

Detention of Relatives of Accused by Police

(Lawlessness by the Law Enforcers)

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Abstract

Pakistan, including number of other countries that follow the British colonial criminal justice system, police misuses its discretionary powers of detention. It becomes serious violation of law when relatives of an absent accused are detained by police in order to compel the accused to surrender. Literature review indicates viewpoints of certain criminologists and scholars on Islamic, International and Constitutional fundamental rights of liberty and freedom of people and immunity from arbitrary detention. It compares these rights with existing Pakistani legislation on arrest and detention with special reference to relatives of an accused who are detained to ensure arrest of a blamed person. This paper argues that the discretionary powers of police to detain any person in doubt, especially the relatives of an accused, are *ab-initio* illegal that create unrest and annoyance among people. The main findings reveal that citizens are harassed and detained by police (on the basis of doubt) and on the directions of politicians and local influential ones under these discretionary powers. It paves way for bribery, corruption and misbehavior by police department. The analysis concludes that powers of detention, arrest and investigation given to police in Code of Criminal Procedure, 1898 (CrPC) are not in line with newly enforced Police Order 2002. There is a need to make amendments in CrPC for harmony in both the Laws and to improve the existing criminal investigation system of police.

Keyword: Relatives of accused, detention, doubt, police, discretionary powers, misuse.

Introduction

Detention of a person on the mere ground that he/she is the relative of an accused person is itself a violation of the universal, constitutional and national laws. The main focus in this regard is to understand the judicious interpretation of this lawlessness by the law enforcers. Pakistan criminal law is based on common law related to criminal justice system. The then British Empire imposed criminal laws of their choice to control the people and to uphold their rule upon their colonies, because they had to run the government upon vast areas under control with lesser officers. However, situation was not the same in their own country where every citizen was given equal rights of freedom and liberty under strict administrative checks on police

system. Many countries like Australia, New Zealand, Malaysia, Bangkok, South Africa and USA have changed their British colonial criminal law system as per actual common law but Pakistan and India are following the same old system. However, courts are trying to awake the administration to look into the matter seriously. “The criminal law is the strongest arm of all the normative system of the society by which it punishes, controls, curbs and prevents crime in the society. The basic purpose of the criminal law and criminal justice administration is to save the society from evil, to free it from crime, or at least to make crime an unpleasant, detestable, unattractive and unacceptable activity or career. The criminal law, thus, has to be interpreted, applied and enforced in a manner so as to achieve these objectives.” (PLD 2001 Lahore 105) Hence, the research question becomes, why police detain relatives of an accused to ensure his availability? The objective of study is to analyze the following factors, in qualitative and descriptive manner, for illegal acts of police regarding arrest of blameless citizens:

- Whether police are empowered under British colonial system to arrest any person
- Whether communal temperament makes police to adopt the process of illegal arrests
- Whether the illegal detention is part of police corrupt practices

Literature Review

The world has become a global village where news spread in a flash through social, electronic and print media. News about any violation of law, rules or rights, especially by state officials, reaches in remotest parts of the world very fast along with associated public opinion. In Pakistan the state officials are not only following the old working methods but are also still incompetent to respond to the current innovations and inventions. It is therefore imperative that a detailed viewpoint on the subject be discussed. In this respect, first of all Islamic principles about responsibility of acts of one person upon others including his relatives are mentioned followed by International laws on arbitrary arrest and detention. In the end contemporary studies on the subject are given briefly.

Islamic concept of criminal liability

Islamic concept about dealing with accused people and their relatives is very clear in Qur'anic manifestations. In the Holy Qur'an it has been mentioned that, "*No laden soul can bear another's load*" (Pickthal, 1995, p. 265) or that "*No bearer will bear the burden of another*" at various places of the Holy Qur'an to affirm that every individual is responsible for his own deed here in this world and hereafter (6 *Al Anaam*: 164; 17 *Al Asraah*: 15; 35 *Al Fatir*: 18; 39 *Al Zumr*: 7; and 53 *Al Najam*: 38). The repetition is itself a proof that Allah wants us to hold the people responsible for their own acts and not for the acts or omissions of their relatives or others. In explanation of above verses Molana Abul Alaa Maodudi (1996) has narrated that; "*The Qur'an has laid great stress on the doctrine of personal responsibility at several places, for one cannot follow the right way scrupulously without understanding fully its implications. It means that everyone is solely responsible for one's moral conduct and is accountable to God as an individual in one's own person and no other person can share the burden of responsibility with him*"(p. 131). The same principle has been made both for the presently living communities and for those who have passed away that, "*Those are a people who have passed away; theirs is that which they earned and yours is that ye earn, and ye will not be asked of what they used to do*" (2 *Al Baqra*: 134 & 141).

