

## Punjab Police Order (Amendment) Act 2013

### Current Status

The Punjab Police Order (Amendment) Ordinance was promulgated on July 24, 2013. The Punjab Police Order (Amendment) Act, 2013 (the "Amendment Act 2013") was introduced in the Punjab Assembly by Rana Sanaullah Khan, then Provincial Law Minister, PML-N on July 26, 2013 and the same was, subsequently, adopted and passed by the Punjab Assembly on August 29, 2013.

### Acknowledgements and Disclaimer

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### Highlights of the Amendment Act 2013

- i. It provides for direct recruitment as Sub-Inspectors (SI) instead of Assistant Sub-Inspectors (ASI) (Article 7 (3)); the selection for direct recruitment in the rank of Sub-Inspector, up to 50% posts, to be made through Punjab Public Service Commission on the basis of district of domicile of the police region of the candidate (Article 7 (3)(b));
- ii. It sets 25% quota for departmental promotion to the rank of SI for serving ASIs and Head Constables (HC)s on merit (Article 7 (3)(c)(a));
- iii. It sets 25% quota for departmental promotion to the rank of ASI for serving HCs and Constables on merit (Article (7) 3(c)(b));
- iv. It brings the investigation function under the direct control of the District Police Officer through the creation of a District Investigation Branch ("DIB") (Article 18);
- v. A provision for supervisory officers, not below the rank of Deputy Superintendent of Police (DSP), has been introduced in the new system of investigation for timely completion and verification of investigations (Article 18);
- vi. It inserts Article 18-A to allow for transfer of investigation, in stipulated timeframes (7 days), on the requests for change of investigations at the district, regional and provincial police offices;
- vii. It amends Article 21 to enable SIs to be posted as SHOs;
- viii. It deletes Article 184 of the Police Order 2002, which earlier allowed Provincial Governments to amend, vary or modify any provision of the said Order relating to the Province on the basis of its specific requirements and circumstances subject to the approval of the Chief Executive of Pakistan;
- ix. Importantly, through enactment of the Amendment Act 2013, Punjab has retained the remaining provisions of the Police Order 2002 including provisions relating to establishment, management, civilian oversight and accountability of the Punjab Police.

### Executive Summary

Punjab has retained the provisions of the Police Order 2002 subject to a few amendments though the Amendment Act 2013. The main amendments are:

- i. Amendment in Article 7 to introduce direct recruitment of Sub Inspectors (SIs) instead of Assistant Sub Inspectors (ASIs) and incentivizing merit based fast track promotion for Constables, Head Constables and ASIs;
- ii. Amendment in Article 18 streamlining investigation process including raising the supervision level of investigations and inserting Article 18-A allowing for a change of investigation within the district also and stipulating timeframes for decisions on change of investigations;
- iii. Amendment in Article 21 enabling SIs to be posted as Station House Officers (SHOs);
- iv. Deleting Article 184, which allowed Provincial Governments to amend the Police Order 2002, subject to prior approval of the Prime Minister, to meet its specific requirements and circumstances; and,

The amendments have provided for recruitment of educated investigators and better qualified SIs as potential SHOs; improved supervision and unity of command in

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investigations; locally convenient and efficient change in investigations; incentivized merit based fast track promotions for Constables, Head Constables and Assistant Sub Inspectors and allowed the posting of qualified Sub Inspector as SHOs to provide more suitable options to the City/District Police Officers for posting SHOs. The Supreme Court, however, shall decide the fate of the deletion of Article 184 of Police Order 2002.<sup>1</sup>

The real issue with the Police Order 2002 as amended by Amendment Act 2013 since its inception has been with its implementation; critical provisions in the Police Order 2002 regarding civilian oversight, accountability and community policing remain unimplemented. In addition, certain amendments to the Punjab Police Order 2002 as amended by Amendment Act 2013 are required, particularly, to improve the political balance of Safety Commissions & Complaint Authorities, regulate the discretion of the authorities, and manage the police performance better.

