

**EXPLORING THE CAUSES OF POLICE AND CUSTODIAL
TORTURE AND ITS IMPACTS ON VICTIMS: A CASE
STUDY OF FAISALABAD**



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ABSTRACT

Police/Custodial torture is the most common ways of oppressive and authoritative policing. It is imperative to dig deep into the realities of custodial torture and police torture. This thesis intends to give a deep insight of the conceptual understanding of how Police has brought a bad name to the department by doing and then submerging the offences of torture in their departments. To discuss this, a deep study of the prevalent status of policing in Pakistan especially with respect to custodial torture is required. For this purpose this study investigates the reasons behind the police/custodial torture and its impacts on the victims. There is 'Thana culture' which amounts to high-handedness of police officials. There is violence, torture and use of force during interrogation usually to get desired confessions etc. Pakistan inherited an authoritative, oppressive and unaccountable police force which was founded on Police Act 1861 as a product of task of coercion for uprising against British law with amendments was functional in Pakistan till 2002 after which police orders came which are also extensively amended and are not in its original spirit. It is also deliberated by the writer that the politicization of police, lack of training and resources etc. also amounts to defective policing in Pakistan which results in mismanagement of suspects whether in police custody or during encounters. Qualitative research approach has been used to conduct the research because it was more suitable to the topic where researcher wanted to have in-depth understanding of the issue. The data was gathered from police officials, layers and the victims of police torture. Researcher conducted 15 indepth interviews from the respondents of different. The tool of data collection was interview guide. For the good will of the respondents and their clear understanding, the questions were kept simple and short so that they could easily answer them. The findings of the study reveal different factors which contribute towards the police/custodial torture, with many adverse physical and psychological impacts over the victims.

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Chapter No.1

INTRODUCTION

Historically and across cultures torture has been used as a tool of governance to intimidate, coerce, subdue and force individuals and communities to make confessions against their will. Torture has been part of human history; it is only that its usages have become more sophisticated with the passage of time. What is significantly different though is that technology and globalization have raised awareness about human rights. Thus torture as an instrument of investigation is increasingly recognized as injuring human dignity, and hence demands zero tolerance and in lieu of it, the present study has been conducted.

Aggressive policing is traced back from 18th and 19th century, the product of which are the atrocities of police such as custodial torture, custodial killings and encounter killings (along with other forms). In Pakistan it was espoused by adopting Police Act, 1861 formulated by British to suppress uprising against them by giving immense powers to police authorities which was amended many times but its essence remained same till police order 2002, which is also not left in its true spirits by amending it, allegedly, to benefit the mighty (Timpf 2017).

An efficient, well-functioning police service is critical to counterinsurgency as well as counterterrorism efforts in Pakistan, now and in the future. At the same time, the police force must also address rising crime rates and a deteriorating law-and-order situation, among many other tasks. The capacity of the Pakistan Police Service to deliver on all these fronts is severely diminished by political manipulation, the lack of forensic services, inadequate training and equipment, corruption, and weaknesses in the judicial sphere. Disconnect and lack of coordination between numerous kinds of policing and intelligence organizations are major hurdles on the path leading to collective strategizing (Abbas, 2011).

The police officials who are involved in illegal practices are more glorified and get more promotions. Moreover, the police officials justify their

malpractices by contending the politicization of police department, outmoded laws, under-trained police officials, involvement of uneducated low ranked officers in criminal justice system is more and sensitive matters are given in their hands. Unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction: Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Provincial Government shall authorize detention in the custody of the police.

1.1. Police Structure in Pakistan

Law enforcement in Pakistan is composed of both federal and provincial police services. At the federal level, specialized law enforcement agencies include the Federal Investigation Agency, the Intelligence Bureau, the Anti-Narcotics Force, the National Counter Terrorism Authority, and the Railways Police. General policing and law enforcement is undertaken primarily at the provincial level. Each of the four provinces Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh and the Islamabad Capital Territory have their own police service. The semi-autonomous regions of Azad Kashmir and Gilgit Baltistan have their own police services, the Azad Kashmir Police and the Gilgit-Baltistan Police, respectively. Each provincial police service is run by a Commissioner of Police, who is appointed to serve as the Inspector-General of Police (IGP) and acts as the head of police for that province. The IGP for each province as well as the IGP for the Islamabad Capital Territory report to the Ministry of Interior.

The Punjab is Pakistan's largest province. The Punjab Police includes nine administrative "regions" and is headed by an Inspector General. Police headquarters are located in Lahore.⁷ Punjab has more than six hundred police stations throughout the province.⁸ It has the largest police force in the country, with approximately 177,635 personnel. There is approximately one police officer for every 529 people. The Punjab Police Force includes both

members of the Punjab Provincial Police and members of the Police Service of Pakistan (PSP). PSP officers serve in senior positions in the provincial police but remain employees of the federal government. PSP officers may be rotated around the four provinces. The federal government has authority over appointments and transfers of PSP officers. Faisalabad City District has approximately six thousand police officers.¹³ Faisalabad City District is part of the Faisalabad Policing Region in the Punjab. A City Police Officer (CPO) oversees the policing of Faisalabad City District. The district includes police stations. Inspectors are assigned to head police stations and are often known as the Station House Officer (SHO). Faisalabad also has a women's police station, staffed by female police officers and with services tailored to female victims of crime. The station is one of three women's police stations in Punjab province

1.2. Police/Custodial Torture in Pakistan

Torture' is defined as severe mental and physical pain inflicted by the public official to a person mostly for extracting information or confession etc. without legal sanctions;⁴ when done under custody (police custody) it amounts to 'custodial torture' and if a person is killed resultantly it is 'custodial killing'. The law in Pakistan contains numerous setbacks as it is deficient in many aspects but from that, which exists, the provisions empowering police are taken seriously and those limiting the powers of police officials are brutally ignored. Most of the cases of police torture and killings happen to occur at a stage when a suspect is given under police remand (Abbas, 2016).

Police brutality and torture are widespread and systematic in Pakistan. The violence takes many forms. Police beat victims, hang them by their arms or feet for hours on end, and force them to witness the torture of others, and strip them naked and parade them in public, damaging their basic human dignity. This conduct amounts to torture. In Pakistan, there has been a lack of

documentation that would allow for a rigorous assessment of the prevalence of torture by the police.

1.3. Impacts of Torture on Victims and Their Families

One of the defining features of the use of torture by the police is its significant and long-lasting impact on the families of those who suffered torture and particularly on their children. Families suffer from long-term psycho-social impacts, as a result of their relatives being beaten, tortured from the police officials. There are also significant socio-economic impacts for the victim and their families much of which are due to the substantial costs associated with the legal process.

The victims of police torture are thrown into the back of a vehicle, transported to a completely unknown location and tortured them, without solid reason and justifications. Police are involved in forcing them to confess to a crime they didn't commit. Police brutality includes also threatening their elderly parents with fabricated cases and similar torture if they do not confess. They are imprisoned long period with no one to listen.

The families of those who are most likely to be convicted suffer from the tremendous social and economic impacts of their relatives' incarceration, which include the expenses for lawyers and prison visits and the societal long-term stigma the families endure.

1.4 Need for effective law Making

Over the years, there have been efforts to criminalise custodial torture in Pakistan, but to no avail. Even when passed in the Senate, bills regarding torture and police custody have languished in the National Assembly for months, passing deadlines for legislative approval due to delays in the convening of the house and other reasons. In February 2020, Senator Sherry Rehman tabled the Torture and Custodial Death (Prevention and Punishment) Act, 2020. The goal of the bill is to define torture and its different uses in Pakistan while aligning domestic law with the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),

which Pakistan ratified in 2010.

The bill proposes jail terms and fines for public servants responsible for custodial torture, death and sexual violence, with a fine of Rs2 million along with a maximum 10-year sentence for custodial torture and a fine of Rs3 million along with a life imprisonment sentence for custodial death and sexual violence.

There is a dire need of effective law making in Pakistan to address all these grave illegalities and malpractices. A bill on torture is under debates from years and still is not accepted which can prove to be the ray of light in this situation of despair. The Constitution of Pakistan enunciated number of fundamental rights which are violated by sneaking out of loopholes in systems. Upgrading the existing police system as the central law enforcement institution in the country cannot occur in isolation, however. Instead, it must be part of an overarching restructuring of the total law enforcement infrastructure, including a reform of the criminal justice system and the stripping of politically motivated amendments from the Police Act of 2002. Both traditional and innovative reforms would be expected to bear fruit in this arena. With a high degree of public consensus on the need for far-reaching law enforcement reforms in Pakistan, there is political space to make tough, reform-oriented choices. Pro-reform circles within police are also gaining strength (Sher and Nadeem 2015).

1.5. Statement of the Problem

Policing is one of the means by which states can meet or fail to meet their obligations under international law; namely, to ensure respect for, and protection of, the rights and freedom of individuals within their jurisdiction. The extent to which some of these obligations are met depends largely on the attitude and behavior of police officials towards those individuals and groups with whom they interact in the process of policing at a personal level and on a daily basis.

It is pertinent to understand the police malpractices in custody and encounters in the form of torture followed by filling the legal lacunae. Police/Custodial torture is the most common ways of oppressive and authoritative policing. It is imperative to dig deep into the realities of custodial torture and police torture. This thesis intends to give a deep insight of the conceptual understanding of how Police has brought a bad name to the department by doing and then submerging the offences of torture in their departments. There is ‘Thana culture’ which amounts to high-handedness of police officials. There is violence, torture and use of force during interrogation usually to get desired confessions etc. use of force by police; hence providing practical, legal as well as administrative redressal and minimization to actually curb the curse rather than baloney, which is detrimental to national security and effective policing in Pakistan.

1.6. Research Questions

1. What are the causes of Police/custodial torture in Faisalabad?
2. What is socio-economic background of the victims of police torture in Faisalabad?
3. How Police/custodial torture impact the victims and their families in Faisalabad?

1.7. Objectives of the study

1. To elaborate the causes of Police/custodial torture in Faisalabad
2. To highlight the socio-economic background of the respondents victims of police torture in Faisalabad?
3. To examine how Police/custodial torture impacts the victims and their families in Faisalabad

1.8. Significance of study

It is expected that this research will make a significant contribution to the body of knowledge in the field of criminal law, human rights and

domestic/international law. . Although studies have been conducted that highlight the brutalities of police in form of torture and encounters across the world, but there is still less research over this topic in case of Pakistan. This study will contribute to the fields of human rights, national and international law. By creating a better understanding of the reasons of police torture and encounters, effective policies can be made to stop such brutalities. It is pertinent to understand the police malpractices in custody and encounters in the form of torture and killings followed by filling the legal lacunae by studying national law in detail in comparison with international law hence providing practical, legal as well as administrative redressal and minimization to actually curb the curse rather than baloney, which is detrimental to national security and effective policing in Pakistan. Further this research will recommend that there is a dire need of effective law making in Pakistan to address all these grave illegalities and malpractices.

Chapter No.2

REVIEW OF THE RELEVANT LITERATURE

This chapter reviews the various literature that border on the activities of the police as they work to ensure respect for and the securing of the rights of the citizens. It draws from the history of policing in the works referenced and the development of the human rights concept which is the crux of policing in especially democratic nations including Pakistan.

