.
  - (2) It extends to the whole of Pakistan.
  - (3) It shall come into force at once <sup>1</sup>[except in the Islamabad Capital Territory where it shall come into force on the date the local governments assume office in the said territory].
2. **Definitions.** - (1) In this Order, unless the context otherwise requires, -

- (i) ‘Administration’ includes management of administrative, operational and financial functions;  
<sup>2</sup>[(i-a) Capital City District means the Islamabad City District, the Federal Capital; City District of Quetta, City District of Peshawar, City District of Lahore or City District of Karachi being the metropolis of the Provinces of Baluchistan, North-West Frontier, Punjab and Sind respectively;]
- (ii) ‘Capital City Police Officer’ means the head of police of a general police area of the capital city district who is not below the rank of Additional Inspector General of Police and is posted under Article 11;
- (iii) ‘City Police Officer’ means the head of police of a general police area of the city district who is not below the rank of Deputy Inspector General of Police and is posted under Article 15;
- (iv) ‘Code’ means the Code of Criminal Procedure, 1898 (Act V of 1898);
- <sup>3</sup>[(iv-a) “cognizance” means taking notice by an authority legally empowered to take action on its decision regarding a matter relating to neglect, excess or misconduct by, or any omission or commission deemed illegal, committed by, a Police Officer for remedial and corrective measures under the provisions of this Order;]
- (v) <sup>4</sup>“Commission” means National Public Safety Commission, Provincial Public Safety and Police Complaints Commission, Islamabad District Public Safety Commission and District Public Safety and Police Complaints Commission established under this Order;]
- <sup>5</sup> [(v-a) “direct” means a written order or instruction to a Police Officer issued by an authority empowered to direct under this Order and such directing authority shall be deemed to be an officer authorized under clause (2) of Article 155;]
- (vi) ‘District’ means the district as defined in a Local Government Law;
- (vii) ‘District Police Officer’ means the head of police of a district who is not below the rank of Senior Superintendent of Police and is posted under Article 15;
- <sup>6</sup>[(vii-a) “ex-officio Secretary” means Provincial Police Officer who shall exercise administrative and financial powers of the Secretary to the Provincial Government with total autonomy in operational, administrative and financial matters subject to the policy, oversight and guidance given by the Chief Minister through the Chief Secretary and the Provincial Home Department;
- (vii-b) “exigency of service”, in relation to posting and transfer, means an urgent or unforeseen situation which, for the reasons to be recorded in writing, requires premature transfer of a Police Officer for performance
- (vii-c) “fact finding inquiry” means an inquiry into the allegations contained in a complaint against a Police Officer, including the factual incidents, relating to neglect, excess or omission or commission of any act constituting an offence and the outcome of such inquiry shall be admissible in evidence before a court, tribunal or an authority;]
- (viii) ‘Federal Law Enforcement Agencies’ include Federal Investigation Agency, Pakistan Railway Police, Anti-narcotics Force, Pakistan Motorway and Highway Police, Islamabad Police, Frontier Constabulary, and any other Federal or Provincial organization notified as such by the Government from time to time;
- (ix) ‘General Police Area’ means a capital city district, a part of a province, or any territory for which separate police is established under Article 6;
- (x) “Government” means the appropriate Government;
- (xi) “Head of District Police” means a District Police Officer, City Police Officer or a Capital City

- Police Officer;
- (xii) 'junior ranks' means members of the police of and below the rank of Inspector as set out in the First Schedule;
- (xiii) 'person' includes community, a company, or corporation;
- (xiv) 'Place' includes. -
- (a) any building, tent, booth or other structure, whether permanent or temporary; and
- (b) any area, whether enclosed or open.
- (xv) 'place of public amusement' means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided etc. to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted;
- (xvi) 'place of public entertainment' means any place of boarding and lodging to which public are admitted by any person owning, or having any interest in, or managing, such place;
- (xvii) 'Provincial Police Officer' means head of the police of a general police area of the rank of Inspector General of Police posted under Article 11;
- (xviii) 'Police Officer' means a member of the police who is subject to this Order;
- (xix) 'Police or Police Establishment' means the police referred to in Article 6 and includes –
- (a) all persons appointed as special police officers or additional police officers under this Order; and
- (b) all other employees of the police.
- (xx) 'prescribed' means prescribed by rules made under this Order;
- (xxi) 'property' means any moveable property, money or valuable security;
- (xxii) 'public place' means any place to which the public may have access;
- <sup>7</sup>[(xxii-a) 'responsible' means a Police Officer who is answerable and accountable, for effective and efficient performance of assigned duties and functions, and for implementation of all lawful orders and instructions issued by an officer or an authority to whom he is responsible under this Order and non-compliance of such orders, directions and instructions which he is bound to observe or obey for action shall be liable under paragraph (c) of clause (1) of Article 155;]
- (xxiii) 'rules' means rules made under this Order;
- (xxiv) 'schedule' means a schedule to this Order;
- (xxv) 'senior ranks' means members of the police above the rank of Inspector as set out in the First Schedule;
- (xxvi) 'street' includes any highway, bridge, way, causeway, arch, road, lane, footway, square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily; <sup>8</sup>[\*\*]
- <sup>9</sup>[(xxvi-a) 'superintendence' means supervision of Police by the appropriate Government through policy, oversight and guidance and, in case of a Province, it shall be exercised by the Chief Minister through the Chief Secretary and the Provincial Home Department, while ensuring total autonomy of the Provincial Police Officer in operational, administrative and financial matters and, in case of Federal Capital, such supervision shall be exercised by the Ministry of Interior, Government of Pakistan; and]
- (xxvii) 'vehicle' includes any conveyance of any description mechanically propelled or otherwise.
- (2) All references in respect of District Superintendent of Police in any law in force shall mean Head of

District Police posted under Article 11 and Article 15.

## CHAPTER II

### RESPONSIBILITIES AND DUTIES OF THE POLICE

**3. 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.

**4. Duties of police.** -(1) Subject to law, it shall be the duty of every police officer 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 authorised 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, the Code 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; and
- (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; and
- (d) cause awareness among the victims of road accidents of their rights and privileges.

(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.

**5. Emergency duties of police with regard to essential services.** - (1) The Government may, in an emergency, by notification in the Official Gazette, declare any specified service to be an essential service to the community.

(2) Upon a declaration being made under clause (1) and so long as it remains in force, it shall be the duty of every police officer to obey any lawful order given by a senior police officer in relation to the declaration.

### CHAPTER III

#### CONSTITUTION AND ORGANIZATION OF THE POLICE

**6. Separate police establishment for each general police area.** - The Government shall maintain a separate police establishment for every general police area.

**7. Constitution of police.** - (1) The police establishment for each general police area shall consist of such numbers in the senior and junior ranks and have such organization as the Government may from time to time determine.

(2) The recruitment criteria, pay and allowances and all other conditions of service of the police shall be such as the Government may from time to time determine.

(3) The recruitment in the police other than ministerial and specialist cadres shall be in the rank of Constable, Assistant Sub-Inspector and Assistant Superintendent of Police:

Provided that selection for direct recruitment in the rank of Assistant Sub-Inspector shall be through the appropriate Public Service Commission and shall not exceed twenty-five percent of total posts in that rank:

Provided further that 25% of the quota for departmental promotions to the rank of Assistant Sub-Inspector shall be filled, subject to rules, through selection by the appropriate Public Service Commission from graduate Constables or Head Constables of clean record.

(4) The recruitment in the rank of Assistant Superintendent of Police shall be through the Federal Public Service Commission on all Pakistan basis.

(5) The recruitment in the rank of Constable and Assistant Sub-Inspector shall be on the basis of the district of domicile which for all service matters shall be their administrative unit up to the rank of Deputy Superintendent of Police and only such officers shall be posted to their district of domicile for field assignments. There will be no such bar on the posting of officers of other districts for investigation, traffic, security, reserve, and intelligence duties. Subject to rules, Inspectors and Deputy Superintendents of Police shall be promoted on the basis of provincial seniority.

(6) Every police officer while on police duty shall have all the powers and privileges of a police officer throughout Pakistan and be liable to serve at any time in any branch, division, bureau and section.

**8. Police to be organized on functional basis.** - (1) The police establishment constituted under Article 7 shall, as far as practicable, be organised on functional basis into branches, divisions, bureaus and sections.

- (2) The branches, divisions, bureaus and sections referred to in clause (1) may include -
- (a) Investigation;
  - (b) Intelligence;
  - (c) Watch and Ward;
  - (d) Reserve Police;
  - (e) Police Accountability;



- (f) Personnel Management;
- (g) Education and Training;
- (h) Finance and Internal Audit;
- (i) Crime Prevention;
- (j) Crime against women;
- (k) Traffic Planning and Management;
- (l) Criminal Identification;
- (m) Information Technology;
- (n) Transport;
- (o) Research and Development;
- (p) Legal Affairs;
- (q) Welfare;
- (r) Estate Management.

(3) The specialist investigators shall be operationally responsible to the officer in-charge of the investigation branch.

4) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police:

(5) Posting to any specialist branch, division, bureau or section shall be subject to necessary training and experience in accordance with the rules.

**9. Superintendence of police.** - (1) The superintendence of police throughout a general police area shall vest in the appropriate Government.

(2) The power of superintendence under clause (1) shall be so exercised as to ensure that police performs its duties efficiently and strictly in accordance with law.

**10. Administration of the police.** - (1) Administration of police in a general police area shall vest in the Provincial Police Officer, Capital City Police Officer or City Police Officer posted under Article 11, or Article 15, as the case may be.

(2) The Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, shall exercise such powers and perform such functions and duties and shall have such responsibilities as may be provided by or under this Order and any other law for the time being in force.

(3) The police officers mentioned in clause (1) may for direction and control issue standing orders not inconsistent with the Order or rules made hereunder for the efficient functioning of the police.

(4) Provincial Police Officer shall prepare a provincial annual policing plan for review by the Provincial Public Safety <sup>10</sup>[and Police Complaints] Commission. The plan shall include -

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

**11. Posting of Provincial Police Officer, Capital City Police Officer and Head of Federal Law Enforcement Agency.** - (1) The Provincial Government shall, out of a panel of three police officers recommended <sup>11</sup>[\*\*\*] by the Federal Government, post a police officer of the rank of Inspector General of Police as Provincial Police Officer of the Province:

Provided that before a police officer is posted as Provincial Police Officer under clause (1) the Federal Government

shall place his services at the disposal of the Provincial Government.

(2) The Federal Government in the case of Islamabad Capital Territory and the Provincial Government in the case of Capital City District shall post a police officer not below the rank of Additional Inspector General of Police as Capital City Police officer out of three officers recommended by the National Public Safety Commission, or on the recommendation of the Provincial Police Officer, as the case may be.

(3) The Federal Government shall, out of a panel of three suitable police officers recommended by the National Public Safety Commission post head of a Federal Investigation Agency, Pakistan Railway Police, Pakistan Motorway and Highway Police and Frontier Constabulary.

(4) During temporary absence of the police officers mentioned under clause (1) and clause (2) the next senior officer may exercise all or any of the powers, perform all or any of the functions and duties, and discharge all or any of the responsibilities of the Provincial Police Officer, or Capital City Police Officer, as the case may be.

(5) The Provincial Police Officer, posted under clause (1) shall have administrative and financial powers as ex-officio Secretary to the Provincial Government and other powers under this Order, or any other law for the time being in force and Islamabad Capital City Police Officer posted under clause (2) shall have the same administrative and financial powers.

(6) Subject to job description of each post under the rules, the police officers mentioned in clauses (1) and (2) may, by a general or special order, empower any officer subordinate to him to exercise and perform all or any of the powers, functions or duties to be exercised or performed under this Order.

**12. Term of office of Provincial Police Officer, Capital City Police Officer and Head of a Federal Law Enforcement Agency.** - (1) The term of office of Provincial Police Officer, Capital City Police Officer and Head of a Federal Law Enforcement Agency posted under Article 11 shall be three years from the date of his posting.

<sup>12</sup>[(2) The Provincial Government may, with the approval of the Federal Government, repatriate, or the Federal Government may, on its own accord, recall, a Provincial Police Officer.

(3) The Provincial Public Safety and Police Complaints Commission may, for reasons to be recorded in writing, recommend to the Provincial Government for repatriation of the Provincial Police Officer before the expiry of his term of office and the Provincial Government may thereupon move the Federal Government for his repatriation in accordance with clause (2).]

(4) The Federal Government may with the agreement of National Public Safety Commission transfer Islamabad Capital City Police officer and Head of a Federal Law Enforcement Agency before the expiry of his tenure.

(5) The Federal Government or the National Public Safety Commission may initiate premature transfer of the officer mentioned in clause (4) for unsatisfactory performance of duties:

<sup>13</sup>[Provided that before initiating such transfer, the Commission shall give the concerned officer an opportunity of being heard in person.]

(6) <sup>14</sup>[ \*\*\*\* ]

**13. Posting of Additional Inspectors General of Police.** - The Government may post such number of Additional Inspectors General of Police to assist the, Provincial Police Officer, or Capital City Police Officer, as the case may be, in the efficient performance of his duties as it may deem fit, in consultation with the Provincial Police Officer, or Capital City Police Officer, as the case may be.

**14. Appointment of experts.** - (1) The Government may, on recommendation of the appropriate Public Service Commission, appoint one or more experts to assist the Provincial Police Officer and Capital City Police Officer or City Police Officer.

(2) The qualifications, eligibility, terms and conditions of service of experts shall be as prescribed.

**15. Posting of City Police Officer and District Police Officer.** - (1) The Provincial Police Officer may post a City Police Officer for a city district notified as a general police area and the District Police Officer in a district within a general police area <sup>15</sup>[with the approval of] the Government.

(2) The term of office of City Police Officer or District Police Officer, as the case may be, shall be three years from the date of his posting.

<sup>16</sup>[(3) Under exceptional circumstances due to exigency of service or on grounds of misconduct and inefficiency which warrant major penalty under the relevant rules, the City Police Officer or District Police Officer may be transferred, with the approval of the Government, before completion of the term of office.]

**16. Administration of police in a district.**- (1) Subject to this Order, the administration of police throughout a district, other than a capital city district and a city district, shall vest in a District Police Officer posted under Article 15.

(2) The District Police Officer may delegate any of his powers and functions conferred on him to a Superintendent of Police, Assistant or Deputy Superintendent of Police posted under Article 17.

(3) The Capital City Police Officer and the City Police Officer shall have administrative and financial powers of the head of an attached department.

(4) A Capital City Police Officer posted under article 11 and a City Police Officer posted under Article 15 shall exercise the powers vested in them under clause (3) above and Article 10 subject to the operational control by the Provincial Police Officer.

**17. Posting of Deputy Inspector General, Senior Superintendent, Superintendent, Assistant Superintendent, Deputy Superintendent.** - (1) Subject to this Order, the Government shall post in consultation with Provincial Police Officer, or Capital City Police Officer, as the case may be, for any part of a general police area or for police headquarters, such number of Deputy Inspector General of Police as it may deem fit.

(2) Provincial Police Officer or the Capital City Police Officer shall post Senior Superintendents, Superintendents, Assistant and Deputy Superintendents of Police in the general police area.

(3) Every officer posted under clause (1) and clause (2) shall exercise and perform such powers, functions and duties, as assigned to him under this Order, or any other law for the time being in force.

**18. Posting of head of investigation.** - (1) The head of investigation in a general Police area other than the Capital City District or the City District shall be of the rank of Additional Inspector General of Police.

(2) The head of investigation in a Capital City District or City District shall not be below the rank of Senior Superintendent of Police.

(3) The head of investigation in a District shall not be below the rank of Superintendent of Police and shall be responsible to his own hierarchy subject to general control of the District Police Officer <sup>17</sup>[:]

<sup>18</sup>[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 Officer-in-charge of the Police Station.]

(4) All registered cases shall be investigated by the investigation staff in the district under the supervision of the head of investigation:

Provided that the Government may, by a special or general order, may entrust investigation of offences under Local and Special Laws as defined in the Pakistan Penal Code and punishable with imprisonment for a term not exceeding three years with or without any other punishment, to the police station staff.

(5) The District Police Officer shall not interfere with the process of investigation. The head of investigation shall however keep the District Police Officer informed of the progress of all cases which have a bearing on public order. The District Police Officer shall provide full support to the Head of investigation in the performance of his duties.

(6) Investigation shall not be changed except after due deliberations and recommendations by a board headed by an officer not below the rank of Senior Superintendent of Police and two Superintendents of Police, one being in-charge of the investigation of the concerned district:

Provided that the final order for the change of investigation shall be passed by head of investigation in the general police area who shall record reasons for change of such investigation:

Provided further that the second change of investigation may only be allowed with the approval of the Provincial Police Officer, or the Capital City Police Officer, as the case may be.

<sup>19</sup>[**Explanation.**- For the purpose of this Article, “general control” means the relationship between the authority of the officer-in-charge of Investigation in a District or a Police Station and the District Police Officer and officer-in-charge of the Police Station, as the case may be. This relationship requires full support to the officer-in-charge of Investigation in the performance of his duties and officer-in-charge of Investigation shall coordinate with the District Police Officer or officer-in-charge of the police station, as the case may be, and provide information to him on all matters which have a bearing on watch and ward and public order functions. Any directions in this regard by the officer vested with general control shall not explicitly or impliedly interfere in the conduct of investigation or transfer of investigation and diversion of manpower or resources of Investigation to other police functions.]

**19. Appointment of Director of Police Communications etc.** - Subject to rules, Provincial Police Officer, or Capital City Police Officer, or City Police Officer, as the case may be, may appoint Director of Wireless, Motor Transport and Computer for the whole of the general police area or for any part thereof and such number of officers and staff as may be determined from time to time.

**20. Posting of heads of police training institutions.** - (1) The Federal Government shall post a police officer of the rank of Inspector General of Police as Commandant of the National Police Academy.

(2) Provincial Police Officer or Capital City Police Officer may post an officer not below the rank of Deputy Inspector General of Police as Commandant of the police training college and an officer not below the rank of Senior Superintendent of Police as Principal of each police training school within the general police area under his charge.

**21. Constitution of regions and divisions etc.** - (1) The Provincial Police Officer may with the approval of the Government constitute police regions.

<sup>20</sup>(2) The Provincial Police Officer, Capital City Police Officer or the City Police Officer may, with the approval of the Government,-

- (i) divide districts into police divisions, sub-divisions and police stations;
- (ii) sub-divide police stations into police posts; and
- (iii) define the limits and extent of such divisions, sub-divisions, police stations and police posts:]

Provided that the limits and extent of such divisions, police stations and police posts shall, as far as practicable, be coterminus with the limits of Tehsils, or Town in a city district and Unions.

(3) A police region under clause (1) shall be headed by a police officer not below the rank of Deputy Inspector General of Police:

Provided that where the size of police establishment is more than ten thousand the region shall be headed by a police officer not below the rank of Additional Inspector General of Police.

(4) A police division shall be under an officer not below the rank of a Superintendent of Police; a police sub-division under an officer not below the rank of an Assistant or Deputy Superintendent of Police; and a police station shall be under an officer of the rank of Inspector of Police:

Provided that an officer of the rank of Assistant Superintendent of Police may be posted as head of a police station, assisted by Inspectors as officer incharge in selected police stations<sup>21</sup>[:]

<sup>22</sup>[Provided further that the term of office of an officer under whom a police division, sub-division or police station respectively is placed shall be the same as that of Head of District Police from the date of posting and any transfer before completion of his term of office will only take place due to exigency of service or misconduct warranting major penalty.]

**22. Transfer to other police establishment.** - Subject to rules, the appropriate Government may transfer any police officer appointed under this Order from police constituted for one general police area to another.

**23. Appointment of junior ranks.** - Subject to rules, Head of District Police shall be the appointing authority for junior ranks.

**24. Oath or affirmation by members of police.** – (1) Every member of the police shall on appointment make and subscribe before Provincial Police Officer or Capital City Police Officer or City Police Officer, or head of a training institution, an oath or affirmation according to the form set out in the second Schedule.

(2) Assistant Superintendents of Police shall make and subscribe to the said oath or affirmation before Commandant, National Police Academy.

**25. Certificate of appointment.** - (1) Officers of junior ranks shall on appointment receive a certificate in the form provided in the Third Schedule. The certificate shall be issued under the seal of such officer as Provincial Police Officer or Capital City Police Officer or City Police Officer may by general or special order direct.

(2) A certificate of appointment shall become null and void whenever the police officer named therein ceases to belong to the police.

**26. Suspension of police officer.** -(1) Subject to rules, the authority or an officer authorised in this behalf by the authority shall have power to suspend a member of police.

(2) The powers and functions vested in a member of police shall remain suspended while such officer is under suspension:

Provided that notwithstanding his suspension such member shall not cease to be a member of police and shall continue to be subject to the control of the same authorities to which he would have been, but for his suspension.

**27. General powers of Provincial Police Officer etc.** - Subject to this Order and rules made there-under, Provincial Police Officer and Head of District Police, as the case may be, shall within their respective spheres of authority, direct and regulate all matters of recruitment, training, postings, transfers, promotions, arms, drill, discipline, clothing, distribution of duties, and any other matter concerning the efficient fulfilment of duties by the police under his control.

**28. Powers of Provincial Police Officer, Capital City Police Officer and City Police Officer concerning police accounts.** -(1) Provincial Police Officer, Capital City Police Officer or City Police Officer shall have authority to investigate and regulate all matters of accounts connected with the police and all persons concerned shall be bound to give reasonable aid and facilities in conducting such investigation and to conform to his orders consequent thereto.

(2) The power of Provincial Police Officer, Capital City Police Officer and City Police Officer to regulate accounts under clause (1) shall be without prejudice to the Auditor General's authority to audit police accounts.

**29. Appointment of special police officers.** - (1) Subject to rules, Head of District Police may appoint special police officers for special purposes or occasions when the police available to him is not sufficient to assist the police under his command.

(2) Every special police officer so appointed shall, on appointment -

(a) receive a certificate in the prescribed form;

(b) have the same powers, and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as a regular police officer.

**30. Appointment of additional police.** -(1) City Police Officer and District Police Officer subject to the approval of the Provincial Police Officer, and Capital City Police Officer may appoint additional police officers of such rank and for such time as he may deem fit for the purposes stated in their employment orders.

(2) Every additional police officer so appointed shall on appointment

(a) receive a certificate in a form approved by Provincial Police Officer or Capital City Police Officer or City Police Officer as the case may be;

(b) be vested with all or any of the powers, privileges and duties of a police officer;

(c) be subject to orders of the Capital City Police Officer, City Police Officer and District Police Officer.

(3) The employment of additional police may be made at the request of any person reasonably requiring such police and the cost of such employment shall be recovered in such manner as provided under this Order or rules made there under.

**31. Ministerial staff etc.** - (1) Subject to rules, Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, may appoint ministerial staff and other employees to assist the police.

(2) Any person employed under clause (1) shall be under the direction and control of Provincial Police Officer, Capital City Police Officer, or City Police Officer, as the case may be.

