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ID Card Please! No Sir: Dissecting Power of LEAs in Document Checks



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Abstract: *Citizens across the globe, especially in Pakistan mostly are asked a frequent yet debatable query and demand for identity cards and other documents on a daily basis by the Police. Be it the scheduled checkpoints or informal exchanges, the police officers habitually ask the citizens to show their identification documents. Though such actions are meant to guarantee security and uphold law and order, their legitimacy and legal sanctity have ignited much debate and raised significant concerns about individual rights and distresses like privacy invasion. The "equilibrium between the right to privacy and the concerns like security" is the epicentre of our analysis. From one perspective, promising security, peace and tranquillity and enforcing laws are the duties invested in the executive, however, the matter of Privacy invasion is yet another factor to be appraised by the LEAs.*

Key Words: Licenses, Frequently, Routine, Public Holiday, Enforcing, Traffic Regulation

Introduction

Individuals also enjoy a fundamental right to privacy and protection from unwarranted intrusion into their personal lives. Snap checking practices like asking for ID cards and Driving licenses that lack probable cause or not based on reasonable suspicion can lead to privacy invasion, discrimination, and a distressing effect on individual freedoms. (Police Act, s. 32) This prompted the Capital City Police Officer, CCPO Karim Khan, to visit the check post at Motorway near Peshawar Toll Plaza, where he found the efficiency of the policemen not up to scratch and directed cessation of such check post. Notably, the chief minister had previously taken action against officials from the Excise Department for harassing

the public at the same location, following which appropriate measures were taken. (Correspondent, 2023) Various forces, including the police, the Excise Department, and Customs, have installed barricades to halt vehicles upon entry to the Motorway.

Eight police officers were suspended for intimidating families on their way to work at the Babu Sabu checkpoint in Lahore. A DIG-ranked officer filed a complaint alleging that he saw police officers intimidating families in exchange for bribes, which sparked the action. When some police officers ignored complaints and focused torches on passengers—including women—the DIG himself was harassed. Eight police officers, including the head of the checkpost and the station house officer, were suspended when the

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officer immediately reported the event to higher authorities. (Asghar, 2023)

The instances of citizens refusing to comply with police requests to present their identification have also been witnessed in Pakistan. This phenomenon, often driven by the claims of personal privacy or civil liberties, has raised considerable concern within the broader context of relation between Public and law enforcement agencies. Such unwillingness to cooperate with the Police and Government authorities impedes their capability to maintain security, peace and tranquility and put the laws promising so into effect.

This study analyzes the legal sanctity and constitutional repercussions of such practice of the LEAs. By critically assessing the Fundamental rights enshrined in the Constitution of 1973 and the concerns of privacy, the paper finds out whether such acts are in the conformity to the doctrines of due process and rights and liberties guaranteed by the Laws of Pakistan. It further discusses the intricacies relating the unwillingness of citizen to disclose their identification when asked by the police and legal inferences to such unwillingness.

Law enforcement agencies play a fundamental role in maintaining public order and peace by enforcing Laws. Nevertheless, such obligation may at times lead to potentially obnoxious exchanges between the police officers and the citizens, generating uncertainties about the equilibrium between the authority of LEAs and citizens' right to privacy. One of such controversial issues is the police officers asking citizens to produce their identification documents, including identity cards and driving licenses, during various encounters. Besides the legal aspects, this paper also analyzes the practical repercussions of these transactions, investigating occasions of probable mistreatment, annoyance, and prejudiced practices.

