Analysing Legal Challenges of Bangladesh Police for Achieving Polycentric Security Governance (Psg)

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ABSTRACT
To manage the ‘common-pool resources,’ the concept of the ‘polycentric governance’ was adopted; now emerging as one of the most popular and effective governance systems for ensuring proper utility and accountability of public goods and services. A few years ago, Bangladesh Police introduced 'Community Policing' and recently initiated 'Beat Policing' to enhance public relations and easy access to police services. These initiatives resemble a 'Plural Community' polycentric governance approach, but the lack of legal basis makes it questionable. Therefore, this research aims to determine what legal challenges may arise when introducing polycentric security governance based on the existing laws of the Bangladesh Police. Through this qualitative research, an attempt has been made to find out the existing legal challenges of the Bangladesh Police by analyzing the Police Act-1861, Police Regulations of Bengal (PRB), and 8 (Eight) Metropolitan Police Acts. The results of this research show that achieving polycentric security governance is not possible through the existing laws in several areas, which will emerge as challenges in implementation. To avoid such legal hurdles, it is necessary to amend, modify, and update those laws. For this reason, some recommendations have been added for eliminating the existing legal challenges and setting directions for further research at the end.

Keywords: Polycentric governance, Policing, Bangladesh, legal challenges

INTRODUCTION
The term polycentricity was coined by Michael Polanyi in his 1951 work The Logic of Liberty to describe a system of social organization in which individuals are free to pursue specific goals under general rules (Polanyi, 2013). About a decade after The Logic of Liberty was published, Elinor Ostrom and her colleagues adopted the 'polycentric' concept to explain the overlapping governance of metropolitan areas (Ostrom et al., 1961). In that research, they concluded that if the characteristics of the market system are present, then in the production and provision of public goods and services, the seemingly inefficient configuration of political units can be more effective than the centralized governance system. A study of metropolitan area police services in the 1970s found that polycentric metropolitan units outperformed units in a centralized system in terms of effectiveness, including responsiveness. This research result supports the previous theory (Carlisle and Gruby, 2019). In the 1980s, Elinor Ostrom proposed the eighth design principle...
for institutional arrangements considering 'polycentric governance’ for the use and control of 'common-pool resources' in large-scale and complex systems (Ostrom, 2009). It opened a new horizon in the interpretation and management of the concept of 'common-pool resources' in economics, which later encouraged researchers to explore the concept of polycentric governance.

Bangladesh is committed to achieving the SDGs targets as a signatory country (Nuri et al., 2021). Hence, various initiatives have been taken by Bangladesh to achieve the SDGs, and the targets have been distributed among all ministries and other government institutions of the country (Rahman, 2021). At least seven targets have been identified for the Bangladesh Police and almost all these targets have cross-cutting areas (General Economics Division, 2016). That's why Bangladesh Police has vigorously launched the nationwide community policing system since the Police Reform Project in 2007 (Sciarabba, 2009). But it is to be noted that there is no clear provision in the Police Act (Haq and Hena, 2015), Police Regulations of Bengal (PRB) (Shajahan, 2016), and 8 (eight) Metropolitan Police Acts (Haq and Hena, 2015) to give a legal basis for Community Policing but the inner meaning of those sections is different from the Standard Operating Procedure (SOP) of Community Policing (Bangladesh Police, 2016).

Like Bangladesh Police's 'Community Policing', 'Beat Policing' has been facing legal challenges to reach the people's doorsteps with service. Various legal problems may arise because most of the laws of Bangladesh Police have been before the adoption of the Polycentric Security Governance (PSG) concept. For this reason, it is necessary to research to find out what challenges the Bangladesh Police may face under the existing law in achieving polycentric security governance. The objective is "To explore the existing legal challenges of Bangladesh Police in achieving Polycentric Security Governance (PSG)" under Bangladesh's eight existing laws.