2.1 The Human Rights Concept

Human rights have been defined as basic moral guarantees that people in all countries and cultures allegedly have simply because they are people. Calling these guarantees “rights” suggests that they attach to particular individuals who can invoke them, that they are of high priority, and that compliance with them is mandatory rather than discretionary. Human rights are frequently held to be universal in the sense that all people have and should enjoy them, and to be independent in the sense that they exist and are available as standards of justification and criticism whether or not they are recognized and implemented by the legal system or officials of a country. (Nickel, 1992:34). The moral doctrine of human rights aims at identifying the fundamental prerequisites for each human being leading a minimally good life. Human rights aim to identify both the necessary negative and positive prerequisites for leading a minimally good life, such as rights against torture and rights to health care. This aspiration has been enshrined in various declarations and legal conventions issued during the past fifty years, initiated by the Universal Declaration of Human Rights (1948) and perpetuated by, most importantly, the European Convention on Human Rights (1954) and the International Covenant on Civil and Economic Rights (1966). Together these three documents form the centerpiece of a moral doctrine that many consider to be capable of providing the contemporary geo-political order with what amounts to an international bill of rights (Fagan, 2005). Thus, the doctrine of human rights is ideally placed to provide individuals with a powerful means for morally auditing the legitimacy of those contemporary national and

international forms of political and economic authority which confront us and which claim jurisdiction over us. This is no small measure of the contemporary moral and political significance of the doctrine of human rights. For many of its most strident supporters, the doctrine of human rights aims to provide a fundamentally legitimate moral basis for regulating the contemporary geo-political order. (ibid)

2.2 Criminal Justice System and Pakistan Police

Pakistan, which is a federation of four provinces, is currently governed under the 1973 Constitution, which envisages a parliamentary form of government. The legal and judicial systems rest on Common Law tradition. The administration of criminal justice is a provincial matter. The criminal justice system has the police, the prosecution, the criminal courts and the prison system as its component parts. Besides, in the administration of criminal justice, the Supreme Court and the four High Courts, which are all constitutional courts, also play a role as appellate, revisionary, and through their suo motu powers. It may be noted that the word suo motu means ‘on its own’ motion; the power of the Supreme Court of Pakistan to take suo motu notice to any violation of Fundamental Rights, which essentially are human rights, is conferred to it under Article 184(3) of the Constitution of Pakistan 1973. The power to take suo motu notice has been enshrined in law since 1973, but it is only in recent years that the Supreme Court has started using it more frequently. Historically and legally, the most important component of the criminal justice system is the police, for obvious reasons. The colonial power needed an ‘instrument’ and a ‘force’ to control the local populace, rather than to serve the people (Niaz, 2012).

Therefore, it was natural that post-independence efforts would focus on police reform. There were as many as twenty-one government-backed reform initiatives between 1947 and 2000 (Human Rights Commission of Pakistan, 2010). Things have not improved, unfortunately. The police have the

reputation of being the most corrupt institution in Pakistan and have an image which is generally very negative (Transparency International Pakistan, 2011). The word police station ('thana' in Urdu, the national language of Pakistan) inspires terror and, based on it, the 'thana' culture is considered to be a curse in the system of policing. The police organization, its culture and its day-to-day working procedures are widely reported in media reports. police organization is unusual in the sense that the top leaders are directly recruited from well-educated people through competitive examinations at federal level, while the working police officers who deal with day-to-day matters come from promotions from the lowest rank of constables and are provincially recruited. As a result, there is a class system in police organizations all over the country. Owing to their significance, the police have been the subject of inquiry and many studies have focused on them; a brief survey of some relevant studies may be useful at this stage. A recent study on police legitimacy in Lahore, Pakistan examined, inter alia, the reasons for corruption. It found that police legitimacy is dependent not only on procedural justice, but also on its ability to control crime (Jackson. et al., 2014).

The relationship between controlling crime and torture was, however, not specifically addressed in this study. Another study examined policing practices in Pakistan found that, in the context of Pakistan, repressive policing may not necessarily be non-productive from an organization's point of view (Redding, 2012).

Another study is about restorative justice as introduced by the police in Pakistan. The study found that restorative justice efforts in police stations in Pakistan prevent Pakistan from spiraling into civil war (Braithwaite and Gohar, 2013). The point made by these studies was that policing practices may be appreciated best in the context in which the police operate. A fourth study may be of interest here, as it related to the whole criminal justice system vis-à-vis the use of violence. This study was conducted by Wajahat Masood

and it was survey-based. The data used comes from three cities (Faisalabad, Multan and Rahim Yar Khan). Empirical evidence has been documented to establish the extent of the perception of torture and legal lacunae in the criminal justice system of Pakistan (Democratic Commission for Human Development, 2012).

2.3. Arrest and Detention

An officer's brief and cursory" holding and questioning someone is a detention. An example is a cop stopping someone who is behaving suspiciously in order to ask a few questions. The suspect isn't free to leave, but he also isn't under arrest, at least until the officer develops probable cause. Another common example is an officer pulling over a driver for some kind of traffic or equipment violation. An arrest, on the other hand, involves the police taking someone into custody through a more significant restraint on movement. The quintessential example involves the use of handcuffs and an advisement that the suspect is under arrest.

In Human Rights Watch Report (2016) on police system in Pakistan, police abuse and necessary reforms are deeply analyzed. This publication talks about illegalities and irregularities carried out by police followed on by the previous reforms taken as well as the reforms which are required to be taken for the better police functioning and to improve the distorted image of police department. The said report gives a true insight of the human rights violations by the police such as custodial torture, custodial killings and extrajudicial executions as a focus. The law, malpractices, reasons and case law examples pertaining to torture in custody, custodial deaths and encounter killings such a fake encounters, are discussed on the whole in this report. Moreover it enunciates all the obstacles that aggrieved have to go through to reach the ends of justice which includes non-registration of FIR, skewed and influenced investigation and the culture of bribery in police department. These obstacles are even worse for the poor. This report also explains the reasons which serve

as hurdles in proper police functioning such as financial deficit, constraints in human resources, politicization of department etc. Moreover this report digs deep into the matter and proposes some good police practices which can be adopted in future by quoting national as well as international examples.

2.4. Police/Custodial Torture

Hassan Abbas in his research article for Harvard University (2016) has focused on the hindrances in effective policing in Pakistan and how they amount to the violation of law. The author has discussed the ‘Thana culture’²⁶ which amounts to high-handedness of police officials resulting in fake encounters, use of force during interrogation usually to get desired confessions etc. Pakistan inherited an authoritative, oppressive and unaccountable police force which was founded on Police Act 1861 as a product of task of coercion for uprising against British. Same law with amendments was functional in Pakistan till 2002 after which police orders came which are also extensively amended and are not in its original spirit. It is also deliberated by the writer that the politicization of police, lack of training and resources etc. also amounts to defective policing in Pakistan which results in mismanagement of suspects whether in police custody or during encounters.

According to Hassan et,al (2017) after analyzing the ground realities of Pakistan it is substantial to first understand the concept of torture, concept of custodial torture and custodial killings in International as well as national laws and cases relating to these, for the acquaintance of considerable relevant knowledge about the topic. Moreover the literature below relates to torture, custodial torture and custodial killings which has helped us create a solid contention and understanding regarding the above said offences which has further succored us to produce a road map of extensive study, identification and cure of these offences.

2.5. Police-Citizen Collaboration

Collaboration between the public and the police is seen as one potent mean to safeguard the lives of the people in the various communities thereby protecting their rights from being violated. This underscored the introduction of community policing in Pakistan. Community Policing is an emerging concept in policing which seeks to bridge the communication and interaction gap between police institutions and the communities that they serve. It aims at encouraging the establishment of a close relation with civil societies in order to give the police an opportunity to understand and appreciate the security needs and concerns of the various societies in which they operate. This method of policing leads to a situation where the police can work in partnership with local people to identify potential problems and take proactive steps in responding to them. Implementing a more democratic approach to policing provides positive benefits for the community, for police officers, and for the police organization. One benefit is a stronger sense of safety in the community. Another benefit is that crimes are more likely to be prevented and solved. As the public begins to see the police as allies in keeping the peace rather than instruments of oppression, they are more willing to share information that can help to prevent and solve crime (CHRI, 2007).

2.6. Torture as Human Rights Violation

Hassan, Zaman and Rahman (2017) in their knowledgeable research paper discussed the custodial torture as violation of UN convention against torture. The authors extensively explained torture multi-dimensionally and contended that torture is a dilemma which represents uncivilized societies and can certainly be eradicated by implementing UN convention against torture. They took a viewpoint that custodial torture is a violation of number of human rights such as, right to life and Liberty, equality before law³¹ etc. According to them, corresponding to police culture of use of force, the violation of

Human rights by the custodians (police) must not be left unaddressed but shall be dealt according to the international standards.

Cozma and Rachlaw (2018) in the discussion paper have confabulated that it is pertinent to combat the practices of torture under police custody. This paper has discussed two combating procedures for ill treatment and torture by police in custody which are implementing procedures that safeguards effectively and investigative interviewing of suspects by police. The paper also discusses the safeguards present against torture such as, duration of police custody and role of prosecutors as well as judges, dedicated custody officers right to notify a third person of arrest etc. This paper has helped us develop an insight of possible initiatives that can be introduced in Pakistan to make police functioning better and in accordance with the law without any violation of human rights anymore while considering European ball game.

Mustafa (2017) in his preliminary text of alternative view of NCHR in response to initial report of Pakistan has critically analyzed the compliance of Pakistani laws with UNCAT and other International laws. Moreover author also enunciated the historical aspect of torture and also the modification that is required in cruel and harsh anti-terrorism laws of Pakistan. He also considered the important aspect that Pakistan is an Islamic State and its sensitivity towards Islamic principles must also be safeguarded to maintain peace in the process of this conformity of Pakistani laws with UNCAT and other International laws. This draft gave us considerable amount of content for establishing a relationship between Pakistani laws and International laws by building coherence between them.

Sahai (2020) has deliberately discussed in depth the international conventions as well as Indian laws pertaining to custodial torture and death. She contends that these laws impose direct as well as indirect limitations on police violence in custody but overlapping of powers is a hurdle in their effectiveness. She suggests that speedy trial courts, proper interrogation techniques, and

complaint cell (comprising of retired judicial officers) in police stations for redressal of police misconduct and malpractices shall be made effective. The law, malpractices, reasons and caselaw examples pertaining to torture in custody, custodial deaths and encounter killings such a fake encounters, are discussed on the whole in this report. This article, covering the example of India, will be a great inception of relevant information for us as the situation of India is more or less similar to that of Pakistan.

Chandra (2012) in his research article has analyzed the custodial deaths in context of Constitution of India and some case laws which explain the Indian perspective of custodial deaths. The author also debates that the majority of custodial death victims are weak and poor. He puts forth his deliberate contention that the custodial death is the result of immense torture in the custody by police for extortion of confession and for a goal to make the suspect plead guilty.

Belur (2007) has exceptionally discussed the use of force by police from numerous dimensions. Encounter is defined by the writer in her paper as ‘unplanned and spontaneous shootout that occurs as a result of use of deadly force by police in particular situations’. The author has also compared the policing culture of India pertaining to encounters which is very homogenous to that of Pakistan with number of other countries such as UK, USA ,Canada, South Africa, Latin American countries and African countries which will definitely help me to discuss my topic in broadened global ambit. Moreover different patterns of encounters are discussed by the author as according to her, encounter killings are considered as a symbol of valor and shortcut for by-passing the delays of Criminal Justice System in the case of hardened criminals. Also, the aspect of cash rewards for encounter killings promote this culture.

