

**POLICE ORDER 2002 AND INSTITUTIONAL  
REFORM: AN ANALYSIS**



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## Author's Declaration

I, Muhammad Zaman, hereby state that my MPhil thesis titled, "Police Order 2002 and Institutional Reform: An Analysis", is my own work and has not been submitted previously by me for taking any degree from Pakistan Institute of Development Economics or anywhere else in the country/world.

At any time if my statement is found to be incorrect even after my Graduation the university has the right to withdraw my MPhil degree.

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## **Dedication**

I am dedicating it to my deceased mother Shamim Akhtar.

## **Acknowledgement**

I, sincerely, acknowledge the contribution of my father and my eldest brother, Abdul Rehman, who supported me in the best possible way and their firm commitment and belief have been the guiding light for me to thrive and flourish. I wouldn't be able to complete my work without my family's support and their faith in me. Certainly, the contribution of my supervisor is the best part of my thesis and her continuous help enabled me to craft it in the best form. I also pay tribute to my friends who stood beside me through thick and thin. I am thankful to Almighty for showering His countless blessings on me.

## Abstract

The research focuses on PO 2002 and its attempt to reform the institution of police. The police force is one of the primary institutions and the most visible representative of a state that ensures law and order. In the subcontinent, the police force was established for the first time by the British through the Police act 1861. The purpose was to implement the law and to crush the public dissent against the Raj at that time. Somehow, this legacy of the police force carried on even after the independence of Pakistan. Many steps were taken to reform the police structure to make it more people friendly, rather than being a force of intimidation, and to turn it into a service delivery force but all of them proved to be in vain. The Police Order 2002 was the most concerted effort to address fundamental problems of the police system in recent times. The order vowed to devolve power so that police could be held accountable at the local level. The significant features of the Order are reassigning duties and responsibilities, separation of Police and Magistracy, putting an end to external influences that hamper the police performance, public participation to hold police accountable directly, establishing Public Safety Commissions to ensure public-police relationship to make police public servant, and separation of Ward and Watch thana, etc. The Police Order 2002 vastly amended the powers of previous structure of police. This research has eight chapters. Each chapter has its self-explanatory title. The methodology used for this research is qualitative because of the nature of the research and data collected from both secondary and primary sources (nine interviews conducted from experts). Themes derived from the expert opinion. It provides an overview of institutional reform and its analysis with particular focus on PO 2002. The research has analyzed the Police Order 2002 and how it had been derailed from its main purpose. Lastly, policy recommendations have been given in the end that emphasize a police force which is more attuned to public service, is autonomous and accountable.

Keywords: Police reforms, institutional reforms, public safety commissions, accountability

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# CHAPTER 1

## INTRODUCTION

### 1.1 Background of the study

The police force is one of the primary institutions and the most visible representative of a state that ensures law and order (Abbas, 2012). In the subcontinent, the police force was established for the first time by the British through the Police act 1861. The purpose was to implement the law and to crush the public dissent against the Raj at that time. Somehow, this legacy of the police force carried on even after the independence of Pakistan (Shah, 2019). Many steps were taken to reform the police structure to make it more people friendly, rather than being a force of intimidation, and to turn it into a service delivery force but all of them proved to be in vain.

The police, which was established by the British with a purpose to dismantle the resistance from masses who they had occupied, carried on without any changes in it until 2002 (Shigri, 2019). The police force during the British era had been a symbol of tyranny and an instrument of power to intimidate the public. The British, unlike the Mughals, wanted to govern the subcontinent with a uniform governance system (Suddle, 2003). They brought bureaucracy and police service for that purpose. This co-administration of civil bureaucracy and police had been emblematic of colonialism. While the Police system evolved to a new dimension of public service in other parts of the world - including in England which introduced the police system in the Sub-continent, the state of police in this region never changed due to the menace of bureaucratic intervention and political elite (Suddle, 2003). Right after partition, the father of the nation Quaid-e-Azam Muhammad Ali Jinnah endorsed the establishment of police of Karachi as per the London or Bombay Model police to cope with the influx of population and students into Karachi to seek opportunities of earning and education. Even though the process of legislation was completed, it was one step away from becoming law. The transformation of police could not take place due to bureaucratic obstacles and the document that was sent back to correct some spelling mistakes could never see the light of the day. It was the only document that was passed by parliament but not signed by the Governor General - considered the first attempt to reform police in Pakistan (Suddle, 2003).

Political instability in Pakistan has contributed to keeping the institutions weak and inefficient. The institutions of a state must constantly evolve for its smooth functioning otherwise the results are counterproductive (Abbas, 2011). Unfortunately, the continuation of the democratic process remained an unattainable goal for the country. The institutions were weakened as a result. Police, being no exception, has suffered due to power politics among institutions (Abbas, 2011). According to World Internal Security and Police Index (2016), the Pakistani police is one of the worst police forces in the world. Pakistan is ranked at 123 out of 127 countries. The ranking is based upon four domains including capacity, effectiveness, legitimacy, and outcome. This report also highlights that public confidence in the police is very low with only 34 percent of people showing their confidence in the police (WISPI, 2016).

The incompetence of the police also stems from the delegation of its powers to paramilitary forces to keep the peace in times of troubles. Such steps undermine the confidence and legitimacy of the police force, which finds itself trapped in an inferiority complex given the troubled civil-military history of Pakistan (Waseem, 2019). It is pertinent to observe that such co-policing of civilian police and paramilitary could militarize the civilian police in the wake of unstructured coordination of officers. Also, the police can fall into institutional disruption due to a personality-driven coalition of paramilitary and police officers. The sole purpose of civilian police could be faded away forever due to the competitive-network model of such combination (Waseem, 2019). It is the sole responsibility of political leadership to enhance the capacity of police so that such co-policing could be avoided in the future (Waseem, 2019).

The strengthening of the police force is in the interest of the State given the internal and external security challenges facing Pakistan. Systemic reforms are essential to make the police force productive and efficient. The Police Order 2002 was the most concerted effort to address fundamental problems of the police system in recent times. The order vowed to devolve power so that police could be held accountable at the local level (Abbas, 2011). The significant features of the Order are: reassigning duties and responsibilities, separation of Police and Magistracy, putting an end to external influences that hamper the police performance, public participation to hold police accountable directly, establishing Public Safety Commissions to ensure public-police relationship to make police public servant, and separation of Ward and Watch thana, etc. (CPDI, 2014).

The devolution of power in the police system enshrined in the Police Order 2002 is encouraging, turning the police into a public service organization rather than a force of tyranny (Shah, 2008). It involves the public representatives at the local level to work with the police to keep public order. For example, the establishment and composition of public safety commissions at the district level shall ensure redressal of public complaints in a smooth way, also restricting the police to get indulged in mala fide activities. Similarly, an important aspect of Police Order 2002 is the separation of functions of police into two organs at police station level. One is entirely responsible for investigation and prosecution, whereas the Station House Officer (SHO) would only render the administrative support to the investigation wing so that the function of investigation could go on without any disruption. The second one is responsible for law and order; it carries out all activities necessary to keep public order. The District Police Officer (DPO) and Zilla Nazim work together on yearly police planning, management, and security of the specific district. Enshrined in the order, it is one of its hallmarks. The authority of police is devolved with an aim to depoliticize it. It provides the whole procedure in case of disagreement between Zila Nazim and DPO, then role of district public safety commission is activated, and the ruling of commission prevails (Police order 2002).

The colonial police mindset never faded from the system as it was in the interest of the ruling elites of Pakistan that police remain under their influence rather than work independently (Shah, 2019). The lobbying against police order 2002 started when politician and bureaucrats realized that their instrument of power (Police) would go away. The resentment from politicians was not just based on being sidelined from consultations while draft was in the making, rather it was due to neutralization of their influence over the police. Hence, the bureaucracy, particularly the district magistracy, and political elements proved to be the opponents of Police Order 2002. The provinces had also shown disinterest in PO 2002 and departed from it after the 18<sup>th</sup> amendment and introduced their own version of police laws in each province. As of now, the police are working with a different police law in all the provinces and federal capital. There is no standardization of police law among provinces and federal capital (Shah, 2008).

Despite being considered as the most concerted effort to reform police, the Police Order 2002 had many deficiencies in the formulation process (Shah, Police Order 2002: Police Reforms In Pakistan, 2008). No serious efforts were made to involve the main stakeholders. The lower ranks of police especially were not quite sure about the changes that had been made in the

order that they were to implement. Overall, the Police Order 2002 received immense resistance from politician and bureaucrats who wanted the status quo to keep their leverage on police to use them as instrument of their power, and from some quarters of the Police as well (Nekokara, 2015).

The Police Order 2002 vastly amended the powers of previous structure of police (DAWN, 2009). This research has analyzed The Police Order 2002 and how it had been derailed from its main purpose. It is imperative to analyze the police structure to assess its performance as per the mandate to serve the public. Public confidence in police is an important indicator to gauge the police performance. The evaluation of current structure of Police in Pakistan with respect to the structure provided in Police Order 2002 is important to locate the gaps where police can be misused.

## **1.2 Problem statement**

Police reforms are deemed as the dire need to improve the law and order situation in the country by policymakers and researchers alike. The institution of police faces dysfunctional infrastructure and external influence among many other challenges. PO 2002 was promulgated to reform the institution. However, any attempt of its implementation could not come to fruition. No proper infrastructure was created to ensure effective implementation of the order. External influence is considered as a significant subject of any police reform mechanism. The said order contains various measures that seek to change the culture of policing and exterminate the external influence on the institution. And yet, the implementation of PO 2002 has been a pipeline dream in Pakistan. With the advent of 18<sup>th</sup> amendment, its implementation has been shadowed by the debate on whether police come under federal or provincial jurisdiction. The eighteenth amendment grants the provinces their autonomy, and right after the passage of this amendment, the provinces chose not to implement PO 2002 (Shah, 2019). All the provinces implemented their own version of police laws. Apparently, these laws could not effectively deal with the issues facing the police. PO 2002 has the potential to guide the police reform laws and effectively improve the institutional structure and performance. Its uniform application can achieve the decade-long quest to make police effective. The dysfunctional state of police in Pakistan is not a new phenomenon. Its path dependency has been the most important factor that has shaped the police force of today (Waseem, 2019). Despite numerous efforts at restructuring the system,

the police force has somehow retained its colonial structure (Ramzan, 2013). It is important to locate those factors that have kept the colonial character of alive and make amends despite the controversy of available solutions.

### **1.3 Research Objectives**

- The objective of this research is to examine the Police Order 2002, its implementation status and to understand factors that have motivated amendments in the original draft, and the salient features of PO 2002 inactivated by such amendments.
- It further seeks to understand why provinces showed antagonism towards PO 2002, and not implement it in its original form. In particular, it examines the constitutional status of PO 2002 after the Eighteenth Amendment.
- It also aims to identify why the public safety commissions could not be established at provincial and local level and what steps should necessarily be taken to implement the PO 2002 in letter and spirit.

### **1.4 Research Questions**

1. Why police order 2002 could not be implemented in its true sense and what are the potential elements that derailed the implementation process?
2. Why did provinces disown it after the Eighteenth Amendment, and what is the constitutional status of PO 2002?
3. Why public safety commissions could not be created at all levels and what are necessary steps to implement the PO 2002 in letter and spirit?

### **1.5 Significance**

The motivation behind this research is to analyze PO 2002 and it will seek to understand the factors that are responsible for lack of the order's implementation. The police are functioning with different laws across the country. However, the uniform application of PO 2002 with incorporation of province-specific culture and social dynamics can offer a better alternative and materialize effective reformation of police. Hence, this study aims to analyze the prospects PO 2002 offers and why it could not be implemented so far.

The research seeks to explore reasons why provinces refused to implement the PO 2002 and give some of insights to current policing laws across the country. Notably, the existing literature offers valuable insights on police reforms and PO 2002 but remains silent on why its uniform application is the key to achieving desired outcomes. This study will fill this gap

and propose appropriate recommendations and prescriptions that would help the policymakers to remove the hurdles in the implementation of police order 2002.

### **1.6 organization of Study**

The research has six chapters. The first chapter provides the introduction and background of the topic, problem statement, research objectives and the significance of the research. The second chapter consists of literature review of the subject under research. The third chapter lays out the methodology of the research and discusses the sample size, sample locale and data analysis. The fourth chapter conducts a content analysis of PO 2002 original draft, amended version of draft, and discusses the tussle between provinces and federation over the constitutional status of PO 2002. The fifth chapter elucidates the experts' opinion and the theme derived from the experts' opinion. Finally, the last chapter has the conclusion and policy recommendation.

