



RESEARCH PAPER

Behavioural Consequences of Police Officials during Investigation

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PAPER INFO	ABSTRACT
<p>Received: June 15, 2021</p> <p>Accepted: August 22, 2021</p> <p>Online: August 25, 2021</p> <p>Keywords: Criminal Justice System, Criminal Procedure Code 1898, Investigation, Police, Police Order 2002</p> <p>*Corresponding Author: abdulrasheed@uo.edu.pk</p>	<p>Basic function of the state is to protect life, liberty, property of the people and to ensure a speedy justice. In Pakistan, the main components of criminal justice system are police, prosecution and judiciary. Unfortunately, the department of police in Pakistan is not producing requisite results. Incompetency of the police officers has become common tale of town. Usually, police officers in Pakistan do not follow the existing laws properly due to which upholding the rule of law remains a dream. It is witnessed since the birth of Pakistan that many efforts have been made for the overhauling of police department; however requisite goals could not be achieved. In 2002, Police Order was passed to cater the advance needs but the same was accepted half-heartedly. Requisite results cannot be achieved unless proper implementation of existing laws is ensured. In addition, the role of prosecution department should also be enhanced according to the modern world. This paper explains the causes and consequences of failure of police investigation officers. Furthermore, it is also discussed whether we need new laws with the existing laws.</p>

Introduction

Pakistan, since its inception is facing many problems which are related to safety of the people i.e., robbery, kidnapping, abduction, rape, murder, vehicle theft and car snatching etc. Increase in crime ratio uncovers the performance of poorly trained police officials who have failed to counter such crimes. As our system is adversarial in nature, significance of police and prosecution cannot be ignored. It is observed that guilt of an accused person is proved on the basis of collected evidence. That evidence is collected by the investigation officers and for this; they should be competent and efficient. The process of evidence collection plays a key role in investigation as it is important for the functioning of smooth criminal justice system. Although the modern world countries are reforming their police department according to advanced needs, however, it is found that the police department in Pakistan lags far behind.

Police officers have to exercise discretion all over the world in various situations while uncontrolled discretion is always discouraged as it amounts to discrimination. Globally, every organisation works in a systematic framework as it is found that each

organisation of a country is true manifestation of culture of that country. Thus, it is deduced that only making laws would serve no useful purpose unless acceptance of laws by the masses in general and implementing body in particular are ensured.

Policing in Pakistan

Historically, Police Act V 1861 was operative for a long time. After that the Police Rules, 1934 became functional and In Musharaf era, Police Order, 2002 was introduced. It was launched to bring more reforms in the system and ensure accountability of police officials in case of negligence or misuse of power. Unfortunately, fruitful results could not be achieved due to excessive political involvement. Resultantly, Police Order(2002) was unable to produce desired results. Additionally, it is found that old ways of evidence collection are still practicing in Pakistan. Sections 154 and 155of The Criminal Procedure Code, 1898 (hereafter Cr. P.C) come into play when information is regarding the commission of cognizable and non-cognizable offences respectively. Cognizable offences are investigated u/s 156 Cr. P.C. without seeking permission from the concerned judicial officer and then report is submitted u/s 173 Cr. P.C. According to section 173 of the Code(The Code of Criminal Procedure, 1898), the said report should be submitted within fourteen days and investigation officer is bound to submit interim report within seventeen days in case of incomplete investigation. On the other hand, in Pakistan, some police officers do not follow the law and lodging of FIR is an uphill task. Additionally, it is explored that the police reports are submitted with an inordinate delay and without any plausible reason almost in every case. Further, it is also found that in case of failure of SHO to register first information report, the aggrieved person can file a private complaint or invoke the jurisdiction of Justice of Peace. Along with it, a magistrate can also exercise his power u/s 156(3) Cr. P.C. to give directions to police official regarding investigation of offence in case of private complaint (Sabz Ali Khan v Inspector General of Police, 2016).Hence, it is explored that negligence of investigation officers in the process of investigation is common in Pakistan.