The perspective taken by police to bring encounters under the umbrella of law is by contending to do it as a self-defense or in case where culprit tries to flee

but this version of police is no more sold as public is well aware of the reality now demanding conviction of involved officials and in such cases media plays the role of an important bridge. The Author has also discussed in her paper about the distinction between bonafide encounters and fake encounters along with justifications pertaining to the necessity of encounters and hence encounters killings.

Daudpota (2019) in his research article has given a deep insight of a pertinent aspect of eradication of extra judicial killings, by quoting the decisions given by the Superior Courts of Pakistan. The author has contended that, custodial deaths and extrajudicial killings (encounter killings)⁴⁹ cannot, in any case, be justified as legal or valid as even the hardened criminals have right to be prosecuted and convicted in accordance to the law. The principle that suspect is innocent until proven guilty serves as safeguard from high-handedness of police authorities. Moreover the author also enunciated that the indifference policy, pertaining to extrajudicial killings, that is considered a quick fix of crimes when go unchecked is faulty and it also violates article 950 of Constitution of Pakistan. He further explains the threshold of judicial inquiry into criminal justice system of Pakistan. The necessity of criminal trial for scrutinizing extrajudicial killings and the jurisprudence of justifiable homicide is also discussed in depth.

2.7. Impacts of Torture over Victims and their Families

Jabbar (2020) in her informative research paper has shed light on extrajudicial killings which are more often known as encounter killings in Pakistan. The author contends that vast numbers of people are executed in fake encounters by Pakistani police under the contention of resisting arrest and being threat to lives of police officials, whereas in most of such cases no police official gets killed. Moreover the author also discusses the societal response towards encounter killing; which is ultimately a murder but is not considered one. She also discusses ‘Thana culture’, politicization of police in Pakistan, inadequate

training of police official performing sensitive duties etc. She contended that the authoritative police mindset needs to be changed; people should be courageous enough to stand against such injustices, depoliticization of police department and reforming judicial system to carry out speedy and effective criminal trials to prevent injustices are crucially needed in Pakistan.

Amnesty International in its remarkable extensive report (1991) discussed in detail the torture and killings that happens to occur in police custody in Pakistan. The report also brought under discussion the torture and deaths of suspected criminals and political prisoners (more often in martial law regimes). The discussion of political prisoners with respect to torture and killings in police custody is a unique aspect touched by the report. Pakistani law is also discussed in detail by quoting large number of case laws as well as the check points and limitations of different provisions of law such as power to arrest without warrant under section 54 of CrPC22 and production of suspect before magistrate within 24 hours under Section 167(2) of CrPC23.

It is seminal to also know the police culture and police department of Pakistan while studying the functioning, irregularities and illegalities done by the police. But there still remain many stones unturned when it comes to enunciate in report the law already present in Pakistan and past good practices that took place to overcome the above said police offences. Firstly the investigation of such cases rarely takes place and when it does, magistrate has to rely on police investigation pertaining to their own cases hence it needs redressal. Moreover 'habeas corpus' is the usual preventive step taken to inhibit police torture and killings amidst custody. The report has however discussed in depth the police culture and judicial tilt of Pakistan by referring large number of cases pertaining to torture and killings in police custody as well as in encounters.

Asad Jamal in his publication for Human Rights Commission of Pakistan, digged deep into the dilemma of illegal torture by police in Pakistan. He states

that torture mostly occur in the process of use of force such as in custody for confessions, in armed encounters and with alleged hardened armed criminals etc. Moreover author also contends that the cases of torture, whether those in custody or encounters, are not investigated properly nor the culprits of them are convicted often but rarely. The investigation of such offenses, obligation of state to convict them and the aspect of impunity along with other reasons for ubiquity of extrajudicial killings are examined.

Khoso (2015) draws on cases of abuse, torture and violence against children in the criminal justice system of Pakistan. These children are denied their fundamental right to justice by the invisible structure of violence. The article explores the links between the poverty, injustice and human rights violations by presenting extended case studies of two children under the age of 18 in Karachi and drawing upon a number of other cases of abuse reported in the media and NGO reports. It argues for a deeper understanding of the role of structural violence - ranging from colonial legacies and inadequate protections to institutionalized practices of torture and abuse – in perpetuating human rights violations of children in the criminal justice system of Pakistan.

Braithwaite and Gohar, (2014) explain that as specific types of state violence, Police violence and violence by security forces are rampant in many countries today. Societies with autocratic rulers and a colonial past seem to be most strongly affected by the phenomenon. Scientific and political explanations usually focus on the police's lack of training and adequate equipment, on the violence-prone cop culture, or on the politicization of the security forces. While not outrightly rejecting those interpretations, this project wants to gain a more holistic understanding of the police-society relation which forms the context of violent forms of policing.

2.8. Features of Democratic Policing

Every democratic policing must indeed be carried out under democratic principles. The rights of the individuals are best safeguarded under democratic

governments whose police has well embraced and practice the form of policing based on sound democratic tenets. The following features must thereby exist if any policing could be tagged democratic.

1. The police system is accountable to the law, and not a law unto itself. Democratic police institutions demonstrate a strong respect for the law, including constitutional and human rights law. The police, like all government employees, must act within the law of the country and within international laws and standards, include human rights obligations set out in international law. Police officials who break the law must face the consequences, both internally through the disciplinary systems of police organizations, and externally, in the criminal justice system.

2. It is also accountable to democratic government structures. The police are a government agency and as such must account to the government. In a democratic system, the police account to elected representatives of the people for example, parliaments, legislatures or local councils for their performance and use of resources. Democratic police institutions also account „horizontally“ to other agencies of government, such as to Treasury or Finance Departments for their financial performance and sometimes to Public Service Commissions or Departments of Administration for their adherence.

1. Gives top operational priority to protecting the safety and rights of individuals and private groups. The police must primarily serve the people. The police should be responsive to the needs of individual members of the community especially to people who are vulnerable, marginalized or disadvantaged.

4. Protects human rights, especially those which are required for political activity characteristic of a democracy. Democratic policing implies policing that is supportive and respectful of human rights, and prioritizes the protection of life and dignity of the individual. This requires the police to make a special effort to protect the freedoms that are characteristic of a democracy: freedom of speech, freedom of association, assembly and movement, freedom from arbitrary arrest, detention and exile, and impartiality in the administration of law. A democratic approach can place the police in a difficult position, if, for example, they are required to enforce repressive laws, and simultaneously protect human rights. These situations call for the skilful exercise of professional police discretion, which should always lean towards the (CHRI, 2007). In a nutshell, the police have the responsibility of protecting the rights of the populace. Some of the rights may only be withheld when there is a breach or violation of the laws which exist to protect the same offenders and the rest of society. Sometimes however police operate not in tandem with existing professional codes and outside the stipulations of the laws of the country. Also police can best protect the rights of the citizens under democratic regimes and where the police themselves are subject to the laws of the state and uphold the democratic tenets of the rule of law and respect for the rights of the citizens. This research goes deeper into the various assertions by the various writers as well as presents first hand field information which attests to these assertions or else disproves some of them.

Major Assumptions

1. Law enforcement in Pakistan is composed of both federal and provincial police services.

2. General policing and law enforcement is undertaken primarily at the provincial level.
3. Torture' is defined as severe mental and physical pain inflicted by the public official to a person mostly for extracting information or confession etc.
4. Police brutality and torture are widespread and systematic in Pakistan. The violence takes many forms.
5. There is lack of forensic services, inadequate training and equipment, corruption, and weaknesses in the judicial sphere
6. The police officials who are involved in illegal practices are more glorified and get more promotions.
7. the police officials justify their malpractices by contending the politicization of police department, outmoded laws, under-trained police officials, involvement of uneducated low ranked officers in criminal justice system is more and sensitive matters are given in their hands.
8. In Pakistan, there has been a lack of documentation that would allow for a rigorous assessment of the prevalence of torture by the police.
9. One of the defining features of the use of torture by the police is its significant and long-lasting impact on the families of those who suffered torture and particularly on their children. Families suffer from long-term psycho-social impacts, as a result of their relatives being beaten, tortured from the police officials. There are also significant socio-economic impacts for the victim and their families much of which are due to the substantial costs associated with the legal process.
10. There is a need for a deeper understanding of the role of structural violence - ranging from colonial legacies and inadequate protections to institutionalized practices of torture and abuse in perpetuating human rights violations of children in the criminal justice system of Pakistan.

Chapter No.3

THEORETICAL FRAMEWORK

The theoretical framework is very important tool to guide your research in a proper way.

3.1. Conflict Theory

Conflict theory is an important theoretical tradition within the field of sociology. It asserts that particular segments of society benefit disproportionately from established social and economic arrangements, which leads them to employ the state's coercive force in maintaining that inequality.

The utilization of state power and resources is an issue of great import in any society, and sociologists have developed two major competing perspectives on these sorts of governmental decisions. Consensus theorists believe that state actions are generally the result of broad agreement among members of a society on singular goals (Shelden 2001).

With respect to police work, this perspective maintains that police are used to combat crime and disorder in accordance with homogenous societal preferences. Police violence is not seen as a social control outcome determined by the interests of dominant groups, but the proportional response of police to higher civilian violence or other departmental-environmental factors that can make policing more difficult and dangerous (Kane 2003).

In contrast, conflict theorists view society as an aggregation of competing and stratified populations, with each group using every available resource to improve and maintain its socioeconomic position (Collins 1975).

From this perspective, police violence is seen as a means for privileged societal elites to suppress and control any potentially threatening groups (Chevigny 1995). Though both perspectives focus on external, non-departmental constituencies as the driving force behind police behavior and policies conflict theory is an appropriate foundation for this research because it emphasizes an important set of exploitative social dynamics and class motives that are minimized through consensus perspectives.

Despite this larger emphasis on conflict between unequal groups, conflict theorists do not claim that coercion itself is the only force by which societies

are held together. Such claims would clearly be false, yet they are frequently trotted out by opponents of conflict theory. In reality, conflict theorists merely assert that observable consensus and moral strictures are by themselves insufficient to generate social order and endeavor to investigate the gaps between alternative explanations that often gloss over power differentials and conflicting material interests.

If state coercion were the only process by which stratified societies are held together, one would certainly expect more widespread and extreme police violence than currently exists in the United States and other modern democracies. Instead, homicides committed by the police are relatively uncommon events. This fact, however, does not represent a strong challenge to the use of police homicides as an indicator of social control outcomes, as frequency is not necessarily an accurate representation of the effectiveness of police violence in protecting privileged interests.

The belief that certain kinds of domination are legitimate, or perhaps too powerful to be challenged, can in itself be a source of power for the dominant group as it further lowers resistance by subjugated populations. The mere threat of death can be oppressive, even when the threat itself is only occasionally realized.

The role of the police is paramount in this conception of social control, as they possess a permanent monopoly on coercive force and legally sanctioned violence against members of the society itself, as has been extensively discussed in numerous theoretical works. The exercise of this monopoly is largely regulated by the reciprocal relationship that exists between the police force and society's dominant values. In fact, this relationship is so powerful and entrenched that the credible threat of force is considered by some to be an indispensable component of elite survival in market-oriented societies.

Given the implications of conflict theory, this means that the work of police is necessarily divisive along economic and social lines. This suggests that any

violence employed by law enforcement must also follow the same principles, and will reflect the will of societal elites when the interests of those groups are threatened.

Chapter No.4

CONCEPTUALIZATION AND OPERATIONALIZATION

In the research there had been used some key words which describe the main contextual theme of the research with relation to its research objectives. Different definitions from different perspective have been given and then Operationalization of these definitions was described in accordance with the topic.

