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Rapid Action Battalion **Rationale and reality**

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The creation of Rapid Action Battalion in recent times has attracted widespread public attention for obvious reasons. Some comments on the activities of RAB have been less than satisfactory. The Daily Star has editorially (July 23, 2004) gone to the extent of saying that the government must “reign it in before it turns into a monster.” This definitely amounts to taking a very serious view of the activities of a supposedly elite law enforcement unit of the country. Before one ventures to find out the basis of such a premonition it may be relevant to look at the legal provisions pertaining to the creation of the Rapid Action Battalion.

Legal provisions

The RAB was created through the “The Armed Police Battalions (Amendment) Act, 2003,” and published in the Bangladesh Gazette of July 12, 2003. The RAB is a Composite Force, manpower wise, because sub-section (5) of section 3 of the law states: “Notwithstanding anything contained in this ordinance or in any other law for the time being in force, armed personnel and officers in Rapid Action Battalion may, as and when necessary, be appointed on secondment or deputation, as the case may be, from among the persons who are in the service of the Republic, including any disciplined force.” There is nothing very unusual about such a Composite Force because the intent of the legislature and the concerned executive authority is to draw upon the experience and expertise of skilled professionals with a view to combating a serious law and order situation. In fact such composite law enforcement outfit does exist in other places also.

Duties and functions

The Rapid Action Battalion, as distinguished from other Battalions, has been entrusted with exclusive duties like “intelligence in respect of crime and criminal activities” and “investigation of any offence on the direction of the government” as can be seen from sections 6(A), 6(aa), and 6(bb) of the Act. Section 6B states: “The govern-

ment may, at any time, direct the Rapid Action Battalion to investigate any offence.”

Section 6c clause-I states: “An officer of a Rapid Action Battalion shall, while investigating an offence, follow the procedure prescribed in the Code of Criminal Procedure 1898 (Act V of 1898) or in any other law, as the case may be, for the investigation of such offence.”

Section 6c clause (2) states in pertinent part: “The concerned officer shall, on completion of the investigation of any offence under this ordinance, file his report to the officer-in-charge of the concerned police station, and the officer-in-charge shall, within forty-eight hours of the receipt of such report, forward the same as it is to the competent court or tribunal, as the case may be.” Section 6D states: “An officer of any Rapid Action Battalion may, while investigating an offence or performing any duties under this ordinance with respect to the cases originated from that offence, exercise all such powers and perform all such functions and duties as may be exercised or performed by a police officer under the Code of Criminal Procedure, 1898 (Act V of 1898).”

It would thus follow from the paragraphs mentioned above that the Rapid Action Battalion has to work under prescribed and statutorily laid down procedure. The Code of Criminal Procedure, 1898, is a prudently crafted and time-tested piece of procedural legislation. This procedure is in vogue in the sub-continent and other countries in Asia, amongst others. The law regarding searches is contained in sections 102, 103, 165, and 166 of the Code, and they must be scrupulously followed. The relevant police regulation says that search should be made in the presence of owner or someone on his behalf, and that the presence of search warrant must not be looked upon merely as a formality. Section 50 of the code directs that the persons arrested shall not be subjected to more restraint than is necessary to prevent his escape.

It would thus appear that the Code of Criminal Procedure has been cognisant of the individual’s honour, dignity, and liberty, and requires the law-enforcer to act legally and in a level-headed manner. Therefore, the complaints of high-handedness against some members of the RAB, as alleged and published in newspapers, could be isolated acts resulting from misplaced exuberance. The fact of the matter will be known only after an appropriate inquiry is conducted by the concerned authority.