(3) The powers of direction and control referred to in clause (2) shall include the powers of discipline and dismissal.

(4) Subject to rules, Provincial Police Officer, Capital City Police Officer or City Police Officer, as the case may be, may delegate his powers and authority under this Article to an officer of appropriate rank.

## CHAPTER IV

### RESPONSIBILITIES OF THE HEAD OF DISTRICT POLICE

**32. Policing Plan.** - (1) Head of District Police shall prepare an annual Policing Plan consistent with Provincial Policing Plan wherever applicable in <sup>23</sup>[coordination] with the Zila Nazim in the prescribed manner.

(2) The Policing Plan shall include: -

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

(3) Head of District Police shall obtain the approval of the plan from the <sup>24</sup>[concerned Commission at the District level] and send copies of the approved plan to Zila Nazim, Tehsil or Town Nazim, Provincial Government, Provincial Public Safety <sup>25</sup>[and Police Complaints] Commission and Provincial Police Officer and in case of Islamabad Capital Territory to Zila Nazim, Islamabad District Public Safety Commission, National Public Safety Commission and Federal Government.

(4) Head of District Police shall prepare a report on the policing of the district during the year and send it to the <sup>26</sup>[concerned Commission at the District level] by end of August.

**33. Relationship of District Police with Zila Nazim etc.**- (1) Subject to the provisions of this Order, Head of District Police shall be responsible to the Zila Nazim for police functions under this Order but shall not include administration of the district police, investigation of criminal cases and police functions relating to prosecution, which shall rest with the police:

Provided that Zila Nazim may visit a police station to find out if any person is under unlawful detention and in appropriate cases may also direct action in accordance with law having regard to the facts and circumstances of the case.

(2) In case of a difference of opinion between the Zila Nazim and the <sup>27</sup>[\*\*\*] Government on any matter concerning the district police, the decision of the <sup>28</sup>[\*\*\*] Government shall prevail.

<sup>29</sup>[(3) In the normal channel of writing the Performance Evaluation Report of the Head of District Police, the Zila Nazim shall write the manuscript report of the Head of District Police in the specified Part of the Form of Performance Evaluation Report provided in the Fourth Schedule, which shall be taken into consideration at the time of promotion of the Officer.]

**34. Police support to Government functionaries, etc.** - (1) Any functionary of the Federal Government, Provincial Government, any statutory body or any body or corporation owned, set up or controlled by any such Government or in which such Government has a controlling share or interest, District Government, Tehsil or Town Municipal

Administration or Union Administration, or Cantonment Board may for the discharge of his official duties which in his opinion require police assistance, ask for police support from the concerned police authority of the area and such authority shall provide the requisite support:

Provided that, if for any reason, the police authority is unable to provide the police support requested under this clause it shall forthwith bring the matter through its channel of command to the notice of Head of District Police who shall make arrangement for provision of police support and, where he is unable to provide such support, he shall inform the Zila Nazim accordingly:

Provided further that before making a report to the higher officer, each officer in the chain of command shall make an effort to provide the requisite police support <sup>30</sup>[.]

<sup>31</sup>[ \*\*\* \*\*\* ]

(2) Where the Zila Nazim so directs, the District Coordination Officer shall be responsible for coordination of police support by Head of District Police to the District Government, Tehsil Municipal Administration, Union Administration and Cantonment Board in exigencies threatening law and order, natural calamities and emergencies.

<sup>32</sup>[(3) \*\*\* \*\*\* ]

**35. Responsibility on complaints of neglect and excesses by police.** -(1) Where the Zila Nazim on the basis of any complaint or information has reason to believe that any police official has committed an act of neglect, failure or excess, or the Union Public Safety Committee on its own motion or on receipt of a complaint from an aggrieved person reports to the Zila Nazim about police neglect, failure or excess, the Zila Nazim may direct Head of District Police to take remedial measures, including registration of First Information Report in a cognizable offence in appropriate cases within the period specified by him and the Zila Nazim shall inform the <sup>33</sup>[concerned Commission at the District level] accordingly.

(2) Head of District Police or the concerned competent authority shall immediately take remedial measures, and may suspend the concerned official where necessary, initiate an enquiry and take appropriate action in accordance with law.

(3) Head of District Police shall without delay inform the Zila Nazim and <sup>34</sup>[concerned Commission at the District level] of the action taken by him pursuant to the directions given under clause (1) and forward a copy of the final report of enquiry within forty five days of such directions.

**36. Reference to Police Complaints Authority.** – Head of District Police and Head of Federal Law Enforcement Agency shall inform the <sup>35</sup>[Provincial Public Safety and Police Complaints Commission or,] the Federal Police Complaint Authority, as the case may be, of any incident or a complaint of rape, death or serious injury to any person in police custody.

## CHAPTER V

### DISTRICT PUBLIC SAFETY <sup>36</sup>[AND POLICE COMPLAINTS] COMMISSION

<sup>37</sup>[**37. Establishment of District Public Safety and Police Complaints Commission.**- (1) The Provincial Government shall establish a District Public Safety and Police Complaints Commission in every District, including Capital City District, consisting of nine members one of whom shall be the Chairperson.

(2) The Commission shall have its independent budget under a separate budgetary head of account, Drawing and Disbursing Officer and the Chairperson of the Commission shall be its Principal Accounting Officer.]

<sup>38</sup>[**38. Composition.**- (1) The composition of the District Public Safety and Police Complaints Commission shall be as follows:-

- (a) one-third members shall be appointed by the Government from amongst the Members of the Provincial Assembly and National Assembly of the District concerned as ex-officio members, including a woman member:

Provided that where in a District, members of the Provincial Assembly or National

Assembly fall short of the required number of such members, the vacant seat shall be allocated to independent members:

Provided further that in case of non-availability of a woman member of the Provincial Assembly or National Assembly in a District, the seat shall be allocated to a woman independent member;

- (b) one-third members, of whom one shall be a woman, shall be appointed as independent members by the Government from a list of names recommended by the Selection Panel; and
- (c) the remaining one-third members, out of whom one shall be a woman, shall be elected by the Zila Council from amongst its members on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

**Explanation.-** For the purpose of this Article, the “District concerned” for women members of the Provincial Assembly and National Assembly shall, as far as possible, be on the basis of the District where they are registered as voters.

(2) In place of the members referred to in paragraphs (b) and (c) of clause (1), the elected or appointed members of the erstwhile District Public Safety Commission in the respective numbers holding office on the commencement of the Police Order (Amendment) Ordinance, 2004, shall continue to hold their offices till completion of their term of office as member of the District Public Safety and Police Complaints Commission.

(3) The Chairperson of the District Selection Panel shall conduct the election of the Chairman and members of the District Public Safety and Police Complaints Commission referred to in clause (1) of Article 39 and paragraph (c) of clause (1) of this Article.

(4) The names of the members of the Commission shall be notified in the Official Gazette.]

<sup>39</sup>**[39. Appointment of Chairperson.-**(1) The Chairperson of the District Public Safety and Police Complaints Commission shall be elected by the members from amongst themselves every three years:

Provided that the Chairperson of the District Public Safety Commission at the commencement of the Police Order (Amendment) Ordinance, 2004, shall continue to hold such office till completion of his term of office as Chairperson of the District Public Safety and Police Complaints Commission.

(2) The Chairperson of the District Public Safety and Police Complaints Commission shall be eligible for re-election for the second term.

(3) The Chairperson of the District Public Safety and Police Complaints Commission shall not be removed from his office save as provided for removal of a member of the Commission.

(4) The Chairperson shall be entitled to honoraria and privileges as may be determined by the Government.]

**40. Meeting in the absence of the Chairperson.** - In the absence of the Chairperson the District Public Safety <sup>40</sup>[and Police Complaints] Commission shall elect one of its member to preside over a meeting.

**41. Selection of independent members.** - (1) There shall be a Selection Panel for independent members consisting of District and Sessions Judge who shall be its Chairperson and one nominee each of the Provincial Government and the <sup>41</sup>[Provincial Public Safety and Police Complaints Commission]:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by <sup>42</sup>[majority vote, one of whom shall be the Chairperson of the Selection Panel.]

(3) The selection process shall be completed within thirty days from the <sup>43</sup>[occurrence of the vacancy].

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc

<sup>44</sup>**[42. Functions of the Selection Panel.-** The Selection Panel shall identify suitable candidates as well as invite



applications and after scrutiny forward to the Government the names of persons twice the number of appointments to be made.]

**43. Selection criteria of independent members.** - A person shall be disqualified from becoming a member of District Public Safety <sup>45</sup>[and Police Complaints] Commission if he –

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

**<sup>46</sup>[44. Powers and Functions of the District Public Safety and Police Complaints Commission.-** (1) The District Public Safety and Police Complaints Commission shall exercise the powers and perform the following functions including those relating to complaints against the police officers serving in the District, except the Head of District Police, namely:-

- (a) approve an 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:  
Provided that such Policing Plan shall include
  - (i) a statement of financial resources expected to be made available; and
  - (ii) performance targets for the year and their delivery mechanism;
- (b) the District Public Safety and Police Complaints Commission shall submit an annual report to the Government through the Provincial Public Safety and Police Complaints Commission, inter alia, containing-
  - (i) an abstract relating to performance of the District Public Safety and Police Complaints Commission during the year;
  - (ii) a report on the functioning of the District Police;
  - (iii) a report on matters connected with the law and order in the District; and
  - (iv) a report on the implementation of the District Policing Plan;
- (c) encourage police-public cooperation;
- (d) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to the Provincial Government, Provincial Public Safety and Police Complaints Commission, Provincial Police Officer, Zila Nazim, Tehsil (Taulka) Nazim and Town Nazim;
- (e) take steps to prevent the Police from engaging in any unlawful activity arising out of compliance with unlawful or mala fide orders;
- (f) refer the matter in writing to the Provincial Government for appropriate action where the District Public Safety and Police Complaints Commission is satisfied that a collusive relationship

detrimental to the interest of the people exists between the Zila Nazim and Head of District Police;

- (g) direct the Head of District Police under clause (4) of Article 135 for disposal of unclaimed property in accordance with law;
- (h) direct the Head of District Police in writing, where the District Public Safety and Police Complaints Commission has reasons to believe that the in-charge of the police station has unjustifiably refused or avoided to register the First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the District Public Safety and Police Complaints Commission within forty-eight hours the action taken by him;
- (i) direct the Head of District Police in writing to enquire into a complaint of neglect in general or by a functionary of a District Police in particular, and take appropriate action and report within the specified period;
- (j) require, on a complaint of excess committed by any member of Federal Law Enforcement Agency or civil armed forces acting in aid of the district police, the appropriate authority of the concerned department in writing to take remedial action and report within a specified period and if no action is taken by the concerned authority, a reference may be made by the District Public Safety and Police Complaints Commission to the head of concerned organization or the Federal Police Complaints Authority for appropriate action;
- (k) receive from an aggrieved person a complaint, in writing supported by an affidavit, of neglect, excess or misconduct against a Police Officer;
- (l) take cognizance of such complaints as may fall within its competence and forward other complaints to the Provincial Public Safety and Police Complaints Commission; and
- (m) in cases falling within the competence of the District Public Safety and Police Complaints Commission, it may-
  - (i) direct the Head of District Police in writing to take appropriate action and submit a report within a specified period; or
  - (ii) conduct a fact finding inquiry on its own by two or more of its members or through an officer serving in the District, not below the rank of Basic Pay Scale 18 and, in case the complaint is found correct, send the inquiry report to the Head of District Police and direct him to take legal action against the delinquent Police Officer;
  - (iii) report the matter to the Provincial Government through the Provincial Public Safety and Police Complaints Commission for action under the appropriate law, where the Head of District Police does not submit a report or take action on the directions given by the District Public Safety and Police Complaints Commission;
  - (iv) inform the complainant of the outcome of the inquiry in writing as soon as possible; and
  - (v) direct the appropriate authority, in case of any frivolous, or vexatious complaint, to initiate action under the law against the complainant.

(2) 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.]

**45. Terms of members of the District Public Safety <sup>47</sup>[and Police Complaints] Commission.** -(1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of <sup>48</sup>[the Provincial Assembly or National Assembly or, as the case may be,] the Zila Council.

<sup>49</sup>(2) An independent member shall not be eligible for appointment as such member for a third term.]

(3) Members shall be paid TA and DA for attending meetings, as per rules.

(4) Independent members may be paid honoraria as per rules.

(5) <sup>50</sup>[ \*\*\* \*\*\* ]

**46. Removal of members.** -The <sup>51</sup>[Government on its] own volition or on the recommendation of the District Public Safety <sup>52</sup>[and Police Complaints] Commission may remove a member from office if he -

(a) ceases to be a citizen of Pakistan;

(b) is found suffering from physical or mental incapacity or illness;

(c) is guilty of misconduct;

(d) is found to have dealt with any matter in which he had a conflict of interest;

(e) is convicted of a criminal offence;

(f) is declared a bankrupt, loan defaulter or tax evader;

(g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;

(h) brings the District Public Safety <sup>53</sup>[and Police Complaints] Commission into disrepute;

(i) fails to attend its three consecutive meetings without any reasonable cause.

**47. Meetings and conduct of business of the District Public Safety <sup>54</sup>[and Police Complaints] Commission.-**

(1) The business of the District Public Safety <sup>55</sup>[and Police Complaints] Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for a meeting of the District Public Safety <sup>56</sup>[and Police Complaints] Commission shall be two third of its total membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) Decisions of the Commission shall be by simple majority.

(6) <sup>57</sup>[Head of District Police or, in his absence his] deputy may be invited to attend a meeting, which he shall attend.

be made by the Government.]

(7) The Commission may invite any expert for consultations on specific issues.

<sup>58</sup>(8) The rules of procedure for conduct of business of the Commission shall

**48. Secretariat.** -(1) The Government shall establish a permanent secretariat of the District Public Safety <sup>59</sup>[and Police Complaints] Commission.

<sup>60</sup>(2) The Secretariat shall be headed by an officer not below Basic Pay Scale 18 who shall be appointed by the Provincial Government in consultation with the Chairperson of the Commission.

(3) The Secretariat shall consist of such number of officers and members of the staff as the Government may, in consultation with the Commission, determine from time to time.

(4) The terms and conditions of service of the officers and members of the staff of the District Public

Safety and Police Complaints Commission shall be notified by the Government.

(5) The Chairperson of the Commission shall, with the approval of the Government, engage the services of a legal advisor on full-time basis.]

## <sup>61</sup>[CHAPTER VI]

### Article 49 – 60

## CHAPTER VII

### ISLAMABAD DISTRICT PUBLIC SAFETY COMMISSION

**1. Establishment.-** The Federal Government shall establish Islamabad District Public Safety Commission for Islamabad Capital Territory consisting of 12 members.

**2. Composition.-** (1) Three members of the Islamabad District Public Safety Commission shall be elected by the District Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Three members shall be nominated by the Speaker of National Assembly from amongst its members two from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed by the President from a list of names recommended by the Islamabad District Selection Panel.

(4) One third of both the elected and independent members of the Islamabad District Public Safety Commission shall be women.

(5) The Naib Zila Nazim shall request the Chairperson of the Islamabad District Selection Panel to conduct the election of the members of the Islamabad District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the Official Gazette.

**63. Appointment of Chairperson.** - (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

**64. Meeting in the absence of the Chairperson.** - In the absence of the Chairperson Islamabad District Public Safety Commission shall elect one of its member to preside over a meeting.

**65. Selection of independent members.** - (1) There shall be a Selection Panel for independent members consisting of <sup>62</sup>[District and Sessions Judge] who shall be its Chairperson and one nominee each of the Federal Government and the District Government:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc

**66. Functions of the Selection Panel.-**The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President.

**67. Selection criteria of independent members.-** A person shall be disqualified from becoming a member of Islamabad District Public Safety Commission if he –

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or
- (b) is found suffering from physical or mental incapacity or illness; or
- (c) is declared a bankrupt, loan defaulter or tax evader; or
- (d) is not a citizen of Pakistan; or
- (e) holds an office of profit in the service of Pakistan; or
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence; or
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

**68. Functions of Islamabad District Public Safety Commission.** -The Islamabad District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority:-

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year:  
Provided that such Policing Plan shall include –
  - (i) a statement of the financial resources expected to be made available by the Federal Government; and
  - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half- yearly reports to Zila Nazim, Tehsil Nazim, Federal Government and National Public Safety Commission;
- (c) encourage police-public cooperation;
- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or malafide order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Federal Government for appropriate action where the Islamabad District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and Capital City Police Officer: Provided that before making such report the Capital City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Article 135.
- (g) direct the Capital City Police Officer in writing, where the Islamabad District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Islamabad District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer;
  - (i) direct the Capital City Police Officer in writing to take appropriate action and submit a report within a specified period; or

- (i) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report and direct Capital City Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
- (ii) report the matter to the Federal government or the Federal Police Complaints authority for appropriate action if the Capital city Police Officer does not submit a report or take action on the direction given by the Islamabad District Public Safety Commission;
- (i) Direct the Capital City Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the Islamabad district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Islamabad District Public Safety Commission to the head of concerned organization or the Federal Complaints Authority for appropriate action.

**69. Terms of members of the Islamabad District Public Safety Commission.** - (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the National Assembly or the Zila Council.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justice of Peace within the district in accordance with the Code.

**70. Removal of members.** - The President on his own volition or on the recommendation of Islamabad District Public Safety Commission may remove a member from office if he -

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Islamabad Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

**71. Meetings and conduct of business of the Islamabad District Public Safety Commission.** -(1) The business of Islamabad District Public Safety Commission shall be conducted by the Commission in a meeting.

- (2) The meeting may be convened by the Chairperson or on the requisition of three members.
- (3) Quorum for the meeting of the Commission shall be two-third of its membership.
- (4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

- (5) Decisions of the Commission shall be by a simple majority.
- (6) Capital City Police Officer or in his absence his deputy may be invited to attend a meeting which he shall attend.
- (7) The Commission may invite any expert for consultations on specific issues.
- (8) The Commission may frame rules of procedure for the conduct of business.

**72. Secretariat.** - (1) The Government shall establish a permanent secretariat of Islamabad District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Government.

(3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time.

## CHAPTER VIII

### THE PROVINCIAL PUBLIC SAFETY <sup>63</sup>[AND POLICE COMPLAINTS] COMMISSION

**73. Establishment.** - There shall be a Provincial Public Safety <sup>64</sup>[and Police Complaints] Commission, consisting of twelve members and the ex officio Chairperson.

**74. Composition.** - (1) Half of the members of the Provincial Public Safety <sup>65</sup>[and Police Complaints] Commission shall be nominated by the Speaker of the Provincial Assembly from amongst its members <sup>66</sup>[four from the Treasury and two from the] opposition in consultation with the Leader of the House and the Leader of the Opposition:

Provided that at least two members shall be women<sup>67</sup>[:]

<sup>68</sup>[Provided further that such members shall not be members of the Standing Committee of the Provincial Assembly on Home Affairs.]

<sup>69</sup>[(2) The other half comprising independent members shall be appointed by the Government on the recommendation of the Selection Panel:

Provided that at least two members shall be women.]

(3) Notwithstanding any thing contained in clause (1), independent members appointed under clause (2) shall constitute the Provincial Public Safety <sup>70</sup>[and Police Complaints] Commission when the Provincial Assembly is not in existence.

(4) The appointment of members shall be notified in the Official Gazette.

**75. Appointment of Chairperson.** - (1) The Provincial Home Minister will be the ex-officio Chairperson of the Provincial Public Safety <sup>71</sup>[and Police Complaints] Commission.

(2) The Chairperson shall preside over the meetings of the Provincial Public Safety <sup>72</sup>[and Police Complaints] Commission.

**76. Meeting in the absence of the Chairperson.** - In the absence of the Chairperson the Provincial Public Safety <sup>73</sup>[and Police Complaints] Commission shall elect one of its member to preside over a meeting.

**77. Selection of independent members.** - <sup>74</sup>[(1) There shall be a Selection Panel for independent members consisting of the Provincial Ombudsman who shall be its Chairperson and the Chairman of the Provincial Public Service Commission and a nominee of the Chief Minister as its members:

Provided that, where in a Province, the Provincial Ombudsman has not been appointed, a retired Judge of the High Court nominated by the Chief Justice of the High Court shall act as Chairperson of the Selection Panel:

Provided further that the nominee of the Chief Minister shall not be an elected representative or a

person in the service of Pakistan.]

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the <sup>75</sup>[occurrence of a vacancy.]

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

**<sup>76</sup>[78. Functions of the Selection Panel.-**The Selection Panel shall identify suitable candidates as well as invite applications and after scrutiny forward to the Government the names of persons twice the number of appointments to be made.]

**79. Selection criteria of independent members.** - A person shall be disqualified from becoming <sup>77</sup>[an independent member of the Provincial Public Safety and Police Complaints] if he –

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

**80. Functions of the Provincial Public Safety <sup>78</sup>[and Police Complaints] Commission.-**(1) Subject to this Order, the Provincial Public Safety <sup>79</sup>[and Police Complaints] Commission shall -

- <sup>80</sup>[(a) make recommendations to the Government for promoting integrity, efficiency and effectiveness of Police;]
- <sup>81</sup>[(b) take steps to prevent the Police from engaging in any unlawful activity arising out of compliance with unlawful or mala fide orders]; and
- (c) facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Article 168.

(2) Without prejudice to its role <sup>82</sup>[clause (1), the Commission shall perform the following specific functions] -

- (a) co-ordinate the functioning of <sup>83</sup>[District Public Safety and Police Complaints] Commissions within the Province;
- (b) recommend to the Government <sup>84</sup>[repatriation] of Provincial Police Officer before completion of normal tenure of three years for unsatisfactory performance of duties.