4.1. Conceptualization

Conceptualization is the process of development and clarification of concepts. In this process the researcher gives all definitions of concepts that mentions in his study.

4.1.1. Arrest

An arrest is using legal authority to deprive a person of his or her freedom of movement. An arrest is generally made with an arrest warrant. An arrest may be made without a warrant if probable cause and exigent circumstances are presented at the time of the arrest.

4.1.2. Torture

It is defined in Article 7(2) (e) of Rome Statute of the International Criminal Court 1998:

“Torture means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Torture is further defined in Article 1 of UN Convention against Torture (CAT) 60 as:

“Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or

other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”⁶¹

In Pakistan, torture is defined in section 2(n) of Torture, Custodial Death and Custodial Rape (Prevention & Punishment) Act 2020 as

“An act, executed by a public servant⁶² or a person with authority to unlawfully cause physical/mental pain, in order to extract a confession, to punish a suspect, to intimidate or coerce another individual, for any other discriminatory reason or to harass or molest a female.”

4.1.3. Custody

Custody includes all situations where a person is detained or deprived of his liberty by a public servant, or any person on the direction of a public servant, irrespective of legality, nature and place of such detention. Explanation I: It includes judicial custody and all forms of temporary and permanent restraint upon the movement of a person by law, or by force, or by other means. Explanation II: A person shall be deemed to be in custody during search, arrest and seizure proceedings.”

4.1.4. Detention

Detention is used to cover the variety of situations when someone is deprived of their liberty by the state, stretching from the brief period when someone is held by the police for the purposes of a search to a period of imprisonment

4.1.5. Victim

The victims of torture are generally all those people who have to suffer torture for broad and vast reasons which includes personal reasons as well as public reasons. These may include women, children, lower cast, poor etc, more often. To carry out our thesis we have targeted the class of victims which are under custody of police whether in jail, police van or anywhere and are susceptible to police torture and sometimes killings as well in the course of their cultural functioning apart from what is due to be given to the detainees in the form of judicial punishments.

4.1.6. Police

The governmental department charged with the regulation and control of the affairs of the community which is established to maintain order, enforce the laws and also to prevent and detect crimes. It is that institution of state charged with the duty of maintaining internal peace, order and security.

4.2 Operationalization

Operationalization is a process to define the measurement of phenomenon that is not directly measurable, but its existence is indicated by other phenomena. It is the process of defining a fuzzy concept so as to make the theoretical concept clearly distinguishable or measurable and to understand it in terms of empirical observations. In a wider sense, it refers to the process of specifying the extension of a concept describing what is and is not a part of that concept.

4.2.1 Arrest

Arrest in this research has been operationalized as arrest of the victims and criminals. After the arrest the victims were detained and tortured.

4.2.2. Torture

Police are involved in the intentional infliction of severe pain or suffering, which is physical and mental, upon the prisoners, victims and suspects in the custody or under the control of the accused by which severe pain or suffering, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

4.2.3. Custody

Custody here means the police custody where prisoners, criminals and victims of police torture are kept.

4.2.4. Detention

Detention here means the detention of the victims of police torture. They were detained by police and were denied of basic right to self-defense according to law.

4.2.5. Victims

Victims in this research are those persons who suffered from police violence and torture during their custody in police station. The police officials detained them and tortured them to extract information.

Chapter No.5

RESEARCH METHODOLOGY

Research methodology is an over-arching portion of the research having existed in all various types of the studies. However, it varies from issue to issue and level of intensity as well. The following study was designed to evaluate the reasons behind the police/custodial torture and its impacts on the victims in Faisalabad, Punjab Pakistan. According to researcher, the study basically qualitative and descriptive in nature requires the collection of data from a detailed interview guide.

5.1. Research Design

This researcher has implied qualitative research approach. The reason for choosing qualitative research approach is to explore the realities from an emic perspective which can only be possible through in-depth interview and participant or close observation. The qualitative approach is suitable for the nature of the topic as it explores the hidden realities.

The present study is based on qualitative approach. The reason behind the Qualitative research is developed from an interpretive perspective which sees that social research needs to address the complex ways in which people understand their lives.

5.3. Universe of the Study

The universe of this study is confined District Faisalabad, where there are many cases of police torture.

5.4. Population of the study

Population refers to a large set of individuals or group resides in the number. The researcher selected different 15 respondents involved from police department, layers and victims, The reason behind the selection of 15 respondents was that because taking information from the whole population is not easy and it takes a lot of time. It is qualitative research where detailed information and interview were necessary. Respondents were asked to give their answers in detail.

5.5 Purposive Sampling

Purposive sampling is used for data collection. So in the field researcher felt that this person can give information related to research. Researcher went to that person and collect data and he also refers the other persons who can give proper information. It is defined as, in social science research, snowball sampling is a technique for developing research sample where existing study subjects recruits future subject from among their acquaintance.

5.6 Tool for Data Collection

Researchers used the themes which were taken from the study of different literature to develop the interview guide for the purpose of qualitative research. Interviews guide helps the researcher in analyzing the themes on the basis of the responses he or she include or exclude as per objective of the research study. Themes help the researcher to offer specific points to explore.

The interviews were taken from 15 respondents including 3 victims of torture, 6 police officials and 6 layers. . The interview started with the introduction of interviewer's, background of the issue and purpose of the research. The data Collected by the researcher through interview guide was, analyzed and interpreted in the light of the objectives of the study. The views of the respondents were presented in form of quotes. Related quotes were presented in related objectives in the data presentation and discussion.

5.7. Techniques for Data Collection

In-depth interviews through face to face interaction were largely used by the researcher to explain the topic in detail. In qualitative research these are important sources of data collection. From the total population 15 respondents were interviewed.

5.8. Key Informants

Good key informants are those people who talk easily, who understand the informant one needs, and who are glad to give the information to the

researcher. Key informants are those persons having the full information about the area in which a researcher conducts his or her research. They people have full knowledge of their culture and society and are able to interpret and explain their own social and cultural setting in which they have been participating since long.

In this research researcher also selected three key informants from different backgrounds. These key informants include one police official, one layer and one victim of police torture.

5.9. Daily dairy and field notes

Daily dairy and field notes are important tools during the research. These are used to note and write all the information about the topic. Researcher can note in detail all the related information and if the researcher do not keep daily dairy and field notes with him or herself then he may forget and miss many important information. In the present research, the researcher also kept with herself daily dairy and field notes to put every information from the respondents.

5.10. Technique for Data Analysis

Thematic technique was applied to analyze the data. The related themes were made according to the objectives of the study and the information given by respondents was discussed in the related themes in data presentation.

5.13. Ethical Concerns

This research has followed all the data collection ethics and provided guide lines given by researcher previously. More specifically, while conducting this research we haven't given any hope and any threat to any of our respondents it was explained simply stated that we are students we want to do a research for our self. It was conveyed to respondents that there is nothing negative and research was just part of the degree.

Chapter No. 6

FINDINGS

This chapter deals with the detailed interpretations and analysis of data gathered from in-depth interviews. The process of analyzing data helped researcher to describe conclusions and important information. In data analysis stage reviewing and cleaning of data has been done. In present study, the data was collected in one phase as in-depth interviews were written. The researcher carefully listened the interviews in detail and wrote them in the note book. Further the views of respondents and quotes were selected and written under the related headings.

This chapter is consisted of two different sections. In these sections, respondents' views have been discussed under the themes. Researcher interviewed lawyers, police officials and victim and their families in this regard for the better understanding of the topic. Observation method has also been used in present research to cross check the respondents' answers and to get in-depth insight of the issues. Due to time shortage, researcher interviewed and analyzed 15 respondents. Therefore, researcher met and discussed with all the respondents to meet the purpose of her research. Researcher asked them the questions about the police and custodial torture, its legal status and impacts on victims and their families.

6.1. Causes of Police/Custodial Torture

Torture' is defined as severe mental and physical pain inflicted by the public official to a person mostly for extracting information or confession etc. without legal sanctions; when done under custody (police custody) it amounts to 'custodial torture.

Explaining this situation one layer respondent expresses that,

“The law in Pakistan contains numerous setbacks as it is deficient in many aspects but from that, which exists, the provisions empowering police are

taken seriously and those limiting the powers of police officials are brutally ignored.”

It is fact that when it is matter of police torture over the suspects, majority of the cases of torture come when the suspect is under police remand by the court.

Other respondent told that,

“Most of the cases of police torture and killings happen to occur at a stage when a suspect is given under police remand.”

It is also observed that the police officials who are involved in these illegal practices are more glorified and get more promotions. Moreover, the police officials justify their malpractices by contending the politicization of police department, outmoded laws, under-trained police officials, involvement of uneducated low ranked officers in criminal justice system is more and sensitive matters are given in their hands.

There is a dire need of effective law making in Pakistan to address all these grave illegalities and malpractices. A bill on torture and custodial death is under debates from years and still is not accepted which can prove to be the ray of light in this situation of despair. The Constitution of Pakistan enunciated number of fundamental rights which are violated by sneaking out of loopholes.

Regarding elimination of illegal practices of torture from the police, one of the layer respondent stressed over the need of reforms in administration of police and filling the gaps in Pakistani laws. In this regard he remarked that,

“The offenses of police and custodial torture can be reined only by filling in the lacunae present in the Pakistani law and by bringing in administrative reforms in police by importing the proven effective laws, procedures and

steps, by analyzing the laws and practices and by analyzing Pakistani laws, Police Administration and effective possibilities that can happen to occur in context of improvements.”

Any person who carries out the process of torture is the torturer. For the purpose of torture the oppressor or torturer is considered to be the state representatives but on the other hand private torture is also considered in the ambit of torture. Generally any person who inflicts pain on another person intentionally to specify a purpose is a potential torturer but the torturer tends to be the state official and for the purpose of our research we will go with this version of interpretation of a torturer that police is the one which carries out the torture.

The purposes of torture are also enormous in number but when it comes to relevancy with our research we will restrict its purpose to the use of physical force to extract evidence in the form of information and confessions for judicial proceedings. It is also pertinent to differentiate this kind of torture from legal punishments in response of illegal acts done by the person under punishment.

There are many factors which which lead towards the police/custodial torture and are proved to be hindrances in effective policing and lead towards police atrocities in Pakistan.

According to one police official and respondent,

“The first and the foremost cause of police violence are the social as well as psychological factors. The upbringing and family structure of a police officer has a lot to do with the unnecessary aggression that is then inflicted on the detainees.”

Highlighting this situation other police official told that,

“If an officer had a normal and effective upbringing, well-educated to the level that he is well versed with sensitivity and technicalities of his job and his family structure (spouse, children, parents etc) he would have never indulge in immoralities and have an effective as well as productive career.”

The duties and functions performed by police are one of the most sensitive ones as they have to deliver and fight internal crimes and effects of external activities that penetrate into the internal affairs.

Explaining this phenomenon, one official told that,

“In response to their high intensity duties which involves availability and vigilance for almost all twenty four hours of a day starting for court appearances, legal documentations and representations in criminal cases, site visits for evidence collection, effective investigation and interrogation, assist to prosecution and judiciary wholly in a criminal case and much more; they get less.”

Other official told that,

“A minimum salary that a low scale employee gets that even the most righteous officer fulfills his necessities very strenuously.”

The fact is that due to low salary and heavy duty, there are more chances of corruption in the police department. This was also explained by one respondent in these words,

“This minimal salary also raises the chances and instances of corruption in police department which leads to lawlessness. When salary is very much below the standard, the police officials are likely to take bribes to meet

their needs.”

