



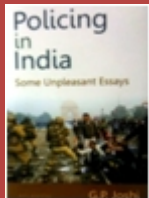
NIPSA
Network for Improved Policing in South Asia

The NIPSA Quarterly

South Asia's Policing Newsletter



[Human Rights Watch: Breaking the Silence - Child Sexual Abuse in India and the lack of Government response](#)



[A new book of essays and articles by G.P. Joshi examining the major ills plaguing policing in India.](#)

April 2013

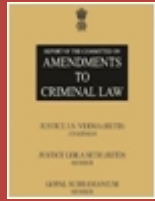
Dear Friends!

Welcome to the Network for Improved Policing in South Asia E-Newsletter for April 2013! The last quarter has been full of major policing developments throughout South Asia. We'll help to spotlight some of these issues in this edition of the NIPSA Quarterly.

Articles and Analysis

[Vikash Narain Raj](#), Ex-Director of the National Police Academy, analyses the recommendations of the Verma Committee after the December 2012 gang rape in Delhi and questions whether they are truly useful in confronting the issue of violence against women in India.

[Abdulla Phairoosch](#), Assistant Commissioner of Maldives Police Service, systematically analyses the Maldives Police Custodial System, including its technical reach and the ways the Maldives Police Service is trying to enhance service delivery through increased transparency and accountability.



[The Justice Verma Report – Amendments to the Criminal Law. Systemic recommendations on Indian police reform.](#)

The next NIPSA Quarterly will be out in July. To contribute, please send in your articles or reports to : nipsasecretariat@nipsa.in by 15 June, 2013.

[Fawzia Khondker](#) of Bangladesh’s Police Reforms Programme writes about the need for promoting gender sensitive policing in Bangladesh, specifically by increasing the participation of women in the Bangladeshi police, increasing gender awareness and improving victim support services.

[Rashid Kazmi](#) of Pakistan’s Rozan analyses the issue of Separation of Powers and Police Reform and how it is necessary to ensure individual liberties, promotion of the rule of law, and an increase in transparency and accountability.

[The Maldivian Democracy Network](#) writes on the challenging road ahead for the fledgling Maldives Police Service, and specifically how all State institutions must remain citizen-centered through legislation in order to effectuate an effective democratic transition.

[NIPSA Members News and Activities](#)

Jammu and Kashmir government is set to change its police law. A [draft bill](#) was made available on the government’s website on 15 February 2013 but only 2 weeks were allowed for public comments. CHRI together with local civil society raised serious objections to many of its [draconian provisions](#) and [failure to comply](#) with Supreme Court [directives on police reform](#). A strong public demand for an inclusive and consultative reform process ensued, resulting finally in the government extending the consultation period by a month. The feedback deadline has further been extended till 30 April. In addition, the state government has constituted a [5-member committee](#) to hold wider consultations with civil society on the police bill. [Below is an article](#) by **CHRI’s Navaz Kotwal and Kashmir-based RTI and Social Activist Dr. Raja Muzaffar Bhat** on this pressing issue.

[Individualland Pakistan \(IL-Pakistan\)](#) writes a note on the issue of gender based violence or violence against women in Pakistan, as well as a highly informative explanation of their initiative titled, “Women Police as Change Agents and Gender Based Police Reforms”, which highlights and recognizes the work of women police personnel as well as focusing on the challenges they face.

[CHRI held a National Conference](#) on March 9-10 in New Delhi, India to address and actively discuss the need for an improved policing service in India, particularly after the public demand for reform after the 2012 Delhi gang rape that shocked the world. Entitled *Police Practice, Prejudice, and Performance: Making the Change*, the conference was an open and honest exploration of policing

problems as well as an opportunity to create workable solutions, all organised under a thematic structure to keep the dialogue clear, novel and effective. Included below is a previous update on the conference. Thank you to all the contributors in this edition of NIPSA. Once again, we call upon all of you to take steps to expand our network and get involved. We continue to look for articles and contributions for our following E-newsletters.

Please feel free to contact us at vivek@humanrightsinitiative.org for any further questions, comments, or suggestions.

We look forward to the next edition of The NIPSA Quarterly!

Articles and Analysis

A Remedy to Verma Committee on Rape Episode Delhi So Much of Steam and So Little Substance

Written by:

Vikash Narain Rai

Mr. Vikash Narain Rai, *Ex-Director, SVP of the National Police Academy, Hyderabad*, has written that the [Verma Committee's recommendations](#) to the government after the Delhi gang rape of December 2012 will not substantially impact sexual crimes in India. He argues that a mere augmentation of law and order measures and ensuring harsher penalties will not give any meaningful breakthrough in the fight to increase safety of women. Instead a two pronged strategy is suggested, laying emphasis on empowerment of female gender through comprehensive laws in tandem with gender sensitization of the state functionaries at all levels through regular structured interventions. Mr. Rai's position is that:

- *Crimes against sex* draw their sustenance from the *crime against gender*. Hence, along with the sexual crimes, the gender crimes need to be identified as real menace to be urgently

brought on the statute book.

- A constitutionally conditioned mindset of the Government functionary would play as critical a role as his/her authority, efficiency and accountability in winning the confidence of the victim and support of the society. The paradigm change is achievable through appropriate personal/social/ethical/legal conditioning of those involved in the Law & Order and the other justice delivery protocol.

Mr. Rai argues that free registration of cases, speedier trial and stringent punishment are not such significant reforms that will lead to the kind of change India needs. He writes: “Because free registration will help only when the offences are reported without any inhibition to police, speedier trial will play its role only when the reported cases stand trial in courts, and stringent punishment will be felt only when the trials are supported by evidence to end up in convictions. Sadly, the Verma Committee's recommended measures do not alter the prevailing logjam to make any favourable dent in the above equations.” Click [here](#) to read Mr. Rai’s full critique.

