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Pakistan Journal of Criminology

Volume 7 / Number 1 / Jan, 2015

Pakistan Journal of Criminology

Volume 7 / No. 1 / Jan 2015

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Editorial

Policing with Passion - KP Police Initiatives

There is no dearth of policing models in the available literature of criminology and policing sciences[1]. Interestingly, none of the dozen of models can be cited as 'one-size-fits all'. As evident from the comprehensive details of each model, given in the *Oxford Handbook of Criminology,*[2] some are found effective in one situation, some are not and others are partly effective. The research shows their effectiveness as inconclusive or conclusive in a specific situation. In a nutshell, the idea of 'What works' remains the ultimate reality in finding a policing medicine to cure the illness of a crime. The Khyber Pakhtunkhwa (KP) Police Department has tried one such medicine and has named it as "Policing with Passion", an addition to the countless beautiful words and phrases coined by the world community of criminologists and police practitioners. The lucky part of this model is that it has been documented by the KP police under the same title with the sub-title of "Strategic Initiatives and Institutional Reforms in KP Police", which further qualifies the underlying thought in shaping this model. As usual with a departmental product, the book—if it can be called a book—starts with the 'Foreward' (or message) of the Inspector General of Police, KP, Mr. Nasir Khan Durrani, and then spreads to 116 greasy high quality paper with colourful pictures of police officers, police buildings and surveillance equipments. The effort of the KP police in designing, publishing and documenting various institutional reforms—mostly emanating from the top police leadership—is a commendable work. Individual addition to a likelihood department is generally lost, destroyed, forgotten or deliberately removed by rival successive leadership, thus reflecting an irreparable damage to the 'institutional memory' of that unit. The practice is not uncommon in Pakistan. To slow the pace of this damage, it is imperative to document all the efforts, initiatives and reforms introduced in an institution, especially in the police department which is very much amenable to the change in crime patterns, new technologies, vagaries of political elites, government agenda and conflicting interests of various law-enforcing agencies, to name a few.

The basic concept of this 'Policing with Passion' model is explained by the Police Chief in his foreword as: "After exhaustive deliberation and feedback from within the department, members of civil society, academia, NGOs, technology and process experts, and various security analysts, we have developed strategic goals for ourselves in light of a 'policing by objectives' theory. We are successfully implementing a comprehensive strategic framework to achieve the ultimate objective of winning the public trust through better service delivery." This amply explains the concept and theory of this new model of policing, indigenously crafted by the KP police officers. The main intellectual exercise was done as consultation with a number of stakeholders as stated by the police Chief.

The police are generally known as introvert, secretive, rigid and hierarchical in nature. They rarely share their internal processes with 'outsiders'. Though we find little clue to the complete genesis of this model and details of such long deliberations in this book, yet a few pictures indicate that police officers did have an interaction with some of the community members. Though it is a glimpse of the 'attitudinal change' in the local police department, yet after a long time of self-styled bureaucratic incubation. A number of initiatives, like direct telephonic messaging with the police chief, online registration of complaints, police assistance line, police access service, and Dispute Resolution Councils, etc, are a few best practices which need to be strengthened and institutionalized.

Police training and education has been shown as a top priority of the new police management. A host of new training units, like Police School of Investigation, School of Intelligence, School of Tactics, School of Explosive Handling, School of Disorder Management, new courses, new syllabi and new training modules are introduced and incorporated in this new model of policing. This is one of the good aspects of the revised and separate training policy that enough space and permanent buildings are provided to these newly established schools. In addition to these initiatives, we would suggest that 'master-trainers' and 'good officers' be posted to these institutions. Sadly to say that it has become a norm in Pakistan that the police officers posted to training institutions are dubbed as 'bookish' and 'misfit' for lucrative field jobs. The trainers be given more honour and of course, incentives. Moreover, the uniformity in the training institutions must be ensured by putting these different and specialized schools under the single command and control of the Commandant, Police Training College, Hangu, the only historical institution for police training and education in KPk, and not under the control of one DIG or Additional IG training who is mostly restricted to the desk job in the Central Police Office. A committed, well-educated and motivated Commandant PTC, with full authority on these schools, will definitely make a concerted whole and a composite network of basic and specialized training units. The Commandant PTC as a 'focal person' for all practical purposes of training, will not only be authorized but also can be held responsible and accountable for pre and in-service training. It will ensure uniformity, continuity and automation in training activities under a single command, and will avoid duplicity and piecemeal exercises.

The KP police in this new model has outsourced some of its services and responsibilities, like basic recruitment through other departments or having procurement of goods through a committee, comprising of members of surveillance agencies and public representatives. The 'public oversight' has become a fashion and a 'public demand' in the modern day debate on 'good governance'. Even in the developed world, xthe police are shedding some of responsibilities and putting them

on the shoulders of the public. In return, the police are burdened with other social responsibilities, not directly related to 'crime fighting'[3]. Here too, the KP Police have outsourced some of their legal responsibilities, but have purchased a new item of Alternative Dispute Resolution, victim-offender dialogue and mediation in a bid to contain and resolve a civil dispute before it bursts into a full blown criminal crisis. This 'to and fro motion' of policing transition is a subject of academic research. Only time will tell whether throwing one's jacket and putting on that of another to look more nice will really make the police more nice or otherwise!

The KP police initiatives of introducing new technologies for prompt action during an incidence of crime and terrorism, and the initiative for enhancing the capacity of their officers with a new system of reward and punishment are yet to be tested and verified in the years to come. The introduction of new technologies and surveillance instruments was long over due for the KP Police. The above mentioned book has repeatedly underlined this 'grey-area' in the KP Police initiative in devising an indigenous model for intelligence-led policing, crime-mapping and crime-analysis. Without modern equipments for information gathering and analysis, the Police are badly handicapped to counter terrorism, organized crime and new patterns of financial and white collar crimes.

The work of the KP police seems to be innovative and commendable though some may criticize it only cosmetics. However, an empirical research has to be carried out to assess the impact of these initiatives on the public life, crime reduction, conviction, and image of the police in the society.

Imran Ahmad Sajid &
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Assistant Editors

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[1] See Michael Birzer & Cliff Roberson. (2007). Policing Today and Tomorrow. Pearson Prentice Hall.pp.79, 331

[2] Ben Bowling and Janet Foster. (2002). "Policing and the Police" in Oxford Handbook of Criminology. London: Oxford. pp.985-999

[3] See: Colin Goff. (2004). Criminal Justice in Canada. (3rd Edition). Canada: Thomson.pp.112-13

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Social Conflict Theory and White-collar Criminals: Why Does the Ruling Class Punish their Own?

Elena G. Bystrova & Petter Gottschalk

Abstract

Social conflict theory suggests that the professional powerful and wealthy represent the elite and ruling class in society. The theory holds that laws and law enforcement are used by the dominant group to minimize threats to their interests. The justice system is biased and designed to protect the ruling class. Sanctioning of laws enables the dominant class to pressure a domestic order that allows its interests to be promoted and maintained. This article addresses the issue of deviant behavior by members of the ruling class. Specifically, it addresses the issue of law breaking by white-collar criminals. Reasons for law enforcement towards members of the elite are discussed in this article, including conflict reduction and class obedience. A research model is developed for predictors of white-collar crime prosecution.

Keywords

Conflict Theory, White-collar Crime, Ruling Class, Law Enforcement

Introduction

Social conflict theory suggests that the powerful and wealthy in the upper class of society define what is right and what is wrong (Petrocelli et al., 2003; Siegel, 2011). The rich and mighty people can behave like "robber barons" because they make the laws and because they control law enforcement (Chamlin, 2009; Kane, 2003; Haines, 2014; Sutherland, 1940, 1949; Veblen, 1899; Wheelock et al., 2011). The ruling class does not consider white-collar offences as regular crime, and certainly not similar to street crime (Hagan, 1980; Lanier and Henry, 2009a, 2009b; Slyke and Bales, 2013).

Nevertheless, crime by individuals in the elite tends to be prosecuted if crime is detected and evidence of wrongdoing is present (Brightman, 2009; Gottschalk and Rundmo, 2014; Seron and Munger, 1996), as long as they are not too powerful (Pontell et al., 2014) and do not have too excellent defense attorneys (Gottschalk, 2014). This article explores reasons why elite crime in terms of white-collar crime is prosecuted. Specifically, this article addresses the following research question: *Why does the ruling class punish their own?*

Social Conflict Theory

Social conflict theory views financial crime as a function of the conflict that exists in society (Siegel, 2011). The theory suggests that class conflict causes crime in any society, and that those in power create laws to protect their rights and interests. For example, embezzlement by employees is as a violation of law to protect the interests of the employer. However, it might be argued that an employer must and should protect own assets. Bank fraud is a crime to protect the powerful banking sector. However, in the perspective of conflict theory one might argue that a bank should have systems making bank fraud impossible. If an employee has no opportunity to commit embezzlement, and if a fraudster has no opportunity to commit bank fraud, then these kinds of financial crime will not occur, and there will be no need to have laws against such offenses. Law enforcement protects powerful companies against counterfeit products, although they should be able to protect themselves by reducing opportunities for the production of counterfeit products.
Social conflict theory holds that laws and law enforcement are used by dominant groups in society to minimize threats to their interests posed by those whom they perceive as dangerous and greedy (Petrocelli et al., 2003). Crime is defined by legal codes and sanctioned by institutions of criminal justice to secure order in society. The ruling class secures order in the ruled class by means of laws and law enforcement. Conflicts and clashes between interest groups are restrained and stabilized by law enforcement (Schwendinger and Schwendinger, 2014).

According to social conflict theory, the justice system is biased and designed to protect the wealthy and powerful. The wealthy and powerful can take substantial assets out of their own companies at their own discretion whenever they like, although employed workers in the companies were the ones who created the values. The superrich can exploit their own wealth that they created as owners of corporations as long as they do not hurt other shareholders. Employees have no right to object. It is no crime to take out values from own enterprises and build private mansions for the money. This is no crime by the owners. Even when the owners just inherited the wealth created by earlier generations, they can dispose freely of it for private consumption. Similarly, top executives who are on each other's corporate boards grant each other salaries that are ten or twenty times higher than regular employee salaries. As Haines (2014: 21) puts it, "financial practices that threaten corporate interests, such as embezzlement, are clearly identified as criminal even as obscenely high salaries remain relatively untouched by regulatory controls". Furthermore, sharp practices such as insider trading that threaten confidence in equities markets have enjoyed vigorous prosecution, since the powerful see them as opaque transactions that give an unfair advantage to those who are not members of the market institutions.

Marxist Criminology

Karl Marx – who analyzed capitalism and suggested the transition to socialism and ultimately to communism – created the basis for social conflict theory. Capitalism is an economic system in which persons privately own trade, industries, firms, shops and means of production and operate these enterprises or profit. Socialism is an economic system characterized by cooperative enterprises, common ownership, and state ownership. Communism is a socioeconomic system structured upon the common ownership of the means of production and characterized by the absence of social classes.

Marxist criminology views the competitive nature of the capitalist system as a major cause of financial crime (Siegel, 2011). It focuses on what creates stability and continuity in society, and it adopts a predefined political philosophy. Marxist criminology focuses on why things change by identifying the disruptive forces in capitalist societies, and describing how power, wealth, prestige, and perceptions of the world divide every society. The economic struggle is the central venue for the Marxists. Marx divided society into two unequal classes and demonstrated the inequality in the historical transition from patrician and slave to capitalist and wageworker. It is the rulers versus the ruled. Marx also underlined that all societies have a certain hierarchy wherein the higher class has more privileges than the lower one. In a capitalist society where economic resources equate to power, it is in the interest of the ascendant class to maintain economic stratification in order to dictate the legal order (Petrocelli et al., 2003).

When economic resources equate to power, then conflict and competition between groups will occur for scarce resources such as education, housing and jobs. Dominant groups can reduce the threat of other groups in the competition for resources through social control and criminal punishment (Wheelock et al., 2011).

In Marxist criminology, capitalism is a criminogenic society, i.e., a society that has a tendency to produce criminality. Capitalism is a system of economic production in which power is concentrated in the hands of a few, with the majority existing in a dependency relationship to the powerful (Lanier and Henry, 2009b: 259):

> This class-based economic order is maintained by a criminal justice apparatus that serves the interests of the wealthy at the expense of the poor. Those who challenge this system of production are destined for social control, especially if they are seen as a serious threat to the system.

Another German theorist was Max Weber, who wrote about classes in society, economic exploitation of people, political repression, and conflict within society. Neither Marx nor Weber wrote extensively about theories of crime or criminal behavior, but their theoretical perspective served as a good basis for conflict theory. Economic inequalities advance to assume disproportionate power in society and lead to social conflict.

Laws and Law Enforcement

Conflict theory provides an explanation of crime, since it is concerned with social inequality, class and racial differences, and the power used by the ruling class through its criminal justice apparatus. Conflict theorists see inequality based on differences in wealth, status, ideas, and religious beliefs. Not only do capitalist societies generate vast inequalities of wealth, but also those who own the wealth, who control large corporations and financial and commercial institutions, influence those who have political power to get the laws they want (Lanier and Henry, 2009b).

Conflict theory is a perspective in criminology that emphasize the social, political, or material inequality of a social group (Seron and Munger, 1996), that draw attention to power differentials, such as class conflict. Crime stems from conflict between different levels in society fueled by a system of domination based on inequality, alienation, and justice. Crime is harm that comes from differences in power (Lanier and Henry, 2009a).

Conflict is a fundamental social process. Society is largely shaped by the competing interests of social groups who struggle for dominance in order to enact or maintain a social structure most beneficial to them (Petrocelli et al., 2003: 2)

> Conflict theory asserts that the relative power of a given social group dictates social order in that powerful groups not only control the lawmakers, but also the law enforcement apparatus of the state. In essence, laws are made which serve the interests of the privileged, and the police are used to suppress and control any segment of society that poses a threat to the status quo.

According to conflict theory, economic inequalities and repression lead to deviant behavior. Laws, law breaking, and law enforcement are factors that evolve from and contribute to social conflicts, and strengthen the dominant position of powerful individuals. Laws tend to penalize behavior of certain classes, and not individuals, because it is the more powerful classes that are in a position to pronounce certain actions as illegal. The ruling class is faced with the decision, which values to enforce when making laws. Criminal law plays the role of a social control mechanism. Certain types of conduct are prohibited, and certain kinds of sanctions are imposed for their infringement. The ruling class in society has the power to define certain behavior as deviant, while the ruled class might be of a differing opinion about what is right and what is wrong. Criminal laws are established mainly for the protection and development of the institutions of capitalism. Through laws, the powerful class exercises its power and controls the resources.

An example is alcohol versus drug laws. Alcohol is legal, while drugs are illegal in most capitalist societies. Hagan (1980) argues that the reason why the

prohibition of narcotics outlasts the prohibition of alcohol is that historically the use of different drugs has been associated with minority groups, whereas alcohol has been a socially acceptable intoxicant used by members of the middle and upper classes. Drug laws are specifically, if not explicitly, targeted at looser groups in society. As a result, alcohol prohibition was eventually repealed, while drug laws are still in force.

In addition to laws and law breaking, sanctioning of laws in terms of law enforcement is a factor that evolves from and contributes to strengthen the dominant position of the ruling class. Even if some of the acts of misconduct and offenses by members of the ruling class are determined by law as crime, law enforcement is often reluctant to investigate and prosecute the criminals. They may be too powerful with friends in key positions (Pontell et al., 2014). Furthermore, the size of the police force is typically larger for policing the lower classes. As an example, Norwegian police has two national units for investigations of violent crime and financial crime respectively. While the National Criminal Investigation Service has 700 employees, the National Authority for Investigation and Prosecution of Economic Crime and Environmental Crime has only 140 employees. Thus, combatting financial crime has only 20 percent of the resources available to combatting street crime. As stated by Chamlin (2009: 546), "crime control practices are disproportionately responsive to the concerns and fears of the more powerful segments of society."

Kane (2003) studied the relationship between the size of the police force and minority population on the precinct level in New York City. The study shows that the police force increased when minority population fractions increased. The study supports the minority group-threat hypothesis that the percentage of black and Latino populations in US cities can predict variations in municipal police resources. Specifically, the study found that increases in the percentage of Latino populations of precincts can predict changes in police deployment, and the link between Latino populations and police deployment is nonlinear. This leads to police perception of the area as an offense space, and they tend to choose aggressive policing in the area.

Sanctioning of laws enables the dominant economic class to pressure a domestic order that allows its interests to be promoted and maintained. Economic stratification is so important to the ruling class that they will pressure legislators to enact repressive measures intended to control groups considered volatile and threatening (Petrocelli et al., 2003). Conflict theory of crime control contends that the political state functions to further the distinctive interests of the most powerful segments of society. Within the context of crime control, this means suppressing illegal activities of out-group members that particularly endanger social elites or violate their behavioral norms (Chamlin, 2009).

White-Collar Criminals

A white-collar criminal is typically a member of the privileged socioeconomic classes in society (Sutherland, 1949) who is involved in illegal activities and commits nonviolent acts for financial gain (Gottschalk, 2014). The white-collar criminal is a person of respectability who commits crime in a professional setting, where criminal activities are concealed and disguised in organizational work by law-abiding behavior (Pontell et al., 2014). The criminal has power and influence, he forms relationships with other persons or professionals, which protects him from developing a criminal identity, and he enjoys trust from others in privileged networks (Benson and Simpson, 2015). White-collar crime refers to offenses committed in an organization by those who indulge in dishonest activities, either by themselves or using agents, for financial gain (Schoepfer et al., 2010).

Law enforcement targeted at white-collar criminals is non-aggressive and often discrete not only because of the upper class affiliation. Another reason is white-collar defendants' ability to recruit top defense lawyers who apply symbolic defense in addition to substance defense, as well as information control, in their work for white-collar clients (Gottschalk, 2014). It is well known that having a well-qualified and possibly famous attorney increases one's chances of a favorable outcome in any legal dispute. Some individual white-collar offenders avoid criminal prosecution because of the class bias of the courts (Tombs and Whyte, 2003).

When white-collar criminals appear before their sentencing judges, they can correctly claim to be first-time offenders. According to Slyke and Bales (2013), theory and empirical research often have agreed that white-collar offenders benefit from leniency at the sentencing stage of criminal justice system processing. Croall (2007) argues that the term "crime" is contentious, as many of the harmful activities of businesses or occupational elites are not subject to criminal law and punishment but administrative or regulatory law and penalties and sanctions. Therefore, very few white-collar criminals seem to be put on trial, and even fewer higher-class criminals are sentenced to imprisonment. Another reason for the low prosecution and conviction rate for white-collar criminals is the extraordinary broadly and fuzzy defined offenses in criminal law for white-collar crime (Hasnas et al., 2010). This is in line with social conflict theory.

Reason 1

Reduce Conflict

Since white-collar crime is crime by the wealthy and powerful, it seems to contradict social conflict theory. There are no reasons why the wealthy and powerful would like to see laws that turn their own actions to regular criminal offences. When Sutherland (1940, 1949) first coined the term "white-collar

crime", there were indeed reactions in the audience of upper-class people. They asked why one should define actions by privileged individuals of the influential classes as crime at the level of street crime by ordinary criminals. According to Brightman (2009), Sutherland's theory of white-collar crime first presented in 1939 was controversial, particularly since many of the academics in the audience perceived themselves to be members of the upper echelon in American society. The audience was the American Sociological Association where Sutherland gave his address and first presented his theory of white-collar crime. What Podgor (2007) found to be the most interesting aspect of Sutherland's work is that a scholar needed to proclaim that crime of the upper socio-economic class is in fact crime that should be prosecuted. It is apparent that prior to the coining of the term "white-collar crime", wealth and power allowed many persons to escape criminal liability.

Veblen's (1899) sociological study of the "leisured classes" and their rapacious conspicuous consumption had an influence on Sutherland's (1940, 1949) research. Josephson (1962) who coined the term "robber barons" in the 1930ties was also an influential scholar at that time. Therefore, Sutherland's work on white-collar crime seems to fit with conflict theory, where he might have seen a need to reduce the level of conflict in society by defining obvious unjustified misconduct by privileged individuals as regular crime. This is in line with Arrigo and Bernard (1997), who apply conflict theory to explain initiatives for more prosecution of white-collar criminals. Seron and Munger (1996: 187) quoted that "The plain fact is that in a new stage of capitalism, class divides as ruthlessly as it did in the age of the Robber Barons."

Reason 2

Government Influence

Another reason for starting to define capitalists and other persons of respectability and high social status as regular criminals when they abuse their powers for personal or organizational profit is the need of governments to gain some kind of control over the business sector and the market economy. Business and professional elites had achieved political influence beyond what most democratic governments found acceptable. Even worse, some enterprises were so powerful that they became almost untouchable for government interventions. They were "too powerful to fail, (and) too powerful to jail" (Pontell et al., 2014).

Criminological attention on the activities of business enterprises and other organizations, their creativity and power, remains in a conflict with political influence of business executives, capitalists and members of the professional elites. Haines (2014: 20) discusses corporate fraud as an example, where she argues that:

Criminalization of corporate fraud deflects attention to one of these actors, the business and its directors, without clear recognition of the role played by government itself.

Haines (2014) argues that governments critically, in close consultation with the professions, "enact legal and regulatory reforms that engender confidence in both the accuracy of accounts and materiality of money while also further institutionalizing their underlying ambiguities". Hence, even as governments are excited to sanction corporate criminals with more vigor, they are at the same time implicated in the creation of corporate criminals. Corporate fraud implies that there has been a criminal misrepresentation of a financial or business state of affairs by one or more individuals for financial gain, where banks, shareholders and tax authorities are among the victims. Yet, misrepresentation is a matter of opinion rather than accuracy. For example, estimating values of products in stock is no exact science. If nobody wants to buy products in stock, they have no value. While governments work at arm's length through external auditors, law enforcement is reluctant to prosecute unless misrepresentation of the value of a business is completely out of range.

Reason 3

"Our" Laws

A third reason for the prosecution of the wealthy and powerful is that their own laws did not intend to target members of their own class. The lawmakers had others in society in mind. When caught by surprise that members of their own class violate their own laws leads the ruling class to turn laws against their own allies. When those allies demonstrate non-conforming and deviant behavior, others in the ruling class take on the task of prosecuting deviating members of the elite. "As we are reminded today, those who make the laws don't have the right to break the laws", Richard Frankel, the specialist agent in charge of the Criminal Division of the New York office of the Federal Bureau of Investigation, said at a news conference.

FBI held its news conference as Sheldon Silver, the speaker of the State Assembly in New York, faced prosecuted for corruption. State prosecutors charged Silver with having exploited his position as one of the most powerful politicians in the state of New York to obtain millions of dollars in bribes and kickbacks. Prosecutors accused Silver's law practice of being a fiction where the sources of large payments of bribes were hiding (Rashbaum and Kaplan, 2015: A24). Silver was arrested on Manhattan on a five-count indictment in January 2015. US attorney Preet Bharara alleged that the Manhattan democrat used New York's ethics laws to hide his scheme – allowing him to become wealthy off his position in power (Spector, 2015).

Silver resigned a few weeks later as speaker (McKinley, 2015). At the same time, Malcolm A. Smith, a former majority leader of the New York State Senate, was convicted of federal corruption charges including bribery, wire fraud and extortion (Vega, 2015).

Reason 4

Deviant Behavior

A fourth reason might be disappointment within the ruling class. The ruling class in society face decisions over which values to enforce. When individuals in their own upper-level class violate some of these values, then the majority defines it as a crime. Those who violate values of fair competition among capitalists and market access, for example, are potential criminals, even if they belong to the same class as those condemning them.

President George W. Bush's connections to Enron and CEO Kenneth Lay were well documented in major American newspapers. However, when Enron emerged as a deviant organization with a bad apple CEO, Lay and other top executives were prosecuted. Lay died of a heart attack before his conviction (Bendiktsson, 2010).

Reason 5

Crime Victims

A fifth reason might be the victim of crime. If the victim of white-collar crime were another person in the upper class, then the ruling class would like to protect that person. Victimization of upper-class members by other upper-class members can be considered a crime. Upper-class members need protection against deviant individuals in their own class. It is an inter-group conflict in the dominant class (Wheelock et al., 2011). Maybe Madoff can serve as an example. Rich Jews placed their money in Madoff's investment fund with the promise and expectation that the rate of return would be extraordinary good. Instead, they lost their money. Wealthy people were victims of Madoff's Ponzi scheme. The government had to sanction such behavior by Madoff, and he received a record prison sentence of 150 years (Ragothaman, 2014).

In a study of convicted white-collar criminals in Norway, the distribution of victims was as follows (Gottschalk, 2013): (1) employers, (2) banks, (3) tax authorities, (4) customers, (5) shareholders, and (6) others. Employers belong to the elite themselves, while banks and tax authorities are powerful institutions in societies. Customers may be weak victims, while shareholders who become victims of insider trading, can be a quite powerful group in collaboration with the stock exchange.

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Theoretical Model

Our discussion of several reasons why the ruling class punish their own can be framed into a theoretical model as illustrated in figure 1. The dependent variable is the likelihood of white-collar crime prosecution which can be defined at both a national jurisdiction level and an individual person level. Here it is at the national jurisdiction level in society. The likelihood of white-collar crime prosecution increases in society according to the following propositions.

Figure 1. Research Model for Predictors of White-collar Crime Prosecution from Social Conflict Theory.
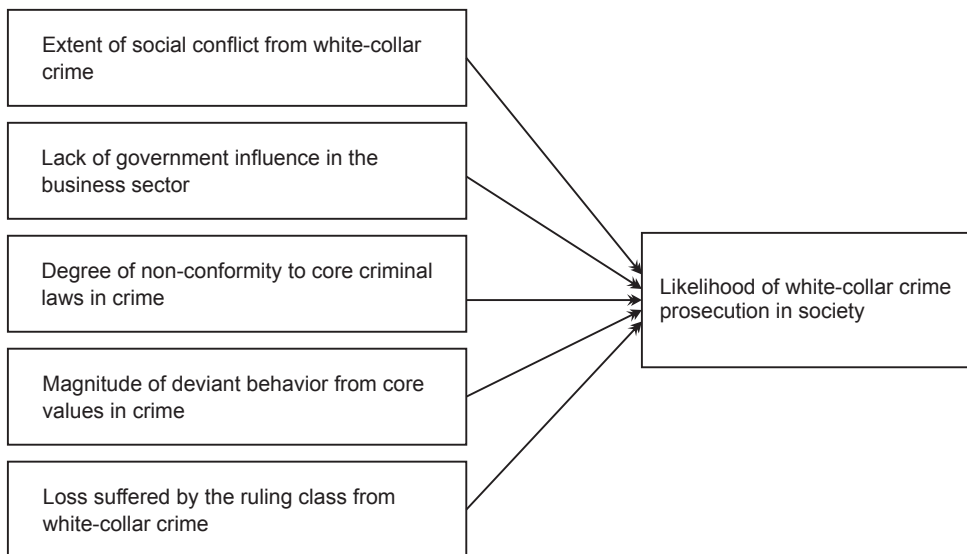
Proposition 1:

Growing social conflict from financial crime by upper socio-economic class members increases the likelihood of white-collar crime prosecution.

Proposition 2:

Deteriorating government influence and control over the business sector increases the likelihood of white-collar crime prosecution.

Proposition 3:

Lacking conformity to laws by the ruling class among upper socio-economic class member increases the likelihood of white-collar crime prosecution.

Proposition 4:

Deviating behavior from ruling class values among upper socio-economic class members increases the likelihood of white-collar crime prosecution.

Proposition 5:

Victimization of ruling class members and their interests by white-collar criminals increases the likelihood of white-collar crime prosecution.

Both propositions 3 and 4 are concerned with class obedience in terms of upper-class expectations to their own members.

In addition to these five reasons derived from social conflict theory, there are a number of other factors influencing the likelihood of white-collar crime prosecution in society. For example, the extent of laws and law enforcement are of importance.

Discussion

Conflict theory is an interesting approach to our understanding why most still do not consider white-collar crime as a regular kind of crime similar to street crime. In terms of neutralization theory (Bock and Kenhove, 2011), it is possible to explain the lack of guilt feeling among many convicted white-collar criminals with their perception of not having done anything wrong (claim to entitlement) and with their perception that laws are wrong (legal mistake).

Reiman (2007: 112) argues that the criminal justice system functions from start to finish in a way that makes certain that the offender at the end of the road in prison is likely to be a member of the lowest social and economic groups in society:

For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charged; if charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle or upper classes.

Based on conflict theory, there is no reason why members of the elite should arrest, charge, convict, and sentence themselves. In fact, behavioral economics dating back to Adam Smith's book «The Theory of Moral Sentiments» can explain why it instinctively is relevant to express sympathy with white-collar criminals, which again is reflect in laws and statutes. As Ashraf et al. (2005: 141) express it, we humans tend not to have sympathy with poor people, but rather with rich people, i.e. that «contrary to the sensible notion that one should sympathize with those less fortunate than oneself, Smith argued that there is a natural tendency to experience sympathy for the great and rich». Smith explained in 1759 human sympathy for rich people in misconduct in the following way: "What pity we think, that anything should spoil and corrupt so agreeable a situation". That is, we have sympathy with and feel pity for white-collar individuals who are "victims" of their own crime. Instinctive irrationalities can give extreme consequences in terms of who we accept and respect, and those we despise and dislike despise – despite identical actions by both groups of people.

Conclusion

In this article, the following research question was phrased: Why should the powerful punish their own?

Five answers have emerged:

i).   reduce the level of conflict between rich and poor in society;

ii).   increase government control over the business sector;

iii). avoid those making the laws breaking the laws;

iv).   punish those who do not behave according to elite values, and

v).   punish those upper-class members that victimize other upper-class members.

This article has demonstrated that social conflict theory can provide valuable explanations of how white-collar crime is perceived and treated in society. While the theory implies an initial reluctance to prosecute white-collar criminals, there are reasons found in certain circumstances that make prosecution desirable by the ruling class.

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Nigel Akkara:
From A Sociological Perspective

Tumpa Mukherjee

Abstract

Nigel Akkara is a businessman and actor in Kolkata, India. But as a teenager he went astray reaching the abyss of crime and then underwent an extra-ordinary transformation. He was arrested in 2000 and charged with crimes ranging from murder, extortion, and kidnapping. While confined at the Presidency Correctional Home in Kolkata, India, he redefined his life with a positive goal and vision through culture therapy under the tutelage of noted Indian classical dancer Ms. Alokananda Roy. The present article aims to analyze the socio-criminological factors that lead him to deviate from the conventional path. The article is based on both primary and secondary data.

Keywords

Underworld, Gangster, Culture Therapy.

