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Analysis of Police Investigation Reforms in Khyber Pakhtunkhwa Police Act 2017

Shazia Ibrahim	Visiting Faculty Members, University of Peshawar, KP, Pakistan.
Sobia Bashir	Assistant Professor, Law College, University of Peshawar, KP, Pakistan.
Muhammad Nadeem	Associate Professor, Law College, University of Peshawar, KP, Pakistan.

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Corresponding Author:

Shazia Ibrahim

Email: shaziaibrahim1231@gmail.com

Abstract: *The process of Police Investigation Reforms in Pakistan is a part of the accountability of the police to ensure transparency and the rule of law. The police have been mandated a permanent disciplinary and executive task of investigating offences of different natures, conducting inquiries in different cases to be submitted to the superior courts and giving recommendations to the lower courts for improving the ratio of conviction. The present study focuses on the analysis of the investigation procedure, considering the international standards of the investigation process. With the help of this study, an attempt has been made to highlight the legal and procedural investigation process.*

Introduction

Police changes involve executing measures to address unfortunate circumstances inside a general public or association (World Bank, 2009). Being citizens of Pakistan, we are not fully aware of Police reforms which have been undertaken in the Khyber Pakhtunkhwa Police Act 2017. Police reforms aim at the transformation of the policies and practices within the police department in such a way that they can perform their duties within the limits of their jurisdiction and where people feel secure regardless of age, class, gender and ethnicity. Setting aside the causes and reasons for the failure and success of these reforms, here is the analysis of what has been done and what has been changed in the said Act to modernise it and convert it into a more effective tool to uphold the Rule of Law and to conduct the investigation more effectively.

The identification of failures in the policing system within the police institution in its existing structure has played a significant role in supporting the challenge for police reforms. According to Alemika (2007), the demand for bringing police reform is so significant that it has been created to have an efficient, seriously responsive, and socially accountable police service for every country. In England, police reforms were affected by the identification of system failures, including corruption in the police department and some cases of miscarriage of justice (Savage, 2007; Punch, 2003; Hahn, 2003).

At the same time, the causes and reasons for police reforms in Africa exhibit that there was a lack or absence of fairness and the rule of law,

and poor enforcement in countering a variety of offences, both conventional and unique or unconventional, are the main reason as to why police reforms were needed (Opolot, 2007). Political will and preparedness for undertaking police reforms have also been cited as one of the most significant motivating factors for the reforms. Whereas police reform in the South African region, Ranch (1993) held that "the African National Congress and other government departments were severely underprepared and poor in resources for tackling the problem of police reforms."

A Historical Overview of Police Reforms in Pakistan

The first changes in the existing Irish model and colonial police were made within six months after Pakistan became independent. A bill was approved by the Sind assembly (XXV of 1948) in February 1948 under the leadership of Governor General Muhammad Ali Jinnah to establish a model police force for the city of Karachi. Mr M.A. Khuro, the then Chief Minister, tabled the Bill. He observed that the Bill was long, but most of it was already operational in Bombay and some other cities. He said Karachi was much developed, and the population considerably increased over time. The police force would never be able to cope with it in such a situation. Therefore, they wanted to appoint commissioners in Karachi and invest in them the same powers entrusted to the Commissioner of Police in Bombay city. The powers enjoyable were imposing curfews, controlling processions, public protests and meetings, and regulating arms and licenses.

The Assembly approved the Bill on February 7th 1948, and an attested copy duly signed by the honourable Speaker of the Assembly and containing the approval note of the approver, the Governor of Sind. The document was duly forwarded to the Governor General's office. Upon receiving from the advisor to the governor General on legal affairs added some minor changes to the official draft and sent it back to

the governor's office for affecting the amendment and resubmission. It is unclear from the record why the Bill was not returned to the office of the Governor General, who at that time could not attend to his official duties due to his deteriorating health conditions. A committee headed by the then IG (Inspector General of police) for the Northwest Frontier Province (NWFP), Sir Oliver Gilbert Grace, recommended that a police administration for the capital city of Karachi should be a model and a unique one different from that of the North West Frontier Province. However, due to strong opposition by the bureaucratic elite, no headway could be made.

