



## TEASING QUESTIONS

**Justice Md. Rezaul Hasan**  
Supreme Court of Bangladesh  
High Court Division

### PRELUDE:

No Doubt the police force might be considered as the largest public service provider, alongside the Hospitals, the Courts and the public transport system (Railways) etc. A good number of them are still maintaining the trust of the people or at least the criminal procedure system requires the people to take their grievances to this force, at the first instance, who are working to ensure safety, security and to maintain the law and order. Ensuring the peoples safety, security, law and order is pre-requisite to help growth and survival of a civil society, a democratic polity and the economic advancement of a country. For proof, any body can see a developed nations and the state of the law and order situation in those countries. This force may be the tools to protect those who are the easy victims of the predators or it, or a few of them may, itself/themselves, be the tool or tools of oppression. All depends on the role truly played by them and the public perception originated there from. No other government authorities, the ordinary or mass people, has much business to do with, except this force. Here this force has a unique position and responsibility. They can turn the people's lives into a heaven or a hell. Besides, people will never forget their sacrifices, themselves being the first victims in the mid-night crack down following 25-3-1971, begun by the Pakistani aggressors. They have done miracles in some cases and have shown their worth to tackle any challenges of these days, as well. In this back ground the questions posed below are to be understood. (*emphasis added*)

### THE QUESTIONS

Does it need wondering that the activities of police force is and was always in the focal point of all quarters, including the citizenry? Is there any need to assess whether they are doing better or even worse compared to their previous generations? Does they need change in their attitude and in their professional responsibility? Are they different from the colonial or Pakistani Police? Can they be different force while working under the same old (and pre-constitutional) laws, for instance, the Criminal Procedure Code 1898, Police Act 1861, Police Regulation of Bengal, 1943? Can they deliver the best of them under the command of any officer having the attitude of colonial police? Or do the Metropolitan Police Ordinances require to be re-visited? Or whether the behaviour and attitude of police, in the post independence era (i.e. after 1971), has been found to be different after emerging independent Bangladesh? Under different governments? Or under military ruler or elected regime? Has there been any improvements? Are they being considered by the law-abiding and peace-loving people, of any strata, as their friends and a dependable force? Are all of themselves (the force) law-abiding? What are taken into consideration when a police personnel commits offence or indulge him-self into unlawful activities? Is there any red line beyond the action 'closed' or 'suspended'. Should the uniform and the arms be given or handed over to a person who does not have proper temperament or efficiency to have or hold them? Are the police

force aware of the constitutional and statutory rights of the people? or about the duties they are bound by laws and regulations to perform? The police force should ask themselves all these and similar other questions and should seek the answers for themselves.

There is a book titled the “Teasing Questions”, by Mr. M Hamid Ansari, Hon’ble Vice President of India, since 2007. This book is a collection of HE’s addresses and speeches exploring discontents in contemporary India. I have borrowed that title for this article. But, these questions are posed here not to tease the police force (as HE did not to tease any body), but to help appraise the force its position and its perception in the socio-political set-up in which they are called upon to perform their sacred functions and to examine if the existing laws and the socio-political situation indeed help them to perform their duties up to the level of expectation maintained by the peace-loving and law abiding people or by the people of other regional and international territories, in comparison.

Then question may come as to why a country needs police force? Whom they should serve? Why they should amalgamate their identity with a few criminals, in the force, because of wearing the similar uniform? Why the image of the entire force shall be allowed to be tarnished by a few culprits serving in the force? Is not this force for the most rational and committed persons to serve in? Should not the members of this force behave like heroes, not like villains?

If they fail, refuses or neglects to perform their duties, for which this force has been raised and do exist, then what measures are to be taken? Are they aware of their accountability under the Police Officers (Special Provisions) Ordinance, 1976 or under any other laws, including the PRB and the MP Ordinances? Or about the limitations of their powers? Do they (meaning all of them) know and respect the fundamental rights guaranteed under the Constitution? Or other laws (particularly the CrPC) and regulations governing and limiting their conduct? Let the force raise and answer these questions too.