Introduction

The underworld, like the undergarment, is hidden, but stinks when brought out in the open. The performance of criminals in underworld are both revolting and riveting. While their acts provoke extreme feelings of hostility and horror among all of us, we are at the same time invariably drawn to the representation of the same acts in the media and the arts-the blow-by-blow account of their murderous operations in press reports, the extravagant fictionalization of their actions in thrillers and detective fiction, the graphic re-enactment of their gory deeds in films and other forms of entertainment. It is these which make the stuff of newspaper scoops, best sellers, and box office hits in the movie world. We derive a vicarious excitement from their consumption in the cloister of our safe homes or theater halls. What makes crime occupy this peculiar space in the public mind, where both revulsion and fascination co-exist? It may have its origin in our collective sub-conscious of childhood memories which were nurtured by fairytales about demonical witches and sorcerers, ghost stories of spooks and ghouls, myths about rakshasas and asuras (demons)- who were depicted as both evil and mighty, who roused fears but also some sort of awe-inspiring respect for their magical powers. We have inherited from our collective childhood this legacy of engrossment with the mysterious spheres of evil and have sub-consciously passed it on to our adulthood, where it has taken the form of morbid obsession with the living underworld of criminals. The underworld becomes a fairy world to grown-ups who visit it – through the media – to watch and listen to adult performances of acts of horror. Our modern imagination has found a replacement in the equally impenetrable and mysterious underworld, which

perennially supplies it with a flow of sensational events. The larger-than-life performance of the real–life criminals of today substitutes for the stories of supernatural deeds of the demons and monsters that fed the appetite of childhood minds of yore. What makes them interesting is that these people are not acting on a sudden impulse. We may morally disapprove of their acts, but we have to acknowledge that they are endowed with a high-calibre talent that enables them to chalk out a long term strategy and devise the necessary tactics to achieve their goals (Banerjee, 2009). But the actors reining this world are inaccessible hence to explore their facets of life are more challenging.

Social Scientists are interested in individual and social factors such as poverty, broken-family, illiteracy, financial and economic insecurity, social environment, corruption etc that can lead an individual to deviate from the norm. Dawood Hasan Ibrahim Kaskar, the noted Indian gangster went astray despite having a father in the police force. Dawood Ibrahim was initiated into crime as a pawn in the hands of the Mumbai police and went on to wipe out the competition and eventually became the Mumbai police own nemesis (Zaidi, 2012). Abu Salem's father was a noted criminal lawyer in the legal fraternity of Azamgarh (Zaidi, 2014). Both belonged to highly principled parents. Born to superstar parents actors Sunil and Nargis Dutt, Sanjay Dutt received the very best that life had to offer. He is believed to have been troubled as a youth and later fell upon difficult times, turning to habitual substance abuse during his teens. Having 'cleaned up his act' and kicked his drug habit, Sanjay cultivated fresh interests and hobbies including acquisition of firearms. Sanjay procured AK-56 (delivered to him by Abu Salem). After the Babri Masjid demolition, during a raid, in addition to the AK-56, police had found five other firearms stacked away in his home. All those involved in delivering the weapons and grenades to Sanjay Dutt's house were booked under TADA, including the superstar himself (Zaidi, 2014). Manohar Arjun Surve popularly known as Manya Surve, was an infamous Indian urban dacoit and gangster in the Mumbai underworld. He was a B.A. graduate from Kirti College (Wikipedia, 2015). Ashwin Naik became the don of the fledgling Amar Naik gang after the death of his brother in 1996. Ashwin had three siblings but none of his siblings managed to study beyond matriculation, though their father Maruti Naik wanted all of them to study. Ashwin studied at Dr. Antonio Da Silva High School and Junior College of Commerce in Dadar, and had been involved towards technical education since class eight. His fascination for aeroplanes and his leaning towards engineering saw him study aeronautical engineering. However, when he joined the Hindustan Aeronautical Academy, he had to quit within a year, unable to handle the harsh ragging of senior students. He went to London and graduated as a civil engineer (Zaidi, 2014). In India youngsters belonging to affluent families as well as coming from humble socio-economic

background have been perpetrators of crime. In Indian context a unanimous homogeneous conclusion is difficult to arrive on factors / social situations that can compel an individual to deviate.

For a social scientist the life of Nigel Akkara is fascinating. An ordinary middle-class Christian boy, who as a teenager went astray reaching the abyss of crime. Crime is easy to get into, but it can be very difficult to change one's direction once those first few steps have been taken (Quillen, 1991). But this former underworld gangster is an exceptional – a 'rarest of rare' since he underwent an extra-ordinary transformation and got reformed through culture therapy at the Presidency Correctional Home in Kolkata under the tutelage of noted Indian classical dancer Ms. Alokananda Roy.

Nigel Akkara's Childhood and Adolescent Years

Nigel Akkara belonged to an average middle-class family. His family originally hailed from Kerala in South India but had settled in Kolkata, West Bengal, Eastern part of India. Akkara grew up in a modest social environment. His father died when he was eight years old. A mother is the primary care-giver in both the traditional and single-parent families. A mother occupies a unique position of influencing a child's mental growth and development. After his father's death his widowed mother had the sole responsibility of supporting the family financially and bringing up Nigel and his younger brother. Hence she had the double burden of combining paid work with unpaid family care-giving task and responsibility. His mother made an earnest endeavour to provide education to both her sons. Akkara, a Roman Catholic, studied at St. Xavier's Collegiate School and College, an institution founded and run by the Society of Jesus, a Catholic Minority Religious Body. While speaking about his childhood he reminisces, 'by the time mummy would return I would fall asleep, she would feed me in that way…when I had slept' (as in original, interviewed on 9th May 2014). It implies in his formative years he would be left alone for a considerable period of time. Nigel in his formative years was extremely ill-tempered, aggressive and stubborn. He was a hypersensitive child and reacted to any minor provocation. He lambasted a boy physically and verbally when he found him bullying his younger brother. On another occasion he tilted a bamboo stick in such a manner that a child standing nearby got hurt. His mother would scold him. He says, 'I often bunked school. Though I hate going to church, mother always took us there on Sundays. But I always managed to slip away. I was rough and shouted at her when she tried to make me understand (Poddar, 2014). Perhaps…I did not understand or nobody could make me understand at that point'(De, 2012). Perhaps Nigel failed to understand his mother or the 'method' adopted by his mother to explain him further created a gulf between them. Somewhere perhaps at that point of time there was a 'failure of communication and

lack of understanding between him and his mother' which lead to a 'strained relationship' between mother and son. It can be interpreted that in case of Nigel during his formative years perhaps some deep–rooted emotional needs remained unfulfilled. Psychological factors such as unfulfilled emotional needs, hypersensitive attitude and aggressive nature may have created 'imbalances' in his personality which in future pushed him to the world of crime.

Role of Teachers in His School Life

According to him during his formative years there was a lack of guidance in his life. As a student of prestigious St. Xavier's Collegiate School, Kolkata, he would sit on the last benches inside the class room. Though he was not fond of studies but he never flunked in school – in fact he was intelligent enough to study for a few months only to get promoted.   He excelled at outdoor activities especially rugby. In his school teachers had their favourite students and practiced nepotism. They preferred students coming from rich families. They would hardly pay 'individual' attention to him or average students in terms of merit and income-group. The teachers had a habit of finding faults among students who were average in studies as well as belonged to humble families and would often punish them for simple mistakes, whereas the so called rich students were excused even if they made mistakes' (Akkara, 2014). Such attitude of teachers perhaps created a negative impact upon his young mind.   It is a universal fact that no one is born a criminal. Circumstances force them into crime. Most crimes committed during adolescent stage are in a fit of rage. Even though St. Xavier's Collegiate School and College boasts of world famous alumni, it is quite surprising that nobody realized in the school that one particular student named Nigel was slowly stepping into the world of crime. At the same time for one deviant student the entire school can't be blamed.

As a child he would steal biscuits from the nearby roadside tea stall (Mukherjee, 2014). Growing up, he used to gaze endlessly at the picture of a former army general Mr. Shankar Raychowdhury that he had put on his wall, dreaming of becoming an army officer too someday. In fact he pursued his dream to this extent that he once joined National Cadet Corps (NCC) under Bengal Artillery Battalions at Fort William for two years (Akkara). His childhood desire indicates that he was fond of power, authority and wanted to lead. His physical stature (he is six feet tall with broad shoulder) enabled him to project a self-styled macho image. He would constantly pick up fight with someone. He perhaps took pride in the fact that he could fight with anyone.   Minor infractions of the law, if unchecked, may escalate into major criminal activities. He came under the influence of bad company from the ninth standard (i.e. approximately when he was fourteen years old) on wards and started deviating. He would interact with 'bad' boys of Thakurpukur, Pailan, and other adjacent areas (interviewed on 26th January 2015). As a teenager he would

spend time drinking and smoking with his companions. He says, 'during college life, we do not understand what we are doing. At that point friends are more close to us. At that point drinking and bullying around with friends is very normal' (Paul, 2015). But he would never disclose information about his 'new', 'bad' companions at home to his mother. Edwin H. Sutherland in Differential Association theory asserts that crime is learnt by association with others. The central hypothesis is that crime is not unique or invented by each criminal separately but, like all other forms of human behavior, it is learnt from direct contact with other people. The learning takes place in small informal group settings, and develops from the collective experience and personal interaction as well as from particular situations. It can be interpreted that Akkara learnt crime traits by getting associated with such 'bad' companions. The Differential Association theory asserts that the learning involves both the techniques for committing the offences and the motives, drives, rationalizations, values and attitudes for its committal i.e. why it is committed. Finally, whether a person takes part in criminal activities depends on the amount of contact they have with criminal activities or with those who support or are sympathetic towards criminal activities. A person becomes criminal if there is an excess of definitions favourable to the violations of the law over definitions unfavourable to violation of the law (Williams, 2008). For Nigel absence of mother at home for long hours, lack of guidance at school, longer and more frequent exposure and association with 'bad' companions and their particular type of behavior and attitude created conditions favourable to the violation of law. Akkara's initiation into the world of crime started at the age of fifteen. It happened at a barber's shop, where he regularly went for a shave. That day he got into a fight, and at the end of the incident, a person lay dead (Ghosh, 2014). According to him, 'strange but I did not feel the slightest remorse at what I had done. I felt powerful and in control and enjoyed this feeling which spurred me on to bigger crimes' (Chatterjee, 2012). Thus as a teenager following E. Lemert he became a 'primary deviant'. According to Labelling perspective primary deviant is seen as rule breaking, and generally has nothing to do with labels because the deviant act is neutralized or normalized or denied. It could be normalized if others around them also commit similar acts, making them seem slightly disreputable rather than criminal. Moreover at this stage an individual is not yet been convicted and have therefore been able to maintain their self-image. Those concerned have not yet changed their self-image in response to societal reactions to their behavior (Williams, 2008). He quickly became a part of different gangs involved in kidnapping, extortion, and contract-killing. At around the age of sixteen he formed his own gang, thereby commanding an army of 30-40 delinquents (Ghosh, 2014). By the time he was seventeen years old, he left his home and was constantly on the run, leading a vagabond existence, dodging the police (De, 2012). Thus it can be interpreted that Nigel shunned his 'humble and protective' family life and was desperate enough to lead his own life by taking 'risk'.

His Yesteryear Life in the World of Crime

He enjoyed the thrills and chills of the 'job'. In his own words, 'I lived two lives, one during the day and the other during the night and did not allow the two to clash. I had absolutely no moral compunctions about my crimes and one thing led to another till I found I was not the invincible person I thought I was'(Chatterjee, 2012). He was intelligent enough to complete his school and college education even as he began his journey into the world of crime. He hardly attended college classes, bribed a college peon to see his basic attendance requirement and coaxed a studious friend from another college to appear for his weekly Saturday exams (Poddar, 2014). By the time he was twenty-two, just out of St.Xavier's College he had been arrested and charged with seventeen crimes ranging from kidnapping, extortion, to murder (Chatterjee, 2012 and Making of Mukhtodhara, 2012). Thus following Labelling perspective Nigel became a 'secondary deviant' – he persistently broke the law, both as a way of making a living and as a way of life. It is the members of society, and particularly the police after arrest, courts after their verdict give a label of 'criminal' to a secondary deviant. The individual so labeled are treated differently from others and the effect of this depends partly upon their ability to deal with the consequences and how they then view themselves (Williams, 2008). He says, 'I could never imagine that I could be good and do any good work which can benefit others…. I was like a beast…just like beasts like 'raw' meat not 'cooked' food… I had 'junglee' attitude (De, 2012). I was 'aggressive', 'stubborn' and 'violent' (interviewed on 26th January 2015). He remained unrepentant throughout. He says, 'I wanted to lead and it never occurred to me that what I was doing was wrong' (Mukherjee, 2014). Initially in prison he was one of the most difficult prisoners to handle. He was rude, ruthless and arrogant. Later on when dance therapy classes were introduced at the Presidency Correctional Home, and Nigel was asked to participate in dance therapy classes by the jail authorities, he had asked the superintendent of the correctional home, 'do goondas (local parlance of hoodlums/ gangsters) wear ghunghroo'?(Making of Mukhtodhara, 2012). In due course of time the individual accepts the label thereby becoming a 'secondary deviant'. Nigel accepted the label of 'hard core criminal' and this criminal label is to be the overriding identifying label for the next few years of life in prison as he internalizes the attributes and characteristics of the label.

He says, 'I was greedy for wealth and power. I used to watch rich students come to college and splurge on things I wanted to have. Those instincts drove me to become a criminal' (Chatterjee, 2012). During his gangster days Nigel was an atheist. He recounts, 'I used to ask who the hell is God. Man has the power to kill. Man has absolute power' (Mukherjee, 2010). I didn't feel what I was doing was wrong. I never realized there was no shortcut to achieve things in life' (De, 2012).

Nigel never had a 'totally deprived' childhood or life. His mother made an honest effort to provide the 'best' as much as she could with her single earning. But he got exposed and attracted to the richness, glitz and glamour of the Park street area. (St. Xavier's Collegiate School and College both are located at Park Street). He says, 'then my monthly expenses were two lakhs, as I lived in three-star hotels and roamed in expensive cars (Gupta, 2011). Three things lead me into the world of crime: greed, the ambition to be superior and aggression' (Chatterjee, 2012). Some individuals see their present position as comparing unfavourably with others; they desire more; they often feel they deserve more; but if there seems to be no legitimate chance of acquiring more, they may use illegitimate means. Thus if relative deprivation is present, feeling of envy and injustice will be present and might influence behavior (Williams, 2008). According to R.K.Merton, there are ways of adapting to strain caused by restricted access to the socially approved goals and means. There exists approved goals of society but legitimate means are replaced by other non-approved means, then that mode of adaptation is known as innovation. Nigel aspired for money, power, fame but lacked the legitimate means to reach his aspiration, hence followed illegitimate means to reach his goal. Criminologists such as Walter Reckless in his containment theory explain delinquency as the interplay between two forms of control: internal (inner) and external (outer). Inner containment which was never clearly specified by Reckless includes self control, good self concept, ego strength, well-developed super ego, high frustration tolerance, high resistance to diversion, high sense of responsibility, goal orientation and ability to find substitute satisfactions. Outer containment was viewed as social environment includes family and school reinforcement of social norms and values, effective supervision and discipline, reasonable opportunities for social activity, availability of alternatives to deviance. There are variety of 'pushes and pull' towards deviant behavior that all individual experience. The effect of inducements to commit delinquent act depends on the strength of an individual's inner and outer containments. If the self-concept were bad, outer social controls would have little effect on the individual and delinquency would be more likely to result. On the other hand, an individual with a good self concept could withstand weak external social control and resist committing delinquent acts. In case of Nigel, during the formative years, both the inner and outer containment (to a large extent) failed, thereby allowing him to deviate into the world of crime.

His Life in Prison

He became involved in a situation that cost him his freedom for life for around eight years and seven months. Around twenty-two police personnel were deployed to arrest him (De, 2012). A 'humanely' encounter followed which lead Akkara to a skirmish with the police personnel. Finally he was arrested in a state of unconsciousness in the year 2000 (interviewed on 26th January, 2015) For eighty

seven days he was in police custody in different police stations in Kolkata. He says, 'you cannot imagine the torture I went through in 'interrogation', that went on for 87 hours, in police custody, the most brutal treatment any human being can be made to suffer. They pulled off my nails one-by-one, they broke my fingers and my legs till I could hardly walk (Chatterjee, 2012). The skirmish he had with the police personnel as an under trial lead to the addition of yet another case to the charge sheet submitted against him. He reminisces, 'I was so violent, wild and out of control that I had to be shifted from the Alipore Central Correctional Home to a solitary cell at the Presidency Correctional Home where I spent three years from 2004-07… (Chatterjee, 2012).   In prison, Nigel was kept in solitary confinement in a six by eight feet cell. He was not allowed to mix with anyone or interact with other inmates. For security reasons after every fifteen days his place of abode in prison was changed (Making of Mukhtodhara, 2012). Social isolation, deprivation, silence, darkness are constant companion of an inmate for twenty-four hours of each day of solitary confinement. Through such means there is a perennial reminder of freedom that an inmate has lost because of committing crime. Prisoners yarn for good and free life. He was found to be one of the most 'difficult' inmates for his raw aggression and defiance. Once he attempted a jail break. He reminisces, 'I was caught, beaten with rifle butts, till I vomited blood and collapsed. They thought I was dead. The injuries were serious but miraculously I recovered' (Poddar, 2014). He lost around 20 kilograms of weight due to custodial torture which in India is referred as third degree (De, 2012). But instead of crying, the treatment made him more aggressive, more violent and more angry. During the first six years in prison, Nigel felt like a caged tiger – angry, violent and unrepentant   Mukherjee, 2010). Prisons not only incarcerate an offender but they brutalize an individual physically, psychologically and spiritually until death is preferable to any existence in such a prison (Quillen, 1991). Once incarcerated the 'rational', 'civilized' world forgets that prisoners are still human beings. There are a lot of injustices within the justice system of our country. Event in the twenty-first century with the advent of electronic and social media well as with the intense activism of human rights group the institution of prison remains shrouded in secrecy and at times the 'truth' (facts and occurrences) remain hidden from public eye.

Prison as Correctional Home and Reformation Phase of His Life

In India theoretically the objectives behind imprisonment has moved from incarceration, deterrence to correction where reformation and rehabilitation occupies a pivotal role. Keeping in mind the philosophy of prison reform, the state of West Bengal has repealed the old prison act and introduced the modern West Bengal Correctional Services Act (henceforth WBCS Act), 1992, on and with effect from 14th April 2000. Such an act ushers a paradigm shift from the colonial legacy of

punishment towards a new philosophy of correctional approach for the moral reformation and education of the inmates in order to facilitate their reintegration with the mainstream society in the post release period (WBCS Act, 1992). The Department of Correctional Services, Government of West Bengal, India has introduced the culture therapy programme with the help of mainstream resource person and trainers (Chatterjee, 2012). Culture therapy involves training prison inmates in different performing arts that form an integral part of Indian culture – music, theatre, dance, recitation, paintings, sculpture and sports through production-oriented workshops, with the help of mainstream resource person and trainers (Chatterjee, 2012). A unique experiment initiated by noted dancer Ms. Alokananda Roy at the invitation of Mr. B. D. Sharma IPS is the dance therapy, a part of culture therapy. As an impact of this dance therapy he underwent catharsis thereby transforming his life. Today Nigel Akkara is a reformed person. He has set up his own house-keeping and private security business named Kolkata Facilities Management where ex-prisoners are employed. Till date forty-four ex-prisoners have been mainstreamed by him. In 2011 Akkara got an opportunity to play a lead role in a semi-biopic *Mukhtodhara* and henceforth has been involved in acting ventures.

Conclusion

As a researcher I may write on prison related issues but I have not personally experienced the 'brutal' life inside. Nigel has 'lived' it. The environment perhaps has brutalized him to a point where perhaps he cannot trust anyone. His character has multiple-shades. He has experienced the bad, the ugly, and the good. In spite of his newly acquired fame, money, social recognition, he appears very lonely at heart. Loneliness and insecurities will always be there with a person like him who has undergone physical and mental trauma in early life which he described as his 'worst experience'. From sociological perspective Nigel Akkara is a product of malfunctioning of important social systems. Jim Quillen, who was imprisoned at Alcatraz in his autobiography wrote , 'this autobiography was written with the sincere hope that this part of my life will serve as a deterrent to anyone who might venture into any criminal activity. The quest for the so called 'easy money' thought to be available through crime is a myth. There is no easy money and the only reward reaped through crime is incarceration or death'(Quillen, 1991). Nigel Akkara's life is a living example to this society, especially to deter youngsters from crime and criminal activities. It goes without saying that the ultimate price an individual has to pay for getting involved in crime and criminal activities is too high for any amount of monetary benefits and extravagant life style. Hopefully his life becomes an inspiration that if a person works hard, has confidence, grit and social support he or she can mend his life towards a positive goal.

Abbreviations

B.Ed.   :   Bachelor of Education

IPS   :   Indian Police Service

TADA   :   Terrorist and Disruptive Activities (Prevention) Act.

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Evidentiary Standards for Sexual Offenses in Islam

Fida Mohammad & Richard Lee

Abstract

This paper analyzes criminal procedure and evidentiary standards for sexual offenses in Islam, detailing the sources of Islamic laws in general andthe laws of privacy in particular— including slander, and adultery. The particular focus is an examination of the evidentiary process in Islamic law, called Shari'a, including burdens of proof and punishments for sexual offenses. By compiling summaries by Shari'a juridical experts, this article encapsulates current consensus, even as it recognizes that the Islamic legal system is a moralizing force because Islam encompasses all aspects of individual existence. The article focuses on the Sunni school of thought because it has the largest following, though even Sunni adherents are not monolithic in their beliefs. The article reviews the extant literature that establishes the basis for the Islamic legal structure, locates sexual offenses within the general field of Islamic laws on privacy and slander, details the burdens of proof for various sexual offenses and lists punishments for each.

This paper explains Islamic evidentiary standards for sexual offenses. The Islamic community is a religio-political community called *Ummah*: there is no bifurcation between the secular and religious domains as is the norm in Western cultures. Islam encompasses all aspects of life, refusing individual compartmentalization. The function of law is to protect individual rights within the framework of the cherished ideals of Islam; thus, the Islamic legal system is a moralizing force. Before discussing sexual offenses, it will be appropriate to shed some light on the sources of laws in Islam, acknowledging that there are different schools of thought within Islam as a whole. The focus throughout will be on the Sunni school of thought, which has the largest following, although not even the Sunni sect is monolithic in all its beliefs; for example, there are four Sunni sub-sects: Hanafi, Schafei, Maliki, and Hanabali. This paper presents information specific to the high-consensus area of beliefs of these four sub-sects, or what is generally regarded as the Sunni school of Islamic thought. In order to fully comprehend sexual offenses in Islam, it will be appropriate to view them within the context of Islamic laws on privacy and slander. The Islamic legal system is specific and hierarchical, stemming from the Qur'an itself, and well summarized by Sanad (1991: 38-39):

Keyword

Sexual Offense, Islam, Evidence

1.   The Qur'an

"The Qur'an is the Holy Book of Islam" (Sanad 1991: 38). For Muslims, the Qur'an is a revealed book (the words of God) and provides a complete code of life. Qur'anic laws are the supreme laws, and any law that is in conflict with statements in the Qur'an is null and void. According to the author of *The Theory of Crime and Individual Responsibility in Islam*, the Qur'an contains 114 chapters; 500 of its 6,342 verses (passages) deal with legal matters (Sanad, 1999).

2.   The Hadith

Hadith are the divinely inspired sayings and practices of Mohammad and conduct and practices of Prophet Mohammad are called Sunna. Muslims are obligated to follow the Qur'an and Sunna. The role of Sunna is very important in Islamic law because it complements as well as interprets the Qur'an. The combined teachings of the Qur'an and Sunna is also called Shari'a, thus "Shari'a Law" (ibid.).

3.   Ijma

Ijma means new interpretations by a consensus of Muslim scholars on an issue which is not specifically covered by Shari'a: ijma must be in conformity with the Qur'an and Sunna (ibid.).

4.   Ijtihad

Ijtihad in Islamic jurisprudence means making new interpretations within conceptual framework of Qur'an and Sunna. Legality of ijtihad is determined by conformity to the boundaries established by Qur'an and Sunna (ibid.).

5.   Qiyas

Qiyas means analogical reasoning, where juristic analogy is the basis of judgment. According to Sanad, it means the application of a legal solution cited in the Qur'an or Sunna to a case that is similar to this precedent. (39-40).

Types of Crimes in the Islamic legal System

There are three major categories of crime in Islam: Islamic **Huddud**, **Qisas**, and **Ta'zir**.

Hudud Crimes

Hudud is the plural of *"Hadd,"* and in Islamic law it "expresses the correction appointed and specified by the law on account of the right of God" (Hamilton,

1982: 175).   According to Ibn Nujaim, "*Hadd* is a kind of fixed punishment prescribed by God in the exercise of His exclusive Right" (in Zafar, 1981: 14). Simply put, hudud offenses are those whose punishments are clearly defined in the Shari'a combination that is the Qur'an and Hadith (Sunna). *Hudud* offenses are similar to crimes against society in Common Law traditions. Functionally speaking, the goal of hudud is to protect the social and moral fabric of society.

The prosecution of such crimes is mandatory, and punishment must be imposed exactly as prescribed in the Qur'an or the Sunna. Once guilt has been proven, no human judge, governor, or even *Amir* (ruler) can increase, reduce, probate, or suspend the sentence. . . Muslim scholars differ regarding the crimes that fall in this category. They agree on four *hudud* crimes: i.e., adultery, theft, banditry, and defamation (Sanad, 1991: 51).

Qisas

Deal with bodily injuries, defined by Shari'a as a right of the victim or his family.   The punishment of Qisas crimes is based on the principle of proportionality: the punishment must be proportionate to the crime.

Ta'zir

"Ta'zir is from azr', 'to censure or repel.' "That discretionary correction which is administered for offences, for which Hadd, or fixed punishment has not been appointed" (Zafar, 1981: 17). In other words, ta'zir deals with those crimes for which there is no clear punishment in Shari'a. A judge relies on circumstantial factors in deciding a case. *Ta'zir* covers offences such as those to "human life and body, public peace and tranquility, decency, morals, religion, perjury, forgery, gambling and contempt of courts, etc." (Zafar, 1981: 18). In Ta'zir cases, judicial discretion is not unbridled. A judge must follow the general guidelines of Shari'a.

Under Shari'a law, adultery is considered a sexual offense. Adultery is called *Zina* in Islamic legal language. (In the Arabic language it means both adultery and fornication, and it is a Hadd crime.) According to Sanad, "adultery in Islamic law is voluntary sexual intercourse with anyone other than one's spouse, no matter if he or she is married or not" (1991: 51). A man and woman are said to have committed *Zina* if they willfully have sexual intercourse without being married to each other" (Mannan, 1990: 363). According to the Hanabali school of Sunni, *Zina* is "Sexual intercourse between a man and a woman without legal right or without the semblance of legal right *(al‑milk* or

shubhatal‑milk)" (in EI‑Awa, 1982: 14). Sexual relationships outside of marriage are not permitted in Islam. According to a Pakistani Supreme court decision:

Marriage in Islamic law is a civil contract between two individuals of opposite sex. Islam does not view marriage as a sacrament, as do Catholics and other Christians: "Every Muslim of sound mind, who has attained puberty, may enter into a contract of marriage. 'Puberty is presumed, in the absence of evidence, on completion of the age of fifteen years'" (Mst. Aziz V. SHO, in Mannan, 1990: 363).

Zina is a general term, one that encompasses both adultery and fornication, but the punishment prescribed for each is different. Adultery presumes marriage, while fornication presumes no marital relation. Consent in either case is immaterial (Zafar, 1981). Zina must be witnessed by four people, who independently arrived at the scene without prior consultation with one another. (I.e., "let us see what this person is doing" is disallowed.) Holy Qura'n says:

مِئَةَ جَلْدَةٍ وَلَا تَأْخُذْكُم بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ (٢٤:٢)

AS FOR the adulteress and the adulterer flog each of them with a hundred stripes, and let not compassion with them keep you from [carrying out] this law of God, if you [truly] believe in God and the Last Day; and let a group of the believers witness their chastisement (Asad Translation, 24: 2).

Al-Nour (The Light)

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاء فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُوْلَئِكَ هُمُ الْفَاسِقُونَ (٢٤:٤)

24:4 (Asad) *And as for those who accuse chaste women [of adultery], and then are unable to produce four witnesses [in support of their accusation], flog them with eighty stripes and ever after refuse to accept from them any testimony - since it is they, they that are truly depraved! -*

Al-Nour (The Light)

لَوْلَا جَاؤُوا عَلَيْهِ بِأَرْبَعَةِ شُهَدَاء فَإِذْ لَمْ يَأْتُوا بِالشُّهَدَاء فَأُوْلَئِكَ عِندَ اللَّهِ هُمُ الْكَاذِبُونَ (٢٤:١٣)

24:13 (Asad) *Why do they not [demand of the accusers that they] their allegation? for, if they do not produce such witnesses, it is those [accusers] who, in the sight of God, are liars indeed*![i]

The consensus of juridical belief is clear:

> In spite of all the differences in defining the crime of *Zina* among schools of Islamic law, all jurists agree that the main element in *Zina* . . .is unlawful intercourse. Hence, any sexual relationship between a man and a woman which does not involve intercourse is not punishable by the *Hadd* punishment. These relations cannot be considered legal *(mubah)*; *or* the contrary, they are prohibited *(haram),* but their punishment is in the category of *ta'zir.* The *Hadd* punishment for *Zina* should not be applied in such cases (in EI-Awa 1982: 14).

The principle that the accused is presumed innocent is fundamental in Islamic law. Whoever claims otherwise must prove it. The corollary to this principle is that the burden of proof is on the complainant (Salama 1982: 109). According to Asad's commentary, "from a legal point of view, every woman must be considered chaste unless conclusive proof to the contrary is produced" (1980: 533). Adultery is the physical penetration of the male organ into the female organ. Any sexual contact less than that should not be considered as the crime of adultery, and therefore the adultery *Hadd described* above should not be inflicted. This is a very narrow definition.

> The severity of punishment to be meted out in such cases, as well as the requirement of *four* witnesses—instead of the two that Islamic Law regards as sufficient in all other criminal and civil suits—is based on imperative necessity of preventing slander and off-hand accusations. As laid down in the several authentic sayings of the Prophet (Mohammad), the evidence of the four witnesses must be direct, and not merely circumstantial: in other words, it is not sufficient for them to have witnessed a *situation* which made it evident that sexual intercourse was taking or had taken place: they must have witnessed the sexual *act* as such, and must be able to prove this to the entire satisfaction of the judicial authority. . . *Since such a complete evidence is extremely difficult, if not impossible to obtain, it is obvious that the purpose. . . is to preclude, in practice, all third-party accusations relating to illicit sexual intercourse* (our emphasis) (Asad 1980: 533).

Those who testify in *Zina* cases must be of unimpeachable character and have to describe that they have seen both persons in the very act of actual intercourse. Guilt must be proven beyond all possible doubts. Doubt will negate punishment. According to Muhammad, "Remit punishment on account of doubt, as long as you have ability" (Zafar 1981: 248).

This rigid evidentiary standard is not designed to deter such offenses. If a sexual act is performed in such a way that it can be witnessed by four individuals, it is wanton behavior (Zafar 1981). It shows lack of respect for collective morality, and it is more like publically indecent behavior.

