

Implementing Police Order 2002: a dilemma for provinces

Zafar Iqbal Kalanauri

In order to grant professional and operational autonomy to the police leadership, the principles of combining authority with responsibility has been adopted. Police have been insulated from extraneous influence through an institutional arrangement by establishing a neutral body from the civil society that will protect the police leadership against any illegal orders. In matters of internal administration the police command has been empowered fully. The purpose is to ensure that the police leadership can perform its duties without any hindrance and all resources are placed at its disposal for its best utilisation professionally. Along with the enhanced autonomy strong checks by the civil society have been provided for holding the police accountable to the people. This has been done by setting up safety commissions at the district, provincial and national level.

While these commissions cannot interfere with the operational and professional duties of the police, they have the right to monitor the working of the police through the policing plan which are approved and their implementation monitored by them. The safety commissions at the district level have the added responsibility of functioning as a Police Complaints Authority. While the safety commissions are responsible to ensure the continuation of tenures at the command levels they can also ask for the transfer of police officers at various levels from the lowest to the highest on the grounds of ineffectiveness or integrity. Similarly, an independent Police Complaints Authority has been provided at the national and the provincial level which will look into serious complaints against police officers. The Police Order 2002 needs to be assessed only after these structures have been created and are made functional. Any opinions formed even before the full implementation of the law will invariably be flawed.

The role of the police has been redefined. It lays down new parameters for good behaviour by the police towards public and the duties have been expanded that includes providing relief to the people in distress situation particularly in respect of women and children. A code of conduct regarding the exercise of statutory powers of police officers, treatment and questioning of persons by police officers and identification of persons by police is required to be issued by the head of the police establishments and its violation has been made punishable under the law. With these new provisions, the police are not only bound to change its orientation but are also held responsible and accountable for failure to do so for which the law provides enhanced punishments. It will take some time but the legal provisions provide the basis for the public to demand and the police leadership to comply for a meaningful change in the way the law enforcement agencies treat a common man.

For the internal administration of the police, the most important aspect is the delegation of powers at various levels of command and de-concentration of authority. The purpose is to ensure that everyone plays his or her role effectively and acts within clearly laid down parameters. A separate investigation wing has been created in the law and an independent hierarchy has been provided from the provincial to the police station level. In order to ensure proper coordination necessary provisions have been made for its integration with the law and order police at the district, regional and provincial levels. The investigation wing firmly continues to be part of the

single police establishment under a single command of its head. The de-concentration of the authority and devolution of powers also dilutes the possibility of extraneous negative political interference in the law enforcement in the country.

Although the Police Order 2002 has been enacted and is now on the statute books of the country, there is strong resistance in its actual implementation and selective implementation of some articles of the law has given rise to problems in policing in the country. This has been exploited by interested parties in giving an erroneous impression that the new police law has failed to deliver.

To date the Safety Commissions at the national and the provincial levels have not been established. The Safety Commissions at the district levels have been notified in the provinces but they have neither been resourced properly nor any briefing and training of its members has been done. These members reportedly are unaware of their responsibilities and have no clue about parameters of their powers. While some consider themselves mere members of peace committees others seem to consider themselves the replacement of the district magistrate. No Police Complaint Authority has been established in the country and administrative and financial powers despite explicit provision of law have yet to be delegated to the police. Ways have been devised by the vested interests even within the department to defeat the concept of a separate and independent investigation wing.

No steps have been taken to establish an independent prosecution agency. The law needs to be implemented in its totality before any judgement can be passed on its success or failure. It would be a sad day for the country if this law, which was drafted after extensive consultation with all stakeholders and comparative study with the internationally recognised systems of policing, is abandoned even before its implementation. The new law introduces internationally recognised standards of human rights and systems without which a functional criminal justice system will remain a dream. We owe it to posterity to give a fair chance for the law to be tested against clearly defined benchmarks before we start criticising it and scrape it without even implementing it.