<sup>85</sup>[ \*\*\* ]

- (c) recommend to the government for grants to various police establishments within the province, for enhancing their capability to handle public order;
- (d) assist the police establishment in securing assistance from other police establishments and law enforcement agencies by approaching the other Provincial and <sup>86</sup>[Public Safety and Police Complaints Commissions and National Public Safety Commission];
- (e) [<sup>87</sup> \*\*\* ]



- (f) oversee the implementation of the Provincial Policing Plan prepared by Provincial Police Officer and approved and published by the Provincial Government. The plan shall include:
  - (i) a statement of the financial resources expected to be made available by the Government; and
  - (ii) performance targets for the year and their delivery mechanism.
- (g) evaluate the delivery of performance targets on quarterly basis;
- (h) require the Provincial Police Officer to submit by end of August each year a general report in a manner prescribed by the Provincial Public Safety Commission which shall be published;
- (i) submit an annual report to the Government and the Provincial Assembly that shall include the following:
  - (i) an abstract concerning performance of the Provincial Public Safety Commission during the year;
  - (ii) a report on the functioning of the Police Establishments;
  - (iii) a report on matters connected with general law and order in the Province.
- (j) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation service;
- (k) evaluate the performance of the District and Capital City Public Safety <sup>88</sup>[and Police Complaints] Commissions on annual basis. If on the basis of the evaluation conducted by the Provincial Public Safety <sup>89</sup>[and Police Complaints] Commission, the performance of the Commission is found unsatisfactory, it may recommend the dissolution of such Commission and on dissolution of the Commission the government shall reconstitute the same in accordance with the provisions of this Order within forty five days of such decision;
- (l) conduct enquiry on the recommendation of a Zila Council through a resolution passed by two third majority of its total membership for the dissolution of the relevant Public Safety <sup>90</sup>[and Police Complaints] Commission on grounds of unsatisfactory performance of the said commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Provincial Government for the dissolution of the said Public Safety <sup>91</sup>[and Police Complaints] Commission. Where the government dissolves the relevant Public Safety <sup>92</sup>[and Police Complaints] Commission it will reconstitute the same in accordance with the provisions of this Order within forty five days of such decision;
- (m) perform functions of the relevant Public Safety <sup>93</sup>[and Police Complaints] Commission during the period it stands dissolved;
- (n) consider the proposals made by Provincial Police Officer or National Police Management Board and give its recommendations to the government;
- (o) recommend essential criminal justice reforms; <sup>94</sup>[ ]
- (p) perform such other functions with regard to public order and safeguarding public interest, as may be assigned by the government to it for the purpose under any law for the time being in force including Prosecution, Prisons and Probation services;
- <sup>95</sup>(q) take cognizance of cases of Police neglect, excess, abuse of authority and conduct prejudicial to public interest against Head of District Police and police officers not serving in a District-
  - (i) on a complaint from an aggrieved person in writing supported by an affidavit; or
  - (ii) on a report from a District Public Safety and Police Complaints Commission; or
  - (iii) on a reference from the Government; or
  - (iv) on its own accord;
- (r) inquire into the complaint either by itself or through any Government officer not below the Basic Pay Scale 19 and on the basis of findings of the inquiry-

- (i) file the complaint, if the charges are not proved; or refer the matter to the concerned Head of General Police Area for departmental action and report back; or order the registration of a criminal case under the relevant provisions of Pakistan Penal Code (Act V of 1860), this Order or any other law for the time being in force;
- (ii) report, to the Chief Minister, where the Commission is not satisfied with the action taken by the Head of General Police Area in cases referred to in sub-paragraph (i) and make appropriate recommendations in this behalf;
- (iii) recommend disciplinary action against an inquiry officer for wilful neglect or mishandling of an inquiry;
- (iv) inform the complainant of the outcome of the inquiry in writing as soon as possible; and
- (v) direct the appropriate authority, in case of any frivolous, or vexatious complaint, to initiate action under the law against the complainant; and
- (s) delegate any of its powers to its Chairperson.]

**81. Terms of members of the Provincial Public Safety <sup>96</sup>[and Police Complaints] Commission.** -(1)The term of office of a member shall be <sup>97</sup>[for a period of three years] unless he resigns at any time before the expiry of his term, or ceases to be a member of the Provincial Assembly.

<sup>98</sup>[(2) A member shall not be eligible for a third term.]

(3) Members shall be paid TA and DA for attending meetings, as per rules.

(4) Independent members may be paid honoraria as per rules.

(5) <sup>99</sup>[ \*\*\* \*\* ]

**82. Removal of members.** -The <sup>100</sup>[Government may either on its own accord or on the recommendations of the Provincial Public Safety and Police Complaints] Commission may remove a member from office if he -

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Provincial Public Safety <sup>101</sup>[and Police Complaints] Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause;

**83. Meetings and conduct of business of the Provincial Public Safety <sup>102</sup>[and Police Complaints] Commission.-**

(1) The business of the Provincial Public Safety <sup>103</sup>[and Police Complaints] Commission shall be conducted by the Commission in a meeting.

- (2) The meeting may be convened by the chairperson or on the requisition of three members
- (3) Quorum for the meeting of the Commission shall be <sup>104</sup>[one-half] of its membership.
- (4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month, provided an emergency meeting may be held at a short notice not exceeding twenty four hours.
- (5) The ex officio Chairperson shall not have the right of vote, except in case of a tie.
- (6) Decisions of the Commission shall be by simple majority.

(7) The Commission may hold public consultations as and when required.

(8) The Provincial Police Officer and heads of prosecution service, prison and probation departments shall attend meetings of the Commission as non-voting members, when invited.

(9) The Commission may invite any expert for consultations on specific issues.

(10) The Commission may frame rules of procedure for the conduct of business.

**84. Secretariat.** -(1) The Government shall establish a permanent secretariat of the Provincial Public Safety <sup>105</sup>[and Police Complaints] Commission.

<sup>106</sup>[(2) The Secretariat shall be headed by an officer not below the Basic Pay Scale 20 who shall be appointed by the Chief Minister in consultation with the Chairperson of the Commission.]

(3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time.

<sup>107</sup>[(4) The Chairperson of the Commission shall, with the approval of the Government, engage the services of a legal advisor on full-time basis.

(5) The terms and conditions of service of the members of staff of the Commission shall be determined by the Government in consultation with the Commission.

(6) The functions of the officers and members of staff shall be determined by the Commission.

(7) The Secretariat shall be attached to the Services and General Administration Department for the purpose of budget and matters pertaining to the Provincial Assembly.]

## CHAPTER IX

### THE NATIONAL PUBLIC SAFETY COMMISSION

**85. Establishment.**- There shall be a National Public Safety Commission consisting of twelve members and the ex officio Chairperson.

**86. Composition.**-(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:

Provided that at least one member shall belong to each Province, and to Islamabad Capital Territory:

Provided further 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:

Provided that at least one member shall belong to each Province, and to Islamabad Capital Territory:

Provided further that at least two members shall be women.

(3) Notwithstanding any-thing contained in clause (1), independent members appointed under clause (2) shall constitute the National Public Safety Commission when the National Assembly is not in existence.

(4) The appointment of members shall be notified in the Official Gazette.

**87. Appointment of Chairperson.** - (1) The Federal Interior Minister will be ex-officio Chairperson of the National Public Safety Commission.

(2) The Chairperson shall preside over the meetings.

**88. Meeting in the absence of the Chairperson.** -In the absence of the Chairperson the National Public Safety Commission shall elect one of its member to preside over a meeting.

**89. Selection of independent members.** - (1) There shall be a Selection Panel for independent members consisting of Chief Justice of Supreme Court of Pakistan<sup>108</sup>[or a Judge of the Supreme Court nominated by the Chief Justice] who shall be its Chairperson and one nominee each of President and Prime Minister:

Provided that such nominee shall not be elected representative or public servant.

- (2) The selection of independent members shall be by consensus.
- (3) The selection process shall be completed within thirty days from the commencement of the selection process.
- (4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

**90. Functions of the Selection Panel.** -The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President of Pakistan.

**91. Selection criteria of independent members.** - A person shall be disqualified from becoming a member of National Public Safety Commission if he –

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or
- (b) is found suffering from physical or mental incapacity or illness; or
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

**92. Functions of the National Public Safety Commission.** -(1) In the performance of its duties 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.

(2) Facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Article 168.

(3) Without prejudice to its role under clause (1), the National Public Safety Commission shall perform the following functions: -

- (a) 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;
- (b) <sup>109</sup>[ \*\*\* \*\*\* ];
- (c) recommend to the Federal Government premature transfer of Capital City Police Officer for Islamabad and head of a Federal Law Enforcement Agency before completion of normal tenure of three years for unsatisfactory performance of duties; provided that before making such

- recommendation the National Public Safety Commission shall give the concerned officer an opportunity to be heard in person;
- (d) oversee implementation of plans prepared by heads of the respective law enforcement agencies and approved and published by the government, setting out arrangements for achieving objectives during the year. The plans shall include. -
    - (i) a statement of financial resources expected to be made available by the Government; and
    - (ii) performance targets for the year and their delivery mechanism.
  - (e) evaluate the delivery of performance targets on quarterly basis;
  - (f) require heads of the relevant Federal Law Enforcement agency to submit to the National Public Safety Commission, by end of August each year, a general report in a manner prescribed by the National Public Safety Commission, which shall be published;
  - (g) submit an annual report to the Government and the Parliament that shall include the following;
    - (i) an abstract concerning performance of the National Public Safety Commission during the year;
    - (ii) a report on the functioning of the Federal Law Enforcement Agencies; and
    - (iii) a report on matters connected with general law and order in the country.
  - (h) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation services;
  - (i) facilitate coordination among the Provincial Public Safety <sup>110</sup>[and Police Complaints] Commissions;
  - (j) 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 in accordance with the provisions of this Order within forty five days of such decision;
  - (k) conduct enquiry on the recommendation of Islamabad Zila Council through a resolution passed by two third majority of its total membership for the dissolution of the Islamabad District Public Safety Commission on grounds of unsatisfactory performance of the said Commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Federal Government for the dissolution of the said Public Safety Commission;
  - (l) perform functions of the Islamabad District Public Safety Commission during the period it stands dissolved;
  - (m) consider the proposals of the National Police Management Board and give its recommendations to the government; and
  - (n) perform such other functions with regard to public safety and safeguarding interest of the people, as may be assigned by the government to it for the purpose under any law for the time being in force in particular pertaining to the Prosecution, Prisons and Probation services.

**93. Terms of members of the National Public Safety Commission.** -(1) The term of office of a member shall be the same as that of the National Assembly unless he resigns or is removed from office at any time before the expiry of his term or ceases to be a member of the National Assembly.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justices of Peace in accordance with the Code.

**94. Removal of members.** -The President on his own volition or on the recommendation of the National Public Safety Commission may remove a member from office if he -

- (a) ceases to be a citizen of Pakistan;

- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the National Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause;

**95. Meetings and conduct of business of the National Public Safety Commission.** - (1) The business of the National Public Safety Commission shall be conducted by the Commission in a meeting.

- (2) The meeting may be convened by the Chairperson or on the requisition of three members.
- (3) Quorum for the meeting of the Commission shall be two-third of its membership.
- (4) Members shall attend meetings of the National Public Safety Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month, provided an emergency meeting may be held at a short notice not exceeding twenty four hours.
- (5) The ex officio Chairperson will not have the right of vote, except in case of a tie.
- (6) Decisions of the Commission shall be by simple majority.
- (7) The Commission may hold public consultations as and when required.
- (8) Heads of law enforcement agencies, prosecution service, prison and probation services will attend meetings of the Commission as non-voting members, when invited.
- (9) The Commission may invite any expert for consultations on specific issues.
- (10) The Commission may frame rules of procedure for the conduct of the business.

**96. Secretariat.** - National Police Bureau referred to in Article 162 shall function as the secretariat of the National Public Safety Commission.

## CHAPTER X

### POLICE COMPLAINTS <sup>111</sup>[AUTHORITY]

**97. Establishment of Federal Police Complaints Authority.** - The Government shall establish a Federal Police Complaints Authority for enquiring into serious complaints against the members of Federal Law Enforcement Agencies.

**98. Composition.** -(1) The Federal Police Complaints Authority shall consist of a Chairperson and six members.

- (2) The President shall appoint the Chairperson of the Federal Police Complaints Authority.
- (3) The Government shall appoint the members of the Federal Police Complaints Authority on the recommendation of the Federal Public Service Commission.

**99. Criteria and terms of the members.** - (1) The members of the Federal Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the Government.

- (2) Persons may be appointed as whole-time or part-time members of the Authority.
- (3) A person shall not be appointed for a period of more than three years.
- (4) No member or the Chairperson shall be eligible for a second term.

**100. Functions of the Federal Police Complaints Authority.** -The Federal Police Complaints Authority shall perform the following functions -

- (a) receive from <sup>112</sup>[concerned Commission at the District level] or an aggrieved person in writing on an affidavit complaint of neglect, excess or misconduct against Islamabad Capital Territory

- Police Officer or any member of any Federal Law Enforcement Agency;
- (b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;
  - (c) receive from the Islamabad District Public Safety Commission or the Capital City District Police Officer or Head of a Federal Law Enforcement Agency any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident;
  - (d) request the Chief Justice of the High Court, in serious cases, to appoint a District and Sessions Judge for a judicial enquiry;
  - (e) appoint in appropriate cases a police officer belonging to the Federal Law Enforcement Agencies who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;
  - (f) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;
  - (g) inform the complainant of the outcome of the enquiry in writing as soon as possible;
  - (h) where the Federal Police Complaints Authority is not satisfied with the order in cases referred under clause (f), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
  - (i) in case of any frivolous, false or vexatious complaint, initiate legal action against the complainant;
  - (j) recommend disciplinary action against an enquiry officer for willful neglect or mishandling of an enquiry;
  - (k) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Parliament;
  - (l) establish when necessary in consultation with the Federal Government, regional offices anywhere in the country or with the agreement of the Provincial Government designate <sup>113</sup>[Provincial Public Safety and Police Complaints Commission or District Public Safety and Police Complaints] Commission to deal with the complaints of excess or neglect.

**101. Secretariat.** -(1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the secretariat and functions of officers and staff shall be determined by the Authority.

(4) The secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

**102. Removal of the members.** - The procedure of the removal of the Chairperson and members of the Federal Police Complaints Authority shall be the same as for the members of the Federal Public Service Commission.

<sup>114</sup> [103 – 108 \*\*\* \*\* ]

## CHAPTER XI

### CRIMINAL JUSTICE COORDINATION COMMITTEE

**109. Establishment.** – There shall be a Criminal Justice Coordination Committee in a district.

**110. Composition.** -The Criminal Justice Coordination Committee shall consist of-

- (a) District and Sessions Judge (Chairperson)
- (b) Head of District Police
- (c) District Public Prosecutor
- (d) District Superintendent Jail
- (e) District Probation Officer
- (f) District Parole Officer
- (g) Head of Investigation (Secretary)

**111. Functions of the Criminal Justice Coordination Committee.**- (1) The Criminal Justice Coordination Committee shall -

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system;
- (d) formulate co-ordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the Criminal Justice Coordination Committee.

(2) The meeting of the Criminal Justice Coordination Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

## CHAPTER XII

### REGULATION, CONTROL AND DISCIPLINE OF THE POLICE

**112. Rule making by Provincial Police Officer or Islamabad Capital City Police Officer.** -Provincial Police Officer, or Islamabad Capital City Police Officer, as the case may be, with the <sup>115</sup>[\*\*\*] approval of the Government, may by notification in the official gazette, make rules for carrying into effect the provisions of this Order.

**113. Punishments.** - Subject to the rules, a member of the police may at any time be suspended, dismissed, compulsorily retired, reduced in rank or pay, within a time scale, fined, censured or awarded any other punishment in the prescribed manner.

**114. Code of Conduct.** - (1) Provincial Police Officer and Capital City Police Officer shall issue Code of Conduct to regulate police practices in respect of -

- (a) the exercise by police officers of statutory powers of stop and search;
- (b) the searching of premises by police officers and the seizure of property found by police officers on persons or premises;
- (c) the detention, treatment and questioning of persons by police officers; and
- (d) the identification of persons by police officers.

(2) Subject to rules, a police officer contravening the Code of Conduct may be awarded one or more punishments provided under Article 113.

**115. Police officer at any time liable to be called for duty.** - A police officer when off-duty, on leave or under suspension shall be liable to be called for duty.

**116. Withdrawal from duty and resignation, etc.** - (1) No Police officer shall withdraw from the duties of his



office unless expressly allowed to do so in writing by Head of district Police or by some other officer authorised to grant such permission

*Explanation:* A police officer who being absent on leave fails without reasonable cause to report for duty on the expiration of such leave shall be deemed within the meaning of this Article to withdraw himself from the duties of his office.

(2) No police officer shall resign his office unless he has given to his superior officer notice in writing for a period of not less than two months of his intention to resign.

**117. Police officer not to engage in any other employment.** – No police officer shall engage in any private employment while he is a member of the police establishment.

## CHAPTER XIII

### POWERS TO ISSUE ORDERS

**118. Power to issue orders.** - The Head of District Police may, in an emergency, for the maintenance of public order or preventing public nuisance, issue orders to give effect to the provisions of any Municipal law, rules or bye-laws for the time being in force.

**119. Power to give direction to the public.** - Subject to rules, a police officer not below the rank of a Sub-Inspector may, give such directions as may be necessary to:

- (a) direct the conduct and behaviour or actions of persons constituting processions or assemblies on roads or streets;
- (b) prevent obstructions –
  - (i) on the occasion of processions and assemblies;
  - (ii) in the neighbourhood of places of worship during the time of worship; and
  - (iii) when a street or public place or place of public resort may be thronged or liable to be obstructed.
- (c) keep order on streets, mosques, churches or other places of worship and places of public resort when these may be thronged or liable to be obstructed.

**120. Regulation of public assemblies and processions and licensing of same.** -(1) Head of District Police or Assistant or Deputy Superintendent of Police may as occasion require, direct the conduct of assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect any assembly in any such road, street or thoroughfare, or to form a procession which would, in his judgement, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such processions shall apply for a licence.

(3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this Article:

Provided that no fee shall be charged on the application for, or grant of any such licence.

**121. Powers with regard to assemblies and processions violating the conditions of licence.**- (1) Head of District Police or Assistant or Deputy Superintendent of Police or Inspector of police or an officer in-charge of a police station may stop any procession which violates the conditions of a licence granted under the last foregoing Article, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly, which neglects or refuses to obey any order given under clause (1) shall be deemed to be an unlawful assembly.

**122. Power to prohibit certain acts for prevention of disorder.** - (1) Head of District Police may, whenever and for such time as he may consider necessary but not exceeding two days by notification publicly promulgated or

addressed to individuals prohibit in any urban or rural area, the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks, lathis or any other article, which is capable of being used for causing physical violence and the carrying of any corrosive substance or explosives, the carrying, collection or preparation of stones or other missiles or instruments of means of casting or impelling missiles.

(2) If any person goes armed with any article as is referred to in of clause (1), such article shall be liable to be seized from him by a police officer.

**123. Power to give directions against serious disorder at places of amusement, etc.** - (1) For the purpose of preventing serious disorder or breach of the law or imminent danger to those assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub Inspector or above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations or orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and lawful conduct of the proceedings and the maintaining of the public safety, at such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer while on duty shall have free access to any place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of clause (1) and to any direction made there under.

**124. Erecting of barriers in streets, etc.** – Any police officer may in an emergency temporarily close any street or public place through erection of barriers or other means, to prohibit persons or vehicles from entering such area.

**125. Power to search suspected persons or vehicles in street, etc.** - When in a street or a place of public resort a police officer on reasonable grounds suspects a person or a vehicle to be carrying any article unlawfully obtained or possessed or likely to be used in the commission of an offence, he may search such person or vehicle; and if the account given by such person or possessor of the vehicle appears to be false or suspicious, he may detain such article after recording in writing the grounds of such action and issue a receipt in the prescribed form and report the facts to the officer in-charge of the police station for informing the court for proceeding according to law against the person.

## CHAPTER XIV

### SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY

**126. Employment of additional police to keep peace.** - (1) Capital City Police Officer or City Police Officer and District Police Officer subject to approval of Provincial Police Officer may on application of any person depute any additional number of police to keep the peace, to preserve order, to enforce any provisions of this Order, or any other law, in respect of any particular class or classes of offences or to perform any other duties imposed on the police.

(2) Subject to rules, such additional police shall be employed at the cost of the person making the application.

(3) If the person upon whose application such additional police are employed gives one week's notice for the withdrawal of the said police, he shall be relieved from the cost thereof at the expiration of such notice.

(4) If there is any dispute on payment, Head of District Police on an application by the aggrieved party may refer the matter to the Government for final decision.

**127. Employment of additional police at the cost of organizers, etc.** – (1) Whenever it appears to Head of District Police that-

- (a) any large work which is being carried on, or any public amusement, or event at any place is likely to impede the traffic or to attract a large number of people; or
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place, necessitates the employment of additional police at such place; he may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to be expedient.

(2) Subject to rules, the cost of such additional police shall be borne by the organisers of such events or

employers of such works or concerns, as the case may be, at rates approved by the appropriate government from time to time.

**128. Compensation for injury caused by unlawful assembly.** - When any loss or damage is caused to any property or when death or grievous hurt is caused to any person or persons, by any thing done in furtherance of the common object of an unlawful assembly, the trial court may determine the amount of compensation which, in its opinion should be paid by members of the unlawful assembly to any person or persons in respect of the loss or damage or death or grievous hurt caused.

**129. Recovery of amount payable under Articles 126 and 127.** - Any amount payable under Article 126 and Article 127 shall be recovered in the same manner as if it were arrears of land revenue.

**130. Recovered amount to go to treasury.** - Amounts payable under Article 126 and Article 127 shall be credited to the treasury.

**131. Banning of use of dress resembling uniform of police or armed forces.** -(1) If Provincial Police Officer or the Capital City Police Officer or City Police Officer is satisfied that the wearing in public, by any member of any body, association or organization, of any dress or article of apparel resembling the uniform worn by police or members of the Armed Forces or any uniformed force constituted by or under any law for the time being in force, is likely to prejudice the security of the state or the maintenance of public order, he may by a special order prohibit or restrict the wearing or display, in public of any such dress or article of apparel by any member of such body or association or organization.

(2) Every order under clause (1) shall be published in the Official Gazette.

*Explanation:* For the purpose of clause (1) a dress or article of apparel shall be deemed to have been worn or displayed in public if it is worn or displayed in any place to which the public have access.

**132. Control of camps, parades, etc.** - If Head of District Police is satisfied that it is necessary in the interest of maintenance of public order, he may by a special order prohibit or restrict throughout the district or any part thereof all meetings and assemblies of persons for the purpose of training in the use of arms or taking part in any such camp, parade or procession.

**133. Authority of Head of District Police over the village police.** – Head of District Police shall for the purpose of carrying this Order into effect, exercise authority and control over village watchmen or village police officers.

## CHAPTER XV

### RESPONSIBILITIES OF POLICE IN RELATION TO UNCLAIMED PROPERTY

**134. Police to make inventory of unclaimed property, etc.**- It shall be the duty of every police officer to take charge and make inventory of any unclaimed property found by, or made over to him, and furnish a copy of the inventory to Head of District Police without delay, who shall send a copy of the same to <sup>116</sup>[concerned Commission at the District level.]

**135. Procedure for disposal of unclaimed property.** - (1) Where any property has been taken charge of under Article 134, Head of District Police shall issue a proclamation within fifteen days in the prescribed manner specifying the articles of which such property consists and requiring that any person who may have a claim thereto shall appear before him or some other officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police especially authorised in this behalf and establish his claim within three months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or if the property appears to be of the value of less than one thousand rupees, it may forthwith be disposed off in the prescribed manner under the orders of Head of District Police and the net proceeds of such sale shall be dealt with in the manner provided in Articles 136 and 137.

(3) Where any person who has a claim to the property is required by the proclamation under clause (1) to appear before an officer authorised by the Head of District Police and establish his claim, such officer shall

forward the record of the proceedings to the Head of District Police.

(4) Head of District Police shall follow the directions of the <sup>117</sup>[concerned Commission at the District level] in disposal of property under clause (3).