[^Top](#)

Maldives Police Custodial System

Written by:

Abdulla Phairoosch, Assistant Commissioner of Police, Maldives

Maldives Police Service was created in 01 September 2004. The policing function was previously attended by a small unit within the National Security Service (now renamed as Maldives National Defence Force) under the reporting framework of Ministry of Defence and National Security. The change was due to the increased pressure on the government for strengthening democracy and enhancing human rights protection. The ‘democracy movement’ was at its helm and consequently there were frequent protests, often turning to riots, in an environment where close inspection by many local non-governmental bodies and international societies were predominant and every action of police were subjected to thorough scrutiny. Hence, maintaining law and order was extremely difficult as offenders would try to disguise their arrests behind the mask of ‘democracy

movement' and everything they said would be taken on face value.

Given the prevailing situation and the need to earn respect as a modern policing agency focused on democratic values and good governance, Maldives Police Service looked into ways to enhance service delivery, increase transparency and accountability. One of the important areas of concern for the police leadership was the offender or arrestee management. As a result, the department responsible for detainee management was given special focus, and new facilities were obtained for effective administration. "AtholhuVehi" complex, previously used by the Ministry of Atolls Development was transferred to police and it was converted to a police holding facility, with the Male' Custodial, on 08 April 2006. New structures, required for investigation, detainee hold-up and management were built within the compound. On 01 September 2006, Detention Department was rebranded as Police Custodial Department. Immediately, computerization of detainee related information commenced along with upgrading of crime register.

In 2007, police arrestee records were transferred to Oracle platform from the aged FoxPro. Furthermore, a new module was incorporated within the digital crime register to generate forms on arrestee information, and change of holding facility, with provisions for printing arrestees' photographs. Police Custodial System (PCS) software was developed soon after. A dedicated computerized center for collecting arrestee information whilst making arrest, was established by the name of "Arrest Station" at Male' Custodial. Arrest Station was inaugurated on 29 March 2007 (74th Police Day).

The Police Custodial System (PCS) software helps with the management of arrestees through the unique 6 modules in-house built by staff of Maldives Police Service. The 6 modules in it are:

1. Arrest Station Module (initial entry of arrestee information);
2. Investigation Officer Module (records all activities and events related to detainee through the legal process);
3. In-charge Module (management of detainees, electronic records and reporting);
4. Committee Module (During then the investigation officer has to present the case before a committee to make a decision on the case; whether forwarding for prosecution, or follow further leads, and find amicable solution, etc. The Committee would be able to scrutinize the case documents through nodal computer, and they should record their decisions on it so that the information would be available to supervisors);

5. FSD Module (This module would be available only for the officers working at Forensic Support Department to feed the data on crime scene and evidences collected for the case.)

Since then, the PCS has undergone numerous upgrading based on various requirements. It is currently designed to accommodate and store information collected in the entire processing of an arrestee. In order to reduce errors and collect correct information, information provided by the detainees would be compared with the National Registration Authority's database before registering. When a registration is made, there would be options to fill-in the officers' names who searched/frisked the detainee in the Body Search Form. Any items found in the possession of the detainee would have to be recorded in this form. Depending on the nature of the crime suspected for, a urine sample would be taken. The PCS allows the officers to record the information on urine (date and time give, refused, etc.). In case DNA sample was taken, a record of which has to be made in the PCS software. Whilst making an arrest (at the Arrest Station) photographs of the detainee have to be taken and the same can be scanned into the software too. The officer at the Arrest Station would be required to provide the detainee with a system generated copy with details of the items the detainee had with him. The officers shall also note the items issued (such as pillow, items for personal hygiene) to the detainee on the system. It is essential to manage the supplies and stock.

Though personal details of the detainee will be entered into the system by the arresting officer, an investigation officer from the department responsible for investigating the crime would have to confirm. If the process fails, the officer at the Custodial Unit shall release the detainee not later than 24 hours. In cases where arrest has to be extended (more than 24 hours), the investigation officer shall feed relevant documents, including court orders to the system, else it will be colour coded, enabling the supervisors to make a decision. For every detainee a unique file number would be generated by the PCS, which would be used in all identification and record keeping purposes.

Through the PCS, the custodial officers would be able to record the visitors for detainees. Duration of meetings, names of the visitors, their address, and other relevant information would be recorded. In the same manner, when an arrestee requests for his legal representation, the defence lawyers' information would be stored in the system. The system also has provision for storing the medical records of detainees. The officers at the custodial units are expected to feed in information regarding damages to the properties as well as bodily harms self-inflicted or otherwise. In cases where detainees had injuries when brought to the custodial unit, all information regarding the

injury has to be recorded, and if need be, the recording officer shall notify supervisors.

Every detainee would have a cell log created as soon as his/her arrest is confirmed. The cell log will contain all the movements of the detainee from detention till release. The law demands every detainee be presented before a court to make a decision on the arrest. The investigation officers will have to send their request through PCJ for him to be taken to the court. In cases where DNA comparison is required a swab sample taken from the detainee shall be submitted to the DNA Laboratory with a DNA submission card. This card can be accessed from the detainee's profile. A list of all the detainees whose DNA sample had been taken can be viewed from the home page of the PCS. When a place of confinement gets changed (for instance house-arrest), the investigation officer has make this request through the PCJ for it to take effect. Other than these, there are search and view features for most of the functions.

