

DISSERTATION ON

Police Interrogation Techniques and Principles: A Human Rights-Based Examination in the Context of Bangladesh

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CONSENT FORM

The dissertation titled “*Police Interrogation Techniques and Principles: A Human Rights Based Examination in the Context of Bangladesh*” prepared by Afroja Alam Shurove, ID: 2019-1-66-030 submitted to Md. Pizuar Hossain, Senior Lecturer, Department of Law, East West University for the fulfilment of the requirement of Course 406 (Supervised Dissertation) for LLB (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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DECLARATION

I hereby declare that I'm the only author of this dissertation work titled "*Police Interrogation Techniques and Principles: A Human Rights Based Examination in the Context of Bangladesh.*" This dissertation has been conducted by me with the supervision of Md. Pizuar Hossain, Senior Lecturer, Department of Law, East West University. Not only that, but no earlier application to a degree has ever included the dissertation in whole or in part. I hereby declare that the above study is being submitted in partial fulfilment of the requirements for the undergraduate course of LAW 406 (Supervised Dissertation) at East West University. Before I have not submitted this research study for credit towards any other degree program and it is new. Any data or information supplied here has been properly credited and referenced.

Police Interrogation Techniques and Principles: A Human Rights Based Examination in the Context of Bangladesh

ABSTRACT

Some of the police interrogation techniques include misinformation baiting, alteration of a good police officer and a bad police officer, goofing off, casual conversation, separation from family, threatening or bullying, and expression of acceptance. Also, human rights-based principles of police interrogation include respecting basic rights to life and liberty of the accused persons, not depriving his/her life arbitrarily, ensuring right of equality, and maintaining due process established by law at every stage. However, the police in Bangladesh are alleged to have violated these principles, whereas they also have different techniques of interrogation unlike or like the ones mentioned earlier. This research aims to analyze whether the police interrogation laws and practices of Bangladesh conform to human rights-oriented police interrogation techniques and principles.

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CHAPTER 1

INTRODUCTION

1.1 Introductory Statement:

The term “interrogate” comes from Latin prefix *inter-*, “between” added to the Latin verb *rogare*, “to ask.”¹ So in general interrogate doesn’t mean to just ask a few questions to someone obviously there’s a process. Therefore, interrogation is a process of questioning someone to gather or collect any kinds of information from any suspected ones. In other words, interrogation is an asymmetrical form of dialogue such that the goals and methods used by one side are different from those used by the other side. The purpose of Interrogation is to acquire information from the respondent by the interrogator to discover who did an action.² Whereas the purpose from respondent side is to protect himself or to achieve his own interest or in wider sense to achieve social goals.

Police interrogation is a part of police investigation where it means the rights of police to questioning accused directly or indirectly when he is brought in custody of police either for cognizable offence or non cognizable offence. Hans Gross, who is a noted criminologist, Austrian Jurist and Magistrate once said Criminal investigation is 95% perspiration, 3% inspiration and 2% luck. He is also the father of Modern Criminalistics as well as considered as the father of Criminal investigation.³

Law enforcement agencies are considered to be the guardians of human and legal rights of citizens but sometimes they become the nightmares for individual citizens, one of those is police interrogation.⁴ In police interrogation, the way they interrogate to an individual they not only violate human rights but also broke their ethics which is not compromisable at all in any situation⁵. As a human being they also have a right to enjoy human rights and treated properly though in custody of police.⁶

¹ Collins Dictionary, <<https://www.collinsdictionary.com/dictionary/english/interrogate>> accessed 1st July 2023.

² Hurlley Galiday “Fundamentals of Criminal Investigation” (21 Aug 2019) <<https://www.scribd.com/document/422650348/Fundamentals-of-Criminal-Investigation>> accessed 1st July 2023.

³ Ibid.

⁴ Kriti Agrawal and Priti Poddar, ‘Vision with regard to police interrogation: a study with special reference to human rights’, (11 April 2021), <<https://blog.ipleaders.in/vision-regard-police-interrogation-study-special-reference-human-rights/#>> accessed 1st July 2023.

⁵ Ibid.

⁶ Ibid.

1.2 Research Questions:

These research deals with the following research questions:

1. Whether the police interrogation laws and practices of Bangladesh conform to human rights-oriented police interrogation techniques and principles?
2. What are the lessons Bangladesh police can learn from interrogation techniques and principles widely practiced in other selected territory?

1.3 Objective of the Thesis:

The followings are the specific objectives of this research:

- a. To evaluate the practices of the police to interrogate a suspect of crimes in Bangladesh
- b. To find out the best models of interrogation conducted by police;
- c. To provide an analytical view of police interrogation related human rights -based principles; and
- d. To explore the lessons that can be learned from different territories about police interrogation techniques and principles.

1.4 Research Methodology:

Interrogation conducted by police is the focus of this dissertation. The thesis explains the interrogation method, procedures, principles, types, techniques also advantages and disadvantages of Interrogation.

The research has been conducted by the following qualitative research method. It is based on “content analysis” of various journals, books, articles, sections of relevant provisions. The primary sources of the dissertation are: the Code of Criminal Procedure 1898, the Evidence Act 1872, the Police Act 1861, the Police Regulations of Bengal 1943, the Constitution of People’s Republic of Bangladesh 1972. The secondary sources are books, journals, newspaper articles, and organizational reports.

1.5 Literature Review:

This thesis paper has consulted several existing literatures on the relevant matters. However, one of significant write-ups is the paper titled “What Interrogation techniques, methods, and procedures are

appropriate in the context of law, culture, and ethics in Bangladesh? “written by Advocate kawsar Ahmed.⁷ This is a really well written paper which clearly mentions interrogation system with laws as well as ethics that must be followed by police in interrogation in Bangladesh. It also mentions the techniques that police follow in interrogation how much they are human rights based and also they are curtailing the rights of the persons kept in police custody. Torture in custody is mostly common in police interrogation which is mentioned in this paper. Also took help from an OLR Research Report by James Orlando, Associate Attorney who mentioned about interrogation techniques. As well as “Ain O Shalish Kendra (ASK), a Legal Aid & Human Rights Organization report helps a lot to current practices of Bangladesh cases. In such cases the news of the Daily Star published by M. Moazzam Hussain provides case decision regarding the techniques which should be by polices.

