

Draft Bangladesh Police Ordinance 2007

FROM PAGE 12

The missing link is, which forum the national police commission will be accountable to. What is the status of its orders, enforceability of orders and recommendations. It should have been there.

Sec-7

Organisation of the police itself

7 (3) The chief of police may have full management, administrative and financial powers in departmental matters. He is also the ex-officio secretary.

Now, he is the one who is being accountable to the government and again orders are coming through him.

Overall, it is a good foundation. It is not only a law enforcement agency but also the social, civic, moral and ethical responsibilities are mentioned in the ordinance.

AYB I Siddique, Ex-IGP of police

Here are some vital issues.



The police should have a regular budget for carrying out its activities. No money is given to run a police station. We tell the OC to run the station so he approaches the public. So, keeping the source of corruption there we tell them to work honestly. So the source of corruption remains, as they receive no money.

Sec-8 (2)
The government shall grant a separate pay allowance or a comprehensive compensation package to the police service based on recommendation of the National Police Commission. I want to add, the government shall also grant adequate budget, logistics and manpower to police for operation of police stations. There should be directions for allocation

Role and function of police (5.B)

When the ordinance will be enacted the police act will be deleted. In the past we were over dependent on the magistrates. The main problem now is that the supervision of the police might be reduced because of the existence of the complaint commission. What I fail to understand is why an SP cannot recruit a corruption free constable in his district? Why Tk. 50,000 or Tk. 30,000 have to be paid. Why an instructor will not give a pass marks unless he is paid money? Why cannot the commandant control it?

5(B) Senior officers to closely supervise and monitor activities of their sub-ordinate officers and they will be answerable for gross misdeeds committed by officers under their direct command.

Ismail Hossain-Ex-IGP

I think that in terms of promoting officers, seniority should be considered, but merit will also be given preference.

Siddique

If two officers have the same merit then the senior one should get the post. Junior postings are held in terms of seniority cum merit and senior postings are held in terms of merit cum seniority.

Sec (7)-6

I think '6' should have dealt with posting of district police officers. History tells us that district police officers are the ones mostly influenced by the politicians. The postings of district police officers have been mentioned later in Page 14. To me, it seemed like a camouflage so I think it should be shifted to subsection (6) of Sec-7.

Barrister Sara Hossain

My concerns are in three or four areas. I think there is the need for confidence building around police action and police practice. From that perspective there are certain issues that need to be addressed. The effort needs to be strengthened. The first thing that can be done is issue representation throughout the draft to ensure that there is an effort to include women in decision making. So, both the police complaint commission and the national commission should provide for the inclusion of women. I personally think that there should be more women. I propose that the complaint commission should have more women recruited to it to earn the confidence of women and particularly indigenous people. There is a serious crisis of confidence there.

Sec-3

Reference to ensuring the protection and security of various vulnerable groups. Here women and children could be included. There should be some conformity of the language there. My main concern is the inclusion of a kind of security and intelligence agenda within this document, in particular to chapter 6.

Sec 61 & 64

Sec 61 deals with the creation of special security areas. I feel that the explanation about why we require it is not sufficiently set out. The definitions of insurgency, militancy, terrorists are not sufficiently set out. There aren't any safeguards to when a security area is to be declared and for how long it will be valid. I think it needs to be reviewed very clearly whether this police ordinance is a proper place to put in this level of interference with securities or the grounds of special security. To my knowledge, this sort of restrictions are used in places like the Chittagong Hill Tracts extremely liberally even without the existence of this kind of very draconian laws. It seemed to me that this law rather being used as a safeguard is very likely to be used abusively and restrict rights. I think chapter 6 should be reviewed in its entirety and it should be considered whether the police are not only performing extensively but also engaging in public confidence to be the force that should be given such powers.

The police is there to protect us from being harmed and prevent us from harming others. It is not really there to control and restrict a moral behaviour.

Sec 123 (G)

The concerns around the police complaint commission is about its ambit of power and the extent to which it will actually be authorized and consider itself capable of restraining police behaviour. One of the principal things that should be included in the functions of the commission is regarding the treatment of the under trial prisoners and people in custody.

Sec 79

It says that the complainant and the accused have equal rights. It is not very clear what is meant by this statement. The complainant unfortunately does not have enough rights. Hearing for the complainant should be made possible. I think PCC's functions will determine whether the whole reform process is actually effective or not. There could be specific review of the PCC. I would like to request Mr. Mahfuz Anam to carry on with the national consultation process. We need to make sure that PCC can really come into making a difference.