If guilt of adultery is proven through the Islamic modes of evidence, then different penalties apply depending on the status of the guilty party.

God says in the Holy Qur'an:

The adulterer and the adulteress, scourge ye each one of them a hundred stripes, and let not pity for the twain withhold you from obedience of Allah, if ye believe in Allah and the Last Day (Surat al-Nur V:2).

Zina is liable to *Hadd* if

a.)   it is committed by man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be married; or

b.)   it is committed by woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be married (Zafar 1981: 245).

Whoever is guilty of *Zina* is liable to *Hadd*

a.)   if he or she is *muhsan* (married), be stoned to death at a public place; or

b.)   if he or she is not *muhsan* (*ghair muhsan*), be punished at a public place with whipping numbering one hundred stripes (Zafar 1981: 245).

The immorality of *Zina* is the same whether it is committed by a married or an unmarried person. A married person has no valid reason to commit *Zina,* while an unmarried person does not have that opportunity and that is a mitigating factor in lighter punishment. "According to 'Abduh, the punishment of the offender who has been married, but is no longer so, should be lighter or at most equal to that of the unmarried offender'" (in El-Awa 1982: 19).

Zina-bil-Jabr (Rape):

Zafar (1981) defines the crime of *Zina-bil Jabr* as follows:

1.   A person is said to have committed *Zina-bil-Jabr* if he or she has sexual intercourse with a woman or man, as the case may be, to whom he or she is not validly married, in the following circumstance, namely:

    a)   against the will of the person;

    b)   without the consent of the victim;

    c)   with the consent of the victim, when consent has been obtained by putting the victim in fear of death or of hurt; or

d) with the consent of the victim, when the offender knows that the offender is not validly married to the victim and the consent is given because the victim believes that the offender is another person [i.e., making sexual intercourse by impersonating her husband] to whom the victim is or believes herself or himself to be validly married. Whoever is guilty of *Zina-bil-Jabr* is liable to Hadd:

If he or she is *muhsan*, be stoned to death at a public place; or

if he is not *muhsan*, be punished with whipping numbering one hundred stripes, at a public place, and with such other punishment, including the sentence of death, as the Court may deem fit having regard to the circumstances of the case (1981: 252).

If an offender is not adult and is guilty of *Zina* or *Zina-bil-Jabr,* the *Hadd* punishment will not be applied because of age; however, it becomes a *Ta'zir* offense. The guilty party may be given a "prison term, [a], or both, and may be awarded the punishment of whipping not exceeding thirty stripes" (Zafar 1981: 262).

Islamic Law of Slander:

At this point it is appropriate that we discuss the Islamic laws of slander called ***Qadhaf or Kazaf.*** This is a fourth *Hadd* offense and deals with false accusation. According to the *Kazaf* ordinance in Pakistan:

If any person makes or publishes any imputation of *Zina* against any person whether by words spoken or intended to be read, or by signs or other means with intention of harming or knowing or having reason to believe that such imputation would harm the reputation or hurt the feelings of such person, the person making such imputation has committed the crime of *Kazaf* (in Zafar (1981: 178).

Zafar has the following commentary on the *Qadhaf (Kazaf)* Law:

a. Imputation of Zina to a dead person would be tantamount to qadhaf if it would hurt his or her reputation if that person was living. Also, if that accusation is harmful to the feelings of his or her family or other close relatives.

b. Alternative or ironical expression could . . . [rise to the level of] qadhaf.. Accusation could be conveyed either directly or indirectly: e.g., "by hints or signs, or by pictorial representation or by other modes and symbols, or by way of question, irony, exclamation, conjecture, or insinuation" (1981: 178).

c. There must also be a specific intent and knowledge or reason to believe that it will harm the reputation of the person concerned.

Slander could be proven in the following ways:

1. Offender makes confession;

2. Accusation in court; or,

3. When at least two witnesses testify before a court under the guidelines of *tazkiyya al shahood* (the good character requirement of witnesses) (Zafar 1981:186).

Punishment for Slander

A free person guilty of slander will get eighty stripes; a slave guilty of slander incurs forty stripes. (Here, bondage could mitigate the sentence.)

> The punishment for such slander *(qadf)* is prescribed in the Qur'an: "And those who accuse chaste women but do not bring four witnesses, flog them (with) eighty stripes and never (again) accept their testimony. They are indeed evil-doers, except those who afterward repent and make amends" (Surah XXI verses 4-5).

> Slander must be clear. According to El-Awa,

> A clear accusation is one that is expressed in a word which does not have more than one meaning, that is, a word derived from the word *Zina* or any word having the same meaning. On the other hand, an insinuated accusation is one in which the accuser uses a word which merely means, among other things, that the accused has committed the crime of *Zina* (1982: 21).

There is disagreement about insinuated accusations. Except for the Maliki School, all other Sunni schools believe that an accusation must be unambiguous. Insinuating, damaging comments cannot be subject to *Hadd*. If "someone uses a word which has several meanings, one of which can be understood as *Zina,* he may be liable to a *ta'zir"* (EI-Awa 1982: 21).

There is some disagreement among jurists as to whether it is crime against God or the person slandered. Those who think that it is a crime against a person believe that if the victim forgives the accuser, then it should be a mitigating factor. According to Al-Awa,

> the punishment for *qadhf is* one, which pertains to the realm of the public interest, *haqq Allah* (Right of God). The infliction of this punishment is not dependent upon the request of the accused, and once the crime is proved either by testimony or by confession, the guilty person should be punished. The principle of forgiveness before the matter as reported to the judge still applies to the crime of *qadhf* but without affecting the fact that its punishment is classified as *haqq Allah* (1982: 23).

Proof of Zina (adultery) or Zina-Bil-Jabr (rape) Liable to Hadd:

Testimony

Hanafis, Shafeis, and Hanbalis are of the opinion that the witness must start his testimony with the word *ashhadu* ("I testify"), since it indicates bearing witness (seeing with one's own eyes) and being certain of one's testimony, in addition to taking the oath. No other word can be substituted because it would be less affirmative, and would cast doubt on the testimony, and thereby requires it to be rejected in accordance with the principle "Doubt nullifies the *Hadd* punishment." However, Imam Malik did not require that testimony begin with these words so long as the substance indicated direct eye witnessing (Salama 1982: 115).

Rules of evidence and admissibility of evidence in the prosecution of *hudud and Qisas* crimes are confined to tangible evidence to be produced by the accuser or an uncoerced and free confession by the accused. The testimony of four male eyewitnesses is required to prove adultery, and that of two male witnesses in the other *hudud* crimes and for *Qisas* crimes. The witness must be sane, of legal age, free, not dumb, mute or blind, and must not have been punished for a *hudud* offense. Also, a witness cannot be related to the accused (his father or son) or be married to the accuser. Further, he must not bear malice toward the accused, and he must be a person of integrity. The victim's testimony as a witness in his case is disregarded unless supported by oath. Hearsay testimony is inadmissible because of unsupported oaths (Al-Saleh 1982). Umar ibn al-Khattab has stated: "Those who testify to a *Hadd* without being eye-witnesses testify out of hatred and their testimony is invalid." Thus, such testimony is inadmissible if it is suspected of being motivated by hatred (Salama 1982: 113). Proof of adultery or rape could be established in two ways:

a). the person accused makes confession to the crime of adultery or rape in front of a Court of Competent Authority; or

b). at least four Muslim adult males testify under the guidelines of *'Tazkiyyah al-Shahood.* Before they give eyewitness account of the act of penetration, witnesses have to tell the court that they have not committed major sins *(kabair).* The only exception to this rule will be when the accused is a non-Muslim, then witnesses may be non-Muslim (Zafar 1981). If four competent witnesses are not produced, the crime is not proven and the witnesses will become guilty of slander (Salama 1982).

Requirements of *Tazkiyya-ul-Shahood*: Witnesses before testifying must satisfy tazkiyya inquiry:

a. Truthful person;

b. who abstains from major sins, e.g., adultery; stealing; drinking; plundering; embezzlement; associating other deity with God; tormenting their parents; murder; swearing to lies; taking interest on money (usury); taking the property of orphans; and there could other considerations. *Tazkiyya* is product of Islamic criminal procedure. *Tazkiyya* procedure could be secret or public.

It is neither part of cross-examination nor a substitute for cross-examination because cross-examination is the right of the accused while *tazkiyya* is an obligation on the part of judge to ascertain the righteousness of witnesses (Zafar 1981: 284).

Testimony must meet certain general criteria in all crimes, in addition to special ones in the case of adultery.

Criminal Evidence

The following information is taken from Dr. Nagaty Sanad's *The Theory of Crime and Criminal Responsibility in Islamic Law*, specifically the section entitled "Conditions for the Validity of Criminal Evidence". His work effectively and efficiently summarizes the criteria for Shari'a evaluation;

In order that evidence, no matter of what kind, be sufficient for criminal conviction, it must meet certain conditions:

Evidence must be conclusive; that is, it must prove the occurrence of the crime and the guilt of the accused clearly and explicitly.

Evidence loses its conclusiveness when it relies on other evidence or facts to explain it. The requirement of conclusiveness of evidence is a corollary to the presumption of innocence, which is seen as a cornerstone in the structure of the Islamic criminal (justice) system.

The definiteness of evidence depends upon its corroboration of other facts and circumstances in the case. If a contradiction occurs, then evidence becomes doubtful and is not conclusive.

Evidence should remain conclusive until the execution of the judgment. It is not enough that the evidence looks conclusive in a given stage of the criminal action. If the defendant confesses in the investigation stage and retracts his confession before the judge, or confesses during the trial but withdraws his confession before the rendering of the judgment, this confession is no longer conclusive and cannot support a criminal conviction. (Sanad 1991: 105-6)

A judge must examine the witness regarding the fact of the case, asking every witness to define adultery; the witnesses must describe the manner in which the act was committed. Witnesses must describe the location, time and the identity of the accused (Zafar 1981). The witness may have a very different definition of *Zina* or certain acts may be a sexual offense for a witness, but legally that act may not constitute a crime. This process is meant to clarify different issues in an adultery case.

Takdeem is another legal principle that would make evidence inadmissible except in slander cases. Takdeem means delay in evidence gathering. All hudud punishments are rendered void by delay. There is some disagreement among jurists as to what constitutes "delay": ultimately it is left to the discretion of judge (Zafar 1981).

Contradiction

Contradictory accounts of an act could lay ground for doubt.

If there is evidence after accusation and testimony of the four witnesses that the accused woman is virgin in such a situation neither of the accused could be subjected to punishment. Examination could be done by a female employee. Exoneration of the accused cannot trigger slander. The evidence is sufficient to prevent punishment but not sufficient to cause slander (Zafar 1981).

Incompetent Witnesses

According to Zafar (1981) evidence of the following is not admissible:

Evidence given by the blind;

testimony given by person convicted of slander;

testimony by slave.

Witnesses who are convicted cannot even bring a doubtful *Zina* charge. Such testimony will become slander and the witness(es) will be punished for slander.

Four reprobate witnesses' evidence can be taken in court, but because of their defective character it will be seen with suspicion. Their testimony can establish doubtful Zina charges which have no penal consequences. Reprobate witnesses are not liable to slander.

If fewer than four witnesses testify to witnessing *Zina*, they are liable to slander.

If four persons bear evidence against a man or woman that he or she has been guilty of *Zina*, and the judge imposes punishment on the accused parties accordingly, and afterwards it appears that one of the witnesses was slave or had

been convicted of slander, now the number of witnesses left is three and they are liable to slander. If a person suffers punishment because of defective punishment, the state will pay damages to the victim or victim's family. According to Salama any of the following attributes disqualifies the testimony of a witness:

Blood Relation

The majority of jurists with the exception of some Shafi'is argue that the testimony of the major and minor branches of families for each other is inadmissible. Abu Hanifa, Malik and Ahmad ibn Hanbal disqualify spouses from testifying for or against each other, but the Shafi'is do not.

Enmity

The majority of jurists agree that enmity between a witness and a party to a case arising out of worldly matters disqualifies the witness. Enmity by reason of matter involving the rights of God does not disqualify a witness if he possesses the quality of *'adl* (justness or fairness). In order that testimony provided by a witness assist in establishing justice, security, and tranquility in Muslim society, witnesses must be inspired by these considerations only. If a witness holds any hostile feelings toward the defendant or any other party, his testimony is disqualified.

Partiality

A claim of partiality exists when there is a relationship between the witness and one of the parties, which suggests partiality or a personal interest that may be advanced by the witness through his testimony (1982: 118).

The Judge's Power in Evaluating A Confession

Confession establishes guilt: it is the judge's responsibility to make sure that it fulfills all the requirements set by Islam. Confessional statements must be corroborated by circumstantial evidence. The judge has to make sure that there was no coercion and intimidation. In case the woman is proven to be virgin, then her confession becomes inadmissible. Some jurists are of the opinion that judges should suggest the possibility of retraction of confessions. "Some jurists hold the view that the judge should suggest to the accused the possibility of retracting his confession, as the Prophet did in the case of a confessing adulterer and a woman accused of theft" (Salama 1982: 120). Sanad believes:

If a confession meets these conditions for admissibility, the judge still has the power to determine its validity to sustain criminal conviction. He has the right to disregard such confession if he realizes that it contradicts other circumstances in the case (Sanad 1991:103)

Islam also protects an accused from the abuse of power by the prosecutor and judge. The accused cannot be punished if a prosecutor fails to produce the required positive "in terms of kind, number and conditions. The judge is without authority in the absence of such proof to convict and cannot rely on his discretion or personal conviction*" (Al-Saleh 1982: 78). If new evidence not known to the judge during sentencing come to his attention, "which might have cast doubt on the testimony of witnesses or the validity of the confession, then the evidence lacks credibility and the verdict must be reversed. If punishment has been imposed, it must cease" (Salama 1982: 113). Muslim jurisprudence constrains the judge in situations where he becomes (*de facto*) both judge and witness at the same time. Reference is made to the practice of Caliph Umar:he declined to judge a case he was aware of, saying: "Either I judge or testify" (Sanad 1991:105).

The essence of Islamic jurisprudence is that justice is better served if a judge sets free a culpable person than if he convicts an innocent one. Every person is presumed innocent and his or her rights should not be abridged until such proof is established. "Accusation alone does not invalidate this presumption, since accusation by nature is not devoid of doubt, and doubt does not negate certainty; whereas, the accused's prior innocence is a certainty" (Awad 1982: 94).

Regarding modes of evidence in criminal cases Awad is of the opinion that,

The majority of Muslim scholars *(Shafi'i, Hanafi, and Hanbali)* adopt a restricted view. They maintain that evidence in criminal cases is restricted basically to (a) testimony and (b) confession. The judge is forbidden to render a criminal conviction on the basis of another kind of evidence. He cannot rely on his prior personal knowledge, for example. A majority do allow using other methods of proof in noncriminal cases, however (1982: 95).

In Islam an accused has right to present a vigorous defense in order to prove his innocence and rebut the accusation. Right to defense enables the defendant to deny the accusation, "either by showing the insufficiency or invalidity of the evidence on which it is based or by submitting evidence, such as an alibi, to prove innocence" (Awad 1982: 95).

Conclusion

Contrary to the popular misconception about the severity of Islamic Criminal Justice System, it is very forgiving and does not look forward to punishing people. Islam is the religion of, compassion, mercy and forgiveness and the preceding proves that point. One may wonder why testimony by women and slaves in the case of Zina is not admissible. In some cases two womens' testimony is equal to a man's. One may raise a question: is there something wrong with women biologically. The answer is no. In our opinion, if we see women's testimony in the context of slave

testimony, then it makes some sense. Slave testimony is not admissible in case of Zina, although he is man. The reasoning is that a slave is the living property of another person, and as property he is not completely free and could be manipulated by his owner; there is a danger that he may not give objective testimony. In order to protect the rights of the accused, his testimony is not admissible. In the same way, Islam took cognizance of patriarchal arrangements in 7th century Arabia, some of which persists even today. In patriarchal societies a woman is susceptible to pressure from her husband and other family members. Because of her vulnerability to pressure, she is not considered an objective witness, one ableto resist all patriarchal forces. *It is her position in the social structure, not biological inferiority, that renders her an incompetent witness in Zina cases*. Like slavery, patriarchy is a socio-historical reality, and not an ahistorical natural reality. Historicity of a practice means that it could be changed by new historical realities. Exclusion of certain evidence should be understood within the jurisprudential paradigm of Islam. In Islamic jurisprudence, especially in hadud offenses, evidentiary standards are very high, and the reason for that is to protect the dignity and privacy of human beings. Practically speaking, it is almost impossible to convict somebody on the charges of consensual sexual activities.

End Notes

Both Arabic text and Mohammad Asad's Translation are copied

[i]IslamiCity: Quran Search. (n.d.). Retrieved April 18, 2015, from http://www.islamicity.com/quranSearch/

[ii]*Tazkiyyah al-Shahood* is a mode of inquiry adopted by a court to satisfy itself as to the credibility of witnesses (Zafar 1981).

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Does Lack of Legislative Reforms Lead to Practices Like Women as Compensation in Pakhtoon Culture?

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& Abasullah Jan

Abstract

The present study was aimed at discovering the hidden facts causing the women as compensation practices in *pukhtoon* culture in Distt*swat, Kohistan*.A sample size of 205 respondents out of 369 were randomly through proportional allocation procedure. A conceptual frame work comprised of one independent variables i.e legislative failure and dependent variable women as compensation with education, family type and income as controlled variables was chalked out. The collected data was analyzed through simple frequency distribution, bi-variate and multi-variate respectively. Moreover, reliability analysis was carried out and reliability coefficient was declared as 0.74. Association of dispute resolution through formal law, use of formal law for social control, were found positive and significant with women as compensation. A complete synergy was found between legislative failure and women as compensation for literate and illiterate while controlling literacy in the form of non-spurious in relationship at bi-variate level. Moreover, while controlling family type a non-spurious result were discovered between legislative failure and women as compensation in the joint family system quick disposition of justice through formal courts through structural and functional synergy and declaring *Swara* as cultural taboo while relying on formal court and allied departments like police and other law enforcing departments were some of the policy recommendation in light of the study.

Keywords

Legislative Failure, Women as Compensation, Dispute Settlement, Blood, Honor and property.

Introduction

Legislative Failure

According to (Barfield, 2003) judiciary system in Afghanistan has little success to resolve civil disputes and to a great extent criminal cases as well due to prolong procedure and sending cases back to informal institutions for settlement. Exchange of women as compensation (*Bad*) has always been considered against Sharia Law and local custom in all ages throughout the world and so condemned. Unlike *Pashtun* in southern parts of the country, the practice has never been noticed in ethnic groups of the northern Afghanistan. The dynamics of relationships in a society plays a key role in issues settlement. In industrial societies the phenomenon of more access to justice through

effective judiciary has replaced this value system that also influences other cultural privileges in disputes resolutions. Still, the authority of implementation and the results based on the enforcement of dispute settlements in traditional societies are important in terms of its social ailments (Nader and Todd, 1978; Cappelletti, 1992; and Bennett, 1991).

Sadiqi (2004) found that District judiciary was more distressing for commoners, however the recent (sumoto action) had led to the acceleration of cases settlements (Minallah, 2010) conventional mechanism of reconciliation had led to poor writ of judiciary and this opened vistas to settle issues ultra-human rights considerations. These practices led to the extreme anti human acts like Swara Wani ect (Niaz, 2006). Revenge killing is deemed legitimate dispute of being illegitimate in pakhtoon culture (Barfield, 2003).In Pakistan people have little facilities to be legally redressed. Primary investigation is very necessary to provide proper evidences but poor investigation/reporting by police about *Honor Killing* relating to *Panchayat* has been always the main barrier to provide sufficient evidences for a conviction (Zahid, 2009). Due to ineffective police investigation in cases of honor crimes in Pakistan, 85% of culprits are either acquitted or given relaxation in punishment (Hussain, 2006). In communities with close inter families relations it was easy to amicably resolve disputes, in past. At present indifference is increasing day by day that leads to competitive relationship within the communities. That is why people in Pakistan are less concerned to have a society based on mutual good will but to win and earn through *Panchayat,* regular courts and *Sharia* courts to have a favorable state law, customary/ traditional law or Islamic Sharia that can make them win. For this purpose a big amount of $350 million provided by Asian Development Bank for 'Access to Justice Development Initiative' programme in 2002, was spent on construction of new courts buildings and furnishing the existing ones but nothing was done for the quality of official justice system (Zahid, 2009; and Mumtaz, 1987). Taking out a narrative from the above findings, this paper has been designed to look into the causes of legislative failure over women as compensation practices with some sound and workable methodologies for its eradications.

Research Design

The present cross sectional study was carried out in Swat District f KPK Province, to determine the relationship between "Women as compensation" (*Swara* Practices) and (Legislative Failure) for the purpose of reaching into conclusive results.

Sampling

A sample size of 205 was chosen as per mechanism of Sekeran (2003) from three selected Union Councils with relative sample size as per population allocation was determined on the total strength of the respondents from each strata.

Table 1. Sample Size Distribution

Village Name	Population	Sample Size
Tehsil Kalam, Union Counsil Kalam	156	88
Union Counsil Othrore	193	106
Tehsil Matta, Union Council Chupreyal	20	11
Grand Total	369	205

Characteristics of Respondents and Conceptual Framework of the Study

All those women who were the victims of compensation practice, parent, brothers and blood relatives of *Swara* were chosen as respondents for this study. The study proceeded with the following conceptual framework.

Table 2. Conceptual Framework of the Study

Background Variables	Independent Variables	Dependent Variables
Education	Legislative Failure	Women as compensation (Swara Practices)
Family Type		

Indexation

The dependent variable was indexed to get the desired degree of the responses and ascertaining the level of relationship at variables as well (Smith, 1981; and Nachmias and Nachmias, 1987).

Reliability Analysis

The Cronbach's alpha test was used for working out reliability in the present investigation. A reliability of 0.74 between the variables for the present study was discovered. 0.7 is acceptable in social sciences due to spontaneous variables in human behavior (Nachmias and Nachmias, 1992).

Data Analysis

Data were analyzed through frequency and percentage distribution along with, ^{2} test statistics to ascertain the relationship between dependent and independent variables at bi-variate level. Gamma statistics enabled to explain the strength and direction of relationship at Bi. variate level with the aforementioned variables (See Table-2).

Chi-square Test

$$(X^2) = \sum \sum \frac{(F_{ij} - F_{ij})^2}{F_{ij}}$$

$$F_i F_j \qquad F_{ij}$$

Where

(X^2) =   Chi-square for two categorical variables

f_{ij} =   the observed frequencies in the cross-classified category at ith row and jth column

F_{ij} =   the expected frequency for the same category, assuming no association between variables under investigation

The formula simply directs one to take squared summation of the frequencies for each cell, divided by the expected frequency. The resulting frequency is distributed as chi-square with relevant degree of freedom. The degree of freedom is calculated as follows;

Df   =   (r-1)(c-1)   where

Df   =   Degree of freedom

r   =   the number of rows

c   =   the number of columns (Tai, 1978).

Upon the violation to (X^2) test assumption, Fishar Exact Test was used as per outlines of (Baily, 1982).

Fisher Exit Test Probability   = $\dfrac{(a+b)!(c+d)!(a+c)!(b+d)!}{N!\,a!\,b!\,c!\,d!}$

Where a, b, c and d were the observed numbers in four cells of contingency table and "N" the total number of observations.

Where a, b, c and d were the observed numbers in four cells of contingency table and "N" the total number of observations.

Gamma

Gamma statistics was used to ascertain the strength and direction of relationships between dependent and independent variables. The formula for Gamma statistics is as following

$$\gamma = \frac{NS - ND}{NS + ND}$$

Where; NS=Same order Pair

ND   =   Different order Pair (Nachmias, 1992).

Multi-variate Analysis by Contingency Tables

Multi-variate analysis was undertaken to determine the spuriousness or non-spuriousness of the relationship between independent and dependent variable. Basic variables namely, education, family size and income of the respondents were kept control while measuring the authenticity of relationship at bi-variate level.

Results and Discussions

Respondent's Attitude Towards Legislative Failure

A strong judicial system and appropriate rules implementation lead to peaceful environment while directing society towards development however, weak judicial system and lawlessness keeps society ignorant with all manifestations in criminal tendencies amongst its members. In order to be more precise, legislative failure in the present study was limited to certain statements.

As depicted in Table.3 (93.7%) respondents supported the idea of formal law implementation, (94.1%) had the opinion that disputes were resolved through formal law and (94.6%) viewed that formal law were used for social control. Similarly, (88.8%) respondents disclosed registration of cases in formal courts with people had easy access to formal courts (76.6%). These findings were contrary to findings of Riaz (2013) who found that right to marry with free and full consent is clearly given by Islam and incorporated in national laws of the country. Moreover, it is established under international human rights law in many conventions such as Universal Declaration of Human Rights. It shows the lack of religious knowledge, ineffectiveness of the law and inappropriate policies and procedures adopted by a state. Notwithstanding, (92.2%) respondents opposed the idea of disposition of cases by formal courts in short period of time. It could be attributed from the data that strong legislative setup was not existed in the study area which led to the establishment of community based justice system. These findings were in line to findings of (Saleem et al, 2011) who stated that poor living conditions, low social status, inaccessibility to justice, late decision making and high cost of formal judicial apparatus are key factors which leave little or no option but to obey the verdict of head man of the tribe irrespective how biased or unjust it may be. Conversely, (61.5%) respondents were satisfied from formal court decision making, (66.6%) had accepted that decision of formal court was based on justice while (79.5%) respondents opposed the statement that formal law decision was based on gender discrimination. It is obvious from the results and through formal law was in exercise but people had little faith in it regarding their family decisions. About (68.8%) respondents agreed that formal law protects women from *Swara* marriage but (95.1%) respondents gave clear indications that formal

courts took long time in decision making. Findings of the present study were contrary to the findings of Amnesty international (2002) which stated that tribal justice system grew due to failure and inaccessibility of the state justice apparatus undermined the weak judicial system and respect for the rule of law. The positive response of respondents towards the aforementioned variables in the study area could be due to strong legislative procedure and formal law implementation providing effective and administrative role in controlling various cultural and religious misbelieves prevalent in the society, however, its role in the disposing of justice regarding the cases had clouded its acceptance amongst the respondents in the study area. (Zamurrad, 2012).

Table 3: Respondents Attitude Towards Legislative Failure

Legislative Failure	Agree	Disagree	Uncertain
Formal law is implemented	192 (93.7)	3 (1.5)	10 (4.9)
Dispute are resolved through formal law	193 (94.1)	7 (3.4)	5 (2.4)
Formal law is used for social control	194 (94.6)	4 (2.0)	7 (3.4)
People registered their cases in formal court	182 (88.8)	13 (6.3)	10 (4.9)
People have easy access to formal court	157 (76.6)	38 (18.5)	10 94.9)
Formal courts dispose off your cases in short time	9 (4.4)	189 (92.2)	7 (3.4)
Satisfaction from formal court in decision making	126 (61.5)	68 (33.2)	11 (5.6)
Decision of formal court is based on justice	137 (66.7)	49 (23.9)	19 (9.3)
Formal law decision based on gender discrimination	19 (9.3)	163 (79.5)	23 (11.2)
Formal law protects women from Swara marriage	141 (68.8)	47 (22.9)	17 (8.3)
Formal court decision takes long time	195 (95.1)	4 (2.0)	6 (2.9)

number in the column presented frequency while number in parenthesis presented percentage proportion of the respondents

Association Between Respondent's Attitude Towards Legislative Failure and Women as Compensation

Formal law is one of the important pillars of a society or state for keeping harmony, peace, stability and maintaining social control with directional predictability. Three components of the state including legislative, judiciary and executive are involved in passing, defining and implementation of law. Traditional practices may include forced marriage, child marriage etc. Moreover, imminence of

Swara, honor killing are some other gruesome effects, which could not be ruled out with variations in the frequency of occurrence and recurrence. Legislative failure as variable was limited to some specified tasks. Findings on attitude of men towards these tasks and their association with women as compensation are given and discussed as follows;

Table 4. Relationship Between Legislative Failure and Women as Compensation

Formal law is implemented	Women as compensation	χ^2= 8.639 (0.013)	γ=0.75
Disputes are resolved through formal law	Women as compensation	χ^2=0.491 (0.782)	γ=-1.000
Formal law is used for social control	Women as compensation	χ^2= 14.00 (0.001)	γ=0.725
People registration their cases in formal court	Women as compensation	χ^2= 8.572 (0.014)	γ=0.764
People have easy access to formal court	Women as compensation	χ^2= 1.782 (0.410)	γ=0.17
Formal courts dispose off cases in short time	Women as compensation	χ^2= 0.503 (0.778)	γ=-0.318
Satisfaction from formal court in decision making	Women as compensation	χ^2= 1.897 (0.387)	γ=-0.65
Formal law decision is based on justice	Women as compensation	χ^2= 1.862 (0.394)	γ=-0.599
Formal law decision is based on gender discrimination	Women as compensation	χ^2= 3.597 (0.166)	γ=-1.660
Formal law protects women from Swara marriage	Women as compensation	χ^2= 1.867 (0.393)	γ=-0.095
Formal court decision takes very long time	Women as compensation	χ^2= 1.999 (0.368)	γ=0.16

number in the column presented frequency while number in parenthesis presented percentage proportion of the respondents

A positive (γ= 0.725) and significant (p<0.05) association was found between respondents attitude towards legislative failure such as dispute resolution through formal law and women as compensation (Table 4).The positive relationship of respondents towards dispute resolution through formal law and compensation practices like Swara marriage suggested that formal social control in the study area was strong but unlikely people were prone to use traditional Jirga system for dispute resolution in their area in various cases. It could be attributed to the prevalence of strong traditional and social fabrics which had control over the minds and behavior of the respondents. This commanding influence did not allow the respondents to resolve the dispute through informal legal setup. Anyhow strong primary based relations on the basis of clan and family make family members strict followers of the traditional practices. Change is the sole process and almost very difficult if not impossible to penetrate. These findings were similar to the findings of Zamurrad

(2012) who stated that despite of various legislative and executive measures of the federal and provincial governments in the past regarding gender issues, the Pakistani women are still facing all kinds of discrimination. *Vanni*/*Swara* is an inhuman customs, ultra legislative and moral limits (Mumtaz, 2014). Handing over of girls for blood based dispute settlement is a common characteristic of Asian countries. These practices of dispute resolution have a strong support from the existing culture (Rivert, 2001; and Hussain and Kokab, 2004). Also a high positive (γ= 0.764) and significant (p<0.05) relationship was found between respondents attitude towards use of formal law for social control and *Swara* marriage. It is indicative of the fact that formal law could reduce the occurrence of *Swara* event (women as compensation). However, the absence/fragile existence of formal system with little ramifications in deliverance had created some conducive environment for such practices to creep in. Despite declaring exchange of female for dispute settlement is strictly prohibited by government of Pakistan through amendment act 2005 which was also augmented by the Supreme Court of Pakistan while declining *Jirga* is illegal's which still existed in the remote areas of Pakistan. Equity in gender though exists in constitution of Pakistan but often confined to papers with little existence on ground perhaps, cultural endorsement is taken as legitimate as legal (Munir, 2013; Niaz, 2006; and United Nation Human Right Council, 2007). Similarly, a high positive (γ= 0.75) and significant (p< 0.05) relationship was found between formal court's decision takes very long time and women as compensation. These could be related to the emergence of *Swara* practices, practiced through cultural institution like *Jirga* with prompt justice in disposition by penalizing the inflicting family to surrender its women in compensation as punishment acts. Moreover, the enactment of Zia`s regime Hudood laws might have embolden the local to exercise quick justice as per pattern of Islamic injunctions. Lack of political well in the political party over the issue of compensation practice is agony of the day (Amnesty international, 2006). However, a positive (γ= 0.17) but non-significant relationship was found between compensation practices and registration of cases in formal courts. Thus, it is obvious from these findings that no any compensation practice was reported to any formal court of justice. It could be the outcome of prolonged procedure of disposition of justice by the formal courts and the availability of substitute institutions in informal manner. Similar findings were also extended by (Atayee, 1978) that informal system is an alternative and popular to formal system for just and quick settling of disputes. Similarly, a positive (γ= 0.16) but non-significant relationship was found between formal law protects woman from *Swara* marriage and women as compensation. It is perhaps, the inability of formal judicial system to protect women from the harmful practices. The obvious reasons could be the prevalence of patriarchy which dictates of inequality between the genders. These findings were in

total contradictions to outcomes from Hussain and Kokab, (2004) who disclosed that both genders have equal status before the law as per enshrined in the constitution of Pakistan. Contrary, a highly negative (γ= -1.000) and non-significant relationship was disclosed between formal law implementation in the area and women as compensation. This could be due to the fact that either formal justice system did not exist or suffered from malpractices in deliverance. Formal system of justice in most parts of the tribal areas of Pakistan had failed to deliver, which had given an imputes to informal judicial procedure as of quick and free disposition of justice through informal manner (Atayee, 1978). Furthermore, a high negative (γ= -0.818) and non-significant relationship was found between easy access to formal courts and women as compensation. The relationship between women as compensation and respondents attitude on disposing off cases in a shorter period of time was also found negative (γ= -0.65) and non-significant. Relationship between women as compensation when associated with respondents attitude towards satisfaction from formal courts in decision making was a negative (γ=-0.599) and non-significant. It could be attributed to the non-existence or poor and dismal performance of formal courts to decide over the issue with in stipulated time with satisfaction from the parties concerned. Thus government initiatives in the form of certain amendments in law and introduction of laws like criminal act amendments 2004 and subsequent efforts from President Pervaiz Musharaf could not yield any positive effects (Noreen, 2013). The relationship between formal law decision is based on justice and women as compensation was found high negative (γ= -1.000) and non-significant. Also a negative (γ= -0.095) and non-significant relationship was found between formal law decision is based on gender discrimination and women as compensation. Although no any discrimination in disposition of justice on the basis of gender but the dismal performance on part of formal courts in quick and just disposition of justice was the main impediment to containment of women as compensation practices in the study area. These findings were in total negation of Wadesango (2012) that all issues of honors are settled through women compensation. Conflict resolution for living in harmony is based on settlement through negotiation might include the exchange of women/women as compensation for the purpose of settling disputes. Girls given in compensation for dispute settlements are silently compensated with cattle and some undisclosed amount of money. In many cases honor related crimes may not involve the allegation of illicit sex between a women and man but the *Jirga* (Local Council) may award them with punishment like using the man to pay and give a woman in compensation to the aggrieved family (Kandiyoti, 1987; Matavire, 2012; and Zartman, 2000). Moreover, traditional hold over the social dynamics of operating the social structure was vivid, strong and directional in meeting out the quick disposition of justice in the study area.