#### Analysis of the Amendment Act 2013:

- i. **Article 7: The amended Article 7(3)** provides for direct recruitment as Sub-Inspectors (SIs) instead of Assistant Sub-Inspectors (ASIs) through the Punjab Public Service Commission. This amendment has been made as a policy instrument to induct better-educated and fresh investigators in the rank of SIs and to groom potential future Station House Officers (SHOs). The amendment in Article 7 has also provided an opportunity of fast track promotion on merit through Public Service Commission to qualified in-service Constables, Head Constables and ASIs. Direct recruitments in police in multiple ranks, however, are almost always problematic. Direct recruitment of Inspectors has, in the past, created internal divisions and bickering within police between promoted Inspectors and Sub Inspectors on one side and the directly recruited Inspectors on the other side leading to endless litigation. Similarly, direct recruitment of SIs will also cause unease among already serving Constables, Head Constables and ASIs in Punjab Police. Such direct recruitments, their need and impact assessments, must be carefully considered and evaluated by experts to better inform the decision makers on the basis of empirical evidence.
- ii. The amendment in **Article 18** streamlines investigation by establishing District Investigation Branches (DIB) across the province with the minor offences to be investigated at the police station concerned while major ones to be

handed over to DIB. A provision for supervisory officers has been introduced in the new system of investigation for timely completion and verification of investigations; the said officers may summon the investigation officers or team of officers and review the cases. Such segregation of investigation from other functions of police and the raised level of supervision will improve the quality of investigations and act as an active internal check on faulty investigations.

- iii. Insertion of **Article 18-A** provides a new procedure of transfer of investigations allowing a case to be transferred from one investigation officer to another or a team of investigation officers of a rank equal to or higher than the rank of the previous investigation officer(s) (i) by the Head of District Officer after obtaining opinion from the District Standing Committee, or (ii) by the Regional Police Officer after obtaining opinion from Regional Standing Board or (iii) by Provincial Police Officer after obtaining opinion from the Standing Review Board. This has been undertaken keeping in view the problems faced by the general public in terms of efficiency and to facilitate the change in investigations at the local level. This has added one layer of change of investigation by empowering the DPO to do the first change, which was not the case earlier. The stipulated timeframes, seven days, have introduced checks on the discretion of the supervisory officer to avoid delays in decisions on requests for change of investigations.
- iv. The amended **Article 21** provides for posting of qualified SIs as SHOs to address to an extent the limitation of the City and District Police Officers in selecting a suitable officer for posting as SHO. The senior police officers often complained of lack of suitable options from amongst the existing lot of Inspectors to be posted as SHO.
- v. **Article 184** of the Police Order 2002, which allowed Provincial Governments to amend, vary, or modify any provision of the said Order relating to the Province on the basis of its specific requirements and circumstances subject to the approval of Prime Minister, stands deleted. The Supreme Court will ultimately and conclusively decide the constitutionality of the laws passed by the Provincial Assemblies amending and/or repealing the Police Order 2002.

Through the Amendment Act 2013, Punjab has *retained the remaining provisions of the Police Order 2002* including provisions relating to public oversight and accountability of police. Police Order 2002 replaced the Police Act 1861 with

1. Haider Ali and another versus DPO Chakwal and others, Civil Petition no.1282 of September 4, 2014 is pending adjudication in Supreme Court of Pakistan.

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the primary objective to reform the police in such a way that it could “function according to the Constitution, law, and democratic aspirations of the people of Pakistan”. It aims to create a police service, which is “professional, service-oriented and accountable to the people”.

### Salient Features of Police Order 2002

The salient features of Police Order 2002, the governing law of police in Punjab, inter alia, include:

1. **Civilian oversight** through Federal, Provincial and District Public Safety Commissions (Articles 37-96).
2. **Reduction of role of the political executive** in transfer and postings of the police officers including head of police forces (Articles 11, 12, 13, 15 and 17).
3. **Community policing** through Citizen Police Liaison Committees (Article 168).
4. **External accountability** through police complaints authorities (Articles 97-108) and public safety commissions.

The Police Order, 2002 has also abolished dual control over police by removing the general control and direction of the Magistrate (Articles 10 and 16) on policing functions. It provides for functional specialization into branches, divisions, bureaus and sections.

### Implementation Status

Some parts of the Police Order 2002 as amended by Amendment Act 2013 witnessed some *progress in implementation* such as separation of investigation functions (Article 18) carried out largely in major urban centres, streamlining transfer of Investigations (Article 18A), punishments for offenses by police officers (Articles 156, 157, 158), constitution of CJCC at the district level (Articles 109-111).