1.6 Limitations of the Thesis:

There are certain limitations of this dissertation including newspaper articles, some significant write-ups, different laws of Bangladesh also International Covenants, reports of legal organizations which are present on online. Also there are limitations of cases practiced in Bangladesh and some international cases for interrogation principles that follow worldwide. No field work has been done because of time limitations.

1.7 Chapter Outline:

This dissertation consists of six chapters. First chapter is about introduction which includes introductory statement about interrogation, research questions, research objectives, research methodology, literature review, limitations of thesis. Second chapter is conceptual framework where definition of interrogation, who can Interrogate, techniques, process, types as well as objectives will be provided. Police interrogation Laws and practices is the third chapter of this dissertation where the laws relating to police interrogation as well as human rights relating to police interrogation will be provided such as the Constitution of the People’s Republic of Bangladesh, Code of Criminal Procedure, Evidence Act, Police Act, Police Regulations of Bengal. Fourth chapter is about human rights based practices of police interrogation where legal aspect of international convention along with country practices as best model will be provided. Fifth chapter is about analysis and discussion of the overall scenario and at last sixth chapter will conclude including conclusion with some recommendations.

⁷ Kawsar Ahmed, *Applied Criminology and Police Management* (Police Staff College, Dhaka).

CHAPTER 2

CONCEPTUAL FRAMEWORK

2.1 Introduction

Definition of Interrogation:

“Interrogation” means the process of interviewing someone to collect or gather information regarding to a particular crime by law enforcement officers, military personnel and intelligence agencies.⁸The term ‘interrogation’ generally refers to questioning someone who is a suspect of a crime. In criminal law interrogation means the process of questioning a person who is suspected or arrested regarding a crime by the police. Police interrogation can last for minutes to hours, there’s no limitations of time. But people often confused between interview and interrogation, these are just two styles of asking questions.

Interrogation means to questioning someone who is a suspect of a crime and conducted by police in order to get information sometimes maybe by using threats or violence.⁹ On the other hand, interview means a structural conversation where one asks questions whereas the other one provides answers, it can be said like one-on-one conversation between the interviewer and interviewee. It should be kept in mind that victims and witnesses are not interrogated

2.2 Who Can Interrogate?

Any law enforcement employee can interrogate such as police, military personnel, Rapid Action Battalion (RAB), Border Guard Bangladesh (BGB), Customs, Immigration, Criminal Investigation Department (CID), Special Branch, Detective Branch, Ansar VDP, Coastguard or intelligence agencies etc. ¹⁰They can be a successful interrogator who has some qualities of a good interrogator such as¹¹ patience, personality, dress and appearance; self-control- moral soundness and inspire confidence; power of observation – language, cautious assessment; have a natural curiosity about human. They also should not flag or fumble; have knowledge of places, people, previous offences; should be clean headed; fluency of speech; have gift of insight into other’s mind; should have gone through connected

⁸ Kawsar Ahmed (n 7).

⁹ Ibid.

¹⁰ Torture and Custodial Death (Prevention) Act, 2013 s. 2(4).

¹¹ Interrogation by S. Umopathy, IPS, DIG, APPA.

interrogation report.¹² As well as they need to be able to sense confession, presence of mind, free from prejudices- communal, religious, political etc., Good memory; have an air of confidence.¹³ And they also should be able to change his tactics. ¹⁴Who has these qualities of interrogation in any law enforcement employee he can interrogate and can gather information easily.

2.3 Types of Interrogation:

Where the purpose is gathering information regarding an offence doesn't matter what type of interrogation it is as their aim will be same. There are three types of interrogation such as:

1. Intelligence interrogation: It is conducted by police and military where actionable intelligence helps to prevent future criminal acts or military attacks. For this they need protective measures.¹⁵
2. Custodial interrogation: It means where the interrogation is done in the custody of police who is reasonably suspected for an offense whether directly or indirectly involved.¹⁶When a person is in custody of police, the suspected person must be read their Miranda rights first then police can start interrogation also the person should know that his answers can be used as evidence at trial.¹⁷ As well as he is not free to leave police custody till the interrogation process is going on.¹⁸
3. Non Custodial interrogation: Which is generally known as interview. Where a person neither is in police custody nor officially suspected for any crime. The interrogation is normally conducted by police to gather more information which can be helpful for the offense that is being investigated. ¹⁹As the person is not in police custody so he doesn't need to read Miranda rights also they are free to leave at any time but their statements can be used as evidence in trial.²⁰

2.4 Objective of Police Interrogation:

As an interrogator, he has some responsibility like to protect the innocent one and find out who is the real guilty one, he has to find out this by interrogation. So the objective of interrogation is to determine whether the person who has been suspected is guilty or did he committed the crime or was he somehow

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Advocate Kawsar Ahmed (n 7).

¹⁶ Legal Match, <<https://www.legalmatch.com/law-library/article/custodial-interrogation-lawyers.html>> accessed 2nd July 2023

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

involved with the offense.²¹ That is how police can collect evidences corroborating to the crime. Main objectives of police interrogation are a. to identify the guilty one; b. to provide evidence of his guilt; c. to eliminate the innocent from suspicion; d. to obtain a confession.²²

Interrogators do a lot of things or apply many techniques to obtain all these objectives. But surely he shall have clear knowledge as well as understanding of difference between a confession and an admission. “Admission” defined as:

An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.²³

Though there’s no specific definition of confession provided in The Evidence Act but it is mentioned in the said Act from section 24 to 30 as well as section 163,164, 364 and 533 of Code of Criminal Procedure,1898. Confession defined as:

A confession is a particular species of admission peculiar to criminal proceedings. It is an admission made by a person charged with a crime which taken as a whole states or suggests the inference that he committed the crime.²⁴

It is said that All confession are admission but all admission are not confession.²⁵

2.5 Techniques of Police Interrogation:

There are so many techniques that police apply in interrogation just to know the true fact of a crime that has been committed. The techniques that are used in police interrogation are:

1.The Reid Technique: John E. Reid established the Reid technique which is known as “ The Reid Technique of Interviewing and Interrogation.”²⁶ This technique was first started in 1947. In 2004, Federal Court of USA held that Reid is the technique which fully follows the Miranda Rights. ²⁷The Reid Technique has three components including factual analysis, behavior analysis interview and interrogation (nine step process).²⁸

²¹ Advocate Kawsar Ahmed (n 7).

