



Original Article

Why Police Violate the Human Rights: Bangladesh Chapter

Md. Sharifur Rahman Adil¹ and Shamima Parvin Lasker²

DOI: <http://www.doi.org/10.3329/bioethics.v14i1.80>

Abstract: The police are one of the important law enforcement agencies in Bangladesh. Police are the best agency to protect human rights. Indeed, the police have a special responsibility to protect people. In addition, to their duty, they also serve in people's social and moral call, especially during COVID-19 situations they imprint many examples of humanity. People experience many good deeds of police during a national disaster as well. However, allegation against the police for violations of human rights is not uncommon. Cases of torture, death in police custody, involvement in the drug trade and robberies, entrapment with drug, helping in land grabbing, etc. are being published in newspapers. Nevertheless, to protect human rights or to take care of human rights is the prime function of the police. This research efforts to find out the answer to why police violate human rights. This research may help police professionals or administrators in taking policy initiatives to erase the negative image of the police.

Keywords: Police, human rights, crossfire, remand, CPC, bioethics, and constitution of Bangladesh

Introduction: The police is one of the main laws and enforced agency in Bangladesh according to the constitution¹. Police contribute many social and ethical missions during their duty to depict humanity². Bangladesh Police has a glorious past and great achievements. Police played a key role in achieving our liberation War in 1971³. Many examples of humanity are imprinted during COVID-19 circumstances^{4,5}. During a national disaster, police also performed heroic acts³.

However, there are still some doubts about the police activities. Incidents of torture and death in police custody, involvement in drug trafficking and theft, capture by Yaba, cheating on people,

and, helping in land grabbing are reported in the daily newspapers⁶. Heinous news clippings are also appeared where policemen were involved in raping women who come to the police station for service. News from Sonagazi Upazila of Feni district said that Nusrat, a young lady accused a duty police of assaulting her sexually when she was in safe custody of police⁷. Also, an officer-in-Charge of Paltan Police Station Mahmudul Haque allegedly raped a woman after promising to marry her and give her a decent job⁸. He was suspended following allegations of rape. Most hilarious is that police sometimes provide a charge sheet against a dead man. The Daily Protham Alo on 12th June reported that the police submitted a charge sheet in the name of

1. Lecturer of Philosophy, Feni South East Degree College, Email: adil.doc.info@gmail.com

ORCID ID: <https://orcid.org/0000-0002-3583-0202>

2. Professor of Anatomy, Secretary General of Bangladesh Bioethics Society

Email: splasker04@yahoo.com ORCID ID: <https://orcid.org/0000-0002-3484-9526> ScopusID: 57219800747

Corresponding Author: Shamima Parvin Lasker splasker04@yahoo.com.



the deceased person ⁹.

Nonetheless, the primary job of the police is to preserve or care for human rights. The police are widely regarded as the most effective agency for safeguarding human rights ³. This article efforts to find out the answer to why police violate human rights.

Methodology: A systematic review was done from doctrine at the Research and Development Division of Bangladesh Bioethics Society from 2020-2023. Doctrinal research was library-based research, constructed on primary and secondary sources. Regulations and evidence-based research were obtained as primary data and secondary sources were books, journals, magazines, newspapers, articles, and websites. The key word were Police, Human Rights, Crossfire, Remand, CPC, and Constitution of Bangladesh. Google Search, EBSCO, NJCRS, Authorspace, and JSTOR were the possible search engines for secondary data.

Police: The police are the most crucial agency in any country. They are constituting bodies empowered by the state¹. However, the word "police" is derived from the Greek word `polis, means city or polity ¹⁰. The word police in English word is generally associated with the monarchy "keeping the king's peace" ¹⁰. The police hinder criminal activities by attending in a spot of society and ensuring the safety and security of the citizens of the country. Overall, Police contribute to reducing the crime rate in the society. According to Ex IGP of Bangladesh A K M Shahidul Haque, the police also play a very important role in maintaining of calm and peace in society¹¹.

The Police are one of the major components of the criminal justice system and their duties are the prevention and detection of crime, protection of life and property of the citizens through enforcement of the law, preservation of peace, order, and safety, enforcement of laws and ordinances, safeguarding of constitutional guarantees, investigating problems and incidents, enhancement of the quality of life of

the citizens by fostering a sense of security in communities and individuals" ¹. We can say that the police are the organized civil force and agency of social control, which, in the service of the state, is charged with preserving law and order.

However, the role of the police is gradually becoming very tough day by day due to the tremendous pressure of various pressure groups¹². Often civil society alleges that the police violate human rights while performing their duties¹³. But it should be noted that the police force is not intended to violate the human rights of any individual. Police force do not use power and weapons until unavoidable situations arise. They use such weapons only to protect the lives of others ¹⁴. They put their energy, knowledge, and merit into ensuring human rights. Also, they are watchful against human rights violations to save potentially vulnerable groups such as children, older women, refugees, displaced persons, and members of minority groups.