METHODOLOGY

This article explores these challenges based on the Bangladesh Police Foundation's 'The Police Act 1861' and Police Regulation of Bengal (PRB) and eight metropolitan police acts. This research proceeds based on inductive reasoning. In the beginning, open observation examines the data pattern. Then, the data pattern shows the Tentative hypotheses. Later, the tentative hypothesis is combined with the theory to make a final decision. To find out the legal challenges of the Bangladesh Police in achieving polycentric security governance, the observation of the Police Act, Police Regulation of Bengal (PRB), and eight metropolitan police acts paved the way to find data patterns. Then, data patterns show tentative challenges. Finally, comparing the existing theories of polycentric governance, the challenges get final confirmation. Since constructivism or interpretivism is the research philosophy, inductive reasoning is one of the best options for explaining existing realities or knowledge. For this reason, the research type of inductive reasoning for the decision is inductive reasoning. Grounded theory has been used as a research strategy or action plan in line with the research type of this study. Grounded theory is one of the most effective ways to identify the challenges through research (Robrecht, 2016). Although there are challenges to using grounding theory for a novice researcher, it is a very effective method to gain an in-depth understanding of a topic (Douglas, 2003). Therefore, the 'tentative challenges' have been determined by collecting data from both these laws and analyzing them. Then, the tentative challenges got confirmation with the help of the existing literature. Non-probability sampling is the sampling method of this research. For this research, 'The Police Act 1861' and
Police Regulation of Bengal (PRB) and eight metropolitan police acts of Bangladesh Police have been used. There are several reasons for conducting research based on these ten laws as it is most logical to research the main laws of the Bangladesh Police.

Since this research is being done based on the philosophy of interpretivism, research type inductive reasoning, research strategy grounded theory, and ten primary laws of Bangladesh Police selected through non-probability sampling, this research aims to collect qualitative data. A prescribed sequential process was followed for the collection of this data. Initially, the ten police laws used in this study were formalized. Then the initial code is generated through literature reviews and data analysis. Then the theme is searched based on the mentioned code. Themes are defined by reviewing these themes. Then the report is prepared by classifying the themes. The data for this study was collected following this process. During data collection, data has been collected in a classified manner based on various themes. This research is conducted to know the legal challenges of Bangladesh Police in implementing polycentric security governance to achieve Sustainable Development Goals (SDGs). At the outset, various features of polycentric security governance are identified through literature review and data analysis. These factors were found in each of the laws used in this study. On the other hand, in verifying the ability to meet the Sustainable Development Goals (SDGs) targets, the Bangladesh Government's seven targets for the Bangladesh Police have been used as a measurement scale. This research is done using grounded theory. Interviews are widely used in the field of grounded theory. However, as it was time-consuming and expensive, it was not possible to go to Bangladesh and take an interview in this regard. Alternatively, there was no financial allocation for this research. For this reason, this research has been carried forward by analyzing the data of two laws. Discourse analysis has been used as a data analysis technique.

POLYCENTRIC SECURITY GOVERNANCE (PSG): LEGAL CHALLENGES

A polycentric governance system requires the presence and implementation of several elements. However, it is true that the elements of polycentric governance may change depending on the situation and field. However, there are several elements in the research of renowned academicians, experts, and researchers that are essential to building a polycentric governance system. These contributions can be broadly divided into three categories. First, the multiplicity of the stakeholders; Second, the Overarching system of rules and norms; Finally, Leadership and coordination. Each of these contributions broadly covers several topics. For example, Active exercise of the diverse mandate, Autonomous decision-making, and Common aims / shared goals have formed the contribution of the multiplicity of the stakeholders. Again, Incentive compatibility: alignment between rules and incentives, non-territorial jurisdiction, Stakeholders directly involved in rule design, and Decisions by consensus are connected to form the Overarching system of rules and norms element. Apart from this, Merit-based entry, Free exit, and public information from the Leadership and coordination component. This research is based mainly on the Police Act, PRB, and 8 Metropolitan Police Acts of Bangladesh Police. At this stage, these laws have been scrutinized in the light of elements required for polycentric (security) governance.

The following tabulation sheet has been prepared by giving the presence of any component of polycentric (security) governance directly in the said law or indirectly through the said law, by providing a ‘tick mark (✓)’ and, if not possible, as per the existing law, by giving ‘cross mark(×).’ Through this tabulation sheet, it
will be possible to get an idea briefly about the capabilities and legal challenges of establishing polycentric (security) governance in each legislation that is part of this research.