²² Ibid.

²³ The Evidence Act, 1872 s. 17.

²⁴ Pakala Narayana vs King Emperor 43 CWN 473 (475)

²⁵ The Evidence Act: Easy lessons by M.Joshim Ali. Book Zone Publication, p 67.

²⁶ The Reid technique of police interrogation by Md. Abdur Razzak. Bdnews24.com(Published:13th December 2018) <<https://bangla.bdnews24.com/blog/252851> > accessed 3rdJuly 2023.

²⁷ Ibid.

²⁸ Ibid.

- “Factual analysis”²⁹ includes something which helps to understand the probability of suspect’s involvement in a crime whether he can commit a crime or not, his innocence, his guilt. Mainly it gives a bio-social status of the suspected person that how much opportunity he has to commit a crime or access to the crime or whether he has any motive to commit the crime and his behavior before and after the incident happened.
- “Behavior analysis”³⁰ interview in short BAI is a process where the behavior of suspect is observed, how he react to questions relating to crime. It gives a view to determine whether the suspect is guilty or innocent. In this process police try to have a normal conversation with the suspect by interview session where no accusations are passed to the suspect.
- Interrogation: the following nine steps are part of this Reid technique:
 - I. The Positive Confrontation: It is also known as direct confrontation where all the evidences that has found till now in investigation are presented before suspect to give a chance to confess the crime.³¹
 - II. Dominance: It is a process where law enforcement agencies dominate the suspect where the suspect can not get a chance to speak.³² And the investigator continuously tries to give scenarios so that under dominance suspect confess his guilt or he tells the truth exactly what happened.
 - III. Deflection: It is also known as creating a theme where the investigator give moral justifications for the probable reasons for committing a crime.³³It can be changed throughout the interrogation as well as interrogator blames victim and present the scenario in a sympathetic way.
 - IV. Overcoming objections: Often guilty or the suspected person make objections to search for supportive claim to prove his innocence. When he does that interrogator pretends to accept these objections as to be truthful rather than arguing with the suspect.³⁴ Interrogator does that so that he can use these objections for further theme development.

²⁹ Ibid.

³⁰ Ibid.

³¹ James Orlando, Associate Attorney “ INTERROGATION TECHNIQUES” OLR Research Report <<https://www.cga.ct.gov/2014/rpt/2014-R-0071.htm> > accessed on 3rd July 2023.

³² “Interrogation Overview and Techniques” updated on 02/15/2022< <https://study.com/learn/lesson/interrogation-techniques-types.html> > accessed on 3rd July 2023.

³³ Ibid.

³⁴ James Orlando, Associate Attorney (n 31).

V. Procurement and retention of suspect's attention: In this process interrogator tries to create such a theme where the suspect can focus on theme rather than punishment.³⁵ By procuring the suspect's attention as well as maintaining a minimum physical distance with the suspect interrogator gives the suspect the probable alternative components.

VI. Handling the suspect's passive mood: Here the interrogator develops the theme of understanding the suspect or showing sympathy that he understands the suspect's situation or what he is going through.³⁶ Also gives a psychological justification to the suspect so that if he's guilty can confess his crime or tell the truth.

VII. Presenting alternative questions: Way of asking questions can matter a lot. When a question is asked to suspect directly, he may not answer to the question but if the same question is asked indirectly or he may answer.³⁷ Here the interrogator generally presents two choices where in first interrogator assumes that the person is guilty and in another one interrogator shows a better justification for the suspect to commit the offense.³⁸ It very much encourage the suspect to choose the better alternative question to answer.

VIII. Having the suspect orally relate various details of the offense: If the situation arises when the suspect choose an alternative question then interrogator immediately must obtain a brief oral review related to the same question with a statement of reinforcement acknowledging that admission before going to another question.³⁹

IX. Converting an oral confession to a written confession: At first interrogator should inform the suspect about Miranda rights then his oral confession must be converted into written confession or recorded confession by the interrogator.⁴⁰

2. Deception: Though this technique has some limitations but it is an effective one. When the suspect tells he has no knowledge about the offense then the interrogator mention about such an evidence or

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

evidences which is not present in the hands of interrogator.⁴¹They are falsely claiming about it so that suspect tells the truth. It is also known as misinformation baiting.

3. Verbal and non verbal cues: In this technique an interrogator tries to focus on the suspect's tone of voice, facial expressions, body language, reaction to each question as well as word choice etc. by having normal friendly conversation so that he can be comfortable with the police.⁴² Then he slowly admits his offense if he did so.

4. Goofing off: In this process police tries to have such a conversation with the suspect as if the suspect is falsely blamed for the offense so if he helps the police or co-operates with police then he'll be acquitted and there are more chance about it.⁴³

5. Alteration of a good police officer and a bad police officer: There two teams of police presented in this technique- team of good police officers and team of bad police officers.⁴⁴ At first bad police officers confront the suspect, they behave very roughly with him, shouts at them.⁴⁵ Then the good police officer comes and behaves very politely and in convincing way by that suspect tells everything whatever he knows.

6. Separation from family: During this process whole family is brought for police interrogation and keep them separate and separately police interrogates them by misinformation baiting.⁴⁶ It helps to gain the extract information from each members of the family.

7. Threatening or bullying: At this process police threats and tries to frightening the suspect by putting several charges on him or bullies him.⁴⁷ By this suspect breaks down and admits his crime. It is one of the most commonly practiced technique used in police interrogation.