The Qur'an has not only mentioned that others would not be held responsible for the acts of a person but also that law of the land must prevail. Nobody including own real brother can be restrained or detained in violation of the local laws. It can be exemplified from the part of this verse, "*Thus did We contrive for Joseph. He could not have taken his brother according to the King's law unless Allah willed*" (17 *Yousuf*: 76)(Pickthal, 1995, p. 226). In plain words it has been narrated that Prophet Joseph was helped by God through a plan, otherwise Joseph could not have restrained his brother from going back under the king's law of that time.

International Laws on Human Rights

The contemporary International laws give maximum respect to human rights to which Pakistan is the party. Preamble of United Nation Charter stated in 1945 that; "*We the peoples of the United Nations are determined . . . to regain faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small*". Similarly, in the Preamble of Universal Declaration of Human Right (UDHR) under UN charter, "*Member States have pledged themselves to achieve, in co-operation with the United Nations, the*

promotion of universal respect for and observance of human rights and fundamental freedoms” in 1948. UDHR has assured under its Article 3 that, “*Everyone has the right to life, liberty and security of person*” and the Article 9 provides that, “*No one shall be subjected to arbitrary arrest, detention or exile*”. Furthermore, Article 9 of International Covenant on Civil and Political Rights (1966) states that:

“Everyone has the right to liberty and security and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law” (Jennings and Watts, 1992, p. 1015).

In order to accomplish the above global assurances, the United Nations established a Human Rights Commission to safeguard the fundamental right of the people worldwide. In Pakistan, Human Rights Commission is an independent organization and publishes its periodical and special reports on the state of human rights and its violations. Study of the reports indicates that much is written about arbitrary detentions and missing persons but there is hardly any reports regarding detention of relatives of an accused person unless it is highlighted by mass media. There is an international code of ethics for police that describes the police duties. The same has been mentioned by Qadri(2005) in his book Criminology as that: “*The ideal purpose of the police in a community can be best described in the following words which spell out the duties of law enforcement officers as laid down in the International Code of Enforcement Ethics*(p.302):

“As the law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence and disorder; and to respect constitutional rights of all men to liberty, equality and justice.”(Patrick, 1972, p. 29)

Constitution of Pakistan on Fundamental Rights

The Constitution of Pakistan and laws made there under provide freedom of life and protection from unnecessary criminal proceedings. Article 9 of the Constitution of Pakistan, 1973 gives ‘Security of person’ that “*No person shall be deprived of life or liberty, save in accordance with law*”. Protection of individual rights provided under the Constitution such as protection against unreasonable arrest, search and seizure, and protection against self-incrimination must be maintained.

However, the Constitution of Pakistan permits legislature to make such laws, which may authorize deprivation of life or can curtail liberty under certain circumstances. In cases of peculiar nature, on the Proclamation of Emergency under the Constitution, the operation of Article 9 may be suspended. *“The fundamental rights given in the Constitution of Pakistan fall in the categories of legal, moral and natural rights”* (Chaudhry, 2009).

Freedom of life and liberty are connected with the due process of law as enshrined in the Constitution of Pakistan. Article 4 of the Constitution of Pakistan specifically indicates that, *“no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law”*. It was held by Supreme Court of Pakistan in 1969 in a famous detention case titled ‘Government of West Pakistan *verses* Begum Agha Abdul Karim Shorish Kashmiri (PLD 1969 SC 14)’ that:

“Therefore in determining as to how and in what circumstances a detention would be detention in unlawful manner one would inevitably have first to see whether the action is in accordance with law, and if not, then it is an action in unlawful manner. Law is here not confined to statute law but is used in its generic sense as connoting all that is treated as law in this country including even the judicial principles laid down from time to time by the Superior Courts. It means according to the accepted forms of the legal process and postulates as strict performance of all the functions and duties laid down by law”(Chaudhry 2009).