[^Top](#)

Gender Sensitive Policing

Programme of Police Reform

Written by:

Fawzia Khondker

Police Reform Programme

The Police Reform Programme (PRP) Of Bangladesh is a long-term and comprehensive capacity building initiative to improve human security in Bangladesh. PRP supports the transition from a colonial style police force to democratic policing by strengthening the Bangladesh Police's ability to contribute to a safer and more secure environment based on respect for the rule of law, human rights and equitable access to justice. The Programme has a specific focus on the poor and disadvantaged, women and children. To achieve the above, the project is implemented in line with six main outcomes with relevant key outputs. Outcome area no 5, Promoting Gender Sensitive Policing, is working towards "Promoting the rights of women and children to be free of fear through improved representation at all levels and the provision of equitable and sensitive policing and victim support services." To achieve this,

three key outputs have been identified. These include:

1. Increased Participation of women in Bangladesh Police at all ranks
2. Increased gender awareness
3. Improved victim support services

1. Increase participation of women in Bangladesh Police

It is widely acknowledged that women are under-represented in law enforcement in Bangladesh. Increased representation of women in the Bangladesh Police is critical to sustain reform. For example, the retention and effective deployment of women police is linked to the sustainability of the crime prevention and community policing outcomes, as more female investigating officers will likely encourage more women to assist the police with investigations and prosecutions. All support to this outcome will be consistent with Bangladesh Police policies and regulations.

The PRP follow-up survey demonstrated overwhelming public support (90%) for women to work in the police service. Over 40% of the respondents felt women should comprise half of the police force. PRP will support the Bangladesh Police to get closer to the LDC average of around 8% women's representation in the police service.

PRP has developed Women in Policing Strategy for BP to actively increase the number of women police and use them more effectively and support an action plan to ensure the progressive deployment of women police officers around the country. This includes a comprehensive plan to actively recruit women at all levels, for instance through advocacy programmes, awareness creation in the community & universities, or advertisement published in the newspapers so that more women are motivated to take on this challenging career. Serving in the police has never been a traditional career choice for a woman in our society. As such, PRP has undertaken special initiatives in different divisions of the country to attract women from different socio-economic groups to join the police.

PRP has also focused on increasing the quality and quantity of female leadership within the police. It has taken on different initiatives, one of which was the formation of a network among the women police. In 2008, Bangladesh Police Women's Network (BPWN) commenced its activities.

This network is the first of its kind in South Asia.

BPWN became a member of the International Association of Women Police (IAWP) in 2009. A senior women police became the coordinator of region 15 of the IAWP. Region 15 consists of 11 South East Asian countries. One of the important agenda items of the IAWP was to set a specific goal for each region. Region 15 committed itself to set up more Women Police Network in the region. Next year, the board meeting of IAWP will be held along with a regional conference in Bangladesh to share and learn from the experiences of other regional countries on police woman's performance especially in South Asian Countries.

It is important to mention that involvement of police women in the UN mission has created an optimistic image of police women of Bangladesh. It has shown that police women can carry out such missions under difficult circumstances. In 2010 an all women police battalion was sent to Haiti. It shows the leadership role of police women has amplified. Police women have been challenging the stereotypes about women's ability and demonstrated that they can deal with crimes and other tasks. PRP established a day care centre in Rajarbag Police line. It will help the police women for more concentration in their day to day work.

BPWN regularly meets with women police to identify their needs and to build the capacity of the women police so that they can provide women friendly services to the community. BPWN is creating awareness among the women police about the roles and responsibilities of women police. BPWN has also taken special measures to create professionalism of women police. They have their own plan to promote gender within BP.

2. Increasing Gender Sensitivity:

Creating gender sensitivity among the police is a challenging task. Gender is a social and cultural construction; therefore it will take time to make all the police personnel gender sensitive. Both long term and short term activities/programmes are needed to motivate and persuade them.

Regular trainings on gender were imparted to the police; a gender module was developed & selected personnel (98) were provided with ToTs. Currently they are working as master trainers. A gender guideline was published for the police stations and regular gender orientations are provided

to the police. Apart from these, other awareness creation programmes were also undertaken. These are ongoing activities of PRP and indicate increasing awareness within BP. For instance, the PRP has been assisting the BP with training of women police for specialist roles and positions of leadership. Support was provided by the PRP to assist the BP members to deliver training on how to work effectively with women (whether as colleagues or clients) in a non discriminatory and equitable way.

To sustain the process gender sensitivity perspectives will be included in the main curriculum of Bangladesh Police. It is one of the main agendas for the PRP.

3. Victim Support Centre: A Joint Initiative of Bangladesh Police and 10 NGOs

Every day women and children in Bangladesh become victims of vicious crimes including domestic violence, trafficking, acid burn, sexual harassment and rape. These are despicable crimes with traumatic physical, psychological, and social consequences. In addition to the inevitable psychological trauma, survivors face social isolation and ostracism that further damages their self-esteem and seriously undermines their personal and professional futures. Against this backdrop, the Bangladesh Police with the support of the Police Reform Programme has set up Bangladesh's first-ever Victim Support Centre (VSC) at Tejgaon Thana premises in 2009. Bangladesh Police has also signed Memorandums of Agreement (MoA) with the 10 NGOs for ensuring integrated services to the women and children. The establishment of a Victim Support Centre within a policing environment and staffed by trained female police officers is a groundbreaking strategy that will encourage victims to report crime to police in a safe and secure environment while accessing professional services.

The primary role of victim support is to comfort and assist victims in the aftermath of the crimes which they have suffered, to advise them of the remedial processes and to guide them through the ensuing prosecution of the person accused of the crime. In order to provide appropriate, professional and timely assistance to victims of crime, all staff at the VSC have been provided with specialized training to enhance their capacity to deal with victims and to facilitate and coordinate a support network, engaging health care professionals, social workers, lawyers and personnel from NGOs. The NGOs will work in full co-operation with the VSC and be available to provide assistance and support on a twenty four hour basis. The VSC is operated by the 24 female police officers and NGO representatives jointly.

Services provided by the Victim Support Centre:

A wide-range of services are provided to victims including emergency shelter and immediate support, health care, legal advice and support, psychological advice and counselling, training and capacity building for rehabilitation of the victim and support for re-integration into family and community. The Victim Support Centre model is expanding in 6 divisions and one in Ragamati. Partnership with NGOs and other Government agencies will be strengthened to build victim support networks and referral mechanisms to streamline access to justice, social and medical support.