8. Torture: The history of torture in police interrogation is 2000 years old technique. Sleep deprivation, half hanging, stress positions, cramped confinement, use of electrical shocks are different forms of torture.⁴⁸The name of torture in police interrogation has been converted into enhanced interrogation techniques which is highly used Central Intelligence Agency (CIA) to interrogate the suspects of more

⁴¹ Kriti Agrawal and Priti Poddar (n 4).

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Kawsar Ahmed (n 7).

heinous crimes.⁴⁹But after prohibited this technique by President Barack Obama in 2009, no nation admits the use of this technique in police interrogation.

9. Use of drugs: Sodium pentothal, sodium amytal and scopolamine are drugs which are used in interrogation without knowing the prisoners as regular dose of medicine. ⁵⁰Although this technique of police interrogation is ineffective as well as illegal. It is also considered to be the violation of medical ethics.

10. Polygraph: It is done by an expert polygraph expert operator who can easily determine whether the suspect is telling lie or not.⁵¹ Being a mechanical instrument it can detect if a person is lying or not. By this machine blood pressure, pulse, respiration, galvanic skin response(GSR), chest, abnormal breathing patterns are recorded while the police interrogates the suspect.⁵²

11. Hypnosis: It is defined as “a subjective state of mind in which a person is more prone to accept suggestions.⁵³” It is an form of lie detector where a person lying down seems to be asleep but can still see, hear or response to things. It helps to determine true or false, motive of the person.⁵⁴Typically it is used for suppressed memories. When an individual co-operates it becomes the successful one.

12. PEACE Method: It is a method where without threat or deceiving a chance is given to suspect to tell about his part of story without any interruptions.⁵⁵ If there is any kind of inconsistency as well as contradictions with other evidence or with any part of story it is not told at that moment. The suspect has full freedom to narrate his story. PEACE Method is combination of five different words such as Preparation and Planning, Engage and Explain, Account, Closure, Evaluate.⁵⁶

I. Preparation and Planning⁵⁷: Interrogator who is going to interrogate the accused or the suspect should have proper preparation or knowledge about the crime scene as well as probable possibilities of committing or connecting with the crime. Also interrogator should have a plan about how many questions he is going to ask and within how much time he is going cover all

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Arons, 1967, P. 15.

⁵⁴ Kawsar Ahmed (n 7).

⁵⁵ James Orlando, Associate Attorney (n 31).

⁵⁶ Ibid.

⁵⁷ Ibid.

these questions. Before confronting the suspect interrogator must have all these planning and preparations.

II. Engage and Explain⁵⁸: Interrogator will explain about the situation what happened and what can be happened, the reason for this interrogation and what are the objectives, about what are they expecting or this a regular procedure etc. so that accused or suspect can freely answer to questions and interrogator will obviously take notes of all answers.

III. Account⁵⁹: To obtain suspect's account of events it is necessary for the interrogator to ask and listen carefully, for this interrogator can ask direct or indirect questions relevant to the matter but the questions should free of jargon, combination of questions can create confusion to the suspect and it can hamper the objective of interrogation.

IV. Closure⁶⁰: This is the ending method where the interrogator will give a conclusion and give clarification to all question as well as summarizing the accused or suspect's account of events.

V. Evaluate⁶¹: The interviewers should evaluate the interview to (a) assess how the interviewee's account fits with the investigation as a whole, (b) determine if further action is needed, and (c) reflect on their performance.

2.6 Conclusion

Though there are many techniques that are being followed in police interrogation but in all techniques the aim of police is to know about true incident. All the techniques are permissible for example torture, use of drugs had been prohibited as well as illegal but it is practiced till now unofficially and no one mentioned about it.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

CHAPTER 3

POLICE INTERROGATION LAWS AND PRACTICES IN BANGLADESH

3.1 Introduction

Background:

The Bangladesh police are recognized by the Police Act (1861), the Code of Criminal Procedure (1898), the Police Regulation of Bengal (1943), the Armed Police Battalions Ordinance (1979). And about police interrogation it is mentioned in Evidence Act (1872), Penal Code (1860), Constitution of the People's Republic of Bangladesh (1972), Special Power Act (1974), Torture and Custodial Death (Prevention) Act (2013) etc.

In interrogation process conducted by the police, police apply several techniques to get the information but it is seen that they misuse their power to get the information as they want or they try to put their own words in suspect's mouth. Sometimes police force suspected to admit such offenses which they neither did nor they have any knowledge about it which is illegal. Also it is seen that police abuse the suspects even torture them to speak about offense which is cruel and inhuman behavior. In such way police are also violating laws and rights of arrested persons. About the rights of arrested persons and the interrogation rules are mentioned in several laws those are mentioned below:

3.2 The Constitution of People's Republic of Bangladesh:

The Constitution of People's Republic of Bangladesh (the Constitution of Bangladesh) is the basis of all laws if anything is contrary with constitution then surely constitution will prevail over all laws.⁶² About police interrogation first they have to arrest the suspect or the accused when he has to follow some rules and legislations . Article 33 of the Constitution of Bangladesh clearly mentions when a person is being arrested or detained he must be informed about it as well as the reasons behind it also the arrested person has a right to consult with his legal practitioner.⁶³ After arrest police can take the person in custody and start interrogation but within 24 hours the arrested person shall be taken to Magistrate because no person can be kept in custody after 24 hours without the permission of the Magistrate.⁶⁴ Arrested person most of

⁶² The Constitution of the People's Republic of Bangladesh, art 7.

⁶³ Ibid, art 33(1).

