

Decolonization, Fraser Report and Police Reforms in Pakistan

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I- Introduction

The colonial powers used their military might to conquer and occupy the land of the countries that they colonized. Later, through culture, language and law they subjugated the people. In the context of the Sub-Continent, the British established institutional structures through law into the criminal justice system of the colonies that consolidated their control. Now, in the post-Independence phase, since 1947, the countries like Pakistan, India and Bangladesh make efforts to decolonize and demilitarize their police organizations that are central to the criminal justice system. In Pakistan, over two dozen reports have been officially commissioned on the subject of police reforms by different political and administrative dispensations. Most of these reports trace back the problems of police and policing to colonial times. Therefore, before attempting to decolonize the existing police structures, it is apt to understand how, in the first place, the colonization and militarization of police took place. For this, a basic and formative bit is the Fraser Report on Police Administration 1902-03 that documented colonization of police in India. The instant write up will present brief orientation of the Report followed by discussion on the police reforms carried out in Pakistan.

II- The Fraser Report

The Fraser Report was actually an Indian Police Commission (IPC) that was commissioned by the Secretary of State Mr. J. P. Hewett on 9th July, 1902 through a Resolution passed by the Home Department in the Proceedings of the Government of India. The preamble of the IPC stated that its chief task was to look at the administration of police in India. It drew seven specific terms of reference. For brevity, these may be paraphrased and summarized as:

- i. To look at police organization, strength and training from the point of view of 'preservation of peace';
- ii. To examine whether rural community related police (village officials) provided adequate aid to the regular police;
- iii. To study the investigation system and to make recommendations about establishment of organized Criminal Investigation Department, at central or provincial levels;
- iv. To examine statistical returns that served as test for police working;
- v. To examine general supervisory control of Magistracy and specialized control of senior police officers on police investigations;
- vi. To assess how far Railways police and regular police work together;

- vii. To assess how far career of police was attractive for natives to attract ‘the proper stamp of men’ to join police;

The IPC comprised eight members; these included the Chief Commissioner of Central Provinces of India, Mr. A. H. L. Fraser, C.S.I., (Head), the Inspector General of Police, Madras Presidency Mr. H. A. Stuart (Secretary), Justice Candy of the Bombay High Court, Additional Member of the Council of the Governor General Mr. Rameshwara Singh, the Maharaja of Darbangha and the Inspector General of Hyderabad State, Mr. A. C. Hankin. The Report was a detailed document that had twelve chapters. Its first chapter is very important as it outlined detailed history of police organization in India. Against the popular perception that there was no or little police organization in pre-colonial times, it noted that there was an elaborate system of police organization at the time of the Emperor Akbar. It was essentially based on the concept of ‘mutual security’ and had intelligence units as well, and in this sense, it was close to the system introduced by the Anglo-Saxon in England. Interestingly, the Report noted that that pre-colonial system worked well. It stated:

‘The system described above was no doubt well suited to the needs of a simple, homogenous, agricultural community; but however effectual it may have been, it could not support the strain of political disorder...’

The Report recorded that the ‘suited’ system was ‘remedied’ by the British, and ultimately, these British methods ‘failed’. It did not refer, at all, to the famous Nine Points of Policing attributed to Sir Robert Peel (1829) that are considered foundational for modern policing especially in the Common Wealth countries. It did, however, record that in different places in the Sub-Continent, steps were taken to reorganize and reshape the police; some of these steps were:

a. Madras Regulation Xi Of 1816

The Report showed that Madras Regulation XI was passed by the Court of Directors of the East India Company to abolish the ‘daroga’ system and to revive the local system. Narrating the sequences of events, the Report noted that a Special Committee to inquire into administration of justice and police was appointed in 1813 by the Court of Directors. The recommendations of the Special Committee have been described in the following words:

‘They condemned the establishments of darogas and their subordinates, and they insisted strongly upon the maintenance of the village police as forming in every village the best security of internal peace...any system for the general management of the

police of the country which is not built on that foundation must be radically defective and inadequate...'

The Court of Directors agreed to the recommendations and ordered establishment of village police. These recommendations were passed in the form of Madras Regulation XI of 1816 that may be treated as first foreign legal instrument, referred in the Report, on the subject of policing by colonial set up. Two Commissioners namely Sir Thomas Munro and Mr. Stratton were appointed to oversee the implementation of the recommendations. Sir Thomas Munro, later, noted that 'we have now in most places reverted to the old police'.

b. The Bombay Regulation Xii of 1827

In Bombay, the Report noted, the Court of Directors' Regulation XII was utilized to establish a system of police 'founded chiefly on the ancient usage of the country'.

c. The Select Committee Report, 1832

A Select Committee was appointed in 1832 to report on the issue of police administration in the affairs of the East India Company. The Select Committee did not have very specific recommendations to make, as per the Report.