Sustainability of the programme

Bangladesh Police Women's Network was formed in 2008. Now more focus will be given to the sustainably issues of the BPWN. They are in a process to raise funds for their sustainability. A Gender Focal Person will be selected from each district, central and divisional gender coordination committees will be formed so that the gender committees will take responsibilities to implement the gender programme. BPWN will provide advisory support to the GFPs to mainstreaming gender programme. Gender Policy has developed which will ensure gender friendly policies for mainstreaming gender. Bangladesh Police has already taken over the responsibilities of VSC of Tajgaon, including financial cost of VSC. BP committed to take over the responsibilities of other 6 VSCs and linked the recurrent costs in the main budget of BP. It shows that BP is in the process to sustain the gender initiatives taken by PRP.

[^Top](#)

Separation of Powers & Police Reforms in Pakistan

Written by:

Rashid Kazmi Advocate
Rozaan

Edited by:

Sayyed Safi Peerzada
Rozaan

Pakistan Forum on Democratic Police (PFDP) has conducted a session on 'Separation of Powers & Police Reforms in Pakistan' at Rozaan for the members of the CSOs and PFDP working on police reforms to discuss and understand the trajectory of the phenomenon of police reforms. Mr. Danyal Aziz Ex-MNA/Formal Chairperson National Reconstruction Bureau was the speaker in this session. The talk was followed by a question-answer session. The main areas of the discussion were the history/background of police reforms process, separation of powers among institutions and the way forward to achieve the goal of having a citizen-centric and democratic police institution in Pakistan. Later Rabta, Rozaan's Police Program team further researched around the topic and documented it for sharing and learning purposes.

Pakistan, with historical legacies and interventions of dictatorships and autocracy, has slowly evolved towards democracy. It is inevitable for a democratic society to establish the subordination of the military and police institutions to the civil democratic authority. It is also very much pertinent that each institute of the State should work in its own legitimate sphere. The subordination and the separation of power in fact amplify to: develop and protect individual freedoms and civil liberties by covering citizen safety and security, promote the rule of law, enable the direct and representative democratic institutions, establish a justice system, create internal and external accountability, ensure institutional transparency, fostering legitimacy in institutions and ultimately forge a society which bears true aspirations of democracy, cherish with values of equality, justice, peace and prosperity.

Historical Evolution of Independence of the State Institutions

It is important to understand that police institutions cannot perform in isolation. Rather it has to closely coordinate with other institutions of the State i.e. Executive/Administration and Judiciary. In colonial era there was concentration of powers of Judiciary, Executive and Administration in the hands of individuals and officers. This system was known as Officer Kind Model where the district Administration was headed by the Deputy Commissioner. Under this system, the responsibility for policing is vested in the Commissioner of Police.¹

After Independence, with gradual Constitutional developments the Law Reforms Ordinance (LRO) had promulgated in 1972. LRO is the cradle of Independence of the Judiciary, where the Judiciary is parted from the Executive and police became more autonomous. The essence of article 175(3) of the Constitution of Pakistan is derived from the LRO. The separation of powers among institutions of the State has enunciated succinctly in the constitution which keeps role institutions more distinct in order to prevent abuse of power and enhanced accountability mechanism. The role of Judiciary is a key factor to reform a country and particularly transform the police force into a police service, but surprisingly the recent acts of the democratic government are undermining judicial independence, who ironically claimed themselves as champions of the independence of the Judiciary.

Article 175(3) of the Pakistan Constitution argues that “the Judiciary shall be separated progressively from the Executive from the commencing day”. A specific and separate role was visualized and provided for each of these important organs of the State. The landmark case, Al-Jehad Trust vs. Federation² of Pakistan, explains the doctrine of separation of powers in the following words: “*the Legislature has to legislate, the Executive has to execute laws and the Judiciary has to interpret the Constitution and laws.*” The same verdict and comment was given by Mr. Ajmal Mian, Chief Justice of the Sindh High Court and in the case of Sharaf Faridi vs. Federation.³ Later the Supreme Court also upheld the same decision on the case⁴ and highlighted the need for the financial autonomy of the Judiciary as an important element in its meaningful independence. In this case the Supreme Court reinforced the concept of separation of powers among pillars of the State (Administration, Executive and Judiciary) which make the Judiciary autonomous.⁵

It is self-evident from the history that dictators always put effort towards devolution and decentralization of the power and introduce local government systems to break the power structure formed by democratic governments for their vested instrument. The democratic governments did the opposite paradoxically and never persuaded to transfer the powers of the Executive at the local level in order to possess monarchic power with them at central/provincial level. Being military ruler and dictator, Pervez Musharaf again upheld the agenda of decentralization and enacted the Police Order 2002 and Local Government Ordinance 2001 during his regime.

Unfortunately a previous democratic government in 2011 reinstated the Police Act 1861 and

provincial governments reverted to the commissionerate system of the colonial era again by amending substantively the Police Order 2002, Criminal Procedure Code, Local Government Ordinance 2001 and Land Revenue Act 1967. The Bureaucracy has always been espoused as an antagonistic actor for local government systems which does not allow them to exercise and enjoy the powers of Judiciary and Executive simultaneously. Rather they at all times wanted to encroach upon the powers of the subordinate Judiciary and gain control over the police, thus supporting the dynastic politics and keeping people away from the process of decision-making.

It was good that the Khyber Pakhtunkhwa Government accepted, by notifying district public safety commissions and police complaint commissions, that the executive magistracy could not be reintroduced because it was a violation of Article 175 (3) of the Constitution which talks about separation of power.