Police Powers under British Colonial System

In Pakistan mostly Common law is being followed but it is far from actual existing Common law, which safeguards Human Rights and even the rights of those involved in criminal cases. On the other hand, in Pakistan, British colonial criminal system is being followed that was enforced by British rulers to control the region. It contained certain extraordinary powers given to administration and police so that masses could not react to the dictatorial government. The same has been elaborated by Dr. Aulakh in his book on, ‘Crime and Criminology’ that:

“Pakistani police adopted a system of 19th century policing under Police Act 1861 much like that of 1820’s England. Its functions were enforcing British colonial rulers’ law and order but the structure was bureaucratically

autocratic. In order to study history of police in Pakistan, it will be unfair not to mention the history of the British Police. Under the new Police Order, 2002 there can be a good change but if and when it is executed in letter and spirit by our police still adamant to it". "The Pakistani police force is the British transplant, having been influenced by its colonial activity. Metropolitan police of London pattern were introduced in Pakistan in 1861 under the Police act 1861. It was later regulated by Police rules of 1934 to maintain King's law and order in his Subcontinent Dominion" (Aulakh and Khan, 2005, p. 288 & 289).

Powers of police regarding temporary detention and formal arrest in Pakistan are given in The Code of Criminal Procedure, 1898 and Police Acts and Rules are the procedural elaborations of the same. This Code not only authorizes the police for temporary detention under its Sections 61 but many local citizens can also use this power under Sections 59. With regard to arrest, Section 54 of Criminal Procedure Code, 1898, states that, 'When police may arrest without warrant':

“(1). Any Police officer may, without an order from a Magistrate and without a warrant, arrest-

Firstly, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned:

Secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking.

Thirdly, any person who has been proclaimed as an offender either under this code or by order of the Provincial Government.

Fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing.

Fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody.

Sixthly, any person reasonably suspected of being a deserter from the Armed Forces of Pakistan.

Seventhly, any person who has been concerned in, or against whom a reasonably complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Pakistan, which, if committed in Pakistan, would have been punishable as an offence, and for which he is, under any law relating to extradition or otherwise, liable to be apprehended or detained in custody in Pakistan.

Eighthly, any released convict committing a breach of any rule made under section 565, sub section (3).

Ninthly, any person for whose arrest a requisition has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears there-from that the person might lawfully be arrested without a warrant by the officer who issued the requisition.”

The difference between the Pakistani criminal laws and those of British criminal laws is that Pakistani laws authorize police to arrest and detain any person on reasonable **doubts** or **suspicions** as mentioned in Section 54 of Criminal Procedure Code, 1898 above whereas in British Police and Criminal Evidence Act, 1984 (PACE) sections 24 and 25 authorizes arrest or detention only on the basis of reasonable **grounds**. The grounds include the presence of police official at the spot and that some cognizable proclaimed offence has been committed by a person. Furthermore, under section 26 of PACE the powers of police to arrest without warrant have been ceased except on certain scheduled cases. Hence the basic problem in misuse of powers lies on arrest in a doubt or suspicion. This is the main difference between the colonial and liberal laws, which was also recognized by the Supreme Court of Pakistan in a famous case titled ‘Malik Ghulam Gilani *verses* The Government of West Pakistan’. It was held that, “*reasonable belief did not mean suspicion. The satisfaction of the detaining authority about the acts and activities of the detenues should be based upon reasonable grounds, objective criteria and considerations and also declared that all orders of preventive detention passed by the executive authorities were open to judicial review*” (PLD 1967 SC 373).

Case study

In a case of blasphemy by a Christian youth PevaizMasih in a village of District Kasur, the local police entered in a dwelling to arrest him, where he was not found. The police harassed his family and arrested his relatives and siblings for his production to police. The same was reported in Daily Tribune in following words:

“When the Christian family did not reveal where Pervaiz was; Police seized family members of his family and transferred them to Police Station in Khadiyaan. The Christians were brutally tortured including females also. Seeing the gravity of the issue, he surrendered himself to the police. When Police detained Pervaiz, the other illegally seized Christians including Shamaun, DilAwaiz, Karamat and Goga were released from police custody. DPO Kasur took Pervaiz in his custody and transferred him later to an unknown location”.

