

INTRODUCTION

Dear NIPSA Readers,

Welcome to the Spring 2012 edition of the Network for Improved Policing in South Asia (NIPSA)'s E-Newsletter. This is our first edition after a brief hiatus, and we believe the articles enclosed in this E-Newsletter give a broad flavour of the issues related to police reforms present in our region in the past few months. We are pleased to report that a wide range of topics have been covered in this quarter.

Gulmina Bilal writes on gender and policing in Pakistan, examining the history of women serving in the Pakistani police, touching upon the debate about whether separate police stations are required for women. As one can imagine, the general perception of women choosing policing as a career and its implications on family and society at large is a source of discussion in the country. The article also touches upon some of the problems that plague policing in Pakistan in general, such as archaic legislation, a low police-population ratio, and the fact that there are only about 3,500 women officers in a total force of 400,000! The message is clear. Regionally, we must all advocate for gender-sensitive police reforms.

Another issue we all consistently find ourselves revisiting in South Asia is the call for greater police accountability. Two articles address this in this edition of NIPSA. Devika Prasad writes on the UK's new system of electing a police and crime commissioner (PCC) to provide oversight of local police forces. This new system is worrisome as the author points out – because it means the present local Police Authorities which are multi-member bodies providing external oversight of the police as opposed to a single elected individual. Her article analyses the drawbacks of such a shift and then poses the important question of whether such a shift would work in the South Asian context, where we can probably all agree there is a dire need for accountability stemming from strengthened external independent oversight.

Taking the discussion on this issue further, this edition also includes a short write up on a recent national level roundtable hosted by Commonwealth Human Rights Initiative held in Delhi. This unique roundtable brought together for the first time police leadership, chairpersons and members of police oversight bodies in India, and civil society. Discussions were centered on how to strengthen and build the capacity of these bodies, known as Police Complaints Authorities (PCAs). Presently, there are eight such Authorities set up on the ground level. A set of Model Rules were introduced to help these bodies operate in a uniform manner and meet their mandate as effectively as possible. Input was sought from the various stakeholders. The ultimate goal was to ensure these Rules were adapted by each Authority, and recommendations made to governments on how to fortify and support these bodies in order to reduce misconduct and increase police accountability.

Speaking of accountability, the manner in which the Sri Lankan government is fighting accountability recently is unacceptable. It has made it clear that it will not abide by the UNHRC resolution that criticized its human rights record. The government will only implement those recommendations of its own probing panel. CHRI Director Maja Daruwala writes on the subject, emphasizing that while the resolution itself is a step towards justice in many ways, there is much left to be done on the part of the international community before justice is in fact realised in the country.

The Maldives too has undergone significant developments since the beginning of the year with the resignation of the first democratically elected President, Mohamed Nasheed, on 7 February

2010. The resignation followed weeks of protest after Nasheed ordered the army to detain a top criminal court judge on corruption charges. In the protests that ensued, the police role has come into question with serious charges of atrocities committed by several officers on rampage. While these are being investigated by the new government, Devyani Srivastava raises questions about its implications for the police reform process in the country.

Lastly, though our readership is growing steadily, we call upon you once again to take steps to expand our network and get more involved. We are always looking for articles and would like to engage in debate. Please do feel free to contact us at diya@humanrightsinitiative.org or devyani@humanrightsinitiative.org for further questions, comments, and suggestions. I look forward to our next edition!

Sincerely,

Devyani Srivastava and Diya Nag

I.

Women in the Pakistani Police

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Benazir started it. Who will strengthen it, if at all, is the question? In 1994, Benazir Bhutto inaugurated seven women police stations; namely, one in Rawalpindi, Abbotabad, Peshawar, Lahore, Multan, Karachi and of course in her home town of Larkana. The idea of a police station solely catering to women might seem amusing to some. Hard core feminists might find it distasteful as it implies that women need a separate police station, much like they require a separate gynecological ward. However, women police stations and women police have survived to date.

The history of women police in Pakistan can be traced back to the time of the British Raj, when seven constables and head constables were recruited in 1939 to control female agitators in a farmer's movement in Punjab. In 1952, a total of 25 constables, two head constables, and one Assistant Sub Inspector (ASI) were inducted in the police. Over the years, women have been recruited into various specialized programs such as counter terrorism, traffic police and motorway police. Recently, a female Deputy Superintendent of the Pakistani Police, Shahzadi Gulfam, received the 2011 International Female Police Peacekeeper Award for serving in a United Nations peace operation in Timor-Leste.