Incumbent Legal Framework of Police Laws in the Provinces

Province	Law Governing Police
Balochistan	Police Act 2011 ⁶
Khyber Pakhtunkhwa	Police Order 2002 ⁷
Punjab	
Sindh	Police Act 1861

According to Mr. Afzal Ali Shigri, a former Inspector General of Police, “Provincial Assembly can amend Police Order 2002 to meet any local and special requirements with the approval of the Prime Minister. No Provincial Assembly can change the substantive provisions of the Police Order 2002, as enshrined in Article 143 of the Constitution.”⁸

Petitions filed against the substantive changes and amendments in Police Order 2002, Criminal Procedure Code, Local Government Ordinance 2001 and Land Revenue Act 1967 in 2011, were rejected by Sindh High Court. Hence, held the amendments of Sindh Assembly in Police, Revenue and Local Governments Laws are legal and constitutional. Now the case is subjudice before Supreme Court of Pakistan in an appeal. In Balochistan according to the judgment by the Baluchistan High Court the amendments in Criminal Procedure Code, declared as illegal,

unconstitutional and against independence of Judiciary, enacted in 2010 by the Balochistan assembly for revival of executive magistracy. The powers delegated to conduct trial by the executive magistrates were rendered of no legal standing. Now both cases impugned amendments are in litigation before the Supreme Court of Pakistan.

Linchpin of Local government, revenue department and police organization

Without an independent Judiciary and lawful Executive we cannot have an operationally responsible, politically neutral and transparent police institution in the country. Moreover the public oversight mechanisms are the integral part of the democratic policing which then ensures the external accountability and cooperation of community with police. This accountability and cooperation between police and community can only be attained through the nexus of independent Judiciary, democratic local bodies and the police by keeping them distinct in their own legitimate, constitutional and democratic spheres and ultimately abstaining to nurture a democratic society.

Way forward for the Police Reforms in Pakistan

- More learning forums for the orientation of CSO groups should be conducted to build their capacities on the issue and generate synergies
- A concise, cohesive and comprehensive police reforms road map should be documented after having more meetings with experts on police reforms and PFDP representatives
- There could be a steering committee to lead the agenda of police reforms
- Follow up the appeals pending in Supreme Court about impugned amendments to the Police, Revenue, Criminal Procedure and Local Government Laws
- It is high time for implementation of the Law Reforms Ordinance 1972 as it stood in 1972 and only then could it provide the requisite separation of the Judiciary from the Executive under the Constitution
- CSOs should support and use the Supreme Court of Pakistan's verdict dated April 16, 2010 on District Public Safety Commissions to ensure police accountability
- Guidelines given by the Supreme Court in Karachi mass killing cases should also be used to depoliticize the police institution
- Meetings with like-minded legislators are a must, as ultimately they are the ones to enact/amend and implement laws

- Awareness-raising through different means can also be used to create alternative discourse on police reforms as a priority public policy agenda i.e. through brochures, newspapers supplements, seminars, dialogues, walks/protests and other ways.

¹ **Muhammad Shoaib Suddle: Reforming Pakistan Police: An Overview by Muhammad Shoaib Suddle**

² **PLD 1996 Supreme Court 324**

³ **Government of Sindh vs. Sharaf Faridi, PLD 1994 Supreme Court 105, at 107.**

⁴ **PLD 1996 Supreme Court 324**

⁵ **Parvez and Hassan: Environmental Protection, Rule of Law and the Judicial Crisis in Pakistan Lahore Pakistan 2007**

⁶ **This is actually the Police Order 1861 with a new name**

⁷ **The Police Order 2002 was amended in 2004**

⁸ **Ehsan Sadiq: Quest for Democratic Policing: Politics of Police Reforms in Pakistan 2013**

[^Top](#)

Police Reform in the Maldives: An Accountability Dilemma

Written by:

Maldivian Democracy Network

Over the last few years the Maldivian Democracy Network (MDN) has been commenting on and scrutinizing bills submitted to the People's Majlis that are intrinsically and directly connected to the lives of ordinary citizens and their basic rights and freedoms. MDN studies such legislation from a citizen's rights perspective, with a strong emphasis on assessing the extent to which State accountability to citizens is reflected in them. As the Maldives embarks on the challenging road to

citizen-centered democratic transition, it is an absolute requirement that all State institutions are designed in legislation to prioritise and serve the citizen and the public interest.

The Maldives Police Service (MPS) is a fledgling institution which was created in 2008 with a legal mandate and a law governing its functions. The policing function had historically been carried out in the Maldives by the military under the name of the National Security Services (NSS). It was only in 2004 that efforts got under way to separate the policing function from the military and to create a separate institution with a specific mandate to deliver policing services. Democratisation of the policing function is therefore very much a work in progress.

In the democratic setting envisaged by the Constitution of the Maldives of 2008, the MPS must be an institution that is accountable to citizens. Any law that governs the institution is expected to comply with the Constitution of the Maldives and notably, must not infringe upon the basic rights and freedoms of citizens. Further, such legislation must support the overall goal of establishing a police service which helps create an enabling environment which will, in turn, help create a democratic society that protects and serves its citizens. It goes without saying that the functions of the police service must be designed in legislation to address the needs and issues of law enforcement that exists in the country. Such legislation must give confidence to citizens that by both intent and design, it aims to serve the community effectively, efficiently, equitably and without any political bias or influence, for the benefit of all citizens.

It is therefore regrettable that the proposed Police Services Bill 2012 (PSB 2012), currently submitted to the Maldives parliament (the People's Majlis) by Kulhudhuffushi South independent MP Mohamed Nasheed, falls short of the above noted democratic aspirations of citizens. It is indeed curious that the intention of the Bill has been described as an effort to “insulate the Maldives Police Service from politics and to make it a professional service”.⁹

Having scrutinised the PSB 2012, with insights provided by technical experts in the legal and law enforcement sectors, MDN notes the following key points with concern in the newly drafted legislation. This list is by no means exhaustive.

The structural design of the police institution proposed by the Bill has the effect of marginalising and in practice, removing oversight of the police service by the citizen elected Executive and

independent oversight institutions. The justification for this is considered to be an attempt to ensure "operational independence" of the police service from political influence. However, such a justification cannot stand up to democratic principles and standards which require all State institutions to be accountable to elected public officials. Democratic standards do not accommodate the net result of "complete autonomy" of the police service, supported by an argument for "operational independence".