It is important to observe whether existing laws are implemented in its true spirit by the police officials in general and investigation officers in particular. Due to negligence and inefficiency, police officials usually do not follow the Code in true sense. Resultantly, criminals get advantage and are acquitted. The superior courts have time and again held that victims should not suffer due to inefficiency of police (Irfan Ali Sher v The State, 2020).According to the report of U.S Department of Justice and Principles of good policing, the culture of any organization shows that what such organization believes and what will be its performance in future (2003).Additionally, it is revealed that the recruitment policy of employees in such departments is also affected by such internal culture. It has been held by the courts that process of investigation should be transparent, honest and fair (Iftikhar Sadiq v P.P.O., 2007).Liberty of any person cannot be curtailed in the name of investigation. On the contrary, it is observed that police officers tend to arrest the accused persons unnecessarily. The Constitution of Islamic Republic of Pakistan (1973) gives right to life and liberty to every person. Pertinent to mention here that as per the Article 25 of the Constitution (1973) equality in true sense is also guaranteed. Further, Rule 26.2 of the Police Rules (1934) also empowers the police not to arrest the accused person without incriminating evidence against him because improper and useless exercise of arresting persons brings chaos in the society. The Code of Criminal Procedure provides the procedure which should be adopted by the police department. Moreover, Information

regarding commission of cognizable and non-cognizable offences should be incorporated in relevant registers respectively (Riaz Ali v Sessions Judge and Ex-Officio Justice of Peace, 2017). The said procedure has also been provided in Rule 24.1 of Police Rules 1934. Owing to failure of police to apply the requisite procedure, the aggrieved parties 'resort to Justice of Peace or file a private complaint (Syedahmammah Ali v Muhammad Yaqoob, [2017]).

The investigation officer is legally bound to obey Sec.172 Cr.P.C. and record the proceedings during the course of investigation in police diaries on daily basis (Fazal-ur-Rehman Rana v Federation of Islamic Republic of Pakistan, [2014]). This practice is aimed to ensure that process of investigation remained transparent. However, a legal document could be created for further assistance (Raja Sohail v Sikandar Khan ASJ, [2014]). Similarly, written notice that are issued to parties and witnesses is necessary according to section 160 Cr.P.C. Ironically, police officials usually avoid this practice by not following the procedure properly and record fake statements. Thus, it is found that police officials tend to issue bogus written notices which are damaging for prosecution cases (The Criminal Code Procedure, 1898).

The confessions which are made voluntarily and without any duress can be accepted (Hashim Qasim v The State, [2017]). According to Qanun-e-Shahadat Order 1984, confession should be made before the magistrate (Javed Iqbal v The State, [2016]). According to Article 38, confession before police officer (extra judicial confession) is of no significance. Likewise, elements of threat, promise or undue influence in extracting confession make such confession irrelevant under Article 37 (The Qanun-e-Shahadat Order, [1984]). Although, Sections 164 and 364 of Cr. P. C emphasized that confessions should be recorded properly (The Code of Criminal Procedure, [1898]). Contrarily, it is found that Investigation officers wrongfully record extra judicial confessional statements of accused persons in the presence of other police officials (Gul Muhammad v The State, [2021]). Extra judicial confession cannot be relied much as it is weak type of evidence and can be concocted with quite ease. Moreover, extracting confession by torture is also a common practice in Pakistan (Gul Majid v Akhtar Mohammad, [2019]).

Similarly, it is also found that investigation officers sometimes implant fake recoveries of crime weapons to favour any party. Such fake recoveries are hardly proved in the courts due to which accused persons get advantage (Imran Rasheed v The State, [2016]). Additionally, preparing list of recovered articles by engaging independent witnesses of the vicinity should be ensured but this practice is not being followed properly (Shan v The State, [2015]). It has been held that involvement of independent persons in recovery proceedings brings transparency (Abdul Rehman v The State, [2016]). Showing fake recovery of crime weapons or stolen goods by the police is usually observed.