For this purpose the bribery they accept negatively affect the functioning of police force in two ways; one being the violation of human rights in police custody as many people quite often bribe the police to inflict physical as well as mental torture on detainee and secondly by making law enforcement lenient and flexible which leads to increased emergence of crimes. Apart from these there are number of ways that explains the effects of low wages that leads to corruption and then that corruption which leads to increased crime, lawlessness and ineffective law enforcement.

One of the major aspects of poor functioning of police force is the political involvement and influence in the police department which has entangled the department in the shackles and refraining its independent functioning.

In this regard one of lawyer respondent told that,

“This political influence in police department leads to the usage of illegal and improper torture methods that even sometimes results in killings which is mostly used to take revenge from their political opponents. The police is encouraged and forced to carry out these activities on desire of political forces to make their opponents learn a lesson and in this course if a police officer rejects to carry out these activities he is threatened to be posted to remote and inconvenient stations.”

This culture of political influences in police department has damaged the police structure and force of Pakistan more than any other reason and it is pertinent and necessary to break these political shackles to overcome the curses that stop police from effective and vigilant functioning.

Another reason of barbaric attitude of police towards the persons in custody is the statistical pressure. As the increasing crime rate is always the focal

reason of criticism on police, lower officials have pressures from seniors to lessen the number of crimes and give high conviction rates.

In this way highlighting this factor a police official explained that,

“So for the purpose of extracting confession of the accused, the police officials quite often use the third degree methods and the justification they give is to bring the offender in front of public and in the court to convict him to avenge the victims.”

The public is more often reluctant to assist police in investigation and even during the course of judicial proceedings. This damaged relationship of public with police officials often results in police failure in many cases.

“When public refrains from assisting police in this regards police prepare fake witnesses which are suspected by judges and ultimately results in acquittal as a result of false evidence and witness. This public non-cooperation increases the work load of police officials which worsens their temper and limits their creative abilities to carry out their functions effectively and efficiently. For this purpose they rely on traditional policing which ultimately hinder their performance.”

The police officials of Pakistan are not introduced with the prevalent scientific techniques and training procedures. Before the independence of Pakistan police recruitments were done on physical basis because at that time oppression was required to control and handle the uprising against the British government. Same temperament and procedures are inherited by Pakistan as here as explained by one respondent,

“We also don't focus on mental and skillful training of police officials due to which they are still stuck with the old violent policing methodology that results in police atrocities.”

In Pakistan, most of the custodial torture is carried out by police happens to occur during the process of investigation as the traditional coercive investigation techniques are still prevalent in our country instead of new scientific techniques.

Other respondent in this regard told that,

“Major drawbacks in our interrogation are that mostly interrogation and investigation are carried out by low ranked officials such as constable and sub inspectors etc who lacks the skill, vigilance, education and training needed in that regards.”

These officers overlook the details and rely on the evidence that is present on face it. Moreover here every officer considers himself an investigation expert but the backdrop of it is that every such officer lacks the training and modern techniques of investigation.

Explaining the importance of scientific investigation one officer told that,

“In these days coercive investigation has been replaced by the scientific investigation and we lack the scientific machines and gadgets as well along with techniques and training which result is late forensic analysis result that serves as another focal hurdle in crime investigation.”

Police considers itself immune from every law in carrying out every activity as at the end of the day they apparently do everything for enforcing and safeguarding law and order. Moreover the judiciary serves as reason to police torture in the form of delayed time taking trial and repeated adjournments which results in harassment of detainees and witnesses by police to give up to the desires of police.

Regarding the role of judiciary one official told that,

“As the judicial process is time taking and prosecution is incompetent in Pakistan which results in high rates of acquittal. In response of these high acquittal rates the police also don't prefer giving time to scientific and time taking techniques rather they depend on instant coercive investigative techniques because of the thought that even if they invest time there are other factors which will eat their hard work and results will be the same.”

Furthermore, inability of judiciary to probe into the investigation procedure as it is left at the stake of police officials to carry it out their way so many illegalities and violent activities are overlooked and remain unchecked so courts proves to be ineffective in this regards which gives police officials the vast ground to practice their arbitrariness and traditional violent methods.

Regarding the elimination of torture, One of the major actions in this regard is legislation by which the police reforms can be made and best police system and model can be incorporated. We can incorporate ideas from Western countries to reform our police system.

One of the respondents told that,

“It is pertinent to mention here that there is need of incorporating ideas and policies from United States and European countries to make our Criminal Justice System effective, Pakistan has not aligned this import of ideas and policies with its traditions and culture.”

Explaining this, other official told that,

“Pakistan's strategy in building an effective criminal justice system is to import modern ideas and policies from developed nations such as United

States and Europe, modifying them to address the Pakistani problems and making them coherent with the traditions and culture of country.”

Hence it is very apposite for Pakistan to go for Western Legislative Procedures and adopt Modern concepts and policies of the developed countries that has resulted in effective combating of civil violations and criminal offenses.

In western countries interesting aspect is that police cannot arrest without warrant and police needs strong grounds to arrest and then even stronger grounds to detain that person which can definitely serve as a check on arbitrary police practices if enforced in Pakistan. Moreover there are prison control authorities to check the condition of prisoners in jail.

Elaborating this situation one layer respondent told that,

“The aim of police of western nations is rehabilitation as well as retribution. The jail system of Pakistan is very different from that of Western countries Pakistan as in those countries the focus is not on punishing the culprits but making them better citizens in future and instilling in them the guilt of their offense by making them realize the wrong they did because they think that punishing the culprit is of no use until and unless he is prepared to refrain from committing any offense in future.”

6.2. Evidence of Police Brutality and Torture

Police in the Faisalabad District have systematically committed torture and other brutality. To allege abuse by the police, a victim may bring a complaint before a magistrate and ask to be referred to the District Standing Medical Board (DSMB). The DSMB conducts medical examinations into allegations of torture or death of detainees while in police custody. The DSMB is made up of four physicians, who are government employees. These physicians evaluate the victim's allegations of abuse and document any physical or psychological signs of abuse in an MLC.

Abuse was likely even more widespread than the MLCs suggest. The interviews and MLCs demonstrate that incidents of abuse were not isolated. The evidence shows that Faisalabad police abused at least 1,424 individuals in a span of just six years, strongly suggesting that police brutality and torture in Faisalabad is widespread and systematic. Police routinely subjected individuals to physical and psychological abuse. Torture methods were varied and extreme: Police have beaten victims, suspended, stretched and crushed them, forced them to witness other people's torture, put them in solitary confinement, subjected them to sleep and sensory deprivation, confined them to small spaces, exposed them to extreme temperatures, humiliated them by imposing culturally inappropriate or unpleasant circumstances, and sexually abused them. In a majority of the cases, physicians found scars, injuries, and other observable signs documenting the abuse. In others, physicians found significant evidence of injuries, but the physicians lacked the time or diagnostic tools to confirm that the victim suffered the injury. For instance, physicians often required additional testing to confirm sexual injuries. To confirm a sexual injury, physicians often had to take samples and send them for examination by a lab.

The police generally tortured people who were already vulnerable, including the poor. Police subjected individuals to multiple forms of torture. In their interviews, victims often described being subjected to many types of torture, including severe physical abuse, sexual assault, and various tactics that degraded them and damaged them psychologically. The effects of torture lasted long after the abuse had ended. Victims often described long-standing physical pain and harms to their reputation in the community and to their financial standing. For example, victims expressed fear that having been abused by the police would bring shame upon their families. In some instances, victims felt their businesses would suffer as others in the community would be reluctant to work for them or to patronize their businesses. In addition, some victims worried that the shame associated with the abuse would endanger their children's prospects for marriage. Police took steps to hide abuses, suggesting they recognized that their conduct was unlawful or morally wrong or that they were afraid criminal charges would be filed against them. In some cases, the police offered victims bribes not to press charges. In others, police tried to apologize after the torture had ended. Police occasionally threatened or intimidated victims in order to get them not to report abuse.

ALI

Ali, a poor man, was accused by the police of stealing cattle. According to Ali, the police were working at the behest of a powerful local landowner. Ali's story shows how wealth and class distinctions can make the poor especially vulnerable to official abuse. Members of marginalized groups are less likely to have the social clout or financial capacity to bring a case to court or hold the police accountable in other ways. Ali, a truck driver, was accused of stealing cattle from a local landowner. The police arrested him. During questioning, Ali insisted he was not guilty. The cattle had disappeared

overnight, and Ali said he had been working the entire evening; he told the landowner that the owner of the truck he drove could confirm this. The landowner led a crowd to Ali's home and accused him of stealing the cattle. The landowner then detained Ali for an entire day without food, refusing to let him go until he returned the stolen cattle. That evening, the police arrived to arrest Ali and his brother. The police took the brothers to a canal, where the police beat them for four or five hours with wooden sticks. After the beating, the police took the men to a farm, where they beat them with a chittar throughout the night. During the abuse, the police forced Ali to remain squatting naked, with his head between his legs and his hands wrapped behind the back of his legs, causing him great physical pain and humiliation. The police detained Ali, based on the allegation of theft, for at least 29 days. They did not file their initial report until 11 days after they took Ali into custody. Throughout the detention, the police tortured him in a variety of ways. They took him to a police facility, where they used the kursi method and beat him with a danda for thirty minutes at a time. He was not allowed to go to the bathroom and had to urinate while still in the kursi position. The police also beat him with wooden sticks, hitting him in the testicles and causing his penis to bleed. Ali had to be admitted to the hospital. After ten days of detention, Ali's injuries were so severe that the police officer in charge of the station, not wanting to be responsible for Ali's death—as he explained to other officers—ordered him transferred to another facility. Police took Ali to a private house and then to another police station. There, they kept Ali in a hot, stuffy room without any fan or lighting. It was the middle of the summer. The torture continued. The police applied the manji method for periods of two hours at a time. They also used the dolli method. Throughout Ali's incarceration, the police threatened that they would torture his family unless he confessed to the theft. The police also visited his family's home on many occasions to harass them for information regarding the stolen cattle. The family insisted that they

were innocent. They owned a small plot of land, and the police tried to extort them into surrendering the property. According to Ali, the landowner also intimidated neighbors to prevent them from testifying in Ali's defense. The police released Ali after he finally obtained bail. He obtained a medical evaluation and lodged a complaint. Ali did not inquire to see if his complaint resulted in any action against the police, as he feared what the landowner. The police used the dolli method to torture Ali. The MLCs confirm that eight victims were subjected to the dolli method of torture. In fifteen other cases, there was significant evidence, but not confirmation, that victims had been subjected to the dolli method or police might do to his family if he continued to press the issue. Nearly two years after the incident, he was still suffering from back pain as a result of the injuries he had sustained while in police custody.