The subject matter was taken up with a Station House Officer of a remote area in district Dera Ghazi Khan as a case study. Similar situation had happened in that police station. Brief facts of the case narrated by the grieved family are that one of their family members was falsely involved in criminal case by influential persons of that area. He was not present in the city at the time of occurrence. Just after registering the case, police raided his house and did not find him. One of his younger underage brothers told police that he is out of city and would be back in a few days. Police directed that underage boy to accompany them to Police Station. There he was detained and directed that he would stay in Police Station till his brother comes back. No justification for his detention was given to his family but they were compelled to call the accused immediately, lest his brother would stay in Police Station. Finding no way out, his mother called respectable personalities for help, who gave personal surety and the boy was released from police detention cell.

When the Station House Officer was confronted with the story of the aggrieved family, he agreed with the facts and responded that they have to do this under compulsion otherwise people do not cooperate. They have to arrest the accused even before preliminary inquiry process is completed to establish his real involvement. It saves them from delays in completion of challans and to submit investigation reports before the Magistrate. Any relative of the accused including his father, brothers or other elder family member is taken in custody and detained in police station till the time the accused contacts his family and comes to know about

arbitrary arrest of his beloved one. This type of detention is purely illegal and unjustified rather amounts to harassment. Police hardly cares about age of such detainees. All efforts to remind the SHO about the legal provisions stood fruitless on the basis of one answer that they have to do so. This case study indicates that there are certain inherent issues which are inculcated in the police officials during their progression in the police force for establishment of effective and forceful control over people in their respective areas. They resort to illegal methods which may be either through psychological trapping or manhandling, as analyzed below.

Analysis

The powers of arrest or detention by police given in Criminal Procedure Code of Pakistan were vested by British colonial rulers for smooth running and positive control over the annexed locality, which comprised of a huge area of subcontinent. In order to enforce their command and writ over the populace, majority of which was rural habitant, they awarded the powers of arrest in suspension to the local police ruled by the British Police Commissioners. For this purpose, they made two tiers police system one lower class provincial police to face the people and other high class Federal Police Department for policy and decision making. The powers given under the Code to certain locals and police for temporary detention for a period of 24 hours are extendable under many excuses. The exception given in Article 9 of Constitution of Pakistan, 'save in accordance with law' is arbitrarily misused by police in collaboration with locals. All these provisions lead to the sewer of bribery, corruption, favoritism and brutality by and for police. It is pertinent to mention that these powers are for the suspects and not for their relatives, whom detention is not supported by even the British colonial laws.

Functions of Police and reaction of society

In Pakistan, Police is the functionary of Provincial Governments as prescribed by the British colonial police system and they can be promoted up to the Deputy Superintendent of Police (DSP) rank. Further higher ranks are granted to the officers recruited by the Federal Government in Police Services of Pakistan (PSP). Duties and functions of the Police are defined in Police Act, 1861 and now in Police Order, 2002. The main function of police is to maintain and regulate community life within tolerable limits as the main law enforcing agency. Besides Provincial Police many other Federal Departments and Agencies are performing these policing functions in specified areas, fields or subjects to handle the criminals and antisocial or anti-state elements independently or in collaboration with actual provincial police. All these departments work in two tiers system and powers of arrest and detention are same as

given in Criminal Procedure Code of Pakistan. The distinction between the two tiers has been clearly identified by Robert Reiner in his article 'Policing and the police' that:

“The most obvious cultural gulf is between street-level officers and the management ranks. The latter have supervisory and disciplinary powers over the former. As the arbiters of the career prospects of the rank and file, the management strata in police forces clearly have potentially conflicting interests and perspectives on a number of issues. This is accentuated when (as was the case in British county forces until the Second World War) there is lateral entry of senior ranks and they come from more privileged social and educational backgrounds (Reiner 1991: ch. 2)”(Maguire, Morgan and Reiner, 1994, p. 735 & 736). *“In colonial situations (including Ireland) British policing developed on an overtly militaristic model (Brogden 1987; Palmer 1988)”*(Maguire, Morgan and Reiner, 1994, p. 753).