The currently existing independent oversight body for the police service, the Police Integrity Commission (PIC), created under the Police Act 2008 (Law No. 05/2008) to oversee and investigate complaints about police disciplinary and misconduct issues is unaccounted for in the proposed Bill. Should this legislation take effect prior to a separate PIC legislation, it would create an accountability vacuum of the police service. The proposed Bill does not address this serious consequential negative effect. Further, it does not contain nor seeks any interim measures to fill such a vacuum. This is a deeply alarming issue evident in the draft Bill.

MDN is also greatly concerned about the proposed appointment process of the Commissioner of Police (CP) and the Deputy Commissioner of Police (DCP) in the Bill. That the nominees for these posts are to be voted for by the Executive Services within the MPS, which is appointed by the sitting CP and which includes the sitting DCP, gives rise to a possible conflict of interest and undue influence. Moreover, it is unacceptable that an internal disciplinary board (the Professional Standards Command) is mandated with reporting to the Minister on whether or not the nominee(s) is suitable for the post. This is especially problematic, given that the independent body that is also mandated with making a similar report to the Minister (the PIC) is under threat of dissolution.

The power of appointment and removal of the CP and the DCP is placed on the approval of thirteen MPS Executive Service officers through a secret ballot. The officers are themselves appointed by the CP, creating an environment where the oversight Minister and the Executive is placed under the mercy of these officers. In this context, the Minister's hands will be tied even where the CP fails to or indeed chooses to obstruct the effective implementation of government policy adopted by the elected Executive. Furthermore, this arrangement is likely to make the police institution more vulnerable to corrupt practices. Most disturbingly, this process institutionalises and facilitates within the legislation the potential for a police mutiny against the elected Executive.

MDN further observes with similar disquiet that some of the powers given to the police under the

Bill infringe certain fundamental rights and freedoms enshrined in Chapter 2 of the Maldivian Constitution. For instance, the Bill provides police officers with the power to confiscate private property from persons in public places without a warrant if they believe that such property may be used as evidence of a crime. The Bill further authorises police officers who have a warrant to search private property to search any person who is on that property and whom the police believes to hold evidence of a crime on his/her person, without further authorisation from the court. These provisions are in complete contradiction with the Constitutional provisions ensuring the inviolability of private property, respect for privacy and prohibition of search and seizure without reasonable cause. This effectively paves the way for the police to “fish” for evidence and information with impunity.

It is further notable that while the draft Bill lists police recruits and police staff as members of the police service with the proviso that they are not police officers, it fails to elaborate the types of duties that may be assigned to these two sets of police service members. The draft Bill further fails to stipulate the ways in which such personnel may be held accountable for how they carry out their professional duties as public service officers. MDN considers such ambiguity to be detrimental to ensuring accountability of the MPS, leading to the erosion of public trust and confidence in the institution.

MDN’s continuing study of the draft legislation reveals that the proposed centralised structure of the police service in the Bill lacks the necessary considerations to serve the dispersed communities in the geographical context of the Maldives. Expert consultations suggest that the concentration of administrative powers in a highly centralised system leads to budgetary and financial inefficiencies in the allocation of limited resources and personnel, leading to greatly reduced quality of services, especially in rural areas.

As noted earlier, the points observed here are a few key concerns identified by MDN on scrutinising the proposed police Bill currently in the National Security Committee of the Majlis. It is essential that the representatives of the People’s Majlis give due regard to the contents of this draft legislation which seeks to reconfigure the MPS drastically. Members of the Majlis are urged to seek the necessary public consultations and collaboration to ensure due diligence to constituents, the public interest, social stability and security in the Maldives.

⁹ *Plenary Debate held on the Maldives Police Services Bill 2012*, The People’s Majlis, 01 November 2012,

NIPSA MEMBERS NEWS AND ACTIVITIES

A Police That We Want

Hold public consultation before passing new Police law

Written by:

Navaz Kotwal, CHRI

Dr Raja Muzaffar Bhat, RTI/Social Activist

A new Police Act is on its way to be enforced in J&K state. A Draft of the law has been prepared and has been made public and uploaded on the State Home Departments website (www.jkhome.nic.in). The Government has sought public comments on this as the activists demanded so from the Govt since last couple of years. Making the draft public is welcome considering the state has spent the last seven years in resisting and delaying the reforms proposed by the Supreme court in the police reforms case (Praksah Singh v/s Union of India) . But it would be highly appreciating if a public consultation with eminent lawyers, media personalities, social and human rights activists is held prior to the introduction of the new bill in the state legislature in the upcoming session of the assembly.

The Supreme Court in 2006 paved the way for better policing. It ordered states to put in place six precise changes if obeyed in letter and spirit it would have gone a long way to putting policing houses in order. The Court directions were intended to cure widespread political interference in policing, the complete lack of accountability and the low levels of professionalism.

Throughout, J&K Government resisted any moves at reform. It asked the Court to grant it exemption from setting up a Security Commission or Complaints Authority or from separating its law and order from its investigation wing due to the particular security situation in the State. The apex Court entertained none of this. After seven years of contempt the government has finally

agreed to obey and move toward a brand new police act for the state. The Draft law has been put up on the Home Department website but without any publicity or attention that such a law deserves. Comments and feedback on the Draft is invited but within a ridiculous short span of just 15days.

Brief Analysis of the draft act:

The proposed new law does not follow the guidelines provided by the supreme court. The Court in its judgement ordered governments to set up State Security Commissions. These Commissions were to be bi-partisan bodies chaired by the Chief Minister , the leader of opposition as a member and objectively selected independent members. It would lay down police policy and be a means by which the performance of the police is kept continuously under review with a view of assuring that year on year the police improves its performance. As the Commission would be a policy setting body for an essential public service it is most important that it be bipartisan and its composition be broad based. It is only the shape and composition of the Commission that would ensure the impartial functioning of the police. The present composition of the Commission as laid out in the Draft Act fails to comply with the model as laid down by the apex Court. It fails to include the leader of opposition and it fails to lay down a selection process for independent members. Such a body is designed to fail.