Bi and Multi-variate Analysis Based on Indexation of Dependent and Independent Variables

Various statements of independent variables were indexed to investigate their relationship with dependent variables at bi- variable through multi-variate level regarding the spuriousness.

Association Between Respondent's Attitude Towards Legislative Failure and Women as Compensation (Controlling Family Type).

The response of illiterate respondents regarding legislative failure and women as compensation was negative (γ= -0.60) and significant (p<0.05, Table-6). However, a negative and non-significant association was observed between the fore mentioned variables in respondents lying in the literate group (γ= -0.59). The respective gamma values showed that relationship worked out between respondent's attitude towards legislative failure and women as compensation at bi-variate level was found non-spurious when literacy was used as control variable. Results of the literate category indicated the fate of women as this category had little trust over the formal legislative setup. On the other hand literate through exercising the women as compensation practices due to the prevalent cultural norms and dysfunctional role of the legislatives bodies around. Munir (2013) had also explored the inabilities and dys-functionalism of the state laws to eradicate the practices of women as compensation (*Swara*) despite being illegitimate and un-Islamic, mostly in *Pathan* tribes. Constitution of Pakistan is enshrined with the notion of equality of all gender; however, the cultural practices in some regions are in total repugnance to it. Religious exploitation of this regime and the escalation of war by the Taliban in the recent past were some of the vivid example of resistance to the government stance on the issue of equality amongst genders (Niaz, 2006; and Rivert, 2011).

Table 5 Association Between Respondent's Attitude Towards legislative Failure and Women   as Compensation (Controlling Literacy).

Literacy as Control Variable	Independent Variables	Dependent Variables	Statistics
Illiterate	Legislative Failure	Women as Compensation	χ^2 =6.23 (0.043) γ = -0.60
Literate	Legislative Failure	Women as Compensation	χ^2 =3.29 (0.057) γ = -0.59

Association Between Respondent's Attitudes Towards Legislative Failure and Women as Compensation (Controlling Family Type).

A negative but non-significant relationship (γ= -0.55) existed between women as compensation of the respondents in nuclear family setup and their attitude towards legislative failure (Table-5). The relationship (γ= -0.60) between the fore mentioned variables was also negative but significant ($p<0.05$) in the joint family setup. The respective gamma values suggested that relationship worked out for the aforementioned variables at bi-variate level was found to be non-spurious in the joint family setup and spurious in nuclear family setup. It could be detected from these results that due to less number of family members at the nuclear family had a negative response to this practice. However, issues of dispute resolution had to be met out through paying either cash or surrendering commodities like land, cattle etc. The joint family setup had a willingness to go for practice of paying women as compensation but had a strong acknowledgment of the failure of legislative setup. Court marriages are even denied of implementation but had to surrender to the customary ways of marrying by a women. Moreover, ignorance or prevalent legislation on part of opposing while marrying their daughters through customary practices (Mooraj, 2004; and Plan, 2010). Ban on early marriages by the state legislative bodies had brought a high level of awareness amongst the parents of young girls (Wassan, 2012).

Table 6: Association Between Respondent's Attitudes Towards Legislative Failure and Women as Compensation (Controlling Family Type).

Family Type as Control Variable	Independent Variables	Dependent Variables	Statistics	
Nuclear	Legislative Failure	Women as Compensation	χ^2=2.93 (0.07)	γ= -0.55
Joint	Legislative Failure	Women as Compensation	χ^2=6.53 (0.031)	γ= -0.60

Conclusions and Recommendations

The main aim of this research was to investigate dispute settlement through women as compensation in *Pakhtoon* culture, *Khyber Pakhtoonkhwa*. Women as compensation (*Swara*) was measured through legislative failure in the study area. The study found that formal law for containment of *Swara* practices was bleak and vague, despite its presence in the study area. it was further evident from the data that formal law was used as a tool of social control, however, had little roots amongst the locals due to taking long period of time in disposing of justice thus giving space to

Jirga, as informal local institution to certain behavioral outcomes, pertaining to the practices of *Swara*. Legislative failure to deliver justice were propelling factor of *Swara* practices in the study area. In addition, literacy and family type were other variables predicting the behavioral outcomes over *Swara* practice. Both literate and illiterate with joint family type had high inclinations towards *Swara* practices due to ignorance, heavy economic burden of feeding, more family members and abject poverty respectively. The study recommended that non-compliance to *Swara* practice of *Jirga* decision by the offender's family needs to be encouraged by the formal institutions like police department and other related law enforcing agencies. This act of support could bring resilience amongst the local for opting to formal law instead of relying on local laws/institutions. All courts operating in the areas ought to be strengthened in its functioning. This structural and functional synergy could lead to the development of trust of locals in getting and seeking justice from formal courts.

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Bakunin Model of Anarchism and Militancy in Swat, Pakistan

Khurshaid & Zafar Khan, Saima Gul &
Noor Sanauddin

Abstract

The research is designed to study the tactics of the fighting of Taliban in the valley of Swat (Pakistan). The theory of anarchism is helpful in understanding their techniques. Anarchism has been explained and aptly applied here. The tactics proposed by anarchists suits the way of the struggle of Taliban in the valley. Bakunin model of anarchism is a good example in this regard. He has suggested the killing of intellectuals, kidnapping the wealthy and powerful, targeting the politicians, going into coalition with the criminals, supporting the loudmouths and nurturing the supporters. All these techniques were adopted and practiced by Taliban in Swat fighting. This is an important commonality between the Western anarchists and Eastern jihadists of the twenty first century.

Keywords

Anarchism, Terrorism, Taliban, Swat, Militancy

War against terrorism is a war fought against Islamic militants, who have been creating anarchy for sake of getting strategic benefits and winning ultimate victory. The stories of violence in the war, strengthen the notion that anarchy is one of the most suitable tools for militants in this regard. As the very name 'war on terrorism' makes it clear that it is a conflict in which the phenomena of terrorism is its integral part. In asymmetrical warfare killings, kidnapping, targeting government officials and institutions, the spread of terror and common destruction is something natural. The ongoing war on terror is such a phenomenon. The non-state actors have been using guerrilla tactics which inflict heavy losses to public lives and property. Suicide bombings are lethal weapons in this regard. The bombing not only causing irreparable damage and destruction but also create an environment of panic and anarchy.

Militancy in Pakistan has been damaging the nation more than any other. More than 35,000 (Haider, 2011: June 03) people have lost their lives and millions of people have been displaced from their homes. The militant anarchy caused huge economic losses as well. According to an estimate, some $ 68 billion is the total cost of the war for economically impoverished Pakistan (Ahmad, 2011: June 10, 08-10). Major militant uprisings in North West of the country derailed the routine life of the people. The terrorists adopted the following tactics which are the acts qualifying the basic tenets of anarchism (Taylor, 2012, August 18).

i   Killing all those who are potential or open threat to them

ii)   Kidnapping the rich for sake of ransom to generate money,

iii)   Targeting politicians to pressurize and deter them,

iv)   Keeping close liaison and connections with criminals of the society and using them for their organizational objectives, and

v)   They are helping their supporters to groom and flourish them.

This study will trace a relationship between anarchism and terrorism. After analyzing the events of terrorism it could be established that how anarchism, though a political philosophy, fits in the scheme of the analysis to establish closer relationship with the present wave of terrorist events. Before going into detail, it is important to see the basic tenets of anarchism.

Theoretical Framework

Anarchism is a mechanism and philosophy of carnage and destruction which can be defined as the violent wave of movements against the union and integrity of a society, and against the top authority and respect of a state (Hoffman, 2010: 36). Anarchism has resulted into creation of environment of oppression, tears and pain during the 20th century in various societies. It should be analyzed multi-dimensionally due to the reality that it is a notion defining different political ideologies, philosophies and social movements which defend to overthrow every types of the social hierarchy and political organization.

Bediüzzaman- a Sunni Muslim Theologian and who wrote a commentary on Quran- said that 'this century has caused the total brutality of all of the previous centuries only in one-time' (Bahar: 2006). While the twentieth century was going out, everyone hoped that the coming century and millennium would herald peace and prosperity for the whole world. But it did not occur. In the wake of attacks on Twin towers just at the start of the century, violence and terror became the mostly common issue in the world's agenda. After that, debate broke out over the link of terror and violence with the Islam, which contains peace and love at its core teachings (Haddad & Khashan, 2002: 817). The military attacks of USA, in coalition with some other western countries, on Afghanistan and Iraq caused new developments and discussions in the field of international politics.

Anarchy is a term, the relevance of which is found with the meaning of common panic, fear and confusion. The term has its own background in a philosophy, known as anarchism. The philosophy has its importance and background in history of politics. Certain Christian's mystics in the Middle Ages preached freedom from man-made laws and political organizations (Ellul, 1991: 45). Modern anarchism is the extreme left-wing socialism. The analysis of psychological traits of anarchist shows that some of their characteristics are

common. It includes love of freedom, rebelliousness, individualism, self-love, sensitiveness, altruism, sense of logic, sense of justice and desire for knowledge. These characteristics are also found in socialists and humanitarians (Hoffman, 2010: 30). It was first expounded as a political doctrine by an Englishman, William Godwin (1756-1836), and a Frenchman, Proudhon (1809-65) who were the first writers to call themselves anarchists. But its greatest exponents are three Russian thinkers; Bakunin (1815-76), Tolstoy (1828-1910) and Prince Kropotkin (1842-1921).

Bakunin was a scientific anarchist who attacked science and appreciated the wisdom of instincts and human reason. He was of the opinion that 'the urge to destroy is also the urge to create' (woodcock: 1967). He sanctioned absolute liberty. Furthermore, he called for attacking institutionalized anarchy and authority to create a free society which will be called invisible dictatorship (Marshal, 2010: 263). Tolstoy belonged to Russian aristocratic family. He did not call himself an anarchist but his assumptions about politics made him an anarchist. He eloquently defended individual freedom (Marshal, 2010: 362). Kropotkin was also a Russian revolutionary anarchist. He colored anarchist theory with communism.

The basic principle of modern Anarchism can be summarized into three, viz., the opposition and abolition of state, the abolition of private property and the suppression of religion (Kropotkin, 2002: 166). These principles are relevant to my study. The pattern is best suitable for explanation of the carnage caused as a result of the war against terror. Anarchism is opposed to the existence state *in Toto* and advocates its abolition in all its forms and essence (Kropotkin: 2002). Anarchism is opposed not merely to the despotic and corrupt forms of the state, like autocracy, but also its best forms, like democratic and representative form of government (Ehrlich, 1979: 46). They advance several arguments against the very nature and existence of the state as follow:-

Methods of Anarchism

The question of method has divided the anarchists, like the evolutionary and revolutionary socialists, into two groups, viz, the philosophical and revolutionary anarchists (Dirlik, 1993: 183). Philosophical Anarchists advocate peaceful and non-violent methods of education and persuasion to achieve their goal (Tucker, 1897: 415). Revolutionary anarchists, like Bakunin and Kropotkin, advocate revolutionary methods of violence, bloodshed and revolution to get rid of the state and establish an anarchist society (Sharma & sharma, 1998: 263). But they believe that revolution should aid evolution of present society which is already leading it towards the anarchist of the future. The current of events and facts is already leading mankind towards the anarchist goals: anarchists need only to accelerate this flow by removing obstacles and barriers. This may need the use of force, violence,

bloodshed and organized insurrection. The anarchist revolution is not like the communist revolution which would replace the capitalist state by communist state or dictatorship of the bourgeoisie by dictatorship of proletariat (Kropotkin: 1901). Such an anarchist revolution would put an end to the state as such. It would be the destruction of all political authority and law and public order. Rulers and officers may be removed from their seats of authority. Courts, police, jails, and all other instruments of coercion and force will be demolished. Thus as Kropotkin says, evolution must culminate in revolution; "a frightful storm is needed to sweep away all this rottenness, to vivify torpid souls with its breath, and to restore to humanity the devotion, self-denial, and heroism without which society become senile and decrepit and crumbles away" (Eltzbachor: 1908).

Bakunin's ideas deeply influenced anarchism. Most of the anarchists have adopted his principle of leaderless resistance, though having little knowledge and support of their groups. Sergei Nachaev, an associate of Bakunin, highlighted the "merciless" dimention of destruction. But it was Bakunin who gave six steps, necessary to destroy a social structure, as paraphrased below: (Borgeson, & Valeri, 2009: 20).

- *Kill the intelligensia* (kill those who are intelligent and most energetic in society)

- *Kidnap the rich and powerful* (those who will yield the biggest ransoms)

- *Infiltrate the politicians* (to find out their secrets and discredit them)

- *Help the guilty criminals* (to confuse society over justice and punishment)

- *Defend the loudmouths* (those who make dangerous declarations)

- *Nurture the supporters* (help fellow travelers who believe in societal destruction)

Important anarchist, like Karl Heinzen and Johann Most, established the concept that murder, particularly murder-suicide, constituted the main outline of revolutionary struggle (Borgeson, & Valeri: 2009). Both argued for the use of weapons of mass destruction. Other anarchists contributed other concepts, such as Peter Kropotkin's concept of "propaganda by word" or radicalizing the masses by exercise of rebellious propaganda materials (Martin, 2011: 41). It is worth mentioning, that the renowned Italian criminologist, Cesar Lombroso, gave his idea of the "born criminal". He examined the bodily features of some anarchists who were actually nothing more than criminals justifying their deeds with anarchist talk (Lombroso, Gibson & Hann, 2006: 386).

9/11 And Decent Into Terrorism

The September 11 attacks were a chain of four synchronized suicide attacks upon Washington DC and New York on September 11, 2001 (widely known as 9/11). On that Tuesday four passenger jets were hijacked by members of Islamist militant group, Al-Qaeda. They calculatedly crashed two planes United Airlines Flight 175 and, American Airlines Flight 11 into the Towers of the World Trade Centre in New York City (Snyder: 2002). Both towers dashed to the ground within two hours. American Airlines Flight 77 was crashed into the Pentagon in Virginia. The fourth jet crashed into a field near in Pennsylvania, after passengers tried to control before it could reach the planned target in Washington, D.C. (9/11 Commission Report, 2004).

In 9/11 attacks, in total of 2,996 people laid their lives, including the 19 attackers and 2,977 fatalities. The deaths included 246 passengers (nobody remained alive on the plains), 2,606 in New York City in the twin towers, and 125 at the attack on Pentagon. Almost all of the deaths were common civilians; only 55 military people were among those killed at the Pentagon (Stone, 2002, August 20).

At least 200 individuals fell or jumped from the scorching towers, landing on the streets and roofs of contiguous buildings hundreds of feet down (Dennis & Martha, 2002 September 02). Some of the occupants of each tower made their way toward the rooftop in hope of rescue through helicopters, but the roof admittance doors were locked. No design existed for such a rescue as the thick smoke and extreme heat would have barred helicopters from approaching.

The Strategy of Terrorists

Being asymmetrical war in nature, the fighting tools are different of the enemies in the war against terrorism (Stepanova, 2008: 04). For gaining strategic superiority, both the parties' select from the available options best suited to their goals. States are richer enough in the capabilities to easily surmount the non-state actors in conventional type of war. Especially, the air power in the hands of NATO and other state parties is such a tool which makes the opponent fighting forces to avoid direct physical confrontation (CRS Report, 2006: 8). The carpeted aerial bombardments against Taliban and al-Qaeda in various parts of Afghanistan are the examples in this regard. The Tora Bora military operation (0peration Anaconda) against Taliban caused irreparable damage to the organizations of al-Qaeda and Taliban. Improvement in Drone technology is regarded an asset for America and its allies while a huge concern for Islamic militants. All this means an implication for overall fighting strategies.

Strategic options for militants are limited. The government of Taliban was toppled after 9/11 attacks. The unexpected resistance of Taliban government kept them in survival struggle against USA for more than a month. After retreat, the strategy of Taliban and al-Qaeda went through a process of complete change (Jonson, Oradnik & Beth, 2011: 22). Now they were no more a state. Keeping in view a transformation in contextual situations, it became imperative to adapt to themselves to the changing strategic environment. And those who were at the helm of affairs were well aware of the fact.

After losing their government as a result of failed conventional struggle, the Islamic militants were in no need to retain the old type of strategy. Guerrilla warfare remained the only viable strategy for them. They are lucky to have a terrain fit for their hit-and-run tactics of guerrilla warfare (Johnson, 2011: 303). Afghanistan is a mountainous country with long and high ranges. It is easy for an insurgent to play his game in the type of region. Afghanistan in eastern side, borders with tribal areas of Pakistan. These tribal areas are semi-government areas controlled by Pakistan. This provides a type of strategic-depth to the insurgents on both sides of the boarder. Apart from this the population composition is also helpful to them. The tribes living on both sides of the boarder have same identity amongst themselves on one side and with militants on the other side. Society is considered to an insurgent as water pool to a fish (Lofland, 1996: 250). Therefore, it is easy for guerrillas to make an action and return to the society as other common people.

The common ideology of global jihad is shared by all the Islamic militant groups, fighting throughout the world (Drinkwine, 2009: 23). Therefore, resemblance is found in their tactics of war. Extreme level of indoctrination has made them extreme in this regard. The religious fanaticism mixed with the lust for strategic gains have turned them towards adopting extreme measures. The environment created as a result, is conveying the message of panic and anarchy. The type of anarchy suits the interests of anarchists (militants). They know how to exploit the confusion and fear created in the society. This serves them double edge purpose. On one side they try to pressurize the states and government while on the other side they are to cash the sympathies of the population in their favor (Bunker, 2005: 48).

Violence is blatantly used by militants as an integral part of their fighting strategy. Suicide attacks are the most horrific version of terror in their hands. It is very easy to understand the logic of such a war tool. The states powers can combat any type of attack but they are helpless to stop a suicide bomber from undertaking his plan (Merari, 2010: 275). Anyone who explodes himself is extremely dedicated to his cause. The primary purpose of his attack is to target the enemy forces or their supporters, but it also causes huge collateral damages. The aftermath of such an

attack is extremely shocking. Some suicide attacks are of huge magnitude therefore causing irreparable destruction. And if they are conducted in crowded areas it would cause emotional panic amongst people (Merari: 2010). The anger of the people is natural primarily, upon government and security agencies. In this way the terrorists are trying to alienate the public from government.

Kidnaping and killing of influential people in society is another strategy of terrorist in present day war against terror (Heymann, 2000: 03). This is very common in all areas where the militants are operating from. The purpose behind this is manifold. In some cases the kidnapped are the people who may be the part of opponent system or may be connected to the opponents through his relatives. This is done with the objective to get some tactical concessions from the decision makers belonging to the enemy camp. In some other cases the intelligentsia and technocrats are targeted not only to deprive the opponent from trained brains but also to force them use for the benefit of their own organization. But in most cases the kidnapping is a big source of earning for the kidnappers (Canter, 2009: 190). The major portion of their expenses is met from the money in ransom dealings. Anyhow it is the strategy which creates anarchy and the feelings of insecurity.

After security and government agencies, politicians are the next target of fighting Islamists (Lutz, & Lutz, 2004: 11). They consider politicians a serious challenge to their cause. These are politicians who are responsible for protecting the status quo which is never acceptable to militants who challenge primarily, the prevailing system. Anywhere, both in Afghanistan and Pakistan, the people linked with politics are attacked and challenged. In Pakistan there are many examples in which the sitting MNAs and MPAs are being targeted. Many of them have lost their lives. In Swat militant insurgency a prominent politician, Afzal Khan Lala and his relatives, were sieged for months and a protracted fighting took place between his supporters and Swat Taliban.

Application of the Theoretical Framework

Though war on terror is very complex phenomena especially, when it comes to its sociological, philosophical, psychological, political and other aspects, the final outcome is violence and anarchy. The events of the war are full of the stories of humanitarian violation. There are humanitarian principles which should be observed. But they are blatantly violated. The calculations establish that only in Pakistan some 35,000 people have lost their lives.

There are views of important scholars who equate modern day terrorism with anarchism. They establish a relationship between anarchist tactics with that of terrorists. Anglo-Pakistani writer and commentator, Tariq Ali, has coined a new term Islamo-anarchism. He says,

"Ever since 9/11, I have been arguing that the 'war against terror' is immoral and counterproductive. It sanctions the use of state terror- bombing raids, tortures, countless civilians' death, in Afghanistan and Iraq- against Islamo-anarchists whose number are small but whose reach is deadly" (Ali, T. 2005: July 6).

Dr. Hassan-Askari Rizvi a political and defence analyst from Pakistan, wrote in July 2008 almost similar opinion by saying, "it is wrong assumption that Taliban will again become friendly to Pakistan if it gives up its support to the US led war on terrorism. The Taliban have an Anarchist Agenda that aims at dismantling the Pakistani state" (Dr. Rizvi, 2008: July 20). John Gray One of the eminent thinkers in UK makes a comparison between Bin Laden and the nineteenth century Russian anarchist Nechaev. He thinks that Bin Laden wishes to take the society back to the seventh century old world of the Prophet of Islam and his companions. He put Al-Qaeda into the categories of political movements which use violence for getting its objectives. He argues, "Al Qaeda's peculiar hybrid of theocracy and anarchy is a by-product of Western radidcal thought" (Gray, 2003: 117).

Tim Pendry, a leading public relations analyst, analyzing the nature of Al Qaeda by saying,

"*This always begged the question of what precisely Al-Qaeda was if it had no central command structure and no extensive identifiable cell system like international communism. The model was closer to pre-first world was anarchism. This could manage random and dangerous atrocities but was incapable of doing what the Muslim Brotherhood might do and the AKP has done, capture control of a government*" (Pendry, 2008: June 28).

Details of terrorism in Pakistan in general and in Swat in particular, fully qualify the assumptions of anarchism mentioned at the start of the chapter. Intelligentsias were targeted. Zia-ud-Din Yusafzai, the father of Mala Yusafzai has been a social activist, educationist and intellectual. He has been a strong voice against the militants in Swat. He was threatened several times in this regard. "Me and my family lived under continuous shadow of threat. Their aim was to stop me from providing education to children in school and college under my supervision. They wanted to deter me from leading the Swat Amn Council. All they wished to silent my voice for peace, humanity, love, education and justice". (Zia-ud-Din Yusafzai, Personal communication, 2012, February 18)

The second tactic of anarchism was also seen in Swat fighting. Kidnapping for ransom and other purposes had been at peak during the crises. Great number of people was found lost. They include, common people, government officials, traders, business men NGO's officials, lawyers, doctors and politicians. Most of them were released after payment of ransom while others were executed in case of nonpayment

of ransom money. "Five people from my village were kidnapped. Three of them got free after ransom money was paid to the kidnappers, while the remaining two were found dead because they couldn't pay to the terrorists" (Bakhtiar kaka, Personal communication, 2012 April 10). "Yes, people were kidnapped in great number by militants in Swat fighting. Ransom money was a huge source of income for terrorists. Apart for ransom reasons, government officials were kidnapped for other reasons. It included to extricate information or simply to execute them for revenge purposes" (Zia-ud-Din Yusafzai, Personal communication, 2012 February 18).

Politicians were also targeted by militants in Swat. Few of them were killed including the grandson of the last king of Swat. Extremists regarded the state institutions as *kufr* (infidel). So anyone linked to them was the prime target of fighters in Swat. Afzal Khan *lala* case is the reflection in this regard. He resisted the militants with huge costs (Lieven, 2011: 472-73).

Militants also remained in alliance with criminals. Both facilitated each other. They supported Taliban in unleashing terror. Stories from the mouths of Swati people endorse the fact. "Local criminals joined Taliban. People of such background included from my own village as well. Some of them helped Taliban in slaughtering, torturing, kidnapping, and terrorizing the people of Swat" (Rafique, Personal Commonication, 2012 August 15,)

Conclusion

Terrorism and anarchism overlap each other in strategy and tactics. Both may be different in ideology and goals but share same process of violence. Religious militants or non-state actors are fighting against states. They should destroy state institutions if they want to defeat its enemy (state). Their prime target will be the institutions which are the symbol of a state power. Military, para-military forces and police is on top of terrorists agenda. If law and order agencies are dislodged, other state institutions will follow the collapse. They target everyone whom they consider the pillars of the state; they may politicians, journalists or even intelligentsia. This phenomenon is common amongst all the Islamic militant groups, found in any part of the world. It is enough ground for bringing them together. And the creation of al-Qaeda was meant for this purpose. The organization has provided a platform for coordination amongst various Islamic militants groups. The al-Qaeda factor has caused more anarchic feelings in its affiliated militant organizations, as the agenda of al-Qaeda is extremely violent. They are the actual non-state actors, fighting for global Islamic system. But the creation of such a world system is possible only if the existing state system is done away with. Therefore, the organization struggle is mainly against Western domination of Islamic world as well as the pro-Western Islamic states especially, Middle Eastern countries. Such an approach automatically, led al-Qaeda and other Islamic militant groups to apply the tactics of anarchists.

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Media, Violence and the Culture of Victimization: A Sociological Analysis of the Socio-cultural and Psychological Impacts of Media on Youth

Arab Naz, Asghar Khan, Waseem Khan, Gauhar Saeed & Nasim Khan

Abstract

Exposure to violence in media, including television, movies, music and video games, represents a significant risk to children and adolescent's personality and growth. Extensive research evidences indicates that media violence can contribute to aggressive behavior, desensitization to violence, nightmares and fear of being harmed. The present research analyses the socio-cultural and psychological impacts of media on youth studying at Secondary Level education in Tehsil Batkhela, Malakand Division, Khyber Pakhtunkhwa, Pakistan. The data was collected from 100 students of Class 9th and 10th of four selected schools using simple random sampling technique. The study reflects that apart from the positive role of media; it is also responsible for creating numerous socio-cultural and psychological impacts among youth. These impacts predominantly include tension, fear, anxiety, frustration, aggression, and deviance that lead to victimization of the viewers. The research recommends that an initiative is inevitable in such circumstances to overcome the hastily-spreading consequences of media, where the primary responsibility must be shouldered by PEMRA in terms of policy implementation.

Keywords

Media, Culture of Violence, Impacts, Social, Cultural, and Psychological

Background of the Study

Worldwide, violence is used as a tool for exploitation and victimization of people and is an area of concern for law makers, social scientists and culture experts who attempt to suppress and stop its consequences. Literary debate over the issue of violence and victimization cover a broad spectrum varying from physical altercation among persons, indulging in war and genocide, where millions may die as a result (WHO, 2010). Violence and victimization has many consequences i.e. it may include psychological harms, deprivation and mal-development, which reflects a growing recognition of the need to include violence that does not necessarily result in injury or death, but that, nonetheless, poses a substantial burden on individuals, families, communities and health care systems worldwide (Steve, 2005). Many forms of violence against women, children and the elderly, for instance, can result in physical, psychological and social problems that do not necessarily lead to injury, disability or death. These consequences can be immediate as well as latent and can last for years after the initial abuse. Defining outcomes solely in terms of injury or

death thus limits the understanding of the full impacts of violence on individuals, communities and society at large (Krause et al, 2008). **Violence** and victimization is thus an extreme form of aggression such as assault, rape or murder and has many causes, including frustration, exposure to violent media, violence at home or neighborhood and a tendency to see other people's actions as hostile even when they are not (Cantor & Nathanson 1997).