*Table 1: Feasibility check of polycentric (security) governance of 10 laws of Bangladesh*

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DISCUSSION
A study on the benefits of specialized knowledge in polycentric governance found that higher numbers of actors with specialized policy knowledge in high-conflict forums translate into higher perceived levels of performance on forum outputs (Vantaggiato and Lubell, 2022). In the results of research on the application of polycentric governance in a large-scale marine protected area, diverse mandate exhibits social fit for governance actors, and they add empirical support and additional nuance to theoretical understandings of functional polycentricity (Acton, Gruby and Nakachi, 2021). There have been problems in the practice of multiparty participation and diverse mandates per the existing law of the Bangladesh Police. First, the legal structure of the Bangladesh Police is centralized under the Police Act 1861, where the entire Bangladesh Police structure is placed under an Inspector General of Police (IGP). Apart from this, according to the administrative structure, the offices are identified as Range, District, Circle, and Thana. However, the IGP is responsible for the overall control and functioning of the police force, and the subordinate units are similarly bound to implement his directives. Conversely, the PRB has provided legal instructions regarding various powers, responsibilities, and punishments of various police units and rank-wise police officers under the IGP. However, an examination of Bangladesh's different metropolitan legislation reveals that the creation of the metropolitan has somewhat dispersed the country's centralized police force. However, following the Police Act 1861, even in these laws, the Police Commissioner (PC) has been made the focal point of exercising the power of the metropolitan area. Additional Commissioners, Deputy Commissioners of Police, Additional Deputy Commissioners of Police, Assistant Commissioners, and all the subordinate policemen under the Commissioner are practically engaged in implementing the objectives set by the Commissioner of Police. Although there is a provision of multiparty in this entire service delivery process of the police, there is no opportunity to work with diverse mandates. Apart from this, there is no opportunity for active role-playing independently. For this reason, it can be said that although there is an opportunity to divide the Bangladesh Police into small units through the existing laws of the Bangladesh Police, the units do not have the opportunity. Such form their duties effectively. Such legal obligation is one of the significant obstacles to introducing polycentric security governance for the Bangladesh Police.

There are complications in making incentive compatibility according to the existing laws of the Bangladesh Police. Firstly, according to the primary law of Bangladesh Police, Police Act 1861, the responsibilities of the subordinate institutions of Bangladesh Police IGP have not been distributed. Later, according to the Police Regulation of Bengal (PRB), various ranks under the IGP and the responsibilities and powers of the police officers of those ranks were distributed. Alternatively, according to the various metropolitan laws of Bangladesh, responsibilities, and powers have been distributed, starting from the police commissioner to his subordinate police officers. However, under current law, while there is a legal basis for exercising responsibilities and powers, the Bangladesh Police Department is dependent on the police chief because of the "pre-existing police culture and tradition of exercising power". In addition, there is no opportunity to formally engage the public with the police service based on the existing legal framework. It is also one of the biggest challenges in aligning laws and incentives.
Another feature of polycentric security governance is non-territorial jurisdiction. Nevertheless, all the laws of Bangladesh Police have bound the jurisdiction within a specific limit, i.e., limited the power of the police. There is no overlapping jurisdiction for anyone other than the IGP alone. That is, respective agencies are responsible for incidents within their respective jurisdictions, and police officers or police units are empowered to exercise their powers within those limits. Nevertheless, in the case of polycentric governance, parties cannot be limited by their jurisdiction to achieve specific mandates. For this reason, territorial jurisdiction will emerge as one of the challenges when introducing polycentric security governance based on existing police laws.

Another significant feature of polycentric security governance is that all stakeholders can participate in rule design in this governance system directly. Nevertheless, since the Bangladesh Police is a disciplined force, it has a top-down devolution of power. That is, the subordinate police officers are bound to obey any lawful orders of the superior police officers. Exceptions to this are penal provisions. Apart from this, according to the Police Act-1861, Police Regulation on Bengal, Metropolitan Police Acts, all the stakeholders do not have the opportunity to participate directly in the rule design, but the subordinate institutions have to follow the centrally issued rules. The police created the rules and regulations in the instance of the local police, which the Bangladesh Police oversaw. Communities are instead coerced or urged to abide by centrally made policy decisions rather than being given a chance to contribute to creating these regulations.

On the other hand, in the case of Beat policing, all the Beats activities are prescribed through the Standard Operation Procedure (SOP) prepared by the Police Headquarters. There is also no opportunity to involve the service seeker or anyone outside the police. For this reason, it can be said that the lack of opportunity for active participation of stakeholders in rule-making is also one of the biggest challenges in introducing polycentric security governance for the Bangladesh Police. Decision-making by consensus is one of the significant features of polycentric security governance. Nevertheless, there is minimal scope for making decisions through consensus in the case of the Bangladesh Police, the central institution engaged in the internal security of Bangladesh. First, by law, the Bangladesh Police must be subordinate to the government and carry out its directives. A few things are particularly noteworthy here. First, since all government decisions have to be followed by the police, there is little scope for consensus. On the other hand, Bangladesh Police must follow several internal laws in making or implementing decisions. The units are bound to follow the directions of the IGP simultaneously. On the other hand, there is little or no scope for consensus in the decision-making process for internal units. Therefore, the implementation of Decisions by Consensus is one of the most significant legal challenges in implementing polycentric security as per the existing law of the Bangladesh Police.