What has been their story? People living in Islamabad may be forgiven to only think of DIG Helena Saeed as the pin-up girl for women police in Pakistan. This is not the case. There is also the Deputy Superintendent of Police from Baluchistan who claims to be the second oldest DSP of the country. When asked if she faced any problems when she decided to join, a wry smile appears on her face as she gave me the answer, "Yes there were problems of course. My own brother was against this and threatened me. I hauled him up and put him in the lock up. His friends bailed him out. After that day, he has not bothered me!"

Other women officers have different stories to share. A woman police personnel who has served for 17 years declares that most of the problems are attributable not to their male colleagues, but to the public. "Bus drivers do not stop for us because seeing us in the uniform they automatically assume that we will not pay the fare. Most of the ladies wear a burqa to cover the uniform." Her colleague piped up, "Standing at the bus stop, we try to stand near a police man on duty etc. If there is none, then the problem starts because seeing a woman in police uniform, members of the public loudly start cursing the police. They do not dare to say anything in the presence of the male police but take out their frustration on us."

This "frustration of the public" stems from the kind of poor policing that plagues not only Pakistan but the rest of the region as well. The police in the Indian subcontinent was established during the era of British Raj, when according to Police Act 1861 the system was implemented. The model it was based upon was that of the Irish Constabulary, with the basic objective of enforcing order and rule of the state. The model was of a colonial police rather than a free state. The difference is stark when one compares it to the London Model implemented in 1829, where policing was to be preventive. Comparatively, the archaic model established under the colonial system was not politically neutral and certainly not a public friendly agency. The responsibility of maintaining law and order fell upon an underpaid and semi-militarized force.

After 150 years of promulgation, the law of 1861 continues to regulate the daily operations of the police department. Efforts have been made towards police reforms with the implementation

of Police Ordinance 2002, but this was not carried forward and the old system has again been revived in the provinces of Sindh and Baluchistan. Currently the police department is estimated to be approximately more than 400,000 strong. Policing is a provincial subject, which come under the relevant provincial ministries of interior.

There is no doubt that at a current strength of just 400,000 officers serving a population of 180 million, the police department is grossly understaffed. United Nations standards dictate that there should be about 230 officers for every 100,000 people, but in Pakistan there are only 128 officers for a population of 100,000. There is an estimated fifty percent shortage of personnel in each district.

Increasing the recruitment of women officers will not only help fill this shortage, it will create a police department which is more representative of the population and is more gender sensitive to the needs of women. Although attempts have been made towards recruiting more women as well as establishing women police stations, the estimated number of women police remains dismal at less than one percent. While there is no single figure available for the exact number of women police, some estimates put the total number of women in the police department at above 3,500 in a total law enforcement force of above 400,000.

Individualland Pakistan (IL-Pakistan) with the support of the Royal Norwegian Embassy has embarked on an initiative titled, "Women Police as Change Agents and Gender Based Police Reforms". The current initiative is an attempt towards showcasing and recognizing the work of women police personnel as well as highlighting the issues and challenges they are confronted with. Based on our learning from the experiences of the women police, we would also like to advocate for gender based police reforms based on their recommendations. The cities of Lahore, Karachi, Peshawar, Quetta, Gilgit, and Islamabad are being covered during the project, which makes use of tools such as field visits, interviews, a baseline survey, public awareness campaigns, and dialogues with civil society, the police, and government functionaries on gender based reforms within the police are being used.

Since December 2011, we have been actively engaged in visits to various women police stations and training facilities existing in the country. Women are present in the various sectors of the police department, but much more is required to make the police adequately effective and gender sensitive. The absence of women in the police department can be attributable to the overall negative image of the police and the challenging nature of the job. A woman adopting a career, especially one which is as unconventional, harsh, and dangerous, is not looked on favorably by society. A change in this mindset is required if women are to play their role in law enforcement.

The mindset that I am referring to includes but is not limited to comments like `` There should be women in the police. When they are with us, time flies as they make our duty hours pleasant'' remarked a male police official to me. When asked if they are trained in using firearms , a woman police personnel said , `` We are not given firearms because women are emotional. Only ATS girls have them. "

In a few weeks, the results of the public perception survey conducted in six cities of Pakistan on women police will be made public. More on that later.

II.