Besides, question may arise as to whether the authorities responsible to update the penal laws and the related procedural laws seems quite oblivious of the fact that the maximum laws under which this force is working needs to be replaced or amended or rewritten, at least, so far as prevention of crime, inquiry into the offences, apprehending and seizing ‘alamats’ (material evidence), repatriation of criminals etc are concerned. How to cope the pervading cyber crimes, obscenity and perversity spreading at a quick pace? To more efficiently prevent oppression on or trafficking of women and children, drug trafficking, gold smuggling, counterfeiting currencies? professional killers, abductors for killing or ransom, illegal arms dealers and the terrorists, hired terrors?

Besides, with the change of time, the nature and pattern of crime has been changed. New types of crime any criminals have emerged and have dared to go to the extent of barbaric, perverted, cruel, inhuman and broad day-light killing of child Rajon at Sylhet, without bothering least if there is any law and order in the country. The Daily Star (dated 25-7-2015) reports “A police probe committee has found negligence of law enforcers in arresting the killers of 13 year old Samiul Alam Rajon, and political influence in letting one perpetrator flee the country. Based on the committee report, the Sylhet Metropolitan police (SMP) closed an officer-in-charge and suspended two sub-inspectors of Jalabad Police Station yesterday. Rahmat Ullah, additional deputy commissioner of the SMP, confirmed to The Daily Star that the action was taken against OC (investigation) Alamgir Hossain and sub-inspectors Aminul Hossain and sub-inspectors Aminul Islam and Zakir Hossain. Earlier on July 14, SI Aminul Islam was withdrawn allegedly for cutting a deal with accused Kamrul Islam and helping him flee to Saudi Arabia after the killing. Police failed to arrest Rajon’s murders due to their negligence and there was a political interference to save them. SMP Additional

Commissioner SM Rokun Uddin, who headed the probe body, told this correspondent yesterday. (*underlining is mine*)

Similar two other killings, were recorded in video, of which one occurred at Rupgonj Thana, as reported by an electronic media (ATN), may be in September, 2015. Had ever the mixing of perversity and the cruelty been seen to such extent? A journalist reportedly took Taka 10,000 for handing over a copy of the video and the police took taka 1000/ per photo, handed over to the victim's family, apparently living below the subsistence level (in Rupgonj case). Another person was beaten to death at Murad Nagar, for which he was first labelled as a dacoit, as reported by the Media, around September, 2015. So, question many naturally arise that only those offences, that caught eyes of media or public, be recognized. Should the hope for justice end in silent cry, as was said 100 years ago?

Media has played its part properly by upholding the people's right to know, established long before by the US Supreme Court in the Pentagon Paper Case. In that Case, the US Government injunctioned 'The New York Times' and 'the Washington Post' from publishing some classified documents (as top secret) concerning the role of USA in Indochina (History of US decision-making process on Vietnam policy). The US Supreme Court over ruled the injunction for the reasons stated in their judgment, particularly noting that no concrete claim was made by the Attorney General that the publication would jeopardise 'the defence interest of the United States.' [*New York Times Co vs United States, 403 US 713, 125 [1971* quoted in "The Supreme Court and Human Rights, Edited by Burke Marshall, 1982, page 49]. The Times said (may be exaggeratedly) that

"the nation's highest tribunal strongly reaffirmed the guarantee of the people's right to know". The peoples right to know is an universal right. But the publishers or the persons must know that there are limitations to such right, imposed by the Constitution, for national safety, security, to prevent contempt of court and for similar other reasons and other laws. (*emphasis added*)

In the case of Rajan Murder, the people's right to know has been denied alarmingly, at least to the extent of suppressing the identity of the persons who had reportedly helped a killer to flee from the country or otherwise tried to influence the force (vide, the Star report).