Enabling Provisions

The grundnorm duty invested on the Police officers in respect of our subject is enshrined in Section 31 of The Police Act, 1861 which obligates the police officer to maintain peace and tranquility on the public roads, and in the public streets, thoroughfares and such other places of public resort. Section 32 of the same act further prescribes penalty for breaching a direction issued

by the Police officer under section 31. (National Highways Safety Ordinance, 2000) Such order may also encompass Police's empowerment to ask for identification documents or Driving licence. Rule 23.43 of the Police 1934 rules mandates police officers to take legal action concerning traffic offenses committed by traffic crossing the station house. Furthermore, it requires officers to personally take notice of or report any such acts that come to their attention while roaming within their jurisdiction. (Police Rules, 1934, Rule 23.43.) The following paragraph expands on the duty of a Police Officer to inspect, among various aspects, the legitimacy of permits and driver's licenses, as well as the clarity and appropriate positioning of registration plates. Section 125 of Police Order, 2002 empowers Police to search suspected persons or vehicles in street. Section 3 of the National Highways Safety Ordinance, 2000 prohibits a person to drive on National Highways without a driving license.

Based on the aforesaid duties, The Provincial Motor Vehicles Ordinance, 1965 further and explicitly enables the Police officers to obtain ID cards and driving licence from citizens. The extensive research conducted to unveil the relevant provisions of said ordinance reflects a dedicated effort to provide a comprehensive and accurate analysis of the legal framework governing the inspection of driving licenses by police officers in Pakistan. Section 3 of The Provincial Motor Vehicles Ordinance, 1965, bars any individual from driving a vehicle in a public area unless they possess a valid license permitting them to do so; furthermore, no person may drive a motor vehicle as a paid employee, or operate a public service vehicle, unless their license explicitly permits such actions. Section 90 of the same ordinance further obligates the driver to produce driving license to any officer of the Transport Department not below the grade of Sub-Inspector, if asked to produce

Section 92 also empowers police officers to stop vehicles, mandating motor vehicle drivers to halt and remain stationary when requested by any uniformed police officer. The driver must then provide their name and address, along with the vehicle owner's details, to any affected individual demanding such information, provided the requester also provides their own name and address. Furthermore the ordinance prescribes penal consequences in case of disobedience. A uniformed police officer has the authority,

without a warrant, to arrest any individual who, when required under the provisions of this Ordinance to provide necessary identification credentials, declines to do so or provides wrong or misleading credentials that the officer has reasonable grounds to think is false. Additionally, the officer may arrest any person involved in an offense under this Ordinance or reasonably alleged to have been involved, if there is reason to believe that the individual will flee or otherwise evade receiving a summons. Furthermore, the disregard of traffic signs, signals, or directions issued by a police officer responsible for traffic regulation constitutes an offense as specified in the 12th Schedule.

The principle Criminal Procedural Law of Pakistan is also not silent about the issue. According to article 42 of Code of Criminal Procedure a person is obligated to assist a Police Officer reasonably demanding aid for the purposes of (a) taking down names and addresses of persons (b) preventing any person from committing any cognizable offence, or (c) apprehending any person, or (d) preventing any breach of the peace or affray or any injury to any Railway, canal or telegraph line or to any public property." (Code of Criminal Procedure, § 42)

The Opium Act, I of 1878, as well as other statutes governing narcotics control, grants authority to a Police Officer of the rank of Head Constable or higher to confine and search any individual whom they have reason to suspect is involved in an offense related to opium under this law or any other existing law. (Opium Act, I of 1878, § 15, read with § 14).

Circumscribing Principles

While we have sufficient legal provisions empowering the police officers, it is critical to strike a delicate balance between granting the Police authority and safeguarding individual rights and civil liberties. Adequate empowerment of the police arthritis is crucial for maintaining law and order, upholding public safety, and preventing criminal activities. However, there are potential risks associated with excessive empowerment, such as abuse of authority, infringement on individual rights, and erosion of public trust. In this section, we will delve into the critical aspects of implementing restricting principles within empowering provisions for law enforcement.