NOOR

The police abused Noor in ways that she believed were vindictive. Years before, the police had killed her husband. In 2021, the police tortured Noor and members of her family with impunity. Failure to adequately supervise the police heightens the risk of this kind of abuse of authority to settle scores or exact vengeance. The police tortured Noor, an elderly woman, and publicly humiliated her and her family. Years before, the police had killed Noor's husband after he had allegedly killed a policeman who had been harassing the family. In 2021, officers in civilian clothing came to arrest Noor's adolescent son, Kareem, and an adult male relative. The police did not specify any charge and refused to show any form of identification to prove that they were police officers. A fight ensued, and the police called for back-up support. More than ten officers arrived and broke down the gates to the family home, forcing their way in. They beat Noor and her young daughters with bamboo whips and batons. The officers grabbed Noor, her daughters, and her father-in-law and

dragged them out into the streets, where they publicly humiliated them, smearing mud over their faces and beating them in front of the neighbors. Noor said of the incident, “The neighbors watched us being beaten in our home. They saw the girls crying and begging for mercy. The police kicked the children around like footballs, while they punched us older women, beating us to a pulp.” One daughter was beaten unconscious. The officers then ordered Noor’s son, Kareem, to run away, but he did not. Noor suspected that the police ordered him to run away because they could then justify shooting him on the pretense that he had been trying to escape. Noor told JPP that she begged the police to spare her child, but they yelled back that he was the “offspring of a snake” who did not deserve pity. According to Noor, they then took Kareem and his relative to the police station. Kareem was later charged with drug possession and was sentenced to six months’ imprisonment. In Noor’s interview with JPP, she maintained that her son was innocent. Noor filed a complaint about the police raid and mistreatment but has obtained no relief. When she approached a police official, he told her, “Go commit suicide. No one is going to listen to you.” She registered a case of police torture against the Station House Officer (SHO)—the officer in charge of the police station—who had abused her and her family, but the new SHO suppressed the case. The SHO who committed the abuse was never summoned to court, and the case never moved forward. Noor reported to JPP that the financial setback and humiliation the family endured prevented Noor from finding husbands for her daughters, who were well past marrying age in Pakistan. After the raid, the police continued to harass Noor and her family, arresting various members of the family on fabricated accusations. The police culturally humiliated Noor and her family, smearing mud on their faces and beating them in front of their neighbors. The MLCs provide evidence of 426 cases of cultural humiliation or other forms of psychological torture.

USMAN

The police detained and tortured Usman until someone paid a significant bribe for his release. The practice of securing cash payments from the family and friends of torture victims is an abuse of authority to which poor people with no resources or connections are particularly vulnerable. Usman was a day laborer who earned a living by performing miscellaneous tasks for a rich and powerful man in the area. One day, his employer accused him of stealing cattle. The employer detained Usman for a day and beat him. He then turned Usman over to the police, who detained and tortured him. The police held Usman at the police station for one day and night. They applied the strappado by hanging him from the ceiling three times, for 10 to 15 minutes each time, until he fell unconscious. Each time, they revived him with water and resumed the torture. Throughout the strappado, the police demanded that Usman tell them where he had taken the cattle. Usman told JPP, "I was, however, innocent and really didn't know." Late at night over the course of an hour, the police applied the manji three times. They stretched his limbs for five to six minutes at a time and then laid him on the floor. With shouts and threats, the police demanded that Usman confess to a crime he insisted he did not commit. The police stripped him naked and beat him with a chittar, hitting him repeatedly on the buttocks. The police then transferred Usman to another police station for more questioning. The police blindfolded him and asked about the cattle. During an interview with JPP, Usman described the situation: "I was under so much pressure at that point because I couldn't see and expected to be beaten with a baton after every question they asked me." The police threatened Usman, telling him they would bring rope to hang him. He was constantly afraid he would be killed. The police asked for bribes from both Usman and his family, threatening that if the bribes were not paid, they

would further torture Usman and perhaps kill him. While Usman was incarcerated, the police forced him to watch and hear other prisoners being tortured. The police threatened that they would do the same to Usman and that they would torture him if he did not pay the bribe. They illegally detained Usman for more than a month without registering an initial police report or charging him. Eventually, the police released Usman after his family sold their house to pay Usman's employer a substantial bribe—amounting to more than a year's wages for a laborer in Pakistan—to pardon him for the alleged theft. Usman lodged a complaint with a local magistrate and received a medical evaluation. However, paying the bribe ruined him financially and made it impossible for him to afford to follow through with his complaint. As of 2022, he was still suffering from lingering effects of the torture and detention—both economically and due to the physical pain he continued to feel in his back, arms and legs. The police used the strappado method on Usman three times. The MLCs confirmed that 34 victims were subjected to the strappado. In 43 other cases, there was significant evidence, but not confirmation, that victims had been subjected to the strappado.

WASIF

The police tortured Wasif and his friend over the course of four days in order to extract a confession. Other victims interviewed by JPP reported that the police had tortured them in various ways to force them to confess to crimes. Using torture or cruel, inhuman, or degrading treatment to elicit a confession violates international and Pakistani law. Wasif and his friend Bilal were sitting outside a shop on a hot summer day when police approached them. The police arrested the two men and took them to an unknown house. When Wasif denied having been involved in the robberies, the police began torturing him to induce a confession. When Wasif spoke with JPP, he knew the name of the police inspector who ordered his men to torture him but did not know the

individual police officers. The police detained Wasif and Bilal for four days in a small, dark room in the house. The police provided food to the men only once over the course of four days. This detention took place in the middle of summer, and the room in which the two men were kept was extremely hot—temperatures reach up to 45°C in Faisalabad in the summer. There was little or no ventilation, and the police cut all the electric wires in the room so that the fan and lighting could not be switched on. Throughout the detention, the police threatened Wasif. They insisted that he confess to the robbery and threatened that if he did not, they would falsely accuse his brother of robbery as well. Throughout the four days, the police tortured Wasif and Bilal in a number of ways. They repeatedly beat them with a danda and a chittar. The police also burned Wasif's skin with cigarettes in a number of places. The police officers stuck needles into the soles of Wasif's feet. One needle broke, part of it remaining lodged in his foot. Police also subjected Wasif and Bilal to the kursi, manji, and roola/roller methods of torture. Four officers used the roola/roller on Wasif three times during his detention. They rolled it all over his body from his feet to his chest for four or five minutes at a time. The police crushed Wasif so badly with the roola/roller that he still felt severe pain all over his body two weeks later. Finally, the police suspended Wasif with the strappado, dislocating his arms. The pain Wasif felt while being tortured was so acute that it caused him to fall unconscious many times during the course of the four days. During Wasif's detention, he was deeply afraid he would be tortured to death. Bilal, who was also severely tortured by the police, became extremely ill while incarcerated. At one point during the abuse, Bilal began spitting blood. The extreme physical pain Wasif and Bilal experienced throughout the torture was compounded by the sexual humiliation to which they were both subjected. The police stripped both men naked and then tortured them in front of each other. At one point, officers strung Wasif up in the kursi position while he was naked. A police officer with a plastic bag

covering one of his hands inserted red-hot chilies into Wasif's anus. The frequent presence of a guard who watched their abuse heightened Wasif and Bilal's humiliation. The police applied the roola/roller to Wasif three times during his detention. The MLCs confirm that 27 victims were subjected to the roola/roller method of torture, while 28 others showed possible, but not confirmatory, signs that they too had the roola/roller used on them. After four days at the house, the police took Wasif and Bilal to the police station. The police kept the men at the station for nearly two weeks before presenting them to a court. Ultimately, Wasif and Bilal confessed to a number of thefts. The two men were then jailed for an additional several months. Wasif continued to suffer even after his release. The police threatened Wasif's father when the father tried bringing a case against the police. The police repeated their threat that they would arrest Wasif's brother in a fake robbery case if the father pursued legal action against the police. Wasif's father was afraid for his other son and withdrew the case. At the time of his interview with JPP, Wasif's arms still ached in the winter as a result of the damage done by the strappado hanging.

SHAHBAZ

The police subjected Shahbaz to various types of torture, including beatings and sexual assault and humiliation. His abuse was so severe that it left him paralyzed. Shahbaz's story is not unique. In many instances, the police used several forms of torture on a single victim. Abuse often ran the gamut from the infliction of physical pain to humiliation to psychological abuse. The police detained Shahbaz for six days. For three days, they continuously tortured him at an undisclosed location, and for the other three, they kept him at a police station. A man had accused Shahbaz and Shahbaz's brother of being involved in a crime. The police identified Shahbaz's brother as a suspect but did not find any evidence against either of them and thus initially

dismissed the case. No one ever filed a criminal complaint against Shahbaz. When the investigation continued, however, several police officers arrested Shahbaz, his brother, and another man. Police arrested the men early in the morning, blindfolding them and taking them to what Shahbaz believed was a deserted house. Once at the house, the police first tied up the men, placing a baton beneath their legs to force them into a sitting position. As Shahbaz explained to JPP, “The hot weather that day added to our intense discomfort, and we cried bitterly.” The room was completely dark, and the police gave the men only small amounts of water that they had to drink with their tied hands. The police gave the men food, but Shahbaz explained to JPP that the men “were not in any condition to eat it.” One of the three fell unconscious and had to be admitted to a hospital. The police used various techniques to inflict pain on Shahbaz. Initially, police hung him by his feet from a tree and beat him. Later they hung him from his arms, dislocating both shoulders. The police beat him with a chittar, causing heavy swelling to his head. They also applied the kursi and falaka/falanga methods. Later, police stretched Shahbaz’s body between two beds using the manji method. He lost consciousness. The police revived Shahbaz with water but started beating him again when he regained consciousness. Shahbaz’s injuries were so severe that he was left paralyzed from the waist down. The police also sexually abused and humiliated Shahbaz. They kept him naked during his detention. The police applied a metallic rod with an electric current to Shahbaz’s penis, causing him to pass out from the pain. While Shahbaz was hung from the tree, the police tied his penis with a thread and used it to pull and play with his genitals. Throughout the torture, the police forced Shahbaz’s brother to witness the abuse. The police did not inform Shahbaz’s family of his whereabouts during his detention. The family was left to worry, having no idea what was happening to him or when he would be released. This abuse has deeply affected both Shahbaz and his family. When JPP spoke with Shahbaz, he still suffered

physical and financial hardships as a result of the torture. After the three days of torture, the police transported Shahbaz to a police station, where he spent another three days receiving medical treatment. He also received a medical checkup at a hospital. Nevertheless, the injuries were so severe that Shahbaz has been left paralyzed from the waist down. Seven years after the abuse, he was still on daily medication for injuries and ailments caused by the torture. At the time Shahbaz interviewed with JPP, his paralysis prevented him from working to support his family, which includes several children who were attending university. His condition also prevented him from visiting his brother, who, at the time of the interview with JPP, was still in jail. Shahbaz explained to JPP that he has had to spend a great deal of money on his case in court and on his medical treatment. His friends encouraged him to file an action against the police, but he was afraid to do so, especially because of his weak physical condition.