The children watching the TV are likely to be mentally affected by seeing the brutal scene of killing child Rayaon, a talker said in an SATV talk show, held 2/3 days after that occurrence. He even cautioned that such scene should not be aired. Such talkers should be asked as to why the parents of the vulnerable children should not be asked to switch off the TV or shift to another channel. Many children even like to watch horror films. The TV presenter had nightly pointed out that, had this scene had not been shown in the media then the public opinion would not have been formed against such barbarity and the criminals, who even tried to conceal the dead body of this poor victim, might have escaped facing the trial. This could have happened, with or without knowledge of the local police, but for the media, members of the public and/or some honest police personnel, as many people are found to believe and say. The public gathering and roaring soon emerged demanding punishment of Rajon's killers. Even 3 (three) ministers visited the site and met the pain-struck family, publicly assuring proper trial of the offenders. Would these type of talkers will receive any message from the subsequent sevents? They may, one day, say that the scene of petrol bomb victims or similar incidents (as the TV should the burn unit of DMCH) should not be shown by the Media. Do they want the society to keep in the dark? Do they want that the darkness should be deepened and should engulf this country in every aspect of life, so that the crime and criminals can merge in the darkness? Do they feel embarrassed seeing these reports? Do they want preventing public opinion to form and the people's right to know?

Besides, why even the law-abiding the people are tending to take the law into their own hands? Why they have to gather every now and then and protest against the offenders seeking their punishment? Is it because the system has become non-functioning? Untrustworthy? Or indifferent? When the society is concerned and shocked by seeing the extent of barbarism coupled with perversity and the humanity downed to the ground, a few, in their cool living room or TV talk show room, are still chewing their sweet academic gum. Now the questions are how and why these criminals have become so daring? So confident that they are out of reach of law? None is answerable for this?

Did any human rights organization, existing by name or indeed, uttered a single word? Are Rajons, tow other similar victims or the rape victims not human being?

Then questions may arise about the reported involvement of some personnel's (entrusted with the job to ensure security of the nation and the people) who were involved in 11 (eleven) truck arms smuggling case at Chittagong, the killing case at Narangonj (where a counsellor named Nur Hossain is the principal accused). Question, therefore, should also arise as to whether the punishment should be similar for committing offence by the persons having no uniform or government weapons and by the persons wearing uniform and carrying government weapons, procured by public money? Why, in addition to corporal punishment the NID card, electoral right, passport and other civil rights should not be denied to cruel and perverted type of offenders, at least for an specified time? As done in the case of a person declared bankrupt for civil liability! (*emphasis added*)

Besides, to ensure trial and to punish the criminals for the crimes occurred across the border, India has re-enacted (re-written) Criminal Procedure Code 1973, inserted a new chapter VII-A, thereby making provision for "Reciprocal arrangements for assistance in certain matters and procedure for attachment and forfeiture of certain property". They made drastic changes in their CrPC, 1973 to ensure facing trials of all categories. of offences and the offenders. Similarly, India has brought about several amendments in Penal Code, 1860 and in the Evidence Act, 1872, with similar firmness to ensure punishment of the criminals. Besides, following a rape incident, took place inside a bus, 2/3 years back, the entire India boycotted celebrating 31<sup>st</sup> December that year. In Bangladesh, modesty of women were violated during celebration of Pahela Baishak (1422 BS) i.e. 14-4-2015. Around October, 2015 a girl (garment's worker) was reportedly raped by a bus driver and the helper at Arihajar area of Narayangong. A garo (tribal) teenager has been raped a few month back. Then Monindra Chandra Odhikari was killed on 15.03.2016, by a group of miscreants, since he tried to prevent abduction of his teenager school going daughter. Local people apprehended 7 of these culprits and handed over to Fatullah Police. Then came up the ordeal of Tanu Marder at Comilla. What happened next? Why we are talking about access to justice for women? What was done following commission of these and similar other perverted offences? Should such deterioration be allowed to pervade under the guise of our well-dressed society? Be suppressed under the big talks or hollow assurance? Is this country not proceeding to be the safe land for peace loving people?

[ I have made no comments on RAB, since, they are a different force, who are being looked at by the peace-loving people as their protectors and the other name of 'fear' to the criminals, at list till date, save a few incidents, not tolerated either by the society or by the RAB itself. ]

Yes, we may fall asleep after reading this article or may pass sleepless nights being annoyed or worried about all these, as the case may be.

