

Police Order 2002 and Amendments: An Analysis from Citizens' Perspective

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Police Order 2002 and Amendments: A Comparison

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

Since November 2004, the Police Order (Amendment) Ordinance has been re-issued 4 times, as it continued to lapse in the absence of its rejection or enactment into law by the Parliament. Over this period, the National Assembly's Standing Committee on Interior has thoroughly considered the amendments; and it is likely that its report will be taken up in the next session of the National Assembly. It must be noted that the Committee invited police officers to present their point of view before the Committee; but no such opportunity was afforded to members of civil society groups. Nor did most civil society groups actively sought to present their point of view on the amendments before the Committee. Considering the significance of these legislative proposals relating to policing in Pakistan, all stakeholders must have paid greater attention to it in order to ensure that the final outcome is truly in the public interest. In this regard, Centre for Peace and Development Initiatives, Pakistan (CPDI-Pakistan) has made certain modest efforts to articulate and promote citizens' demands for an appropriate legislative framework for professional, accountable, non-partisan and efficient police service. It is hoped that this paper will contribute to the debate in the policy circles; and would positively feed into the law-making process that is currently underway on the subject. It may also serve as a tool to inform and facilitate advocacy initiatives of civil society groups in the context of access to justice, human rights and police reforms.

The Table below provides a comparison of some important amendments with relevant provisions in the original Police Order 2002. It also provides brief comments about how the changes may impact the police functioning in view of our past experiences. We hope that people interested in police reforms would find this comparison a useful tool to better understand/ analyze the nature and impact of amendments in the Police Order 2002.

Sr. No.	Police Order 2002	Amendments (Nov. 2004)	Comments/ Suggestions
1	Provincial Police Officer (PPO) was to be appointed by the Provincial Government out of a panel of 3 police officers recommended by the National Public Safety Commission (NPSC) from a list provided by the Federal Government. (Clause 1, Article 11)	Role of NPSC in recommending a panel of 3 police officers for appointment of PPO has been deleted.	In the highly politicized context of Pakistan, it is extremely important that appointment of PPOs takes place on merit and in a non-partisan manner. Therefore, the amendment, which has changed this, is against the public interest, and must be withdrawn.
2	Provincial Government could pre-maturely transfer (i.e. before the expiry of 3 years tenure) the PPO and CCPO only with the agreement of Provincial Public Safety Commission and Capital City Public Safety Commission respectively. [Article 12]	Provincial Government can now pre-maturely repatriate the PPO after the approval of Federal Government. No agreement with Provincial Public Safety and Police Complaints Commission is now required.	This change substantially adds to the powers of Provincial Government/ Chief Minister, who have often abused such powers in the past to promote their personal or partisan interests. Over the years, all political parties, at one point or the other, have blamed CMs for using police against them for political reasons. Police has also been frequently blamed for influencing elections on the behest of CMs. It is, therefore, extremely important that police works professionally and independently. In order to keep the police department de-politicized, it should

			be ensured that that no repatriation is possible without the consent of the Provincial Public Safety [and Police Complaints] Commission, so that unfair and illegal influence of CMs could be checked.
3	The Federal Government could prematurely recall a PPO or CCPO but only with the agreement of the NPSC. [Article 12 (6)]	The Federal Government can now pre-maturely recall PPO on its own accord. No agreement with NPSC is required now.	The change would erode the checks placed on the Federal Government's authority to appoint PPO or CCPO. In order to achieve the objective of de-politicization, it is important that "agreement" of NPSC for such a recall remains a requirement.
4	PPSC could initiate the case of premature transfer of PPO or CCPO for unsatisfactory performance of duties. [Article 12 (3)]	Now the Provincial Public Safety [and Police Complaints] Commission can only recommend to the Provincial Government for premature repatriation of the PPO or CCPO.	This has diluted the authority of Provincial Public Safety [and Police Complaints] Commission. In the interest of strengthening public oversight mechanism, the recommendation of the Commission must be made binding on the provincial government for implementation.
5	PPO could appoint a City Police Officer (CPO) or a District Police Officer (DPO) in consultation with the Government. (Clause 1, Article 15)	Now PPO can appoint a City Police Officer (CPO) or a District Police Officer (DPO) only after the approval of Government (which effectively means the CM).	This change would further politicize the police, as CMs often take decisions in view of partisan interests. Police departments should have total operational autonomy in relation to such transfers and postings. Chief Minister's role should be limited to policy formulation, broader planning and guidance, setting targets, monitoring and performance evaluation.
6	The City Police Officer or District Police Officer could be transferred before completion of normal tenure of 3 years on specific grounds but with the concurrence of the Zila Nazim	Now the City Police Officer or the District Police Officer can be transferred, but only with the approval of the government, before the completion of the term of office. Grounds for such a transfer may	Pre-mature transfers of police officers is a serious concern. In the past, provincial governments/CMs have excessively abused such powers for personal or partisan interests. Its frequent use could seriously affect prospects of police growing into a professional and a non-partisan service. It is, therefore, important