Brig. Anam

I suspect the special security area law derives from the authority of the government to promulgating areas as special operational areas because it has some legal and military connotations and legal applications. Because, in an operational area, a crime is punishable under the military law.

Sara Hossain

I think my concern here is that military law should not be keeping into this ordinance.

Mr Azizul Haque- Ex-IGP

Superintendence of police will remain within the authority of the government but it is only there to exercise the certainty of the performance of the police according to the constitution or the law. Previously it was stated vaguely. The IGP does not have the superiority in governing the financial aspects as has been proposed by this ordinance. I think the IGP should be given the entire

authority to drive the administration and also execute financial power. The administration should have the district police officers as the authority in districts to avoid conflicts. My suggestion is that the duality of control should not be there to avoid disputes. My idea is that if the district head of police is made the in-charge of the district police force then the rural police will come under him and this will be of great service to the law enforcing agency.

Sec-2 (ii)

The sub inspectors should also be given training besides the ASPs. I noticed that there is no mention of training of the sub inspectors in this ordinance.

We should not change the designations of DG and DG CID, as their functions remain the same. There is confusion as to whether the chief of police will be IGP or above the IGP.

Tanzibul Alam

The proposed draft states that the chief of police will be appointed by the IGP.

Azizul Haque

Whether the rank will be above the IGP or not while appointing the chief of police is not clearly stated. No distinct rank is mentioned for the chief of police.

Asif Nazrul

I assume that this ordinance has been drafted following the Indian model of appointing several IGP's.

Azizul Haque

I think the National Police Commission - NPC is a good idea. The law states that the commission should have a discussion once in three months. I suppose that the gap is too long and the law should make it clear that the commission should meet at least once a month so that they can monitor the police activities in a more effective manner. About the police complaint commission, it is a welcome step. My remarks about the police complaint commission are that recommendations of guidelines or the outlines of the secretariat staff of the Complaints Commission may be specified in the ordinance. I think clear indication should be there about the activities of the secretary staff. In the ordinance, it is stated transparent recruitment process for sub inspectors and constables. From my experience I can say to everyone present that the police officers who are in charge DIG or AIG are responsible for recruitment of sub inspectors, sergeants and constables often do not work impartially and fairly. It can be considered to create a separate independent body for recruitment of sub inspectors, sergeants and constables.

Brig. Anam

What was the earlier system of recruiting these officers? Was it within the jurisdiction of DIG's? When were the DIG how did you ensure transparency of the process if at all you tried?

The DIG

When I was the DIG of Dhaka range, the recruitment board comprised of a district magistrate and two SPs. I think the political involvement in the police has increased more over the time. Police officers are subjected to various sorts of extremes. The definition of competent authority should be made clear in this ordinance. It should be clearly stated in the proposed draft.

Ismail Hossain

I think that the proposed ordinance is a departure from our existing situation. So long we have worked on the basis of Police Act of 1861. It is also an improved version of the past ordinance without a doubt. I sense that there are two aspects of this ordinance. One side deals with how police can be kept under the control of regulations and made answerable to the public. The other side deals with people functioning opposite to police.

Sec-2(B) Defines police service

Police service means all members and includes all other employees. But are all employees police? I think there is some confusion here. About the senior superintendent and superintendent of police, the matter of pay scale or the rank badge is not the only concern. Their appointment and posting etc. should be mentioned clearly in the ordinance.

If the district police officer is either a superintendent of police or a senior superintendent of police there is always a sense of vagueness.

Sec-3(E)

Police obligation

Prevention against all forms of harassment inflicted upon women and children. Nothing is mentioned or specified about the general public. It should be specified.

Sec-4(B)

About protecting life, property and liberty of citizens. I feel that the responsibility of holding up human rights as defined in the universal declaration of human rights should also be included. It should conform to international practices. The ordinance states that when a person is being arrested the reasons should be checked and double checked to ensure that the information is promptly communicated. Providing legal assistance to the arrested person must be there. As soon as someone is taken into the police custody he/she should be able to communicate with his or her lawyer. The tenure of the IGP is mentioned in the ordinance, which is two years. But I suggest that it should be expanded to 3 years as the procedure of removing the IGP or the chief of police from his post has been clearly stated.

Sec-3

Asst inspector general shall be appointed by an appropriate authority. The definition of appropriate authority is not there. This vagueness should go.