Human Rights: Human rights refer to basic rights and freedoms that all people are entitled to enjoy regardless of nationality, sex, age, or ethnic origin, race, religion, language, or other status¹⁴. Human rights are conceived as universal and egalitarian. These rights exist as natural rights or as legal rights, in both national and international law ¹⁴. Human rights are emphasis on basic principles without them people cannot understand their inherent human status¹⁴. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of speech and expression, and the right to work and education. The principles of human rights are equality, universality, human dignity, non-discrimination, indivisibility, inalienability, and responsibility¹⁴. States shall obliged to uphold human rights. Protect the individual and groups, the state actors cannot waive individual rights¹⁴. Finally, we can define human rights as the rights that are a set of natural claims to safeguard human status from bad legitimate coercion usually enacted by a state.

Why Police Violate Human Rights: In fact, police work according to the Constitution. However, violations of human rights by the police are a concern. Understanding the factors responsible for why police violate human rights may help police professionals or administrators in taking policy initiatives to erase the negative image of the police. There are many Some are inscriptions below.

Legal system cause: The police are one of the organizations that have been made responsible for enforcing the laws of the land which are made in consonance with the Constitution^{1,3}. Therefore, the police have a sacred responsibility to ensure the human rights of the citizens through establishing the rule of law. In establishing the rule of the law in criminal justice, the system plays an important role¹⁵. The police are one of the fractions of this system of criminal justice. However, the system is comprised of the codes (law), constable (police), court (magistrate), and correction (jail)¹⁵. The law provides sanctions against the violators. Police deal with the violators, apprehend them, and produce them before the court to prove their guilt¹⁵. The courts heard the evidence for and against and were convinced of the guilt beyond all reasonable doubt and bestowed sentences as prescribed according to law. Finally, the correctional institutions take them over and keep them segregated from the rest of society primarily to refrain them from committing the offense and secondarily to allow them to rectify themselves so that they may come out to lead their life as useful citizens¹⁵. In the criminal justice system, the police are the most visible form of the four organs and close to public. Therefore, often police come to blame.

Constitutional Cause: Human rights violation is a category of harm¹⁴ however, it can only be committed by a person who has been given the power to act on behalf of the state. Police have got such power through law²⁵. Constitutionally, police carry weapons with them, arresting, detaining, imprisoning, and searching people²⁵. Therefore, police may be the reason for a

violation of human rights while performing their duties.

The police are empowered by the CPC (The Code of Criminal Procedure)²⁵. According to the Bangladesh constitution, chapter 5, sections 46,48,49,50,51,52,53,54,55,58,62 entitled arrest, escape, and retaking and they often use force or arms at the time of arresting somebody²⁵. Section 46 instructs arrest how to be made and how to resist an endeavor to arrest. A search of a place entered by the police, a person seeking justice can be arrested under section 47. Section 48 instructs procedure where ingress is not obtainable. Section 49 authorizes power to the police to break the door and window during arrest. No unnecessary restraint at the time of arrest is mentioned in section 50,51,52. Section 53 describes the power of police to search someone's body, and the power of weapon detained, and section 54 permits the police to arrest somebody without any warrant. Section 55 describes to arrest of vagabonds, habitual robbers by the police. Refusal to give name and residence is considered as offenders in jurisdictions under sections 57 and 58. Arrest by a private person, and procedure for such arrest (Section 59), police to report apprehensions (Section 62). Police have given power, on escape, to pursue and retake people under section 63. So, human rights is conflicting with the state constitution. However, sections 31,32,33,34,35,37, and 43 of the constitution have taken due care to protect the rights of the citizen²⁵. Section 33 of the 21 depicts the fundamental freedoms or safeguards upon a person arrested under ordinary law²⁵.

National Interest: In some circumstances, state systems can develop specific criminal laws that contribute to a culture of arbitrary arrest, detention, and torture by law and enforcement agencies. The most notorious special law is the Special Powers Act of 1974²⁵. Under this law, a person can be detained by the police in the case of a suspect who can commit a harmful act that harms the interests of the state. A person may be caught under section 54 of the Code of

Criminal Procedure and subsequently prosecuted under the Special Powers Act 1974.

Departmental Cause: Obviously, police arrest the culprits and interrogate them to find out the truth to reveal the real facts to the public. In this process, if the truth cannot be revealed, the police are answerable for their unusefulness and irresponsibility. Sometimes departmental action to suspend or transfer the police to remote areas makes them frustrated and traumatized and suffer from compassion fatigue. Significantly, research has shown that compassion fatigue has a devastating impact on police well-being, decision-making ability in critical situations, and overall job performance including isolation from family, alcohol abuse, violence in arresting the suspect, and difficulty controlling frustration and anger during interactions with others²⁶. Therefore, to reveal the truth, police become overacted, coercive, and even physically violent in interrogation for confession to a crime²⁶. The empirical study revealed that 23 percent of police in the United States and Canada, reported high levels of compassion fatigue²⁶.