Elected posts for oversight: Strengthening or damaging police accountability?

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A fundamental shift in the architecture of police accountability is set to take place in the United Kingdom (UK). This shift will occur at the most local level of policing, and raises critical questions for the future of police accountability in the UK. Considering the extent to which the UK model of police accountability is regarded as international best practice, it is important to reflect on this new aspect of the accountability model.

In November 2012, voters will elect a police and crime commissioner (PCC) to oversee their local police forces. These directly elected commissioners will replace the existing local Police Authorities, which are independent bodies with diverse membership that currently exert oversight at the local level. In terms of accountability, this marks a paradigm shift from public oversight bodies with independently appointed members based on objective criteria to elected posts that come with the compulsions to campaign and entice voters. The main argument behind replacing the Authorities is that they have been too silent and invisible. The hope is that an elected post will be visibly representative of local policing needs and concerns. But this also raises the question of whether elections and voting for these posts will further politicise policing. Can an elected post truly serve the cause of police accountability?

This is arguably one of the most radical changes adopted in decades, introduced by the Conservative Party after it came to power in a coalition government in mid-2010. The initial proposals spurred immense debate, sharp criticism, and stiff opposition from many quarters, including the Labour Party, police chiefs, the police authorities, and civil liberties organisations such as Liberty. The primary (and valid) concern was that the PCCs will lead to greater politicisation of the police. But this was not enough to prevent legislation establishing PCCs from being passed by Parliament in September 2011, titled the Police Reform and Social Responsibility Act 2011. The Conservatives conceded to its coalition partner's concerns by delaying the PCC elections to November 2012 to allow more time for the transition from the Authorities to the PCCs.

The PCCs are likely to be powerful figures compared to the Police Authorities as they are single individuals with all the same functions of the Authorities in relation to local police forces. Additionally, they will also be responsible for ensuring public safety and crime reduction. In both legislation and supporting policy, the government has stressed that PCCs are not to interfere in police operational independence. Nevertheless, concerns about politicisation seeping into policing cannot be shrugged aside when examining the powers of the PCCs. They will set the strategic direction for the police in accordance with national priorities by drafting a local Police and Crime Plan, oversee and decide local police budgets, appoint and dismiss local police chiefs, monitor all complaints against police officers, and act as a link between the police and local communities.

Who can stand for PCC elections? Eligibility for PCC posts is fortunately not restrictive or exclusive, but does focus on keeping the candidate pool local. The candidate must be at least 18 years of age, a British, Commonwealth, or European Union citizen, and registered to vote in the local police force area where they wish to stand. It is somewhat worrying that the eligibility criteria do not call for specialised knowledge on policing or relevant skills, it is hoped this will be addressed at a later stage. Serving judges, police officers, civil servants, government officers, local councillors, or anyone convicted of a serious offence, are ineligible to stand for PCC posts

(all criteria taken from the Home Office website). Notably, members of Parliament (this includes members of the Scottish Parliament and Wales Assembly) can contest PCC elections, but will have to stand down from their existing post before they can accept the PCC post. This has left some room open for the entrance of party politics into police accountability - both the Labour and Conservative parties have already put forward candidates for PCC posts. Realistically, the inclusion of candidates with political backgrounds, and presumably some political clout and campaigning know-how, does not bode well to create a level playing field to attract candidates from diverse backgrounds. In addition, media reports are already pointing to a lack of logistical preparedness for the elections, as well as the absence so far of rules and guidelines to govern the PCC elections.

Whatever the shortcomings of the Police Authorities (which are not within the purview of this article), their design is certainly representative and appropriate for an independent police oversight body. Each Police Authority is made up of about 17 members, with nine local councillors and eight independent members, a balance between political and non-political. The local councillors are appointed by the local council (the local government body). The independent members are appointed through an objective selection process (following local advertisements) that is laid down in law and regulations. From a body of 17 with political as well as non-political members, the same oversight functions will now move to a single person.

In Commonwealth and indeed global best practice, oversight functions such as deciding police budgets, appointment and dismissal of police chiefs, as well as setting strategic direction are usually done through consensus and undergo the requisite democratic checks and balances. Each PCC will have a huge amount of power – this much concentrated power in a single person is a danger signal in any context. Also, a PCC's continuity will depend on winning the public's votes, which demands a different set of pressures than those on an autonomous body with a statutory tenure that is ultimately accountable to the legislature.