**136. Delivery of property to person entitled.** – (1) Head of District Police on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under clause (1) of Article 135 order the same to be delivered to him.

(2) In case where there is more than one claimant to the same property the matter shall be referred by the Head of District Police to the competent court.

**137. Disposal of property, if no claimant appears.** - If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under clause (2) of Article 135 shall, with the approval of appropriate Public Safety Commission, be disposed off in the prescribed manner and the proceeds shall be deposited in the treasury.

## CHAPTER XVI

### OFFENCES AND PUNISHMENTS

**138. Causing mischief in street by animal or vehicle.** -No person shall cause damage, injury, danger, alarm or mischief in any street or public place by negligent or reckless driving or by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation.

**139. Causing obstruction in a street.** -No person shall cause obstruction in any street or public place-

- (a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for such purpose; or
- (b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or
- (c) by using any part of a street or public place as a halting place for vehicles or cattle; or
- (d) by causing obstruction in any other manner.

**140. Wilful or negligent conduct in respect of dogs.** -No person shall in any street or public place -

- (a) let loose any dog wilfully or negligently so as to cause danger, injury, alarm or annoyance; or
- (b) suffer a ferocious dog to be at large without a muzzle; or
- (c) set on a dog to attack any person or horse or other animal.

**141. Penalty for offences under Articles 138 to 140.**-Any person who contravenes any of the provisions of Articles 138 to 140 shall, on conviction, be punished with fine, which may extend to ten thousand rupees, or, in default of payment, with imprisonment for a term not exceeding thirty days.

**142. Suffering disorderly conduct.** - Whoever being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers disorderly behaviour or any gambling or any other criminal act, whatsoever, in such place, shall, on conviction be punished with fine which may extend to ten thousand rupees.

**143. Penalty for contravening orders, etc. under Article 118.** -Whoever contravenes or abets the contravention of any order made under Article 118 or any of the condition of the licence issued under such regulations shall on conviction be fined up to ten thousand rupees.

**144. Penalties for contravention of order, etc. under Article 119 and Articles 122 and 123.** - (1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under Article 119, and Article 123 shall, on conviction, be punished with fine, which may extend to ten thousand rupees.

(2) Whoever contravenes a notification or an order made under clause (1) of Article 122 shall be punished with imprisonment for a term which shall not be less than three months but may extend to two years and with fine up to one hundred thousands rupees.

**145. Penalty for contravention of orders under Articles 131 and 132.** - Whoever contravenes any order made under Article 131 and Article 132 shall, on conviction, be punished with imprisonment for a term, which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

**146. Penalty for obtaining employment as a police officer through fraudulent means.**-Any person who makes a false statement or a statement which is misleading in material particulars or uses a false document for the purpose of obtaining employment as a police officer shall on conviction be punished with imprisonment for a term which may extend to one year, or with fine up to fifty thousand rupees, or with both.

**147. Warning to first offender.** - It shall be lawful for Head of District Police or any other officer authorized by him not below the rank of Inspector, to request the relevant court to issue in lieu of prosecution, a warning in writing to the accused in relation to first commission of any offence mentioned in Articles 138 to 140:

Provided that for any subsequent offence mentioned in this Article the offender on conviction will be awarded at least half of the prescribed punishment.

**148 Defiling water in public wells, etc.** - Whoever shall defile or cause to be defiled water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nullah or other source or means of water supply, so as to render the same unfit for the purpose for which it is set apart, shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees, or with both.

**149. False alarm of fire, etc.** -Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade or to any officer or fireman thereof shall on conviction be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifteen thousand rupees, or with both.

**150. Penalty for contravention of orders made under Article 124.** - Whoever contravenes, or abets the contravention of any order made under Article 124 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees or with both.

**151. Penalty for unauthorized use of police uniform.** - If any person not being a member of the police wears without authorisation, the uniform of police or any dress having the appearance or bearing any of the distinctive marks of police uniform, he shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

**152. Penalty for frivolous or vexatious complaint.** – Any person who files a complaint against the police, which on enquiry by the <sup>118</sup>[Federal] Police Complaints Authority is held frivolous or vexatious, shall be punished on conviction with imprisonment for six months, or with fine, which may extend to fifty thousand rupees, or with both.

**153. Certain offences to be cognizable.** - Notwithstanding anything contained in the Code, offences falling under Articles 148 to 152 shall be cognizable.

**154. Power to try offences summarily.** - The court trying offences under this chapter shall have power to try such offences summarily in accordance with the procedure laid down for summary trial in the Code.

## CHAPTER XVII

### OFFENCES BY AND PUNISHMENTS FOR POLICE OFFICERS

**155. Penalty for certain types of misconduct by police officers.** – (1) Any police officer who-

- (a) makes for obtaining release from service as police officer, a false statement or a statement which is misleading in material particulars or uses a false document for the purpose;
- (b) is guilty of cowardice, or being a police officer of junior rank, resigns his office or withdraws himself from duties without permission;
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;
- (d) is guilty of any violation of duty;
- (e) is found in a state of intoxication, while on duty;

- (f) malingers or feigns or voluntarily causes hurt to himself with the intention to render himself unfit for duty;
- (g) is grossly insubordinate to his superior officer or uses criminal force against a superior officer; or
- (h) engages himself or participates in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything,

shall, on conviction, for every such offence be punished with imprisonment for a term which may extend to three years and with fine.

(2) Prosecution under this Article shall require a report on writing by an officer authorized in this behalf under the rules <sup>119</sup>[to be made by the Government].

**156. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc.** Whoever, being a police officer –

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) inflicts torture or violence to any person in his custody;

shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine.

**157. Penalty for unnecessary delay in producing arrested persons in courts.** -Any police officer who vexatiously and unnecessarily delays the forwarding to a court or to any other authority to whom he is legally bound to forward any arrested person, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

## CHAPTER XVIII

### NATIONAL POLICE MANAGEMENT BOARD

**158. Establishment.**- The Federal Government shall establish National Police Management Board.

**159. Composition.** - The National Police Management Board shall consist of the following heads of the police establishments and the Federal Law Enforcement Agencies:-

- (a) Provincial Police Officers of Punjab, Sindh, NWFP and Balochistan;
- (b) Inspectors General of Railways Police, Pakistan Motorway and Highway Police, Northern Areas and AJK;
- (c) Capital City Police Officers of Islamabad, Lahore, Karachi, Peshawar and Quetta;
- (d) Directors General of Federal Investigation Agency and Anti Narcotics Force;
- (e) Commandants of National Police Academy and Frontier Constabulary;
- (f) Director General of National Police Bureau (Member Secretary); and
- (g) any other member that the Federal Government may nominate.

**160. Functions of the National Police Management Board.** - The National Police Management Board shall perform the following functions, namely:-

- (a) advise the Federal and Provincial Governments on matters concerning general planning, development and standardisation of administration, education and training, gender sensitisation,

- communications, criminal identification facilities, criminal statistics and equipment of police and other law enforcement agencies;
- (b) identify and arrange research in the areas of criminology, terrorism, sectarian and ethnic violence, drug trafficking, organised crime, inter-provincial crime, crime having international dimensions, etc.;
  - (c) recommend Federal Government grants to various police organizations and Federal Law Enforcement Agencies for enhancing their operational capabilities;
  - (d) recommend steps for securing inter-governmental and inter-agency assistance to ensure a comprehensive and cohesive arrangement for crime control and internal security;
  - (e) recommend to the Federal and Provincial Governments standards of recruitment, appointment, promotions, transfers, tenure and discipline;
  - (f) develop standing operating procedures based on internationally accepted good practices for adoption by the Police and Law Enforcement Agencies in the country to improve their performance; and
  - (g) any other duties that the Federal Government may assign to it.

**161. Meeting and conduct of business of the Board.** -(1) Normally two meetings shall be held in a year. Meetings may, however, be convened by the Secretary of the board on the requisition by half of the members of the board.

(2) Quorum for the meeting will be three quarters of the total membership and no participation by proxy shall be allowed.

(3) Members shall attend the meetings as and when required for which at least one month's notice, with agenda shall be given.

(4) The meetings shall be presided over by the senior most member present.

(5) The Board may invite any expert for consultations.

**162. National Police Bureau.** -(1) A National Police Bureau headed by a Director General not below the rank of Additional Inspector General of Police shall be established.

(2) The National Police Bureau shall function as permanent secretariat of the National Public Safety Commission and the National Police Management Board.

(3) The Government shall determine the organization of the National Police Bureau and provide such number of staff as it may determine from time to time.

(4) The National Police Bureau shall perform research and development functions as assigned to it by the National Police Management Board and the National Public Safety Commission.

(5) Perform such other functions as may be assigned to it by the Government.

(6) The National Police Bureau as secretariat to the National Public Safety Commission shall function independently but for all other functions the Bureau shall be under the Interior Division.

## CHAPTER XIX

### MISCELLANEOUS

**163. Provision of advice and assistance to International Organizations etc.** - The Police may provide advice and assistance to an International Organization or to any other person or body engaged in investigation of criminal cases outside Pakistan with the permission of the Government.

**164. Coordination by Federal Government.** - The Federal Government shall coordinate for the purpose of efficiency in the police administration among general police areas falling under the Federal or the Provincial governments.

**165. Constitution of Promotion Boards etc.** -Subject to rules, promotion of police officers of the provincial police

shall be made on the recommendations of the departmental promotion committees/promotion boards:

Provided that the departmental promotion committees/promotion boards shall be headed by an officers not below the rank of-

- (a) Assistant Superintendent of Police or Deputy Superintendent of Police for promotion to the rank of Head Constable;
- (b) Superintendent of Police for promotion to the rank of Assistant Sub-Inspector and Sub-Inspector;
- (c) Deputy Inspector General of Police for promotion to the rank of Inspector.
- (d) Additional Inspector General of Police for promotion to the rank of Deputy Superintendent of Police; and
- (e) Inspector General for promotion to the rank of Superintendent of Police.

**166. Criminal Statistics and reports.** - (1) The Provincial Government shall at such times and in such form as the Federal Government may direct, transmit statistic and reports to the Federal Government with respect to officers, offenders, criminal proceedings and the state of law and order in the Province as the Federal Government may require.

(2) The Federal Government shall cause a consolidated abstract of the information transmitted to it under clause (1) to be prepared and laid before the National Assembly.

(3) The Federal Government may require a Provincial Government to submit reports on such matters as may be specified in the requirements on matters connected with police performance.

(4) A requirement under clause (3) may specify the form in which a report is to be submitted.

(5) The Provincial Government may direct the submission of such reports and returns by the Provincial Police Officers and other police officers as it may deem proper and may prescribe the form in which such returns shall be made.

**167. Maintenance of Daily Diary at a police station.** - (1) A register of Daily Diary shall be maintained at every police station in such form as shall, from time to time, be prescribed and to record therein 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.

(2) The District and Sessions Judge of the district may call for and inspect such Diary.

**168. Citizen Police Liaison Committees.** - The Government may establish Citizen Police Liaison Committees as voluntary, self financing and autonomous bodies, in consultation with National Public Safety Commission or Provincial Public Safety <sup>120</sup>[and Police Complaints] Commission, as the case may be, for -

- (a) training and capacity building of <sup>121</sup>[members and staff of the] Commission;
- (b) developing mechanism for liaison between aggrieved citizens and police for providing relief; and
- (c) assistance to <sup>122</sup>[Commissions, Federal] Police Complaints Authority and the police for the expeditious and judicious discharge of their duties.

**169. Public Safety Fund.** - (1) The Government may, by notification in the Official Gazette, constitute Public Safety Fund at the Provincial and District levels consisting of-

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

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

(3) All receipts mentioned in sub-clauses (a) and (b) of clause (1) and clause (2) may be credited to the Provincial or District Public Safety Fund as the case may be under a Head of Account in the Public Account duly



authorised by the Controller General of Accounts.

- (4) The Fund shall be non-lapsable.
- (5) Accounts shall be kept of payments made into or out of this fund, which shall be audited by the Auditor General at the end of each financial year.
- (6) The Public Safety Fund at Provincial level shall be operated by the Provincial Public Safety <sup>123</sup>[and Police Complaints] Commission and at the district level by the District Public Safety <sup>124</sup>[and Police Complaints] Commission subject to any rules and regulations made under this Order.
- (7) The Public Safety Fund shall be applied for the purpose of:-
  - (a) improving facilities for public and service delivery at police stations.
  - (b) improving traffic police; and
  - (c) rewarding police officers for good performance.

**170. Officers holding charge of or succeeding to vacancies competent to exercise powers.** - Wherever in consequence of the office of Head of District Police becoming vacant, any officer who holds charge of such post or succeeds either temporarily or permanently to his office under the orders of the competent appointing authority, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Order on Capital City Police Officer, City Police Officer or District Police Officer.

**171. No police officer to be liable to any penalty or payment of damages on account of acts done in good faith in pursuance of duty.** - No police officer shall be liable to any penalty or to payment of damages on account of an act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Order or any other law for the time being in force or any rule, order or direction made or given therein.

**172. Suits or prosecutions in respect of acts done under colour of duty not to be entertained if not instituted within the prescribed period.**-In case of an alleged offence by a police officer, or a wrong alleged to have been done by him or by any act done under colour of duty or in exercise of any such duty or authority of this Order or when it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted after more than six months from the date of the action complained of.

**173. Notice of suit to be given with sufficient description of wrong complained of.** - (1) In the case of an intended suit on account of an alleged wrong referred to in Article 172 by a police officer, the person intending to sue shall give two month's notice as prescribed in section 80 of Civil Procedure Code 1908, of the intended suit with sufficient description of the wrong complained of.

(2) The provisions of section 80 of the Civil Procedure Code, 1908, shall mutatis mutandis apply to the notice referred to in clause (1).

**174. Licences and written permissions to specify conditions, etc.** - Any licence or written permission granted under the provisions of this Order shall specify the period, locality, conditions and restrictions subject to which the same is granted and shall be given under the signature of the competent authority.

**175. Revocation of licence or permission.** - Any licence or written permission granted under this Order may at any time be suspended or revoked by the competent authority after due notice if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

**176. When licence or permission is revoked, the grantee would be deemed to be without licence.** - When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Order, deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

**177. Grantee to produce licence and written permission when required.** - Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce

the same if so required by a police officer.

**178. Public notices how to be given.** - Any public notice required to be given under any of the provisions of this Order shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in local newspapers in regional languages and English or Urdu, as the said authority may deem fit, or by electronic media, or by any two or more of these means and by any other means it may think suitable.

**179. Consent of competent authority how to be proved.** - Whenever under this Order, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by the competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be evidence thereof.

**180. Signature on notices may be stamped.** - Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Order, or by any rule hereunder, to bear the stamp and the signature of Head of District Police and it shall be deemed to be properly signed if it is a facsimile of the document bearing his signature.

**181. Persons interested may apply to annul, reverse or alter any rule or order.** - In the case of any rule or order made under an authority conferred by this Order and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent for any interested person to apply to the authority issuing such rule or order to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable:

Provided that the appropriate government shall exercise jurisdiction for revision against such orders.

**182. Notification of rules and regulations in the Official Gazette.**- Every rule and regulation made under this Order shall be made by notification in the Official Gazette.

**183. Powers to prosecute under any other law not affected.**- Nothing contained in this Order shall be construed to prevent any person from being prosecuted under any other law for the time being in force for any offence made punishable under this Order.

**184. Power to amend.** – Without prejudice to the power of the Federal Government to amend this Order, any Provincial government may, with the approval of the Chief Executive of the Islamic Republic of Pakistan, amend, vary or modify any provision of this Order relating to the Province on the basis of its specific requirements and circumstances.

**185. Repeal and savings.** -(1) The Police Act, 1861, (V of 1861), hereinafter referred to as the said Act, is hereby repealed:

Provided that –

- (a) all rules prescribed, appointments made, powers conferred, orders made or passed, consent, permit, permission of licences given, summons or warrants issued or served, persons, arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under the said Act shall, so far as they are consistent with this Order, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred hereunder;
  - (b) all references made to the said Act or in any law or instrument shall be construed as references to the corresponding provisions of this Order.
- (2) Notwithstanding the repeal of the said Act, the repeal shall not -
- (a) affect the validity, invalidity, effect or consequence of anything duly done or suffered under the said Act;
  - (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act;
  - (c) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any act or offence

committed against the said Act;

- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;  
and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the said Act has not been repealed; and
- (e) affect any proceeding pending in any court or before any authority under the said Act, and any such proceeding and any appeal or revision arising out of such proceeding shall be continued, instituted or disposed of, as if the said Act had not been repealed.

**186. Existing police deemed to be constituted under this Order.** - Without prejudice to the provisions contained in Article 185, the police functioning in the Provinces and in Islamabad Capital Territory immediately before the commencement of this Order shall on such commencement be deemed to be police constituted under this Order.

<sup>125</sup>[**186-A. Power to amend the Schedules.** The Federal Government may, by notification in the official Gazette, amend any Schedule.]

**187. Power to remove difficulties.** -(1) If any difficulty arises in giving effect to the provisions of this Order, the Government may, by notification in the Official Gazette, make such provisions as appear to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Order.

(2) Every notification issued under this Article shall be laid before the Parliament or the Provincial Assembly, as the case may be.

## FIRST SCHEDULE

### SENIOR AND JUNIOR RANKS

[Article 2 (xii) and Article 2 (xxv)]

#### 1. Senior Police Ranks

- (i) Inspector-General
- (ii) Additional Inspector General
- (iii) Deputy Inspector General
- (iv) Assistant Inspector General/Senior Superintendent
- (v) Superintendent
- (vi) Assistant Superintendent/Deputy Superintendent

#### 2. Junior Police Ranks

- (i) Inspector
  - (ii) Sub-Inspector
  - (iii) Assistant Sub-Inspector
  - (iv) Head Constable
  - (v) Constable
- 

## SECOND SCHEDULE

(Article 24)

### FORM OF OATH OR AFFIRMATION BY MEMBERS OF POLICE

I \_\_\_\_\_ do hereby swear/solemnly affirm that I shall be faithful and bear true allegiance to Pakistan and to the Constitution of the Islamic Republic of Pakistan; that as member of the Police I shall honestly, impartially and truly serve the people without fear, favour or affection, malice or ill-will; that I will to the best of my ability, skill and knowledge discharge, according to law, such functions and duties as may be entrusted to me as a member of the police and in such a manner as to uphold and protect the dignity and rights of the citizens; that I shall abide by the principles contained in the Code of Conduct for police officers.

**THIRD SCHEDULE**

(Article 25)

**CERTIFICATE OF APPOINTMENT****SEAL**

No \_\_\_\_\_

Certificate of appointment issued under Article 25 of the Police Order, 2002, Mr. \_\_\_\_\_ has been appointed \_\_\_\_\_ and is invested with the powers, functions and privileges of a police officer under Article \_\_\_\_\_ of Police Order, 2002, in the Capital City District \_\_\_\_\_/City District \_\_\_\_\_/District Police/ Area \_\_\_\_\_ under the charge of Provincial Police Officer/Capital City Police Officer \_\_\_\_\_/City Police Officer \_\_\_\_\_ on this day of \_\_\_\_\_

Signature \_\_\_\_\_

Designation \_\_\_\_\_

\* \* \*

**<sup>126</sup>FOURTH SCHEDULE**

[See Article 33(3)]

**CERTIFICATE**

Certified that I \_\_\_\_\_  
 (Name of Head of District Police) Personal Number (if allotted)

\_\_\_\_\_ have on \_\_\_\_\_  
 submitted by \_\_\_\_\_  
 (Service) (BPS) (Date)

Performance Evaluation Report for the period \_\_\_\_\_

to \_\_\_\_\_  
 (Name of the Zila Nazim, District)

My countersigning officer is \_\_\_\_\_  
 (Name of the Provincial Police Officer)

Signature \_\_\_\_\_

District \_\_\_\_\_

Name and designation of Reporting Officer/Zila Nazim/Countersigning Officers should be clearly written.  
 Comments should be legible and in the prescribed format and which can be easily scanned.

Personnel Number is to be filled in by the officer under report, if allotted.

Proforma has been devised in English/Urdu to provide flexibility to RO/ZN/CO in the choice of language.

Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (6).

















## GUIDELINES FOR FILLING UP THE PER

- After initiation of their PER, the officers under report should immediately fill up the detachable 'certificate' giving names of the RO/ZN/CO and forward the same to the Officer Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
- Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report and should be typed. Part III will be filled by the Reporting Officer while the Zila Nazim/Countersigning/ Second Countersigning Officers will fill Parts IV and VI respectively.
- Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
- The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined / assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
- Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
- The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the sub ordinates in this regard.
- The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
- The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part V (2).
- The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
- The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irreparable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
- The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.

## IMPORTANT

- Parts I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15<sup>th</sup> of January. The ROs should forward the report to the Zila Nazim. The Zila Nazim should forward the report to the Countersigning Officer within two weeks of receipt after filling Part IV. The COs should then finalize their comments in Part V within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
- Name and designation of Reporting Officer/Zila Nazim/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
- Personnel Number is to be filled in by the officer under report, if allotted.
- Proforma has been devised in English/Urdu to provide flexibility to RO/ZN/CO in the choice of language.
- Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (6).

### *Notes : Chapter 4*

1. Added by the Police (Amendment) Order, 2002 dated 13 November, 2002 ( w.e.f. 14-8-2002).
2. Inserted by the Police Order (Amendment) Ordinance, 2009.  
The Amendment Ordinance of 2004 was re-promulgated innumerable times. However, it was never passed by the Parliament. It was promulgated as the Police Order (Amendment) Ordinance, 2007, by the Musharraf-led government in July 2007 and was given protection under the Provisional Constitution Order, 2007. It lost its validity after the Supreme Court in its famous judgment of 31 July 2009, directed all the ordinances protected under the Provisional (Constitution) Order, 2007, to be laid before the Parliament for consideration. The ordinance was laid before the National Assembly as a bill in November, 2009; however, it never passed through the stage of consideration by the National Assembly's Committee on the Interior. This has created a serious legal confusion and vacuum. Though the Ordinance was repromulgated in November, 2009 by the President of Pakistan as the Police Order (Amendment) Ordinance, 2009 (XLIV of 2009) which lapsed in late March 2010, whereafter it has not been repromulgated. Section 27 of the Constitution (Eighteenth Amendment) Act, 2010 (w.e.f. 19 April 2010) prohibited repromulgation of presidential ordinances once they lapse at the expiry of one hundred and twenty days. Ordinances may further be extended by the National Assembly through resolution only once for a period of one hundred and twenty days.
3. Inserted by the Police Order (Amendment) Ordinance, 2009.
4. Paragraph (v) "Commission' means a Public Safety Commission established under this Order at the national, provincial, or district level" substituted vide the Police Order (Amendment) Ordinance, 2009.
5. Inserted vide the Police Order (Amendment) Ordinance, 2009.
6. Inserted vide the Police Order (Amendment) Ordinance, 2009.
7. Inserted vide the Police Order (Amendment) Ordinance, 2009.
8. The word "and" omitted vide the Police Order (Amendment) Ordinance, 2009.
9. Inserted vide the Police Order (Amendment) Ordinance, 2009.
10. Inserted vide the Police Order (Amendment) Ordinance, 2009.
11. The words "by the National Public Safety Commission from a list provided" omitted vide the Police Order (Amendment) Ordinance, 2009.
12. Clause (2) and (3) "(2) The Provincial Government, with agreement of Provincial Public Safety Commission and the Capital City Public Safety Commission may transfer the Provincial Police Officer or Capital City Police Officer before the expiry of his tenure as the case may be.  
(3) The Provincial Government or the respective Public Safety Commission may initiate the case of premature transfer of the officers mentioned in clause (2) for unsatisfactory performance of duties" substituted vide the Police Order (Amendment) Ordinance, 2009.
13. The proviso "Provided that before premature transfer of the officers mentioned in clause (3) and clause (5) the appropriate Commission shall give the concerned officer an opportunity of being heard in person" substituted vide the Police Order (Amendment) Ordinance, 2009.
14. Clause "(6) The Federal Government may with the agreement of the National Public Safety Commission recall a Provincial Police Officer or the Capital City Police Officer" omitted vide the Police Order (Amendment) Ordinance, 2009.