Special legislation

What, however, should cause worry to a right-thinking citizen, is why do we have so many special laws relating to different social vices and malfunctioning in the society when in fact the Bangladesh Penal Code contains punishment for a large variety of offences? One considered view is that we have failed to apply the procedural law in a judicious and expeditious manner, thereby compounding the misery of justice seekers. This is not to cast any

aspersion on the wisdom and concern of the legislators, who have been instrumental in enacting special legislation for the oppressed and under-privileged. There is, however, a view that we in Bangladesh are resorting to desperate measures in an equally desperate situation. It may be worth remembering that since liberation in 1971 we have seen the enactment of several special laws starting from P.O. 50 of 1972 down to the latest one against terrorists. The situation however, has not improved substantially despite the legislators' earnestness.

RAB and police reform

Viewed from the above perspective, one may also be wondering about the necessity of special or elite law enforcement unit like the RAB. One could say that the collection of "intelligence in respect of crime and criminal activities" and "investigation of any offence on the direction of the government" — the two major duties of RAB — could be carried out by the police. Exactly herein arises the issue of the much publicised police reform which, inter alia, includes the streamlining of the police organisational setup. The creation of a special unit like RAB by suitable amendment of the law has been necessitated on account of deficiencies in areas where the new unit will primarily focus. As mentioned earlier, the intent of the legislature and the executive in this regard is appreciated but in the process are we unwittingly relegating the well-deserved priority of police reform to a secondary position?

The above apprehension comes to mind when one looks at present day police organisation and actual policing. There has not been any appreciable specialisation in the police organisation in the last decade, primarily because the same police force still performs the dual function of investigation and maintenance of public order, in addition to collection of intelligence. Even the specialised unit like CID which is responsible for prevention and detection of crime along with collection of related intelligence does not get adequate resources for modern and scientific investigation. One has to hope that the government will allocate larger resources to maintain the high standard in centers of excellence. One of the ironies of sub-continental law enforcement is that the police, despite its less-than-credible status in the eyes of the public, continues to be the principal investigating agency of the state. That being the manifest reality, is it not our state obligation to ensure the healthy growth of a scientific and professionally committed body of investigators? One hopes that the constitutional commitment of separating the judiciary from the executive, when effected, will act as a complementary factor towards better performance by the police investigators.

The expectation is that with better judicial scrutiny and supervision, and the simultaneous earmarking of police

officials for investigation, the prevention and detection of crime will record improvement.

For understandable reasons the necessity of apprehending terrorists and miscreants particularly those possessing unauthorised firearms remains a priority. To secure their apprehension one needs good and actionable intelligence, which in turn depends largely on commitment of financial resources and training, amongst others. The periodic "operations" may be necessary, but the pre-eminence of good intelligence could hardly be overemphasised. We need pragmatic and judicious allocation of resources. It may be news to some readers to know that often less than one percent of the annual police budget is spent on training. Not much is spent on scientifically empowering the policemen in specifics of investigation. The absence of a well-trained and scientific mind encourages police officers to abuse their discretionary powers and to resort to irregular and illegal methods and practices. Unnecessary use of physical force and third degree methods for extracting confession of the accused are common complaints. While the law and the regulations categorically forbid such practices, the reality on the ground is not always what we would want.

It thus follows that while no responsible citizen would dispute the creation of special law enforcement unit, we would be prudent to devote increased attention and allocate enhanced resources to what one may call "mainstream policing." Ad-hocism has reigned supreme for a painfully long time, and it is definitely time to adopt meaningfully substantive measures in the public interest. The demand of our rapidly growing society for police services has increased at a faster rate than the growth and expansion of its service delivery capacity. There is a need to re-emphasise the importance of operational policing in order to combat the increasing crime in the society. The organisation needs a clearer sense of direction. A structured approach to the future through a strategic plan should also be a priority. The policing programmes should endeavour to provide that kind of service which can consistently meet the needs and expectations of different segments of the community within current and anticipated resources. Proper policing will demand hard work and high standards of professionalism from each man in the service. Police stations are the focal point of service delivery. The need for more resources at the police stations is obvious as we ask for courteous, prompt, and professional service at this point. The objective should be to reduce crime and maintain order. With an enduring partnership with the community, the aim should be to make our society a better place to live and work.

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