⁶⁴ Ibid, art 33(2).

the time become the victim of torture, cruel or inhuman behavior which is clearly violating the rights given on Constitution of Bangladesh where it is mentioned that “no person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment.”⁶⁵ Then police have to keep in mind that the person or persons whom police have brought for interrogation they are also human being they have right to life and personal liberty which shall not be deprived according to law.⁶⁶ No matter where a person is whether in police custody the person shall be treated as per law also police shall keep in mind that if a person is suspected and then brought in custody for interrogation he has chance of innocence so particular action shall be taken which is detrimental to life, liberty, reputation or property of the person.⁶⁷ When a person is only suspected he has also a chance of innocence that is why there’s no reason of ill treating the suspect as all citizens are equal before law.⁶⁸

3.3 Code of Criminal Procedure (1898):

About police investigation and keeping the suspect in custody it is mentioned Code of Criminal Procedure that any person can not be kept in custody more than 24 hours⁶⁹ and if the investigation is not done within this time and after forwarding the accused to the nearest Magistrate, he can exceed the time upto 15 days at a time to complete the interrogation process.⁷⁰ Also it is mentionable that if any police officer demand for remand it should be on reasonable ground which is there is sufficient evidence present to raise a suspicion that the person may have committed the offense.⁷¹ After investigation if the person is found innocent and the evidences are deficient then police after executing a bond can release and there is no necessary to forward the accused to the Magistrate.⁷²

3.4 The Evidence Act (1872):

As in police interrogation it is seen that police tortures the accused which is illegal also tries to make the accused confessed about an offense by use of force or threat that is illegal too.⁷³ It is clearly mentioned in The Evidence Act that if an accused confessed by way of threat, inducement or promise or it can give

⁶⁵ Ibid art 35(5).

⁶⁶ Ibid art 32.

⁶⁷ Ibid art 31.

⁶⁸ Ibid art 27.

⁶⁹ Code of Criminal Procedure, 1898 s. 61.

⁷⁰ Code of Criminal Procedure, 1898 s. 167(2).

⁷¹ Ibid s. 344.

⁷² Ibid s. 169.

⁷³ M. Moazzam Hossain, “Police Custody, custodial interrogation and right to silence” the Daily Star, published on 24th October 2004 <<https://archive.thedailystar.net/law/2004/10/04/index.htm>> accessed on 9th July 2023

any advantage or to avoid something evil then the confession will be considered as irrelevant.⁷⁴ So police should keep in mind that no accused should be threatened, induced or promised while interrogation, it will go against the police. In other words confession which is done in interrogation while in custody of police shall not be proved against the accused.⁷⁵ But if the confession is made in presence of Magistrate then it can be proved against the accused as per section 26 of the said Act. Although if the confession by the accused is not made out of threat, inducement or promise while in custody of police officer then it is relevant.⁷⁶

3.5 The Police Act (1861):

In interrogation conducted by police officers shall be conducted by following rules, regulations or lawful orders, if not then the police officer who violated the rules, regulations or lawful orders can be punished of withdraw from his duties or penalty from magistrate of not exceeding 3 months pay or imprisonment not exceeding 3 months with or without hard labour or both.⁷⁷ So under this Act, it is clearly mentioned that police officers shall exercise authority given by this Act or passed for regulating criminal procedure.⁷⁸ Also it is duty of police officers to obey the orders and execute following these orders.⁷⁹

3.6 Police Regulations, Bengal (PRB), 1943:

Interrogation conducted by police officers is done in police custody and what is police custody it is written as such “Police custody includes custody on the authority of the police that every person who is kept in attendance to answer a charge in such way that he is practically deprived of his freedom shall be considered as in custody.”⁸⁰ For interrogation police will only bring those person or persons of whom police has reasonable suspicion of committing an offense. According to section 317, police shall be careful to abstain from unnecessary arrests.⁸¹ As it is very common that accused is being tortured or ill treated in custody of police so there’s regulation where it mentioned to ask the accused if he is tortured or ill treated by the police officers or not also can check his body by investigating officer by the

⁷⁴ The Evidence Act, 1872 s. 24.

⁷⁵ The Evidence Act, 1872 s. 25.

⁷⁶ Ibid s. 28.

⁷⁷ The Police Act, 1861 s. 29.

⁷⁸ Ibid s 20.

⁷⁹ Ibid s. 23.

⁸⁰ Section 316(c) of Police Regulations, Bengal (PRB), 1943.

⁸¹ Ibid s 317.

permission of accused, if there's sufficient reason to believe such then the police can be taken to nearest Magistrate.⁸²

3.7 Other Laws:

According to section 2(6) of Torture and Custodial Death (Prevention) Act, 2013 defines torture as any physical or mental torture that causes pain which is done to extort information or confession from him or any other person. But this is an offense and such offense is punishable with fifty thousand taka or imprisonment of minimum five years or both as well as compensation to victim or aggrieved person twenty five thousand taka.⁸³ Under section 330 of Penal Code, 1860 if any legal authority corruptly or maliciously confine any person knowing that it is contrary to law then he shall be punished imprisonment which may extend to seven years or with fine or with both. Also this act prohibits voluntary causing hurt for extraction of confession or information from any person.⁸⁴ Not only that wrongful confinement also prohibited.⁸⁵

3.8 Current Practices and cases:

Nowadays everyone knows that power given to police are abusing and defying human rights that is why their power has been questioned. In Bangladesh it has become very common as most of people know that in police interrogation whoever goes suffer from torture and inhuman behaviors.⁸⁶ Police are violating laws, they think torture in custody is normal and there is no need of taking permission from court. In the case of *BLAST vs Bangladesh*⁸⁷ High Court Division gave fifteen directions as well as recommendations to amend existing laws. In these directions there were guidelines for police what should they follow such as disclosure of identity of police at the time of arrest, recording reasons for arrest, getting the arrestee examined by a government doctor if any injury is found then police have to interrogate in the presence of a lawyer or if necessary then police have to interrogate in the presence view of any relative. In another case *Saifuzzaman vs State*⁸⁸ bench of High Court Division observed that in the name of interrogation police are violating fundamental rights of citizens in custody also Magistrates are not acting according to law. SK Sinha J. while delivering judgment observed that:

⁸² Ibid, s. 262

⁸³ Torture and Custodial Death (Prevention) Act, 2013 s. 13(1).

⁸⁴ Penal Code, 1860 s. 330

⁸⁵ Penal Code, 1860 s. 348.

⁸⁶ M. Moazzam Hussain (n 73)

⁸⁷ 55 DLR 363 (HCD 2003).

⁸⁸ 56 DLR 324.