Investigation officers are not properly trained to collect evidence due to which collection of evidence is doubted by people at large. Therefore, it becomes herculean task for the complainant to prove his version. It can be safely said that common people suffer and precious time of court is wasted due to inaction and inefficiency of police. The complainant was of the view that sufficient light of bulbs was available at the time of occurrence however, investigation officer did not take the said bulbs into his possession (Sardar Bibi v Munir Ahmad, [2017]). Moreover, it is observed that the concerned SHO

does not keep an eye on the progress of investigation and blindly forwards the police report(State through Deputy Director (Law), Regional Directorate Anti-Narcotics Force v Ali Asghar, [2017]). Importantly, the investigation officer and SHO should have knowledge about the gravity and nature of offence (Noble J et al., 2009). Proper preparation of documents by the investigation officers is another issue and poorly prepared documents by them weaken the case. Minor lapse by the investigation officer sometimes does not affect the prosecution case when the case is otherwise proved against the accused person(Arif v The State, [2006]). Negligence and lack of knowledge of police officers aggravate the sufferings of complainants. Hence, conviction rate of accused persons is quite low.

According to Qanun-e-Shahadat (1984), Collection of evidence by modern devices is admissible. Combined reading of Articles 59 and 164 of QSO shows that such evidence is per se admissible under section 510 Cr.P.C (Tanveer v The State, [2020]).Unfortunately, investigation officers are unable to collect evidence by modern techniques which is due to lack of training. Additionally, statements of witnesses can be taken by audio or video recording but such officers are unable to do so (Zakir Hussain v The State, [2017]). In actuality, out-dated method of preparation of place of occurrence is still in practice. Thus, it can be deduced that proper training regarding use of modern techniques should be given to investigation officers.

Conclusion

Currently, the Code of Criminal Procedure, 1898, the Police Rules, 1934 and Police Order, 2002 are in practice in Pakistan. Awareness and regular training courses should be conducted so that police officers may know the importance of their job. No drastic changes in existing criminal justice system are possible unless police officials change their attitude and show true sense of responsibility. Behavioural change of police officials in general and investigation officers in particular is the need of the hour. Proper mechanism of supervision is also necessary so that wrongdoings of negligent officers may be corrected at the earliest. Every society makes new laws according to their needs. Unless attitude and behaviour of police officials is changed, making new laws will serve no cause. Laws are not beneficial unless these are implemented in letter and true spirit. If existing laws are not implemented in true spirit, requisite results cannot be achieved. Hence, it is deduced that emphasis should be on proper implementation of existing laws.

Recommendations

In Pakistan, the low ranked police officials are engaged in investigation and collection of evidence becomes an uphill task for them. As role of investigation officer is very important, he should be logical, rational and law knowing. Educated police officials should be involved in the process of investigation. Moreover, lack of training of police officials is a genuine issue which needs to be addressed. Hence, proper training of police officers should be ensured. Furthermore, due to lack of law awareness, the investigation officers are unable to collect evidence according to law. Regular workshops for providing law-based knowledge to police officials in which relevant laws should be taught to them. Evidence of investigation officer in the court is important to prove the guilt of the accused and it has been observed that investigation officers are least interested in proving the case due to their casual attitude. They should be properly trained about giving evidence in the

courts. Monthly progress report of investigation officers should also be ensured. Promotion of investigation officers should be based on their performance in true sense. Involvement of people in general and experts in particular must be ensured so that improvement in police department could be made. As police officials deal with masses that is why public opinion in making improvements should never be ignored. It is observed that no nation can progress unless speedy and cheap justice is provided, therefore, huge funds should be given to police department. Salaries of police officials should be increased to overcome corrupt practices. Further, it is important to make police department independent. As it is found that investigation can never be transparent when atmosphere provided to investigation officers is not safe and healthy. Thus, proper legislation in this regard is the need of time. Ways and mechanism of investigation have been changed with the passage of time. Scientific ways of investigation to curb the crimes are needed and training of investigation officers from developed countries in this regard can bring fruitful results. It is a fact that the accountability in any department is necessary and delinquent police officials should be accountable according to law in case of negligence.

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