15. The words “in consultation with the” substituted vide the Police Order (Amendment) Ordinance, 2009.
16. Clause “(3) The City Police Officer or District Police Officer may be transferred before completion of normal tenure of three years on specific grounds such as inefficiency and ineffectiveness with the concurrence both of the Zila Nazim and the District Public Safety Commission, after he has been heard in person by the District Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
17. The “full stop” substituted vide the Police Order (Amendment) Ordinance, 2009.
18. Added vide the Police Order (Amendment) Ordinance, 2009.
19. Added vide the Police Order (Amendment) Ordinance, 2009.
20. Clause “(2) Within the budgetary allocations, Provincial Police Officer, Capital City Police Officer, or the City Police Officer, as the case may be, may:
  - (a) divide districts into police divisions, sub divisions and police stations;
  - (b) sub-divide the police stations into police posts; and
  - (c) define the limits and extent of such-divisions, sub divisions, police stations and police posts” substituted vide the Police Order (Amendment) Ordinance, 2009.
21. The “full stop” substituted vide the Police Order (Amendment) Ordinance, 2009.
22. Added vide the Police Order (Amendment) Ordinance, 2009.
23. The word “consultation” substituted vide the Police Order (Amendment) Ordinance, 2009.
24. The words “appropriate Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
25. Inserted vide the Police Order (Amendment) Ordinance, 2009.
26. The words “District Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
27. The word “Provincial” omitted vide the Police Order (Amendment) Ordinance, 2009.
28. The word “Provincial” omitted vide the Police Order (Amendment) Ordinance, 2009.
29. Added vide the Police Order (Amendment) Ordinance, 2009.
30. The colon substituted vide the Police Order (Amendment) Ordinance, 2009.
31. The proviso “Provided also that where any police officer is of the opinion that the request for police support is unnecessary, unlawful or malafide, he shall, through his channel of command, report to Head of District Police who may seek recourse to the appropriate Public Safety Commission and in that case the decision of the Public Safety Commission shall prevail” omitted vide the Police Order (Amendment) Ordinance, 2009.
32. Clause “(3) In case of an unlawful or malafide order issued by any authority, the Head of District Police shall seek recourse to the appropriate Public Safety Commission whose decision shall prevail” omitted vide the Police Order (Amendment) Ordinance, 2009.
33. The words “appropriate Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
34. The words “appropriate Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
35. The words “Provincial Police Complaints Authority or” substituted vide the Police Order (Amendment) Ordinance, 2009.
36. Inserted by the Police Order (Amendment) Ordinance, 2009.
37. Article “37. Establishment. - The Provincial Government shall establish a District Public Safety Commission in each district consisting of 8,10 or 12 members depending upon the area and population of the district” substituted vide the Police Order (Amendment) Ordinance, 2009.
38. Article “38. Composition. - (1) Half of the members of the District Public Safety Commission shall be elected by the Zila Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.
  - (2) The other half comprising independent members shall be appointed by the Governor from a list of names recommended by the District Selection Panel.
  - (3) One third of both the elected and the independent members of the District Public Safety Commission shall be



women.

(4) The Naib Zila Nazim shall request the Chairperson of the District Selection Panel to conduct the election of the members of the District Public Safety Commission referred to in clause (1).

(5) The appointment of members shall be notified in the Official Gazette” substituted vide the Police Order (Amendment) Ordinance, 2009.

39. Article “39. Appointment of Chairperson. - (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.  
(2) The Chairperson shall preside over the meetings of the Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
40. Inserted vide the Police Order (Amendment) Ordinance, 2009.
41. The words “District Government” substituted vide the Police Order (Amendment) Ordinance, 2009.
42. The word “consensus” substituted vide the Police Order (Amendment) Ordinance, 2009.
43. The words “commencement of the selection process” substituted vide the Police Order (Amendment) Ordinance, 2009.
44. Article “42. Functions of the Selection Panel. -The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province” substituted vide the Police Order (Amendment) Ordinance, 2009.
45. Inserted vide the Police Order (Amendment) Ordinance, 2009.
46. Article “44. Functions of the District Public Safety Commission. - The District Public Safety Commission shall perform the following functions including those related to complaints against the police:-
- (a) approve an annual Local Policing Plan prepared by the District Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year: Provided that such Policing Plan shall include –
    - (i) a statement of the financial resources expected to be made available by the Provincial Government; and
    - (ii) performance targets for the year and their delivery mechanism;
  - (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to Zila Nazim, Tehsil Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;
  - (c) encourage police-public cooperation;
  - (d) provide recourse to District Police Officer or City Police Officer for reporting against any unlawful or malafide order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
  - (e) refer the matter in writing to the Provincial Government for appropriate action where the District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and District Police Officer or City Police Officer: Provided that before making such report the District Police Officer or City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;
  - (f) direct the District Police Officer or City Police Officer as to disposal of unclaimed property under clause (4) of Article 135.
  - (g) direct the District Police Officer or City Police Officer in writing, where the District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the District Public Safety Commission within forty-eight hours the action taken by him;
  - (h) on receipt of a complaint of excess by a police officer;
    - (i) direct the District Police Officer or City Police Officer in writing to take appropriate action and submit a report within a specified period; or
    - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found

correct, send its report and direct District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;

(iii) report the matter to the Provincial Police Officer, Provincial Government or the Police Complaints Authority for appropriate action if the District Police Officer does not submit a report or take action on the direction given by the District Public Safety Commission;

- (i) direct the District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period.
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the District Public Safety Commissions to the head of concerned organization or the Federal Complaints Authority for appropriate action” substituted vide the Police Order (Amendment) Ordinance, 2009.

- 47. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 48. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 49. Clause “(2) No member shall be eligible for a second term” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 50. Clause “(5) Members shall be Justices of Peace within the district in accordance with the Code” omitted vide the Police Order (Amendment) Ordinance, 2009.
- 51. The words “Governor on his” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 52. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 53. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 54. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 55. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 56. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 57. The words “District Police Officer or City Police Officer or in their absence their” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 58. Clause “(8) The Commission may frame rules of procedure for the conduct of business” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 59. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 60. Clauses 2 and 3 “(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Provincial Government.  
(3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time” substituted and clauses (4) and (5) added vide the Police Order (Amendment) Ordinance, 2009.
- 61. Chapter VI relating to “Capital City District Public Safety Commission” omitted vide the Police Order (Amendment) Ordinance, 2009.  
Note: Omitted Chapter is placed at Annex-A for reference purpose only.
- 62. The words “Chief Justice of High Court” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 63. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 64. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 65. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 66. The words “three each from the Treasury and” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 67. The “full stop” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 68. The second proviso added vide the Police Order (Amendment) Ordinance, 2009.
- 69. Clause “(2) The other half comprising independent members shall be appointed by the Governor from a list of names

- recommended by the Provincial Selection Panel: Provided that at least two members shall be women” substituted vide the Police Order (Amendment) Ordinance, 2009.
70. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  71. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  72. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  73. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  74. Clause “(1) There shall be a Selection Panel for independent members consisting of Chief Justice of the High Court who shall be its Chairperson and one nominee each of the Governor and the Chief Minister: Provided that such nominee shall not be elected representative or public servant” substituted vide the Police Order (Amendment) Ordinance, 2009.
  75. The words “commencement of the selection process” substituted vide the Police Order (Amendment) Ordinance, 2009.
  76. Article “78. Functions of the Selection Panel. -The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor” substituted vide the Police Order (Amendment) Ordinance, 2009.
  77. The words “a member of Provincial Public Safety” substituted vide the Police Order (Amendment) Ordinance, 2009.
  78. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  79. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  80. Clause (1) paragraph “(a) provide guidelines on the policy of the government to Provincial Police Officer and Capital City Police Officers for promoting integrity, efficiency and effectiveness of police; substituted vide the Police Order (Amendment) Ordinance, 2009.
  81. Clause (1) paragraph “(b) take steps to prevent the police from carrying out any unlawful or malafide orders or directions from any authority to any functionary of the police through-out the Province and in case such orders are brought to the notice of the commission it shall have the powers to intervene and its decision shall prevail” substituted vide the Police Order (Amendment) Ordinance, 2009.
  82. The words, brackets and figure “sub section (1) the Commission shall perform the following specific responsibilities” substituted vide the Police Order (Amendment) Ordinance, 2009.
  83. The words “Public Safety” substituted vide the Police Order (Amendment) Ordinance, 2009.
  84. The words “pre-mature transfer” substituted vide the Police Order (Amendment) Ordinance, 2009.
  85. The colon and proviso “Provided that before making such recommendation the Provincial Public Safety Commission shall give the concerned police officer an opportunity to be heard in person” omitted vide the Police Order (Amendment) Ordinance, 2009.
  86. The words “National Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
  87. Clause (2) paragraph (e) “determine in consultation with the Provincial Police Officer objectives for the policing of the Province for each financial year” omitted vide the Police Order (Amendment) Ordinance, 2009.
  88. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  89. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  90. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  91. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  92. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  93. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  94. The word “and” omitted vide the Police Order (Amendment) Ordinance, 2009.
  95. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  96. Inserted vide the Police Order (Amendment) Ordinance, 2009.
  97. The words “the same as that of the Provincial Assembly” substituted vide the Police Order (Amendment) Ordinance,

- 2009.
98. Clause “(2) No member shall be eligible for a second term” substituted vide the Police Order (Amendment) Ordinance, 2009.
99. Clause “(5) Members shall be Justices of Peace in accordance with the Code” omitted vide the Police Order (Amendment) Ordinance, 2009.
100. The words “Governor on its own volition or on the recommendation of the Provincial Public Safety” substituted vide the Police Order (Amendment) Ordinance, 2009.
101. Inserted vide the Police Order (Amendment) Ordinance, 2009.
102. Inserted vide the Police Order (Amendment) Ordinance, 2009.
103. Inserted vide the Police Order (Amendment) Ordinance, 2009.
104. The words “two-third” substituted vide the Police Order (Amendment) Ordinance, 2009.
105. Inserted vide the Police Order (Amendment) Ordinance, 2009.
106. Clause “(2) The Secretariat shall be headed by a Director of the rank of Senior Superintendent of Police who shall be appointed by the Provincial Government in consultation with the Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
107. Clause “(4) The secretariat shall be attached to the Provincial Law Department for purposes of budget and for matters pertaining to the Provincial Assembly” substituted and clauses (5), (6) and (7) added vide the Police Order (Amendment) Ordinance, 2009.
108. Inserted vide the Police Order (Amendment) Ordinance, 2009.
109. Clause (3) paragraph (b) “recommend to the Provincial Government panels of three police officers for the appointment of a Provincial Police Officer” omitted vide the Police Order (Amendment) Ordinance, 2009.
110. Inserted vide the Police Order (Amendment) Ordinance, 2009.
111. The word “Authorities” substituted vide the Police Order (Amendment) Ordinance, 2009.
112. The words “District Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
113. The words Provincial Police Complaints Authority or District Public Safety” substituted vide the Police Order (Amendment) Ordinance, 2009.
114. Articles 103 to 108 “103. Establishment of Provincial Police Complaints Authority. -The Government shall establish a Provincial Police Complaints Authority for enquiring into serious complaints against the police.
104. Composition. -(1) The Provincial Police Complaints Authority shall consist of a Chairperson and six members.
- (2) The Governor shall appoint the Chairperson of the Provincial Police Complaints Authority. (3) The Government shall appoint the members of the Provincial Police Complaints Authority on the recommendation of the Provincial Public Service Commission.
105. Criteria and terms of the members. - (1) The members of the Provincial Police Complaints Authority shall be eminent persons of impeccable integrity with skills; knowledge and experience in such fields as may be specified by the Government.
- (2) Persons may be appointed as whole-time or part-time members of the Authority. (3) A person shall not be appointed for a period of more than three years. (4) No member or the Chairperson shall be eligible for a second term.
106. Functions of the Provincial Police Complaints Authority. - The Provincial Police Complaints Authority shall perform the following functions -
- (a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit, complaint of neglect, excess or misconduct against a Police Officer;
- (b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;
- (c) receive from the District Public Safety Commission or Head of District Police any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident and request the Chief Justice of the High Court under intimation to the Government to appoint a Judge not below the District and Sessions Judge for a judicial enquiry;

- (d) may appoint in appropriate cases a police officer of the same district or of a different district who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;
- (e) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;
- (f) inform the complainant of the outcome of the enquiry in writing as soon as possible;
- (g) where the Provincial Police Complaints Authority is not satisfied with the order in cases referred under clause (e), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
- (h) in case of any frivolous, or vexatious complaint, initiate legal action against the complainant;
- (i) may recommend disciplinary action against an enquiry officer for willful neglect or mishandling of an enquiry;
- (j) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Provincial Assembly;
- (k) may in consultation with the Provincial Government establish regional offices anywhere in the Province.

107. Secretariat. -(1) The Government shall establish a permanent secretariat of the Authority. (2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the Secretariat and functions of officers and staff shall be determined by the Authority. (4) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time. (5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

108. Removal of the members. -The procedure of the removal of the Chairperson and members of the Provincial Police Complaints Authority shall be the same as for the members of the Provincial Public Service Commission” omitted vide the Police Order (Amendment) Ordinance, 2009.

- 115. The word “prior” omitted vide the Police Order (Amendment) Ordinance, 2009.
- 116. The words “District Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 117. The words “District Public Safety Commission” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 118. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 119. Added vide the Police Order (Amendment) Ordinance, 2009.
- 120. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 121. The words “Public Safety” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 122. The words and comma “Public Safety Commission,” substituted vide the Police Order (Amendment) Ordinance, 2009.
- 123. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 124. Inserted vide the Police Order (Amendment) Ordinance, 2009.
- 125. The Police Order (Amendment) Ordinance, 2009. Article 186-A was first introduced in Police Order (Amendment) Ordinance, 2005. It has been retained in subsequent ordinances.
- 126. See note 29, supra.

## **Capital City District Public Safety Commission\***

**49. Establishment.** - The Provincial Government shall establish a Capital City District Public Safety Commission in each district consisting 12 members depending upon the area and population of the district.

**50. Composition.** – (1) Three members of the Capital City District Public Safety Commission shall be elected by the Zila Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Three members shall be nominated by the Speaker of the Provincial Assembly from amongst its members two from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed by the Governor from a list of names recommended by the Capital City District Selection Panel.

(4) One third of both the elected and independent members of the Commission shall be women.

(5) The Naib Zila Nazim shall request the Chairperson of the Capital City District Selection Panel to conduct the election of the members of the Capital City District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the Official Gazette.

**51. Appointment of Chairperson.** - (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

**52. Meeting in the absence of the Chairperson.** - In the absence of the Chairperson the Capital City District Public Safety Commission shall elect one of its members to preside over a meeting.

**53. Selection of independent members.** - (1) There shall be a Selection Panel for independent members consisting of Chief Justice of High Court who shall be its Chairperson and one nominee each of the Provincial Government and the District Government:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

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\* Articles 49 to 60 under Chapter VI were omitted by Police Order (Amendment) Ordinance.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

**54. Functions of the Selection Panel.** - The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province.

**55. Selection criteria of independent members.** - A person shall be disqualified from becoming a member of District Public Safety Commission if he –

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or
- (b) is found suffering from physical or mental incapacity or illness; or
- (c) is declared a bankrupt, loan defaulter or tax evader; or
- (d) is not a citizen of Pakistan; or
- (e) holds an office of profit in the service of Pakistan; or
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence; or
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

**56. Functions of the Capital City District Public Safety Commission.** - The Capital City District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority:-

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year:  
Provided that such Policing Plan shall include –
  - (i) a statement of the financial resources expected to be made available by the Provincial Government; and
  - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to Zila Nazim, Tehsil Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;
- (c) encourage police-public cooperation;
- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or malafide order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Provincial Government for appropriate action where the Capital City District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and Capital City Police Officer:  
Provided that before making such report the Capital City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Article 135.

- (g) direct the Capital City Police Officer in writing, where the Capital City District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Capital City District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer;
  - (i) direct the Capital City District Police Officer in writing to take appropriate action and submit a report within a specified period; or
  - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report and direct Capital City District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
  - (iii) report the matter to the Provincial Government or the Police Complaints Authority for appropriate action if the Capital City District Police Officer does not submit a report or take action on the direction given by the Capital City Public Safety Commission;
- (i) direct the Capital City District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Capital City District Public Safety Commission to the head of concerned organization or the Federal Complaints Authority for appropriate action.

**57. Terms of members of the Capital City District Public Safety Commission. - (1)**

The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the Provincial Assembly or the Zila Council.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justices of Peace within the district in accordance with the Code.

**58. Removal of members. -** The Governor on his own volition or on the recommendation of the Capital City District Public Safety Commission may remove a member from office if he -

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Capital City District Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

**59. Meetings and conduct of business of the Capital City District Public Safety Commission. - (1)** The business



of the Capital City District Public Safety Commission shall be conducted by the Commission in a meeting.

- (2) The meeting may be convened by the Chairperson or on the requisition of three members.
- (3) Quorum for the meeting of the Capital City District Commission shall be two-third of its membership.
- (4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.
- (5) Decisions of the Commission shall be by simple majority.
- (6) Capital City Police Officer and in his absence his deputy may be invited to attend a meeting which he shall attend.
- (7) The Commission may invite any expert for consultations on specific issues.
- (8) The Commission may frame rules of procedures for the conduct of business.

**60. Secretariat.** - (1) The Government shall establish a permanent secretariat of the Capital City District Public Safety Commission.

- (2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Provincial Government.
- (3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time.

**Annex - B**

# Police Reforms in Pakistan: Beyond Analysis

A Consultation jointly organised by Commonwealth Human Rights Initiative &  
Human Rights Commission of Pakistan  
28 November 2008

*Report co-written by Asad Jamal and Sanjay Patil*

## Participants:

- 1) Mr. Tariq Khosa, DG National Police Bureau, Islamabad
- 2) Mr. Jawad Dogar, Additional Inspector General, Punjab
- 3) Mr. Mohammad Ashraf Noor DIG, Peshawar
- 4) Mr. Arshad Abdullah Minister for Law and Parliamentary Affairs, NWFP
- 5) Mrs. Sarkar Abbas, Advocate and Member of the National Public Safety Commission, Islamabad
- 6) Mr. Mehr Jeewan Khan, former Chief Secretary, Punjab
- 7) Mr. I A Rehman, Director, HRCP, (Chair)
- 8) Ms. Katrin Banach, Friedrich-Naumann-Foundation, Delhi
- 9) Mr. Mukhtar Ahmed Ali, Executive Director, CPDI, Islamabad
- 10) Mr. Abrar Hafeez, Secretary General, CRCP, Islamabad
- 11) Mr. Kamran Arif Khan, Advocate and HRCP Council Member, Peshawar
- 12) Mr. Mohammad Tahsin, Executive Director, South Asia Partnership
- 13) Mr. Dilawar Khan, ICRC, Islamabad
- 14) Mr. Leonard Gill, ICRC, Islamabad
- 15) Mr. Sanjay Patil (moderator), Programme Officer Police Reforms, CHRI
- 16) Mr. Asad Jamal, Advocate High Court, Lahore (Coordinator/Consultant for the Consultation)
- 17) Mr. Zaman Khan, HRCP
- 18) Mr. Mehboob Ahmed Khan, HRCP
- 19) Mr. Shameem-ur-Rehman, Advocate and former Secretary Lahore Bar Association
- 20) Mr. Ahmed Nazir Warraich, Lawyer/Teacher, former civil servant

- 21) Mr. Ali Murtaza, Planning and Development Department, Govt. of Punjab, Lahore
- 22) Mr. Waqar Gilani, Journalist, The News
- 23) Mr. Muhammad Irshad Chaudhry, Advocate and HRCP Council Member
- 24) Mr. Hussain Naqi, HRCP

### Abbreviations

CPLC	Citizen Police Liaison Committee
CHRI	Commonwealth Human Rights Initiative
CPDI	Centre for Peace and Development Initiatives
CRCP	Consumer Rights Commission of Pakistan
DG	Director General
DIG	Deputy Inspector General
DCO	District Coordination Officer
DPO	District Police Officer
DPSC	District Public Safety Commission
FIR	First Information Report
HRCP	Human Rights Commission of Pakistan
IGP	Inspector General Police
ICRC	International Committee of the Red Cross
NPB	National Police Bureau
NPSC	National Public Safety Commission
PPSC	Provincial Public Safety Commission
PSC	Public Safety Commissions (to generally refer to all levels of commissions)
SP	Superintendent of Police
SHO	Station House Officer

### Glossary

Thana	Police Station
Muhallah	Neighbourhood
Zila Nazim	Mayor of the District/City

### Introduction

Mr. I.A. Rehman of the Human Rights Commission of Pakistan (HRCP) chaired the consultation and gave a welcome address. The participants were informed that this consultation was an opportunity to understand and comprehend the issues behind the current state of police reforms in Pakistan on the basis of an examination of the Police Order 2002 ('the Order').

Mr. Sanjay Patil followed by stating that all the participants invited and present at the consultation were informed and knowledgeable people with varying degrees of influence and he hoped that the main objective of the consultation, namely, to discuss how police reforms can be brought about in Pakistan and to conclude with realistic and attainable goals, would be achieved.

Katrin Bannach an officer from the Friedrich-Naumann-Foundation, the funding organisation of the event,

described her organisation's commitment to work on liberal issues and support towards the development of democratic and free markets. She emphasised the importance of security for the protection of individual freedoms and the need to nurture the public's trust to ensure the survival of democratic institutions.

At the consultation, the issue of police reforms was discussed and debated on multiple levels. Issues such as lack of political will, amendments to the Order, corruption and the failure of the government to pay the police their due were examined with a view to find out why and how there has been a failure by the relevant institutions in bringing about reforms to Pakistan's police force.