It is clear that Britain maintained two tiered police system in order to keep control over the field level police and get the policies of the government enforced in the desired manners. Obviously the policing system for colonies was overtly militarized so that masses could be controlled per force. Accordingly, the power to police to arrest any person in doubt was given to pick any person acting against the interests of the British colonial Government. These powers of arrest in doubt delegated to police under British colonial system have been aborted by nearly all those countries that got independence from British Empire except India and Pakistan. The governments of these countries are still unable to have positive control and coordination with their masses therefore they have not changed these irrational laws of arbitrary detention by police and certain locals. These powers are being misused by the Police and Influential persons under the shelter of the rulers who gets political advantages in return. It is the intent and willpower of the government that make it to make laws for the welfare of the masses or otherwise. Detention of relatives of the accused by police is one of the best examples of lawlessness by the law-enforcers by misusing the authority bestowed by the rulers as mentioned by Dr. Aulakhin his book Crime & Criminology:

“Police draws its powers from the government to respond with force with discretion if the occasion requires. But if police force is used unintelligently, it raises critical question about its very existence. No legitimate government, however, can allow misuse of power by a “rogue” police organization of continue unchecked using brutal forces chiseling citizens, usurping their

fundamental rights and marking people's private life a pawn in their iron hands"(Aulakh and Khan, 2005, p. 287& 288.

The system-wise nature and culture of police in Pakistan is still on British colonial pattern except a few changes in nomenclature. Duties and functions were also the same till year 2000. However, first decade of twenty-first century noted some meaningful changes in administrative mode and a few new laws like local bodies laws, nation accountability laws reforms in police laws. Present police law was changed from British colonial system to the rationalized the police system. There are legally prescribed constituents of present law that determine police and public relationship. Modern police forces are organized to accomplish the functions of civil order, traffic control and prevention of deviancy and crimes in their areas of jurisdiction. Section 3 of Police Order, 2002 defines attitude and responsibilities of police towards the public that:

“It shall be the duty of every police officer to:

- a. Behave with the members of the public with due decorum and courtesy;
- b. Promote amity;
- c. Guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets and other public places; and
- d. Aid individuals who are in danger of physical harm particularly women and children.”

Duties of the police have been prescribed to facilitate the community in its smooth functions. Although the duties of police have been re-ascribed to meet the constitutional freedoms in Police Order, 2002 but could not be enforced in true letter and spirit due to obvious reasons. Unfortunately, still these duties are being performed at the discretions of politicians and bureaucrats. The main ground is that police public relationship has been defined without assessing temperament of people towards police. Powers of the police have been kept the same in Code of Criminal Procedure and measures have not been prescribed to curtail the interference of local influential personalities. The fore most duty of protection of life, property and liberty of citizens is ruthlessly denied and innocent people, including the relatives of an absconding accused, are still arrested or detained for unlimited period by police either to show its own authoritative position or on behalf of local or notable politicians These are the grounds which resist in true implementation of Police Order, 2002. Some of the related main duties out of section 4 of the Police Order, 2002 are that:

- Protect life, property and liberty of citizens;

- Preserve and promote public peace;
- Prevent the commission of offences and public nuisance;
- Apprehend all persons whom he is legally authorized to apprehend and for whose apprehension, sufficient grounds exist;
- Many other duties regarding traffic control and assistance.

It is a fact that police of a region come from the same community. Therefore the temperament of the police should be same as that of the regional community. Most of the climate of Pakistan is hot and dry therefore temperament of the people is also the same. It also applies to police. When some criminal act or violence is committed, people use to implicate as many persons of opposite party as possible. In furtherance of their intent police also include names of innocent people without verification in return of some benefits. When some of the accused persons are not available, their close relatives are arrested and detained by police without any legal authority. Hence one of the parties becomes aggrieved from both opposite party and police. In this way police also compel people of both parties to adopt unfair means for relaxed attitude. It can therefore easily be understood that aggressive temperament of people and police leads to corruption and malpractices. The same has been quoted by Howard John as that:

“There is no crude assumption that criminal tendencies, in themselves, are inborn or inherited. What is suggested is that temperament, going with physique, is inherited and that this affects one’s response to the stimuli and stresses of life, so that in certain circumstances, one may become a criminal. It sees temperament as one factor in the creation of a criminal, a partner with the environment, the Gluecks says” (Jones, 1965, p. 22).