d. Irish Constabulary Model

The Report clearly stated that the model of the Irish Constabulary was introduced by Sir Charles Napier in Sindh after annexation of Sindh in 1843. The Report did not elaborate what were the salient features of the Irish Constabulary. However, Peter Neyroud in his book titled as 'Police History' states that the Irish Constabulary model is a combination of civil and military police. Hence, the colonial model of police in India was militarized, in its genesis.

e. The Police Commission of 1860

The Report stated that after annexation of the Punjab in 1849, a police force was organized in the Punjab on the lines of Sindh Police (based on the Irish Constabulary mode). It consisted of two branches-a military preventive police and a civil detective police. Due to imperatives of the War of Independence and 'heavy expenditure' being incurred by the Government of India, it appointed the first Police Commission in 1860. The Commission recommended abolition of military part of the police. It also recommended unity of action by entrusting all management to the Inspector General of Police. The districts were to be commanded by the District Superintendents. Based on the recommendations, the Police Act, 1861 was promulgated that was adapted by Pakistan at the time of its independence in 1947.

The value of the Fraser Report primarily lies in recording the efforts made by the British to colonize police in India, and by implication, it affected all the dominions i.e., Pakistan, India and Bangladesh. The Report further elaborated on 'popular opinion' about police in India. It recorded the adverse opinion about police; following excerpts will be helpful to note:

About the general repute of police, it noted:

'It is dishonest and it is tyrannical... It is essential for real reform that there should be bold increase in the wages of a staff that wields so great a power, in the more careful supervision of their work'

At another place, about remuneration of police, it noted:

'An increase in pay will not turn a dishonest into an honest official; but when the pay is so low as this, its increase will at least remove one very strong temptation to corruption.'

About the attitude of police, it stated:

'Another very serious ground of complaint against them is the unnecessary severity with which they often discharge their duties and the unnecessary annoyance which they inflict on the people.'

About Indian society, torture and investigation, it stated:

'The police officer, owing to want of detective ability or to indolence, directs his efforts to procure confessions by improper inducement, by threats and by moral pressure. Actual physical torture is now rarely resorted to; but it is easy, under the conditions of Indian society and having regard to the character of the people, to exercise strong pressure and great cruelty without having recourse to such physical violence as leaves its traces on the body of the victim.'

The working of police was described thus:

'Many an investigation fails, the complainant is sometimes finally bullied or threatened into acknowledging that a mistake has been made, and that the case is false. When it is successful, the accused is often subjected to unnecessary annoyance: the law about bail is overlooked; the rules limiting the use of handcuffs are forgotten; and no serious effort is made to treat the accused with that consideration as to his food and comfort to which (with due regard to the interests of justice) he is entitled until he is convicted. What wonder is it that the people are said to dread the police, and to do all they can to avoid any connection with a police investigation.'

All the above excerpts show that public at large was already very critical about the role of police and about its unprofessionalism. The Report has dedicated chapters recording in detail the state of poor investigation, faulty prosecution and unrealistic statistical test of police work.

About statistical test of police work, it stated:

‘A relatively high rate of criminality or a low rate of detection does indicate that something is wrong, but it does not by itself justify the conclusion that there is undoubted administrative failure on the part of the police.’

‘...the Commission unhesitatingly condemn the application of the statistical test pure and simple to any area, but they consider that its use is particularly objectionable in the case of a police station...’.

The Report is a testament on how justice and respect for human rights were not even a consideration for the British; it shows that the colonization of police was part of a design and was not random in its evolution.

III- Police Reforms in Pakistan

Rights based discourse of police reforms is consistently echoed in over two dozen reports produced on the subject in Pakistan since 1947. This consistence is a product of constitutional obligations as well as aspirations of the people. Insofar as the decolonization is concerned, most of the official reports have vowed to decolonize police by recommending substitution of archaic Police Act, 1861 with more progressive legislation like the Police Order, 2002. It may be noted that Fraser Report’s only concern was with ‘preservation of peace’, which, in the colonial context, meant maintenance of status quo. It also documented the fact that there was no consideration of service delivery to citizens and that no attention was paid to vulnerable segments of the society like women and children. The Police Reforms Committee Report, 2019 comprises two volumes and its first volume is dedicated to decolonize police and policing structures by presenting a model law that spells out duties of police towards public at large. In contradistinction to the Fraser Report, it focuses on urban policing and alternate dispute resolution mechanisms. It also recommends making police responsive and accountable towards people. It will be noted that the design of police reforms has transformed in Pakistan from government centric policing to people centric policing. It is, however, too early to expect decolonization of police as many related bureaucratic, administrative and justice related structures have yet not come out of the mold of colonization. Decolonization and demilitarization of police and related structures are points of departure for any sustainable and meaningful reform in justice sector.