Presentation by Tariq Khosa, Director General of National Police Bureau:

Mr. Khosa discussed various articles of the Order and engaged in an institutional level discussion about the problems of police reform in Pakistan. Despite the positive changes envisioned by the provisions of the Order, the Order has not been implemented due to a lack of political will and resistance to the Order by the vested interest in the current state of the police force.

Mr. Khosa stated that the new police law is necessary because:

- ◆ The police have an obligation to function according to the constitution, law and democratic aspirations of the people.

- ◆ The police are required to be professional, service oriented and accountable to the people.

The Order contains the provisions necessary for the implementation of these duties.

### Article 3

The crucial importance for a change in attitude of the police towards the public is governed under Article 3 of the Order which was highlighted by Mr. Khosa:

- ◆ Behave with decorum and courtesy towards the public
- ◆ Promote amity
- ◆ Guide and assist the public, particularly the disadvantaged and helpless

### Article 4

The DG also highlighted the key duties of the police from Article 4 of the Order:

(1) Subject to law, it shall be the duty of every police officer to -

- ◆ protect life, property and liberty of citizens;
- ◆ preserve and promote public peace;
- ◆ ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- ◆ prevent the commission of offences and public nuisance;
- ◆ collect and communicate intelligence affecting public peace and crime in general;
- ◆ keep order and prevent obstruction on public roads
- ◆ regulate and control traffic on public roads and streets;
- ◆ detect and bring offenders to justice;
- ◆ apprehend all persons whom he is legally authorised to apprehend and for whose apprehension, sufficient grounds exist;
- ◆ ensure that the information about the arrest of a person is promptly communicated to a person of his choice;
- ◆ 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;

- ◆ obey and promptly execute all lawful orders;
- ◆ perform other duties and exercise powers as are conferred by this Order, the Code or any other law for the time being in force;
- ◆ aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;
- ◆ assist in preventing members of public from exploitation by any person or organized groups;
- ◆ prevent harassment of women and children in public places

With regards to the apprehension of suspects, Mr. Khosa emphasised that the lodging of a FIR (First Information Report) is not a sufficient ground to apprehend suspects. This is a practice that the Pakistani police have been carrying out and it needs to be stopped. Secondly, often suspects are not allowed to communicate information about their arrest to a person of their choice and this too is an illegal and unfair practice that must cease immediately. Due to a lack of responsible oversight these practices have continued. However, the new law carries a punishment for any police officer that deprives a citizen of their rights upon arrival at the police station.

### Article 9

Superintendence of police vests in the provincial government. Hence, under the Order the control of the police is not bureaucratic but lies in the hands of the Chief Minister and Cabinet. Superintendence is to be exercised in order to ensure that the police perform its duties efficiently and strictly in accordance with law.

Mr. Khosa stated that there is a perception that too much power has been given to the police but that is not true. The IG's power has only been unified and there is nothing in the new law that provides the police with powers beyond those which are necessary for its functionality.

### Article 10

**Administration of police resides with the IGP.** Under the Order the power to promote police officers will no longer lie with the Chief Minister. The IG will be in charge of promotions and the IG is responsible to the Chief Executive.

### Articles 11 and 13

**The posting of the capital city police officer, Additional IGs and DIGs** will be done by the government in consultation with the IGP.

### Article 15

**The posting of DPOs** by the IGP are to be done in consultation with the government.

### Article 17

**Posting of SSP/SP**, other than DPO, is to be done by the IGP.

### Article 18

**Separation of investigation** is to be conducted as follows:

- ◆ Investigation branch to be headed by additional IGP
- ◆ Investigation by separate investigation staff in police station and District (Article 18 (3))
- ◆ Transfer of investigation twice only (Article 18 (6))

### Article 33

In regards to the **relationship of police with the Zila Nazim**, the District Police should be responsible to

Zila Nazim regarding police functions except administration, investigation and prosecution. In the case of conflict between the Zila Nazim and government the decision of the provincial government shall prevail.

There is a debate about whether this method of checks and balances has worked because of the three tiers of control: federal, provincial and district/local. Police is a provincial department which is accountable to the Chief Minister but complaints about the police can be made to the Zila Nazim. The various processes and flows of information at multiple levels needs be strictly formulated and followed in order for this check and balance to work.

### **New institutions established under Police Order, 2002**

Mr. Khosa also discussed with the group the various institutions that have been created by the Order:

- ◆ District, Provincial and National Public Safety Commissions (PSCs are least effective and need to be more transparent)
- ◆ Independent Police Complaints Authority at the provincial and national levels (has not been created)
- ◆ Criminal justice coordination committee at district level
- ◆ National Police Management Board

Mr. Khosa stated that the NPSC is functioning and oversees the functioning of provincial commissions. Unfortunately, the IG can be shifted on the whims of the Chief Executive and so the role of insulating the police from politics has been taken away from the NPSC. NPSC functions can be found in **Article 92** of the Order.

National Police Management Board functions can be found in **Article 160** of the Order. This is a new body which meets twice a year and recommends the recruitment and training needs of the police to the government.

According to Mr. Khosa a fundamental change has been the introduction of checks and balances to the police in the law for the first time. He reiterated that there is no section in law that gives unbridled power to the police and there are punishments for police officers who overstep their powers.

### **Penalties for police officers**

- ◆ Penalty for misconduct by police officers - Up to 3 yrs imprisonment
- ◆ Penalty for vexatious entry, search, arrest, torture etc - Up to 5 yrs imprisonment
- ◆ Penalty for delay in producing arrested person in court – Up to 1 yr imprisonment

### **Various Control Mechanisms under the Order**

**Superintendence:** By the Provincial Government with regards to Policy and Direction

**Administration:** The Order empowers the IG only for administration and operational purposes

**Democratic control:** District Police is responsible to the Nazim and the various Public Safety Commissions

In his conclusion, Mr. Khosa said that the best accountability has to come from within the police. Unfortunately, since the inception of Pakistan the institutions have followed the law of the ruler and not the rule of law.

Quoting a July 2008 report by the ICG (International Crisis Group), Mr. Khosa said that as an immediate first step to bringing about positive reform in the police force, the amendments made to the Order in 2004 must be removed accompanied by a change in the mindset of the political executive.

Further, steps should be taken to empower the various PSCs (Public Safety Commissions) so that transfers, postings and recruitment are done solely on merit. The PSCs were created to insulate the police from politics but a change in the constitution of commission members has resulted in a tilt towards ruling party members.

Finally, Mr. Khosa emphasised the importance of civil society for police reforms in Pakistan.

### **Presentation by Jawad Dogar, Additional IG, Punjab:**

Mr. Dogar further discussed the purpose and effects of the Order with the participants of the consultation.

The special features of the Order, 2002 are that:

- ◆ The Order gives the police autonomy in administrative and operational matters
- ◆ Public participation and external accountability through DPSCs and CPLCs
- ◆ Better service delivery through internal reorganisation of the police
- ◆ More effective internal accountability through criminal action

According to Mr. Dogar the Order is an opportunity for change and an unprecedented impetus for improvement in police management and performance.

Unfortunately, the current state of implementation is that:

- ◆ Provincial Public Safety Commissions are notified but not functional
- ◆ DPSCs are neither complete nor functional
- ◆ Police have yet to be fully re-organised according to Region, City and Capital Districts
- ◆ Separation of investigation from other functions at the police station has been stalled
- ◆ However, the procedures for change of investigation have been fully implemented.

### **Problems with implementation of the Order**

Mr. Dogar stated there are many reasons for why the Order has not been implemented.

Firstly, the Order is drafted like a policy document which is general in some areas making it difficult to implement. Further, it presents a difficult scheme which is extremely broad in content. It aims to address issues ranging from Human Resource, Organisational Design and Law with out conceptual clarity. For instance, the command and control mechanisms of the reorganised ‘matrix’ design are based on a business matrix with overlaps that do not give the correct handles for control in a police force.

A large part of the problem with the Order is that the National Reconstruction Bureau (NRB) that formulated it did not take input from all of the stakeholders. As a result, the Order was created in a vacuum with very little dialogue. Hence, the issues that should have been resolved at formulation are being dealt with now. Due to the lack of inclusion of the provincial government and police there is a resultant lack of ownership of the Order by these two groups which is necessary for the successful implementation of the reforms.

Mr. Dogar also feels that the Order has faced a lot of resistance due to the organisational and personal resistance to change displayed repeatedly by Pakistan’s institutions, coupled with the psychological barriers of those with influence. Further, the poor awareness of the law by the citizens of Pakistan also makes them a less powerful tool for change.

The Police Order is based on the devolution scheme which left many in the provincial government indifferent or even hostile to the Order as legislators lost control of funds and the PSCs posed as rivals to provincial government’s control over the police force.

In addition, the police are a rigidly hierarchical organisation bound by a culture of conformity and submission with a high resistance to change in all forms. There are physical and infrastructure constraints on the quality of training that the police can receive in order to successfully absorb change. Despite considerable expansion over the past 3 years there are major constraints in human resource that is needed to effectively implement the reforms. As an indication of the shortage of effective personnel in the police there is only 1 Investigations Officer for every 50 cases.

The greatest stumbling block for senior police officers in absorbing the new law is the separation of investigation from watch and ward functions. The Order presents a matrix organisational structure without clear horizontal and vertical reporting relationships leaving officials uncertain with regards to ‘their own hierarchy’. The confusion in the law is exacerbated by poor follow-up legislation and rule-making. For example, no rules have been framed for the Public Safety Commissions and CPLCs which could serve as effective oversight bodies of police behaviour.

Finally, Mr. Dogar stated that the most fundamental problem in the implementation of the Order was the

creation of the Police Order (Amendment) Ordinance, 2004 by the government. The Ordinance amends or replaces 73 of 187 articles in the police order and it does not address some of the areas where amendment, in his opinion, was required. Hence, by undermining the spirit of the Order there is an exacerbated resistance to it by the majority of police officials. The main amendments undermined the spirit of the Order, in particular those aspects that had wished to imbibe elements of autonomy, external accountability, and an effective DPO-District Nazim relationship in to the police system. Examples include:

- ◆ The composition of the PSCs has been altered to include MNAs and MPAs in a partial tilt towards members of the ruling party. Previously, the composition was half *zila* council and half independent. Now a third component of elected officials has been added.

- ◆ Introduction of a non-binding element in PSC recommendations.

- ◆ Merger of complaints bodies and PSCs, which were to remain separate under the original Order.

The amendments have caused confusion and a serious loss of efficiency and are seen as an attempt to have power that was given to PSCs brought back to the provincial government level, especially with regards to transfers and postings. The real issue is that under the amendments there has been a paradigm shift where authority has shifted away from the people to the government.

According to Mr. Dogar the way forward is to:

- ◆ Revert to the original police order

- ◆ Amend it to remove irritants

- ◆ Create a change management mechanism

- ◆ Pakistani police must look beyond the Order at administration and behavioural change

- ◆ The police and government must set its priorities right: People first

## **Discussion of Consultation:**

### ***Issues at the Local Level***

The ex Chief Secretary of Punjab, Mr. Jeewan Khan, introduced the issue of police station culture to the discussion. This shifted the analysis of issues from an institutional level to a local level from the perspective of the common man and the villager who make up the majority of Pakistan's population. The prevalence of 'thaana culture' at police stations, where the lay person is treated unfairly, was noted as one of the key failings of the police in the provision of its duties. Mr. Khan noted the bad treatment of prisoners in jails and the omission of the police's duty to note the arrival and departure of a suspect from the police station on record as examples of the police's unprofessional and inept conduct. A large number of the participants wanted to know what steps are being taken to change this culture.

Mr. Khan mentioned that apart from the Public Safety Commissions there must be oversight of the police by the police as well. Hence, in addition to external accountability, internal accountability is also a necessary ingredient for the progress of the police force. The former Chief Secretary stated that from the perspective of the villager the presentations that had been made by the senior police officials a moment ago are irrelevant. He described an account of a village where 25 complaints have been made to the police against some dacoits and despite the passage of 3-6 months the culprits have not been arrested. There is a general lack of care and lethargy in the performance of duties by the police and these problems need to be fixed at the level of the police stations. Reforms in police behaviour at the local level are important because that is where the general public interact with the police on a daily basis. It is crucial that there is a change in attitude of the police towards suspects, those seeking assistance or those lodging FIRs. Yet, the Order mentions nothing about reforming *thaana* culture.

DG Tariq Khosa stated that the Rules have been put in the law to provide penalties against transgressions by police officers upon entry of accused at the police station, as mentioned in his presentation. However, while the letter



exists, the political will to implement the laws does not.

Mr. Khan also emphasised the importance of crime prevention. Previously, the police dealt mainly with arresting those who committed crimes rather than pre-emptively taking steps to ensure the reduction of crimes carried out in the first place. Mr. Khosa stated that the IGP will normally release a list of most wanted criminals in what is known as a 'black book' but this is not good enough. There needs to be a permanent record maintained by the police in which known criminals are categorized and then pursued. The black book at the IG level would then not be required. Again, this is a procedure that needs to be enforced at the *thaana* level as it cannot be handled by the IGP.

In closing, the former Chief Secretary Mr. Khan made three important recommendations:

1. Interaction of the people with the thaana police at the level of the village and *muhallah* (neighbourhood) needs to be regulated and formalised.
2. Human rights committees could be selectively placed at the police department. If excesses take place, voices can be raised.
3. Law needs to protect the aggrieved, and the criminal, from violations by the police.

### **Police as victims of the current system**

DG Khosa discussed some of the reasons that have resulted in an indifferent and unprofessional police force. He made a comparison between the District police and the Motorway police. The Motorway police is better paid and better trained and as a result their morale is high. Since the force is insulated from politics, they stop and fine anyone disobeying motorway rules including ministers. Mr. Khosa emphasised that when the police are given their due in the form of better pay and health care they perform better. Unfortunately, the police force is also a victim of a system where the government's priorities are led by aims of power and greed. As a result, the police force is ill-paid, ill-trained, susceptible to bribes, and constantly subjected to transfers and postings without merit. Political intervention reduces the integrity of the police and policing must be kept protected from political influence.

Unfortunately, after 2002 the new law was not notified by any provincial government in its original form till it was amended. Resultantly, the IGP continues to have no security of tenure and no control and SHOs are posted on the whims of parliamentarians. Mr. Khosa reaffirmed that to improve the culture of stations the SHO should not be subject to the whims of the politician. SHOs should be posted by DPOs and the DPOs also need security of tenure. Mr. Khosa believes that if the police are provided this autonomy, they will deliver. Mr. Khosa described his frustration at the lack of political will to make change and stated that superintendence is a crucial issue towards bringing reforms in the country and the government must take steps to rectify the status quo soon.

DG Khosa states that the creators of the Order were idealistic. The Rule of law has never been ingrained in Pakistani institutions but the drafters of the Order are hoping for eventual acceptance at some stage. The letter of the law is satisfactory for the purposes of reform but it needs to be imbibed in spirit.

According to Mr. Khosa a senior police officer is pitted against:

1. His own corrupt lot that he commands. The failure of an officer is seen as a failure of the IGP.
2. The ruling party in power. The battle for reform is the senior commander's who must advise the Chief Minister that the type of policing represented by the Order is in the interest of the people.

Mr. Khosa strongly feels that eventually it is civil society and the police that will make the change.

The Secretary General of CRCP, Mr. Abrar Hafeez, asserted that the police also lack technical support and very basic equipment that is required for the carrying out of proper investigation. Technology over time has become quite cheap and affordable but police still go to the site of an incident equipped with ordinary cameras. This shows a lack of good policy making and investment in the police. It is important to maintain a sensitised approach towards the police as they perform their duties under poor working conditions, lack of financial motivation and inadequate training.

### **Corruption of the police**

Members of civil society present at the consultation stated that the document (the Order) sounds like an

academic paper which is useless unless enlightened officials present in the force take ownership of the new law and force it into action. It was emphasised that in a large and feudal structure like Pakistan's, police superiors will be required to take certain bold actions if change is to be seen.

There was criticism that often the police use politics as a scapegoat to cover up their internal indiscretions. For instance, the occurrence of SHOs being transferred every now and then is not solely due to the influence of politicians. Within the police force as well there is corruption and nepotism resulting in unwarranted postings and transfers. Executive Director of CPDI, Mr. Mukhtar Ahmed Ali noted that the police budget has tripled since 1999/2000 but there is rarely any indication of where the money is spent.

It was highlighted by the group that there is a bottle neck in DPO offices where funds do not get transferred out to the necessary stations. Often, the funds are not utilized at all and the money that was allocated lapses because the police do not plan their expenditures. The necessity for improvements in transparency and accounting procedures was highlighted at the consultative dialogue.

On a question by Mr. Arshad Abdullah (Minister of Law and Parliamentary Affairs for NWFP) on whether the police have improved its efficiency since the police order 2002, Mr. Mukhtar Ahmad Ali (CPDI) said improvements are marginal and that is why they are rarely discussed. He said, however, in recognition of the gradual erosion of the traditional feudalism and demographic changes where rural people have become more mobile and 50% of families have at least one member of their family working in the cities, people are exposed to these issues more than ever and they ask questions. Hence, despite only minor improvements to date, the reform of the police is not a losing battle.

According to the group present at the consultation simple improvements to the layout of police stations to make people feel comfortable, where currently people do not even have a place to sit, and the improved access to information are two areas that can be concentrated on to improve police service delivery.

Irrespective of the implementation of the new law and creation of annual policing plans, it was argued that there is a lot that the police can achieve through an improvement in their own practices and modus operandi. The police need to be made to realize that they are the main beneficiaries of change.

## **Improvements**

DG Khosa stated that while a critique is necessary it is also important to focus on the recent improvements made by the police:

- ◆ Improvements in technical expertise towards investigative support.
- ◆ Implementation of an automatic finger print system has been integrated where all arrests are on an electronic database. This is being maintained at the district, provincial and federal level.
- ◆ Creation of a police record management system to be completed by 31 December 2008.
- ◆ Establishment of forensic science labs at the provincial and federal level.

There is evidence that senior officials, while concerned with improvements in high level systems and technology, are not to the same extent investing in improvements to the local level thaana with regards to better pay and better training for district level police officials that would eventually result in improved service delivery to ordinary citizens.

Further improvements highlighted by the DG were:

- ◆ Annual policing plans to be made by Nazims and DPO in collaboration with provincial IGs.
- ◆ DPOs have received investigation funds so the public does not need to be asked for funds.
- ◆ National Police Management Board is now meeting twice a year.

## **Powerlessness of Public Safety Commissions**

The police should be a purely professional organisation according to Advocate Mr. Muhammad Irshad Chaudhry.

A code of ethics at the police stations is missing while accountability mechanisms continue to reside with the provincial government. This allows for many malpractices to be ignored.

Mr. Khosa informed the participants that the Provincial Public Safety Commission (PPSC) of Punjab has not met for the past 5 years, meaning a code of conduct could not be established. The PPSC was supposed to depoliticize the police. Unless the institutions created by the Order are implemented, reforms will not take place.

Mrs. Sarkar Abbas, formerly a member of DPSC and currently a member of the NPSC highlighted the powerlessness of PSCs and described her experience about 600 complaints received from the public regarding the refusal of the police in registering FIRs. In discussions with the DPO regarding the issue, Mrs. Abbas realised that a significant problem was that the DPSC has no binding force in law to hold the DPOs accountable. When the DPSC sent reports to the DPO, the DPO was not bound to implement the orders. Interestingly enough, some officers at the local level do not even have knowledge of the existence of a NPSC. This shows that at the provincial level, the institutions that the Order created are not given much weight by the government or the police.

Later on during the discussion Mr. Mukhtar Ahmed Ali said that there is an undue general sense of 'powerlessness' among our representatives and highly placed officials. If the power vested in their position is 'soft' and does not entail the power such as to suspend or transfer or be able to get people transferred. He wondered why should a committee like PPSC or NPSC feel or be seen as powerless when it had the Home/Interior Minister as its Chairperson. In his view, there is a big vacuum of capacity and competence and a lack of sense of responsibility to make a difference on part of individuals where they actually can. He referred to the overseeing power of the PSCs regarding implementation of the Policing Plans. He thought that the members of the Commissions could make a difference by involving themselves in the matter and force the police to implement plans as well as involve themselves in identifying procedural flaws and systemic issues rather than getting bogged down in bureaucratic bickering.

At this juncture Sanjay Patil drew attention towards the functions of the PSCs, e.g. the NPSC's functions includes submission annual report to parliament. He wondered if that was being done. To this Mr. Khosa informed the participants that NPSC was submitting the report. Mr. Mukhtar said that annual reports and policing plans are the kind of instruments which the NPSC needs to pick up, pursue and debate openly how police plans and how far the targets set have been achieved at the end of the year. By identifying systemic issues and flaws in policing can make a critical contribution, however it seemed to him that these were precisely the areas where hard work was missing.

Mukhtar Ahmed Ali pointed out some substantive issues created by the 2004 amendments to the Order. He pointed out that the amended formula of composition of PSCs is a major area of concern. It was much better in the original scheme. For instance, the amended formula prescribes for inclusion of opposition members at various levels. It is however quite possible that there may be no opposition at district level; the new scheme does not envisage such a situation. Similarly, in the PPSC case, there can be a situation where the opposition is so disproportionately represented in the provincial assembly which may cause hurdles in the independent working of PSC. He also referred to the merger of PSCs and Complaints Authority, which according to the original scheme were to be independent institutions, as a great blow; control of SHO over investigations etc. a step backwards. Another point raised in this respect was the recommendatory role of PSC as they can't compel the police to act on their findings and recommendations. The participants wondered what use were the commissions in such a case.

A related issue was later highlighted by Mr. I. A. Rehman who was of the opinion that a rather inexpensive and accessible accountability mechanism was provided under the Police Act, 1861 as the district magistrate acted as a barrier to the police excesses, which was removed by the Police Order, 2002 without providing an effective and efficient alternative. He expressed his disagreement with the way the commissions and committees are required to be composed and work. He thought civil society organisations such as trade unions, need to be involved more in the functioning of PSC Speaking from his experience and observation of Bonded Labour System (Abolition) Act under which Vigilance Committees have been formed in which each member could initiate proceeding, he was of the opinion that every member should be so empowered that he/she in her own capacity can take effective steps to redress public complaints only this way can the reform process taken further. He agreed with Mr. Khosa that the

merger of PSC and Complaints Authority was a huge blow to the original scheme. He said the unnecessary amendments made to the Order be done away with and provisions of the original scheme may also be reconsidered by competent people; should not be left to the discretion of bureaucratic machinery. Public control of police is a must and we could look for options other than the tried ones.

Mukhtar Ahmed Ali also raised his concerns about bringing District Judge and Police officials on the same forum of Criminal Justice Coordination Committee as envisaged under the Order. To him the District Judge holding meetings with District Jail Superintendent, District Coordination Officer and District Police Officer and discussing issues which may also come up in the court for resolution, could be problematic. According to him there might arise situations involving conflict of interest. Mr. Khosa thought otherwise; in his mind since the District and Sessions Judge is envisaged as the top man of the criminal justice system, so he is in the best position to monitor the criminal justice system, all others, including the DPO, DCO etc, in the coordination committee are subservient to him. So he thought there should be no problem.