## CHAPTER 2

### LITERATURE REVIEW

The Police Order 2002 has received much scholarly attention. The police in Pakistan have low public confidence and is subject to much public ire. The Police Order 2002 (PO 2002) hoped to change the working of the police and hence its perception in the eyes of people it is meant to serve.

The state institutions in Pakistan have faltered in developing a comprehensive national security paradigm resulting in our nation turning against itself (Khosha, 2018). The rule of law – an important element of the governance - is weak in Pakistan, depicting a disarray in the institutional set-up of the country. The departure of Quaid-e-Azam Muhammad Ali Jinnah in 1948 left behind a nation that was like a ‘rudderless ship’ (Khosha, 2018). Frequent military coups, the civil-military tussle, and the policy blunders committed by the political and military leadership, especially in the aftermath of 9/11, has left the country at war from within. Though often labelled as a failed state, Pakistan better fit the narration of a frail state, despite a strong and resilient, though somewhat confused society (Khosha, 2018). Khosha (2018) endorses the complete elimination of terrorists’ outfit and religious extremists by a comprehensive internal security policy of the state to combat them. He highlighted the important factors in that are responsible fragility of state. Lack of political will, civil military disconnect, unbridled intelligence agencies, poor governance, corruption, and incapacity of state institutions in dealing with the administration of justice have left Pakistan as a fragile state (Khosha, 2018). The author further lays out the first ever National Internal Security Policy (NISP) in which a strategic framework is presented by him. That policy is based on three important points which are security, sovereignty, and sustainability. These three points stress the elimination of all sorts of threats – both externally or internally, effective reach of law of civil authority, and socio-economic justice as well as the rule of law. The policy was never implemented (Khosha, 2018). He also highlights a valid point that a state should never take a path of immorality even if it is dealing with terrorists, otherwise the terrorists would be successful in their agenda to turn the state into chaos and hence find it a breeding place for their future recruitments. Finally, the author endorsed the police reforms that would depoliticize the police, make it highly accountable, grant it administrative and operational autonomy, enhance the professionalism through specialization, restructure the urban police and let the police realize that it is a service not a force (Khosha, 2018).



Abbas (2011) identified many lacunas in the police system of Pakistan which include political manipulation, lack of forensic services, inadequate training and equipment, corruption, and weakness in the judicial system. He proposed two types of reforms. One is traditional, that is, inspired by incrementalism which means restructuring of police system through evolution. And the second is innovative, that is, to bring change in command and control of the police system and restructuring the whole system by replacing it with new system. He endorsed the significance of civilian law enforcement agencies, particularly the police, to counter the threat of extremism and terrorism. The role of police could have been enhanced by the implementation of police order 2002 in letter and spirit (Abbas, 2011).

The police infrastructure in Pakistan has been poorly managed by the government. The police force is poorly trained, chronically corrupt, ill-equipped and lacks autonomy. Pakistan has been facing many internal challenges such as ethnic tensions, criminal activities, and insurgency. Police has never been the priority of government and military to counter these challenges. Although there are instances where police, when given political support and resources, has performed well. But more generally, the police performance has been interrupted by political manipulation, lack of financial resources, training, judicial structure, thana culture and disregard for human rights etc. Abbas (2009) endorsed the implementation of police order 2002 in letter and spirit, along with spurring up political support as well as the resources to equip the police to counter the emerging challenges of insurgency and terrorism (Abbas, 2009).

Tariq Pervaiz (2013), an ex-PSP, suggested the empowerment of police to counter the security threats of terrorism and violent extremism. His focus revolved around the idea of police-public relationship which he considers the most important element for fighting against grave security challenges. Public support is lacking in the current police system (Parvez, 2013). Moreover, he endorsed the institutionalization of reform culture to bring the cultural transformation in police system of Pakistan. He is also one of the voices who recommend the complete imposition of police order 2002 (Parvez, 2013).

Nekokara (2013), an ex-PSP, has identified lack of coordination of stakeholders, amendments in the order, and post 18<sup>th</sup> amendment scenario as new challenge for democratic police reforms. On the constitutional front, after the 18<sup>th</sup> amendment, law and order were transferred to provinces from federal subjects. However, a debate emerged that questions the legality of provincial attempt to amend the police order 2002. Article 142(b) of the constitution

empowers both provincial assembly and parliament to make amendments in criminal law. However, under article 143 of the constitution, if there is any inconsistency between provincial assembly and parliament over an issue, the parliament shall prevail. This has cast doubts about the legality of amendments to the police order 2002 (Nekokara, 2013). Those who support the autonomy of provinces hold the position that provinces can amend the police laws. On the other end of spectrum are those who argue that, as per article 143 of the constitution, only federal parliament can amend the laws regarding police (as it is a criminal law). Why does such confusions exist in formulating the institutional framework for the most important institution of the state? Nekokara (2015) holds that the lack of engagement of all stakeholders in the reform process is at the root of this constitutional mayhem. It is pertinent to see that without the backing of political leadership no law could survive, no matter, how important it is. The political and bureaucratic elite were successfully able to manipulate the order and terming it a product of a dictator and eventually derailed it from its implementation (Nekokara, 2015).

Imam (2011) writes about the deficiencies in governance system of Pakistan Police. He relates the current police administration with a good governance system. He conceptualizes the concept of good governance and then laid out the scale to measure it. Since governance has its ingredients such as transparency, rule of law, equity and inclusiveness and efficiency and effectiveness. He analyzed the governance of current police administration with respect to ingredients of governance (Imam, 2011)

The constitutional development of police has seen its highs and lows in Pakistan. The police act 1861 was replaced by police order 2002, the purpose was to fill the gaps where police force has been exploited by political elite to serve their purposes. After the 18<sup>th</sup> amendment in the constitution, the police force is the subject of provinces, and they are autonomous in their provincial units to amend the laws regarding the police. Provinces started to replace the police order 2002 with their own version of police act in which they created the space to exploit. Somehow KP remains the only province which did well to implement the police order 2002 under its own police act 2017. In this article the endorsement was given to different recommendation to upgrade police system such as better training, financial resources, modern investigative instruments to be given police, E-policing and Public relation department of police were to be established to inform public about any development regarding police as well as the situation of law and order (Shah, 2019).

Waseem (2019) identifies the institutional imbalance when jurisdiction of police is delegated to paramilitary forces. Taking Karachi as a case study, he discussed the issue of plural policing by delegating police powers to paramilitary forces to keep the law and order intact. The policing structure in such arrangement falls into a trap of competition with the other Law Enforcing Agency (LEA). The author mentioned 'Competitive-Network Model' in which police and paramilitary officers interact in unstructured cooperation that results in competition and inter-agency conflict (Waseem, 2019). Such cooperation of public policing institutions consolidates some deep-rooted dysfunctional practices in police such as self-legitimacy crisis, inferiority complex and unintended militarization of civil police department. Militarization of police means that civil police start acting with a military mindset, even though they are trained for different purpose and objective. Institutional disruption is more likely in such personality driven cooperation. So, the internal consequences of pluralized policing can spoil the civilian police. The policies from political and military administrators must not ignore the fact that institutional competition can result in irreparable damages to existing institution like police. The police must be autonomous in discharging its function, despite delegating police jurisdiction to paramilitary force the government must enhance the capacity of police through all means, which is a more suitable approach than delegating police powers to paramilitary forces (Waseem, 2019)

The security sector of Pakistan must be modified, improved, and transformed in response to ever changing security challenges to Pakistan internally and externally (Malik, 2018). The security situation in Pakistan is primarily managed by Pakistan Military to eliminate the threats emerging from western border impacting the internal sovereignty of state. The insurgency had damaged Pakistan with a heavy cost of human loss, economic damage and earned a bad image across the globe. Since its inception, Pakistan inherited its security dilemma, therefore the military's involvement in its security policies remained intact throughout its history. Other law enforcement agencies remained under-equipped, under-trained and financially unstable. Further, undue interventions in their functioning never let them flourish to a better institution. Other than that, the institutions of civil bureaucracy and police remained prisoners of colonial history and never reformed and restructured to regulate a free and an independent nation. Though, during Musharraf's regime, the National Reconstruction Bureau aimed at a major overhaul of the local institutions as and took steps were taken under toward decentralization of power under the local government act 2001. The same era saw restructuring of police under Police Order 2002 (Malik, 2018). But the Police

Order 2002 was never implemented completely due to political intervention and bureaucratic obstacles. Malik (2018) also shed light on Security Sector Reform regime and supported the idea of Security Sector Regime<sup>1</sup> to tackle the emerging security challenges due to war on terror. Further, it is pertinent to have judicial system that is synchronized with ever changing trends of security challenges to enhance enforcement of law and order through LEAs. Malik (2018) concludes by endorsing a mechanism to improve the internal security, which had been envisaged in the National Internal Security Policy (NISP) 2014-18 and NISP 2018-23, to face challenges of traditional and non-traditional nature. (Malik, 2018).

### **2.1 Police Act 1861:**

The police were introduced in the subcontinent by Sir Charles Napier in the province of Sindh in 1840s. The idea of establishing police was driven by the experiment of British empire in Irish region. The police force came to into being on the footings of Irish Constabulary through acts 1822 and 1836 (Suddle, 2003). Though, the Irish Model and London Model of Police were developed simultaneously but were based on different principles. The Irish Model of policing, based on the footprints of military-style system, was solely meant to consolidate the authority of the Raj, and to hold the public subservient to the rulers by keeping the police under the authority of civil servants, while the London model was based on totally different principles of serving the public primarily and keeping the law and order with civilian mindset (Suddle, 2003). The police force created under Police Act 1861 was under the control of executive to subjugate the masses to Raj. The performance of police under district executive of colonies had been instrumental to consolidate the Raj. It was believed that judicial and police power concentrated in the same hands would keep the junior rank police servant loyal to rulers (Suddle, 2003). There is a fundamental difference between the colonial police and the police of free country (Suddle, 2003)

### **2.2 Flaws in the Police Act 1861**

- Duality of Command in the police department
- Financial dependence upon bureaucracy
- Inadequate functional specialization provided by act.
- Act does not provide the general structure and institutions necessary for modern police force.

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<sup>1</sup> The Internal Security Regime is not just the uniformed forces such as police, paramilitary, or non-state actors but also includes the regulatory bodies, the Parliament, and the Judiciary.

Duality of command which can safely be claimed as the worst instance of colonial symbolism. In which the district officer is vested with both executive and judicial powers and local police is made under his control. Police could not act against any kind of procession without the permission of district magistrate. The rationale behind such absurd organizational structure is to control police strictly and hold accountable to magistrate. Such a psyche is still existing in the police system of Pakistan. The core principle of separation of power had been neglected diligently just to suppress the masses. Since the colonial police created to intimidate the public rather to make it a public friendly institution (Shah, 2008).

Bureaucracy remained to be the biggest obstacle in reforming the police in Pakistan (Suddle, 2003). The financial dependence on bureaucracy of Police was to make it more subservient to civil servants, who are seen to be the symbol of colonialism. The police should be autonomous in financial matters to let it be free from interference in its functions (Abbas, 2011).

The functions police are required to perform are watch and ward, intelligence, investigation, traffic planning and management, recruiting and training are vested in one office, and it leads towards consolidation of power to one office. For example, the station house officer (SHO) is empowered to patrol, investigate and registering the crime. Such powers are vested in SHO only, that makes him overburdened and extra-ordinarily powerful man. With a view of having so much power in one hand and less accountability of use of such powers, could lead to misuse of power and corruption (Shah, 2008).

It does not provide the framework for the police to be reformed into modern police. Since it was created to serve the purpose of colonial rule. So, the future layout is inconsistent of transformation unlike the London Police model of which principles are still followed in England in Police reforms (Shah, 2008).