Sec-30

This policy shall ensure that all police personnel are sufficiently trained to perform their duties congruent to the democratic norms.

Sec-31

Who shall be the authority to suspend a police? I think this should be specified.

Sec-36

I believe the standing reserve should be 20 per cent instead of 10 per cent.

I think community policing should be the focus. But in the ordinance only the metropolitan community policing done by the commissioner is mentioned. What about the district areas? It should be extended to districts.

The police policy group is only to devise the routine police work and operation. I assume that bringing in Human Rights activists or civil society members in routine police work is inappropriate.

Dilruba Sharmin, Lawyer/ Blast

About the roles and functions of police

Sec-3(C)

Promote sense of security among the public, especially the poor, disabled, physically weak or elderly persons. I think if children are included then the list will feel more complete.

Sec-3 (E)

My observation is that often women and children are put in the same category. This sometimes generates confusion. The two categories should have separate laws in order to ensure efficiency in institutionalizing the laws.

Sec-4 (D)

Protect the rights and privileges of a person taken in custody. The police should provide the person with legal assistance.

Sec-4 (O-P-Q)

Provide adequate aid to women and children who are victims of crime or justice. Guide them so that they may have enough awareness of their rights. Police should cooperate with other agencies. I hope to see clear statements about these other agencies in the ordinance.

Barrister Tanzibul Alam

One of the biggest complaints against police is that they behave badly with the public. There is an attempt in the ordinance to bring confidence in the people. There is a request for the inclusion of the universal declaration of human rights. Police should respect and guarantee this fundamental right. Because our constitution basically protects that.

A list of duties have been prescribed.

Among all the duties of police there is only one specific reference that is of reliability of the information. If a police does not have reliable information then he has the power to enter the force even in public places. So, that expression is self-contradictory. What I want to say is if police does not have reliable information about a crime being committed then he cannot take any action.

It would be better if there is a clear reference of how many IGP's would there be.

Sec-34

I am rather confused about the

impact of this. The head of district police or any officer especially empowered by the government may appoint special police officer for special purposes or occasions when the police personnel available to him is not sufficient enough to carry out his command. It is not clear whether they will be discharged after the duty has been completed. It should be clarified whether this is a temporary appointment or not.

The composition structure of the national police commission. There is scope for the government to maintain its majority. There is only one reference to recruiting a woman member in the commission.

The government has kept some of the appointment/promotional procedures in its hand.

See-7 (4) (5)

Appointment of chief of police

(4) AIGP shall be recommended by the national commission in consultation with chief of police.

(5) Recommended by the chief of police as there is not any need for consultation with the commission.

Sec-8

There has not been any discussion about the organisational aspect. This also refers to consultation with chief of police but it would be done by the government.

The selection for the direct recruitment in the rank of Asst. Inspector General should be done through the appropriate authority. The definition of appropriate authority should be there.

What conduct could be treated as misconduct should be clearly stated in the ordinance. If the objectives are taken into account then a misbehaviour could also be taken as a misconduct.

There can be confusion about misconduct and right of person who is to lodge a complaint. The functions of the police tribunal suggests that it should only deal with the complaints received against the police officer and not deal with the offences suggested in the ordinance. (Chapter-14)

See-142

Public safety fund is a potentially dangerous provision. If we take a look at the donors to this fund and how this fund will be used then there is a possibility that this could instigate extortion. It says that contribution may be made in cash or kind by the public for the improvement of the police service. It needs to be looked into.

In Sec 74 (2) talks about the full time and part time members of police complaint commission. It should be specified why part timers are needed and what are their requirements.

Maj. Gen Golam Kader (Retd)

The tenure of the IGP should be three years but at the end of two and a half years the person who will take over the position must be selected so that there is no rush in the end. After he is appointed he should be given six months of time to prove his proficiency and then made permanent.

The proposed ordinance is a very good one. But here it is said that the recruitment of the constables and sub inspectors will be done in a transparent and impartial manner. Now, how that can be ensured?

Local elected people should also have some functions. While deciding whether a policeman is guilty of misconduct or not local people should also have a say. Even when earmarking budgets local people should be able to express their thoughts.

The number of women in the police force must be increased by law to prevent violence against women.

The duality of the commands should be looked into. The training reserve is not a very realistic thing. You should have a goal of having extra manpower. We should also look into the minimum level of education for the police constables. That has to be upgraded.

Zafarul Islam Sharif, Manusher Jonno

If a police has complaints against the system or the department where should he go? It should be stated more specifically.

The different committees must have