The Draft also fails to give a two year fixed tenure to the DGP and lays down no selection process for his appointment. The Police Complaints Authority which was intended to be an easy forum for people to complain about the police atrocities etc sans the complexities of a Court has been watered down. It requires a complainant to approach the Authority only on an affidavit. Finally no complaint will be entertained by the Authority if it is made six months after the incident. Such provisions make nonsense of the scheme. It is difficult to escape the conclusion that these infirmities are deliberate and put in the way to create an ineffective body that is destined to fail even before its launch.

Finally the Draft also gives powers to the police to appoint special police officers (SPO's) and Members of Village Defence Committees (VDC's) from amongst the public without laying down any circumstances under which these appointments will be made. Alarminglly it allows the creation of Special Security Zones as specialized, privileged enclaves carved out of the state's geography where the police would have unchecked powers.

There is no denying that the history of J&K is fraught with divisions. This has made policing an extremely sensitive issue. There is a chasm between the police that the people have and the police that they want. The police are disadvantaged by lack of public confidence and being ill equipped to perform their functions satisfactorily. The current resentment policing practices creates is a significant factor in aggravating conflict.

The transition to new policing can and must be a moment to bridge the gap between people and the police. This can be done if the public feel they have an effective means by which to indicate what they want from future policing. Wide public consensus on what future policing will look like will assuage a great deal of present anger and help in changing the feeling that the police are only agents of state repression to an acknowledgement that the police are part of the community they serve.

Important Suggestions:

- a. To achieve useful and effective future policing arrangements what is needed is wide, inclusive and patient consultation with the community at large before any changes to the law are attempted. This will demonstrate the government's unequivocal commitment to change.
- b. All the Police Stations must be brought under the direct control of District Magistrates (DC's) and DC should have the power to inspect the police station and even take action against the erring police officers. By keeping police aloof from the civil administration creates more confusion and thus doesn't help people friendly policing.
- c. The character certificate has to be issued by DC after verification from district SP but in the draft bill the powers of issuing character certificate lies with SP of the district.
- d. The draft bill has a concept of creating posts of Police Commissioners for Srinagar and Jammu and this won't suit to the present security situation in state. Once Commissioners are appointed that means we are giving Commissioners of Police who mostly will be of the rank of IG or DIG the powers of a District Magistrate. The Commissioners will enforce section 144, slapping PSA etc of their own and this will further widen the gap between public and ;police . We have a peculiar security situation in state and such things can work in rest of India not Kashmir. We have to keep civil administration in a loop during policing.

The introduction of a new police law should symbolize the introduction of a new vision and style of

policing. To allow only a 15 day time period for comments on the law is ill thought. It will only result in a bad law coming out of a bad process. Avoiding wide scale public consultation is not acceptable any more. Laws, especially those like police laws that are so closely intermingled with the everyday life of ordinary people must be the product of wide discussions done in public and inclusive of every segment. Until people are engaged in its governance and policy making the policing cannot be termed democratic. After all doesn't democracy run on public participation? Participation of people in policy making is the essence of participatory democracy.

Navaz Kotwal is the Coordinator of the Police Reforms Programme at Commonwealth Human Rights Initiative (CHRI)

Dr Raja Muzaffar Bhat is Kashmir based RTI & Social Activist

[^Top](#)

Women Police: A Catalyst Of and For Change

Written by:

Individualland

So far the legal system in Pakistan has been found to be incapable of delivering in relation to the ever increasing incidents of gender based violence or violence against women. The indifferent attitude of the police and other legal functionaries towards these crimes, prevent women from approaching the legal system for assistance. In a male dominant and conservative society, as is present in Pakistan; women mostly shy away from reporting crimes such as rape, domestic violence etc., due to social fears and stigma attached to them. Incidents of acid throwing, harassment at workplace and domestic violence are reported regularly from all four corners of the country. However, hundreds of such incidents are not reported because women do not feel comfortable talking to men about their ordeals. In light of the current situation, the presence of a gender responsive police department has become a pressing necessity. Unfortunately, the presence of women within the department has always remained at a minimum, while every effort at reform has been overwhelmed with political and bureaucratic hurdles. Resultantly, the image of police has

remained as an authoritarian force, plagued with corruption and political interference. On the other hand, women have been discouraged from adopting this field as a profession due to societal perception of a working woman in general and the police in particular.

In backdrop of the mentioned condition, Individualland Pakistan (IL-Pakistan) embarked on an initiative titled, "Women Police as Change Agents and Gender Based Police Reforms", which has been an attempt towards highlighting and recognizing the work of women police personnel as well as focusing on the challenges they face. The initiative was implemented at a country wide scale throughout the four provinces, Gilgit-Baltistan and Federal capital of Islamabad. At the time of conception the initiative encompassed only the four major provincial capitals, Gilgit and Islamabad, but as the project progressed, it evolved to a total of eighteen (18) cities. A total of 25 police facilities including fifteen (15) women police stations, five (05) women complaint cells, one (01) women reporting center, three (03) women training facilities and one (01) National Highway and Motorway Police (NH&MP) camp were visited by the team. There were three (03) research publications published namely "Women Police in Pakistan", "Public Perception of Women Police in Pakistan" and "Male Police Perception of Women Police in Pakistan", a visual documentary "Elements of Change" was produced, 10,000 posters were developed and disseminated, campaign was initiated in the print media and four (04) dialogue sessions with police and other citizens were held, during the course of this initiative. In addition, information was acquired on the district wise strength of women police were acquired through written requests sent to the provincial police departments and government functionaries. The challenges identified through the information gathered in our research were highlighted to the stakeholders, both at the public and at the highest possible government and departmental level.