Similarly, violence in media and its victimization is universal and is prevalent in all its forms throughout the globe and is primarily presented in a rewarding context (Groebel, 1999) thus has always been part of human life and spend time through watching TV, movies and videos (Ferraro & Kenneth, 1995;Comstock & Scharrer, 1990). Today, more than 600 million people use internet and have access to media (both print and electronic) where the number of surfers is exceeding alarmingly. Statistics show that about 97% of homes with children have CD players, and 89% have either a personal computer or other video-game equipment (Federal Trade Commission, 2000) which create a variety of physical and mental health problems in shape of aggression, violence, fear and depression (Wilson & Jordan, 2009; Huesmannet al, 1997). Studies indicate that children between the age of08 to 18 years spend an average of 6 hours and 21 minutes each day using entertainment media (television, commercial or self-recorded video, movies, video games, print, radio, recorded music, computers, and the Internet)(Roberts et. al, 2005) while between the age of 03 and 06 years spend an average of almost 2 hours each day using screen media (television, movies and computers). Televisions are also commonly available in bedrooms, with 19% of infants, 29% of 2- to 3-year-olds, 43% of 4- to 6-year-olds, and 68% of children o8 years and older having a television in their bedrooms (Rideout & Hamel, 2006). Resultantly, multifarious risks increase with the presence of television in children's bedroom that include the risk of obesity by 31% and that of smoking tends to double (Dennison et. al 2002) whereby parents fail implement rules and monitor the children's use of media (Borzekowski & Robinson 2005; Edison & Porter 1903).

Violence dominates the big screen as well as the small screen where the percentage of PG (Parental Guidance) films produced has steadily dropped over the years (Auletta, 1993). Prevalence of fear in media is proving a new risk to communication and management systems proliferate (Erickson & Haggerty, 1997). Further, children who received the preventive intervention were also more inclined to view television violence as harmful and not reflecting true life (Anderson, Lepper, & Ross, 1980; Anderson & Sechler, 1986; Slusher & Anderson, 1996). However, if parents watch TV with their children and say nothing about the violent content, children report higher than normal aggressive attitudes (Nathanson, 1999) that dominate the nightmares, anxious feeling and truancy (Singer *et al*. 1995, Klein *et. al* in 1993). Research data derived from in-home surveys of 2,760 randomly

selected 14 to 16 year old adolescents in 10 urban areas regarding participation in potentially risky behaviors including drinking, smoking cigarettes and marijuana, indicates the excessive use of media. that there is a drastic increase among adolescents who listened to radio and watched music videos, movies on television more frequently, regardless of race, gender, or parental education level (Wallack *et al*.1990ab). Besides, the amount of sexually explicit material has increased over the past decade in the "family hour (8 to 9 P.M.)" of television (Kunkel et al., 1996& 1999). Further, media has also influence on familial life in shape of conflicts, jealousy, envy and rivalry (Comstock & Strzyzewski, 1990).

Resultantly, the long-term effects are likely to be long-lasting as well because the viewers learn and practice new aggression-related scripts that become more accessible for use when real-life conflict situations arise (Anderson & Karen, 2000). The current study encompasses the debate that the culture of media in today's modern world is victimizing the youth in multiple ways creating a number of negative consequences among young generation and emphasizes that the issue is addressable and inevitable to be illuminated.

The Current Debate and Study Argument

The emphasis of the current debate reflects that media in all its forms has spread over globally. There has been a drastic change and development in internet, android phones, and video games are excessively available than ever. Such a variety and advancement in media enormously increases the time consumption of the users (mostly adolescents and youth), accounting almost five hours a day (Singer *et al*. 1995, Klein *et. al* in 1993). The use of media and time consumption among children and minors is an issue of paramount importance because they are more prone to its negative consequences and become the victims of the multifaceted impacts (Anderson *et al*.2003). Resultantly, the current study creates an argument and formulates a question that does media violence causes violence in real life? In response, the question can be approached that violence in media is overt in the real life that needs censorship while on the contrary the reality is hided through regulation (Altheide & David, 1976).

In the last couple of years, developmental changes in information technology and media have occurred by bringing negative consequences because of more projection to violence. Studies indicate that the ratio of physical violence has increased by 378 percent having an average of 40 violent act at per hour in programs offered on TV (Sparrow, 1999).In general, violence has been intensified during the last few decades and the victimization of the young generation has thus doubled than the previous (Slusher & Anderson, 1996), because media offers 'thrill' for children and creates a frame-of-reference for 'attractive role models'.

The intensity of media's influential status reflects its hazards at global as well as local level (Valkenburg & Janssen, 1999) but unfortunately there is scarcity of research to acclaim its negative consequences. Basically, children and youth are more prone to media and are excessively affected particularly in the developing countries where mass education and level of adjustment with media is lacking. Pakistani society and its youth are also explicitly confronted to evils of media due to variety of reasons that become a source of socialization and imitation of characters. In this connection, the current study has been formulated in order to illuminate the monstrous aspect of media in terms of its negative consequences on children and youth. The study is framed on the following basic objectives to acquire the desired results:

Study Objectives:

1. To analyze the negative impacts of media on the psychological development of children

2. To identify various social and cultural consequences of media on children and youth

Proposed Hypotheses of the Study

H-1:   Free and non-controlled access of children to media is a leading cause of creating psychological problems to youth

H-2:   Excessive and extensive watching of media leads to many social and cultural problems affecting children and youth

Procedural Process and Methodological Dimensions of the Study

The current study is basically framed under quantitative approach of analysis that is based on both primary and secondary information. The study inclines to illuminate the socio-cultural and psychological consequences of media on youth in Tehsil Batkhela. The selection of samples was accredited through simple random sampling technique that focused on youth studying in class 9th and 10th. In this regard, 100 children (as samples) were selected and interviewed through structured interview schedule in a face to face interaction. The collected information is statistically and quantitatively analyzed through SPSS with the application of Chi-Square test and Correlation technique.

Results and Discussion

Psychological Victimization of Media

Media as a source of information and entertainment has influential role in fascination and persuasion of the viewers. Numerous studies in this connection reflect that contrary to the informatory role of media; it stresses the viewer(s) to

a high extent and bring psychological disorders. The primary information in the current study also reflects a variety of psychological impacts in shape of psycho-victimization through multi-dimensions. The field information thus demonstrates that excessive use of media creates fear (76%) and tension (67%) among the viewers.

Moreover, the analyses illuminate that media is a source of promoting anxiety (89%) and frustration (83%) to a high extent that promulgates negative impacts on viewers. Similarly, the response of primary information reflect that media promotes violence and aggression (78%) among the viewers that is evidently observed in their communal and social interaction. In addition, deviance (73%) is mostly the outcome of media especially through watching movies and other related programs that ultimately lead to an imbalanced and disorganized personality (See Table-1).

Table 1: Psychological Victimization of Media

Psychological Victimization of Media	Extent of impacts N=100	
	To greater extent	Up-to Some extent
Creation of Fear	76	24
Source of Tension	67	33
Source of Anxiety	89	11
Increase in Frustration	83	17
Causation of Aggression	78	22
Production of Deviance	73	27

Test Statistics:

The value of Chi-square is   = 2.456 and the level of Significance = 0.000**while the value of   Lambda = 0.12 and Gamma = 0.025 which is showing a significant association with respect to media and victimization of viewers in the form of various psychological consequences.

The given data with respect to the value of P=.000[**]< .05 thus authenticate the relationship of media and psychological disorders and prove it highly significant with the value of χ^2 = 2.456, D.f = 6. Apart from the given discussion, the bivariate analysis in the form of gamma and lambda on the already defined two point category (i.e. to some extent and to greater extent) the values obtained through chi-square (P=.000[**]< .05), χ^2 = 2.456, D.f=6 and the results further express that dependent variable has strong association and relationship with independent variables. The value of lambda and gamma further authenticate the result that regressor variable

has close association with regressing variable. Thus, it is concluded that physiological impacts have strong correlation and relationship with media, especially of children and youth studying in schools. The given information of the correlation is mentioned in the table below:

Correlation

Impacts of Media on Youth		Violent Media	Psychological Impacts
Violent media	Pearson Correlation	1	0.925**
	Sig. (2 - tailed)		0.000
	N	100	100
Psychological Impacts	Pearson Correlation	0.925**	1
	Sig. (2 - tailed)	0.000	
	N	100	100

*(**Correlation is highly significant at the 0.05 level (2-tailed), r (125) =0.925**; p<.01. r²=0.86)*

(Since 86% of the variance is shared, the association is obviously a strong one)

The correlation further validates the result in manner that Correlation is highly significant at the 0.05 level (2-tailed), r (125) =0.925**; p<.01. r²=0.86); since 86% of the variance is shared, the association is obviously a strong one. It has been concluded that there is positive correlation between independent variable i.e. exposure to media and dependent variable; physiological impacts.

Social and Cultural Consequences of Media

In the current scenario of modernity and technological advancement; the communicational technology has witnessed remarkable changes that are easily available to majority of the population at their door-step. Such an easy access and excessive exposure to media affects the social well-being of the viewer(s) while the cultural patterns also tend to suffer and lose their traditional and customary structure. In this connection, the empirical information emphasizes that the socio-cultural desensitization (78%) takes place while disharmony (80%) is caused due to exposure of youth to violent media.

Furthermore, media disrupts the social structure and bring disintegration in society and social affairs of the masses (72%) while immorality (86%) tends to prevail. Besides, the field data reflect that exposure to violent media is the source to produce rebellious attitude (69%) and draw their inclination to criminality and divergence in their social relations. In addition, the information favors the causation of individualism and emergence of conflicts (67%) as the outcome of violent media (see Table-2).

Table 2: Media and Socio-cultural Consequences on Youth

Media and Socio-cultural Consequences	Extent of Social and Cultural Aspects	
	To Some Extent	To Greater Extent
Prompting Desensitization	22	78
Develop Disintegration in Society	28	72
Spread immorality among youth	14	86
Crating Disharmony	20	80
Produces Rebellion Thoughts	31	69
Creates individualism and Conflicts	33	67

*The Chi-square result i.e. 1.987 and the level of Significance = 0.000** while the value of Lambda = 0.08 and Gamma = 0.015 thus authenticate the association of media and producing various social and cultural problems*

*The value of P=.000**< .05 with value of $\chi2$ = 1.987, D.f=6 shows a significant relationship between media and social and cultural aspects of youth*

The Bivariate analysis has been use with the help of chi-square test in order to test the hypothesis. Result of chi-square test i.e. P=.000**< .05 and $\chi2$ = 1.987, D.f=6 further demonstrates that random variable are strongly interacted with non-random variables. The results of chi-square test and numerical value of gamma and lambda fall in the acceptance region of symmetric diagram which validate the proposed hypothesis. The correlation of the data has also been suggested in the following table;

Correlation

Social and Cultural Aspects		Media Violence	Social and Cultural Problems
Media Violence	Pearson Correlation	1	0.946**
	Sig. (2 - tailed)		.000
	N	100	100
Social and Cultural Problems	Pearson Correlation	0.946**	1
	Sig. (2 - tailed)	0.000	
	N	100	100

Correlation is highly significant at the 0.05 level (2-tailed), r (125) =0.946; p<.01. r^2=0.89).

(Since 89% of the variance is shared, the association is obviously a strong one)

Thus, the correlation further support the result like i.e. **Correlation is highly significant at the 0.05 level (2-tailed), r (125) =0.946**; p<.01. r^2=0.89); since 89% of the variance is shared, the association is obviously a strong one), which shows that there is positive correlation between the dependent and independent variable.

Conclusion

The world has become a communicational hub where the distances are largely abated and abolished through the hasty advancement in communicational tools. Among them, media has always been top-listed that is an influential source of communication and projection and thus cause persuasion and imitation among the viewers. The current research study has intensively analyzed the projection of violence in media through its adverse consequences especially on youth and students. The study thus exerts that electronic media in the current scenario has been over-dominated by the projection of violence in numerous aspects that draw negative impacts on viewers.

Human as a psychological being observes, perceives and learns at every step of its life whereby human psychology confronts number of agitations and tends to adjust with them. Results of the study in terms of psychological impacts reflect that violence in media badly affects the mental well-being and psyche of the viewers. The information express that fear/phobia dominates human psychology surrounded by anxiety, frustration, tension and aggression. In addition, the young viewers adopt and learn the deviant behaviors that are found in their actions at the familial and communal level.

Besides, social structure and cultural patterns are more open to changes and alteration at any level including technological advancement. The projection of violence in media draws endless impacts in the social relations and cultural practices of the society. The empirical analysis conclude that excessive use of media bring changes in the social structure while causing disintegration in society and proliferate immorality among youth. Besides, the social structure and cultural setup confront disharmony because of production of rebellious actions by the community members (youth and students) that predominantly lead to conflicts and individualism. In the nutshell, the study comes to the conclusion that violence in media has overtly adverse consequences for both the psychological and socio-cultural well-being of the viewers and particularly the youth, which is considered as the basic and precious asset of society.

Recommendations

Conclusively, the study unanimously recommends that:

- The role of parents in terms of socialization, check and balance in the daily routine of the children is inevitable. Parents must have a stabilized pattern of the daily activities to distribute their time for study, rest, play and watching TV. Further, they must ensure the programs watched by their children are free of violence and other filthy materials.

- The concerned authorities, such as PEMRA and cable operators, are the responsible personnel for bringing stability and censoring the unhealthy versions out of the programs, dramas, movies . Such authorities must be sensitized and intimated through researches and other means to ensure the prime responsibilities for the well-being of masses.

- Religion and religious control is almost half of the overall social control and prevention from deviance. The religious patrons and leaders must play their due role to intimate the masses about religious restrictions and obligations. This is the only way, where the people can be prevented from deviance and immorality.

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Problems Faced by Women in Police Stations:
Need for Police Reforms in Pakistan

Syeda Mahnaz Hassan

Abstract

This research paper manifests the challenges faced by the women in Pakistan approaching the police stations. The paper provides holistic overview of the barriers to justice for women and elaborates the problems women face in pursuing their issues in the police stations.A quantitative study was conducted with 43 women who visited 18 different police stations for reporting some crime or initiating a First Investigation Report (FIR). The study findings revealed that majority of the respondents faced a dissuading attitude of police while reporting the crime or lodging FIR. The study concluded that a major behavioural change is required to make the police system effective so that the complainants should not hesitate to report their incidents to the police. The study recommends the need for capacity building of police employees, behavioural change, gender-sensitive trainings anduse of modern equipment and information and communication technologies (ICT). The improvement in working conditions and changed organizational culture would facilitate in creating a department that will be respected by the masses.

Keywords

Police, Women Problems, First Investigation Report, Dissuading Attitude, Behavioural Change, Gender-sensitive Trainings.

Introduction

In Pakistan, women face major challenges in accessing justice (Zaman & Zia, 2012). This has a long historical background and even recent efforts to mend the idiocies of past are affected by these deep rooted hitches. The women's circumscribed access to justice is not only due toarchaic laws; rather it has resulted from multifarious socio-economic, politico-cultural and legal convolutions(Hassan& Azman, 2014) and glitches which can only be comprehended and amended with inter-disciplinary analysis of the prevailing legal system. Besides these, the most significant impeding factors are police behaviour, police station culture and discrimination which the women face; restraint them to visit police stations for reporting any incidence and seeking remedy (Lowenstein, 2014).

Pakistan has signed and ratified majority of the international covenants and declarations, such as, Universal Declaration of Human Rights, International Convention on the Elimination of All Forms of Racial Discrimination, International Convention on the Suppression and Punishment of the Crime of Apartheid, Convention on the Prevention and Punishment of the Crime of Genocide, Slavery

Convention of 1926 as amended, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others and Convention on the Elimination of Discrimination Against Women (CEDAW). On the other hand, the empowerment process of women, initiated during Musharraf's regime in Pakistan, is still in process.After the declaration of laws of Zia's regime, like *Hudood* Ordinance (Noreen & Mussarat, 2013),the movement of women's empowerment and equality of rights started in Pakistan and governments promulgated laws specifically for women to control and diminish discrimination against women in the country. Although, the process of execution and monitoring of different human rights and available legal provisions in their real sense still has a long way to go in Pakistan, but at least now some laws, such as Women Protection Act 2006, Protection from Harassment of women at the Work Place 2010; are available to protect the women rights and their legal status.

Despite of all these efforts, majority of women in Pakistan are unable to seek legal protection due to the insufficient legal provisions and the behaviour of law enforcement agencies, significantly police, which is at the fore front of the legal system; becomes a major impediment in claiming and acquiring legal rights. This study highlights the behavioural and attitudinal barriers which discourage and dissuade women from going to any police station and initiating their reports for legal remedy. This paper pursues to provide an overview of problems faced by the women in accessing the justice through police. It aims to examine intrinsic institutional, socio-cultural and legal problems experienced by women who come in contact with police at different points. A quantitative study was conducted with 43 women who visited 18different police stations for reporting some crime and initiating a First Investigation Report (FIR). The study findings revealed that majority of the respondents faced a discouraging attitude of police while reporting the crime or lodging an FIR. The study concluded that a major behavioural change is required to make the police system effective so that the complainants should not hesitate to report their incidents to the police. The recommendations of the study elaborate the need for massive reforms to create a paradigm shift in police culture in Pakistan.

Literature Review

United Nations, since its inception, has taken the issue of women rights earnestly. According to Thomsen (2010),United Nations Charter explicitly specifies equality in rights for women and men. In different countries, the movement for the protection of women rights was initiated at different times. The suffrage movement of women was the initial one which demanded legal protection. After getting the suffrage right, the women started demanding civil rights. Immediately after independence, Pakistan became the member of United Nations. Since then, Pakistan

has signed many international covenants and human rights declarations regarding the protection of human and women rights (Hassan, 2014). The international commitments, such as, CEDAW, UDHR, ICSPCA, ICEAFRD, etc.,paved the way for protection of women rights and their empowerment in Pakistan.

Besides these international commitments, due to different movements of the civil society and active role of NGOs, which are working for women rights and their empowerment, numerous enactments, like, Women Protection Act 2006, Acid Control and Acid Crime Prevention Act 2011, Domestic Violence (Prevention and Protection) Act, 2012, etc., have been promulgated to ensure the protection of women rights and to achieve the goal of women empowerment(Noreen & Mussarat, 2013).

Despite the availability of these legislations for the protection of women rights, the women are hesitant to register their grievances due tosocial desirability, family pressures and most importantly, the way they are treated at police stations. Still, the dearth of assurance on justice dispensation system and police behavior acts as major hindrance in seeking legal remedy (Awan, 2011), which is an explicit contradiction of the spirit of international and local legal provisions.

Human Rights Watch's Annual Report,2013 elaborated that there are laws which prohibit discernment on the basis of gender, but, the women in Pakistan continuously face discrimination in property &family law and in the justice system (U.S. Department of State, 2014).Violence against women, acid attacks, rape, domestic violence, forced marriage and honour killings remained a severe problem in Pakistan (HRW, 2014).

In Pakistan, women are unreasonably exposed to inequality and prejudice while pursuing assistance from law implementation agencies; specifically at local police stations. Due to patriarchal system culture in Pakistan, women are violence sufferers in both; the public and private and spheres. Women,as complainants, also endure a form of violence in their interactions with police. This "system based violence" is exhibited in the form of in considerateness prevailing within the judicial system for female plaintiffs, delay in action, slackness in retorting and absolute denial to recognize the incident of violence. The police's behavior towards women manifests the overall attitude of Pakistan's socio-cultural setup, which is determined on refuting the actuality of violence and referring women in the supervision of a male custodian back in their homes. For seeking justice, the woman has to register a First Information Report (FIR) in the police station. Before registering her FIR, the complainant is straight away beheld as suspect, as socially it is assumed that no decent woman can visit a police station for any purpose. If she launches a complaint against a family member, the police will not pay any attention and put is it aside considering a private matter to be decided within her home. Enticement, coercion, and pressurizing tactics all are used to falsify or discourage FIR registration(Asia Society, 2012).

Due to socio-cultural discriminatory attitudes, the victim women are stigmatized and often blamed rather than supported. They are being considered as false complainants. Resultantly, in Pakistan, complaint registering by women is discouraged and latitude is wide spread (AHRC, 2012).

Concomitantly, in Pakistan, women constituteless than one percent(0.86%) of the whole police force only. In Lahore city, not a single policewoman is head out of 89 police stations (Human Rights Commission of Pakistan, 2013).In Punjab province, there were only three women police stations. Besides, women police officers are rarely seen on the streets (Human Rights Commission of Pakistan, 2014).

According to Aurat Foundation(2012), out of a total of 7516 cases of violence against women only 4133 (55%) FIRs were registered with police. 13% FIRs (977 cases) remained unregistered and for remaining 32% (2404 cases) there was no information about the FIR status.

Immigration and Refugee Board of Canada, Pakistan (IRBC) (2013) reported that, in Pakistan, government provides no protection to the women who face domestic violence. According to Human Rights Report (2012) by the AHRC, although the Parliament in Pakistan has enacted numerous laws related to women's rights, no significant change has been observed in the status of women as the implementation of laws remains a major issue. The domestic violence is considered an internal matter which provides shelter to the offenders. Even reports reveal that women in custody or during interrogation were raped by the police officers.

Women, who reported mistreatment and violence, faced stern issues. Police washesitant to proceed in violence cases considering them as internal household problems. Besides registering cases, police normally retorted by encouraging the victim and the accused to resolve the issue among themselves. Police generallysend the battered female to her offender family. Being threatened by social stigmatization and police behaviour, women did not pursue their cases (U.S. Department of State, 2014).

It is extremely difficult to register your grievance at a police station as police do not consider domestic violence sufferersearnestly; rather the police believe that men have the right to beat their wives (IRBC, 2013).

According to Valerie Khan, chairperson of the Acid Survivor's Foundation, a strenuous effort is required to avert high acquittal rates(The Express Tribune, 2012). In 2012, the Foundation recorded 150 acid attack cases, out of these only 49 were conveyed to the police. The police's indifference to gender-based violence deters women from registering complaints in the police stations and permits numerous wrongdoers to depart scot free (Inter Press Service, 2013).

Besides all, the Police Order 2002, which is currently being followed by the police, has a specific section "Attitude and Responsibilities of Police towards the Public", which says: "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 or other public places; and(d) Aid individuals who are in danger of physical harm, particularly women and children" (Shabbir, 2014).

In 2013, at least 1600 women were killed in the name of honour and for other reasons in Pakistan.2133 women were tortured while 887 faced torture by police. 370 women were raped, 185 incidents of gang-rape were reported,406 were forcefully married and 608 women were abducted (Awan, 2014). According to Awan (2014),majority of women who faced such situations were unable to get their cases registered due to inappropriate behavior of police. The women who facedanguish in marriage were hesitant to register criminal cases and were only insisting for divorce. Pakistan, as a country, cannot develop till this majority of the population (51%) is not given its rights and due respect.

In Sindh Province in Pakistan, 421 incidents of violence against women were recorded (Bhagwandas, 2014). According to Aurat Foundation (2014), 534 girls and women were involved but only 66 cases/FIRs were registered. A poorly-worded FIR also damages trial cases hindering their access to effective remedies. Mostly police is not informed regarding such happenings, while those which are reported, police did not put them in their records. Even if, few cases are registered, investigations are not conducted properly and the case is ultimately shelved.

Mahnaz Rehman, CEOAurat Foundation stressed the need for implementation of laws promulgated by the government for protection of women rights and strained for gender-sensitive trainings of law-enforcement,judicial and police officers for the effective implementation of the laws and international conventions signed by the country as in appropriate judicial practices and policing has denied suitable justice and protection to women victims (Aurat Foundation, 2014).

The police department does not enjoy a good reputation in masses in Pakistan and the basic reason for this is the debauched behavior of the police. Specifically, their behavior with women is discriminatory, biased and irrational. Whether innocent or guilty, the police treat them alike (Aziz, 2014).

Methodology

The primary data was collected through random sampling technique using a structured interview schedule. The respondents of the study were the women who visited the police stations for reporting a crime or initiating an FIR. The data was

collected from 18 police stations of Lahore city. The collected data was analyzed through SPSS-20. The descriptive statistics were used to show the results. The limitation of the study was due to the fact that women who came to the police stations were themselves hesitant to talk about the incidents which they have undergone or came there to report, but on assurance from the researcher regarding confidentiality and anonymity, the respondents consented to answer the questions.

Results

The Table 1 given below shows the demographic profile of the respondents. Majority of the respondents (85%) were less than thirty years of age which depicts that women at younger age were more vulnerable to crimes in comparison to the middle aged women. The Table also reveals that the 33% of the respondents were uneducated and 37% were educated till primary level only. The educational qualifications of 26% of the respondents were matriculation. These figures depict that the respondents were less educated and majority (79%) belonged to low income families. 86% of the respondents were married and 64% were from the rural background. All of these figures reflect a typical socio-cultural setup of the society that women with low education level, having rural background, low family income and in young age were more prone to crimes.

| Items	Frequency
Age (years)	
18 - 24	19 (44%)
25 - 31	17 (41%)
32 - 38	4 (9%)
Above 38	3 (6%)
Educational Qualification	
No Education	14 (33%)
Primary	16 (37%)
Matriculation	11 (26%)
FA / F.Sc.	1 (2%)
BA / B.Sc.	1 (2%)
Household Income (Pak Rs)	
Up to 5,000	14 (32%)
6,000 - 10,000	20 (47%)
11,000 - 15,000	6 (14%)
16,000 - 20,000	2 (5%)
Above 20,000	1 (2%)
Marital Status	
Married	37 (86%)
Un-married	2 (5%)
Divorced / Separated / Widow	4 (9%)
Living Background	
Rural	28 (64%)
Urban	15 (36%)

The Figure 1 shows the types of cases which were reported by women in the police stations. The majority of the cases reported by the women were of domestic violence (56%). The second most prominent category was of acid attacks (12%). The remaining reported cases included burn cases (7%), street snatching (7%), gender-based violence (5%) and others. These results also depict patriarchal system of the society where men or male members of the family consider it a prerogative that they can physically assault their women. Although, majority of the cases are not reported in the police stations due to social desirability, but the findings of the study reveal that the most prominently reported cases in police stations were of domestic violence.

Figure 1: Types of Cases Reported by Women
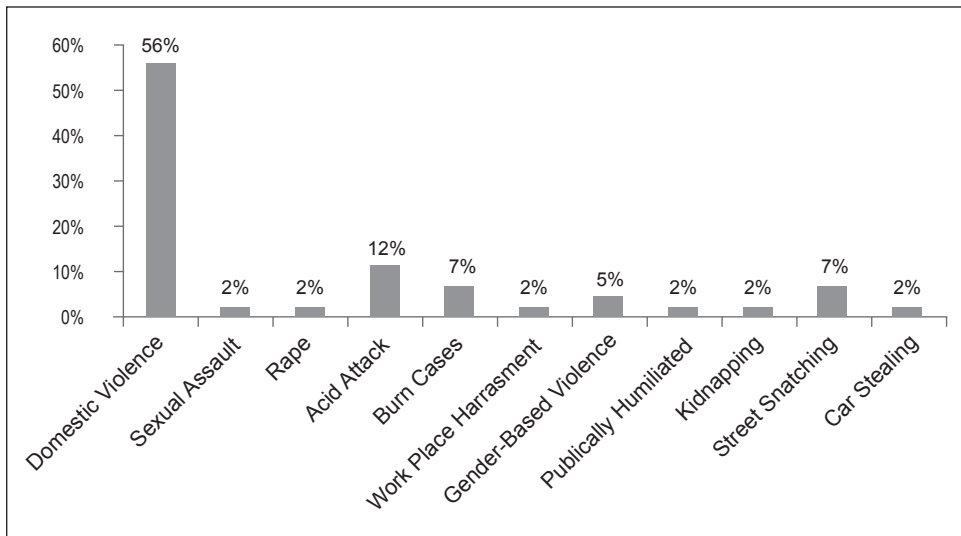
When the women were asked about the treatment which they were given by the police personnel while getting their cases registered or initiating an FIR, the majority of the respondents were asked for bribe and were, otherwise, discouraged to register their cases (Figure 2). Besides taunting and ridiculing; usage of cheap words, threatening, unwanted physical touching and above all demand for sexual relation, were the types of heinous treatments which they got in the police stations. 88% of the respondents claimed that they were mistreated because they were females and gender discrimination was obvious from the attitude of the dealing police officers.

Figure 2: Treatment of Police with Women
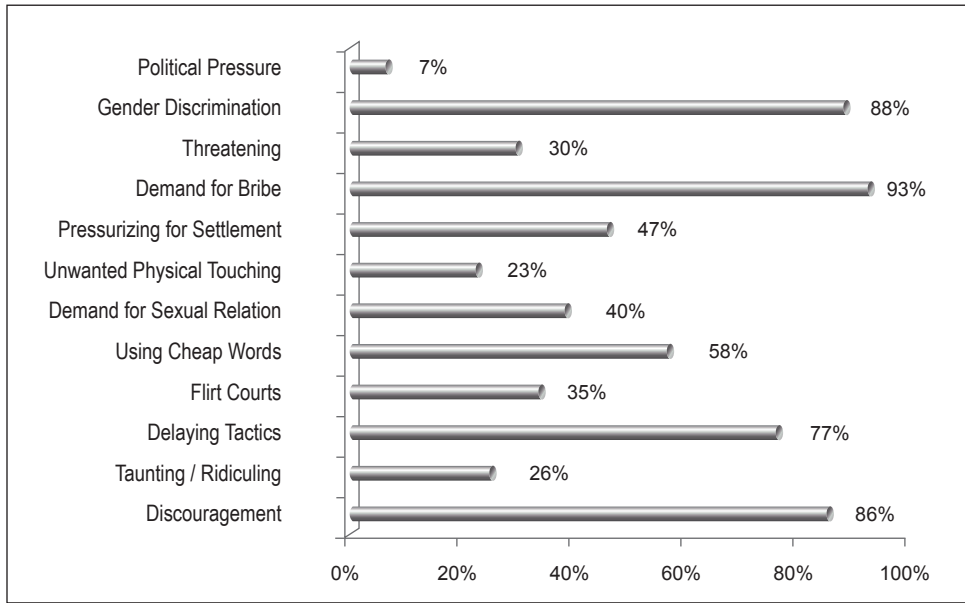
The study found that in majority of the cases reported by the women, police took seven to fifteen days for registering the FIR (Figure 3). Only 12% of the respondents were able to get their FIRs registered on the same day when they visited police stations. In 5% of the cases, the police took more than 30 days to register a case. These findings depict a very grave picture and reflect explicit reluctance on the part of police station's staff for registering FIR on the cases reported by women.