The 2011 Act does establish "police and crime panels" which will hold the PCCs to account, including the ability to review the police and crime plan and annual report, veto decisions, request PCC papers, and summon PCCs and chief constables to public hearings. These panels will comprise of one elected representative from the local area and two independent members. While it is absolutely necessary to have a mechanism in place to scrutinise the PCCs, this also inserts an additional layer of bureaucracy.

It is no surprise that police chiefs across England and Wales have expressed serious concerns over the new PCC posts, pointing to the possibility of undue interference by the PCCs into operational matters, or even small-scale corruption in the worst scenario. Police chiefs have also raised apprehensions of potentially politically-motivated decisions in the exercise of PCC dismissal powers. These concerns are of course purely speculative and there is now a tacit acceptance of the impending PCCs, but these concerns are valid and rightly signal real potential dangers which could irrevocably damage police accountability in the UK.

The government has published statutory guidance which clarifies the role and responsibilities of the PCCs, the chief constables, the mayor's office for policing and crime, and the police and crime panels to help articulate how these new arrangements will work in practice. While a positive and necessary step, this is not enough to allay fears that the concerns expressed will not materialise in practice. More than assigning responsibilities, there is an urgent need to devise clearly thought out processes and procedures, as well as sufficient safeguards, to guide the new accountability relationships and prevent undue discretion.

None of this is to say that it will not work; in fact, commentators have spelled out how the new PCCs could be progressive and beneficial. At this stage, before the elections have even taken place, it is hoped that the numerous relevant concerns are addressed soon by policy-makers. Considering the enormity of the change, are there any lessons for South Asia? After all, in the region, independent oversight of the police is grappling with formidable challenges mainly because it is fiercely resisted. Could an elected post model lessen the political/bureaucratic hold over the police? It is argued here that opening up accountability processes or structures to elections in the South Asian context would be a catastrophic mistake. Democracy must be fully embedded for this to be even considered, and even then, as expressed in the UK context, the unique requirements of police accountability call elected oversight posts into question. Our societies are too fuelled by all manner of divisions – caste, religion, gender, socio-economic – for there to be even a semblance of a level playing field.

At present, there is too much illicit gain and overt illegitimate political interference in policing; elected posts would only enable this. Accountability by consensus in the form of independent policy-setting buffer bodies – called variously State Security Commissions in India, Public Safety Commissions in Pakistan, and Police Service Commissions in Bangladesh – is fiercely resisted in the region, when this is what is most needed. In India, even in states which have passed Police Acts establishing these bodies, not a single State Security Commission is operational. In Pakistan and Bangladesh, modern progressive police legislation itself is being resisted. In the South Asian context, accountability is best served through the combined pressure of numerous stakeholders and democratic checks and balances. Creating a single PCC-type post, with the extent of powers bestowed on the PCCs, in any South Asian country would surely irrevocably damage democratic police accountability. It is fervently hoped that the UK will fare better.

IV.

A Step towards Justice

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The UNHRC resolution on Sri Lanka was a game-changer. Now the council must deliver on its promise

The United Nations Human Rights Council (UNHRC) resolution on Sri Lanka is a landmark in many ways. It dilutes the much despised blockade on country-specific resolutions that has often dogged the council; it indicates a positive change in the voting patterns of big and influential Commonwealth countries such as India and Nigeria; and it dismantles a longstanding impasse on Sri Lanka at the UNHRC that many feared might tire the international community into avoiding the question of accountability.

While these are good reasons for jubilation, it is important to remember that the current resolution is only a beginning and not nearly enough to actually realise justice in Sri Lanka. For this to be achieved, the international community has to be able to continue its scrutiny and judge Sri Lanka's future actions towards accountability in accordance with international standards. If this does not take place, then the resolution would have served as a means for Sri Lanka to buy time for a long holiday from international pressures on accountability.

Further, the resolution gives domestic initiatives for accountability a chance at a time when allegations of international law violations point to involvement at the highest levels of government. If the international community fails to monitor Sri Lanka's follow up to the resolution meticulously and act on shortcomings, it would amount to forfeiting the responsibility for initiating urgently-needed, independent, international investigations.

Countries that have voted in favour of this resolution should recognise that the positive nature of the resolution lies in the unsaid responsibility it places on the international community and the UNHRC to monitor and probe issues of accountability. The proof of the pudding is in the eating, and it is the ultimate achievement of justice in Sri Lanka that will say whether the resolution has been a positive breakthrough for the council and the member states who voted for it.