Though there may not be explicit laws specifically prohibiting Driving License or ID card requests; however there are sufficient legal principles, code of conducts and concepts to confine such actions and make them with the legislative wisdom of investing such powers in Police. While police is empowered with certain commands, individuals do enjoy the right to privacy. Any search or checking should be conducted with respect for personal privacy and in compliance with relevant laws. Hence the question of legality of asking about Driving License and ID card by the Police officer entirely depends upon the purpose they are asking for. Police actions, including snap checking and ID card requests must be carried out with valid reasons, such as maintaining law and order, ensuring public safety, or enforcing traffic regulations. They must not be based on discrimination, race, religion, or any other prohibited grounds. All citizens should be treated equally and without bias. Following factors enable the readers to conduct the legal anatomy of aforesaid provisions empowering Police officers to check ID cards and Driving Licences.

Code of Conduct Mandated by Police Rules, 1934 and Police Order, 2002

Section 3 of Police Order, 2002 expects a Police Officer to behave with due decorum and courtesy with citizens and to promote amity. In addition, Article 114 of the Police Order, 2002, along with Police Rules 14.4 and Conduct Rules, authorize the Provincial Police Officer to establish a Code of Conduct to govern police practices. This code of conduct provides a framework of guidelines outlining appropriate behavior and actions for police officers, both while on duty and off duty, to ensure compliance with the law while carrying out their official responsibilities. (Iqbal, Code of Conduct for Punjab) The code of conduct enacted in the pursuance of such authority embraces the observation of certain principles the most relevant of which are following:

Honesty and Integrity

Establishing public trust in the sincerity and uprightness of police officers is of utmost significance. Therefore, officers must conduct themselves with transparency and truthfulness in all their interactions, refrain from any undue influence from individuals or organizations, and

fulfill their responsibilities with professionalism, honesty, and integrity.

Politeness and Tolerance

Police officers should consistently exhibit courteous and respectful behavior towards both the public and their colleagues. They must refrain from any abusive or derogatory attitudes, treating everyone with dignity and fairness. This includes avoiding any form of favoritism towards individuals or specific groups and refraining from engaging in harassment, victimization, or unreasonable discrimination. By upholding these principles, officers can foster positive relationships within the community and amongst their colleagues, promoting a harmonious and respectful working environment. Such behavior also reinforces public trust and confidence in law enforcement, leading to a more effective and accountable police force. (Iqbal, Code of Conduct for Punjab).

Decorum in Snap Checking

During personal searches or snap checks, it's crucial to maintain principles of decency. When it comes to the arrest and search of women, Police Rule 26.18-A is explicit, and these instructions must never be disregarded under any circumstances.

Besides these, following are certain more factors which enable the readers to conduct the legal anatomy of aforesaid provisions empowering Police officers to check ID cards and Driving Licences..

Privacy Invasion

The fundamental human right to privacy shields individuals from undue interference in their personal lives and information. Critics argue that aforesaid provisions allow police officers to check ID cards and driving licenses which invades their privacy and breaches their Fundamental Constitutional Right. They believe that citizens should have the freedom to move about without constant monitoring or interruption by law enforcement, especially in routine situations where there is no suspicion of wrongdoing. The routine collection of this data without a specific reason can raise concerns about the potential misuse or mishandling of personal information. It further can disrupt an individual's anonymity and

contribute to a sense of being constantly monitored by authorities. The loss of anonymity may lead to self-censorship or concerns about exercising freedom of movement without unwarranted attention.

Potential for Harassment

The concerns may also be raised about the potential of describe provisions for abuse or harassment during such checks by Police officers. Instances of profiling based on appearance, ethnicity, or socioeconomic status could be cited as examples of abuse of power during routine stops.

Instances have been witnessed in different check posts in the outskirts of Dera Ismail Khan where police officers engage in snap checking with a special focus on individuals with a certain appearance, such as Pathans with beard and turban and traditional clothes. The individuals so checked might feel humiliated and singled out due to their ethnicity and appearance. Even though they have not committed any offense, they experience a sense of discrimination and mistrust towards law enforcement. Citizens are growing increasingly frustrated with the lengthy lines of vehicles awaiting inspection at various checkpoints by the police and other law enforcement agencies.(Asghar, [2023](#)) Numerous complaints surfaced regarding alleged harassment of the general public by these forces while traveling across different regions of the country. As previously mentioned, the newly-appointed CCPO found the performance of policemen at the motorway checkpoint near Peshawar toll plaza unsatisfactory, leading to its removal. Additionally, the chief minister addressed reported public harassment by Excise Department officials at the same site, resulting in subsequent action against them.