### **2.3 Police Order 2002**

Apart from maintenance of law and order, this police order had changed the service structure of police. According to the preamble of this order in which the purpose is described as, “function according to the Constitution, law, and democratic aspirations of the people of Pakistan”. The objective of this order to create a police force that is professional, service-oriented, and accountable to the people. To make the police accountable to the people, the establishment of Public Safety Commission at district, provincial and federal level were to take place to keep checks and balance. The public safety commissions are aimed to ensure the

smooth working of police system, to remove illegality from police and to make it a service providing department to people. The mechanism of establishment of Public Safety Commission is explained with detail in the order. The devolution of public safety and police complaints commission to grass root level and with the participation of locally elected representatives and police officers deputed in that becoming the members of district public safety and police complaints commission could have been very impactful to regulate the local Police Stations. Similarly, the provincial public safety commission governing all the district public safety commissions and the federal safety commission looking after the provincial and district public safety and police complaints commissions would have revolutionized the police performance. Some other features of police order 2002 are separation of police and magistracy, a totally colonial structure in which local magistrate could open fire without any order of higher-ups at the spot while not following the legal procedure. And the powers of magistracy vesting in police is no less than cruelty towards public. The segregation of duties and responsibilities at police station while creating two wings two different chain of commands in the police station one for investigation and second for law and order so that SHOs could not interfere into the matters of investigation process. Reduction of political influence by empowering the safety commissions to ensure to performance of police. District Police Officer (DPO) is to work under Zila Nazim (Mayor) as per this order. The annual police plan and management of a specific district shall be prepared by DPO in consultation with the Zila Nazim. The Zila Nazim would also have evaluation report of DPO that makes the police head to work under the public representative of that area. The police order 2002 could have transformed the police culture eventually if it would have not been amended brutally. The process of making police more transparent, fair, and public friendly derailed and the system has retained back many of its powers from previous police act 1861, and the idea of public safety and complaints commission at provincial and district level has disappeared from the priority of successive governments (CPDI, 2014).

#### **2.4 Deficiencies in the Police Order 2002:**

The policy analysis of Police Order 2002 highlights some of deficiencies in the formulation stage of the order. In formulation process main stakeholders i.e., politicians, lower ranks of police officials and other partners were totally ignored (Nekokara, 2015). When the politicians, who were the main stakeholders of such reforms in police system of Pakistan, were set aside and, despite its feasibility and positive reforms in police structure, all the efforts had been undermined, and eventually the police order 2002 had to go through

amendments and later on, with the passage of the Eighteenth amendment the provinces chose to depart from Police order 2002 (Malik, 2018). The politicians regarded the Police Order 2002 as the product of dictator despite its viability and reliability. The grudges from politicians were basically of political in nature and they saw it as police becoming independent from their use of police as their instrument of power. The bureaucracy also saw themselves toothless, in case of police independence from their command (Suddle, 2003). Both stakeholders had left no stone unturned to keep the police under their influence and control.

## **2.5 Research Gap**

The scholarly literature on police reforms, in particular on PO 2002, offers many insights in to the issue but mostly remains focused on suggestions for implementation the PO 2002 and does not delve in the discussion of factors which caused derailing the PO 2002. For instance, Anjum (2020) acknowledges that the execution of PO 2002 had met very challenging environment within and outside police institution, but vaguely located the challenges with the anecdotal evidence. Abbas (2011) endorsed that the role of police could have been enhanced by the implementation of police order 2002 in letter and spirit. Though he did not provide a guideline for its implementation by not identifying the factors that derailed the implementation of the PO 2002. Nekokara (2015) has shed light on the lack of consultation with the main stakeholders i.e., politicians, lower ranks of police officials and other partners, during the formulation process of the PO 2002 and located the loopholes in that process, ignoring the important aspect of the internal accountability that was enshrined in the PO 2002 (Nekokara, 2015). In particular, the literature does not discuss the establishment of public safety commissions at all levels and how such institutions of external accountability are important to monitor the conduct of police.

The existing literature also does not reflect on or endorse the adaptation of the PO 2002 to province-specific cultural, societal, and political realities, and their incorporation into an otherwise uniform police law. This research intends to fill this gap. It will analyze the PO 2002, review relevant literature, and identify the reasons for non-implementation of PO 2002 in Pakistan in the light of expert opinions and thematic analysis.

## CHAPTER 3

### METHODOLOGY

#### 3.1 Research Methodology

This chapter is dedicated to explaining the methodological framework that will guide this research. This chapter will focus on the research approach, sampling techniques, data collection methods, analysis technique and ethical consideration for this research.

##### 3.1.1 Research Approach

The research uses a qualitative approach to analyze the Police Order 2002 and lack of its implementation. The research technique is two-pronged. Information has been gathered from secondary sources including the official reports, judgements of courts, academic papers, surveys by national and international bodies. Secondly, primary data has been collected through in-depth interviews with the relevant stakeholders. The secondary sources helped in providing background information for the first two research questions, but also helped in framing questions for the expert opinion survey and in-depth interviews of the relevant stakeholders – the primary source of information for this research. The survey and interviews though shed light on all three research questions, they were the main source of information for the third research question.

Sampling strategy is purposive sampling---non-probability type of sampling of qualitative research---in which interviews have been conducted from police officers, policy analysts, academicians, and lawmakers. The interview pattern remained both structured and semi-structured, given the sampling set of stakeholders. In purposive sampling, in-depth interviews are conducted from scholars that are best suited for the research (Bryman, 2012). Semi-structured in-depth interviews are conducted from different stakeholders, based on feasibility. As per the criteria of sampling technique, the respondents of higher-level officers and other relevant stakeholders are selected based on their experience and knowledge (Bryman, 2012). The interviews have been conducted to get expert opinion from the experts in police reforms.

A comprehensive discussion on PO 2002 is included. It analyzes the changes it had brought into police and a detailed overview of all significant features is provided. The flaws in previous act of 1861 are identified in the light of opinion of experienced and seasoned police officers and other relevant stakeholders' writings from various forums. In the meanwhile, the



amendments made in PO 2002, which derailed the entire process of transformation of police, are discussed too.

### **3.2 Sample**

The police are responsible for the law and order in Pakistan. The laws that govern the police are inefficient due to its non-implementation (Babakhel, 2020). Therefore, it is important to identify those factors that diverted the implementation of PO 2002 in the light of experts' opinion. For that purpose, sampling size of 8-10 experts was selected strategically who have the extensive experience and have the relevance to the research topic. The locale of sampling is whole of Pakistan. The ethical limitations shall be applied to this research too.

#### **3.2.1 Unit of Sample**

The sample unit is comprised of officers from police department, academia, NGOs, and media. Since the sampling technique for the collection of primary data opted for this research is purposive sampling so the unit of sample is based on expertise on the subject. They had been selected strategically too.

### **3.3 Analysis Technique**

The interpretation of data collected from these sources will be done through thematic analysis. The data shall be subjected to read and re-read loop to draw logical outcome of this research. The major theme coming out of this activity of primary data, in terms of research questions, shall be presented and discussed in following sections.

The strong point of thematic analysis is that it does not use the pre-existing framework or algorithms. But also, it generates categories after the collection of data. It also gives a wide range of options to researcher to get maximum out of the data collected (Clarke, 2008). Where there are strengths of thematic analysis, it also carries weaknesses. There is no pre-determined procedure to specify the coding of data and selecting the themes, and in such a way it can go out of control (Lorelli S. Nowell, 2017). That can create a mess in research work.

### **3.4 Credibility of Research**

Each aspect of this research is the outcome of document analysis that are most relevant to it and from the primary data which has been collected by interviewing the relevant stakeholders who are expert in this topic of research. Thus, this approach makes the research credible because every bit of it is verified by the primary and secondary data.

### **3.5 Ethical Considerations**

This research has observed all the ethical considerations. The principle of informed consent has been followed when the interviews were being conducted. Similarly, principles of confidentiality, anonymity, and privacy have been observed too. Minimization of self-biases throughout the research project have been observed. Further, the research has adhered to the intellectual property rights has avoided plagiarism. While collecting data, all interviewees have participated in the study only when they understood its purpose and showed their consent. Personal autonomy, dignity, and privacy were respected.

## CHAPTER 4

### PO 2002 BEFORE AND AFTER AMENDMENTS AND POST EIGHTEENTH AMENDMENT SCENARIOS

#### 4.1 Introduction

The Police Act 1861, which was mainly established to lend support to the oppressive colonial regime, maintain law and order as well as the status quo, was replaced by the Police Order 2002 to update the archaic and outdated police system of Pakistan (Suddle, 2003). After more than two dozen committees constituted for police reforms in Pakistan overtime, PO 2002 is considered to be the only successful effort to reconstruct the police organization and get rid of the police system of British. The social change that took place in 1947 was the cornerstone that would lead towards institutional reforms, specifically the institution of police which had been facing enormous challenges internally as an organization and externally its interaction with the public. The public had deep mistrust over the police organization that was based on their interaction with the police, facing years of misconduct and misbehavior from it. Such experiences established the image of police as an organization of discourtesy, neglect, incompetence, inefficiency, arbitrariness, inadequate response to citizen, institutionalized abuse of power, widespread resort to high-handedness and corruption (Suddle, 2003). The factors responsible for malfunctioning of police had been the outdated and inefficient constitutional framework under which the police were functioning (Ramzan, 2013).

The reasons of police malfunctioning are

- Archaic constitutional and legal framework
- Misuse of police as an instrument of power by politicians and civil bureaucracy
- Lack of appropriate mechanism that would incentivize the police
- Weak accountability structure
- Unhindered corruption
- Lack of resourcing for law and order (Suddle, 2003)

The Musharraf regime established the National Reconstruction Board (NRB) to bring reforms in the governance system and the institution of police was one of them to be reformed (Anjum, 2020). Under NRB, a focal group of experts from Police acted as a think tank and formulated the PO 2002. The police under this order was envisaged the most modern police of South Asia (Anjum, 2020). The colonial mindset of police and their benefactors had been

replaced by a police force under democratic oversight, accountability, and meritocracy. The autonomy was granted to police in many aspects and, yet it was subjected to scrutiny by public service institutions and freed from exploitation from the power-holders (DAWN, 2009).

#### **4.2 The intents and targets of PO 2002**

Police under the PO shall be restructured completely, and the conduct of police shall be different from the previous colonial police act 1861. The police is envisaged to be professional, service oriented and accountable, and work within the ambit of the constitution of Pakistan. The democratic oversight has been ensured and the institutions of police accountability have been established (Police order 2002). Unlike Police Act 1861, the Order envisions a police force that is efficient in prevention and detection of crime. It has provided the functional autonomy, laid out mechanism to depoliticize the police, and has put the obligation on police leadership to deliver (Police order 2002).

#### **4.3 Principal characteristics of PO 2002**

The PO 2002 laid out a framework that would enhance the capacity of police and make it professional and efficient. The Order clearly mentions the new responsibilities and roles of the police to prevent and detect the crime as well as maintain the law and order.

##### **4.3.1 Responsibilities and duties of Police officer**

It is the responsibility of a police officer to behave with due decorum and courtesy with public, to promote friendly relations, guide and assist the helpless, poor, children and physically weak, protect the individual in the conditions of harm and chaos and to protect the rights of the citizens ensured in the constitution of Pakistan. Such responsibilities have been assigned to make the officers to think themselves as public servants not colonial masters. The Order ensures that the police officer must perform his/her duties in letter and spirit, which is the only way to uphold the constitution of Pakistan (Police order 2002).

##### **4.3.2 Constitution and Organization of Police**

The constitution and organization of police is separate for each general police areas that shall be defined by the government. The organization of police is established based on functions into bureaus, sections, division and branches those police must perform to enhance the professionalism in police. These functions are intelligence, investigation, watch & ward, reserve police, police accountability, personnel management, education and training, finance & internal audit, crime prevention, crime against women, traffic planning & management,

criminal identification, IT, transport, R & D, legal affairs, welfare, and estate management (Ramzan, 2013).

The superintendence of police is up to the appropriate government and administrative autonomy is granted to police under this law. The government shall ensure that police is performing according to constitution of Pakistan and there shall be no interference into the administrative affairs of police from politicians (Police order 2002). The provincial police officer (PPO) shall prepare the annual policing plan that shall be reviewed by provincial public safety commission. The annual policing plan shall be consisted of objectives of policing, financial resources that shall require to execute the plan, targets, and complete strategy or mechanism to achieve the targets under this plan (Police order 2002).

The police under the law of 1861 are not divided into different establishments in a province. The whole province is considered as a general area for police. PO 2002 has put a demarcation among the police of Capital City District, City District, and the police except these areas. The police force is allocated separately to capital district and city district other than that of provincial general police area under article 6 of the PO 200 (Police order 2002).