Sometimes, promotion is based upon relationships rather than upon merit²⁷. This may cause the less competent police officer to compromise public safety on one hand getting into positions of authority and on the other hand lack of basic morality²⁸. This perhaps explains why misconduct is done by police.

In some instances, police are fair and abide by the rules of law but criminals are more dangerous than what police learn how to handle criminals. This "disadvantaged cop syndrome" is fueled by imperfections and mismanagement of the criminal justice system, lack of media evaluation, public appreciation of police work, and society's ambivalent attitude toward crime and criminals. In this situation, the police are abandoned and frustrated. This "frustration cop syndrome" leads police officers to feel angry, helpless, and cynical in their interactions with the public²⁹. If the police express a strict attitude to prevent crime from happening, then the humanitarian issue is somewhat neglected.

Philosophical Cause: However, various political philosophers developed the theory of human rights at different ages. John Stuart Mill might be the founder of theory of the individual liberty. i.e. freedom of thought, expression, and action¹⁶. But we should not forget the contribution of Ibn-e-Khaldun, an eminent philosopher of the Muslim Renaissance, who highlighted "social cohesion" and "group solidarity" which is the practical aspect of human rights for the greatest good of maximum people that is the well-known treatise on social science^{17,18}. Rousseau's "Social Contract"¹⁹, Bentham's "Theory of Utilitarianism"²⁰, and Green's "Theory of oxford idealism"²¹ all have raised the same voice. Even, all the religions laid stress on individual freedom and social obligation and responsibilities and edited "do" and "don't" to make life worth living. "Don't" is for himself and "do" is for making useful to others. Nevertheless, Sigmund Freud said that everyone has the urge to bring pain to another human being, although some have more control than others²². Heinz Kohut, a Freudian psychiatrist, suggested that wrath or hatred directed at another person can be used to keep oneself together²³. According to Christopher Bollas, a psychoanalyst, anger and cruel behavior are always accompanied by a profound emptiness²⁴. These three theories can be plausible reasons for police brutality.

Ethical Cause: The "Law Enforcement Code of Ethics" and "Canons of Police Ethics" were created to make explicit the conduct considered appropriate for police officers and to guide them in the performance of their duties to ensure the maintenance of high standards of performance. However, the police code of conduct is different from societal and personal ethical morals and values. Allegiance, honesty, loyalty, and courage are the principles of police ethics. However, in the contrary, personal ethics has four principles of ethics: autonomy, beneficence, justice, and non-maleficence. It means what is correct conduct in the eyes of the police that is a violation of human rights in the eyes of people. Therefore, police are challenged to decide how to perform their duties³⁰.

Moreover, police suffer ethical dilemmas between the ethical standards of the psychologist and the agency. Police also suffer from dual relationships as a man and a police³¹.

Usually, police are trained on how to handle firearms, identify non-lethal weapons, use defensive tactics effectively, conduct search and seizure, driving techniques, investigate criminal acts and the laws of arrest, but how many police take a course on ethical conduct or learn the meaning of sworn oath?³⁰ Research describes that the majority (55%) of the police reported that they had encountered an ethical dilemma specially in confidentiality and conflict of interest³¹.

However, law enforcement administrator agrees that maintaining professional ethics and integrity is important to the profession. Ethics should be in place from recruitment, selection, promotion, and assignment, to training and field activities. No other factor is more important than ethics in a law enforcement agency to develop the most effective service for safeguarding human rights³².

Conclusion: The police are the most essential laws enforcing agency in Bangladesh and no doubt that the police have a special responsibility to protect human rights.

Over the past decade, many police forces in Western countries USA, England & Wales and Belgium, Norway, Sweden, Denmark, the Netherlands, and Scotland have undergone significant reforms to their structure, organization, and governance by the system of moral values ethics³². To stop the inhuman and biased attitude of police and ensure fair public security ethics education is important for the police profession. Mandatory ethics education/courses should be employed regularly for each person. An ethical committee with representations from civil society, bioethicists, teachers, students, religious persons, human rights activists, and journalists needs to be constituted to monitor police activities in

Bangladesh. Exemplary punishment should be ensured for violations of human rights. Journalists and general people are also educated regarding the police code of conduct and activities to be impartial in reporting and encourage police action. We believe the police force can break down the wall of long-standing misunderstanding and negative images and become the friends of the people.

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Author Contributions: 1st author drafted the abstract, did the literature review, and conclusion. 2nd author did the introduction, the main thematic part of the discussion, and the conclusion. 2nd author also Both authors meticulously corrected the article in its present form. Both authors read the manuscript and corrected the article accordingly.

Conflicts of Interests: The authors declare that there is no conflict of interest in the study.

Funding: None