There are complaints about violation of human rights because of indiscriminate arrest of innocent persons by law enforcing agencies in exercise of power under section 54 of the Code and put them in preventive detention on their prayer by the authority and sometimes they are remanded to custody of the police under order of the Magistrate under section 167 of the Code and they are subjected to third degree methods with a view to extracting confession. This is what is termed by the Supreme Court of India as ‘state terrorism’ which is no answer to combat terrorism.⁸⁹

According to Ain O Shalish Kendra in last three years 33 people have died in the custody of police in the name of interrogation they have been tortured to death.⁹⁰ Although there are clear guidelines about not to torture in custody in the name of interrogation but it has not been stopped these was discussed at seminar arranged by Bangladesh Legal Aid Services Trust (BLAST) by speakers. In the *Pallabi police station case*⁹¹, police arrested Rocky and his brother Johnny but later on Johnny died in the custody of police while ZI Khan Panna a Supreme Court lawyer addressed the matter as police can interrogate for the purpose of investigation but that does not mean it gives right to police to physically abuse any person. When Judicial Magistrate investigated this matter as one was punished with sentenced to life imprisonment, second one is for 7years imprisonment, third one was escaped.⁹²

In a case of *Sajidur Rahman Sajid*, on 18 May 2006 Gaibandha police arrested him where court gave permission for seven days but in two days of remand he died on 21 May 2006 but police said he committed suicide. In autopsy it was found that he was strangled.⁹³ In this case the investigating officer and three constables were withdrawn from their duties.⁹⁴ On 09 January 2016, Golam Rabbi who was high official of Bangladesh Bank stopped by police at 11pm by telling him he was carrying yaba and demanded money when he refused he had to face inhuman torture.⁹⁵

Another incident was on 31st January 2016 where a female student of ASA university was stopped by SI Ratan of Adabar Police Station at Shia Masjid. She was returning from classes and stopped by saying that she was carrying yaba and forcefully taken to electronic shop where she was sexually harassed.⁹⁶ In a report of Ain O Shalish Kendra Annual Report,2018 & Odhikar Annual Report,2018 it was found that

⁸⁹ M. Moazzam Hussain (n 73).

⁹⁰ “Torture in custody: Investigation should be carried under judicial magistrate” Prothom Alo, (Dhaka,29 Jun 2022) <<https://en.prothomalo.com/opinion/editorial/torture-in-custody-investigation-should-be-carried-out-under-judicial-magistrate>> accessed 9th July 2023.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ain O Shalish Kendra (ASK), A Legal Aid & Human Rights Organization <https://www.askbd.org/ask/right-freedom-torture/> accessed on 10th July 2023.

⁹⁴ Ibid.

⁹⁵ Source: ASK Investigation.

⁹⁶ Ibid.

in 2017 from January to December 13 people were tortured to death and 2 people were beaten to death as well as in 2018 from January to May 4 people were tortured to death.⁹⁷

3.9 Conclusion:

We have many laws in our country for interrogation as well as the provisions for violating such laws. So we need to focus on these laws in practical life.

⁹⁷ Ain O Shalish Kendra (ASK) (n 93).

CHAPTER 4

HUMAN RIGHTS-BASED PRACTICES OF POLICE INTERROGATION

4.1 Introduction:

Miranda Rights: Miranda right is such kind of right which protects the suspects from involuntary and unreliable confessions. This right had been established in a case decision of U.S Supreme Court named *Miranda vs Arizona*⁹⁸. It was held that police had to inform the suspect or accused about their rights that they have right to remain silent, to consult a legal advisor. This right was given so that police can not have confession from suspect by threatening or bullying or torturing them as well as police can not take advantage of suspect from their disadvantages. Later on these rights and procedures were extended to youths who have to face delinquency allegations in juvenile court in the case of *re Gault(1967)*⁹⁹ just one year after the Miranda decision. Miranda rights are also known as Miranda Warnings. Miranda rights are those where it protects a suspect being compelled to be a witness against himself or herself, the accused to be informed about the nature as well as cause of accusation, right to get legal counsel, right to counsel during police interrogation etc.¹⁰⁰ Though these rights are requirements for the suspects given by the police officers in custody of interrogation but these Miranda warnings are questionable.

Human Rights: Human rights means such kinds of rights which are considered to be fundamental rights which is necessary for an individual's physical, mental and spiritual development.¹⁰¹ These are the rights which are being enjoyed by each and every one for being a human.¹⁰² Human being have these rights from their birth till death. Every nation has such laws where these human rights are being ensured. The Constitution of Bangladesh ensures human rights in third part such as equality before law¹⁰³, right to protection of law¹⁰⁴, protection of right to life and personal liberty¹⁰⁵, freedom of movement¹⁰⁶ etc.

⁹⁸ 348 US 436, 1996, <[https://guides.loc.gov/latinx-civil-rights/miranda-v-arizona#:~:text=In%20a%205%2D4%20Supreme,Miranda%20v.](https://guides.loc.gov/latinx-civil-rights/miranda-v-arizona#:~:text=In%20a%205%2D4%20Supreme,Miranda%20v.>) > accessed on 17th July 2023

⁹⁹ <<https://www.ojp.gov/ncjrs/virtual-library/abstracts/re-gault-constitutional-celebration#:~:text=The%20requirements%20of%20due%20process,representation%20of%20counsel%20or%20right>> accessed on 17th July 2023

¹⁰⁰ 348 US 436, 1996 (n 98)

¹⁰¹ Written by Kriti Agrawal and Priti Poddar (n 4).

¹⁰² Ibid.

¹⁰³ The Constitution of Bangladesh, art 27.

¹⁰⁴ Ibid, art 31.

¹⁰⁵ Ibid, art 32.

¹⁰⁶ Ibid, art 36.

4.2 International Aspects(Principles):

Principles of police interrogation with respect of human rights has been safeguarded by the Constitution of Bangladesh, Code of Criminal Procedure (1898), The Evidence Act (1872). In custody how police will conduct interrogation it has been clearly mentioned in law as well as the rights of the accused before, during and post interrogation are also mentioned. After filing a FIR investigation starts which will conduct till the verdict of the Court, during this time interrogation can be conducted any time whether with suspect or the accused for the purpose of investigation. The principles of police interrogation that are mentioned in international convention are:

1.The first basic right which must be followed is right to life and liberty that means everyone has the right to life, liberty and security of person according to article 3 of Universal Declaration of Human Rights (UDHR),1948. This right is also recognized in our constitution in article 32. According to article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) also ensures the right to life where a person who has been subject to interrogation cannot be deprived of his life arbitrarily. To proceed with interrogation of police the officers must have subjective satisfaction.

