

Impact of Knowledge of Law and Related Matters on Fair Trial in Backdrop of Plead Guilty

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Abstract

Fair trial, the basis for dispensation of justice, has certain prerequisites, including the 'knowledge of law and related matters, on the part of accused. The process of plead guilty, a short-cut procedure for disposal of criminal cases, exists side by side with standard procedure of contested trial. For a fair trial, the accused should be able to understand the charge and the legal procedures that will be used in disposal of his case. In this research article the impact of 'knowledge of law and related matters' on 'fair trial' in backdrop of 'plead guilty' has been explored, with the focus to discern the association of former with the latter. The study was conducted through two-stage random sampling technique from the research population comprising the persons accused for minor offences under Pakistan Penal Code or Section 9(a) of Control of Narcotics Substances Act in all districts and subdivisions of Khyber Pakhtunkhwa. The samples were taken equally from cases decided through plead guilty and contested trials. The research design was devised in a manner to analyze the data through SPSS to answer the main research question about the association of the attributes of the accused, including his knowledge, influencing his choice to plead guilty with the outcome of the fairness of the trial in terms of key attributes of the fair trial? The data were collected through pre-tested questionnaire, aided by interviews, where needed. The results of the study indicated that a majority of accused in such cases lack adequate knowledge of law and related matters, needed to defend themselves in the courts, which results in higher occurrence of deficient trials, and this outcome is more frequent in cases decided on plead guilty. Substantial reforms are needed to address this issue.

Keywords: fair trial, knowledge of law, plead guilty, contested trial, pre-tested questionnaire, deficient trial

Introduction

Fair trial is the basis for dispensation of justice. European Court of Human Rights has termed fair trial as a basic principle of the rule of law in a democratic society and aspired it to secure the right to a proper administration of justice (Leanza & Pridal, 2014). The principle of fair trial constitutes the backbone of all applicable procedures and substantial laws almost in every legal culture, sometimes however, under different titles. In the absence of fair trial, the rule of law, human rights and consequently the idea of justice may become illusionary (KILINÇ, 2016). Fair trial is fundamental for the dispensation of justice, which has certain prerequisites, including the 'knowledge of law and related matters. The process of plead guilty, a

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short-cut procedure for disposal of criminal cases, exists side by side with standard procedure of contested trial. Both the procedures have its pros and cons in the context of fair trial. The level of knowledge of law of the accused has a significant impact on his right to a fair trial. For a fair trial, the accused should be able to understand the charge and the legal procedures that will be used in his case, and the possible outcomes. If the accused does not know these basic steps, he may not be able to properly defend himself or make informed choice about his case. In this research article the impact of 'knowledge of law and related matters' on fair trial in backdrop of plead guilty has been explored.

The right to a fair trial has universal recognition, and has been included in the UN Declaration of Human Rights. It must be respected at a high level (Shevchuk, 2006). Article "10 A" of the Constitution of Pakistan (Paliament, 1973) mandates that a trial should be fair. The Investigation for Fair Trial Act, 2013 provides that the investigation should be made in such a manner to ensure the trial to be fair (Paliament, 2013). The insertion of this Article in the Constitution has increased public awareness and reinforced the list of human rights (Hamdani, 2013) and (Hamdani, 2014).

Many factors, both judicial and non-judicial, have promoted the practice of plead guilty. Quantitative empirical studies have indicated that almost all defendants who plead guilty receive a discount of one third or slightly less, in conformity with sentencing discounts established by English law (Stockemer & Stockemer, 2019). The power given to prosecutors in the plea bargaining process has criticized, as they decide whether to enter into negotiations and may be motivated by reducing caseload and increasing conviction rates (Burke, 2007). However, other researchers defend plea bargaining, citing its efficiency, cost-saving benefits, and legitimate reasons for defendants to plead guilty (Easterbrook, 1991).

It has been reported that explicit and implicit techniques are used to conclude the case in plead guilty. Even accused are encouraged to plead guilty. Plead guilty irrationally increases the rate of conviction (Finkelstein, 1975). Innocent defendants most often plead guilty in low-level offenses, cases of wrongful conviction, and when faced with harsh alternative punishments.

The issue needs to be explored through further research, particularly in context of the judicial system of Pakistan, as very few studies are based on qualitative analysis. For example, the Ph D thesis of Muhammad Iqbal, 'The Right to a Fair Trial in Pakistan: Challenges and Prospects' is qualitative in nature; fair trial has not been measured through control variables of plead guilty vis-à-vis the contested trial. The impact of 'knowledge of law and related matters' on fair trial in

backdrop of plead guilty basically provides empirical study to lead to recommendations for improvements in ensuring fair trial. As the research problem was “how and to what extent the ‘plead guilty juxtaposed with contested trial’ is impacting a fair trial, measured in terms of its attributes and indicators, and what are the prospects and challenges of employing plead guilty. So, the research questions were designed: (i) What is the association of the attributes of the accused, including his knowledge, economic status, social support, etc., and related institutional factors influencing his choice to plead guilty with the outcome of the fairness of the trial in terms of key attributes of the fair trial? (ii) What is the comparison of attributes of a trial under plead guilty vis-à-vis contested trial meeting the requirements of a fair trial? and (iii) What is the comparison of prospects and challenges of plead guilty vis-à-vis contested trial to meet the requirement of a fair trial?