Merit-based entry is one of the features of polycentric security governance. One point to be noted here is that each party in the polycentric system will have the opportunity to be involved in this process according to their needs and participation. However, here, it is seen that there is no scope for merit-based inclusion to any other party except for internal recruitment of police within the laws of Bangladesh Police. It is equally applicable even in the case of community policing and beat policing introduced by Bangladesh Police. Community policing involves people, but participation is not possible on a merit-based basis. On the other hand, in the case of bit policing, there is no opportunity to involve any party other than the police. For this reason, due to
the lack of legal guidance, merit-based anti-problems may emerge in the case of polycentric security governance.

RECOMMENDATIONS

It is unprecedented that the police law of the country is almost 110 years older than the age of independence of Bangladesh! After 50 years of independence, Bangladesh Police is running based on the British Police Act. However, when this Police Act was passed, the Indian subcontinent was a British colony. Now the Indian subcontinent has become independent, and three countries, namely India, Bangladesh, and Pakistan, have been created from it, but the Police Act of Bangladesh has not changed yet. Although the Police Act of 1861 was done in a specific context, the concept of policing has undergone significant changes over time. The idea of police has undergone a significant shift in tandem with the concept of the state. The Metropolitan Police Act of 1829 has been amended and modernized in Britain through more than 50 amendments. On the other hand, Bangladesh Police Act has been amended only three times. Most of these corrections were merely linguistic corrections.

One of the most important rules of the Bangladesh Police is the Police Regulation of Bengal, 1943. This rule was last reformed during the British period. After it was considered a PRB of India and Pakistan, it became a PRB of Bangladesh after the independence of Bangladesh in 1971 through a bitter war. When it was reformed in 1943, it was prepared to keep in mind the time's social, economic, and state context. However, the last 80 years have seen many changes in the global social, economic and political structure. For this reason, PRB has emerged as one of the obstacles to implementing modern ideas such as people-oriented policing or polycentric security governance in the welfare state.

On the other hand, Dhaka Metropolitan Police started its journey in 1976 as Bangladesh's first Metropolitan Police (DMP). This policing system established through the Dhaka Metropolitan Police Ordinance in 1976 includes all clauses incompatible with the modern policing system. On the other hand, most of the Metropolitan Police Acts that followed the DMP has been made following the DMP Ordinance. For this reason, the important things left out in the DMP of 1976, which are left out in the Barisal Metropolitan Police Act-2009, or the Sylhet Metropolitan Police (SMP) made 35 years later. Amending or repealing the Police Act, enacting new Police Acts in keeping with the policing system of the modern world, and framing the new Police Act in such a way as to harmonize with the rapidly changing world and modern systems of policing are required. It is necessary to redefine the duties and responsibilities of the Police as per the Police Regulations of Bengal. Bangladesh Police Acts need to be reformed to accommodate modern services. Current law in Bangladesh requires the attendance of candidates in all cases, with a few exceptions. However, in the modern policing system, most policing services have been taken online. The use of technology has brought police services into the hands of the people. Therefore, the existing Bangladesh Police Law needs to be reformed to ensure technological inclusion.

CONCLUSION

Polycentric security governance with opportunities to include the government primarily to individuals and all its constituents is also required for Bangladesh Police. Policymaking is now done on a global scale with the participation of the people. The results of this research show that to introduce polycentric security governance
in Bangladesh Police to achieve SDGs, there is a centralized control structure of Bangladesh Police, a set of responsibilties and duties and lack of in-between opportunities, limitations of territorial jurisdiction, problems involving stakeholders in decision making, decisions through consensus. Non-admissibility and non-availability of merit-based entry will emerge as significant legal challenges. For this reason, introducing a polycentric security governance system within the existing legal framework will be challenging in many cases. Bangladesh's existing policing laws must be reformed to introduce polycentric security governance to achieve the SDGs. If the polycentric system is introduced without creating a legal basis and obligation, the question of its jurisdiction will arise and create various problems in its implementation in a country like Bangladesh. For this reason, existing legal challenges of the Bangladesh Police should be overcome to achieve SDGs, and the existing law, administrative structure, distribution and arrangement of powers, and area of accountability of the current police should be expanded more.

REFERENCES