2. The accused or suspect cannot go through any inhuman punishment or torture which violated his fundamental or human rights during police interrogation. The definition of “torture” is given in article 1 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984. In this Convention it is also mentioned that to prevent acts of torture each state party shall take effective measures whatever maybe the situation is, nothing can justify torture.¹⁰⁷Whereas it is also mentioned in the same convention that if a state sees there’s ground of believing that there’s danger of being tortured then the state will not extradite a person to another state¹⁰⁸ and an attempt to commit torture is also a part of torture as per article 4 of the said convention. Who has been tortured can complain to it’s legal jurisdiction and has an enforceable right to get compensation which must be fair and adequate according to article 13 and 14 of the Convention respectively. As well as any confession made out of torture can not be considered as evidence as per article 15. Article 7 of ICCPR and article 5 of American Convention on Human Rights (ACHR), 1969 also refers the same where it is mentionable that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Convention on

¹⁰⁷Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,1984, art 2.

¹⁰⁸ Ibid, art 3.

the Rights of the Child also mentions the same in case of children.¹⁰⁹ Article 3 of European Convention of Human Rights (ECHR), 1950 mentioned same with extradition or deportation to another country if there is any risk of being tortured then the Country is concerned to protect you. Geneva Convention also protects persons from any kind of physical suffering, punishment, torture etc.¹¹⁰ About children laws are very specific and careful Convention on the Rights of the Child clearly states that no child will be dealt with judicial proceedings which is formally followed¹¹¹ and the act of Bangladesh “ The Children Act,1974” also mentions the same thing.¹¹² Bangladesh ratified the convention in 1990 so Bangladesh is duly bound to follow all the provisions. The Prevention of Oppression of Women and Children Act,2000 deals with specific offenses committed against women and children, the offences under this law are dealt in special tribunal.¹¹³ In the case of *Moinul Haque (Md.) and Others vs. State*¹¹⁴, three police man were accused of raping as well as killing Yasmin Akhter where the Special Tribunal gave death penalty to the police man.

3. Equality before law is also mentionable which is specifically states in UDHR¹¹⁵ as well as in the Constitution of Bangladesh in article 27.

4. Right to get fair trial is another human right which is referable in UDHR¹¹⁶ as well as in European Convention on Human Rights.¹¹⁷ The Constitution of Bangladesh also gave the right in article 35.

In another way Commonwealth Human Rights Initiative is an organization which is situated in India works for the purpose to reach the human rights among general public specially with police interrogation, the rules and regulations before, during and after interrogation in police custody.

4.3 Conclusion:

Throughout the world there are several conventions which ensures the rights of human in the custody of police interrogation. Some countries willingly followed them, some countries followed them by ratifying those conventions. Although all are bound to follow the rights which is considered to be human rights.

¹⁰⁹ Convention on the Rights of the Child, 1989 art 37(a).

¹¹⁰ Geneva Convention (IV), 1949, art 32.

¹¹¹ Convention on the Rights of the Child,1989 art 40.

¹¹² The Children Act,1974 art 6.

¹¹³ The Prevention of Oppression of Women and Children Act, 2000 s. 20 and s. 25.

¹¹⁴ 56 DLR (AD) (2004) 81.

¹¹⁵ Universal Declaration on Human Rights, 1948 art 7.

¹¹⁶ Ibid, art 10.

¹¹⁷ European Convention on Human Rights, 1950 art 6.

CHAPTER 5

ANALYSIS AND DISCUSSION

5.1 Introduction:

This chapter of the dissertation is going to focus on overall view of interrogation laws and to which extent these laws are being practiced in Bangladesh. As well as the focal point of this chapter is that the practices and techniques of interrogation are human rights oriented or not and the best model of Interrogation techniques which can be considered human rights oriented and followed thereby.

5.2 Analysis of the techniques of police interrogation:

As mentioned above there are many techniques of police interrogation some are legal and some of them are illegal also there are laws regarding how to conduct a police interrogation. The Reid technique is widely used in United States polices but there are certain assumptions that this technique may lead to false confessions which is not supported by empirical evidences.¹¹⁸ Though all the interrogation techniques “torture” is the most common techniques that is used by the police. The Constitution of Bangladesh safeguards one’s right from being tortured as well as it is clearly mentioned in Torture and Custodial Death (Prevention) Act,2013 that it is an punishable offense who does torture in police custody.¹¹⁹ But in practical life it has been seen that police are torturing accused or suspect in various ways which is totally wrong. Either police are harassing normal people to extract money from people or satisfy their sexual thrust that has been seen in incident of Golam Rabbi¹²⁰ and incident of female student of ASA university.¹²¹ In August 2019 the UN committee against Torture (CAT);expressed concerns with allegations of widespread use of torture and mistreatment by law enforcement officials to obtain confessions. During remand many instances of torture was found by Human Rights Organization.¹²² Provisions of law allow a magistrate to place a suspect in interrogative custody known as remand where police ask questions to the suspect.¹²³Threatening or bullying in police custody is another

¹¹⁸ James Orlando, Associate Attorney (n 31)

¹¹⁹ Torture and Custodial Death (Prevention) Act, 2013 s. 2(6).

¹²⁰ Source: ASK Investigation.

¹²¹ Ibid.

¹²² Country Reports on Human Rights Practices for 2019.