DPSCs had some power in 2002 where police officers could be suspended for carrying out offences such as torture. The amendments in 2004 made the DPSC ineffective as the power of suspension was withdrawn.

Mrs. Abbas stated that the police had no awareness about procedures such as preparing a policing plan, financial resourcing or target achievement. Further, the law is silent on taking adverse action against officials who do not submit a policing plan. In her mind it is a main ingredient for the efficacy of a DPSC.

### **National Public Safety Commission**

The NPSC is seen as a functioning body as it holds regular monthly meetings. One of its functions is to oversee the PPSCs. In a brief summary by Mrs. Abbas, member of the NPSC:

**Balochistan:** The PPSC is functioning, but there are very few resources, no political will and the police there do not want any independent bodies overseeing them.

**NWFP:** PPSC had been notified and one meeting was held in the presence of the NPSC.

**Sindh:** The Chief Minister and the Governor were asked to make the PPSC effective.

**Punjab:** The PPSC is not functioning. The police think the commission is useless.

Mrs. Abbas stated that the writ of the government needs to support the NPSC as the police are a provincial subject and the NPSC does not have links with the provinces. To date, the NSPC has not received any policing plans from the provinces. Coordination is needed otherwise the NPSC will be rendered useless. There are sincere workers from the police in the NPSC but the government thinks they are not important. Finally, a complaint authority, that is to function separately from the NSPC at the federal level as prescribed by the Order, has not yet been established and this is a significant failing. Courts are hesitant to take any action against police officials and as a result the public suffer very badly. In addition, people with resources are above the law and use the police to their advantage. Therefore, the creation of an independent complaints body is crucial towards accountability of the police. In Mrs. Abbas' view, the Order should be fully implemented and then as problems arise it should be subsequently improved. Instead, the Order has been amended without it having been implemented yet.

Mr. Khosa highlighted the power of political pressure by saying that even the leader who sanctioned the new laws, General Pervez Musharraf, succumbed to political pressure and allowed amendments to the Order in 2004. Under the amendments there are several substantive issues that have been changed for the negative (such as, composition of the PSCs, SHOs role in investigations, non-binding element of PSC recommendations, merger of complaints and PSCs).

The Order must be seen in the light of the devolution scheme. The role of district *nazims* is being revisited by the government and changes to the Local Government Ordinance 2001 may be made, altering the devolution scheme. This will have wide-ranging effects on the checks and balances placed on the police force by the Order.

There is a problem with the way committees are formed. Names are recommended and then decided by the

higher ups in the provincial governments. Since every minister insists on having a DPO of their choice, there is a fear that the PSCs could be made up of members who act in favour of the party in power. The composition should be more institutionalised. **A recommendation was made by one of the participants that the commission members should be chosen by civil society and professional organizations.** This would allow for a better mix of members and more accountability. It was agreed that accountability and community control are important for the progress of the police in the right direction.

Mr. I. A. Rehman during the concluding session drew the attention of participants towards the context in which the botched reform process needs to be seen. According to him, the failure of police reform could only be understood in the context of scheme of devolution. He thought that parting with powers is always problematic. Therefore, we see that the federation is not ready to give powers to the provinces and provinces to the districts. What happened was that the police reform got caught in the general provincial resistance to devolution of power below the provincial government level. So we saw that one of the substantive changes introduced to the original Police Order was to render the tenure of the IG subject to the whim of the Chief Minister of the province.

### **The public is not educated on police procedure**

The members of the public are not aware as to the procedure for lodging an FIR. There is a lack of knowledge with regards to:

- a) How to lodge an FIR; and
- b) How to write an FIR. Due to the seeming technicalities involved, a lawyer is often hired to write it.

This is not necessary and there should be an emphasis on educating the public about how to register a crime.

Steps have been made by the Senate Committee of Human Rights where S.M. Zafar (a Senior Advocate at the Supreme Court) clarified how to launch an FIR. Further, it was emphasised that the focus of a case should be on the investigations that follow the FIR and not the FIR itself. The police must rely on circumstantial and scientific evidence when convicting an alleged criminal. Special cadres of investigators have been created to improve the investigations procedure.

Mr. Khosa stated that two main problems with regards to FIRs are firstly, the non-registration of FIRs and secondly, false registration of FIRs by the police. Unfortunately, many times, the FIR sets off the process for prosecution. It is not viewed as a First Information Report but rather as a confirmation of guilt. This misconception is further depicted to the public by the media and steps need to be taken to inform the public of the correct use and purpose of a First Information Report.

### **Other issues:**

Apart from the legal dimension of police reform certain other important matters not strictly within the domain of the law were also discussed.

### **Meagre resources and lack of transparency:**

An important issue raised was lack of resources available to the police. It was pointed out (by Mukhtar) that the police usually do not have resources even for the most basic things like decent sitting place for complainants/visitors, stationery used in police stations, travel and fuel allowance for police officers. While the higher authorities in the hierarchy of the police may be availing more than their share of funds, the lower ranks at the police station level are usually lacking these basic necessities. Police need more resources and funds to effectively carry out their duty. But availability of funds is just one side of the picture, transparency is the other. It was also opined that even where resources are available it is generally not clear what kind of budget is allocated. Resource management is not transparent in the police. Even where funds are allocated, they lapse or are pocketed by corrupt police officials and other executives, and the police has to manage their affairs through other means. So, on the one hand there is actual lack of resources at the disposal of the police, on the other, there is total lack of transparency in how funds and resources are allocated. Institutions such as PSC need to get involved in the process. Provisions need to be introduced in the Police Order which makes disclosure of available funds and layout of budget an obligation. The process of budget

making must be an openly debated one. This must be done right down to the district and even at the police station level. To further enhance transparency, ways of active community/public involvement need to be introduced either through law or otherwise.

Simultaneously, police need to be trained on how to utilise the resources available and prioritise their work. Guidelines can be issued, e.g. by the NPB, on how to prioritise work.

### **Human Rights Cells in police stations:**

Mukhtar Ahmed Ali, while referring to an experiment done by the Islamabad Police in 2006, suggested that in view of widespread human rights violations by the police, it would be good idea to establish human rights cells within the police stations manned by not the police officials but civil society organisations and communities who could report on violations of laws on daily basis along side arranging for legal aid where required.

It was consensus view of the participants that in order to improve the Police needed to open up to the public, as for instance, for increasing resources at the disposal of the police community needs to know where and how was it being spent, and for instance, how willing the police were to bring transparency and openness in its operations.

### **Female Police**

Four main comments were made with regards to female policing:

1. Replace male SHOs with female SHOs.
2. Create a mandatory female section in police stations.
3. Female investigators should be trained and made available for cases of violence against women.
4. Have all new recruitment of constabulary be comprised of women.

It was stressed that when women are included in the process their experience can be sought to change the *thaana* culture.

### **Terrorism**

Mr. Dilawar Khan from the ICRC expressed his concern about conflict-ridden areas like Swat where several police officers were beginning to make public announcements about their disassociation with the police because the Taliban announced that police would be a target. He had not seen police on the ground in Swat despite the fact that they were aware of bombings in the region. The issue of what kind of training the police will require in a conflict and post-conflict situation, as Pakistan is experiencing today, was raised by Mr. Dilawar Khan.

Mr. Khosa answered by stating that the police have counter-extremism, counter-terrorism and counter-insurgency training. Previously, the compensation to martyred policemen was 5 lakhs (five hundred thousand rupees) and it has been increased to 20 lakhs which will go to the families of martyred policemen. Mr. Khosa said that efforts have been made to improve conditions for the police due to the extreme hardship being faced by them in today's political climate in Pakistan. He also emphasised that the police must emerge on the forefront of counter-terrorism efforts.

### **Community policing**

Some participants during the discussion referred to the provisions of the order which envisage Citizen Police Liaison Committees and their non-existence on ground. However, the concept of community policing was not dealt with in detail. Mr. I. A. Rehman said that involving community in policing can be the best check to corruption. Involvement of people in policing will mean freedom from bureaucratic control, freedom from powerful vested interest. Someone originally belonging to Mianwali and posted in Karachi will not have the same interest in improved policing as the local people who have an interest in better policing. So unless we do something to involve people in the system we should not expect the desired results.

Improvements and way forward through the eyes of the police:

◆ The NRB went through a very intensive process of consultation where all government stakeholders were represented. It is a people focused document. It is necessary to do away with historic rivalries and for non-government bodies such as the bureaucracy, police service and civil service to work together with the government in bringing about reforms

- ◆ Political will is required.
- ◆ Restoration of separating investigation from watch and ward.
- ◆ Let there be more accountability of Nazims through a district ombudsman.
- ◆ Nazims need to be held accountable for misusing the police.
- ◆ There is a Human Rights and Gender centre at the national level.
- ◆ There must be complaints services and human rights sensitivity at the provincial level.

### Realistic Goals

According to the DG of police, Mr. Khosa, the following are goals that can be attained in the near future:

◆ Internal accountability through independent bodies and through internal systems (Police chiefs and Commanders).

◆ Community policing which is the purpose of the Order (i.e. CPLC could play an important role in this respect).

◆ Better salaries and improved working environment that would allow for an increase in self-esteem. His view is that police in this country have been victims of neglect by the government. The judges and the police need to be paid more to avoid corruption. There are 617 police stations in Punjab of which 302 are housed in regular buildings, and the remainder in hired or borrowed buildings. The government's priorities have been wrong up to date.

◆ Capacity building and training in investigation, interaction, gender sensitization and treatment of prisoners can be provided to the police. Training must be given the highest support which can be linked with promotions. Promotions should not be given otherwise. Mr. Tariq Khosa stated that an MOU (Memorandum of Understanding) has been signed between the ICRC and Ministry of Interior regarding training.

◆ Thaana culture can be tackled through the formal inclusion of civil society in the decision making of the PSCs. Presently the government's Standing Committee on Human Rights received input from NGOs like Rozan, Aasha (protecting female police employees) and GTZ at a meeting last month.

◆ Independent investigations be carried out by civil society. He further stated that the CPLC should be introduced all over the country and the PSCs should be a party to its investigations.

◆ Interior Ministry does not want to scrap the law, so the police order should be restored in its spirit. At the provincial level government members want to scrap the laws whereas at federal level the government does not, and that is a good sign.

According to Mrs. Sarkar of the NPSC, attainable goals that would improve service delivery by the police are:

- ◆ All three tiers of the commissions be made functional.
- ◆ Laws be uniformly implemented all over the country.
- ◆ Steps be taken to restore public trust.
- ◆ Help solve the police's problems so that they can better help the public.
- ◆ The NPSC is already planning on having a nationwide Public Safety Commission meeting for all the members.

Speaking from experience, as a former UK police officer, Mr. Leonard Gill from the ICRC provided several

recommendations:

1. Watch and ward: In 1870 the military in the UK was called in to control a demonstration and killed a lot of people. Since then the police was changed and 6000 'Charlies' were replaced by 3000 'Bobbys'. The police became a smaller and more professional unit. Mr. Gill stated it is better to have fewer better trained people than a large number of poorly trained people.

2. National Police structure: In the UK context, all officers join the force at the same level and rise through the ranks. He said that there are two types of police officers in Pakistan: professional officers and those that do nothing. The public sees the poorly paid corrupt 'constables' more often, hence, creating a bad image for the police in the eyes of the public. Hence, it is better to have fewer better trained people.

3. Recruiting more females does change the organisation. In the UK 51% of the police force are female at the operational level. It has changed the force positively. Females have been found to be equally effective physically and operationally. This change took 35 years in the UK. Mr. Gill observed that because of the difference in cultures where Pakistan is a patriarchal society and not as egalitarian as the UK when it comes to how women are perceived, it is important that a sensitive approach is taken towards the inclusion of women in the police force.

4. Community policing is key in the developed world. It means getting in touch with the community. You get more support and information and intelligence and the police can act more effectively.

5. In terms of the Order there needs to be coherence. In the UK there is a manual of general instructions for the police as well as the law for day to day rules. There has been inertia to change the police rules according to Mr. Dogar's presentation but that is because the police force is not sure whether the police order will be implemented.

6. Thaana culture: Mr. Gill's experience is that all change comes from the supervisory level (SHO, DPO level) as the effect of change is magnified that way. The senior level officials in Pakistan are very sharp. Change will come from training of SHOs and DPOs and midlevel officers. Skills and attitudes are as important as knowledge in the delivery of a superior police service.

7. There should be a day to day monitoring of officers under training by friendly tutors. It should largely be a function of the police management system.

8. Reform is also a function of civil society: A lay visitor scheme, like CPLC which is active in Karachi, is effective where citizens carry out random independent checks at police stations. The term 'complaints' does not have to be used in an adversarial context. For improvement in thaana culture a mixture of internal champions, tutors, and randomized checks is needed.

Mr. Arshad Abdullah, Minister of Law & Parliament for NWFP, said that people should not only blame political will. There is apathy within the police system. Going forward, he stated he is serious and committed to implementing the Police Order, but it will take time. He found the session fulfilling and will meet with police officials to discuss the reforms.

In conclusion, additional points were raised about the main issues Pakistan faces today. Unfortunately, the Pakistani police have lost some very important reform points of the Police Order 2002. This calls for a serious analysis of the governance issues in Pakistan. We need to think about how political parties and leadership can be made accountable to citizens' demands. Strategies need to be designed to address the unholy alliance between political actors, bureaucracy and mafias that do not allow a reform process in police services. This is crucially important to deal with the political economy of police reforms.

Rapid transfer and postings of police personnel is a huge issue with implications for effective policing, for the personnel involved, and for society at large. The Order tried to address this issue by providing cover for 3 years tenure. But unfortunately, this provision has been amended. Police transfers took place right before and right after the recent elections. Political intervention needs to be controlled. Such interventions compromise the integrity and accountability of police services.

The Complaints redress mechanisms, as provided in the Order, have been amended to an extent that they



have lost their value. The police and civil society need to engage with the political process to institutionalize such complaints mechanisms that can make police more accountable and provide relief to the affected citizens. Oversight functions of public representatives also need to be improved upon to effectively check any bad practices and help institutionalize the reform process.

The Police Order is also facing serious threat from within. Police executives do not seem willing to fulfill their obligations as envisaged in the Order. No guidelines or tools are provided to clarify confusions arising due to separation of watch and ward and investigation functions of the police.

Not enough resources have been set aside to build the capacity of members of public safety commissions. In addition, the composition and functions of the PSCs have been compromised through various amendments. How these can be dealt with is a question that needs to be examined further.

Law needs to be amended to change Composition of committees and commissions to bring in more full-timers and to empower each and every member so as to enable her make contribution in her own capacity.

# <sup>1</sup>THE POLICE ACT, 1861

(5 of 1861)

[22<sup>nd</sup> March, 1861]

## *An Act for the Regulation of Police*

**Preamble:** WHEREAS it is expedient to reorganize the police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows:-

**1. Interpretation Clause:** The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say

\*<sup>2</sup>[the words “**Zila Nazim**” shall mean an elected person who heads the District Government under the local government law;

the word “**Magistrate**” shall include all persons within the general policedistrict, exercising all or any of the powers of a Magistrate;

the word “**police**” shall include all persons who shall be enrolled under this Act;

the words “**general policedistrict**” shall embrace any, province or place, or any part of any, province or place, in which this Act shall be ordered to take effect;

<sup>3</sup>[the words “**District Superintendent**” and “**District Superintendent of Police**” shall include an Inspector General of Police appointed by the Provincial Government to lead the police force in a general police district notified as a City District;]

the word “**property**” shall include any moveable property, money or valuable security;

the word “**person**” shall include a company or corporation;

the word “**month**” shall mean a calendar month;

the word “**cattle**” shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

<sup>4</sup>[References to the subordinate ranks of a police force shall be construed as references to members of that force below the rank of Deputy Superintendent.]

**2. Constitution of the force:-**The entire police establishment under a Provincial Government <sup>5</sup>[in a general police

district] shall, for the purposes of this Act, be deemed to be one police force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, as shall from time to time be ordered by the Provincial Government.

<sup>6</sup>[Provided that in general police district notified as City District, the police force shall be organized on functional basis:

Provided further that no recruitment or induction in the police force shall be made except in the rank of constable.]

Subject to the provisions of this Act, the pay and all other conditions of service of members of the subordinate ranks of any police force shall be such as may be determined by the Provincial Government.

**3. Superintendence in the Provincial Government:-**The superintendence of the police throughout a general police district shall vest in and shall be exercised by the Provincial Government to which such district is subordinate; and, except as authorised under the provisions of this Act, no person, officer or Court shall be empowered by the Provincial Government to supersede or control any police functionary.

**4. Inspector General of Police, etc.:-**The administration of the police throughout a general policedistrict shall be vested in an officer to be styled the Inspector General of Police, and in such <sup>7</sup>[Additional Inspector General], Deputy Inspectors General and Assistant Inspectors General as to the Provincial Government shall deem fit.

The administration of the police <sup>8</sup>[in a district shall vest] in a District Superintendent and such Assistant Superintendents as the Provincial Government shall consider necessary.

**<sup>9</sup>[5. Relationship of District Superintendent of Police of Police with Zila Nazim:- (1)** The District Superintendent of Police shall be responsible to the Zila Nazim for all matters concerning implementation of the law for the maintenance of public order in the district and in carrying out this responsibility, the District Superintendent shall keep the Zila Nazim informed of all major developments or events affecting or likely to affect, the public order and shall consult him in such matters for his support for coordination with and assistance by the offices of the District Government.

(2) In case of an unlawful or motivated order issued by anything authority, the District Superintendent shall seek recourse to the District Police Safety Commission whose decision shall prevail.

(3) In case of difference of opinion between the Zila Nazim and the Provincial Government on matters concerning public order, the decision of the Provincial Government shall prevail.

(4) The responsibility for administration of force, conduct of individual operations and investigations of criminal cases shall rest with the police hierarchy.]

**6. Magisterial powers of police officers.** *Rep. by the Code of Criminal Procedure, 1882 (Act X of 1882).*

**7. Appointment, dismissal, etc. of inferior officers:** Subject to such rules as the Provincial Government may from time to time make under this Act, the Inspector General, <sup>10</sup>[Additional Inspector General], Deputy Inspectors General, Assistant Inspectors General and District Superintendents of Police may at any time dismiss, <sup>11</sup>[compulsorily retire] suspend or reduce <sup>12</sup>[either in rank or within a time-scale] any policeofficer of the subordinate ranks whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same; **or** may award any one or more of the following punish-ments to any policeofficer of the subordinate ranks who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely:

- (a) fine to any amount not exceeding one month's pay;
- (b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty;
- (c) deprivation of goodconduct pay;
- (d) removal from any office of distinction or special emolument.
- <sup>13</sup>(e) stoppage of increments]

**8. Certificates to police officers:-** Every police officer appointed to the police force other than an officer mentioned in section 4 shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector General or such other officer as the Inspector General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a police officer.

**Surrender of Certificate:-**Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

A police officer shall not by reason of being suspended from office cease to be a police officer. During the term of such suspension the powers, functions and privileges vested in him as a police officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

**9. Police-officers not to resign without leave or two months' notice:-** No police officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

**10. Police-officers not to engage in other employment:-** No police officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

**11. Police superannuation fund:-** *Rep. by the Repealing Act, 1874 (XVI of 1874).*

**12. Power of Inspector General to make rules:-** The Inspector General of Police may, from time to time, subject to the approval of the Provincial Government, frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police force as the Inspector General, shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

<sup>14</sup>[**12-A. Investigation and regulation of Police accounts:-** The Inspector General shall, subject to the orders of the Provincial Government, have authority to investigate and regulate all matters of accounts connected with the police force subject to his authority and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations, and to comply with his lawful orders in that behalf.]

<sup>15</sup>[**13. Additional police-officers employed at cost of individuals:-** (1) On the application of any person, for the reasons to be recorded in writing, the district Superintendent may, subject to the approval of the Inspector General, depute any additional number of police officers to keep the peace at any place within the general policedistrict, and for such time as shall be deemed proper.

(2) The additional police officers referred to in sub-section (1) shall be exclusively under the orders of the District Superintendent and the cost thereof shall be borne by person making the application;

Provided that it shall be lawful for the person making the application, on giving one month's notice in writing to the District Superintendent, to require that the police officers so deputed shall be withdrawn; and such person shall be relieved from the cost of such additional force from expiration of such notice.]

**14. Appointment of additional force in the neighbourhood of railway and other works:-**Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional police-force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons em-

ployed upon such work, manufactory or concern, it shall be lawful for the Inspector General, with the consent of the Provincial Government, to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause pay-ment to be made accordingly.

<sup>16</sup>[**15. Quartering of additional police in disturbed or dangerous districts:-** *Repealed by the Police (Amendment) Order (VII) of 2001 dated 13<sup>th</sup> August, 2001*]

<sup>17</sup>[**15-A. Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land:-** *Repealed by the Police (Amendment) Order (VII) of 2001 dated 13<sup>th</sup> August, 2001*]

<sup>18</sup>[**16. Recovery of moneys payable under sections 13 and 14:-** Any arrears of moneys payable under sections 13 and 14 shall be recoverable by the District Officer (Revenue) as arrears of land revenue.]

**17. Special police officer:-** When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the police force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any police officer not below the rank of Inspector to apply to the nearest <sup>19</sup>[the District Superintendent of Police] to appoint so many of the residents of the neighbourhood as such police officers may require to act as special police officers for such time and within such limits as he shall deem necessary <sup>20</sup>[x x x].

**18. Powers of special police-officers:-** Every special police officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

<sup>21</sup>[**19. Refusal to serve as special police-officers:-** *Repealed by the Police (Amendment) Order (XII of 2001) dated 13-08-2001*]

**20. Authority to be exercised by police-officers:-** Police officers enrolled under this Act shall not exercise any authority, except the authority provided for a police officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

<sup>22</sup>[**21. Village police-officers:-** *Repealed by the Police (Amendment) Order (XII of 2001) dated 13-08-2001*]

**22. Police-officers always on duty and may be employed in any part of district:-** Every police officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police officer in any part of the general policedistrict.

**23. Duties of police-officers:-** It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists : and it shall be lawful for every police officer, for any of the purposes, mentioned in this section, without a warrant, to enter and inspect any drinkingshop, gaminghouse or other place of resort of loose and disorderly characters.

**24. Police-officer may lay information, etc:-** It shall be lawful for any police officer to lay any information before a Magistrate, and to apply for a summons, warrant, searchwarrant or such other legal process as may by law issue against any person committing an offence.

<sup>23</sup>[**25. Police-officers to take charge of unclaimed property:-** It shall be the duty of every police officer to take charge of all unclaimed property, and to furnish an inventory thereof to the District Superintendent of Police who shall send a copy of the inventory to the District Public Safety Commission.

(2) The District Superintendent shall be guided as to the disposal of unclaimed property by the orders of

the District Public Safety Commission as may be given by it in this behalf.]