Figure 3: No. of Days Taken by Police to Register FIR
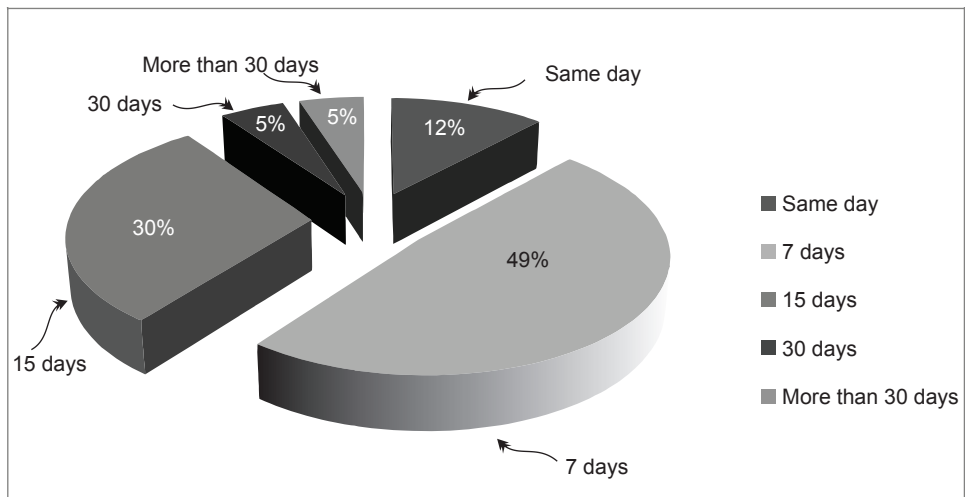
The Figure 4 given below elaborates the number of visits which were paid by the complainant to get the FIR registered in the police station. The majority of the respondents were able to get their FIRs in 2 to 4 visits. But 7% and 2% of the respondents reported that they were able to get the FIR registered in 5 to 6 visits or more than 6 visits, respectively. These findings exhibit the hesitation and dissuading attitude of the police.

Figure 4: Frequency of Visits for Registration of FIR
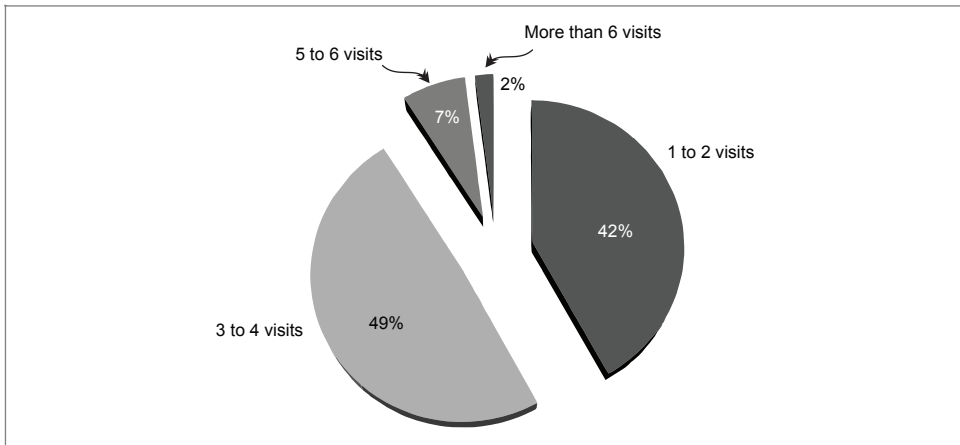
Majority of the women respondents recommended that their shall be a smooth system for registering FIR and police staff shall be given gender-sensitive trainings to ensure appropriate treatment of women complainants, who visit police stations for lodging a complaint or registering a case. The respondents also stressed the need for hiring more women staff at the police stations, as they feel that then they will be heard objectively.

Figure 5: Recommendations for Improvement in Police Department
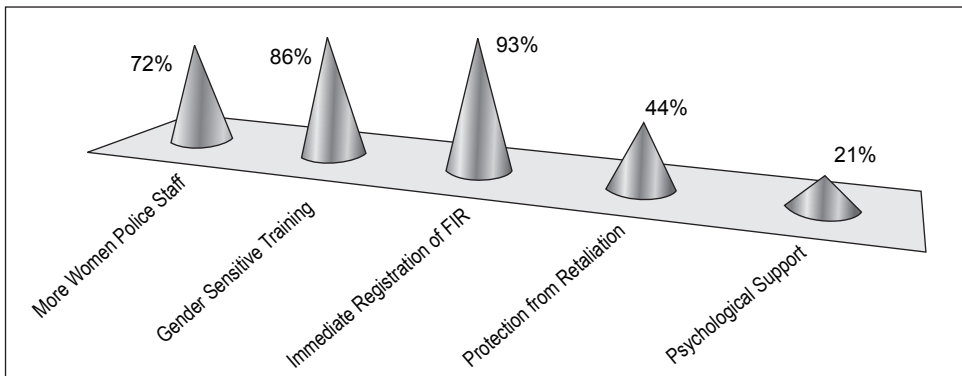
Discussion

Going to a police station, for women, is still considered a serious taboo and a social stigma, not a respectable and honourable way of dealing the issues, rather it is considered a last resort to tackle the situation.

Very small percentage of women police officers are found in police stations. Victims are often dealt, heard and their cases are often registered in an open place in the presence of other people. Due to numerous social problems, violence against women in Pakistan is least reported. In a society where it is not welcomed and liked to disclose what has happened to a women publically, the majority of the cases are not reported.

Role of police in maintaining rule of law in the country has been very critical due to several reasons, like, lack of training, not equipped with modern and latest technologies in terms of knowledge as well as weapons, status quo as horror, rude, aggressive, irrational stereotype police character, instead of being aware with social and psychological consciousness to meet the changing needs of the society, lack of strict accountability to execute honesty, transparency and commitment in police institution to win the confidence of the public, more involvement of the country police in providing security and protocol to the VIPs instead of providing protection to the general public, backward working mechanism of police and outdated set of rules and operating procedure of investigation; have turned the public opinion against the police in the country.

The situation becomes worst with respect to women. The socio-cultural setting of the country provides social acceptance to the violence against women. Particularly, sex crimes and domestic violence are least reported, and if reported, police behaviour becomes a major barrier to justice for women. The moral order of the police is grounded in patriarchal values which have heavily influenced police station culture, in which credibility of women victims is suspected, disbelieved and they are not treated with dignity and prestige. Police tries to force women to compromise, surrender, tolerate, forget or settlement through frightening them from the humiliation they will face after filing the FIR and from the expenditures during prosecution. The situation becomes worst if the offender is a family member in case sexual assault, rape, domestic violence; and if a women takes some decision on her own for her life and approaches police station, she is harassed by the family and the police both. She is not provided with any security. Very few shelter homes are available in the country. For a woman to seek refuge in a shelter home is considered a taboo. She is socially stigmatized as a "runaway woman" from home and is labeled as "bad character woman" who has violated the respectable norms of the society. In other words, to "raise the voice" against the crime and to "say no" to violence is considered a deviant behaviour instead of committing a crime.

Mostly, crimes against women are not reported due to low credibility, inefficiency and high rate of corruption in the police stations. According to the research findings, most of the women reported that police is always reluctant to file the case. The delaying tactics are commonly used by the police for the registration of the FIR. The police usually demand money otherwise case is not moved forward.

Conclusion

The study concludes that the women in Pakistan face numerous barriers in accessing justice. The law enforcement agency, the police, becomes a major impediment in getting justice. The discriminatory attitude of the police staff towards women and the prevailing corruption in the police department, have severely distorted their image, which requires major reforms to make it an efficient and effective department of the country. Generally, people hesitate in reporting crimes to the police as they perceive that they will not be able to get any assistance from police, rather the masses believe that police have the knowledge of the criminals in their area, but due to corruption, the police do not take any action against the criminals. The women face a double jeopardy; on one side, they do not report crimes, like domestic violence, due to socio-cultural impediments, and on the other side, if they dare to report them, the police's attitude becomes a major obstacle for them in accessing justice in Pakistan.

Recommendations& Policy Implications

On the basis of study findings and in the light of subsequent discussion, some recommendations are:

- The government should allocate more resources for capacity building of police employees, behavioural change, awareness, modern equipment, information and communication technologies (ICT) and improvement of interrogation skills. The government should also emphasize on R&D to enhance the capabilities of police and for improved results.

- The government should develop "One Stop Relief Centers" for women victims to provide relief facilities, like doctor, psychologist, police officer and lawyer; under one roof.

- The government should develop a mechanism for strict implementation of international covenants and declarations signed and ratified by the government and national laws promulgated for protection of women rights.

- The role of civil society organizations (CSOs) and nongovernmental organizations (NGOs) working for human rights should be promoted, thus forming a vestibule for womens' rights.

- Currently, less than one percent (0.86%) women are employed in police. A quota should be fixed to increase women employment at police stations. This will encourage women to join the police force. However, equally important are more female-friendly laws and gender-sensitized law implementation personnel in police force.

- To ensure accountability at all levels of the police force, an independent police complaint authority should be established. This oversight institution should work independently and CSOs, NGOs and media can play an active role in guaranteeing their independence. A Police Ombudsman can also be appointed for reparation of the problems maltreated by police officials.

- Trainings and syllabi in the police academies should be refurbished, keeping in mind the needs of women, to eliminate gender bias and dissuade police officers from making their own opinions and verdicts a priori to interrogating a case.

- The police department should function as a community service provider.

- More women police stations should be established as women feel comfortable in lodging their complaints in front of females, rather than male police officers.

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Intelligence Aspects in Police Basic Training and Countering Terrorism in Khyber Pakhtunkhwa, Pakistan

Farhat Ullah, Basharat Hussain & Imran Ahmad Sajid

Abstract

The study was conducted to find out Intelligence aspects of police basic training and its significance and role in responding to terrorism in the Khyber Pakhtunkhwa province of Pakistan. This research answers the questions such as; Is police properly trained to counter the terrorism effectively? Is there any association between Intelligence aspect of police training and countering terrorism? and other questions. Data was collected through a structured questionnaire by using Likert scale from a sample of 363 respondents determined through Sekaran table from the instructors at PTC Hangu, RTC Kohat, Trained police constables in Peshawar and Kohat city. A Chi Square test was applied to ascertain association between dependent variable i.e. responding to terrorism and independent variable i.e. Intelligence aspect of police training. Most of the respondents viewed that police basic training structure has a lot of drawbacks and they were of the opinion that training system needs to be reorganized to counter the terrorists. In responding to terrorism, proper intelligence increases terrorist arrest rate (P=.000) and without proper intelligence training, abilities of the police cannot be increased (P=.000). The study concluded that intelligence aspect of police training has a major role in responding to terrorism. The study recommends strengthening intelligence aspects of police basic training system and to reorganizes the whole structure of police training and police should be strengthen to fight more efficiently against the terrorists.

Keywords

Countering Terrorism, Intelligence, Police, Basic and Training

Introduction

Police is the first respondents in all the civil disorders, related to any violation of law (Dahl, 2010). Police personnel instead of dealing with traditional street crimes, has recently started to deal with more sophisticated, organized and diverse form of crimes i.e. countering terrorism. In the ongoing terrorist activities inside Pakistan that have started after the event of September 11, 2001, police personnel now requires some sort of special training to enhance their intelligence, related specifically to counter terrorism. But the intelligence level of police is not so praiseworthy for tackling terrorism and controlling insurgency in terrorism affected areas.

In Pakistan, the issue of terrorism is one of the hotly debated topic in debates and it poses a serious problem for the state at national and international levels (Quraishi, 2002). Terrorism is a crime and it should be responded accordingly. Police in Pakistan are the first victims of every terrorist activity and increasing terrorist activities raises many questions on the intelligence of police which affects their performance. According to Ras (2010), Police personnel are properly trained at the time of their entry into police force. They are taught basic laws, especially PPC, Qanoon-e-Shahadat, CRPC and other basic laws. They also get physical training. Ortmeier (2006) contends that various in-service trainings are also offered to police personnel, which are also mandatory for their promotion. However, all these training are related to tackling with crimes, such as murder, theft and robbery etc. But intelligence aspects of police training are often ignored. The training system for the police is also outdated. Keeping in view the present challenge of countering terrorism, Police intelligence system are fail to tackle the problem of terrorism.

Pakistan plunged into a new era of war against terror without being any psychological readiness. In Pre 9/11, police in Pakistan had not faced such kind of terrorist activities and they also did not have capacity to cope with them. In this new context they do not have proper intelligence related trainings, modern communication system to trace the terrorists and knowledge of terrorist motives behind terrorism etc. Moreover, fighting against terrorism needs to understand and implement new and updated intelligence training in police basic training. In Khyber Pakhtunkhwa, police reportedly lacks both of them to counter terrorism. Same is the situation of the police forces in other provinces of Pakistan.

Literature Review

Intelligence is the backbone in almost all the western world in modern policing. Originally Intelligence-Led-Policing (ILP) was articulated as a law enforcement operational strategy that wanted to decrease crime through the combined use of crime analysis and criminal intelligence in order to determine crime reduction tactics. Ratcliffe (2008) ILP approach stress on the information gathering through the wide use of secret informants. ILP is a type where criminal intelligence and data analysis are very important to an objective and decision making framework. It is a model of policing that facilitates crime and problem reduction through strategic management and effective enforcement strategies for targeting serious offenders.

ILP was originated in United Kingdom and the basic purpose behind its origination was that police personnel was spending too much time in responding to crime and very little time to target the offenders. Newburn (2008) argued that ILP involves developing and maintaining an up-to-date and detail picture of crime and criminality in order to intervene to disrupt effectively terrorist networks and to

remove prolific offenders. For this purpose a structure to elicit information and its interpretation, staffing and procedures are required to act on it rapidly and scientifically. With proper information and surveillance system, police can be more effective in fighting crimes. Problems like technical, organizational and cultural factors hinder the rapid adaptation of ILP. For decision making in police there should be information and intelligence sharing among all the LEA's. ILP put greater emphasis on the use of confidential informants and surveillance (Cope, 2004). After the September 11 terrorists attacks on the United States, Intelligence-led-Policing gained considerable momentum globally. ILP is now advocated by the leading police associations in the UK and in North America (Edmund, Joshua, and Steven, 2007). Until the September 11 attacks Intelligence-led-policing was not a major model of policing. Still throughout the world, majority of the terrorist attacks occurred due to intelligence failure. After September 11 event, US wholly adopted the UK model of intelligence-led-policing for countering terrorism. Today, almost in every western country of the work, ILP is the heart of countering terrorism.

A Debate Over Intelligence Led Policing Model and Countering Terrorism

The words 'Intelligence' and 'information' sometime used interchangeably. United Nations office on Drugs and Crimes (2006) defined stated "intelligence is a special type of information with additional value that can be recognized or assigned through some kind of analytical process. Intelligence capacity building of the police personnel plays a key role in enhancing their capacity to counter terrorism. In order to face challenges of terrorism, training of police personnel should focus on improving their intelligence capacity building. This will not only help the investigation process but will also be helpful in prevention of terrorism in advance. The process of intelligence and information involves the following steps.

Collection → Evaluation → Collation → Analysis → Dissemination
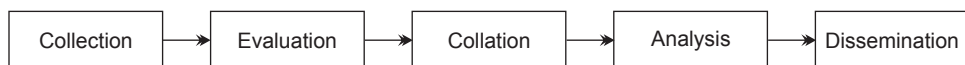
The process of intelligence involves the collection of critical information related to target criminality that provides huge insight into terrorist's threats; it also identifies those individual who are having direct or indirect relationship to a specific crime. Along with ongoing information analysis and verification, collection of information is a continuous process.

Majority of the police work is incident-focused and reactive rather than proactive and strategic. Traditionally, it is argued that police favored the law enforcement approach for crime control that is based on theory of deterrence (Karn,

2013). Activities like random patrol, emergency response, stop and search, investigation and detection and intensive enforcement are very dominant in policing activities. But it is evident of the fact that such type of activities is ineffective in reducing terrorism and detecting the offenders. It is very important for police personnel to identify the terrorist risks rather than relying on arrest, conviction and punishment. Police personnel still are following the old traditional approach of intelligence practice, which is needed to be reform and substitute with intelligence-led-policing (Abbas, 2012).

After September 11, 2001, the focus of policing and other LEAs emphasis on the intelligence-led counter terrorism. Frank (2005) argued that due to lack of proper intelligence system police personnel are unable to respond the terrorist threats efficiently. He further argued that one of the major objectives of counter-terrorism policy is to address the causes of terrorism. Intelligence should be used effectively to disrupt the terrorist groups. In many terrorist cases, police and other LEAs received some relevant information before the accident occurs but they fail to share such intelligence.

The Case of Pakistan

Pakistan's domestic intelligence system is so far failed to identify and dismembered the terrorist networks. There is lack of systematic intelligence information to prevent the terrorism. Countering terrorism by police involves a detail and proper process i.e. Covert detection, disruption/dismantling of plots, risks analysis, target hardening, community mobilization, protection of persons and infrastructure, emergency assistance after attacks, order maintenance during and after the attacks, mitigation of damage and criminal investigation of incidents (Bayley and Weisburd, 2007).

The capacity of Pakistan police and their training is inadequate to deliver and counter the terrorism. The training practices and training syllabus in Pakistan is outdated and cannot face the current challenges. Course books used in lower and upper level courses in police training colleges needs major improvements. Abbas (2009) pointed out that trainers in police training colleges are also not fully trained and equip keeping in view the new challenges in the face of terrorism. Fasihuddin (2009) argued that Police training should be revised in Pakistan. Police training should consist on experimental learning, scientific investigation and specialized training for various situations. Besides this technology of crime prevention should also be introduced in police training.

What Needed to be Done?

Worldwide terrorist's attacks revealed the significance of intelligence education (Peterson, 2005). Police personnel face challenges in intelligence and

cannot trace the terrorists efficiently. In Pakistan the Police have limited budget and shortages of intelligence experts. Fasihuddin (2012) stated that police in Pakistan apply the routine techniques of intelligence for the critical cases of terrorism and the investigation officers are also not properly trained. Police personnel that do not have knowledge of or use of intelligence analysis cannot effectively fight against the terrorist. Intelligence system is failed to get the right information at the right time.

There is a dire need to build consensus to develop a national model for countering terrorism and intelligence sharing like USA and England. Egger (2003) argues that for increasing in police abilities, policy makers should build a new intelligence training system. With proper intelligence training and intelligence sharing police personnel can identify terrorist groups. Intelligence system of the police should be developed on modern grounds and proper intelligence training should be given at all levels of policing. Pakistan is a federation and there should be a uniform system of national intelligence. In this way the operational effectiveness of the police intelligence and their capabilities would be increased. Police officials should be provided sound training and police personnel needed to be send to highly advance developed countries for intelligence and counter terrorism training. Community involvement should also be making possible in intelligence sharing. War on terror has changed the character of policing due to that the role of front line policing has increased because they are the first target of the terrorists.

Training related to Intelligence-led-policing should be given to all the police personnel in all categories. For preventing the terrorist accidents, police personnel should be more efficient with the resources available to them. All the branches of the LEAs should share intelligence information with each other. Brodeur and Dupont (2006) argued that a larger network of intelligence should be created to prevent the terrorists in advance. Intelligence-led-policing is still a new policing paradigm and it is in its early stages. For a successful intelligence process, information should be generated and intelligence should be actionable. Abbas (2011) mentioned that effective intelligence education should be introduced in police training. Intelligence training must be incorporated in all levels of police training. The budget of intelligence related techniques should be increased. There is need of increasing cooperation in information gathering and intelligence sharing to counter terrorism. The use of technology for terrorist identification should be increased. The informers should be confidential and newspaper reports along with internet sources must also be consulted.

Method of Study

Data was collected from potential respondents, who have information regarding police training such as police personnel in Peshawar and Kohat,

instructors in police training college i.e. PTC Hangu and RTC Kohat, Khyber Pakhtunkhwa of Pakistan. The sample size of 363 respondents was determined through Sekaran table (Sekaran, 2003). A structured questionnaire based on Likert scale was used for data collection. Data was entered and analyzed on SPSS version 20. The Chi Square test was applied to ascertain association between the different motivation related factors and responding to terrorism.

Results of the Study

Demographic Information

Nature of the respondents job and their marital status are very important variables which determines their level of maturity, knowledge and awareness about the concerned topic i.e. police training and different aspects of training to countering terrorism. Out of the total 363 (100 percent) respondents, 354 i.e. 97.5 percent of the respondents were trained police personnel and 9 i.e. 2.5 percent of the respondents were trainers. Further, 81 percent of the respondents were married and 19 percent were unmarried.

Age and education is a factor which tells us about the experience in society regarding common issues affecting people. Out of the total respondents 119 i.e. 32.8 percent belongs to the age group of 18-25 years and 120 i.e. 33.1 percent of the respondents consisted of the age group 26-33 years. Further, 74 i.e. 20.4 percent of the respondents were of the age group of 34-40 years and only 50 i.e. 13.8 percent respondents belonged to the age group of above 40 years. Similarly, 74 i.e. 20.4 percent of the respondents were matriculated and 210 i.e. 57.9 percent of the respondents were having intermediate level of education. Out of the total respondents 39 i.e. 10.7 percent of the sample respondents were also having bachelor and only 40 i.e. 11 percent of the respondents were having master level of education.

Findings of the Study

Table I shows the Chi-square results of the role of intelligence aspect of police training in countering terrorism. The study found that intelligence has a significant association (p=.000), with countering terrorism because proper intelligence and information increase arrest rates and without proper intelligence training, abilities of the police cannot be increased (p=.000). Similarly, decision making supported by information is very effective (p=.000) and identification of criminals are very important to reduce the crimes (.000) is significantly associated with responding to terrorism strategies of the police. Furthermore, a significant relationship was also noted of responding to terrorism with the factors reported as intelligence capability during police training is not properly focused (p=.000), abilities of the police cannot be increased (p=.006), lower police personnel are also involved in intelligence

sharing (p=.001) and intelligence sharing helps in identification of terrorists (p=.000). Likewise, factors such as all the LEA's share information related to terrorists among each other (p=.000) and information sharing make police personnel proactive rather than reactive (p=.000) has significant association with responding to terrorism. In contrast, a non-significant association was also noted in responding to terrorism with the factors such as without proper intelligence training, present technology is insufficient for the police intelligence (p=.204) and most of the time intelligence information is incorrect (p=.953).

Discussion

The study aimed at evaluating the perception of police personnel regarding the intelligence aspects in police basic training and its role in countering terrorism. Findings of the study regarding proper intelligence and information increases arrest rates (P=.000) has a significant association with countering terrorism, likewise is acknowledge by Frank (2005) quoting that intelligence capabilities of the police is not so praise worthy to detect and arrest the terrorists. Fasihuddin (2012) stated that police in Pakistan apply the routine techniques of intelligence for the critical cases of terrorism but due to lack of information and knowledge the arrest rate of the terrorists are very low. Without proper intelligence training, abilities of the police cannot be increased (P=.000), was found significantly associated with countering terrorism. Similar findings was also reported by Abbas (2011) mentioned that effective intelligence education should be introduced in police training. Egger (2003) argues that for increasing in police abilities, policy makers should build a new intelligence training system. With proper intelligence training and intelligence sharing police personnel can identify terrorist groups. Identification of criminals is very important to reduce the crimes (P=.000) has a significant relationship with countering terrorism, was also supported by Peterson (2005), who stated that intelligence infrastructure in most of the countries is very old therefore to prevent the terrorist groups intelligence system needed to be revised and reviewed. Bayley and Weisburd (2007) argue that police officials should be provided sound training of intelligence to reduce crimes. The factors that intelligence system of the police is not effective (P=.006) was also supported by Daniel (2011), stated that security and life is the fundamental human rights of every individual but unfortunately police intelligence system is so week that it cannot have a good intelligence system. Similarly, Decision making supported by information is very effective (P=.000) is supported the views of Tonry (2011), who stated that decision making at all levels in police organization must be supported by proper intelligence information. The intelligence capability during police training is not properly focused (P=.000) and lower police personnel are also involved in intelligence sharing (P=.001) were found significantly associated with countering terrorism. These views were also

supported by some scholars such as Fasihuddin (2012) commented that during police training in police training colleges, intelligence aspect of the training is not properly teach. There are no specialized subjects related to intelligence during training. Fida (2012) argues that police intelligence system is often wrong during the suicide terrorist incidents. Frank (2005) viewed that lower police officers should also be involved in intelligence sharing. Newburn (2008) opined that "in order to dismember terrorist networks, every police personnel should be involved in intelligence sharing". Findings, present technology is insufficient for the police intelligence (P=.204) has found non-significant association with countering terrorism. Fasihuddin (2011) argued that for a successful counter terrorism strategy, a modern intelligence technology system to the police personnel should be provided so in this way they will be able to provide better results. In contrast, intelligence sharing helps in identification of terrorists (P=.000) and all the LEA's share information related to terrorists among each other (P=.000) shows a significant association with countering terrorism. Shustra et al., (2008) acknowledged that timely intelligence sharing helps the law enforcing agencies to detect the terrorists in advance. Newman (2008) also supported the same opinion and stated that intelligence and information sharing plays a key role in the early detection of criminal within law enforcing agencies. All the LEAs require working closely to take advance steps to prevent the terrorist groups. Similarly, information sharing makes police personnel proactive rather than reactive (P=.000) has found significantly associated with countering terrorism. Abbas (2009) also confirms the same stance, stated that in order to make more active the police and LEA's should be properly trained in the area of intelligence because effective police action in time could have avoided the later bloody clash. He further argues that many criminals who joined militant groups are not traced and tracked efficiently. Most of the time intelligence information is incorrect (P=.953) has non-significant association with countering terrorism. It is contrary to the scholarly findings in literature such as SATP (2014) reported that most of the intelligence reports about the terrorist are often incorrect. The successfulness of every police operation is greatly depending on correct intelligence information. Peterson (2005) also stresses on correct intelligence information.

Conclusion and Suggestions

Intelligence aspects of police basic training occupy a significant importance and effectiveness in countering terrorism. It was founded that there are a lot of drawbacks and shortcomings in police training system. Several areas are needed to be improved in police training in order to enhance intelligence level of police. Terrorism is one of the most serious challenge and threat to the police. Hundreds of

police officers as well as the civilians embraced death in terrorist's incidents. So it is the need of the hour to train the recruits on the subject of terrorism from every angle. Preventive measures against terrorism and effective investigation should become the major concern of police department. For this purpose intelligence led policing (ILP) module should be introduced in police training colleges. Courses related to intelligence should be introduced in police basic training. Specialized subjects related to intelligence, data analysis, modern communication devices and countering terrorism should be included in the training. Police stations need a new system for information collection and information analysis. Police at the station house level are often unaware of the details of countering terrorism strategies and so far countering terrorism has not been a part of their duties. They should be held responsible for counter terrorism awareness in the general public, collection of information on terrorist groups and the arrest and detention of terrorist suspects. Further, PTC like other institutions in Pakistan is driven by personalities and not by policy mechanism and that's why it does not have an evolving machinery of curriculum development. Police colleges should be more attractive to senior police officers and should not be dumping ground of incompetent officers. Most of these institutions need highly motivated police officers with monetary incentives. Police training should be seen as calling and not just a job. Unfortunately some commandants even do not stay on the campus and once in a while they visit. Police in Pakistan needs resources and actionable intelligence for smart policing.

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Annex- I

Table I. Role of Intelligence Aspect of Police Training in Countering to Terrorism

| Statements | Response | Responding to Terrorism | | | Chi Square |
		Yes	No	Don't Know	P Value
Proper intelligence and information increase arrest rates	Yes	257(70.8%)	82(22.6%)	11(3.0%)	59.913a
	No	1(0.3%)	5(1.4%)	5(1.4%)	P=.000
	Don't Know	0(0.0%)	1(0.3%)	1(0.3%)	
Without proper intelligence training, abilities of the police cannot be increased	Yes	249(68.6%)	81(22.3%)	8(2.2%)	1.013E2a
	No	8(2.2%)	6(1.7%)	3(0.8%)	P=.000
	Don't Know	1(0.3%)	1(0.3%)	6(1.7%)	
Identification of criminals are very important to reduce the crimes	Yes	256(70.5%)	82(22.6%)	15(4.1%)	35.777a
	No	2(0.6%)	5(1.4%)	0(0.0%)	P=.000
	Don't Know	0(0.0%)	1(0.3%)	2(0.6%)	
Intelligence system of the police is not effective	Yes	248(68.3%)	77(21.2%)	6(1.7%)	83.722a
	No	9(2.5%)	7(1.9%)	10(2.8%)	P=.006
	Don't Know	1(0.3%)	4(1.1%)	1(0.3%)	
Decision making supported by information is very effective	Yes	250 (68.9%)	80(22.0%)	13(3.6%)	22.720a
	No	6(1.7%)	4(1.1%)	1(0.3%)	P=.000
	Don't Know	2(0.6%)	4(1.1%)	3(0.8%)	
Intelligence capability during police training is not properly focused	Yes	251(69.1%)	77(21.2%)	13(3.6%)	24.606a
	No	2(0.6%)	8(2.2%)	2(0.6%)	P=.000
	Don't Know	5(1.4%)	3(0.8%)	2(0.6%)	
Lower police personnel are also involved in intelligence sharing	Yes	241(66.4%)	75(20.7%)	12(3.3%)	17.895a
	No	8(2.2%)	10(2.8%)	4(1.1%)	P=.001
	Don't Know	9(2.5%)	3(0.8%)	1(0.3)	
Present technology is insufficient for the police intelligence	Yes	211(58.1%)	69(19.0%)	13(3.6%)	5.939a
	No	31(8.5%)	9(2.5%)	4(1.1%)	P=.204
	Don't Know	16(4.4%)	10(2.8%)	0(0.0%)	
Intelligence sharing helps in identification of terrorists	Yes	240(66.1%)	83(22.9)	8(2.2%)	76.787a
	No	6(1.7%)	0(0.0%)	1(0.3%)	P=.000
	Don't Know	12(3.3%)	5(1.4%)	2(0.6)	

Statements	Response	Responding to Terrorism			Chi Square P Value
		Yes	No	Don't Know	
All the LEA's share information related to terrorists among each other	Yes	234(64.5%)	77(21.2)	7(1.9%)	50.309a
	No	14(3.9%)	6(1.7%)	9(2.5%)	P=.000
	Don't Know	10(2.8%)	5(1.4%)	1(0.3%)	
Information sharing make police personnel proactive rather than reactive	Yes	235(64.7%)	80(22.0%)	5(1.4%)	89.912a
	No	12(3.3%)	3(8.0%)	11(3.0%)	P=.000
	Don't Know	11(3.0%)	5(1.4%)	1(0.3%)	
Most of the time intelligence information is incorrect	Yes	56(15.4%)	20(5.5%)	4(1.1%)	.688a
	No	184(50.7%)	64(17.6%)	12(3.3)	P=.953
	Don't Know	18(5.0%)	4(1.1%)	1(0.3%)	

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Investigation of Juveniles by Police Under
Juvenile Justice System
A Study of Khyber Pakhtunkhwa Police Regarding Knowledge
of JJSO-2000

Saif Abbasi, Anas Baryal & Kiran Seenen

Abstract

Individuals of age less than 18 years committing an offence get in touch with police at the very first movement within the Juvenile Justice System throughout the world. Realistic accomplishment of juvenile justice system is achievable only when the implementing agency, like police is fully sentient about the concern law. The study was an endeavor to identify the consciousness level of police officers and officials concerning juvenile justice system ordinance 2000. The police staff working at police station level of three districts named as Peshawar as the capital city, Mardan and Charsadda from Khyber Pakhtonkhwa province of Pakistan were selected under quantitative research design. Total number of respondents was 420 which were carefully chosen randomly with the help of purposive sampling techniques from all the police stations of the target area. A pre-designed constructed interview schedule was used to collect the data. It was noted that high ranked police officers and police officials have the greater awareness level and knowledge about investigation process in juvenile justice system. It was suggested that during investigation process of juveniles, the high ranked police officers must involve due to high level of knowledge and awareness about the concern law.