FAROOQ AND AADIL

Farooq and Aadil suffered long-term consequences as a result of their abuse, including permanent physical impairment and social harm. Like Farooq and Aadil, other victims reported to JPP that their abuse affected their entire families and many aspects of life, including physical well-being, business opportunities, and marriage options. Faisalabad police beat and arrested Farooq, Aadil, Aadil's brother Naveed, and a friend in 2021. In interviews with JPP, Farooq and Aadil reported that they believed the arrest followed false accusations about Naveed made by his enemies. Farooq was staying at the home of Naveed and Aadil when the SHO and a large group of armed police officers in civilian clothing arrived at their home in the middle of the night while the family was asleep. The policemen climbed over the boundary walls and broke into the house. At first, the family believed the police to be robbers. The officers began beating the men without explaining who they

were or why they were there. Farooq, who was downstairs with Naveed and the other friend, told JPP that the police punched and kicked the three men and beat them with iron rods, a danda, and the butts of their guns. Farooq said that the police were “beating us like animals” and that “due to this torture, my back and neck were bleeding.” The police searched them and took a large sum of money that one of the men was carrying for business purposes. Meanwhile, Aadil was upstairs with his family. Officers beat him in front of his wife and children, who were terrified. One officer kicked Aadil’s wife with such force that she fell to the ground. They used abusive language to threaten his wife and children and pointed loaded guns at them. They then looted the house. Other officers dragged Aadil by his hair and beat him “in [a] frenzy” until he was “almost faint.” According to Aadil, most of the officers smelled of alcohol and could not keep their balance. According to Aadil, the SHO then ordered the officers to force all of the men to strip naked in front of the large gathering of people who had congregated outside their house. They tied the men’s hands with ropes and made them march naked to the local police station, which was nearly an hour’s walk. Aadil, Farooq, and Naveed were humiliated at having to march through the town naked, with their hands tied, as shopkeepers and passersby watched. The officers ordered the men to walk slowly, beat them with iron rods and with butts of their guns, and then, when the men slowed down, yelled at them to walk faster. When the men complied and started walking faster, the officers again beat them and ordered them to slow down. As Farooq explained, the march “was very inhuman, and we were treated in a way that was more brutal than the way one would behave with animals.” When they reached the police station, Farooq and Aadil fell unconscious. According to Aadil, this was the first time the officers began to panic. The officers threw water over the men to revive them. The police then locked the men in one cell, where they illegally detained them for three days. The period of detention included a Friday, but the police refused to allow the

men to say their Friday prayers. Following this detention and abuse, the police took the men to the Magistrates' Court. The court observed the men's severe injuries and ordered the police to take them for medical examinations. Outside the courthouse, the police threatened the men with "serious consequences" if they told the judge about the abuse. The men initially feared saying anything to the judge. It took Aadil several weeks and the support of his family to overcome his fear and finally seek a medical examination. Farooq ultimately lodged a complaint against the police, but he told JPP that no legal actions had been taken against the officers. Farooq and Aadil continued to maintain their innocence. When JPP interviewed him, Farooq stressed that the beatings and forced public nudity made him feel like an animal and brought dishonor on him and his family. Aadil explained that he suffered both physically and economically as a result of this abuse. Due to a blow to his ear, for example, he had trouble hearing. One of his fingers was still damaged, preventing him from performing his manual work properly. His business suffered as well because he had to close his shop during his illegal detention, leaving his family without any source of income. He was also concerned because the business of his shop depends on the "goodwill of the person who runs it." He feared that the dishonor brought on him and his family by the incident had destroyed this goodwill. He reported to JPP that he worried that the consequences of the abuse will haunt his children in the future since they live in a society in which "marriage proposals of . . . children can be withdrawn due to such events." Aadil expressed his belief that the public humiliation has destroyed his respectability and tarnished his reputation in society. The police tied the men's hands with ropes and made them march naked to the local police station, which was nearly an hour's walk. Aadil, Farooq, and Naveed were humiliated at having to march through the town naked, with their hands tied, as shopkeepers and passersby watched.

HURIYA

The police tortured Huriya and then went to great lengths to convince her to remain silent. These acts of post-abuse intimidation and bribery, which are common, suggest that the police understand that their brutal methods are wrong. Huriya and her husband were at home when the police barged in. A group of officers dragged the couple out into the open and began to beat and kick them. Huriya and her husband did not know what they had done to warrant this abuse. Huriya asked, “If we are culprits, tell us what the offence is that you are beating us up for.” The police yelled, “We shall tell you in court.” The police repeatedly kicked Huriya and her husband. Wearing jackboots, the police struck the couple in the abdomen and back. Huriya was pregnant. She protested that she was carrying a child. But, she said in an interview, “They took no pity and kept on abusing me.” The abuse continued for 10 to 15 minutes. Eventually, Huriya fell unconscious. The police stopped and left. Huriya’s family carried her, unconscious, to the Faisalabad hospital. Eventually, the family learned that the police thought Huriya and her husband had committed acts of theft. The couple denied the charges. On the day after the attack, the hospital found that Huriya had miscarried. She remained in a coma for two or three days following the attack. Huriya later lodged a complaint with the magistrate and took steps to launch an investigation. The police offered Huriya money in exchange for not pressing charges. When Huriya and her family refused, the police began to make threats. The police accused Huriya and her husband of theft and pressured the couple to drop their complaints in exchange for being left alone. Huriya denied the allegations of theft and continued to press charges. She registered a case against the police, but, because she was unable to afford the lawyer’s fees, the case went no further.

ASLAM

When the police tortured Aslam, they moved him to a number of detention facilities. These frequent transfers suggest that the police knew they were breaking the law and wanted to hide their crimes. Aslam was traveling when police stopped the bus at a checkpoint. The police searched Aslam and found that he was carrying an illegal weapon. Aslam explained that the weapon was for protection because his family was feuding with another group that had threatened Aslam. He produced a police report detailing an earlier crime that was related to the dispute and supported his belief that he needed to carry a weapon. On the day after the police attack, Huriya miscarried. She remained in a coma for two or three days following the attack. The police detained him and took him to a police station. The police beat him with bamboo whips, causing serious injury to his head. Then, the police moved him to other stations, where they beat him again. Aslam was blindfolded and taken to yet another station, where he was detained for more than a week. At the last station, the police did not torture him. He believed the officers feared visits from senior police officials who would discover their misconduct. The police took Aslam to a cell in a nearby village to torture him. In interviews with JPP, Aslam said that the police hired men to commit the torture. One man forced Aslam to do extreme physical exercise while he beat him with bamboo sticks. He applied strappado to Aslam three times. Aslam said that “they hung me to the roof with my hands tied back for a long time.” The treatment resulted in severe injury to Aslam’s shoulders and back muscles. The torturers also applied the manji method. Aslam described how the police tied his legs and arms to the corners of a bed. According to Aslam, he was “in agony,” as the suspension caused “pains to all parts of [his] body.” Then, the police applied the jack technique. Aslam explained, “They laid me on a bed with my face

downward and then made my feet forcefully touch [the back of] my head.” The police also used the roola/roller method. Two police officers held Aslam against a wall. Two other officers pressed a bamboo rod against the back of Aslam’s thighs, and rolled the bamboo up and down repeatedly. The police applied this roola/roller treatment for 10 to 15 minutes. They also beat Aslam with batons and a chittar for 25- to 30-minute spells. After Aslam’s arrest, the police held him at several detention sites and tortured him repeatedly. The police used the strappado, manji, roola/roller method, batons, and chittar. The police also repeatedly uttered “vulgar abuse” and “used racially disgraceful remarks.” At one point, the police made Aslam watch as they tortured other people. The experience was disorienting. Aslam said, “After looking at some men being tortured and thinking about myself, my mind became senseless.” Aslam was detained for more than a week. During the detention, he managed to convince someone at the station to notify his brother that he was being detained. A court bailiff eventually compelled his release. Aslam soon filed charges with the magistrate and received a medical evaluation. His injuries persisted long after the release.

SALMAN

After Salman was tortured by the police, he filed charges with the local magistrate who ordered that the offending police officers be suspended. However, the police then approached Salman through religious figures in the community to ask forgiveness. Salman felt compelled to comply. Situations similar to Salman’s provide one example of the informal pressures victims face when seeking redress. Aslam was subjected to the manji method of torture. The MLCs provide evidence that 13 other victims were subjected to the manji method. In 24 other cases, there were possible, but not confirmed, injuries from the manji method. Salman and his school-aged nephew were traveling. It was after dusk, the route was dangerous, and Salman was

concerned. Salman carried a rifle for protection. Salman kept the license for the rifle at home. When the police stopped him and his nephew at a checkpoint, they accused Salman of illegal possession of a weapon. Salman protested, insisted he had a license, and offered to have his brother bring it. The officers rejected Salman's offer of proof. They demanded a payment from Salman. Salman told interviewers that the police officers "asked me to give them a . . . bribe to release me." Salman refused, and the police threatened to charge him with illegal possession of a weapon for the purposes of terrorism. The police took Salman to a police station. After 15 minutes, they took him to a backroom that Salman described as a "torture cell." Four officers tortured Salman. They applied the falaka/falanga method, beating his feet repeatedly with wooden batons. Police often employ this method because it does not leave lasting marks. But clear evidence of Salman's beating remained. He said that his feet "swell[ed] up badly," and "I couldn't even walk properly." Salman said that the police also "slapped me and used vulgar language" and insisted that "if I did not pay them the bribe, they would involve me in other charges." The torture session lasted an hour and a half. The injuries eventually became so severe that the police stopped, and the SHO ordered the officers to treat Salman's injuries. The police detained Salman for the rest of the night. His cell was crowded, cold, and "suffocating," and he was unable to sleep. The police released Salman the next day. He filed charges with the magistrate. The magistrate initiated a medical examination and ordered that the police officers responsible be suspended. Through a religious figure in the community, the police approached Salman and asked for forgiveness, implicitly acknowledging their wrongdoing. Salman said that not only he, but also his family, suffered. He talked of "trying to rebuild our prestige," having lost respect from the community as a result of the torture incident. Salman said he forgave his assailants because the religious leader ordered him to do so. But he also insisted in an interview that "there must be an independent

body . . . not under the police to inquire and investigate such incidents of torture.”

6.3. Impacts of Police/Custodial Torture over Victims and Families

The victims of police torture are thrown into the back of a vehicle, transported to a completely unknown location and tortured them, without solid reason and justifications. Police are involved in forcing them to confess to a crime they didn't commit. Police brutality includes also threatening their elderly parents with fabricated cases and similar torture if they do not confess. They are imprisoned long period with no one to listen.

The families of those who are most likely to be convicted suffer from the tremendous social and economic impacts of their relatives' incarceration, which include the expenses for lawyers and prison visits and the societal long-term stigma the families endure.

One of the defining features of the use of torture by the police is its significant and long-lasting impact on the families of those who suffered torture and particularly on their children. Families suffer from long-term psycho-social impacts, as a result of their relatives being beaten, tortured from the police officials. There are also significant socio-economic impacts for the victim and their families much of which are due to the substantial costs associated with the legal process.

While discussing torture in police custody it is pertinent to first build understanding with regards to torture as torture is the root atrocity. There are number of factors which need to be covered for digging deep into the pungent lands of torture in police custody for which it is necessary to put forth a sequence through which conceptual understanding of relevant concepts could be made along with covering it multi-dimensionally. Furthermore it is a dilemma that physical torture and psychological torture are misconcepted to be one and also there is no distinction drawn between torture and permissible

legal punishments which needs to be clarified. For these, three things need to be mentioned; torturer, purpose of torture and means of torture.

Police atrocities and transgressions are the talk of the town hailing from ages. There have been multiple ways in which police has been evinced to be barbaric and inhumane but here researcher discussed the police malfeasance in custodial torture. The force used in former two is mostly beating with special stick on joints, beating by pouring ice cold water on the victim, giving them forced tattoos to inflict pain, making them naked while beating and many other painful procedures.

The police, after manifesting their villainy, have always hid under the shed of impunity and self-made justifications. Police officials argue that these practices are needed for efficacy and effectiveness in investigations and remedifying the victims as when violent treatment will not be done to the detainees they won't ever spit out the true facts and relevant information which is needed for victim's medicament and conclusion of the case also.

These justifications given by the police officials are not bought by the public as in the former case they only bypass the tiring procedure of modern and prudent investigation.

Police in all these cases enjoy impunity by maneuvering there arbitrariness in refraining the victim from filing complaint against them, threatening the victims and their families for out of court settlement if they ever get successful in filing complaint, making use of all the loopholes in law, misusing thee law such as option of self defense, remand etc, bribing the judiciary to the utmost possible level, to hide under political shed and many other hiding spots used by the police.