The police mostly misuse the powers given in Criminal Procedure Code. People are also harassed and detained on the basis of doubt to pave way for bribery and corruption. It is not only Pakistan where relatives of an accused are detained by police but the police of all those countries who have not changed their respective colonial laws like India and few African countries are following the same practice. In this regard a famous reported incident of Jhabua explosion is the clear example wherein nearly whole family was arrested by local police (<http://zeenews.india.com>). The same lawlessness in Pakistan has been commented by Dr. Aulakh as police is licensed to humiliate the people in following words:

“Police may, while maintaining status quo, violate civil rights of the citizens. Advanced training is the only tool that can assist police officer to be careful when enforcing law on a routine shift. Similarly, that use of force more than

necessary to apprehended and arrest the suspect is unconstitutional. Use of deadly force against the known criminals in Pakistan is very common. Pakistan police, in this regard, seem to be licensed to kill innocent citizen in extra judicial action and justifying such killing is self-defense during the totally illegal police encounters. Misuse of police legal discretion to use necessary a force when needed has already exceeded limits and alarmed the international community to protest against human rights violations in Pakistan. The higher courts also take serious notices”(Aulakh and Khan, 2005, p. 294.

Findings

The above analysis has now clearly delineated the factors under which the police have to detain relatives of an accused. The reasons of its lesser publicity have also become obvious in the following findings:

There is lack of trust between police and citizens due to colonial dictatorial mentality of police; general conception about police is negative. Police is considered corrupt and drooping towards favoritism. Liked people get better treatment in police stations and real victims have to undergo legalistic whirlpools. People avoid visit police stations considering it a notorious place and criticism (queries) of the neighbors and relatives. Indulgence in a criminal matter becomes a permanent stigma on their part, which is always quoted repeatedly in joint ceremonials. The stories narrated by police, frequent visitors and accused ones regarding brutal and inhuman treatment with accused persons and use of third degree torture method to make them confession, create a sense of terror and fear among general public. In reaction people hide the accused persons till the time they could be produced before courts.

Where production of an accused become unavoidable, then heavy facilitations are offered and political or influential personalities are used as reference for justified police treatment. Treating new or chance criminals like a hardened criminal is unjustified. Police undertake some sort of physical punishment parade with every criminal to their own satisfaction and to create horror of criminal acts in their minds. Finding no way to arrest and accused and in economy of effort to go beyond accused person police adopts an easy way to detain his relatives and demand for his production to reciprocate their release.

Families become disturbed, money is borrowed for payment to police and rivals enjoy it.

Power of arrest to any person in case of doubt and suspicion is misused by police very effectively in order to attain their fixed goals. Courts have repeatedly criticized upon arbitrary powers of police to arrest anybody in doubt. Arrest of relatives of an accused to ensure his arrest is unjustified and unlawful which is not supported by any law of the modern social circles.

Conclusion

Local and International Laws have been made for the smooth functioning of the social system. Fundamental right of liberty and freedom from arbitrary detention is a confusing phenomenon in our country due to presence of opposite laws. The powers given to police in Code of Criminal Procedure are not compatible with changed Police Order. The discretion of police to detain any person in doubt creates unrest among people. It is therefore concluded that detention of relatives of an accused person by police is a deliberate act. It has started from the implementation of British colonial criminal justice system wherein locals were considered enemies. After independence the same system was followed and mindset of police was also adopted that included malpractices of bribery, corruption and manhandling. The community of Pakistan was also used to of the previous system therefore they also considered police as adversary force. Clever persons and lords used police as their tools to execute their illegal notions. It paved way to encouragement for illegal acts by police.

Recommendations

It is an admitted fact that there is a big communication gap between police and citizen. Only compelled people or repeated offenders have to interact with police. There is a dichotomy in practice and theoretical considerations. Sincerity in improvement of system is lacking far behind from speeches. Following few suggestions are considered imperative to control the detention of relatives of an accused by police:

- Discretionary powers of police to arrest in doubt or suspicion, given in Code of Criminal Procedure, 1898, may be curtailed and modified to reasonable grounds.
- Compatibility in Police Order 2002 and relevant sections of Code of Criminal Procedure may be made so that innocent citizens are not detained by police.

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- Police-public relationship may be increased through practical change in police behavior to gain the trustworthiness.
 - General public may be educated in laws related to police performance.
 - Strict disciplinary measures including penal sentences may be imposed upon police personnel involved illegal detention of relative of an accused to secure his presence.
 - Interference of socio-political figures in police functions may be abolished or at least curtailed to minimum level.
 - Real time monitoring of police functions and suspicious acts while using their discretionary powers may be ensured.

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