	and District Public Safety Commission. This could happen only after the concerned police officer had been personally heard by the District Public Safety Commission. (Article 15)	include “exigency of service” or “misconduct and inefficiency”. No concurrence of Zila Nazim and District Public Safety [and Police Complaints] Commission is now required. Nor will the concerned police officer be given a chance to be heard personally.	that concurrence of District Public Safety [and Police Complaints] Commission remains a requirement. Furthermore, no police officer should be transferred on the grounds of “exigency of service” or “misconduct and inefficiency”, unless he has been personally heard by the relevant Safety Commission.
7	Separate chain of command for investigation functions was created, which included specifically designated officers at the police station and district levels. An additional inspector general was to be the incharge of investigation at the provincial level. (Article 18)	Investigation Wing in the Police Station will now be under the general control of SHO, while it would be responsible to its own hierarchy for investigation functions.	General control of SHO may be necessary for efficient use of resources and better coordination between investigation and watch & ward at the police station level. However, it would be a cause of concern, especially if it leads to interference of SHOs in investigation functions.
8	Term of office for an officer under whom a police division, sub-division, or police station is placed was not clearly defined. (Article 21)	Term of office for an officer under whom a police division, sub-division, or police station is placed has now been clearly defined. It would be the same as that of Head of District Police (i.e. 3 years) (Clause 4 of Article 21).	It is a step forward, as it could promote security of tenure for officers at all levels including at the police station level.
9	Zila Nazim had nothing to do with the annual Performance Evaluation Report of the Head of the District Police.	Zila Nazim shall now write the manuscript report of the Head of District Police in the specified Part of the Form of Performance Evaluation Report (as provided in the 4 th Schedule), which shall be	The change retains the risk of abuse by the Zila Nazim. It needs to be streamlined to ensure that the performance of District Head of Police is assessed fairly, honestly and in a non-partisan manner. This should be possible by developing objective indicators for performance assessment.

		taken into consideration at the time of promotion of the Officer.	
10	The Provincial Government was to 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. (Article 37).	The provincial government is now required to establish District Public Safety and Police Complaints Commission in every District, including Capital City District, consisting of 9 members, one of whom shall be the Chairperson.	Merger of Public Safety Commission and Complaint Authority into one body i.e. District Public Safety and Police Complaints Commission is problematic. It is because one body, especially the way it is constituted, cannot effectively perform Public Safety as well as Police Complaints functions.
11	District Public Safety Commission consisted of (a) half of its members elected by the Zila Council from amongst its councilors, and (b) other half comprising independent members to be appointed by the Governor from a list of names recommended by the District Selection Panel. The Chairperson was to be elected by the members from amongst themselves annually alternating between independent and elected members. (Article 38 & 39)	District Public Safety and Police Complaints Commission now consists of (a) 1/3 rd members to be appointed by the Government from amongst the MNAs and MPAs of the district concerned as ex-officio members, (b) 1/3 rd members to be appointed as independent members by the Government from a list of names recommended by the Selection Panel, (c) 1/3 rd members to be elected by the Zila Council from amongst its members. The Chairperson of the District Public Safety and Police Complaints Commission shall be elected by the members from amongst themselves every 3 years.	Inclusion of MNAs and MPAs in the District Public Safety and Police Complaints Commissions seems to be problematic, and must be reconsidered. MNAs/MPAs should better improve their performance at the provincial and national levels in terms of policy/ law making functions and more effective oversight of Federal/ provincial police departments. They should be playing their role as members of standing committees on the Ministry of Interior/ Home, or as members of committees on human rights. Until now, performance of MNAs/ MPAs (especially as members of legislative committees on human rights and Interior/ Home) has been generally very poor in holding police officials accountable. This is clear from the fact that they have not been able to make the government/ police fully implement the Police Order 2002. Nor have they ever looked into the budget allocations of police to ensure that funds are adequately allocated and efficiently utilized. No committee has ever held a public hearing on police performance at the Federal or provincial levels, where senior police officers were publicly scrutinized