#### **4.3.3 Separation of Police and magistracy**

The police shall be under the control of head of police of district. The executive authority of police is vested in DPO under this law. The law and order are the subject of police, and it is no more the concern of district magistrate. Under the previous law of 1861 the power had been vested in one officer for effective control to utilize the iron hand where it required to keep the population under the subjugation of government (Police order 2002). The draconian law of 1861 that made police an instrument of power to suppress the public has been replaced by the PO 2002 that has envisaged the police a more democratic institution under the control of democratic institutions (Ramzan, 2013).

#### **4.3.4 Public Oversight**

Police is having the direct relation with public. As per the previous law the police only have the authority to impose or implement the laws on public without public oversight or accountability. Which is why the police having the enormous powers to keep the population intimidated and suppressed. But this order has changed the police structure as a whole and made it under the public oversight. The order also provides the mechanism to establish the public institutions such as public safety commissions to review the conduct of police. The public safety commissions have the full authority to remove the head of police if he is found

of malfunctioning or misuse of power from his end. It has also made the district police officer (DPO) under the general control of public representative the Zilla Nazim of district. While at the same time, the administrative autonomy has been ensured to police and the administrative authority is fully vested in district police officer (DPO) (Police order 2002). There is also the establishment of Citizen-Police liaison committees envisaged under this law. All such efforts have been made to transform the police into a public servant police. The democratic control of police is the hallmark of this law (Ramzan, 2013). DPO is subjected under the command of Zilla Nazim of that district. The DPO is answerable to PPO in matters of administration of police and investigation of a crime. Thus, the police are having an assured autonomy at administration level and at the same time, it is under the general control of public representative of that district in matters related to police planning, maintenance of law-and-order, etc. (CPDI, 2014).

The relationship of DPO and Zilla Nazim enshrined in PO 2002 is depicting that how this law has given the stakes to public representatives to hold police accountable. The zilla Nazim can visit police station to inspect it and highlight the malfunctioning or unlawful or abuse of power by police personnel. Zilla Nazim can be asked to register an FIR if he finds it appropriate. The district police planning for a year shall be prepared with consultation of Zilla Nazim. The Zilla Nazim is the civilian executive head of district while DPO is the police head of district, although DPO is under the general control of Zilla Nazim but if DPO finds any misleading or unlawful orders from Zilla Nazim he can approach Public Safety Commission and the decision of Public Safety Commission shall prevail (Police order 2002).

#### **4.3.5 De-politicizing the Police**

It is the most significant part of this order that has diminished the political interference into the affairs of police. The establishment of institutions such as Public Safety Commission and Police Complaint Authority is a step towards depoliticizing the police. The locally elected Zilla Nazim has been granted the control over the police in general but at the same time the control over police by politicians is hindered by Public Safety Commissions. The composition of Public Safety Commissions is such that the political control over police has been reduced remarkably. PO 2002 has foreseen a police force working autonomously without any intrusion in its day-to-day business and, yet it has kept the public oversight to prevent it from illegitimate and unauthorized activities (Ramzan, 2013).

Provincial Police Officer (PPO) has been empowered by this law to regulate the police. PPO is the ex-officio secretary to government and the PPO is completely empowered in financial and administrative affairs of police. PPO is vested in with powers of postings and transfers up to the DIG. He will look over the all the administrative and operational matters of police (Ramzan, 2013).

In a drive to depoliticize the police, PO 2002 ensures the tenure security of police officers. The defined tenure for PPO, CCPO and CPO is three years. The transfer and removal of these officers can only be done with approval of public safety commission. No political manipulation can transfer an officer from his office unless the public safety commission does that (Police order 2002).

#### **4.3.6 Investigation is separated from Watch and Ward**

PO 2002 embarked on a new structural change in policing in Pakistan. Where it designed two separate functions of police that goes down up to Police Stations, the division of police into two main organs, out these two, one is solely responsible for investigation and the second wing of police is to keep the public order and peace. The purpose to set up such specialized duty within police to work efficiently, and to prevent the cases to pile up. Before such separation the police in a police station must manage investigation as well as the law and order without any kind of distinction, like generally every policeman is responsible for law and order as well as for the investigation. But with such change in police structure, there is a separate chain of command for investigation in entire police structure from district to every police station of respective district. The SHO would be supporting the investigation branch in administrative matters. The law and order shall be a different subject from investigation and the staff allocated to law and order would have no business to investigation branch (CPDI, 2014).

#### **4.3.7 Public Safety Commissions**

The concept of public safety commission was taken from the Japanese model. It has three tiers: National Public Safety Commission, Provincial Public Safety Commission and District Public Safety Commission. The idea behind the establishment of public safety commissions is to bring the police under the public oversight and to hold it accountable to public. The establishment of such institutions is an attempt to democratization of police and to make it public servant not the public ruler. To wash out the memories of colonial practices from the system's psyche of police, it is the finest way to hold police accountable to public

representatives. It also depoliticizes the police from unnatural use of political elite to suppress the common public. The composition of public safety commissions is entirely apolitical and is according to democratic aspirations that shall enhance the chances to minimize the brutal face of police and to let emerge a public servant police.

#### **4.3.7.1 National Public Safety Commission**

Under the article 85 of PO 2002, the National Public Safety Commission (NPSC) is established comprising of twelve members along with *ex-officio*. The configuration of NPSC is in such a way that half of the members of the commission shall be from national assembly of Pakistan and nominated by speaker of the national assembly. The choice of these members shall be in such a way that half of the members would be from treasury and the other half would be from opposition. Further, it is suggested that at least one member from each province as well as there should be two women in the membership of NPSC. The rest of members shall be recommended by President out of the list proposed by NPSC. The federal interior minister shall be the *ex-officio* of NPSC. The selection process of independent members has been laid down in the PO 2002 with all its SOPs. The functions of NPSC are remarkable and they enable to review the performance of police and other federal LEAs, and it has been assigned with a role to recommend the heads of federal LEAs, PPO, and CPO Islamabad. The overseeing authority of NPSC ensures the democratic oversight over these federal law enforcement agencies. The NPSC can even proposed the early transfer or removal of PPOs or heads of federal LAEs over unacceptable and substandard performance. The NPSC shall require the execution of plans laid by the PPOs and government and evaluate the performance in that respect. It shall also require the reports over malfunctioning or misconduct or poor performance from heads of provincial police or federal law enforcement agencies. It shall submit the reports to parliament on the subject to performance of LEAs and propose modernization of LEAs based on ever-changing trends to implement laws and keep the law and order intact (Police order 2002).

#### **4.3.7.2 Provincial Public Safety Commission**

The creation of Provincial Public Safety Commission (PPSC) has taken place under article 73 of PO 2002. The arrangement that is outlined by PO 2002 for the PPSC is such that it shall contain twelve members and one *ex-officio*. The selection of six members is done by the speaker of provincial assembly three each from treasury benches and opposition, it should be strictly observed that there shall be two women be part of it. The other half of twelve members shall be independent members appointed by governor of the province based on



proposed list of members from PPSC. The provincial home minister shall preside the committee of these members and shall be the *ex-officio*. A comprehensive method is laid out in PO 2002 to select the independent members for PPSC, and the mechanism is completely developed to shun any intention to misuse the power of a single person to get selected a member of his choice. The functions of PPSC mainly to prevent any intervention from outside into the functionary of police. If such intervention is revealed, then PPSC shall intervene, and the final verdict of the commission shall prevail. Thus, making it loud and clear to the external forces that cause malfunctioning and unlawful activities in police. The commission must provide the complete roadmap of implementing the parameters defined by the government to stimulate integrity, efficiency, and effectiveness in police performance. It is the duty of the commission to help to let the police liaison committees establish and work to promote public-police partnership. The commission is responsible to evaluate the over-all performance of the police and to coordinate among the district public safety commissions. The PPSC is liable to provide its annual performance report, that shall incorporate the performance of PPSC, over-all working of police establishment and general law and order, to government and provincial assembly. It is in the discretion of commission to propose the government, that is binding, to transfer or remove the heads of police in province or in district over the violation and misconduct police officers. It is responsible to execute the policing plan that includes the financial, human resources and set goals as well as the delivery mechanism. Such policing plan is prepared by PPO and published by the government. Over the unacceptable or inadequate performance from district public safety commission, the provincial public safety commission can dissolve it. The commission may propose the essential judicial reforms. The members of safety commission may be regarded as the justices of peace as per the code (Article 80, PO 2002).

#### **4.3.7.3 District Public Safety Commission**

The District Public Safety Commission (DPSC) shall be created by provincial government in each district and there shall be 8, 10 or 12 members of the commission depending upon the area or population size of the district (Article 37, PO 2002). The conformation of the DPSC shall be such that half of the members would be elected through Zila Council and the voting of these members will be through secret ballot. The other half shall contain the independent members from the list proposed by the commission and approved by the governor of the respective province. There shall be one third of the members would be women from both halves. Unlike the PPSC or NPSC where the *ex-officio* is either the home minister or interior

minister, the chairperson of DPSC shall be elected out of the members of DPSC on annual alternating basis one from independent or elected members (Article 38, PO 2002). The other essentialities for the functioning of commission such as term of the member, selection of members or removal of the members have been laid down properly. The functions of DPSC are:

- The endorsement of annual police plan which is prepared by DPO and Zila Nazim
- Assessment of delivery of performance targets under the annual police plan and shall submit the report to Zila Nazim, PPSC, PPO and Provincial Government.
- Ensure and promote the cooperation between police and public
- To discourage any unlawful order of using police and provide a decision that shall prevail
- DPSC shall intervene if head of police station is avoiding registering FIR. If it is established that SHO is unlawfully halting the process of registering FIR, then DPSC shall ask the DPO to report within specified time and direct to register the FIR as soon as possible.
- Any unlawful excess by any police officer or officer of federal law enforcement agency shall be strictly prevented and appropriate actions shall be suggested against such officers (Article 44, PO 2002).

There shall be similar public safety commissions established for the territories of capital districts and Islamabad capital district (CPDI, 2014).

#### **4.3.8 Police Complaint Authority**

The federal government shall institute a Police Complaint Authority which will probe into the cases register against the officials of federal law enforcement agencies as well as the provincial heads or officials of police alleged with misconduct, misuse or unlawful use of power sanctioned to them. If the authority finds that alleged claim against the official is true then it will take necessary steps to punish him accordingly (CPDI, 2014).

The functions of Police Complaint Authority are:

- Receiving the complaint against officials in police of misuse, excess or misconduct
- Processing the complaint and assigned it to competent authority
- Any death, rape or serious injury in police custody can be reported to complaint authority

- In case of any serious crime, the authority may write to Chief Justice of High Court to assign the case to session or district judge to start the judicial enquiry
- Appointing the officer and supervise the enquiry process through out
- If it is found that another official is involved in the mala-fide or misconduct, then authority may write to competent authority to ask it to take necessary action and report it back in writing what action has been taken
- The authority shall write to complainant about the conclusion of the case
- False complaint shall be met with iron hand by the authority
- The authority shall report to government on annual basis about its functions and let the government know the gravity or circumstances about the specific issues and brief the parliament to make more laws against the specific issue that is rising

The secretariate shall be created by the government and no less than BS 19 officer will head it. Similarly, a provincial complaint authority shall be established to address the grievances against police officers in the province (CPDI, 2014).

#### **4.3.9 Criminal Justice Coordination Committee**

On district level the criminal justice coordination committee shall be established under article 109 of PO 2002. The composition of the committee in such a way that the concerned executives of local level are enlisted. The forum works towards the betterment of local law and order. The focus of the committee is data-guided, and structured planning process to detect the issues of local level and to resolve it based on facts and figures (NIC).

#### **4.3.10 Functions of Criminal Justice Coordination Committee**

The committee must assess the functioning of criminal justice system, and there should be efforts made towards the correction of the system. To foster the cooperation, understanding and coordination in local administration of criminal justice system, the committee came into being. The purpose of committee is to exchange of information among the other authorities, devise the coordination to execute the locally agreed policies, voicing up against the issues of common interests with relevant authorities, upholding the principle to encourage the good practices, and strive to implement the decision taken by the committee (Article 111, PO 2002).

To reform police organization is the biggest challenge Pakistan state has been facing since its inception. This challenge can be met and fulfilled if there is a national consensus to reform the police. There are no short-cuts and easy answers. As per the famous Chinese, a journey of

thousands mile start with the first step. PO 2002 was that first step to upgrade the colonial, outdated and archaic structure of police that was meant suppress the common by power elite of our society (Suddle, 2003).