Among Commonwealth country positions on the resolution, India's stance in favour of the resolution has been the most striking, as it is viewed as a game-changer. Such positive changes bolster India's reputation as the world's largest democracy and its ambitions to play a leading role in the UN, including securing a permanent seat at the UN Security Council. This also means that the eventual outcomes of this initiative will weigh heavily on India's reputation and ambitions. India will have to ensure that the resolution is not followed by inaction that leads to a lowering of international standards and the denial of true justice to victims in Sri Lanka.

The UNHRC took two steps backwards when it passed its 2009 resolution on Sri Lanka. Coming at the conclusion of Sri Lanka's war, the 2009 resolution congratulated Sri Lanka on successfully winning the war, and ignored allegations of massive international humanitarian law violations in the conduct of the war. The current resolution has only taken one step forward by calling on the Sri Lankan government to implement the much criticised LLRC report and initiate

“credible and independent actions” for accountability. The weak tone and wording means that there is much more work to be done. The UNHRC may have broken its Sri Lanka jinx, but it is yet to overcome the nemesis of inaction on urgent or chronic human rights crises that killed its predecessor — the UN Commission on Human Rights. In this regard, Sri Lanka has so far been the biggest test case for the council and continues to be so.

For a background to the UN Human Rights Council vote on Sri Lanka, see Maja Daruwala, “Demand accountability from Sri Lanka,” The Indian Express, 9 March 2012, available at <http://www.indianexpress.com/news/demand-accountability-from-sri-lanka/921627/>

V.

Police Reforms in the Maldives: Long Road Ahead

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On 7th February, the first democratically-elected President of the Maldives, Mohamed Nasheed, resigned from his post, paving way for Vice President Waheed to take over as the head of the country. Among several factors behind his resignation, a significant one was the refusal of police officers on the ground to follow his orders while controlling the three-week long protesting crowd. The situation came to a head when Nasheed ordered the army to arrest the top criminal court judge on corruption charges, aggravating a constitutional crisis. Although the Judge himself has a dubious past record, the use of the army to detain him evoked massive protests led by the opposition party. In the end, Nasheed had to resign giving rise to allegations of a military coup. Immediately upon his resignation, his supporters held massive protests where several police officers were caught indulging in vandalism.

Whether it was a military coup or a peaceful transfer of power will be determined by the National Commission of Inquiry formed by the new government to investigate the matter. Its report is scheduled to be released by 31st May. Additionally, the Human Rights Commission of the Maldives and the Police Integrity Commission, an independent external oversight body, are conducting investigations on police behaviour following Nasheed's resignation, the reports of which are likely to be published within next few weeks.

As these bodies look into the exact details of the police role during the protests, the larger question of police reform has once again occupied centre stage. Police reform lay at the heart of the democratic reform agenda of former President Gayoom in 2004. In an attempt to appease the protesting crowd against police excesses, the force was separated from the armed forces and transformed into a civilian institution. Maldives Police Service (MPS) in its new form committed to a community-oriented policing approach, a process that ignited great hopes with the transition into a multi-party democracy in 2008. The new Constitution and the Police Act 2008 provided a good starting point to lay the foundation of democratic policing.

But the developments of the past few months have put a question mark on the pace of reforms. Several questions suggest themselves: have internal guidelines and procedures been laid down by the MPS on various police powers such as arrest, search, summon, use of force, collection of evidence, crowd control and such? Do these guidelines protect and uphold the democratic principles enshrined in the Constitution? Does the training being imparted to the officers reflect democratic standards?

As the ongoing inquiries will throw greater light on some of these issues, one thing though is certain. Public trust in the police, whatever little had been cultivated since the transition in 2004, has taken a massive beating. There is a strong sense that when pushed to the brink, the police exhibited little change in behaviour under the democratic regime. Crucially, these developments

have reinforced their image of being stooges of the government rather than upholder of law and protector of people's rights. Worse, the fact that the Maldives is yet to enact a revised Criminal Procedure Code, the Evidence Act and the Penal Code in line with the Constitution is further confounding the difficulties confronting the police. Without these, it is not hard to imagine the level of uncertainty surrounding rules and procedures among the officers. As the new police leadership takes charge, it is hoped that these are some of the issues that will be accorded top priority within the government.