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Point Counterpoint

Straight Line

Rationale for a revised Police Act

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OF late, we have heard a great deal about the imperatives of a revised or amended Police Ordinance in the interest of public service. The police management is striving hard to modernise the organisation, and it was on June 16 that the Inspector General of Police formally launched a three year Strategic Plan of Bangladesh Police. However, it is the considered view of the concerned quarter that without a supportive and revised Police Act the planned police modernisation efforts will not bear much fruit.

It would be relevant to recollect that the principal characteristics of the police organisation produced by the Police Act 1861 are: it principally aims at the preservation of status quo; and it lays major emphasis on maintenance of order and avoidance of breach of peace. It over-emphasises the constabulary functions of the police as against the professional aspect of crime control. Except in the preamble, the Act does not mention crime control. In fact, the duties of a police officer as laid down in the Act are:

- * To obey and execute all orders and warrants lawfully issued to him by any competent authority.
- * To collect and communicate intelligence affecting the public peace.
- * To prevent the commission of offences and public nuisances.
- * To detect and bring offenders to justice.
- * To apprehend all persons he is legally authorised to apprehend.
- * To take charge of unclaimed property and to furnish an inventory thereof to the District Magistrate.
- * To keep order on the public roads and in the public streets, thoroughfares, and ghats and landing places, and on all other places of public resort.
- * To prevent obstructions on occasion of assemblies and processions on the public streets.

It was principally aimed to administer a static, immobile and backward rural society living in villages and small towns. It

envisages exercise of authority without local accountability. It presupposes a society without any constitution, basic and fundamental rights, organised public opinion, and mass-media projecting the public interest.

The overriding objective of the police organisation designed in 1861 was to maintain the stability of the Raj. This was admirably achieved through emulating the Irish Constabulary model and placing the district superintendent of police under direction and control of the district magistrate who acted as the agent of the central government.

It may be pertinent to note that, under the Police Act of 1861, in addition to being under the senior police hierarchy, the police superintendent of a district was simultaneously subjected to the lateral control of the district magistrate. The police administration at the district level was thus subjected to dual control all administrative, technical, financial, professional and organisational control by the inspector general through his deputies; and the lateral general control and direction of the district magistrate.

What was meant by the general control and direction of the district superintendent of Police by the district magistrate was not explicitly defined anywhere. As such, the extent of this control and direction varied from province to province, which generated much controversy over its true import. Consequently, from the very beginning, an unending debate has continued, both at the conceptual and the administrative/operational levels.

The Sir Andrew Fraser Police Commission of 1902 reported that the 1861 system had completely failed to produce an efficient and professional police force in the country, and commented that "the police force is far from efficient, it is defective in training and organisation, it is inadequately supervised, it is generally regarded as corrupt and oppressive, and it has utterly failed to secure the confidence and cordial cooperation of the people." One of the major causes of failure of the 1861 Act, according to the Fraser Commission, was undue interference with the police by the civilian authorities.

The reason as to why the colonial governments did not address the problem was that they were not prepared to make the service terms and conditions of the police rank and file attractive enough. In fact, the police organisation was designed not to attract better talent to ensure built-in subservience of the police to the executive administration, regardless of the resulting corruption, lack of professional excellence, police high-handedness and police-public estrangement.

It may be relevant to mention here that in Pakistan a new Police Order 2002 has been effective for some years. The principal features of that Order are as follows:

- * It redefines in clear terms the role and responsibilities of the police.
- * It seeks to improve human security and access to justice within the ambit of rule of law.
- * It phases out obsolete police management practices.
- * It provides for enhancing police professionalism.
- * It introduces new powers to improve police discipline.
- * It strengthens external police accountability through institutionalised civil society oversight.
- * It aims to transform the police into a public-friendly service-delivery organisation.

* It makes it obligatory for the government to establish police-public consultative committees.

It is interesting to note that the distinguishing feature of the new Police Order of Pakistan is that, whereas the Police Act of 1861 vested the undefined open-ended "superintendence" of police in the hands of the political executive, the Police Order 2002 restricts the power of superintendence to ensuring that the police perform its duties efficiently and strictly in accordance with law.

The Police Order 2002 seeks to replace the ruler-driven police with a community-based police through the institutional mechanism of Public Safety Commissions at national, provincial and district levels.

The above statutory bodies with wide-ranging oversight powers, for the first time in Pakistan, give representation to the opposition parties and members of civil society, including one-third reserved seats for women. Indeed, this arrangement is a major step toward fostering credible police accountability, gender-sensitive policing, and operational neutrality of police.

According to credible sources, the draft police ordinance of Bangladesh has recommended provisions along the lines of Police Order, 2002 of Pakistan, and other best practices of reputed police forces of different countries. Under such circumstances, one wonders what has kept the authorities from promulgating a new police ordinance.

There is no denying that we have to squarely deal with the vexed issue of political interference in the internal administration of police. There is an imperative need to lay down a fixed tenure of service for key police appointments, and to also require the authorities to record grounds of premature transfer for independent scrutiny by the proposed Public Safety Commission.

It is also time to duly recognise the importance of community policing, and make it obligatory for the government to establish citizen/police liaison committees. The purpose is to help establish and maintain police/public partnership, promote communication and cooperation between citizens and police, enhance transparency in police functioning and strengthen police responsiveness to the community.

The Police Act of 1861 must be replaced by a new police act, which will not only change the system of superintendence and control over the police but also enlarge the role of the police to make it function as an agency which promotes the rule of law in the country and renders impartial service to the community.

In practical terms, it is time to give up the long-held powers of superintendence over the police in favour of apolitical Public Safety Commissions charged with the responsibility of designing and implementing majors necessary to ensure political neutrality of police operations.

To sum up, whereas the Police Act 1861 had for too long obstructed the establishment of rule of law and retarded the growth of police professionalism in Bangladesh, it is high time that the citizens of Bangladesh have the benefit of the proposed new police ordinance which provides the basis of a modern and progressive 21st century system of policing.

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