It has been our observation and learning that despite the adverse conditions and societal constraints, women police have been carrying out their duties diligently. There is a huge gap in the human and physical resources especially in the case of women police, while the traditional mindset is a basic hurdle for gender responsive policing. The society in general is unaware of the contributions made by women police towards the department. There is also a confusion regarding the number of female police personnel on the payroll. A difference was evident in the official figures and the figures documented in the field. What has become obvious through our engagement with the police is that the department has to be transformed from an authoritarian force to a service, for catering to the security and well-being of the citizens. It is imperative that women police officers should be authorized to lodge First Information Reports (FIRs) especially at

the women police stations and investigate cases. Harassment and discrimination are two major challenges that are faced by female police personnel. The existing legislations related to harassment with their mandated mechanisms should be implemented within the police. Simultaneously, awareness programs on the subject should be launched for both public and the police department.

Currently, women are not inducted above the minimum assigned quota, while female personnel also face the dilemma of shoulder promotions or enhancement of rank without delegation of authority. There is need to introduce proper and effective recruitment and promotion method, along with a proper stipend and appropriate training for women police officers. A related issue to promotions is the issue of training or the lack of it, which also creates hurdles in job assignments and promotions. Women police through effective training also need to further enhance their ownership and understanding of their role. When we talk about the integration of women police, there are different perspectives, where some support the notion of having separate women police stations and others suggest placing male and female personnel alongside each other. It is recommended that women should not be restricted to separate police stations, but until women police are integrated in mainstream policing, there should be at least one women police station in each city, while number of existing women cells and lockups should be increased.

The implementation of these recommendations and the full integration of women police within the department, presents a daunting task. Even the execution of a single point mentioned here, will constitute as a big step forward. The first step has to be taken by the police department, while the public will have to demand from the legislature and policy circles for the initiation of gender based reforms. Women have to be encouraged to come forward and contribute within this field, while the mindset of the society in general and department in particular also requires considerable reformation. The initiative by IL-Pakistan proved to be a landmark effort, where through a profound engagement, not only the challenges were identified to the stakeholders, but their solutions were also sought from the various sections of the society.

[^Top](#)

Written by:

Devika Prasad

To address and lend support to the widespread public clamour for an improved policing service and increased safety, (particularly for women) since late 2012 in Delhi, the Commonwealth Human Rights Initiative held a national conference on better policing in New Delhi on 9-10 March 2013. Entitled *Police Practice, Prejudice, and Performance: Making the Change*, the conference was designed to facilitate discussion on specific thematic areas by an open and honest exploration of problems as well as workable solutions towards better policing. In light of the need to both accelerate as well as widen the reform process, newer uncharted areas of police reform were chosen as the central themes of the conference.

The participants consisted of serving and retired police officers including women police, civil society representatives, Chairs and members of Police Complaints Authorities, and journalists. Speakers included retired police officers, lawyers, and human rights activists. The conference was marked by truly honest and candid discussions, led particularly by the police officers in attendance. It is hoped that the themes and findings discussed will resonate across South Asia.

Three priority areas were discussed:

1. Illegal practices

This session was focused on a candid discussion of routine police violations which continue on a systemic level (non-registration of First Information Reports, custodial torture, illegal arrest and detention) followed by presenting remedies, the mandated oversight, and the means by which safeguards can be implemented. A key point made was that there needs to be a change in both the police and political mindset to see the police primarily as “peacekeepers” not “crime fighters”. As long as the police remain only crime fighters in their own image, the latitude for violence and brutality will not abate. A resounding comment was that the mandated internal supervision by senior officers can address much of the misconduct, with clear examples provided by retired police chiefs, but the senior leadership has failed to exert its supervisory role. There is also a need to strengthen internal disciplinary processes by revisiting offences and penalties and working to make internal processes transparent.

2. Institutional bias

This was an extremely rich session on the extent of institutional bias prevalent in the police. The session's speakers (which included retired police officers) spoke candidly of the different manifestations of bias which permeate the police – gender, caste, against religious minorities – and the tolerance of these biases. The fact that there is **no** official acknowledgement of institutional bias by the police was voiced. Importantly, the link between *bias and impunity* was brought out by pointing to the police's blatantly communal role in several instances in India's contemporary history and the lack of accountability for acts of both omission and commission by the police. The necessity of fundamental changes in content, methodology and duration of police training was discussed.

3. Planning for performance

The dearth of any basic planning for policing was the focus of this session. At present, there is no systematic planning process, key policing priorities are decided at the whim of politicians, and there is an over-reliance on inaccurate and skewed crime statistics to assess police performance. This leads to faulty and misguided evaluation of police performance and setting of policing priorities. The importance of putting in place objective processes of planning and performance evaluation was highlighted. The liveliest part of this session was a presentation setting out a suggested system for performance evaluation of the **police station** (not the police as a whole), based on objective indicators, for the state of Kerala. The suggested framework rests on positive or negative markings for each indicator. Indicators are diverse and numerous, ranging from number of days given to night patrol and beat duty, to number of homes visited to assess safety needs, to number of missing persons traced, among many others. All complaints of serious misconduct are to receive negative marks. While the design of the framework is not yet complete, it is certainly a good first step for India to initiate police performance evaluation in this way, beginning with the police station.

To end the conference, specific advocacy and follow-up strategies were discussed collectively.

NIPSA Secretariat Address: B-117, 1st Floor, Sarvodaya Enclave, New Delhi - 110017, India
Telephones: +(91)(11) 43180200; Fax: +(91)(11) 26864688
Email: nipsasecretariat@nipsa.in
Website: <http://www.nipsa.in>

Supported by [Friedrich Naumann Stiftung für die Freiheit](#)

Credits

Editor: [Vivek Trivedi](#)

Technical Direction: [Ranjan Kumar Singh](#)



Supported By: Friedrich Naumann
STIFTUNG **FÜR DIE FREIHEIT**