#### **4.4 PO 2002 AFTER AMENDEMENTS**

The status of PO 2002 has always been controversial since its commencement (Anjum, 2020). It drew criticism from the civil society, media, political as well as lawyers' community of Pakistan for two major reasons: first, the order had been promulgated by a military ruler without the consent of political leadership. They termed the democratization of police was mere a diversion from the core issues such as the suspension of constitution. Secondly, the order lacks the legitimacy because it had never included or consulted the relevant stakeholders and there had never been any discussion on PO 2002 in the parliament (Abbasi, 2011).

Thirdly, the voices had been raised against the establishment of public safety commissions and police complaint authority at federal, provincial and district level. The provinces showed displeasure over such massive creation of institutions, draining their already scarce resources to provide finances to such institutions (Ramzan, 2013). Despite the utility of such institutions, it is argued that there would be overlapping of responsibilities of institutions (Ramzan, 2013).

##### **4.4.1 Constitutional legality of PO 2002**

Since its inception, the constitutionality of PO 2002 was hotly debated. The PO 2002 had restructured the whole police organization. The critics argued that it was promulgated under the military regime that gave hype to the views that challenged the legal status of PO 2002 (Ramzan, 2013). The article 270 AA of the constitution, however, states that all the executive orders taken from 12-10-1999 and 31-10-2003 are constitutionally legal. The debate over articles 142(b) and 143 of the constitution eventually gave power to amend the police laws to the provincial assembly. Ironically, the same challenges the provincial amendments to the police laws because under the constitution only parliament can amend the PO 2002 because of its extension of criminal procedures (Nekokara, 2015).

##### **4.4.3 Merger of Public Safety Commissions and Police Complaint Authority**

The amendments in the original order have crucified the soul of public oversight bodies. The merger of public safety commissions and police complaint authorities at local and provincial level has undermined their effectiveness. Not only the merger, the composition of bodies has

also changed, which reduced the number of civil society members and increased the number of treasury than the opposition. Systematically, the composition which was quite balanced and democratic in their functioning has been changed to enhance the role of ruling party and government at the cost of civil society and opposition members. Both bodies were meant to be established to address the issues regarding police malfunctioning (DAWN, 2009).

#### **4.4.4 Abolishing the two chain commands in a police station**

The argument regarding the creation of a separate investigation wing in a police station had also been criticized due to lack of resources. It would be the cause of delay in registering a simple FIR and put more obstacles in its way. It would weaken the role of SHO (Abbasi, 2011). Such a change could only insert more officers in the line, which would cause inefficiency. The problem of this nature already came in limelight in the Supreme Court where dealings with more officers in registering an FIR caused more troubles to a common man than keeping the system under one command (Iqbal, 2010).

The investigation requires special training. It cannot be performed without learning its techniques and skills from experts. The investigation without special training could only produce wrong results, traditional time-consuming techniques and reduce the chances of delivering on time. The incompetent officers in investigation wing would undermine the sole purpose of police reforms. It would waste the time of the court and create disturbance in criminal cases in courts (Ramzan, 2013). The trained officers can perform well, otherwise halfhearted, and incomplete measures can only destabilize the system which is already under severe scrutiny (Abbasi, 2011).

#### **4.4.5 The role of PPO reduced**

The original draft of PO 2002 assigns PPO as ex-officio secretary to the Chief Minister of the province. The PPO has been guaranteed with operational, administrative, and financial autonomy (Police order 2002). However, the amendments in the order reduced the autonomy of PPO and introduced the role of PAS (Pakistan Administrative Services) in financial matters and of the chief minister's office in the transfer the DPO. Such approval of CM before transferring officers has damaged the PPO's authority and weaken the functional autonomy of police (Ramzan, 2013). Political and bureaucratic interference in the functionality of police would only yield inefficient police service.

The role of CM is considered important by many since CM is the chief executive and responsible for law and order at the end of the day (Abbasi, 2011).

The reduction of NPSC's role in the appointment of PPO has given a set back to the democratization of police and shut the doors of fair appointment without political interference. Likewise, the enhanced role of federal government in the appointment of PPO could ignite the already existing tussle among provinces and federation as well as increase the politicization of such posts (Ramzan, 2013).

#### **4.4.6 Zilla Nazim and DPO**

The Order stipulate that the performance evaluation report of DPO shall have a manuscript that would be written by Zilla Nazim, and those comments shall be considered at the time of promotion or transfer of that officer (Police order 2002). This enhanced role of Zila Nazim creates room for political manipulation of DPO in his decision making and the de-politicizing of police at local level could face a setback (Ramzan, 2013). The equation of Zila Nazim and DPO, which was balanced by the district public safety commission according to original PO 2002, has become unbalanced.

### **4.5 Police Order 2002 in the post-eighteenth amendments era**

The PO 2002 was amended within two years of its promulgation when the political-cum-power elite realized the independence of police from their influence. The order was amended massively, and the very basic principles of PO 2002 were compromised in those amendments (Anjum, 2020). For instance, the institutions which were established to regulate the organization of police, and to keep the checks and balances became toothless after amendments. The amendments enhanced the role of federal or provincial government, defying the purpose of devolution of power which was enshrined in PO 2002 (Nekokara, 2015).

#### **4.5.1 Scenarios in post Eighteenth Amendment Era**

In the constitutional history of Pakistan, the Eighteenth Amendment has played a significant role in devolution of power. It empowered the provinces with more autonomy and abolished the concurrent list (Ahmad, 2014). With the deletion of concurrent list, confusion was created at that how a province could amend the police laws (given that the police is part of criminal procedures) when criminal procedures is a the subject of federal government (Nekokara, 2015).

Constitutional status of PO 2002 in post 18<sup>th</sup> amendment era is somewhat controversial, and a constitutional debate emerged that argued against the role of the federal government to centralize the police, to the detriment of the provincial autonomy. Similarly, there are voices that are in support of provinces' role to reform police system. This debate revolves around the article 270 AA, which legalizes all chief executive orders passed in between 12-10-1999 and 31-10-2003, article 142(b) that states that both the provincial assembly and the parliament shall have powers to make laws in respect of criminal law, criminal procedures and evidence; and article 143 which says that in case of inconsistency of laws between the provincial assembly and the parliament, the parliamentary laws shall prevail (Nekokara, 2015).

According to the 18<sup>th</sup> amendment, the police laws are part of concurrent list and are provincial subject. The provinces can amend the police laws, which is within their jurisdiction. While Khyber Pakhtunkhwa (KP), Punjab and Sindh adopted the new law, Balochistan retained the Police Act 1861. Punjab adopted the amended version of police order 2002 in 2013 (amended it again in 2017), KP adopted the new law in 2017, while Sindh followed suit in 2019 (Adil, 2021). After witnessing a constitutional rift among the provinces and the federation, police reform committee 2019 proposed a Police Model Law, giving the federal government a central position in transferring or posting IGPs. The superior courts of the country have shown respect to federation based on articles 142(b), 143 and 240 of the constitution (Adil, 2021). Even though, 18<sup>th</sup> amendment has abolished the concurrent list and made the provinces more autonomous in legislation. At the same time, it kept the role of federation intact in making uniform police laws and managing the internal issues with the consultation and collaboration of provinces to manage the areas of high concerns especially law and order (Adil, 2021). Eighteenth amendment poses no issues for the parliament to make laws on behalf of the provinces because of the Federal list part II, which includes international treaties, conventions, and agreements. The introduction of "inter-provincial matters and coordination" in the Federal list part II has allowed the induction of police laws in federal legislative domain (Shigri A. , 2019).

These conflict of interests, and mandates of the provinces and the federation must be addressed through Council of Common Interests (CCI) (Babakhel, 2020).

#### **4.5.2 Police laws in provinces after Eighteenth Amendment**

After the 18<sup>th</sup> amendment there were expectations that the provinces would improve in the security sector and discontinue the dependence on federal government. Each province,

however, promulgated an amended version of the PO 2002 or kept the Police Act 1861. Sindh enacted Police act 2019, Punjab introduced Police act 2013 and 2017. Balochistan retained the oppressive police act 1861. KP enacted more than 80% of PO 2002 (Shah, 2019). Islamabad capital territory is still following the police act 1861. Punjab and Sindh enacted the amended versions of PO 2002 (Babakhel, 2020). Table 1 below documents the police laws pre and post 18<sup>th</sup> Amendment. A more detailed analysis of difference between them is presented in Table 2 in Appendix B.

*Table 1: Police Laws Before and After the 18<sup>th</sup> Amendment*

<b>A comparison of police laws in provinces before and after 18<sup>th</sup> Amendment</b>		
<b>Provinces</b>	<b>Pre-Eighteenth amendment</b>	<b>Post-Eighteenth amendment</b>
Punjab	Police Order 2002 (Amended)	Police Order 2002 (Amended) and PA 1861
Sindh	Police Order 2002 (Amended)	Police Act 2019
Baluchistan	PO 2002 (Amended)	Police Act 2011
KPK	PO 2002 (Amended)	Police Act 2017

#### **4.5.2.1 Punjab Police Laws**

In Punjab, the police are governed by a mix of the Police Act 1861 and police order 2002 under the name of Punjab Police Order (Amendment) 2013 (and later Punjab Police Order (amendment 2017)). The Punjab Police Order (Amendment) 2013 had preserved numerous provisions of PO 2002 related to establishment, management, civilian-oversight, and accountability of Punjab Police (Nekokara, 2016). The 2017 Amendment later made minor changes in the article 11 of PO 2002 related to application of PPO and deletion of expression ‘National Public Safety Commission’ (Punjab, 2017). The notable amendments are related to recruitment of Sub-Inspectors, giving charge to SIs to SHO, fast track promotion mechanism,



deletion of article 184 which gives permission to provincial government to amend the PO 2002 and inserting the article 18-A which allows to change the investigation officer within the district. The public over-sight, which are responsible to regulate the external accountability and community policing have never been implemented. The political balance in safety commission and complaint authorities was also disturbed, which resulted in the dysfunction of these commissions. These regulatory authorities lack management and institutional framework to gauge the police performance and bring improvement in police organization (Nekokara, 2016).

Despite experimenting with the pilot project of District Public Safety Commissions, funded by Asian Development Bank in four districts of Punjab, the commissions were never created in Punjab. The project envisaged to ensure the equal access to justice to the more vulnerable strata of society. The focus of the project remained over various areas such as community policing, enhancing the functional specialization, training of police officers, improving the management to evaluate the performance, conceiving a better complaint handling procedure, and capacity building of female police officers (Paracha, 2008). As a part of project, the capacity building of district public safety and police complaint commissions was emphasized. The public safety was ensured through a coordinated approach from the concerned departments, particularly the local institutions. Through this project, the de-politicization of police and developing professional police was focused (Paracha, 2008). The pilot project by ADB contributed significantly to develop a complete layout to get PO 2002 implemented and operationalized it. In addition to that, it also developed the necessary requisites such as procedural manuals, software, rules of business, and comprehend the basis to improve the investigation using the scientific methodologies and upgrade the mechanism to make the public oversight better. No doubt the outcome of the project was quite encouraging. To operationalize the PO 2002, the sustainable will from the government is required to make justice accessible to everyone equally, depoliticizing the police, enhancing the capacity of public safety commissions and community policing (Paracha, 2008).