The Police department of Pakistan often utilize their broad authority to register cases, make arrests, and detain individuals upon the request of influential societal figures such as the affluent, politicians, landowners, and members of the civil and military bureaucracy. This power is sometimes misused to levy unfounded accusations against perceived adversaries as a means of coercion or reprisal.(Human Rights, [2016](#)) Numerous individuals are subjected to arbitrary arrest. According to Pakistan's Criminal Procedure Code, police possess the authority to arrest

individuals without a warrant if there is a "reasonable suspicion" of their involvement or connection to specific criminal offenses, or if there is a "reasonable complaint" or "credible information" indicating such involvement. Police can also arrest individuals without a warrant if they suspect them of planning to commit certain types of offenses. Additionally, there have been reports of police threatening family members with false charges if they persist in lodging complaints of police abuse.

Such a persecuting attitude of Police Officer can have a lasting impact on people's perception of police and the justice system. Such conduct has in past lead to increased alienation and hostility from certain communities, ultimately hindering effective policing efforts. I may lead to stigmatization and profiling based on appearance, ethnicity, or other characteristics. Certain communities or individuals may face increased scrutiny and suspicion merely due to their cultural attire, religious symbols, or ethnic background, further eroding trust between the public and law enforcement.

Lack of Probable Cause

It may also be contended that snap checking without specific reasons, probable cause or reasonable suspicion could be inefficient and ineffective. Conducting routine stops on random individuals may not yield substantial results in terms of law enforcement objectives, and it may create an unnecessary burden for both the police and the individuals stopped. In several instances, unprincipled or corrupt police officers may well abuse their power during snap checking to take bribes or practice extortion against citizens, particularly from weak or radicalized community.

To tackle this issue, LEAs should make sure that snap checking is subjected to particular indicators of levelheaded doubts of traffic violations. It will explore resource, safeguard the constitutionally guaranteed Fundamental rights, and yield a more respectful bond between the Police and Public. The identification checks without any plausible doubts shouldn't be practiced.

Recommendations

Guidelines and Training

Plain and explicit regulations for check posts

ought to be adopted which portray the implication of performing checks on the basis of some rational doubts, particular indicators of noncompliance, or persuasive traffic safety concerns. The Police officers should be trained to make sure that they respect the citizens' civil rights and privacy.

Establish Clear and Justifiable Criteria

The management of Police Department should set up plain and justified criterion for performing snap check. Authorities should be made to have levelheaded doubt or particular indicators of traffic breaches before bothering citizens to stop.

Encourage Alternatives to Routine Snap-checking

Technology and data-driven techniques to conduct the routine checks should be introduced. Programmed traffic examination systems and targeted enforcement based on synchronized data analysis should be put into practice which will ease the need for repeated stops.

Conclusion

The question of Police demanding to provide identity cards or driving licenses during routine checking has given rise to some notable concerns about the citizens' civil rights and privacy and the demeanor of the officers demanding so. The sufficient laws authorizing the police to ask for identification, including ID cards and driving licenses are certainly enacted, which are essential for the officers to perform their duly invested duty of maintaining peace.

The matters of Privacy invasion, prejudice, annoyance, and the attrition of public faith in Police and Law Enforcement are the main concerns which come in way as a result of LEAs performing their duly invested duties. Such concerns heighten the call for for a balanced approach that promises the public safety while conserving civil rights and liberties. By sticking to the doctrines of transparency, responsibility, non-discrimination, and admiration for civil rights, LEAs can construct public confidence. Similarly, the citizens can also throw in to a safer society by lending a hand to the Police when asked to present identification.

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