

FORUM

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Police accountability and the 'rule of politics'

Political interference is the main obstacle to bringing the rowdy elements of police under control, says **DR. ZAHIDUL ISLAM BISWAS**



Star Photo

In a rule of law society, no one can remain above law. All are to live their lives within the boundaries of law. The police are no exception. The duty of the police is to instil a sense of security in the ordinary citizens, and to protect the life and property of the citizens when they are in danger. If the police fail to perform this duty, they are held accountable as per the law of the country. In Bangladesh too, there are both internal and external mechanisms for holding the police accountable. The internal mechanisms for holding individual police officers accountable for their actions are contained in the Police Act of 1861. The external mechanisms for ensuring police accountability are the judiciary, the Human Rights Commission, human rights NGOs, and the media.

The Police Act of 1861 authorises senior police officers of the rank of district superintendent of police and above to dismiss, suspend or reduce in rank any police officer below the rank of inspector of police who they think is remiss or negligent in the discharge of his duties or is unfit. They are also authorised to impose one or more of the other punishments: a fine not exceeding one month's pay, confinement to quarters not exceeding 15 days, deprivation of good conduct pay and removal from any office of distinction or special emolument.

In addition, the Police Act of 1861 lists the following offences for which a police officer can be disciplined or prosecuted: a wilful breach or neglect of any rule or regulation or lawful order, withdrawal from duties of the office or being absent without permission or reasonable cause,

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engaging without authority in any employment other than their police duty, cowardice and causing any unwarrantable violence to any person in their custody. The penalty for these offences ranges between a fine of up to three months' pay to imprisonment of up to three months or a combination of both.

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Unfortunately, in practice, the authority of police leadership in Bangladesh has eroded over time by political interference, leading to a loss of discipline in the force and the promotion of a tendency at different levels within the police to seek outside patronage for rewards and protection against punishment. There are also allegations that police departments sometimes suppress incidents of misconduct by individual police officers because the revelation of the facts could damage the image of the police force. All these serve as the reasons for decline in the effectiveness of departmental mechanisms to ensure police accountability. Though the police authority always claims that they do punish a good number of police officers each year for their wrongdoings, people do not see any visible outcome of such internal accountability mechanism. Day by day, the incidents of police brutality and abuse of power are increasing.

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safeguards to prevent or curtail police abuse of powers and arbitrary actions by Magistrates, which constitute violations of citizens' fundamental rights to life and liberty, to equal protection of law, to be treated in accordance with law and to be free from cruel, inhuman and degrading treatment and punishment as guaranteed in the Constitution of the country.

The High Court delivered its judgment on the writ petition in 2003, observing that sections 54 and 167 of the CrPC are not fully consistent with constitutionally guaranteed freedoms and safeguards. The Court laid down a comprehensive set of recommendations regarding necessary amendments to both sections of the CrPC, along with the Police Act, The Penal Code and the Evidence Act, and directed that these should be acted upon within six months. It also laid down a set of fifteen guidelines with regard to exercise of powers of arrest and remand.

Unfortunately, the government has preferred an appeal against this judgment, which is now pending before the Appellate Division. However, the Appellate Division has not granted any stay order against the judgment and hence the Guidelines are in force. It has been around ten years since the judgment was delivered, but the successive governments have done almost nothing to implement this judgment. Illegal arrest, detention, and torture in remand are still rampant, violating the Supreme Court's judgment. If these guidelines were correctly followed, then the cases of illegal arrest, detention, and torture during interrogation in remand could be reduced largely.

As mentioned earlier, any aggrieved person can file a criminal case with the police station or with a judicial magistrate against a police officer accused of any offence, such as brutality, harassment, and any abuse of power. The reality in Bangladesh is that most of the people fear to lodge a complaint against a police officer. Some people sometimes dare to lodge complaints, but usually police stations deny receiving or recording these complaints against the police. Occasionally some complaints are received, but there is a general public distrust on getting justice from such processes, as the police themselves conduct the inquiries.

The Human Rights Commission is another means of holding the police accountable in cases of misconduct, abuse of power, or police excess. The law authorises the Commission to inquire into complaint of violation of human rights by a person, state or government agency or institution or organisation. The Commission can do it suo-moto or on a petition presented to it by a person affected or any person on his behalf. However, it is doubtful how effectively the Commission can perform this responsibility in the absence of adequate institutional and financial strengths. The

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Commission's roles in the Limon case was commendable, but after that the Commission was not found much active in other similar or more serious cases of police excess and brutality. Some people doubt whether the National Human Rights Commission can act independently, without government's interference.

The human rights NGOs can work towards ensuring police accountability in two ways: (a) by publicising police atrocities and putting pressure on the government to take action against the police, and (b) by launching civil society movement and advocating for police reforms. The human rights NGOs of the country regularly express their concerns against police and other law enforcing agencies' illegal actions, but they have failed to lead a strong civil society movement for the said purpose. Again, it is seen that the human rights NGOs are alert when an individual apolitical case of police violence is found, but they are not always concerned when the government uses police forces illegally to foil opposition-led programmes and to arrest and harass the opposition leaders and activists. Mostly foreign donation dependent human rights NGOs usually do not want to irritate the government so that the government does not create any obstacle to receive foreign donation through lawful government channels.

The media can work as one of the most vigilant watchdogs over the operations of the police in the country. The media and media-persons are evidently keen to expose incidents of police abuse. Due to technological advances, now the media can provide quick reports of any violation of human rights by police occurring anywhere in the country. However, government's control over electronic and print media, attacks on journalists by the police in recent times, a minister's advice to journalists to keep 'safe distance' from the police (so that they are not attacked by police), and police impunity have exposed the challenge of media towards working as a mechanism for police accountability.

Thus, it is obvious that all the external and internal mechanisms for police accountability in Bangladesh are not effective due to the government's political interference. In other words, the root cause of lack of police accountability in Bangladesh is the 'rule of politics' and the absence of 'rule of law'. To ensure police accountability, this 'rule of politics' must be uprooted. The Police must be insulated from partisan political influence and interference by necessary law reforms. There should be a mechanism to constantly monitor the implementation of the courts' judgments and take the defaulting government or other parties back to the courts in order to use the judiciary as an effective accountability mechanism. An independent police complaint Commission should be established to check crimes with the force. The arrangement for inquiries into complaints against the police should be such that both the police and the public perceive it to be fair and just. The media must be allowed to work freely and independently.

Dr. Zahidul Islam Biswas is an advocate at the Supreme Court of Bangladesh and also a consultant for research and advocacy at Bangladesh Legal Aid and Services Trust (BLAST). He can be reached at zahid.bangladesh@gmail.com