However, overall the impact of piecemeal implementation of the 2002 police reforms has remained fairly insignificant in promoting democratic police and creating substantial public value. Most of these structures, which are critical to develop a democratic police such as safety commissions, complaint authorities and citizen police liaison committees, however, have not been yet established in Punjab. Provisions regarding selection and tenure of Inspector General of Police (IGP) and junior officers are also not being followed thereby compromising on political neutrality and efficiency of police.

### Room For Improvement

Punjab Police Order 2002 as amended by Amendment Act 2013 is *weak in maintaining “political balance” in civilian oversight and accountability bodies, and also in “regulating the discretion” and “managing the performance” of the*

*authorities*. Punjab Police Order 2002 as amended by Amendment Act 2013 also lacks focus on peculiar needs of “urban policing”. Big cities, such as, Lahore, Faisalabad and Rawalpindi face complex and frequent law and order situations and are in need of more efficient and professional response from police.

### Regional Experience and Examples

Police Order 2002 has perhaps been the most progressive democratic police legislation introduced in South Asia. However, it is always advisable to learn from regional experiences and initiatives. A brief examination of the Indian Punjab Police Act, 2007 (the “Indian Act”) and Kerala Police Act, 2011 gives us some useful examples to consider:

- i. Article 33 of the Indian Act provides for Internal Security Scheme and Article 34 of the same Act provides for creation of Special Security Zones as and when required by the Government to respond to challenges of militancy and terrorism.
- ii. Article 32 of the Indian Act provides for Police Establishment Committee to make the decisions of the transfer postings up to the rank of Deputy Superintendents of Police more transparent, inclusive and considered.
- iii. Articles 36-39 of the Indian Act also provides for specialized crime investigative units which may be considered in terms of selection criteria, training and legal and forensic support for the investigators.
- iv. Article 96 of the Kerala Police Act 2011 makes the police officers liable to report corruption and torture.
- v. Police Commissionerate system exists in various cities of India and Bangladesh to better police the big cities according to their specific needs.

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### Recommendations for the Members of the Provincial Assembly of Punjab

1. **Implement critical democratic provisions** of Police Order 2002 and immediately establish:
  - i. **Bipartisan Public Safety Commissions** to introduce civilian oversight over police;
  - ii. **Police Complaints Authorities** to make external accountability of police more effective;
  - iii. **Citizen Police Liaison Committee (CPLC)**. Article 168 of Police Order 2002 says that the “government may establish CPLC...” It needs to be made mandatory rather than optional.
2. **Implement** Article 12 of Police Order 2002 regarding **Selection and Tenure of IG** to promote merit based appointment and provide due space to the IGP. This will, help in measuring the performance of the IGP, and make the police responsive and accountable.
3. Amend Police Order 2002 to provide for constitution of **Police Establishment Board** consisting of senior police officers to assist IGP and recommend postings, transfers and promotions of the police officer below the rank of the Deputy/Assistant Superintendent of Police to make more considered and transparent decisions on transfers and postings.
4. **Provincial Criminal Justice Coordination Committee (CJCC)**: It is important to constitute a CJCC at the provincial level which shall include the Chief Justice of the High Court as its chairperson and the, IG Police, Secretary Home, Secretary Law, Secretary Prosecution and Vice Chairman Punjab Bar Council as its members. This provincial CJCC will a) evaluate performance of the CJCCs of the districts, b) review laws and policies, think strategically and c) propose measures for improvement in criminal justice and to reduce existing disconnect amongst the members of the criminal justice system.
5. Amend Articles 13, 15 & 17 of the Police Order 2002 to **empower IGs to post regional, city, and district police chiefs**. This will align the police with its commander and improve police efficiency.
6. Amend Article 77 of Police Order 2002 to *include Leader of the Opposition of the Provincial Assembly instead of the Governor* to nominate members for the **Selection Panel for independent members of the Provincial Public Safety Commission** along with the Chief Minister. This will make the selection panel more democratic and inclusive and potentially more impartial as the Governor is often from the ruling party.
7. Amend Police Order 2002 to make the **police officers liable to report acts of torture and corruption**.
8. Amend Police Order 2002 to provide for the establishment of **Special Security Zones** to effectively meet the challenges of militancy and terrorism.
9. **Police Commissionerate** needs to be introduced in Pakistan; Police Commissioners may exercise powers vested in a magistrate for handling law and order situations as decided by the government.