#### **4.5.2.2 Sindh Police Laws**

In the post eighteen amendment era, when provinces questioned the legality of PO 2002, Sindh was the first province to repeal the PO 2002, considering police a provincial subject rather federal one (Babakhel, 2020). Despite the fact that the code of criminal procedures 1898 and evidence laws as well as Police Service of Pakistan---CSP cadre--- are from the federal structure, demarcating the limits to regulate criminal justice system through provincial

police remained confusing (Babakhel, 2020). The new law in Sindh, that repealed the Police Act 1861 and revived PO 2002, has its own drawbacks such as the merger of public safety commission and police complaint authorities and composition of these commissions. The reduction in the number of local representatives in these commission, and incorporation of the members of national and provincial assembly damaged the sole purpose of devolution of power to local bodies to hold police accountable at local level (Babakhel, 2020). To cope with challenges of urban population, the PO 2002 provided framework of appointing CCPO (Capital City Police Officer) and creating CCP (Capital City Police) to carry out urban policing. While the new law in Sindh has not introduced such kind of policing to cope with the policing challenges of World's 11<sup>th</sup> most populous city - Karachi. Historically, a separate Commissionerate was introduced in Calcutta in pre-independence era by the imperial British to tackle the urban policing challenges. Even in the post-independence times, the Calcutta police administration carried on and proved to be a role-model police structure to be followed. In Pakistan, a police committee in 1985, led by Amjad Hayat, also recommended a separate Commissionerate police system in big cities to improve policing on the lines of accountability, better decision making and response (Babakhel, 2020). Tenure of IGP and officers is very important in which an officer understands the geography, social structure, and cultural background of a region in his command. With such understanding the challenges of crime rate can be met with appropriate measures. The implementation of any law has always been problematic in Pakistan (Babakhel, 2020). While the police laws in Sindh clearly defines the tenure of IGP, it has never been followed because of the absence of an active role of the National Public Safety Commission (Babakhel, 2020). Since the PO 2002 was introduced, 67 PPOs have been changed in the four provinces and only two PPOs completed their term in Khyber Pakhtunkhwa (KP). A closer scrutiny revealed that three PPOs in Sindh, one in Punjab, one in KP and two in Balochistan have served for more than two years. Out of these PPOs, six belonged to different provinces than where they served in, so PPOs from different provinces have served more than those who belonged to the same provinces (Babakhel, 2020). Sindh Government is empowered to appointment DIGs, DSPs and SSPs. As per the Order, PPO shall be appointed by the Sindh government out of the panel of three officers recommended by the federal government. Matters related to postings of officers are to be dealt with by the Sindh Government, curtailing the powers of PPO (Tunio, 2019).

#### **4.5.2.3 Khyber Pakhtunkhwa Police Laws**

Like other provinces, KP also introduced new police laws as the Police Act 2017 (PA 2017) and the provincial autonomy prevailed when the federal character of regulating police was abolished. The police act had the support of the provincial political leadership, so the political will to implement the act was there in KP. To make police apolitical, the powers of postings, transfers, and administrative as well as financial controls were vested in IGP (Shah S. A., 2021). In comparison to PO 2002, the police act 2017 does not focus on the true spirit of devolution of power but has centralized the power and conferred upon one man the IGP. Unlike the PO 2002, these new police law does not confer the administrative, operational, and financial powers to the Capital City Police Officer (CCPO), City Police Officer (CPO) and District Police Officer (DPO) respectively (Shah, 2019).

Police must be evaluated on the scale of operational autonomy, public safety, public service, and accountability. Though Police Act 2017 has all these features, but they remained unimplemented, and hence public safety was overlooked (Babakhel, 2020). Despite having all the provisions in PA 2017 regarding annual police planning at provincial and district level, the annual police planning never prepared at any level (Babakhel, 2020). Public safety commissions were never created due to its composition. The matter of composition of these public safety commissions remained stuck due to members of selection panel which comprise of the Chief Justice of Peshawar High Court, Chairmen of Ehtesab Commission and Public Service Commission. The litigation was initiated that challenged the membership of the Chief Justice of Peshawar High Court on the grounds of separation of executive and judiciary in administrative matters. Later, the Ehtesab Commission was dissolved by the KP government, and hence one seat remained unfilled and the second one is sub-judice. Resultantly, the public safety commissions remained dysfunctional due to such litigation and split up of scrutiny committee which is to recommend the members of public safety commissions (Babakhel, 2020).

The functional specialization had come to an end with the promulgation of this act. The separation of investigation and watch-and-ward, which had been envisaged in PO 2002, was not envisioned in this act. The chain of command for investigation that was headed by the AIG has been abolished, and SPs of investigation are made answerable to DPOs at district level. The concept of independent investigation died with this step that empowered the DPO to write the performance evaluation of SPs, because in this way, DPO could influence the investigation (Shah, 2019). The openings of model police stations, police training schools,

and establishment of counter-terrorism department (CTD), police assistance service, dispute resolution councils etc., are the cornerstones of the police act 2017 (Shah, 2019).

A unique character of PA 2017 is that it provides an implementation commissioner to evaluate the implementation of PA 2017. One 'implementation commissioner' has completed his tenure, and the second one has not been appointed yet (Babakhel, 2020).

Despite the encouraging performance indicators of KP police, the KP government is trying to bring further reforms in the police due to rise of violence within police and use of unprecedented brutal handling of persons in custody. The reforms' focus is also on clipping the powers of IGP and bringing the special branch under the direct control of CM through Home Department. The KP government constituted a committee to evaluate the performance of the police. The evaluation report of police performance was quite encouraging and revealed some promising progress on part of KP police officers (News, 2021). According to the PA 2017, regardless of covid-19, the police constituted an independent committee which shall investigate matters of posting and transferring of DPOs, empowering the local CCPOs to post DSPs. The committee shall also ensure the autonomy in financial matters granted to SHOs, decision to upgrade, and training the police with latest technology to start e-ticketing, e-FIRs, and roving eyes across the province to improve the capacity of police to combat with the challenges of terrorism. Technologically advance command and control unit established to monitor through drones (News, 2021).

#### **4.5.2.4 Balochistan police laws**

The Balochistan assembly passed the bill to enact the Police Act 2011 repealing the PO 2002. Other than traditional political challenges to use police, Balochistan has a completely different landscape in policing too. The police have control over 10 percent area only while ninety percent area lies under the jurisdiction of levies (Rehman, 2021). There are two areas specified, which are area 'A' and area 'B'. Of these, area 'A' has the normal police jurisdiction while area 'B' is in the control of levies. Balochistan retained the Police Act 1861 (PA 1861) in the guise of Police Act 2011 in which the police came under the control of local administration - magistracy - like in the previous colonial system of PA 1861. The magistrate is more empowered than district police officer. The postings and transfers as well as the financial matters of police are handled by the bureaucracy and political leadership. These police laws are applicable to all 'A' areas of Balochistan (Shah, 2019).

## **4.6 Conclusion**

The PO 2002 had envisaged a police force that would be more service oriented than intimidating instrument by the state or powerful elite unlike the colonial police. The features of PO 2002 had tried to update the police into modern police which is more accountable internally and externally, influence free and efficient in its business but the politically motivated amendments in PO 2002 have led the police to retain the colonial character of police. The 18<sup>th</sup> amendment proved to be a nail in the coffin for PO 2002 because after that each province enacted its own police law and disowned the PO 2002. Now, there is only one province, Punjab, which has enacted the PO 2002. Sindh and Baluchistan enacted their police laws which had retained the colonial character of policing in their act. While, KP has enacted the Police Act 2017 that has retained more than 80 percent character of PO 2002 but still it is struggling to implement it completely. The common factor in this practice is that all the provinces have killed the federal character of police laws, thus there is no uniformity in police laws among provinces. As per the given challenges, it is necessary that police laws must be uniform across the country. Because the civil procedures and criminal justice system are of federal character and police is the extension of these laws, therefore police should also be in line with federal laws.

## CHAPTER 5

### EXPERT OPINION ON PO 2002 AND THEMES DERIVED FROM THE DISCUSSION

#### 5.1 Expert opinion on PO 2002

A progressive Pakistan with a weak institution of Police is no more than a daydream. Police reforms need a strong will of politicians, bureaucrats, and police officers to keep the roadmap intact. The police, which is the product of colonial powers, is still existing in Pakistan. The misuse of police still takes place in Pakistan. The law and order are not satisfactory to the needs of the day. The police in Pakistan are still an instrument of power for power elite. The trust deficit between police and public is still there.

Dr. Zoha Waseem, an academician and well-known author with an expertise in research on the police system of Pakistan, currently serving as an assistant professor at the University of Warwick, has admired the reforms envisaged in PO 2002 to upgrade the police in Pakistan. However, given the political landscape of Pakistan where culture of politicization of all state institutions is a norm, the drive to de-politicize the police through PO 2002 was an over-ambitious desire to some extent. Due to its promulgation during the military regime, its legitimacy has always remained in question because the inputs from provinces and political parties had never been incorporated in PO 2002. Therefore, when the civilian government returned; they did not choose to implement it in provinces. Rather, the provinces chose to implement the amended versions of PO 2002 such as KP, Punjab, and Sindh. Regarding complaint mechanism, the citizens have little access to platforms of complaint (public safety commissions) and get their voices heard. The distrust in public regarding police and the overall criminal justice system is due to a lack of access to such platforms. External influences have a say in transfers and postings. There is no accountability of police. Political influences derailed the implementation of PO 2002 because it ignored the ground realities, for example, the PO 2002 envisaged the consolidation of power at the federal level while provinces wanted to have complete control and autonomy over the police. PO 2002 should have considered such realities. To guarantee public safety, sustained efforts must be in place to ensure the accountability and efficiency of complaint handling mechanism and check the malpractices of police. In addition to sustainability, political will is also necessary for the functioning of public safety commissions. The functional mechanism of such commissions should be legally strict and made obligatory for all the members of the commission to meet

on a periodic basis. For countrywide implementation of PO 2002, provinces be allowed to implement their own versions of PO 2002 given the social, cultural, and political realities of their respective province, otherwise the legislation would not work in the future.

Mazhar Abbas, a renowned journalist, has favored the PO 2002 and supported its implementation in letter and spirit that would upgrade the police into a depoliticized and professional institution. The PO 2002 had made the police a completely independent organization, which was not digested by the politicians in power at that time and they suggested the president amend the PO 2002 to have a check on the police. Police would be 90 percent free from political influence if PO 2002 got implemented. The involvement of civilians is a remarkable part of the order that was aimed to make the police accountable and professional. The version of PO 2002 in KP is a good step towards better police. The main problem, he identified, is that the personnel in police already are highly politicized and criminalized, and it would take a sustainable effort to bring change into the behavior of the police.

Dr. Hassan Abbas, a well-renowned researcher who has extensive expertise on Pakistan civilian law enforcement agencies, is of the view that PO 2002 is equipped to reform the police if it is implemented uniformly and in letter and spirit in across the country, much like the criminal procedures and other laws having the federal character in them. Political manipulation is found to be the main cause behind derailing the PO 2002 from the implementation in its original form. The disconnect between the political elite and police could not survive for so long. The challenges from within the police organization and external influences lead to amendments in PO 2002, further distracting the implementation process of the order. Internal accountability - to hold a police officer accountable by police themselves - can complement the external accountability regime (Public Safety Commissions). The political will, along with the national consensus of institutions (Military), can only pave the way towards a complete reform process, and eventually turn the police into service delivery and efficient organization with complete public trust.

Dr. Salma Malik, Assistant Professor at Defense and Strategic Studies, Quaid-e-Azam University, Islamabad, opined that the PO 2002 was the best legislative achievement to restructure the police in Pakistan. But since various stakeholders had their vested interests, the implementation of PO 2002 could never take place in letter and spirit. The targets set in the PO 2002 were never achieved due to different external influences. The restructuring and

reforms are never liked by the conventional operators and, hence, the shortcomings prevail in the implementation process of PO 2002. The potential elements that never let the PO 2002 achieve its objectives are vested interests, poor follow-up, inertia within the police, and resistance to change. To make sure the actual functioning of the public safety commission, it needs better coordination and dissemination of why the order is needed, realizing, and implementing reforms, and restructuring in real terms - rather than far fetched ideas - better salaries for the police personal, and keeping Police away from political influence. In the post eighteen amendment era, the PO 2002 can only be implemented in its true letter and spirit by realization and unanimity of provinces in implementing the order.

Dr. Raheem, secretary to the Law and Justice Commission of Pakistan, pointed out that there is no priority to reform the police. Furthermore, he added that the police must establish its internal accountability mechanism as suggested by the police reform committee 2019 and the government should also formulate the external accountability mechanism. The political will is mandatory to implement the police reforms. The disconnect between police and society should be abolished through establishing forums like community policing and involving the public to regulate police performance.

Kamran Adil, DIG Islamabad Police, endorsed the PO 2002, according to him the police law must be uniform in the entire country. The different versions of police laws can undermine the authority of the police. The disconnect between the public and police must be abolished, and enactment of public safety commissions should take place to induct the public into the matters of police, and such democratic oversight is necessary to check the malpractice of police. He further added the system must be greater than the individuals. The system must not bend before the external influence. The postings by influence can only tempt malpractice from the respective officer. The political will is the essence to implement the police reforms. He applauded the role of the supreme court in developing the existing awareness about the police reforms.