**26. <sup>24</sup>[District Superintendent] may detain property and issue proclamation:-** (1) The <sup>25</sup>[District Superintendent] of the district may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within <sup>26</sup>[six months] from the date of such proclamation.

(2) The provisions of section 525 of the <sup>27</sup>Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section.

**27. Confiscation of property if no claimant appears:-** (1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under subsection (2) of the last preceding section, be sold under the orders of the <sup>28</sup>[District Public Safety Commission].

(2) The saleproceeds of property sold under the preceding subsection and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of the Provincial Government.

**28. Persons refusing to deliver up certificate, etc., on ceasing to be police-officers:-** Every person, having ceased to be an enrolled police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two rupees hundred<sup>29</sup>, or to imprisonment with or without hard labour, for a period not exceeding six months, or to both.

**29. Penalties for neglect of duty, etc:-** Every police officer who shall be guilty of any violation of duty or willful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour, for a period not exceeding three months, or to both.

**30. Regulation of public assemblies and processions and licensing of the same:-**

(1) The District Superintendent or Assistant Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in <sup>30</sup>[his judgment], if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or direct-ing or promoting such procession shall apply for a license.

(3) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section:

Provided that no fee shall be charged on the application for, or grant of, any such license.

[Provided further that he shall refuse to grant a licence in a case in which the Magistrate of the district or of the sub-division of the district is satisfied and conveys such satisfaction to him in writing that the grant of the licence is likely to cause a breach of the peace or to be prejudicial to the public interest or the maintenance of public order.]

[Added by Police (Punjab Amendment) Ordinance VIII of 1984, Applicable to Punjab only]

(4) **Music in the streets:-** He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.

**30-A. Powers with regard to assemblies and processions violating conditions of licence:-** <sup>31</sup>[(1) Where an

assembly is convened or a procession is formed without applying for and obtaining licence under the last foregoing section, or where an assembly or procession violates the conditions of a licence issued under the last foregoing section, <sup>32</sup>[a] District Superintendent of Police or Assistant Superintendent of Police or Inspector of Police or police officer in charge of a station may stop such procession and order such assembly or procession, as the case may be, to disperse;

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub section, shall be deemed to be an unlawful assembly.

**31. Police to keep order on public roads, etc:-**It shall be the duty of the police to keep order on the public roads, and in the public streets, thoroughfares, ghats and landingplaces, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghat or landing-place may be thronged or may be liable to be obstructed.

**32. Penalty for disobeying orders issued under last three sections, etc:-** Every person opposing or not obeying the orders issued under the last three preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees<sup>33</sup>.

<sup>34</sup>[**33. Saving of control of Magistrate of district:-** **Repealed** by the Police (Amendment) Order (XII of 2001) dated 13-08-2001.

<sup>35</sup>[**33-A. Powers of the District Magistrate to make rules regarding use of streets, etc.-**(1) In any town or other place in which he thinks fit, the Magistrate of the district may, from time to time and subject to such order as may have been made by a municipal or other authority empowered in that respect, make rules or orders-

- (a) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable;
- (b) for guarding against, injury to persons anti pro-property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public;
- (c) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street;
- (d) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection of structure so as to obstruct traffic or the free access of light and air;
- (e) prescribing certain hours of the day during which ordure and offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets and during which cattle shall not be driven along the streets or along certain specified streets, except subject to such reasonable regulations as he may prescribe in that behalf;
- (f) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire, or wantonly discharging a firearm or air gun, or letting off or throwing a fire-work, or sending up a fire balloon in or upon or within fifty feet of a street or building or the putting tip of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination, except subject to such reasonable regulations as he may prescribe in that behalf;
- (g) prohibiting, except under such reasonable regulations as the Magistrate of the district may impose, the making of any excavation, the placing of building materials or other articles, or the fastening or detention of any horse or other animal in any street;
- (h) prohibiting, save under such regulations as afore-said, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of

- animals or part thereof and the corpses of persons deceased;
- (i) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matters, and for obeying calls of nature;
  - (j) in cases of existing or apprehended epidemic or infectious diseases of men or animals, with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by the Provincial Government with a view to prevent the disease or to check the spreading thereof;
  - (k) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use, of any source, supply or receptacle of water, and providing against pollution of the same or of the water therein;
  - (l) regulating the hours during which and the manner in which any place for the disposal of the dead, any sarai, village-gate or other place of public re-sort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;
  - (m) regulating the movement of persons, animals and vehicles at such times and such places at which, in the opinion of the Magistrate, special regulations may be necessary for the public safety and convenience; and
  - (n) prescribing the number or position of lights to be used on vehicles in streets and the hours between which such lights shall be used.

(2) Every regulation made under clause (h) or made under clause (i) with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases; and every rule or order made by the Magistrate of the district under clauses (c), (e), (f), (g), (h), (i) or (n) shall be published by affixing a copy thereof, in the language of the district on some public building in the town or place in which the same is to have operation, and a copy, in the language of the district, of every rule or order made under clauses (a), (b), (j), (k) or (l) shall be kept affixed in a conspicuous spot near to the building, structure, work or place to which the same specially relates.

(3) Every rule promulgated under the authority of clause (j) of subsection (1) shall be forthwith reported to the Commissioner and shall be in force for not more than fifteen days unless extended by the Commission for a longer period and, in such case, for so long as the Commissioner directs.

(4) It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation.]

**34. Punishment for certain offences on roads, etc:- Powers of police officers.-** Any persons who, on any road or in any open place or street or thoroughfare within the limits of any town to which this section shall be specially extended by the [Provincial Government], commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees<sup>36</sup>, or to imprisonment [with or without hard labour] not exceeding eight days; and it shall be lawful for any police officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely:-

**First - Slaughtering cattle, Curious riding, etc:-** Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle;

**Second - Cruelty to animal:-** Any person who wantonly or cruelly beats, abuses or tortures any animal:

**Third - Obstructing passengers:-** Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any con-



veyance in such a manner as to cause inconvenience or danger to the public;

**Fourth - Exposing goods for sale:-** Any person who exposes any goods for sale;

**Fifth - Throwing dirt into street:-** Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials, or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dungheap or the like;

**Sixth - Being found drunk or riotous.-** Any person who is found drunk or riotous or who is incapable of taking care of himself;

**Seventh - Indecent exposure of person.-** Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose;

**Eighth - Neglect to protect dangerous places.-** Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure;

<sup>37</sup>[**34-A. Penalty for contravention of any rule or order made under section 33-A:-**Whoever contravenes any rule or order made under section 33-A or abets the commission of any such offence shall be punished with fine which may extend to two hundred rupees.]

<sup>38</sup>[**34-B. Summary disposal of cases:-** (1) A court taking cognizance of an offence punishable under section 34 or section 34-A may state upon the summons to be served on the accused person that he

- (a) may appear by pleader and not in person; or
- (b) may, by a specified date prior to hearing of the charge, plead guilty to the charge by registered letter and remit to the Court such sum not exceeding twenty-five rupees as the Court may specify.

(2) The accused person shall, if he pleads guilty to the charge, forward his licence, if any, to the Court with a letter containing his plea in order that the conviction may be endorsed on the licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (2), no further proceedings in respect of the offence shall be taken against him, nor shall he be liable to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.]

**35. Jurisdiction:-** Any charge against a police officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a <sup>39</sup>Magistrate.

**36. Power to prosecute under other law not affected:-** Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act or any other or higher penalty or punishment than is provided for such offence by this Act

Provided that no person shall be punished twice for the same offence.

**37. Recovery of penalties and fines imposed by Magistrates:-** The provisions of sections 64 to 70, both inclusive, of the Pakistan Penal Code, and of sections 386 to 389, both inclusive, of the <sup>40</sup>Code of Criminal Procedure, 1882, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate;

Provided that, notwithstanding anything contained in section 65 of the firstmentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.

**38. Procedure until return is made to warrant of distress.** [*Repealed by the Police Act (1861) Amendment Act, 1895 (VIII of 1895), s. 14*].

**39. Imprisonment if distress not sufficient.** [*Repealed, ibid*].

**40. Levy of fines from European British subjects.** [*Repealed, ibid*]

**41. Rewards to police and informers payable to General Police Fund.** [*Repealed by the A. O. 1937*].

**42. Limitation of actions:-** All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general policepowers hereby given shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant Superintendent of the district in which the act was committed, one month at least before the commencement of the action.

*Tender of Amends.* No plaintiff shall recover in any such action if tender of sufficient amend shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and, though a decree shall be given for the *plaintiff in* any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action;

Provided always that no action shall, in any case, lie where such officers shall have been prosecuted criminally for the same act.

**43. Plea that act was done under warrant:-** When any action or prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine;

*Provided always that* any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

**44. Police-officers to keep diary:-** It shall be the duty of every officer in charge of a police -station to keep a general diary in such form as shall, from time to time, be prescribed by the Provincial Government and to re-cord therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, 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.

<sup>41</sup>[x x x]

**45. Provincial Government may prescribe form of returns.-** The Provincial Government may direct the submission of such returns by the Inspector General and other police officers as to such Provincial Government shall deem proper, and may prescribe the form in which such returns shall be made.

**46.Scope of the Act:** (1) This Act shall not by its own operation take effect in any province or place. But the Provincial Government by an order to be published in the official Gazette may extend the whole or any part of this Act to any province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such province or place.

(2) When the whole or any part of this Act shall have been so extended, the Provincial Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

- (a) to regulate the procedure to be followed by Magistrates and police officers in the discharge of any duty imposed upon them by or under this Act;
- (b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon; and
- (c) generally, for giving effect to the provisions of this Act.

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Provincial Government.

<sup>42</sup>[**47. Authority of District Superintendent of Police over village police:-** It shall be lawful for the Provincial Government in carrying out this Act into effect in any part of the Province, to declare that the authority over village watchman or other village police officer for the purposes of police, shall be exercised by the District Superintendent of Police.]

<sup>43</sup>[**48. District Public Safety Commission, its establishment, composition** – (1) In every district, the Provincial Government shall, by a notification in the official Gazette establish a District Public Safety Commission consisting of eight, ten or twelve members depending upon the size of the district.

(2) Half of the members of the Commission shall be elected by the Zila Council from amongst its councilors in the manner as may be prescribed, while the other half of the members hereinafter to be called independent members shall be appointed by the Chief Executive of the Province from a list of persons recommended by the District Selection Panel.

(3) As far as practicable, one-third of both the elected and the independent members of the Commission shall be women.

(4) The members of the Commission shall, from amongst themselves, elect a Chairperson:

Provided that until the appointment of independent members, those elected by the Zilla Council under subsection (3) shall constitute the Commission.

**49. District Selection Panel for the appointment of independent members.** — (1) There shall be a District Selection Panel for the independent members consisting of District and Sessions Judge who shall be its Chairperson, and one nominee each of the Chief Executive of the Province and Zilla Nazim who shall not be holder of any elective officer nor shall be a public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days.

**50. Procedure for selection of independent members.** — (1) The District Selection Panel shall invite applications or nomination from organizations for selection of independent members.

(2) The eligible and willing candidates shall be called for interview.

(3) The District Selection Panel shall select double the number of persons than the number of independent members to be appointed as members of the Commission.

(4) The list of the persons referred to in subsection (3) shall be accompanied by complete particulars of such person, be forwarded to the Chief Executive of the Province for appointment of the independent members under section 48.

**51. Selection criteria.** — (1) No person shall be selected or appointed as independent member who is activist of any political party, holds or has held any representative office or has remained public servant in the last two years immediately preceding his appointment or who is otherwise disqualified under the provisions of subsection (2).

(2) A person shall be disqualified from becoming a member if —

(a) he is of unsound mind and has been so declared by a competent court; or

(b) he is or has been declared bankrupt, loan defaulter or tax evader; or

(c) he ceases to be citizen of Pakistan; or

(d) he holds an office of profit in the service of Pakistan; or

(e) he is in the service of any statutory body or any establishment or corporation which has been established or is owned or controlled by the Government or in which the Government has a controlling share or interest; or

(f) he has been dismissed, removed or compulsorily retired from the service of Pakistan on ground of misconduct; or

- (g) he has been convicted for any offence; or
- (h) he is not of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

**52. Establishment of Capital City District Public Safety Commission.** — (1) Every Provincial Government shall establish a Capital City District Public Safety Commission for Provincial headquarters consisting of twelve members each.

(2) Three members of the commission referred to in subsection (1) shall be elected by the respective Zila Council from amongst its members in the manner as may be prescribed by rules, and three members shall be elected by such Provincial Assembly from amongst its members, as far as practicable, a proportion to the strength of the political parties in the Assembly.

(3) The remaining six members shall be independent members to be appointed by the Chief Executive of the Province from a list of persons recommended by the Capital City District Selection Panel.

(4) As far as practicable, one-third of both the elected and the independent members of the Commission shall be women.

(5) The members of the Commission shall, from amongst themselves, elect a Chairperson:

Provided that until elections to the Provincial Assembly are held, the members under subsection (3) shall be appointed by the Chief Executive of the Province:

Provided further that until appointment of independent member is made, the members elected by the Zila Council under subsection (2) and those appointed by the Chief Executive of the Province under proviso to subsection (5) shall constitute the Commission.

**53. Capital City District Selection Panel for the appointment of independent members.** — (1) There shall be a Capital City District Selection Panel for the preparation of the list of the persons for appointment as independent members consisting of Chief Justice of the High Court who shall be its Chairperson, and one nominee each of the Chief Executive of the province and Zila Nazim who shall not be holder of any elective officer nor shall be a public servant.

(2) The selection for independent members shall be by consensus.

(3) The selection process shall be completed within thirty days.

**54. Procedure for selection of Independent members.** — The procedure provided under sections 50 and 51 shall be applicable for selection of the names of the independent members of the Capital City District Public Safety Commission.

**55. Functions of the District Public Safety Commission.** — (1) The functions of the District and Capital City District Public Safety Commission shall be to—

- (a) provide recourse to the District Superintendent of Police for reporting against any unlawful or motivated order from any authority received by him or any officer subordinate to him;
- (b) determine in consultation with the District Superintendent objectives for the policing of the district for each financial year;
- (c) approve a local policing plan prepared by the District Superintendent in consultation with the Zila Nazim setting out the arrangements for the policing of the district during the year:

Provided that the local policing plan prepared in consultation with the District Superintendent shall include—

- (i) a statement of the financial resources expected to be made available by the provincial/local governments; and
  - (ii) performance targets for the year and their delivery mechanism;
- (d) evaluate the delivery of performance targets on quarterly basis and send half-yearly reports to

- all relevant authorities;
- (e) publish the local policing plan by end of June every year for the next financial year;
- (f) publish an annual report of the policing of the district by the 30<sup>th</sup> September each year, including targets achieved during the year;
- (g) forward copies of the local policing plan and annual reports to the Inspector General of Police;
- (h) receive from the District Superintendent, before end August each year, a general report on the policing of the district during the previous year; and
  - (1) seek to enhance police-public cooperation, by facilitating the creation of Citizen Police Liaison Committees.
  - (2) The Commission may recommend financial incentives for good work done by any police officer.
  - (3) The Commission may, subject to rules, establish independent reporting centres for registration of First Information Reports.

**56. Terms of members of the Commission.** — (1) The term of the independent members of the District and Capital City District Public Safety Commission shall be four years:

Provided that no independent member shall be appointed for a second term.

- (2) Independent members may be entitled to traveling and daily allowance as may be prescribed.

**57. Removal of members.** — (1) The Chief Executive of a Province may remove a member from office, if he —

- (a) is found suffering from any physical or mental incapacity or illness;
- (b) is convicted of a criminal offence;
- (c) is declared a bankrupt, a loan defaulter or a tax evader;
- (d) brings the Commission into disrepute; or
- (e) fails to attend three consecutive meetings without any reasonable cause.

**58. Secretariat.** — The District government shall provide the Secretariat of the Commission headed by a full-time officer not below BS-17 and such staff as it may deem appropriate.]

### *Notes : Chapter 5*

- 1 Short title given by the Short Titles Act, 1897 (Act 14 of 1897).
- 2 \*Note that amendments before 14 August, 1947 have been indicated only where unavoidable.  
Paragraph defining “Magistrate of the District” substituted by the Police (Amendment) Order (Chief Executive’s Order 7 of 2001) dated 13th August, 2001 (in force w.e.f. 14th August, 2001). However, another Police (Amendment) Order (Chief Executive’s Order 9 of 2001) of 29th August, 2001 (W.E.F. 14th August, 2001), amended aforementioned Order 7 of 2001 so as to exclude Islamabad Capital Territory from its operation till a date to be notified by the federal government. Magistrate of the District was defined as:  
the words “Magistrate of the district” shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled.
- 3 Paragraph substituted by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001. Before substitution it read as follows:  
the words “District Superintendent” and “District Superintendent of Police” shall include any Assistant Superintendent or other person appointed by general or special order of the Provincial Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district;
- 4 Inserted by the A. O., 1937
- 5 Words inserted by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001
- 6 New provisos added by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001.
- 7 Words Additional Inspector General were inserted by The Police Amendment Act, 1956 (W.P. Act V of 1956).
- 8 Substituted for the words “throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested” by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001.
- 9 Section 5 was substituted by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001.
- 10 Words Additional Inspector General were inserted by The Police (Amendment) Act, 1956 (W.P. Act V of 1956).
- 11 Inserted by Police (Punjab Amendment) Act, 1975; applicable to Punjab only.
- 12 Inserted by West Punjab Act XII of 1949.
- 13 Inserted by West Punjab Act XII of 1949.
- 14 Added by the Police (West Pakistan Amendment) Ordinance, 1959
- 15 Section 13 was substituted by the Police (Amendment) Order (7 of 2001) dated 13th August, 2001. Before substitution it

read: 13. Additional police-officers employed at cost of individuals:- It shall be lawful for the Inspector General of Police, or any Deputy Inspector General, or Assistant Inspector General or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of policeofficers to keep the peace at any place within the general policedistrict, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superin-tendent, and shall be at the charge of the person making the appli-cation;

Provided that it shall be lawful for the person on whose appli-cation such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector--General, or Assistant Inspector General, or to the District Super-intendent: to require that the policeofficers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

16 Before repeal in 2001 it read as: 15. Quartering of additional police in disturbed or dangerous districts:- (1) It shall be lawful for the Provincial Govern-ment, by proclamation to be notified in the official Gazette, and in such other manner as the Provincial Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector General of Police, or other officer authorized by the Provincial Govern-ment in this behalf, with the sanction of the Provincial Govern-ment, to employ any policeforce in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of subsection (5) of this section, the cost of such additional policeforce shall be borne by the in-habitants of such area described in the proclamation.

(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the in-habitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the Provincial Government by order to exempt any persons or class or section of such inhabi-tants from liability to bear any portion of such cost.

(6) Every proclamation issued under subsection (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Provincial Govern-ment may in each case think fit to direct.

Explanation. For the purposes of this section, "inhabitants", shall include persons who themselves or by their agents or ser-vants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.

17 Repealed section 15-A read as: (1) If, in any area in regard to which any proclama-tion notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any per-son, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Provincial Government after such enquiry as he may deem necessary, and whether any addi-tional policeforce has or has not been quartered in such area under the last preceding section, to—

(a) declare the persons to whom injury has been caused by or has ensued from such misconduct;

(b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to, pay under the next succeeding sub section;

Provided that the Magistrate shall not make any declaration or assessment under this subsection, unless he is of opinion

that such injury as aforesaid had arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for the Provincial Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the Magistrate of the district under subsection (2) shall be subject to revision by the Commissioner of the Division or the Provincial Government, but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

(6) Explanation. In this section the word "inhabitants" shall have the same meaning as in the last preceding section.

18 Section 16 was substituted by The Police (Amendment) Order (XII of 2001) dated 13-08-2001. It read as: 16. Recovery of moneys payable under sections 13, 14, 15 and 15A, and disposal of same when recovered:- (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the Code of Criminal Procedure, 1882, for the recovery of fines, or by suit in any competent Court.

(2) Repealed by A. O. 1937.

(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.

19 Word "Magistrate" substituted by the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.

20 Words "and the Magistrate to whom such application is made shall, unless he sees cause to the contrary, comply with the application" were omitted by the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.

21 19. Refusal to serve as special police-officers:- If any person being appointed a special police officer as aforesaid shall without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not **exceeding** fifty rupees for every such neglect, refusal or disobedience.

22 Before repeal it read as: 21. Village police-officers:- Nothing in this Act shall affect any hereditary or other village police-officer, unless such officer shall be enrolled as a policeofficer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police chaukidars in the East Pakistan:- If any policeofficer appointed under Act XX of 1856 (to make better provision for the appointment and maintenance of Policechaukidars in Cities, Towns, Stations, Suburbs and Bazars in [East Pakistan] is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

23 Section 25 was substituted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001. previously, it read: 25. Police-officers to take charge of unclaimed property and be subject to Magistrate's orders as to disposal:- It shall be the duty of every policeofficer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district.

The policeofficers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

24 Word "Magistrate" substituted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.

25 Ibid.

26 Words "one month" substituted by "six months" vide Ordinance III of 1948

27 Sub-section 2 under section 26 was added by the Police (Amendment) Act, 1895 (8 of 1895). The Code of Criminal Procedure, 1882 was replaced by Code of Criminal Procedure, 1898. Section 525 of the Code empowers magistrates to dispose of perishable property.



- 28 Words “Magistrate of the district” substituted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.
- 29 Words “Two hundred” substituted by five thousand by the Police (Sindh Amendment) Act, 1996; applicable to Sindh only
- 30 Words “the judgment of the Magistrate of the district, or of the sub division of a district” substituted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.
- 31 Substituted by the West Pakistan Ordinance (XXV of 1959)
- 32 Words “any Magistrate or” substituted by the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.
- 33 The fine was enhanced to five thousand rupees by the Police (Sindh Amendment) Act, 1996; applicable to Sindh only.
- 34 The repealed section 33 read as: 33. Saving of control of Magistrate of district:- Nothing in the last four preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.
- 35 Section 33-A was inserted by the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.
- 36 The amount was enhanced to one thousand rupees by the Police (Sindh Amendment) Act, 1996; applicable to Sindh only.
- 37 Inserted by the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.
- 38 Ibid.
- 39 That is to say by a Magistrate of the first class, see section 3(2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898)
- 40 The Code of Criminal Procedure, 1882 was replaced by the Code of Criminal Procedure, 1898.
- 41 The second paragraph in section 44 was omitted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001. The omitted paragraph read as:  
The Magistrate of the district shall be at liberty to call for and inspect such diary.
- 42 Substituted by The Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001. Before substitution it read: 47. Authority of District Superintendent of Police over village police:- It shall be lawful for the Provincial Government in carrying this Act into effect in any part of the territories subject to such Provincial Government, to declare that any authority which now is or may be exercised by the Magistrate of the district over any village watchman or other village police officer for the purposes of police, shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police.
- 43 Sections 48 to 58 were added the Police (Amendment) Order, 2001 (7 of 2001) dated 13-08-2001.