Keywords

Juvenile Justice System, Police Officers and officials, Khyber Pakhtunkhwa, Peshawar, Mardan, Charsadda,

Introduction

Explaining the juvenile justice system under the umbrella of Islam, for young offenders who have committed any crime, the religion of Islam is not in the favor of attempting the punishment to these minors as given to adults. The quoted saying of Holy Prophet (S. A. W) is as under:

Hadith Number 4398:

Narrated Hazrat Aisha, UmmulMu'minin:

> The Apostle of Allah (Peace_Be_Upon_Him) said: There are three (persons) whose actions are not recorded: a sleeper till he/ (she) awakes, an idiot till he/ (she) is restored to reason, and a boy till he/ (she) reaches puberty (p. 256).

The above mentioned Haith of the Holy Prophet Muhammad (S. A. W.) was narrated from Hazrat Bibi Aisha (R.T.A) and currently quoted in *Sunan-Abu-Dawood*, one of the accepted holy books of Hadith in a series of six holy books. It states that there are three categories of individuals on which there is no punishment of any crime, these are; a sleeper until he/she awakes, an abnormal until he/she gets healthy position and a minor until he/she become an adult.

The juvenile justice system is an important branch of the criminal justice system. The main difference between the juvenile justice system and the criminal justice system is that there is a concept of rehabilitation in juvenile justice system and it is considered as a primary goal. On the other hand, the criminal justice system for adults is constructed for appropriate punishment. Therefore, the judges take serious consideration in terms of juvenile's background and others essentials before ordering the sentence. The case of adults is mainly different and hence liable for punishment with no consideration of background (Malik & Sherazi, 2010).

Laws and legal measures concerning to juvenile offenders have an extensive history, back to thousands of years. Bernard (1992), stated that the Code of Hammurabi around 4,000 years ago (2270 B.C.) included orientation to runaways, children who did not obey their parents, and the younger children who cursed their fathers. Roman public law and canon (church) law 2,000 years ago differentiated between juveniles and adult criminals based on the idea of age of responsibility. In early Jewish law, the Talmud presented conditions under that infantile behavior was to be considered in imposing punishment. Muslim law also considered for compassion in punishing underage offenders, and children under the age of 17 were to be exempt from the death penalty.

Before the beginning of twentieth century in the west part of the world, the police force have the authority to take into custody juvenile offenders, possibly greater authority as compared with adults because these offenders had no legal procedures and protections. More specifically, juveniles were normally dealt informally because of the absence of formal procedures. The police officers would like to warn kids, bring them back to their home, informed their parents or guardians, or may be handed over them to a community agency such as local government, schools and/or churches (Bartollas & Miller, 2013). In Sri Lanka, Nepal and Bangladesh a juvenile offender is defined as a person below the age of 16. In most of the countries there are some additional restrictions on the applicability of juvenile laws, and special protections don't apply as a whole to all children alleged to have committed an offence. For example, In India the juvenile justice legislation doesn't apply in disputed area of Jammu and Kashmir. Same as the case here with Pakistan also, where, the law has not been still extended to the Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA) (Lotse, 2006).

There are two situations where the juveniles may have interaction with police, a status offence like run away from home or from school and a criminal offence like theft and murder etc. Ando, (2014) stated that in both the cases a decision will made either to send case into judiciary for further process or divert the case to eliminate it from the system. In most of the cases, before taking any decision, the authorities like police first talks to victim party. After that, they make their tendency to juvenile's parents.

Munir (2007) explains that the basic theme of developing juvenile laws is to pass the delinquents through a well-known acceptable judicial process. This will help the juveniles to become satisfied socially and psychologically through criminal proceedings inside the courts. The personals around the judicial environment like Police officers/officials, Advocates, Judges and probation officers must have try their best to play a vital role to ensure that juvenile offenders are feeling better as compare to before entering the judicial process.

Objectives of The Study

1. To know the investigation process of juveniles under juvenile justice system.

2. To classify the knowledge of police staff about investigation process under Juvenile Justice System Ordinance 2000.

3. To know the impacts of police rank on knowledge and awareness of police regarding juvenile justice system.

4. To present policy recommendations for practical implementation of Juvenile Justice System Ordinance 2000 through police department.

Methods and Materials

An essential part of ensuring data reliability is the accurate and suitable analysis of research findings. Inappropriate statistical analyses misrepresent scientific findings, misguide typical readers, and may negatively influence the general public perception of the conducted research (Shepard, 2002). In the current study, data has been collected from all the police stations through purposive sampling (Neuman, 2013) from three districts i.e. Peshawar, Charsadda and Mardan and further analyzed and tabulated systematically. The data was scrutinized with the help of both univariate and bivariate analyses.

Results and Discussions

Table No. 1 Distribution of Respondents by District and Current Rank.

S. No.	Statement	Frequency	Percent
District of the Respondents			
i	Peshawar	206	49.05
ii	Charsadda	93	22.14
iii	Mardan	121	28.81
	Total	420	100.0
Current Rank of the Respondents			
i	Head Constable (BPS-07)	169	40.2
ii	Assistant Sub Inspector (ASI_BPS-09)	114	27.1
iii	Sub Inspector (SI_BPS-14)	94	22.4
iv	Inspector (BPS-16)	43	10.2
	Total	420	100.0

The table No. 1 reflects the district wise distribution of respondents. Total 420 respondents were selected from three different districts in which around half i.e. 49.1% of the respondents were selected from district Peshawar, respondents from district Mardan was 28.8% and remaining 22.1% respondents were selected from district Charsadda.

The table also shows that 40.2% of the respondents are Head Constables (BPS-07), around 27.1% are Assistant Sub Inspectors (ASIs_BPS-09), about 22.4% are Sub Inspectors (SIs_BPS-11) and remaining 10.2% of the respondents are Inspectors (BPS-16). It has been observed that in urban areas the Inspector (BPS-16) are considered as the SHO (Station House Officer), while in some rural areas the Sub Inspectors (SIs_BPS-11) are appointed as SHOs at police station. Fasihuddin, (2012) described that the KPK police jointly with *Pakistan Society of Criminology &Save the Children Sweden,* during the year 2010, took some progressive steps towards sensitization of police regarding juvenile justice system, human rights and child rights. Arranging training sessions for the police of entire province and achieving almost 5000 target of police officers/officials of different ranks from constable (BPS-05) to ASPs/DSPs (BPS-17) were considered a great milestone.

Table No. 2 Distribution of Respondents Regarding Knowledge About SHO's Authority.

	Police Knowledge About SHO (Station House Officer) Authority: (Frequency) Percent						
S. No.	**Statement**	S.A	A	N.O	D.A	S.D	Mean
i	The SHO usually avoid registering FIR against juvenile and try to handle the matter at police station level	(38)	(305)	(60)	(17)	(0)	3.87
		9.0	72.6	14.3	4.0	0.0	
ii	The SHO utilize his authority under JJSO-2000 in handling a juvenile	(26)	(309)	(74)	(7)	(4)	3.82
		6.2	73.6	17.6	1.7	1.0	
iii	In a bail-able offence, the SHO can release a juvenile with or without surety	(80)	(249)	(81)	(10)	(0)	3.95
		19.0	59.3	19.3	2.4	0.0	
iv	In a non-bail-able offence, the SHO can transfer the case to juvenile court within 24 hours after arresting	(86)	(236)	(91)	(7)	(0)	3.95
		20.5	56.2	21.7	1.7	0.0	

S.A = Strongly Agree (5),   A = Agree(4), N.O = No Opinion (3), D.A = Disagree (2), S.D = Strongly Disagree(1)

The table No. 2 deals with minor cases committed by juveniles and role of SHO (Station House Officer) in solving the matter at police station level. Nine percent of the respondents strongly agreed that SHO can handle the matter at police station, more than half 72.6% of the total selected sample agreed and stated that SHO usually evade registering FIR (First Information Report) against children and solve the matter at police station, less than quarter 14.3% didn't express their view while four percent of the respondents were disagreed about solving the matter at police station level. The data demonstrated that majority of the respondents were in the favor that SHO normally avoid registering FIR against juveniles and trying their best to solve the problem at police station between both the parties. Explaining section (10) (1) (a) of the JJSO-2000 whereas, it is stated that after arresting a juvenile the first step for police is to inform the father or guardian of the juvenile. The calculated mean value for avoiding FIR against juveniles by SHO and solving the matter at police station level is 3.87.

The table further shows the calculated value of SHO's authority under JJSO-2000 for dealing the matters at police stations. About 6.2% of the respondents strongly agreed with utilizing the legal authority of SHO under JJSO - 2000, more

than half i.e. 72.6% of the respondents agreed with the statement that SHO utilize his authority under JJSO-2000 in handling the juvenile related matters. While 17.6% were ignorant and didn't know anything. On the other hand, 1.7% of the respondents were disagreed with utilizing SHO's authority and the remaining only 1% was strongly disagreed with utilizing the legal authority of SHO. The data expressed that majority of the respondents were in the favor of utilizing the SHO's legal authority defining under JJSO-2000 in handling the juvenile related matters. The whole Section 10 with its subsections of JJSO-2000 clearing up the authority of SHO for handling the juvenile. The calculated mean value for utilizing SHO's authority under JJSO-2000 is 3.82.

The table also highlights the calculated values of descriptive statement on SHO's authority in a bail-able offence committed by a juvenile. Nineteen percent of the total selected sample strongly agreed while 59.3% agreed that an SHO can release a juvenile with or without surety in a bail-able offence, about 10.2% of the respondents remain silent and remaining 11.4% of the respondents disagreed about SHO's authority while releasing a juvenile from police station. The data shows that majority of the respondents give preference that in a bail-able offence the SHO can release a juvenile with or without surety. In Section (10) (1) (b) of the JJSO-2000 it is clear that the concern SHO can only contact the available Probation Officer for further collecting data from juvenile. The calculated mean value for SHO's authority in a bail-able offence committed by juveniles is 3.95.

The above table also illustrates that in a non-bail-able offence, the SHO can transfer the case to juvenile court within 24 hours after arresting. Responses show that 20.5% of the respondents strongly agreed and 65.2% agreed with transferring the case to juvenile court within 24 hours. Less than quarter 21.7% didn't show any opinion and only 1.7% of the respondents disagreed with transferring about the case to juvenile court within 24 hours. The data demonstrated that majority of the respondents were in the favor that in a non-bail-offence, the SHO can transfer the case to juvenile court within 24 hours after arresting. The situation of non-bail-able offence committed by the juvenile is briefly explained in Section (10) (2) of the JJSO-2000 whereas, the Police Officer must transfer the case to juvenile court within 24 hours without any delay. The calculated mean value for SHO's authority in a non-bail-able offence committed by juveniles is 3.95.

Table No. 3 Distribution of respondents by their behavior towards juveniles after arresting.

S. No.	Statement	S.A	A	N.O	D.A	S.D	Mean
	Police Behavior Towards Juveniles After Arresting : (Frequency) Percent						
i	Police treats juveniles and adults alike	(9)	(61)	(19)	(257)	(74)	2.22
		2.1	14.5	4.5	61.2	17.6	
ii	There is no change of police attitude in handling a juvenile	(14)	(201)	(10)	(183)	(12)	3.05
		3.3	47.9	2.4	43.6	2.9	
iii	Harsh language is avoided in handling a juvenile offender	(36)	(351)	(7)	(18)	(8)	3.93
		8.6	83.6	1.7	4.3	1.9	
iv	A criminal is a criminal whether a juvenile or adult	(34)	(149)	(6)	(220)	(11)	2.94
		8.1	35.5	1.4	52.4	2.6	
v	After arresting a juvenile, the first step is to inform his/her parents/guardians	(180)	(230)	(1)	(9)	(0)	4.38
		42.9	54.8	0.2	2.1	0.0	
vi	Juveniles are placed in same lockups with adult during investigation process	(7)	(34)	(19)	(205)	(155)	1.89
		1.7	8.1	4.5	48.8	36.9	

S.A = Strongly Agree(5), A = Agree(4), N.O = No Opinion(3), D.A = Disagree(2), S.D = Strongly Disagree(1)

The table No. 3 deals with calculation of descriptive variable about police treatment variation towards juveniles and adults. About 2.1% of the respondents strongly agreed that police treated juveniles and adults alike, while 14.5% of the respondents agreed with it. About 4.5% showed no response, more than half i.e. 61.2% of the respondents disagreed and 17.6% of the respondents strongly disagreed with the equal treatment of police towards juveniles and adults. The data showed that majority of the respondents were not in the position to accept the similar treatment of police with juveniles and adults. In fact, the law has been restricted to books only and juveniles are booked with adults in the same process of justice. Ramzan, (2014) added that juvenile offenders are being transported from jails to courts in the same prison vans with adults. The calculated mean value for treating juveniles and adults alike is 2.22.

The table showed the calculated value of descriptive statement that there is no change of police attitude in handling a juvenile. About 3.3% of the respondents strongly agreed that there is no change of police behavior & attitude, and 47.9% of the total selected sample were agreed about no change of police attitude. While 2.4% of the respondents kept silent, 43.6% of the respondents were disagreed and 2.9% of the respondents were strongly disagreed that no change in behavior & attitude of police while dealing a juvenile. The data explained that majority of the respondents were agreed that there is no change of police attitude while dealing and processing a juvenile from community through police station to judiciary. The calculated mean value for identifying change in police attitudes towards juveniles is 3.05.

In the table under discussion the calculated value of the descriptive statement has been presented that harsh language is avoided in handling a juvenile. About 8.6% of the respondents strongly agreed and in the favor of avoiding harsh language in case of juveniles. More than half i.e. 83.6% of the total selected sample was agreed in preventing unsympathetic language. While 1.7% showed no opinion, 4.3% of the respondents were disagreed and remaining 1.9% of the respondents strongly disagreed with the statement and was in the favor of typical police language for handling a juvenile. The data demonstrated that majority of the respondents agreed with the statement which stated that harsh language is avoided in handling a juvenile offender. The calculated mean value for avoiding harsh language of police in handling juveniles is 3.93.

The table further shows the value of the statement that a criminal is a criminal whether a juvenile or adult as per police perspectives. About 8.1% of the respondents strongly agreed for no difference of juvenile and adult as a criminal, less than half i.e. 35.5% of the respondents were agreed and expressed their favor for the statement. While 1.4% didn't show any view. Little more than half (52.4%) of the total selected sample was disagreed about the similarity of criminals and 2.6% of the respondents were strongly disagreed about the resemblances of young and adult criminals. The data highlighted that majority of the respondents were not in the favor that a criminal is a criminal whether a juvenile or adult. It shows that police knew the differences between a juvenile and adult while handling them at police station. The calculated mean value for knowing differences between juveniles and adults is 2.94.

The above table states that after arresting a juvenile what are the main and necessarily knowledgeable steps are for police. Less than half (42.9%) of the respondents strongly agreed and 54.8% agreed that first step after arresting a juvenile is to inform his/her parents or guardians. Only 0.2% showed no opinion, while 2.1% of the respondents disagreed with informing of juvenile's parents as the

first step after arresting. The data highlighted that majority of the respondents considered informing the juvenile's parents/guardians as a first step after arresting. The calculated mean value for informing juvenile's parents as a first step after arresting is 4.38.

The table also illustrated the calculated value of descriptive statement, which states that juveniles are placed in the same lockups with adults during investigation process at police station. About 1.7% of the respondents strongly agreed about keeping juveniles with adults, and 8.1% of the respondents agreed that juveniles should be kept with adults in the same lockups. Only 4.5% of the respondents didn't show any opinion, less than half (48.8%) of the respondents were disagreed about keeping juveniles with adults and 36.9% of the respondents strongly disagreed about the placement of juveniles with adults. The data verified that majority of the respondents were disagreed for keeping the juveniles with adults in a same lockups at police station during the process of investigation. The calculated mean value for placing juveniles in same lockups with adults during investigation process is 1.89.

Table No. 4 Current Rank of Respondents and Knowledge About JJSO - 2000

Current Rank of Respondents	Police Treats Juveniles & Adults Alike			Total
	Agree	Opinion	Disagree	
Head Constable (BPS-07)	20.7% (35)	5.3% (9)	74.0% (125)	40.2% (169)
Assistant Sub Inspectors (ASIs - BPS-09)	16.7% (19)	6.1% (7)	77.2% (88)	27.1% (114)
Sub Inspectors (SIs - BPS-14)	16.0% (15)	2.1% (2)	82.0% (77)	22.4% (94)
Inspector (BPS-16)	2.3% (1)	2.3% (1)	95.3% (41)	10.2% (43)
Total	16.7% (70)	4.5% (19)	78.8% (331)	100.0% (420)
Mean Value = 2.03	Mean Valve = 2.22			
St. Dev. = 1.019	St. Dev. = 0.973			
Pearson's Chi Square Value = 18.865	df = 12		Level of Significance = 0.092	
Gamma Value = 0.188			Level of Significance = 0.006	
Spearman Correlation Value = 0.135			Level of Significance = 0.006	
Pearson's Correlation Value = 0.150*			Level of Significance = 0.002	

*Correlation is significant at 0.01level (2-tailed)

Police Rank & Knowledge About JJSO-2000

The table No. 4 shows the relationship between police rank and knowledge about JJSO-2000 by knowing the police treatment towards juveniles and adults. The table highlights gradual and positive change with increase in police rank as per knowledge about JJSO-2000 and police treatment towards juveniles and adults. The above table shows that 40.2% of the respondents are Head Constables (BPS-07), around 27.1% are Assistant Sub Inspectors (ASIs_BPS-09), about 22.4% are Sub Inspectors (SIs_BPS-11) and remaining 10.2% of the respondents are Inspectors (BPS-16).The table illustrated that 16.7 percent of the total respondents agreed and strongly agreed that police treat juveniles and adults alike, 4.5% of the respondents didn't express any opinion and 78.8 percent of the respondents disagreed or strongly disagreed about the same treatment of police towards juveniles and adults.

The table presents that there is a relationship between police rank and knowledge about JJSO-2000 whereas in JJSO-2000 it is stated that same treatment of police towards juveniles and adults is strictly avoided. It is clear from the table that 20.7 percent of the respondents who are head constable by designation are agreed or strongly agreed that police treats juveniles and adults alike. About 16.7 percent of the respondents who are ASIs have the same opinion about similar police treatment towards juveniles and adults, 16.0 percent of the respondents who cover the SIs group of police stated that police have same attitudes towards juveniles and adults and only 2.3 percent of the respondents who are Inspectors have the opinion that police treats juveniles and adults alike. There is a decrease in percent values (from 20.7 percent to 2.3 percent) which represents upgrading the police is reducing the low knowledge about JJSO-2000.

The table demonstrates that 74 percent of the respondents who are head constables are quite disagreed about the same treatment of police towards juveniles and adults. About 77.2 percent of the respondents who cover the ASIs group of police have the opinion that police didn't treat juveniles and adults alike, 82 percent of the respondents who cover the Sub Inspectors group of police have the opinion that police have the knowledge about JJSO-2000 and didn't have same attitudes towards juveniles and adults and at the end, 95.3 percent of the respondents who cover the top officers level group i.e. Inspectors were quite disagreed about the same treatment of police towards juveniles. The table shows that there is an increase of values in percent about knowledge of JJSO-2000 from (74 percent to 95 percent) with specific increase in rank of police. This one side decrease and other side increase in percent values show a perfect relationship between these two variables.

The table shows the mean value for current rank of the respondents which is 2.03 with Standard Deviation of 1.019 and the mean value for police treats juveniles and adults is 2.22 with Standard Deviation of 0.973. The Pearson's Chi Square test

statistic value for verifying the relationship between the variables is 18.865 with 12 degree of freedom and 0.092 level of significance. The Gamma test statistic value 0.188 and value for level of significance 0.006. The Spearman Correlation value for correlating the variables is 0.150 and value for level of significance is 0.006. The statistical value for Pearson's Correlation is 0.150 with 0.002 level of significance. The 2-tailed statistical value for showing that correlation is significant for both the variables is 0.01 which represents a strong and perfect relationship between the two variables.

All the above statistical values illustrated that police officers have comparatively high level of knowledge about different laws including PPC & Cr. PC and especially about JJSO-2000. The lower police officials have less knowledge about the practicing laws at police station level.

Conclusion

Police official hierarchy has an indebt and direct relationship with knowledge and awareness about JJSO - 2000 as a special and unique law designed for juveniles. Generally it has been observed that low rank of police personals are working in police stations that have a difficult task for those police personals which have low or no knowledge about JJSO-2000 and juveniles. Working and serving in police stations means a direct and first contact with juveniles, arresting them and registering FIRs against them is again a difficult task without getting proper training and orientation. Arranging and conducting trainings for police is first of all rare, if it is arranged only the officers make their availability for participation because of free. The lower rank police personals are unable to make their availability for trainings due to business nature of their duty.

The investigation process of juveniles that consists of arresting from community, shifting to police station and further move the case to juvenile court is an essential and fundamental process for both the juveniles as well as for police officials. A major portion of JJSO - 2000 has been constructed for this process in which it has been clearly mentioned that how police will arrest the juvenile from community, shift it to police station and further movement of case to juvenile courts. If in case of police awareness and knowledge about JJSO - 2000 there is a small piece of knowledge exist in police about JJSO - 2000, the process will be completed smoothly. Otherwise it is very much difficult for police to handle the juvenile without proper knowledge of the concern law.

Recommendations

The prime ambition of any research activity is to enhance something new to the existing situation for minimizing the problems. The current research process demonstrates the knowledge of police about Juvenile Justice System Ordinance-2000. Some brief suggestions are highlighted as under.

- Facilitating the lower rank of police in terms of training and orientation as well as higher education is an essential task for higher police officers.

- Involvement of police officers in the process of investigation of juveniles is much needed due to comparatively high knowledge and awareness about the new and emerging laws like juvenile justice system ordinance 2000.

- The availability of IEC (Information, Education & Communication) and other awareness and knowledge related materials are very much necessary in police stations. It has a great effect on police attitude and behavior as well as knowledge about concern laws.

Provincial and federal government should arrange a separate judicial unit which will deal only the juvenile cases as the provincial governments are lacking of establishing the separate judicial unites for juveniles.

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Book Review:
Modern Orientals, Muslims in the West
Abul Kasem's Misinterpretations and Blasphemy

Fasihuddin (PSP)

A.   Modern Orientals

In the series of my coloumns against the pseudo-intellectuals and perverted writers like Sujit Das, today I have discussed in my coloumn, published in *Daily Aaj*, Peshawar (April 3, 2012), the basic flaws in the writings of Abul Kasem (Bangali), who pretends to be a scholar on religion but has written much against Islam, its Holy Prophet (Peace Be Upon Him) and the Holy Book of Islam, the Quran, with impunity, no authority or having any solid proofs for his claims. Most of Abul Kasem's writings are not based on any scholarly research for an understanding of the Holy Book or, looking for a comprehensive knowledge or some valid information therein. Rather, his narrations are full of propagandist, malicious, slanderous and out of context calculations and unfortunate mis-interpretations of some very clear and established religious thoughts and practices. He belongs to the group of modern 'free-thinkers type of writers' whose sole aim is to malign the world religions and get publicity for propagation of false and negative expressions amongst the tender-minded and readers, so to feel false satisfaction of 'being honestly critical' of people's religious beliefs in the name of 'free-speech'; whereas in reality they utter mere rubbish, non-sense and baseless accusations for their self-interest and malicious designs. Mostly they seem to do it out of an inferiority complex as rightly pointed out by the great writer Seyyed Hossein Nasr:

"This sense of inferiority vis-à-vis the West among so many modernized Muslims, which is, moreover, shared by modernized Hindus, Buddhists and other Orientals in general who are affected by the psychosis of modern forms of idolatry, is the greatest malady facing the Islamic world, and afflicts most deeply the very group which one world expect to face the challenge of the West…. This phenomenon has led to the rather odd situation today in which, among the educated classes, practically the most ardent defenders of modern western civilization in the world are **Westernized Orientals**…. The most intelligent students at Oxford or Harvard are far less confident in the West and its future than those **modernized Orientals** who for some time have sacrificed everything at the altar of modernism and are now suddenly faced with the possibility of the total decomposition of their idol! Therefore, they try ever more

desperately to cling to it….Strangely enough this Westernized minority in the Islamic world has gained a position of ascendancy at the very moment when the West has lost its own moorings completely and does not know what it is doing or where it is going".

(Seyyed Hossein Nasr: *Islam and the Plight of Modern Man*, Suhail Academy, Lahore, Pakistan, 1988, p.134, 135).

B.   Common Weapons of Modern Orientals

This group of free-thinkers (*zandiq, plural Zanadiqa* as they were called in the past) put much weightage and emphasis on the following points as their common propaganda techniques for getting publicity, riches and attention in an environment of hostile world politics and religious distrust amongst the believers of different faiths:

i.   London will soon become *Londonistan*, and Europe will turn into *Eurabia* by the end of

21st Century! Both words are no more than scare-crow mongers! They use very frightening and attractive titles for their books and reports like Sujit Das' *Un-masking Muhammad, The Malignant Narcissist and His Grand Delusion Allah,* and *Islam Disementled*, Salman Rushdie's *Satanic Verses and* Abul Kasem's *Muhammad Violated Quran,* and

Contradictions in Quran. This group includes people from all religions and all nations. Look at the dreadful titles of '*While Europe Slept: How Radical Islam Destroyed Europe from Within?'* (Bruce Bawer), '*The New Frontiers of Jihad: Radical Islam in Europe'* (Alison Pargeter), '*Tragic Ilusion of an Islamic State'* (Tarek Fatah), '*God's Terrorists'* (Charles Allen), '*Islamic Fundamentalism, The New Global Threat'* (Mohammad Mohaddessin), '*Rethinking Islamism: The Ideology of the New Terror* (Meghonad Desai), '*Deadly Embrace, Pakistan, America and The Frontier of the Global Jihad* (Bruce Riedel), to name a few, though we refrain from commenting on the assumptions and contents of each of it as it is beyond the scope of the current article. However, it is sufficient to say that the Modern Orientals use such titles for attention grabbing and marketing of their products which add little to global peace and harmony, rather further disintegrate the world population into un-repairable schisms and groups.

ii.   Islam will conquer the west and the global jihad will sweep away the political and cultural dominance of western civilization, its moral values, freedoms and human rights. This is much trumpeted as an *islamophobic* propaganda technique.

ii. Islam will conquer the west and the global jihad will sweep away the political and cultural dominance of western civilization, its moral values, freedoms and human rights. This is much trumpeted as an *islamophobic* propaganda technique.

iii. Islam and Terrorism are the two sides of one coin, so by letting Islam in the western societies, we are inviting radicalism and terrorism to the streets of Europe and Americas. This is the false aura of the fear of Islam which is the quite propagated in the West.

iv. Quran is full of contradictions, so the new western generations and analytical minds be shown its presumed inherent incoherencies and seemingly conflicting verses therein. People like Abul Kasem be employed for such wrong interpretations and misleading concoctions. The Prophet of Islam (PBUH) be attacked on different counts so his pious personality is presented to the young minds as someone not to be taken seriously, especially by the next generations in the developed world. At times, they produce so disgracing and below dignity images of the Holy Prophet (PBUH) and write so unbecoming sentences about his life and family that even a prudent, nice and respectable citizen will not be able to take it easy. This is no criticism, no dialogue, no academic intercourse, no intellectual debate, but simply to involve in a disrespectful, humiliating and abusive quarrel which is unexpected of an educated and reasonable man. Islam believes in dialogue and is open to discussion on any point of doubt, but doesn't approve of insult and stupidity.

v. Islam is equated with an undemocratic and anachronistic dogma, preached by sword, and as an unpractical, backward, anti-science and anti-modernism religion of the world. Politically-controlled media and motivated think-tanks in the west be used and hired for this purpose as much as possible.

vi. Any other count on which the shortcomings of the Muslim societies or their worldly rulers be attributed to and directed at as the outcome of being a Muslim or the result of following Islam as a religion, at least theoretically.

These are some of the propaganda techniques of these perverted writers and Modern Orientals and their masters, whose writings have no match to the early truth-seeking orientalists like Edward Gibbon, AR Gibb, Philip K. Hitti, Carl Brocklemann, Goldziher W. C. Smith, Arnold Tonybee, AJ Arberry, Annemarie Schimmel, AR Nicholson, TW Arnold, Rosenthaal, Lane, and many more. A scholar from the West can't afford to say such unfounded and baseless narrations, as

done by Abul Kasem, for he or she will lose academic credentials in the western intelligentsia and world community of scholars and researchers if found indulged in such a futile exercise of distortions and spread of false notions. Even a student like me, can't afford to say or write something which is not based on solid facts, well-researched documents and primary sources of references, so what to speak of a great scholar to narrate out of context and misleading distortions of a word or some self-styled interpretation and explanation of a specific terminology. It is due to this fear of losing credibility that we don't see any book or treatise from a remarkable scholar or orientalist against Islam, the Quran or the Prophet (PBUH) down the recent history of scholarship in the West, like that of Abul Kasem, Sujit Das, or the likes.

In my view all these accusations are either for personal motives or being engineered and planted by some political vested- interests, who, in the long run, will not bring any peace to the world, rather will trigger unnecessary polemics, non-productive discussions and an un-called for bitterness amongst the people. Surely, they will do nothing except to promote hatred and trust-deficit amongst the followers of different religions in the west, where now the Muslims form a major part of their populations, and who are contributing largely to the progress and prosperity of those countries by their intellectual faculties, skills, labour and revenue. The West has to take the best of this lot of Muslim population and shouldn't suspect them for being Muslims or practicing a particular way of worship or having some specific personal views of life. The western media and institutions should also avoid such pseudo-scholars who are spreading ignorance and suspicions in the name of knowledge and research.