Moreover the national laws in Pakistan do exist but the vagueness of them proves to be a hurdle in their enforcement. Strict limitations and boundaries must be drawn in laws as to when these options of custodial torture can be

availed, by what procedure and to what extent. As the problem occurs when the thin membrane between legality and illegality blurs where

It is germane to mention here that there is always a distinction between legality and illegality and it must be perspicuous and lucid in the legislations as well as policies but when they are left vague in the societies where discretion is mostly not used with good will but with the intentions of benefitting the powerful and hitting down the powerless, the element of arbitrariness takes birth and grow gigantic within no time.

Chapter No.7

DISCUSSION, CONCLUSION AND SUGGESTIONS

7.1 Discussion

There are many hurdles in proper police functioning such as financial deficit, constraints in human resources, politicization of department etc. For the elimination of police torture some good police practices which can be adopted in future by quoting national as well as international examples.

This thin line between torture and punishment can be made evident by considering existing laws as to what power is given to police and where the arbitrary practice of that power.

The laws in Pakistan are, by no means, deficient on any subject but their vagueness along with feeble enforcement are the reason which makes Pakistan lag in ensuring provision of human rights and also its own existing law. To discuss police torture in police custody the first and the foremost right provided by the constitution of Pakistan that against the above mentioned practice is the right of security of a person which must ensure his right to life and liberty according to which no one shall be exiled against freedom and also no one's life shall be taken away.

Article 9 of Constitution of Pakistan asserts that "no person shall be deprived of life or liberty in accordance with law." Moreover Constitution of Pakistan also provides for informed arrest, defense counsel and production of detainee in front of magistrate within 24 hours by enunciating in Article 10 that "(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty- four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate."

It is asserted that every person shall be tried fairly and by passing through the legal process without any involvement of arbitrariness and

discrimination as it is mentioned in it that “for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”

Moreover use of force and coercive means to extract information, confession or evidence is not allowed according to Constitution of Pakistan as such evidence or confession is inadmissible. Article 13(b) of Constitution of Pakistan states that “no person, when accused of an offence, be compelled to be a witness against himself.” Article 14(2) prohibits the use of torture for the purpose of getting speedy evidence as it confers that “no person shall be subjected to torture for the purpose of extracting evidence.

Furthermore the most important point to be mentioned here is that along with all the provisions of the Constitution mentioned above the constitution empowers Supreme Court and High Court to take Suo Moto actions when the matter before them is related to public importance and fundamental rights respectively. Moreover High Court also has a vested inherent power to quash an FIR or proceeding if it sees the violation in regards to ends of justice.¹⁰³

After Constitution of Pakistan, substantive penal law of Pakistan is also well versed with the laws against the coercive methods of interrogation and illegal detention of the accused. Section 220 of PPC addresses the elements of malafide¹⁰⁴ and ill intentions involved in detention and trial of the accused which are sanctioned by seven years of imprisonment. The provision in its content states that “whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

Along with illegal practices in arrest and detention mentioned above, another important aspect is broached in another section of PPC which is that torture or any other kind of hurt is not permitted for attaining or extracting any information or confession from an accused to prove him guilty.¹⁰⁵ Section 337-K of PPC states that “whoever causes hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of any offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore, or to cause the restoration.

The procedural code of criminal laws in Pakistan is also instilled with provisions pertaining to required anti-torturous attitude of police officials in which they are ordained to not use any such mean to extract information which is threatening in nature and induces the accused to make any confessional statement or render any information in that regards but the statements obtained on free will by the police officials will not be maligned. As it has already been discussed above that the focal reason of using torturous and atrocious deportment of police officials towards detainees is extracting information and getting confessions without spending energy and time by using modern interrogation techniques but when police officials are not empowered to record such confessions why is torture under practice for that reason? This question has cultural and practical roots that emerges in the form of

Prevalent functioning in which accused is coerced by the police officials to render such confession which can be used against him during cross questioning as a corroborative evidence. Nonetheless the authorities to record confessions and statements are enunciated in section 164(1) CrPC which manifests that “any Magistrate of the First Class and any Magistrate of the Second Class specially empowered in this behalf by the Provincial

Government may, if he is not a police officer, record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.”

The phase of the criminal trial during which most cases of custodial torture and killings takes place is when an accused is allowed to be arrested under section 54 without warrant by the police offences which indicates immense ground for police to use their power arbitrarily and also when accused is given in police custody for physical remand according to section 167(2) which holds that “the Magistrate to whom an accused person is forwarded under, this section may, whether he has or has no jurisdiction to try the case, from time to time, authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has no jurisdiction to try the case or send it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.”

Moreover the sensitivity of physical remand can be gauged from this factor that in doing so the mandatory prerequisite is that even in case of being necessary for further investigation the empowered magistrate needs to enlist reasons in that regards as to why is he granting that physical remand according to section 167(3) which states that “A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.” Moreover Anti- Terrorism Courts are empowered to send an accused under remand according to section 21-E of ATA, 1997.

As in other legal codes of Pakistan mentioned above, confession extracted as a result of duress and insistence by the police official is not admissible in court of law as mentioned in Article 37 that “confession caused by inducement, threat or promise, when irrelevant in criminal proceeding. A confession made by an accused person is irrelevant in a criminal

proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.”Article 38 and 39¹¹³ furthers enunciates in that regards that “confession made to a police officer shall not be proved against a person accused of any offence unless such statement is made in presence of a magistrate.”

According to laws there are certain prohibiting and prescribing provisions pertaining to torture and inducement regarding extraction of confessions and other related information but Police Order 2002 penalizes the police officials who are indulged in such activities.

It accord the police officials with a penalty of five years along with fine in order to wrongfully detain, arrest or inflict torture on detainee as articulated in section 156(c)(d) that “any police officer who vexatiously and unnecessarily detains, searches or arrests any person or inflicts torture or violence to any person in his custody shall on conviction, be punished with imprisonment for a term till five years and with fine.”

Moreover a penalty of one year along with fine is granted to the officials for rendering exasperating delay in production of detainee in front of magistrate as enounces in section 157 that “any police officer who vexatiously and unnecessarily delays the forwarding to a court or to any other authority to whom he is legally bound to forward any arrested person, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

It is seminal to also know the police culture and police department of Pakistan while studying the functioning, irregularities and illegalities done by the

police. One of the respondent highlighted that there are hindrances in effective policing in Pakistan and how they amount to the violation of law.

He expressed that,

Thana culture' which amounts to high-handedness of police officials resulting in fake encounters, use of force during interrogation usually to get desired confessions etc.

It is fact that the police system of Pakistan has been riddled with deficiencies historically as the country inherited the colonial system which was oppressive and authoritarian. Highlighting this situation one layer told that, Pakistan inherited an authoritative, oppressive and unaccountable police force. Politicization of police, lack of training and resources etc. also amounts to defective policing in Pakistan which results in mismanagement of suspects whether in police custody or during encounters”

Police torture is a dilemma which represents uncivilized societies and can certainly be eradicated by implementing UN and National convention against torture. Custodial torture is a violation of number of human rights such as, right to life and Liberty, equality before law etc. According to them, corresponding to police culture of use of force, the violation of Human rights by them custodians (police) must not be left unaddressed but shall be dealt according to the international standards.

It is pertinent to combat the practices of torture under police custody. There are two combating procedures for ill treatment and torture by police in custody which are implementing procedures that safeguards effectively and investigative interviewing of suspects by police.

There are many things to consider the safeguards present against torture such as, duration of police custody and role of prosecutors as well as judges, dedicated custody officers right to notify a third person of arrest etc. there are some possible initiatives that can be introduced in Pakistan to make police

functioning better and in accordance with the law without any violation of human rights anymore.

The important aspect that Pakistan is an Islamic State and its sensitivity towards Islamic principles must also be safeguarded to maintain peace in the process of this conformity.

7.2. Conclusion

Police has brought a bad name to the department by doing and then submerging the offences of torture in their departments. To discuss this, a deep study of the prevalent status of policing in Pakistan especially with respect to custodial torture is required.

There is 'Thana culture' which amounts to high-handedness of police officials. There is violence, torture and use of force during interrogation usually to get desired confessions etc. Pakistan inherited an authoritative, oppressive and unaccountable police force which was founded on Police Act 1861 as a product of task of coercion for uprising against British law with amendments was functional in Pakistan till 2002 after which police orders came which are also extensively amended and are not in its original spirit. Politicization of police, lack of training and resources etc. also amounts to defective policing in Pakistan which results in mismanagement of suspects whether in police custody.

The law enforcement agencies must enhance meaningful community relations based on genuine listening especially in incidents like encounter killings. The local police officials shall maintain good relations with all the community so that people may also assist them in need. The police shall conduct a public gathering meeting where they can have interactive sessions with the locality and to know them personally.

The Police shall form a specialized investigation bureau that investigates the matters pertaining to torture. The prevalent culture of use of force must be reduced by the police and excessive use of power shall be taken as illegal. An

official measuring scale, in the form of legislation, shall be introduced to charge all the state officials in that record according to the settled rule considering rule of uniformity for all the police officials. The awareness among the public about the rights and powers of police shall be communicated. TV ads or Newspaper must print the data that will aware the people that police cannot exceed such and such limits.

7.3. Suggestions

On behalf of the study, following recommendations can be made for the further research.

1. Police officials must enhance meaningful community relations based on genuine listening. .
2. The local police officials shall maintain good relations with all the community so that people may also assist them in need.
3. The Police shall form a specialized investigation bureau that investigates the matters pertaining to torture and custodial torture.
4. The prevalent culture of use of force must be reduced by the police and excessive use of power shall be taken as illegal.
5. The awareness among the public about the rights and powers of police shall be communicated.
6. The exception to the rule of not using violent force, to ensure arrest at the time of resistance by the suspect in Article 46 of the CrPC must be amended carefully with

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INTERVIEW GUIDE

Assalam-o-Alaikum!

I am student of MSc Sociology at QAU, Islamabad. This research is compulsory for the award of my Master degree. My aim of the research is to explore the causes of police/custodial torture and its impacts on victims in Faisalabad”

I assure you to keep all the details of this interview confidential and anonymous and will use it purely for the academic purpose. Thank you for your cooperation in advance.

Interview Guide

Sr.no	Statement
Part 1	For Layers and Police Officials
1	How do you define effective policing and police role in eliminating crimes and maintaining law and order?
2	How will you define and elaborate the police system of Pakistan?
3	What are the causes of police/custodial torture?
4	According to you what are administrative causes of police torture and how they can be eliminated?
5	What are the legal causes and of police torture and how they can be eradicated?
6	Explain the nature torture which is done by police officials?
7	According to you for what purpose the torture is used?
8	What legal and administrative measures are necessary to lift the morale of police department and end illegal means like torture?
Part 2	For the Victims of Police/Custodial Torture
9	When and where you were captured/arrested by the police?
10	In which offence or crime, you were arrested and detained by the

	police?
11	Do you have criminal record and in this case do you believe that you were innocent and falsely arrested by the police?
12	What type of torture you had to suffer from the police officials?
13	At which place they inflicted torture upon you? Was this in police station or elsewhere?
14	What was believed to be the purpose of torture?
15	Were you given the right to defend? Were you presented before the court? And did they prove that you were criminal?
16	Did you suffer any injuries due to police torture? If yes share the details?
17	Did you report it to higher authorities or human rights organizations?
18	Did they allow your relatives, family members and lawyers to see you during detention?