Muhammad Ali Babakhel, a PSP officer having an extensive experience in counterterrorism and an avid supporter of police reforms, currently serving in NACTA (National Counter-Terrorism Authority), is of view that PO 2002 replaced the oppressive colonial PA 1861 with indigenous police law, which was a great achievement for Pakistan. The operational autonomy granted in PO 2002 to police is commendable. The intense romance with colonial legacy to keep the status quo never let the system implement PO 2002 which was supposed to



make police accountable, de-politicized, autonomous, and service-oriented. Sustainable political will is crucial to reform the police, otherwise, the drive for reforms shall turn to be counterproductive. Specifically, the provinces showed more distrust to PO 2002 and replaced the order with their own versions, and compromised the public safety, largely, through amendments that made the public oversight bodies toothless. About autonomy of provinces and police being a provincial subject, it needs serious intent to resolve such confusions thoroughly, using the forums like Council of Common Interest. It needs attention because the criminal justice system is federal, police service of Pakistan is federal, and police laws are provincial. Surely, some police issues need standardization and uniformity throughout the country.

Muhammad Ali, senior member of Rozan—an NGO working on police-- has endorsed the implementation of PO 2002 in letter and spirit. He highlighted the lacunas in police structure such as lack of accountability, transparency, community policing, and less sensitivity within police regarding violence. While discussing the implementation of PO 2002, the absence of political will is the main reason behind the distortions in the implementation process of PO 2002. The public oversight is the cornerstone of PO 2002, according to him. The public safety commissions were never made operational in line with PO 2002. Due to strict accountability through such public safety commissions, resistance emerged in politicians and police officers. The political interference would be reduced to zero when the implementation of PO 2002 is ensured. The resentment arose within police too, against the order when the officers realized the strictness of accountability by the public safety commissions. The PO 2002 made the police personnel accountable, but the police was already intoxicated with the traditional policing and unchecked use of power, thus, these people paved the way towards derailing the order. Resultantly, the nexus of police and politicians eventually derailed the implementation process of PO 2002. The provinces also departed from PO 2002 in the post-eighteen amendment era and questioned the legality of PO 2002.

Tariq Khosa, a high-profile police officer who served as IG Balochistan and DG FIA, applauded the PO 2002, which is the product of more than 25 commissions on police reforms since 1947. PO 2002 envisaged the police which is politically neutral, operationally autonomous, highly accountable, and professional. PO 2002 was never implemented due to forces of status quo and vested interests that are against the rule of law. The institutional structure required under PO 2002 was never created which is the flagship of democratic oversight on police. Lack of political will convolved with the criminal negligence on part of

policymakers that never let PO 2002 be implemented. The criminal procedure is the federal business and policing is its extension, but the tussle among federation and provinces over police control still prevails. Thus, even though law and order is a provincial subject, yet the federal government must take the lead to standardize the PO 2002 across the country, and the provinces should be given the right to amend the laws according to their local needs. The fundamental structure of the law should remain the same. Further, on account of accountability, be it internal or external, the political will is imperative. Internal accountability should be done by the police leadership. The appointment of leadership by the political leader must be fair and transparent. Without strict accountability, the culture of misuse of power, corruption, torture in custody, and partial investigation shall prevail in the police. Such misuse and malpractice of police have earned a bad name to police and caused a trust deficit in the police-public relationship. Appointment of IGs is an important step to let the internal accountability function. IG must do his best to keep his house in order, and there should be ruthless and across-the-board accountability to cleanse the black sheep in the police. Regarding external accountability, the democratic structure of institutions, as mentioned in PO 2002, is probably the best approach to hold the police accountable. The composition of public safety commissions in the original draft completely de-politicizes the public oversight bodies and provides a legal way to regulate the police. To de-politicize the public service officers, officers must be inculcated with public service ethos, given the tenure security, recruited on merit, and have proper career planning.

## **5.2 THEMES DERIVED FROM EXPERTS'S OPINION**

### **5.2.1 Political will, police reforms and their implementation**

The puzzle of police reforms has never been solved in the history of Pakistan and it persists till date. The PO 2002 is the most concerted effort to reform the police so far. The order was never implemented in letter and spirit because of resistance from powerful political elite, bureaucracy, and inertia within police. The institutional infrastructure, which is required for the working of PO 2002, has never been established, typically public safety commissions and police complaint authorities. The police reforms without political will is just ineffectual exercise which end up making police more ruthless and frustrated out of the conditions in which they are working. The public opinion regarding police has never changed. The politics of police reforms only rise whenever an incident of high magnitude takes place that shakes

the entire nation. The enigma of police reforms can only be resolved by the political determination.

### **5.2.2 Disowner-ship of PO 2002 by political parties and provinces**

The PO 2002 never got the approval of political parties and the provincial governments because they were never taken on-board when the order was drafted and later enacted. This lack of acceptance by the political parties resulted in amendments of the Order, which ultimately brought the police back into the control of political executives. The institutions of accountability, which were meant to de-politicize the police, were never created due to political unwillingness. The other major objection over the PO 2002 was due to its genesis in the military regime; it could never meet the democratic aspirations of public at large. Even the PO 2002 envisaged a complete democratic structure of police; and sought the involvement of the public in its administration, which embodied the concept of the self-governance. This lack of ownership of PO 2002 by the political parties and provinces could have been avoided, and the true implementation of the order could have been realized.

### **5.2.3 Political culture and police**

Unfortunately, as said by Tariq Khosa ex-IGP Balochistan, the political culture in Pakistan could never flourish due to frequent military takeovers. A political class emerged from these take-overs that was nothing but opportunist. The other aspect of political culture is that there is no institutionalization of organizational structure of political parties; and resultantly, the powerful political class is either dynastic or is wealthy which leads the political parties in Pakistan. In such a culture, the police can never be autonomous in its business, hence, police is highly politicized and criminalized. In a culture where bending or abusing the law in the favor of the elite or friends is applauded as the real work of a friend to meet the standards of friendship, how can police work without external influences? (Aitzaz Ahsan). The police bureaucracy has also become the part and parcel of the existing political culture and started taking advantage of political influence by taking unmerited postings and transfers. The police-politician nexus in current political landscape of Pakistan suits both, and as such, police become an instrument of power in the hand of powerful politicians. The detachment of police from such political influence was envisaged in PO 2002, where no politician could influence the police directly, and the chances to misuse the police reduced enormously. Therefore, the implementation of PO 2002 throughout Pakistan, and the capacity building of police in accordance with PO 2002, is the necessity of the hour.

#### **5.2.4 Departing from establishing public oversight bodies as per PO 2002**

The involvement of public to keep the police-public relationship and the external accountability intact by public safety commissions, is a necessary step towards making the police a public servant organization. The composition of public safety commission should be according to the first draft of PO 2002, which ensures the depoliticization and accountability of police. The institutional framework for the establishment of public safety commissions at the provincial or district level has never been taken seriously by the provincial government. Although, in Punjab, the Asian Development Bank established public safety commissions in four districts of Punjab as a pilot project in which they provided help to develop the rules of business, legal framework, and infrastructure of these public safety commission. The evaluation report of these public safety commissions reveals that the service from police to public was significantly better in the pilot districts than that of police without regulation by public safety commissions. The ADB suggested to Punjab government to establish the public safety commissions throughout the province; to ensure the public safety in the province. The provinces, however, are reluctant to establish such institutions at district level either due to financial burden or may be the political influence is the main cause behind it.

#### **5.2.5 Rift among provinces and federation in post eighteenth amendments**

The decentralization of power from federal government to provinces has transferred many institutions to the provincial control - the police is one of them. The provinces used to have control over police, but the laws were federal subjects. In current scenario, the provincial assembly has been empowered to make laws for the police. The provinces, utilizing their mandate, have departed from PO 2002 after the eighteenth amendment was passed. The provinces chose to amend the PO 2002, more in line with the colonial PA 1861, due to the political oversight of police. The supreme court of Pakistan intervened and ordered the provinces to implement the PO 2002. Following the Supreme Court (SC) orders, Sindh Police Act 2019 was passed and enacted which essentially compromised many provisions of PO 2002 and retained more provisions of PA 1861. In Punjab, amended version of PO 2002 is being implemented but the institutions of external oversight were never created, but the mechanism for internal accountability was laid out after the suggestions of Police reforms committee 2019 established under the orders of SC. In KP, more than 80 percent of PO 2002 has been implemented through PA 2017 but the infrastructure required to get the fruits of PA 2017 never completed i.e., the public safety commissions. The KP police is more autonomous in its functions than the rest of the provinces. Balochistan retained PA 1861 in its original

form. The causes of rift among the provinces and federation over PO 2002 are many, but the federal character of it is the most significant. Under the order, the police are centralized through National Police Bureau and National Public Safety Commission. The police are considered as an extension of criminal procedures, which is federal in its nature and can only be amended by the federal government. However, the provincial governments should be allowed to make necessary amendments in the police laws because of the different social, political, and cultural realities in respective province. The standard police law should be uniform across the country as was envisaged in PO 2002.

### **5.2.6 Accountability and police**

The accountability of police remains an unachievable point to date. The internal accountability is compromised due to unmeritorious appointments of officers up to the rank of IGP, lack of tenure security, and the highly politicized culture of the police. The internal accountability of police is the responsibility of IG, entirely. He could lay out a strict and ruthless regime to hold the police officers accountable, who are accused of power abuse and other malpractice. A strong and non-volatile structure of police organization can ensure the internal accountability. External accountability lies with the establishment of Public Safety Commissions across the country, to hold the police accountable at all levels of government from local to national. Internal accountability mechanism is strictly complementary to external accountability regime.

### **5.2.7 Unsynchronized training of police to the modern needs of time**

Perhaps, it is one of the most pressing issue police is facing, especially at the grassroots level. The use of technology in the investigation has revolutionized the criminal system. Unfortunately, in Pakistan, the police are less trained to utilize such innovative techniques in investigation. The primary law enforcement agency, the police, is less aware of IT that it cannot understand the crimes in cyberspace. Therefore, the police at all levels must be trained to cope with ever changing trends of crime in any space. There should be an understanding, within police and policymakers, that specialized policing is the order of the day. The police must focus on specialized policing by creating specialized wings in police organization.

### **5.2.8 Disconnect between public and police**

The disconnect between police and public is still prevailing because of the colonial past. The impact of the colonial era is haunting both public and the police. The treatment that public face in police stations is shameful for police as well. The police in Pakistan have been

labelled as the oppressors. The behavior of police must be adjusted in accordance with the PO 2002, so that community policing, citizen-police liaison committees, and public safety commissions start working to reduce the gap between police and the public. The involvement of public to hold the police accountable by public safety commissions can also enhance the public confidence over the police and can turn the persistent oppressor into service delivery institution.

### **5.3 Analysis inferred from the research**

The PO 2002 has been the most comprehensive effort to restructure the police so far, after more than two dozen commissions on police reforms. The police are the most visible part of government, and the first law enforcement agency of the government. Therefore, the police should always be a dutiful, honest by character, and trustworthy in their conduct. Unlike the police services around the modern world, the Pakistan police - having a colonial legacy - has not evolved into a public service organization to date.

The research has shown that political will for reforming police institution is completely absent. The politicization of institutions for personal gains is a normal phenomenon in Pakistan. Particularly, the police are used for such extra-constitutional purposes. The political culture in Pakistan has its own dynamics and history. This political capture of the police has kept it a force that is untrained, under-resourced and lacking in autonomy over functional and financial matters.

The capacity building (software) of the police as enshrined in the PO 2002 cannot function without the required hardware—infrastructure. Non-physical capacity building can be signified as, financial resources, education, intellectual development, and behavioral aspects of police. While on the other hand, the hardware of police can be indicated as infrastructure--equipment, modern vehicles, model police stations and other physical resources. For instance, the software instructions, in the form of regulatory laws and constitutional mandate, are available in the PO 2002 but the financial resources and physical infrastructure have not been created in accordance with the software's requirement. Due to such deficiencies in hardware of police organization, the desired output cannot be achieved. Only when the hardware and software are aligned to each other, the intended performance can be ascertained. Otherwise, the software shall crash, and the intended output cannot be realized.