¹²³ Ibid.

technique of police interrogation but it illegal and prohibited by the Evidence Act,1872.¹²⁴ In international convention torture is also prohibited such as in article 1 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 also said the same thing. On September 29, three soldiers forcefully enter into a house where they raped twelve years old rohingya girl mentioned by her brother Mohammad Osman. In October 2019 media reported this news. But later on Osman and his family were threatened by security forces that is why they could not file a police report.¹²⁵

In the name of interrogation police are abusing their powers which means they are violating the laws of country as well as violation of international convention.¹²⁶ Sometimes the act of polices become very pathetic such as in the incident of Abul Kader case police arrested him in charge of robbery and other allegations but later on he was found innocent despite of all the interrogation and investigations.¹²⁷ Deception is considered legal as well as effective in USA and Canada but in most situations it is unethical too in the eye of police detectives.¹²⁸

5.3 A Best Model of Interrogation:

Among all these techniques PEACE method is used in United Kingdom and in United States which is considered to be most effective, versatile and ethical method of police interrogation.¹²⁹ It is also effective with vulnerable groups such as youth, older, intellectual disabilities etc.¹³⁰ this method has shown accurate confessions.¹³¹ By lawyers, police officers and psychologists this method has been developed. ¹³²If polices understand this method and have greater practice in it than the rate of success can be more. For this proper training is needed. This method is now implemented throughout the world since the implementation of PEACE in 1992. Bangladesh may take lessons from this worldwide technique of police interrogation. It seems that 22 false confession cases which were landmark not of

¹²⁴ The Evidence Act,1872 s.24.

¹²⁵ N 122

¹²⁶ Shipta Barua “*Abuse of Arrest and Police Remand: Bangladesh Context*. Published on December 30,2020 <<https://legalhome.org/arrest-and-police-remand/>> accessed on 11th August

¹²⁷ Ibid.

¹²⁸ Written by Advocate Kawsar Ahmed (n 7)

¹²⁹ Cassandra Neal “An Evaluation of Police Interviewing Method: A Psychological Perspective” <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1103&context=honorstheses#:~:text=While%20the%20PEACE%20interview%20method,does%20still%20have%20some%20deficiencies.> Accessed on 27 July 2023, p-19.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

them occurred since 1992.¹³³ The PEACE course take almost 5-7 days and this course dealt with volume crime such as theft, minor assault, burglary etc.¹³⁴ But it almost covered all type of crimes. PEACE Method has real value in safety net to prevent further miscarriages of justice while interrogating suspects.¹³⁵

Though there are many techniques and principles of police interrogation but it is important which will be followed by police. As the guardians of laws police shall abide by all the laws including in police custody specifically which technique is human rights oriented.

5.4 Recommendations:

We know that law enforcement agencies are the guardians of the all laws and provisions but when it comes to a point that police are violating the laws then here comes a question who will protect the law or general people of country who are victims of many crimes, to whom they will seek help or where to report about the crimes. Though all police are not same. Therefore, here are some recommendations:

1. Bangladesh has lot of facts and cases where police abuse their powers like in interrogation, arrest, remand etc. Henceforth, the process of police interrogation system should be changed for the betterment of general as soon as possible. Bangladesh police can follow the PEACE method for this betterment.
2. Law enforcement agencies and investigating agencies should be different so that if a police officer brought anyone out of any grudges and then interrogation is conducted by other investigating officer then there can be said that the officer will not try to take out any kind of revenges. And justice can be ensured here too by conducting a fare interrogation.
3. If there is any complaint against any police officers, then the investigation should not be conducted by other police officers. Responsibility of interrogation should be given to judicial magistrate so that police cannot threat or induce the process in the name of interrogation. Here the victims or victims can trust the Magistrate as well as the justice system.
4. There are many reasons of occurring torture in police custody in Bangladesh such as excess power of police, greediness of money, political influence, lack of proper monitoring system,

¹³³ Gudjonsson, G.H. (2003). *The Psychology of interrogations and confessions*. (2nd Ed.) Chichester: John Wiley and Sons Ltd. (p.439)

¹³⁴ Compiled by Ira Belkin, Chao Liu, Amy Gao. *Questioning Police Interrogation Methods: A Comparative Study*. (p.261)

¹³⁵ Ibid.

illiteracy on law, failure to ensure good governance etc.¹³⁶ All these can be solved if ethical values are taught while in training of polices.

5. Implementation of the judgments given by Supreme Court can be done strictly, such as in the case of *BLAST vs Bangladesh*¹³⁷ the court give fifteen directions for police which are necessary to follow. For this media and different human rights organization can also play active role by monitoring incidents happen in custody.
6. Bangladesh should ratify the optional protocol of CAT and withdraw reservations of article 14 clause 1 of CAT, where it is mention that the victim of any torture has a right to fair and adequate compensation as well as full rehabilitation which shall be ensured by state's legal system¹³⁸. It can help a lot to minimize the incidents happen in police custody.

5.5 Conclusion:

We need to focus on interrogation laws with the best method of Interrogation techniques which can comply with laws as well as in reality. For this recommendations to use such techniques can provide great change for the betterment.

¹³⁶ S.M. Shahidullah Mamun “ *Prohibition of Torture: Laws and Practices in Bangladesh.* ”

¹³⁷ N 87.

¹³⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 art 14 (1)

CHAPTER 6

CONCLUSION

By those above mentioned situation throughout the research paper we can see that though we have proper laws for interrogation process in custody of police but there is less chances of implementation. Some people who are being tortured in custody are afraid of police though their rights are being violated and some people if try to take action against police they are being shut down by polices anyhow. There are many provisions of punishment if any lawful agencies violate any law or others rights but it is not seen. That is why in the name of interrogation police are torturing the accused even the innocent ones. Constitution of Bangladesh is supreme law of there any law conflicting with constitution then constitution will prevail that means the rights given under constitution will always prevail but in reality the scenario is completely different.

Throughout the research paper it has been discussed all the techniques of police interrogation as well as the best method of interrogation amongst all. But by only addressing a best model does not solve problems which has been faced by suspects in interrogation conducted by police from long ago. It is high time that general people are now conscious about their, they have gathered courage to talk about the wrong and take steps against the wrong doer's. Henceforward judicial system can help the general people by improving monitoring system towards police so that they can't behave inhuman in interrogation system as well as victims get justice while they complain against police. Also the victims should get the feeling that if they raise voice against police about the torture, inhuman and degrading treatment they will surely get justice and they will not be threatened or harmed.

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