Afterwards, in 1960-61 The Pakistan Police (Constantine), a Commission authorised explicitly on this behalf, was sent to go India to study and design a unique metropolitan policing system for the city of Karachi based on the one designed for Bombay (Gupta, A.1979). Still, the members of that commission also did not recommend any suggestions in this regard. According to them, it was no longer a relevant issue after the government decided to change the country's capital and bring it to Islamabad. Since the capital city had been shifted from Islamabad police system for Karachi was not an issue anymore. Though the metropolitan system of policing was recommended in 1961-62 by the Pay & Services structuring Committee (1961-62), headed by Justice A.R Cornelius, for the two metropolitan cities of Karachi and Lahore but the 'decision-makers' did not accept it for implementation.

Police Order 2002

As Pakistan inherited police laws from the British, there existed a dire need to change those laws according to the needs of a new state. Several committees were formed, and commissions were occasionally established to reform those laws, but none could be implemented (Butler, 1992). The military government of Pervez Musharraf promulgated Police Order 2002 after 55 years of independence,

replacing the outdated colonial 'Police Act of 1861' to make it a genuinely service-oriented, professionally autonomous, and properly accountable organisation. The new police order introduced some new departments and accountability mechanisms for the police at different levels (like district, provincial and national). These mechanisms included commissions for public safety and the police complaint authorities. On the one hand, a new system of accountability of police through independent bodies was introduced through these institutions, and the police were protected from political interference on the other hand. As a result of some objections raised by the provinces and members of civil society, some amendments were made to the said law in 2004, which made the oversight bodies toothless bodies and increased political intervention and bureaucratic control in significant police transfers and appointments.

Police act 2017

On January 24th, the Khyber Pakhtunkhwa assembly voted in favour of the Khyber Pakhtunkhwa 'Police Act of 2017'. As it was Pakistan's pioneering piece of provincial legislation regarding the police, it was a historical moment but with no media coverage at all. It would not be wrong to relate the credit to the then Khyber Pakhtunkhwa government for introducing the legislation to make the police politically neutral, operationally autonomous, and democratically controlled. The salient feature of this Act is that it introduced reforms in different units of police and defined their responsibilities, attitude, and duties towards the public.

The police establishment for the province and its constitution have been explained extensively in Section 7 concerning its headquarters, branches, offices, and senior and junior police ranks. Senior and junior police ranks are mentioned explicitly as:

Senior Police Ranks:

- Provincial Police Officers
- Additional Inspector General of Police
- Deputy Inspector General of Police
- Assistant Inspector General of Police/Senior Superintendent of Police
- Superintendent of Police
- Assistant Superintendent of Police

Junior Police Ranks:

- Inspector of Police
- Sub-Inspector of Police
- Assistant Sub-Inspector of Police
- Police Head Constable
- Police constable

The Act also emphasised that the provincial police, also in addition to existing Police training colleges, namely Hangu and Mansehra and other elite Police training schools, should have specialised training schools for investigation, training for intelligence, tactics, handling public disorder and riot management, explosive handling and disposal, cyber security, information technology, traffic management, Tele-communication and the elite police training centre. Appointments, postings, and functions of the police are also surfaced in a separate chapter.

Police Investigation Reforms at Police Station Level

In the Police Act of 2017, numerous reforms have been introduced. Still, the fundamental reform is about the police investigation reform at the police station level, which distinctly endorsed that the investigation shall be kept separate from other functions of the police. The investigation reforms also described the procedure of postings, transfers, and functions of the head of the investigation, which are explained in detail under the following headings.

Separation of Investigation Function

The Act, in its Section 26, endorsed that every district shall have a distinct investigation branch; this branch shall investigate all cases registered

in that specific district and be supervised by its head. The procedural structure of the investigation is such that the Investigation officers shall investigate all the offences in the police station. They shall be supervised by the station house officer and notified by the Provincial police. The dealing of such cases entirely by the investigation Branch within the district is also recommended if the requirement of the case is such to be dealt with by the investigation branch of the district itself, while murder cases and other severe offences with the punishment of life imprisonment as declared by the Provincial police officer shall be conducted by the inspector or any police officer of the same rank but not below the rank of sub-inspector.