The eighteenth amendments created an environment of tug of war between the provinces and federal government on policing. This research has identified that police laws have become a

bone of contention between provinces and federal government in post eighteenth amendments, particularly. The criminal procedures and law of evidence are federal subjects, and the federal parliament has the powers to amend these laws while police, which is the extension of criminal procedures, is a provincial subject. The police laws in provinces have killed the federal character and have implemented their own versions of police laws in their respective province. Therefore, there is no uniformity in the police laws across the country. The federal government must take lead in this matter to standardize the fundamental structure of police laws across the country and permit the provinces to amend the laws only to their local needs.

#### **5.4 Conclusion**

In the light of expert opinion, the PO 2002 faced the political and bureaucratic resistance which led towards amendments in its original draft as well as the derailed it from implementation. Most of the experts believe that PO 2002 has a high potential to change the police and its functional mechanism. In their view, the most significant impediment in the way of implementation of PO 2002 is the absence of political will. Subsequently, there is no mechanism and infrastructure to implement the PO 2002.

The PO 2002 should be adopted as the standard police law across the country, and the provinces should only be allowed to amend it according to their ground realities i.e., political, and social needs. The structure envisioned for accountability of the police under the Order should be implemented in letter and spirit. The autonomy in financial and functional matters must be granted to police. The infrastructure, as envisaged in PO 2002, must be in place to keep the checks and balance over police. Above all, the mentioned characteristics of PO 2002 can be implemented only when there is an environment of sustainable political support and will. The police are civilian law enforcement institution; therefore, it must strive to reduce the gap, and build trust with the public. In this age, the police should not ignore the public relation that is instrumental to build a workable relationship between police and public. The police, along with autonomy and respect, must be given a dignified mandate to perform its duties; let the institution earn the public trust through its services to public by following the constitutional morals and police laws in letter and spirit.

The institutions can only contribute to nation building, when they work within their constitutional framework, and they are provided the freedom with respect to their jurisdictions. The institution of police, which is the first line of defense in matters of internal security and law and order, must not function under the outdated colonial laws. More

importantly, it is only allowed to work as per their constitutional role and not on the personal whims of the powerful elite. Reforming the police can prove to be a panacea for Pakistan.



## CHAPTER 6

### CONCLUSION AND POLICY RECOMMENDATION

#### 6.1 Conclusion

In this research, a two-pronged strategy was used to analyze the Police Order 2002 and its implementation. The study used both secondary sources and primary data (in the form of expert interviews) to analyze the key features of the PO 2002, and to examine the impediments in its implementation. The first step was to explore the secondary sources to have insights of already available information, and development made in the police reforms. In the second stage, interviews were conducted to incorporate the opinions of experts regarding PO 2002.

The significant themes, which have emerged from literature and discussion of experts, are:

- Political will, police reform, and its implementation
- Political culture and police
- Reluctance to create the public oversight institutions to keep the police away from malpractice
- The void between police and public
- Lack of ownership of the Order by the political parties and provinces
- No synchronization of training of police with new emerging trends of crime
- Accountability
- The tussle between provinces and federation to control the police affairs

In the light of research questions, the PO 2002 met failure due to lack of political will to implement it in letter and spirit. The efficient police can only be realized with a strong political will. If it was there, then the implementation of police laws such as PO 2002 would not be a problem anymore. Since our political culture has not evolved into a culture where institutionalization and inclusiveness are observed, therefore not a single institution in Pakistan could work autonomously. With advent of 18<sup>th</sup> amendment, PO 2002 got another blow from provinces, which disowned it and implemented their own versions respectively. The police laws should be uniform across the country to avoid confusions. It is important to keep the fundamental laws of police same even after the 18<sup>th</sup> amendment by doing no harm to provincial autonomy. Given the different landscape of each province, it is allowed to amend the police laws according to its social, political, and cultural need. The external accountability

too could not be realized in the shape of public safety commissions due to political and bureaucratic intervention. The institutions are spoiled by continued political interventions. And police is no exception to such political interventions. To curb such external influences, the public oversight bodies are essential due to their effectiveness. Therefore, the public safety commissions must be established all levels to protect police from malfunctioning. The police should be public friendly and the chasm between police and public should be reduced through involving the public into monitoring system of police. The training of police should be in line with new emerging challenges of crime and security threats.

The policies are only successful when they involve all the relevant stakeholders. The failure of PO 2002 should be taken as a point of introspection and acceptance of flaws in the policymaking process, and in future, the policymaking process should be based on consensus and be improvised with the course of time. The top-down strategy to fix the police has met its fate, now it is the responsibility of the legislature to produce unanimity across the board between federation and provinces on the matter of police reforms. And there should be an honest effort to implement the PO 2002 in letter and spirit across the country with fundamental universality. Given the autonomy of provinces, the provinces should be allowed to amend few provisions of the order with respect to differences in political, social, and cultural realities of the respective province.

## **6.2 Policy recommendation**

The PO 2002 is a policy failure due to many factors which have been identified in this study. It suggests that the policy formulation should not be exclusive but should be inclusive of all the relevant stakeholders. The likelihood of implementation increases when the policy is formulated keeping all the ground realities in mind. PO 2002, perhaps, did not do well because it did not include inputs from the political parties, and it undermined the provincial autonomy, while consolidated the federal control over policing. Therefore, the police reforms in Pakistan must be reconsidered and the following recommendations should be followed:

- ✓ Uniform police law across the country should be implemented
- ✓ The accountability of police must be strict. Internal and external mechanisms should be implemented to hold the police accountable as envisaged in PO 2002. The strong internal accountability mechanism is more reliable than external because it reduces the workload of external oversight. Judicial oversight like justice of peace cannot be claimed to be as efficient as Police Complaint Authorities or Public Safety

Commissions, but it is working, at least, to address the public complaint against the police malpractice.

- ✓ Quality investigation is the backbone of policing to detect crime and prevent it in the future. Organizational restructuring is necessary to have a quality investigation. The functional specialization in investigation should be introduced, as it has been envisaged in PO 2002. A separate chain of command should be in place headed by AIG (Investigation) in the province. Special investigation units to be established to investigate different crimes. The training, intellectual development, financial cost, and use of IT & science to be used in investigation.
- ✓ To complement police performance, the criminal justice system also needs attention. The criminal justice system is being operated with outdated laws, and therefore, the policing has become very difficult due to low conviction rate from the criminal justice system.
- ✓ Dispute resolution is an important aspect to reduce the workload of police stations and, eventually, the courts. There should be alternate dispute resolution councils to address the local conflicts, which could be resolved without involving the police in petty issues.
- ✓ Police reforms must not be idealistic and without allocation of financial resources.

There should be a realization of the factor that legislative reforms are an important aspect of the human society. As the society evolves, the laws to govern it must also evolve accordingly.

The police reforms can only be successful when there is a complete admissibility in political avenues that only sustainable effort, complementing the political will, shall contribute to the success of such policies.

Implementation of policy must be ensured to achieve the intended outcome rather than letting it be paperwork. In implementing a policy, which is a continuous, multi-facet and crucial process, the financial resources must be utilized to build the infrastructure to run the policy, successfully. Since no policy can be successful without financial allocation. The evaluation of policy is part and parcel of it. The feedback from evaluation provides the data of partial results. It is also used to monitor what has been delivered, and it gives a chance to introspect and improvise in line with the policy targets.

### **6.3 Limitations and Future Direction of research**

The limitations faced during the research were of time, financial constraints, and mobility.

Time was limited to conduct the research in the stipulated time given by the university.

Financial constraints were significant too. The outreach was limited due to financial

constraints. Mobility was also restricted due to the restriction imposed on account of the

Covid pandemic during the course of this research. Due to these constraints, the research was conducted using google form, phone calls and email.

Future research on this subject could delve more on the likely success of a uniform law that does not incorporate the socioeconomic, cultural and political diversity across the provinces.

It could also throw more light on an inclusive public policy process, one which incorporates

the opinions and expertise of all the stakeholders, and the likelihood (or lack, thereof) of an

exclusionary public policy process. The power dynamics at the implementation stage of any

policy are the key to understand policy response. Any policy that is formed in a vacuum,

devoid of the political realities and vested interests, has little chances of success. This

important lesson has implications for future research on any public policy matter.

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## **Appendices**

### **Appendix A**

Since the focus of the research to incorporate the valuable opinion of experts who have extensive experience and knowledge of the topic. So, I designed this questionnaire to seek their opinion about PO 2002, its implementation status and after 18<sup>th</sup> amendment, how can PO 2002 be implemented across the country. The questionnaire also enquires about the establishment of public safety commissions which are said to be the cornerstone of this order when it comes to external accountability and prevent police from malpractice. The following questions have been put before differently experienced persons to know their views about the topic. They responded according to their comfortable limits which I incorporated in my thesis already.

1. What are your views on (enactment, implementation, and outcomes) of Police Order 2002 of Pakistan? Was it too ambitious to restructure the police?
2. To what extent Police Order 2002 of Pakistan remained successful in achieving its outcomes?
3. In which areas, the Police Order 2002 of Pakistan police lacked in achieving set targets and why?
4. What are the potential elements that derailed the implementation and achieving its outcomes?
5. How police structure in Pakistan can be improved and, how the Public Safety and complaint commissions at provincial and local level be made functioned? What is the significance of Public Safety Commissions in improving the Police performance and Police-Public relations?
6. What necessary steps could be taken to implement the police order 2002 in its true spirit? (Post 18th amendment era)

## Appendix B

*Table 2: A Comparison of Original and Amended Drafts of PO 2002*

Amended Articles	Subject	Pre-amendment	Post-amendment	Comments
11(1)	Recommendation body for the post PPO	National Public Safety Commission	Federal Government	The role and oversight of NPSC while recommending PPO out of penal of 3 officers. This amendment had clipped the powers of NPSC and enhanced the powers of federal government
12(2) 12(6)	Pre-mature transfers/ Repatriation of PPO Or Recall of PPO/CPO	All such business could be performed by provincial or federal government with agreement of NPSC or PPSC	The role of NPSC or PPSC in these matters reduced. Federal or Provincial governments could transfer or recall the PPOs without prior agreement of NPSC or PPSC	It had undermined the autonomy of NPSC or PPSC. It corroded the checks placed on the governmental choices which are politically motivated.
15(1) 15(3)	Powers of PPO to transfer	PPO can transfer the	PPO can now transfer the	It has damaged the essence of



	Premature transfer of DPO/CPO	DPO with consultation of the government  CPO or DPO can be transferred prematurely with the correspondence of Zilla Nazim and DPSC	DPO with the approval of the government.  CPO/DPO can now be transferred without the agreement of Zilla Nazim/DPSC	devolution of power.
18	Separate investigation branch introduced	To ensure efficient and result oriented investigation, a separate branch introduced in every PS with a separate chain of command. The functional segregation of investigation from other functions of PS envisioned	The investigation wing would now be under the general control of SHO.	It puts the investigation at stake and SHO can easily dilute the investigation process.
21	Term of officers in an office	Not defined clearly	It is clearly defined as 3 years now.	Tenure security is ensured at all levels of command
33(3)	Zilla Nazim to write PER of	Role was not granted	Zila Nazim can write the	It can lead into political

	DPO		manuscript of evaluation report which shall be considered at the time of promotion of officer	manipulation and interference into the business of DPO
34(1) 34(3)	Police support to government functionaries	If police cannot support it will apprise it to DPO, he will inform Zila Nazim. If DPO considered it as mala-fide and unlawful request, then DPO will reach out to DPSC and decision of DPSC prevail	DPSC's role had been neutralized	Reducing the role of DPSC had damaged the very principle of public oversight of the organization.
37	Public Safety Commission and Police Complaint Authority	The government shall establish the safety commissions in each district	The government shall establish the public safety commission and complaint authority in each district	The merger of both bodies has abandoned them from the role they can play effectively.
37(1) 38	Composition of Public Safety and Police	The members elected by zila council shall be	Members elected by zila council are 3;	The composition of members has been changed

	Complaint Commission	half of the total members; the other half would be from independent members. Total strength of members shall vary from area to area based on size of population.	independently elected members shall be 3 and MNAs or MPAs shall be 3.	altogether, in this amended change, the role of MNAs or MPAs increased that shall surely politicized the environment of completely democratic body
74 77	Composition of Provincial Public Safety and Police Complaint Commission	Other than independent members, the half members shall be from treasury and other half from opposition. Selection panel of independent members shall be headed by Chief Justice of high court and one nominee each from governor and chief minister	Provincial ombudsman as the chairman, chairman of public safety commission and one nominee by chief minister	Provincial government's involvement has diluted the very fair selection of members of provincial public safety commission