			for their performance against objective indicators. In such a situation, it is hard to believe that their participation in the District Commissions would produce any good results. They must perform their original and already assigned responsibilities more effectively, before seeking to acquire additional responsibilities in the districts.
12	Selection Panel for independent members in the district consisted of District and Sessions Judge (Chairperson) and one nominee each of the Provincial Government and the District Government. (Article 41)	Selection Panel for independent members in the district now consists of District and Sessions Judge (Chairperson) and one nominee each of the Provincial Government and the Provincial Public Safety and Police Complaints Commission. (Article 41)	
13	Selection Panel was required to select independent members for District Public Safety Commission by consensus. (Article 41)	Selection Panel can now select independent members for District Public Safety and Police Complaints Commission by majority vote, one of whom shall be the Chairperson of the Selection Panel.	It is only a 3 members Panel and, therefore, it makes sense that it selects people with consensus. The consensus principle would be more likely to ensure that right kinds of people are selected.
14	Secretariat of the District Public Safety Commission shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Provincial Government. (Article 48)	Secretariat of the District Public Safety Commission shall be headed by an officer of BPS 18 who shall be appointed in consultation with the Chairperson of the Commission by the Provincial Government. (Article 48)	It would be better if the consultation process includes not just the Chairperson but all members of the Commission. This would reduce the possibility of a collusive relationship between the Chairperson and the Provincial Government.
15	Selection Panel for independent	Selection Panel for independent	

	members of the Islamabad District Public Safety Commission included Chief Justice of the High Court as its Chairperson. (Article 65)	members of the Islamabad District Public Safety Commission now includes District and Sessions Judge as its Chairperson.	
16	A Provincial Public Safety Commission was to be established, consisting of 12 members and the ex officio chairperson i.e. Provincial Home Minister. It included (a) half of its members nominated by the Speaker of the Provincial Assembly from amongst its members – 3 each from the treasury and opposition in consultation with Leader of the House and Leader of the Opposition; (b) other half as independent members to be appointed by the Governor from a list of names recommended by the Provincial Selection Panel. (Article 73 & 74)	Instead of Provincial Public Safety Commission, now a Provincial Public Safety and Police Complaints Commission will be established. It will consist of 12 members and the ex officio chairperson i.e. Provincial Home Minister. It included (a) half of its members nominated by the Speaker of the Provincial Assembly from amongst its members – 4 from the treasury and 2 from the opposition in consultation with Leader of the House and Leader of the Opposition; (b) other half as independent members to be appointed by the Government from a list of names recommended by the Provincial Selection Panel.	<p>Merger of Provincial Public Safety Commission with the Provincial Police Complaints Authority is highly objectionable. The two bodies are meant for different functions and, therefore, must be separately constituted with appropriate composition, competence and authority/functions.</p> <p>Similarly, the reduction in the number of provincial assembly members from opposition parties seems to be motivated by parochial considerations. Legislators must reconsider this in the public interest; and realize that establishment of a professional police service requires that no political party is in a position to influence police department for partisan interests.</p> <p>Political parties/ legislators, who are in government today, may be in opposition in the next term. They must, therefore, act in public interest and in the spirit of building institutions – and not just to serve their political interests in the short-term.</p>
17	Selection Panel for independent members of the Provincial Public Safety Commission consisted of Chief Justice of the High Court (as Chairperson), and one nominee each of the	Selection Panel for independent members of the Provincial Public Safety Commission now consists of the Provincial Ombudsman (as Chairperson), Chairman of the Provincial Public Service	Now all members of the Selection Panel are effectively appointed by the Provincial Government. It needs to be changed to ensure that Provincial Government's interference in the selection process is minimal.

	Governor and the Chief Minister. (Article 77)	Commission and a nominee of the Chief Minister.	
18	Secretariat of the Provincial Public Safety Commission shall be headed by a Director of the rank of Senior Superintendent of Police who shall be appointed in consultation with the Commission by the Provincial Government. (Article 84)	Secretariat of the Provincial Public Safety and Police Complaints Commission shall be headed by an officer not below the Basic Pay Scale 20 who shall be appointed in consultation with the Chairperson of the Commission by the Chief Minister.	Consultation process must include all members of the Commission. As noted above, this would reduce the possibility of a collusive relationship between the Chairperson and the Provincial Government/ Chief Minister.
19	Selection Panel for independent members of the National Public Safety Commission consisted of Chief Justice of Supreme Court (as Chairperson) and one nominee each of the President and the Prime Minister. (Article 89)	Selection Panel for independent members of the National Public Safety Commission consisted of Chief Justice of Supreme Court or a judge of the Supreme Court nominated by the Chief Justice (as Chairperson) and one nominee each of the President and the Prime Minister.	

Abbreviations:

CCPO:	Capital City Police Officer
CM:	Chief Minister
DPO:	District Police Officer
MNA:	Member of National Assembly
MPA:	Member of Provincial Assembly
NPSC:	National Public Safety Commission
PPO:	Provincial Police Officer
SHO:	Station House Officer