A little difference has also been kept in the ranks of the in charge of district investigation branch of other districts and the capital city district, which is, that a superintendent of a police force can head the district investigation branch while in Peshawar, the capital city, it shall be headed by an officer of the rank of SSP; senior superintendent of police. Whereas both these officers would be directly answerable to the head of the district police.

It is clearly stated that the investigation branch at the district level shall be independent and not form any part of any police station; instead, the investigation branch shall make different specialised wings to deal with certain distinct types of cases for which the provincial police officer shall explicitly determine the jurisdiction.

The Act says that every police subdivision shall have a supervising official, not below the rank of ASP assistant or DSP deputy superintendent of police, who will be directly answerable to the head of the investigation branch. The responsibility of such divisional officers is to visit the crime scenes in exceptional report cases to ensure completion of investigation and submission of challan in due course of time. The supervisory officer will have

the power to call and summon the investigation officer or team of officers to review the case file, evaluate the evidence, and issue instructions to them in the form of a case diary. It's the supervisory officer who shall attest the investigation report in exceptional report cases by maintaining a case diary before submission of the report in the court as well as in the cases in which the accused is nominated in FIR; first information report and were not found involved by the investigating officer.

Suppose both the heads, i.e., the district investigation branch and station police officer, opine that dealing with such a case is not in their jurisdiction. In that case, they may transmit the case through their respective supervisory officer for further investigation to each other after intimation to the chief or the head of district police. The procedure for this shall be as such, an officer of the police station, after coming to know about the occurrence or receiving any information of any offence, shall immediately inform the investigation branch at the district level of the occurrence of the offence, which is needed to be investigated by it. The members of the investigation branch are usually only concerned with investigation duties. They cannot be employed for any other duty except in cases of emergency which too shall be for a specified period.

Posting and Functions of the Head of Investigation

According to Section 25 of the Police Act of 2017, it is solely the authority of the provincial police officers to determine the territorial jurisdiction and the applicable jurisdiction of the provincial investigation branch, and the deputy inspector general shall be given the charge of each unit so established.

As the provincial investigation branch is to be superintended by an AIG additional inspector general of police whose duty is to offer assistance to the provincial police officer in the supervision

of the investigation, the Provincial crimes branch, research and analysis wing, forensic labs and the other specialised scientific investigation units established at the provincial level for the investigation of crimes having global and inter-regional impact shall also be headed by him. He shall also monitor, examine, and enquire in detail about investigation complaints and has the authority to conduct a 'performance audit' of investigation staff with recommendations to the provincial police. It is in his jurisdiction to supervise the working of the criminal record office and approve the investigations conducted by the local crimes branch. Furthermore, he shall compile crime statistics, distribute and submit periodic crime reports, maintain a criminal intelligence gazette, and coordinate with other provinces and Interpol in matters relating to the investigation.

Transfer of Investigation and Premature Transfer of the Head of Investigation

The transfer of investigation is provided in Section 27 of the Police Act 2017. The section says that after applying, the RPO regional police officer would obtain the opinion of the Regional Review board in writing and may transfer the case from the jurisdiction of any specific investigation officer to the regional crime branch or such other officer within seven working days. The second transfer of the same investigation is also permissible, but the time limit is 15 days after filing an application. One should be aware that the chief of the district police may be transferred even before the completion of his term of office by the chief provincial police officer on the ground of misconduct, inefficiency, and necessity of service.

Conclusion

The process of reforms offers opportunities to tackle the long-standing challenges of peacekeeping and practical solutions for public safety. Police departments across the nation are

currently reforming their policies which are successfully helping to change the perception of police from warriors to that guardians and caretakers. This article was a little effort to elaborate on the concern sections as it is crucial for the better implementation of police laws to understand its essence.

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