It will not be out of place to quote, comparably, an outstanding scholar, Thomas Carlyle, whose complete work is now available in 20 volumes, on this issue of false accusations against the Holy Prophet (PBUH) and its academic worth in the current day scholarship. Even though some of the renowned Orientalists have been mistaken by some of the similarities between Islam and other divine religions, yet for a longer time, especially after the bloodshed and hatred of Crusades, the Holy Prophet (PBUH) and emblems of Islam have been targeted on false grounds and out of mere anger, indignation and defiance. However, many great scholars and historians, later after discreet enquiries, and impartial research in the recent past have completely denounced these fabricated stories and rejected their contents for having no reference in or relevance to the true Islamic literature. Thomas Carlyle in his famous lecture series on *'Heroes, Hero worship and the Heroic History'* describes in his lecture No. 2 [May 8, 1840], this glaringly confounded situation of ignorance and propaganda amongst the western academia of that time. He uses the title of 'The Hero as Prophet: Mahomet: Islam', and openly denounces such old misgivings and

false perceptions, which can be rightly compared to the lopsided and baseless stories propagated by the present day Salman Rushdie, Abul Kasem, Sujit Das and the like. Thomas Carlyle writes very honestly and boldly that:

"I mean to say all the good of him [The Prophet] I justly can….Our current hypothesis about Mahomet that he was a Scheming Imposter, Falsehood incarnate, that his religion is a mere mass of quackery and fatuity, *begins really to be now untenable to anyone* [Italic mine]. **The lies, which well-meaning zeal has heaped around this man are disgraceful to ourselves only**….. The word this man spoke has been the life-guidance now of a hundred and eighty millions of men these twelve hundred years. These hundred and eighty millions were made by God as well as we. A greater number of God's creatures believe in Mahomet's word at this hour, than in any other word whatever. Are we to suppose that it was a miserable piece of spiritual legerdemain, this which so many creatures of the Almighty have lived by and died by? I, for my part, cannot form any such supposition. I will believe most things sooner than that. One would be entirely at a loss what to think of this world at all, if quackery so grew and were sanctioned here. Alas, such theories are lamentable. **If we would attain to acknowledge of anything in God's true Creation, let us disbelieve them wholly! They are the product of an Age of Skepticism:** they indicate the saddest spiritual paralysis, and mere death-life of the souls of men: more godless theory, I think, was never promulgated in this earth. A false man found a religion? Why, a false man cannot build a brick house!....It is no house that he makes, but a rubbish-heap. It will not stand for twelve centuries, to lodge a hundred and eighty millions: it will fall straightaway". (Thomas Carlyle: *Heroes, Hero-worship and the Heroic History*, reprinted by Pennsylvania University Press, USA, 2001. p. 40).

Readers may visibly note that the modern day propagandists use exactly the same words as were used by the prejudiced classes of the past. There is rarely any difference between the non-academic accounts of the two groups. Is not this confession and honest rejection of the Age of Skepticism an enough proof for these 'free-thinkers' of the modern Age of Prejudice and Greed? Is there any difference between the accusations of those who belonged to the Age of Skepticism and the current day 'blasphemous novelists' and 'lie-teller religious writers'?

C. Spread of Islam by Sword?

The spread of Islam has been a point of concern and discussion in the western political world, as well as in their academic circles. The Modern Orientals often capitalize on this false notion to pollute the peace-loving minds and to frighten them of any untoward incidents in case of taking any interest in Islam. They

present history with malicious minds. However, this is not an agreed notion, a concerted opinion or a proved fact amongst the great scholars of history, world politics and theology. There are many true accounts on this point. Just read as an example from Will Durant, an outstanding philosopher-writer and historian of the recent past:

"With this trifling exception, it [Islam] was a noble religion, sternly monotheistic, rejecting images and priests and the polytheism of saints, building strong characters with the doctrine of fatalism and the discipline of war, raising great universities and cultures at Cordova, Granada, Cairo, Baghdad, and Delhi, giving the world one of its greatest rulers—Akbar of India—and ennobling Spain, Egypt, Constantinople, Palestine, and India with gracious architecture from Alhambra to the Taj Mahal. *Today, despite their political dismemberment, they are still growing in numbers and strength; in India and China they are making converts every hour of every day. There is no surety that the future is not theirs* [italic mine]". (Will Durant: *The Greatest Minds and Ideas of All Time*, compiled and edited by John Little, 2002, NT, USA. p. 112).

The modern literature on Muslims in the West is an echo of these earlier observations by the renowned scholars and analysts. However, the honest, impartial and unbiased scholars of the west know this very well that the propagation of Islam, in almost all parts of the world, owe little to sword (fight, war) than to the missionary zeal and untiring efforts of the early Muslim saints and preachers. There can be no two opinions about it. Also, we cannot ignore the lofty services of the great Muslim saints (*Sufis*) in propagation of Islam through their established cults (*Silsilas*) in major parts of Central Asia, Asia Minor, Africa, India, Malaysia, Indonesia, China, etc, where we see no sword, or confined to a very limited place or certain period. Who can deny the unbelievable and enormous effects of the teachings of scholars, saints and poets like Rumi, Ibn Arabi, Moeenuddin Chishti, Amir Khusro, Fariduddin Attar, Suhrawardi, Mohiuddin Qadri, Hasan Shazli, and many more, who left an indelible mark on world history of religion, mysticism, poetry and philosophy. All they contributed, directly or indirectly to the propagation of Islam and Quran to the remotest areas of the globe. See an example from T.W. Arnold, who wrote in 1896 specifically on this point and who critically examined the spread of Islam across the world, since its advent till his own time. He quotes other sources as well, like Lane and Von Kremer, the other two very well-known orientalists. Arnold observes:

"There are no passages to be found in the Quran that in any way enjoin forcible conversion, and may that on the contrary limit propagandist efforts to preaching and persuasion. It has further been maintained that no

passages in the Quran authorizes unprovoked attacks on unbelievers". (Arnold, T.W: *The Preaching of Islam, A History of the Propagation of the Muslim Faith*, 1896, p. 445). William Muir wrote an antagonist biography of the Holy Prophet (PBUH) to which Sir Syed Ahmad Khan responded in his *Khutbat-i-Ahmadiya*, but TW Arnold quotes him as such:

"This would seem to be acknowledged even by Muir, when speaking of the massacre of the Banu Qurayzah, (Quotes Muir as): 'The ostensible grounds upon which Mahomet proceeded were purely political, for as yet he did not profess to force men to join Islam, or to punish them for not embracing it". (Muir, William, Sir: *Life of Mahomet,* London 1858-61, Vol. 111. p. 282, quoted in Arnold, p. 33).

It is because of these undeniable historical facts that a scholar has rightly remarked that, "wherever the sword of the Muslims failed, their religion prevailed". Another said nearly similar words on the outcome of the Tatar's invasion on Baghdad as, "the history of Islam has shown this time and again that it was not the Muslims who saved Islam but it was Islam who saved them". Not to take this discussion too long, however, one may read another evidence from that of Sir Arthur Keith (1866-1955), the author of '*A New Theory of Human Evolution*', who stated about the Muslim's conquest of Egypt as, "The Egyptians were conquered not by sword, but by the Quran, p. 303. ed. 1950". (Quoted in Maulana Wahiddudin's *Azmat-i-Islam*, The Grandeur of Islam, p. 80). The readers can further consult Prof. Philip K. Hitti's '*Islam and the West*' on the wrong notions and misconceptions of these old prejudices, or the work from *Nadwa/Nadva tul Ulema* (scholars of Nadva) in India or the writings of Maulana Wahiddudin Khan for the Muslim's claim of intellectual supremacy, peaceful preaching and getting minds and hearts through dialogue, interaction and persuasion. Enough evidence and ample proof is available in the authentic literature of the world on this point.

D. Deep Insight and Profound Knowledge is Required For Understanding Quran:

No subject can be fully grasped without understanding its fundamentals and undertaking a thorough academic research into its contents, derivations, evolution, language, its scholars and contributors and their environment and time. Therefore, to understand the Holy Book of Quran, one has to study the process of its revelation, its gradual methods of legalization, its linguistic sophistication, the life of its Messenger, his conduct and interpretations, its codification, its explanation of one part by the other, its specification and generalization, its revoking of one order by the other, its apparent literal

meaning and the between the line or hidden or spiritual connotations, its direct order and its hints and derivations, and the like core subjects which are covered in the discipline of *Uloom-ul-Quran* (The Quranic Sciences if I have to translate it) before carrying out any exegesis, explanations and commentaries on the Holy Book. Also, ample attention shall be given to the customs, usages, traditions, history and poetry of the pre-Islamic period in order to ascertain the exact meaning of a word or term used in the Holy Book. Mere cursory translation or apparent literal meaning at times lead to misinterpretation and even willful deception, especially in case of people like Abul Kasem and others, whose prime aim is to attempt to pollute the innocent minds, twist facts and spread fear and darkness in the world. To appreciate this point one should read two brief books, namely, *Islamiayat aur Mushtashriqin* (Theology and Orientalists) by Maulana Abdul Hasan Ali Nadvi and *Quran Ka Mutalia Kaisay Ho?* (How to read the Quran?) by Maulana Owais Nigrami Nadvi. Maulana Owais has demonstrated with examples the mistakes of a few Orientlists who failed to interpret the Holy Book with true meaning of a word and its essence. Mere reading and practicing a book of medicine or law without profound knowledge of the subject and enough exertion in it is surely bound to bring disaster as is the case of these superficial scholars and neo-Orientals.

Abul Kasem collects the apparent contradictions in the Quran in his account of the Holy Book, but mostly his endeavour is the result of his ignorance of the Quranic sciences. Astonishingly, no such contradictions were pointed out by any great Orientalist like Prof. Montgomery Watt in his '*The Majesty that Was Islam*' (1974), Prof. Philip K. Hitti in his '*History of the Arabs'* (1970), Prof. P. M. Holt, et al in '*The Cambridge History of Islam'*, and '*And Muhammad is His Messenger'* by Annemarie Schimmel, to name a few. It is also to be clearly pointed that even some historical flaws in the account of some of the Orientalists and their derogatory remarks about the real contributions of Islam to the world and Europe's resurrections from Dark Ages have not gone unnoticed by the authentic scholars of Islam like Maulana Wahiddudin and others. (For further detail please see his books *Islam: The Creator of Modern Age*, *Religion and Science*, and *Religion and Modern Challenge*, etc).

The Quranic Sciences (*Uloom-ul-Quran*) are very technical subjects and many great scholars have written separate books on it for an easy, clear and true understanding of the Quran, before one embarks upon reading its text or read its mere literal translation. The Quranic Sciences are generally recommended for those who do not read it for simply divine benedictions but consult the Holy Book for a thorough study, divine guidance and in-depth scholarship. Such books on the subjects have been written by Justice Taqi Usmani, Maulana

Shams ul Haq Afghani, Dr. Subhe Salih, and Maulana Gauher Rahman—all with the common title of *Uloom-ul-Quran* (The Quranic Science). The classic books on the subject includes, Ibn-Taymiah's '*Usool-i-Tafseer'* (Principles of Commentary), Shah Waliullah's '*Al-Fawzul Kabir'* and Hafiz Jalaluddin Sawuti's marvelous two volumes of '*Itqaan fi uloom-ul-Quran'* (The Authentic Quranic Sciences)—all have their Urdu translations available in the market.

E. Contradictions to Abul Kasem's Contradictions

Coming to Abul Kasem and to cut it short, lets see the fallacies and weaknesses of Abul Kasem's self-proclaimed authority on Quranic explanations which speak succinctly of his extremely poor knowledge of the Quranic Sciences. We will confine ourselves to a few contradictions. I will quote Abul Kasem's presumed contradictions in the Quran and expose his fallacies in the same text as follows:

i.   Whether Quran was revealed in toto or in parts?—Abul Kasem's conclusion from the two apparently conflicting verses is that the Quran is contradictory in its text.

Unfortunately, he doesn't understand the process of revelation, and is unable to differentiate the words *Nozool* and *Inzaal*, both used for revelation and descent, one for the gradual descent, bit by bit, for the purpose of proper digestion and steady implementation, and the other the descent of the Holy Book from God's *Looh-i-Mahfooz* (The Tablet) to the First Sky in a complete form as narrated in a tradition of the Prophet (PBUH). Secondly, the Quran was once sent in parts in 23 years and then at the conclusion it was sent as a whole to the Holy Prophet (PBUH) for putting it in a complete order as we see and read today. Abul Kasem, either wittingly or unwittingly, mixes up the two words or claims to have found a contradiction in the Quran. These students-like queries are often debated by scholars in their teaching to the young students in an Islamic school (*madrassah*), rather a teacher raises such questions himself to trigger debate, whit their intellect and sharpen their analytical power and insight. This is very commonly observed in the Muslim world. Even the writer himself has taken part in such teaching classes at different Islamic schools in his early student life. Abul Kasem's grip on Arabic language and his knowledge of the Quranic usage of words with a subtle difference of meaning is evident from this point of the descent of Quran as a whole or in parts according to the circumstances. Anyone who consults the authentic Quranic dictionary of Imam Raghib Isfahani, *Murfradaat ul Quran* (The Quranic Thesaurus) on the word *Noozol* and *Tanzeel* with its four pages

etymological and Quranic description, will clearly identify Abul Kasem's poor information of the original text and its various meanings. Urdu translation of Isfahani is available in two volumes by Muhammad Abdahu Ferozpuri.

ii.   Abul Kasem says that Quran mentions Ibraham as the first Musalman (believer), also Moses the first believer, and even Muhammad (PBUH) the first believer, so Abul Kasem is confused as to who is to be given the title of being the first believer. He suspects this categorization of being the first believer as contradictory, so sufficient to falsify the Quran.

Unfortunately, Abul Kasem is too poor in his knowledge of the Quran to understand the fact that every Prophet is the first believer of his time and his message. Every Prophet has to believe in himself first, and in his revelation, in his experience and his advent before anyone else does and before he announces his Call to the public. So, all prophets are the first and foremost believers of their time and in their prophethood. I am amazed to see how Abul Kasem is treated as a scholar on Quran in the West when he doesn't understand even the basics of the Quranic sciences.

iii.   Abul Kasem objects to the Creation of Adam, of which soil he was made up? He claims his confusion on the difference between the Arabic words used for dust and mud. Unfortunately, he doesn't understand the said difference or willfully vilifies the meaning of the various words. The different words used in the Quran are indicative of the different forms, phases or stages of Adam's making and the nature of material/ingredients so used, so he is made up of *dust* (3:59 Quran), *mud* (7: 12, Quran) and *clay* (17:61, Quran), as Marmaduke Pickthall translates them and so Dr. Abdul Majeed A.Auolakh in their beautiful English translations of the Holy Book, Quran. It shall be read with the Biblical narration as: "And the Lord God formed man of the *dust of the ground*, and breathed into his nostrils the breath of life; and man became a living soul". (Genesis 2:7). Astonishingly, the account of the creation of Adam and the life history of many of the prophets are somewhat similar in the divine books, but rarely these pseudo intellectuals and modern Orientals have the courage to write anything in the name of **Contradictions in Bible**! Rather, their focus remains only on Quran, Islam and the Prophet of Islam (PBUH), which is an ample evidence of the fact that they are not interested in truth-seeking, but are carrying out a mischievous exercise of instigating violent reactions from the innocent Muslims for humiliating their religion and the Holy Prophet (PBUH). Also, Abul Kasem objects to the presence of previous creatures on the earth before Adam, so whether Adam was the first or a successor to those creatures. Abul Kasem has tried to cast aspersions on

the story of Adam and Eve for its series of events and processes of creation. Had he consulted the explanations of great commentators like Ibn Jarir Tabari, Allama Mehmood Aloosi Baghdadi, Maulana Maudoodi, or some recent works of Maulana Shahbuddin Nadvi on evolution and creation of Adam (*Nazria-e-Irtiqa Aur Takhleeq-i-Adam*) or of Haroon Yahya on evolution, then he would have been clear in his mind on the debate of the creation of Adam, the Natural Design, the Evolution and the various explanations related to this pre-historic story for which we have no other record except to rely on the divine authority of revelation. Currently, the debate on intelligent design is not unknown to many in the west, so I leave this discussion for other forums who are interested in the topic of evolution and creation. However, Quran doesn't deny the presence of any previous creatures on earth before Adam, as stated by the great commentator, Ibn-Kaseer, but it does not mean they were human beings.

The list of ignorance and sinister meanings attached to the words of Quran by Abul Kasem is too long, and doesn't need to be dealt word by word as it is a wastage of time and energy. These few examples are enough for this essay. Abul Kasem might be feeling exalted and celebrating as a great discoverer, but to me, he is a mis-guided person, with exceedingly poor knowledge of Islam and Quran, extremely ignorant of the Quranic sciences, and in addition to that, he is the worst kind of blasphemy writers, instead of an authentic scholar to be trusted or reckoned with. He has no credibility or authority on Islam, and his account of the Quran is full of misgivings, false notions, and out of place correlations between the different parts of the Holy Book. His logic doesn't have an iota of truth to create an impact on the Muslim mind or any sound and rational mind. To be honest, he didn't impress me a little. Rather, his writings are counter-productive, and it reinforced and enhanced my love, conviction and respect for the divine revelations and their innocent messengers who are blamed unnecessarily by these modern Orientals for what they had neither said nor done.

F.   The Personality of the Prophet (PBUH)

Lastly, I will comment on the malignant narrations of Abul Kasem, against the Prophet (PBUH) as I have done on Sujit Das, who has written very blasphemous account against the sublime personality of the Prophet of Islam, Muhammad (PBUH). The whole cobweb of Abul Kasem is woven around his false notion that "Muhammad himself violated the Quran". Is it believable that the Holy Prophet (PBUH) would himself deny, oppose or violate his own

teachings? If the Prophet (PBUH) has changed one order by another, or has gradually altered the sanctions as Islam grew from a pure ethical teaching stage during oppression in Mecca to a composite whole, a complete code of life and political dominance in Medina, it doesn't mean he acted whimsically or for some personal gains, but as Quran clearly observes that the Prophet doesn't say anything out of his own but unless revealed to him. "By the Star when it setteth. Your comrade erreth not, nor is deceived; Nor doth he speak of (his own) desire. It is naught save an inspiration that is inspired". (Quran: 53: 1,2,3,4) "And if he had invented false sayings concerning Us, We assuredly had taken him by the right hand; And then severed his life-artery". (Quran: 69: 44, 45, 46) "Thou art not, for the Lord's favour unto thee, a madman. And lo! Thine verily will be a reward unfailing. And lo! Thou art of a tremendous nature". (Quran:68: 2,3,4) Quran describes the life and conduct of the Prophet (PBUH) as a role-model and as a good example to be followed (Quran: 33:20) for his followers, so how he can transgress his own prescribed conduct, and how his followers would have believed in him in case of any such violation and deviation from the Right Path (*Sirat-i-mustaqeem*) he very clearly outlined for his followers and their subsequent generations. Abul Kasem's account here is very untenable, and worth discarded as unproved and malafide. Certainly, Abul Kasem wants to tarnish the holy personality of the Prophet (PBUH) for being not true to his own words, but neither history nor reason can support Abul Kasem's big lies for want of reasoning, rationale and authentic and verifiable evidence. Quoting the opponents of Islam in Mecca or Madina as 'authentic commentators' on the conduct of the Prophet (PBUH) can only please Abul Kasem and his group but not a reasonable mind of any nation, any religion and of any time.

As a parenthesis and pertinent to mention that this distinction of the different stages of the progress of Islam has made many a scholar a bit uncomfortable of the role of Islam in any future global politics. The account of Prof. Montgomery Watt in his two books, *Muhammad at Macca* and *Muhammad at Medina* indicates this intellectual dichotomy in the minds of the western scholars and even reasonable orientalists. Prof. Montgomery Watt's epilogue, 'the Replacement of Christian Culture by Islamic' at the end of his book, '*The Majesty that Was Islam*' is also indicative of this mind-set. Von Kremer separates it into 'an idea of a common religion' and 'one political organism' (as quoted in TW Arnold, p. 32-33). The writer noticed the same in the account of the Prophet (PBUH) by Arnold. J. Toynbee when he uses the words of 'purely religious mission' and 'politico-religious stage of Muhammad's career' (Arnold. J. Toynbee: *A Study of History*, Abridgement of Volume I-VI by D. C.

Somervell, Oxford University Press, London. 1946. p. 227). However, this is a separate debate and is out of the ambit of this article. I intend to write on this issue and with its associated misconceptions in a separate article.

The greatest discomfort to the vested-interests and anti-religious people is that the complete life events of almost all great saints and prophets of the world are shrouded in historical mysteries, or are embedded in un-recorded history, as Bertrand Russels says, "Historically, it is quite doubtful whether Christ ever existed at all". (Quoted in Maulana Wahidduddin's *Paighamber-i-Inqilab,* The Prophet of Revolution, p. 10). On the contrary Maulana quotes Prof. Hitti as saying, "Mohammad was born within the full light of history".

This means that we can find many references to the events in the Arab world at the time of the Prophet (PBUH) or soon after the advent of Islam, and can verify the authenticity of the present Quran and the Sayings of the Holy Prophet (PBUH) by other sources and recorded material of the early centuries of Islam. There is enough literature on the life, history, achievements, expeditions, day to day interactions, administration, missions and battlefields of the Prophet (PBUH) in almost every popular language of the modern world, so I leave this to the readers to search for themselves in case they are interested to find the truth and study the ennobling life-history of the Holy Prophet of Islam (PBUH) for light and guidance.

For ready references, however, I will conclude this article by quoting some great personalities and writers of the world to see that in how much esteemed and high sounding words they have described the person and work of the Prophet (PBUH) in contrast to the blasphemous and derogatory words of Abul Kasem and others:

This testimony and references from a few world scholars are hereby presented also with the intention to show that he Holy Prophet of Islam was neither under delusion, nor was superstitious, nor immoral and nor he had wasted the time and energies of his companions as these modern Orientals, self-styled infidels, self-proclaimed united *murtads* (apostates) want to make us believe in their so-called intellectual research, which are mere blasphemy and propaganda of the disgruntled lot and their mischievous activities.

i. "He was the only man in history who was supremely successful on both the religious and secular levels". (Dr. Michael H. Hart. *The 100*).

ii. "If we judge greatness by influence, he was one of the giants of history. He undertook to raise the spiritual and moral level of a people harassed into barbarism by heat and foodless wastes, and succeeded more completely than any other reformer; seldom has any man so fully realized his dream.

He accomplished his purpose through religion not only because he himself was religious, but because no other medium could have moved the Arabs of his time, he appealed to their imagination, their fears and hopes, and spoke in terms that they could understand. When he began, Arabia was a desert flotsam of idolatrous tribes; when he died it was a nation". (Will Durant: *The Story of Civilization IV, The Age of Faith*, NY, USA, 1950, p. 174).

iii. "Here the initiative individual—the great man, the hero, the genius—regains his place as a formative force in history. He is not quite the god that Carlyle described; he grows out of his time and land, and is the product and symbol of events as well as their agent and voice…..if he is a prophet like Mohammed, wise in the means of inspiring men, his words may raise a poor and disadvantaged people to unpremeditated ambitions and surprising power". (Will Durant: *The Lessons of History*, Simon and Schuster, NY, USA, 1968 Reprinted by Services Book Club, Pakistan, 1988, p. 34, 35)

iv. The famous philosopher writer, ex-fellow at All-Soul College, Oxford and ex-President of India, S. Radhakrishnan says in his Herber Lectures for 1929 as:

"The vision that came to Saul on the Damascus road and turned the persecutor into an apostle is another illustration. Faith means in St. James acceptance of dogma; in St. Paul it is the surrender of heart and mind to Christ; but in the Epistle to the Hebrews, faith is defined as that outreaching of the mind by which we become aware of the invisible world. The life of Mohammad is full of mystic experiences". (S. Radhakrishan: *An Idealist View of life*, 1932, Revised Edition 1937, London, p. 91).

v. "Muhammad set out to replace both the tribe and the state with a religious community and a moral and legal order. And he did indeed found a unique type of community, face-to-face and worldwide, relating individual to group through a unique combination of rites and ethics which, in retrospect, could have been deliberately designed to forge interpersonal bonds on a global scale. Islam provided specific path, quite different from that taken by Egypt, the Greek poleis and the feudal monarchies of Europe, from tribalism to a wider and more structured society. The space occupied in other cultures by relatively impersonal state officials was here occupied by the Shari'a and charismatic individuals".

(Anthony Black:*The History of Islamic Though, From the Prophet (PBUH) to the Present*, 2001, Oxford University Press,Karachi,p.13).

vi. The great freedom-fighter, writer and Prime Minister of India, Pandit Jawahirlal Nehru in his scholarly work, *Glimpses of World History* says:

"Islam was the new force or idea which woke up the Arabs and filled them with self-confidence and energy. This was a religion started by a new prophet, Mohammad, who was born in Mecca in 570 AD. He was in no hurry to start this religion. He lived a quiet life, liked and trusted by his fellow-citizens. Indeed, he was known as Al-Amin—the Trusty…. Before we start on Islam's and the Arab's career of conquest, let us have one brief look around. We have just seen that Rome had collapsed. The old Graeco-Roman civilization had ended, and the whole social structure which it had built up had been upset….so you will notice that both Europe in the West and Persia in the East were in a bad way. Add to this the quarrels of the Christian sects, which had no end. A very corrupt and quarrelsome Christianity flourished in the West as well as in Africa. In Persia, the Zoroastrian religion was part of the State and was forced on the people….This was the state of the Asiatic and European world when Islam was born…Islam gave a message of brotherhood……Compared to the corrupt Christianity of the day, this message of brotherhood must have had a great appeal, not only for the Arabs, but also for the inhabitants of many countries where they went". (Nehru: *Glimpses of World History*, Oxford University Press, Mumbai, India 1934, reprinted in 1980, p. 141-145,).

vii. James Mannion in his book G*reat Thinkers—The Men and Women Who Have Changed the Way We See The World,* dedicated its Chapter 5 to the 'Muhammad: Messenger of God', and writes:

"Muhammad, whose name means commendable, was the prophet and founder of the Islamic religion. His teachings and work emphasized both charitable deeds and equality between men and women……As the master of the Arabian Peninsula, Muhammad founded an Islamic nation. He allowed freedom of religion for Christians and Jews in his domain. He was forward-thinking in that he saw a world in which barriers of class and race were dissolved. Muhammad died in 632, but not before he changed the world….. Muhammad single-handedly transformed the world around him. Much of what he sought to do had both material and spiritual benefits for the common people".

(James Mannion: *Great Thinkers,* Barnes & Noble, New York, USA, 2007, p. 47-50*).*

Request and Appeal to the Muslims & World Community

I strongly request the lovers of the free-speech that free-speech shall not be taken as a shelter for abusive and blasphemous hate speech against the great personalities of the world, especially the religious leaders and Prophets, about whom people have great sensitivities, commitment and attachment. We have to de-radicalize the world, reduce political prejudices, prevent racial discriminations, control religious animosities and promote inter-faith dialogue and harmony for a peaceful world and shared values of human civilization. Unfortunately, there are many institutions, writers and think-tanks who spread hate and distrust, perceptibly or imperceptibly, than to preach love and peace. Also, there are billionaires and millionaires in the affluent Muslim world but they rarely spend on research and scholarship. This is one of the pathetic causes of Muslims' downfall and their prevailing miseries in the modern world**. To meet these challenges of the modern Orientals and even put them back on the right track, I wish we should have an Institute for Research, Religious Harmony and Inter-faith Dialogue in any Muslim country, or the USA, the UK or any other European country**. This is not a difficult task but needs an open-arm welcome by any of the filthy rich personalities of the Muslim world. The religious and political leaders of the countries like Pakistan are indulged in their own self-interests and who badly lack vision for such a work. If someone is interested in this creative work, he/she can contact the writer for further details on his email/address.

Please read this article with author's notes on Sujit Das for his blasphemous book, on http://pakistansocietyofcriminology.com/articles/2012_03_30_4213.pdf

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Book Review:

L. Cao, I.Y. Sun, and B. Heberton (eds.). (2014)

The Routledge Handbook on Chinese Criminology

Oxan, UK: Routledge. pp. 352 (HB). $317.16 (Indigo); $180.42 e-version on Amazon

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Routledge has produced a number of international handbooks and this book is the latest in the series. To date, the other international handbooks (i.e., International Criminology and European Criminology) are deemed valuable resource texts for anyone who is interested in subject areas. Chapter 45 in the Handbook on International Criminology, is the only chapter that focuses on the state of criminology on China. The authors, Xiu and Tingyao, point out that criminology is China is only about 30-years old but that it has evolved and there is a growing body of research and scholars who are now engaged in criminological research.

The three editors of the Handbook on Chinese Criminology are well qualified to have prepared this reference book. They each have impressive academic publication records and have engaged in a varied number of research involving China and the greater China region. Together, the editors have continued the tradition of organizing and producing a quality and informative overview of their subject matter - Chinese criminology.

The book is logically divided into five equally balanced sections averaging five chapters per section. Section I offers a sweeping, yet comprehensive overview of the historical development of criminology in China while Section II includes seven chapters which offer an insightful overview of not only the Chinese criminal justice system covering such elements as the death penalty (Ch. 11) and the various key elements of the criminal justice system. For example, Chapter 6 focuses on policing in China while Chapter 5 covers the complexity of the Chinese legal system, and Chapter 9 addresses participatory model of juvenile justice in China, among other key themes. The shortest section is Section IIIwhich only includes three chapters. Nevertheless, they each address the various issues and challenges in relation to 'Methods of Inquiry'. For example, in Chapter 12, He discusses the politics behind crime statistics in China, while Zhang, in Chapter 14, offers insight into criminological research in contemporary China.

Section IV, 'Forms of crime and criminality', I suspect was arguably the most challenging section to compile because of the range of topics that could/should have

been included. Five types of crime/criminality are covered – drugs, prostitution, the critical topic of urbanization and migration and associated crime, domestic violence, and finally white-collar and corporate crime. While each of the topics has considerable merit, a separate chapter or some other pedagogical feature could have been used to touch on such issues are human and organ trafficking, counterfeiting, computer crimes, censorship, and the general concern of human rights violations.

The final section of the book, Section V covered 'Greater China: Taiwan, Hong Kong, and Macao.' Although perhaps somewhat cursory in their coverage, each of the five chapters addresses a particular and contemporary aspect crime and/or criminality in the three states. For example, in Chapter 21, Huang and Sun, present an interesting accounting of Taiwan's official response to crime. Meanwhile, in Chapter 23, Cheung and Zhong discuss the official reactions to crime and drugs in Hong Kong and in Chapter 24, Li presents an insightful examination of the problem of crime and gambling in Macao - the mecca for Asian gambling. Perhaps what is most appealing about Section V is, as the editors' acknowledge, is that collectively the 25 chapters serve to hi-lite the need for "even greater understanding of the processes of criminological 'hybridization' that has taken place and is occurring as East meets West" (p. 343).

Collectively, the handbook is readilyaccessible to the reader and the chapters sufficiently comprehensive without being exhaustive in providing the reader with a valued insight into crime and criminal justice, and criminological research in the worlds' second largest economy and in a non-Western part of the world. To this end, the editors are to be commended for not only lending their expertise to the book but in pulling together established scholars, many who and authorities on the various themes and/or topics covered but somewhat unfortunately few are from mainland China. However, given the language barriers and potential socio-political challenges, this may have been a factor in recruiting mainland Chinese contributors. Each of the chapters adheres to a standardized format for presenting their topic, however, the editors might have considered including a few pedagogical features to enliven the handbook beyond simply offering descriptive accounts of the various topics. For example, as can be found in other handbooks, any future rendition of the book might consider adding such pedagogical features as useful internet links, additional recommended readings, and perhaps a few critically reflective questions that could encourage new and established scholars with ideas and/or suggestions for further inquiry.

As valuable as the handbook is, the surreal cost of the book will most likely limit its sales to but the most lucrative libraries and academic enthusiasts who feel they must have this wonderful collection of chapters on Chinese criminology. Nevertheless, this seminal handbook should remain a valued resource to students, scholars, and even those curious about 'what goes on over there' for years to come.