Methodology

The research focused on a population comprising 201,345 suspects accused of offenses under the Pakistan Penal Code or Section 9(a) of the Control of Narcotics Substances Act in the Khyber Pakhtunkhwa province from 2020 to 2022. The sample size of 800 was determined using Chaudhry’s formula, with half allocated to contested trial cases and the other half to plead guilty cases. Data collection involved structured questionnaires and scheduled interviews with Likert scale responses. Primary data, collected from the sampled individuals, was complemented by secondary data from diverse sources. Adhering to APA norms, the study aimed to assess the impact of the independent variable, “Knowledge of law and related matters,” on the dependent variable, “Fair Trial,” with control variables “Plead Guilty” and its converse, “Contested trial.” The collected data underwent coding in SPSS (26 Version) for analysis, with descriptive statistics, frequency and percentage distribution, indexation, and uni-variate, bi-variate, and multi-variate analyses employed. The Cronbach Alpha test ensured consistency. The study’s design centered on evaluating the influence of knowledge of law on fair trials, considering essential attributes of the three variables involved. This comprehensive approach, grounded in a systematic methodology, adhered to established research standards throughout the entire process.

Results

The uni-Variate and multi-Variate analyses were done; the results compiled as reflected below:

Uni-Variate Analysis

The univariate analysis of the independent variable, the knowledge of law and related matters and its attributes against the dependent variable, fair trial, is tabulated below:

Table 1: Uni-Variate Analysis of Independent Variable, Knowledge of Law coupled with Related Matters and Dependent Variable, Fair Trial

#	Attributes (Questions)	Responses on Lickert Scale [Frequency (Percentage)]				Total
		Yes	No	Uncertain	Not Applicable	
1	Did you know the contents of the “Charge”?	324 (40.5)	406 (50.8)	70 (8.7)	0 (0)	800 (100)
2	Did you know the section (s) of law applied / mentioned in the “charge”?	294 (36.8)	434 (54.3)	72 (8.9)	0 (0)	800 (100)
3	Did you read and understand disclosures/ documents supplied U/S 241-A or 265-C of the Code of Criminal Procedure (Cr. P.C)?	290 (36.3)	394 (49.3)	116 (14.4)	0 (0)	800 (100)
4	Did you know the prescribed maximum punishment?	360 (45.0)	356 (44.5)	84 (10.5)	0 (0)	800 (100.0)
5	Did you know all your legal options; e.g., not under compulsion to plead guilty?	394 (49.3)	324 (40.5)	82 (10.2)	0 (0)	800 (100.0)
6	Did you know the repercussions of plead guilty?	366 (45.8)	322 (40.2)	112 (14.0)	0 (0)	800 (100.0)
7	Did you know that after PG you would be disqualified for public Service/post?	408 (51.0)	280 (35.0)	112 (14.0)	0 (0)	800 (100.0)
8	Did you know that after plead guilty you would be disqualified for elected office?	338 (42.3)	316 (39.5)	146 (18.2)	0 (0)	800 (100.0)
9	Did you know that after plead guilty, you would be declared as habitual offender for next time?	332 (41.5)	356 (44.5)	112 (14.0)	0 (0)	800 (100.0)
10	Did you know that after plead guilty, you would lose some legal concessions for the next time e.g., probation?	404 (50.5)	282 (35.3)	114 (14.2)	0 (0)	800 (100.0)
	TOTAL (Responses)	3510	3470	1020	0	8000
	TOTAL (Percentages)	439.0	433.9	127.1	0	1000
	AVERAGE (Percentages)	(43.9)	(43.4)	(12.7)	0	(100)

Multi-Variate

The multi-Variate analysis was conducted by cross-tabbing the 10 attributes of independent variable, Knowledge of Law and Related Matters, with the 11 attributes of dependent variable, Fair Trial, one by one, while the disposition of the cases through (i) pleading guilty or (ii) contested trial served as the controlling variable.

If the respondent had knowledge of five or more attributes, with “Yes” options in the questionnaire/interview for the independent variable, knowledge of law and related matters, his level of the knowledge was treated as “Fair (High)”, and for those with less than five “Yes” options, as “Poor (Low)”. The cases where six or more out of the 11 attributes of the dependent variables (Fair Trial) were perceived by the respondent to have been met was treated as “Just”, while the cases perceived with meeting less than six attributes were treated as “Deficient”. The results of the multi-Variate analysis are tabulated below:

Table 2: Multi-Variate Analysis of Knowledge of Law and Fair Trial, with Controlling Variable, the Disposition of Cases through pleading guilty or Contested Trial

Controlled Variables	Independent Variable	Dependent Variable (Fair Trial)			Statistics χ^2 , (p-Value), T_c
		Deficient	Just	Total	
Plead Guilty	Poor (Low)	264 (82.0)	58 (18.0)	322 (100.0)	108.249 (.000) -0.409
	Fair (High)	52 (66.7)	26 (33.3)	78 (100.0)	
	Total	316 (79.0)	84 (21.0)	400 (100.0)	
Contested Trial	Poor (Low)	62 (45.6)	74 (54.4)	136 (100.0)	9.350 (.002) -0.121
	Fair (High)	60 (22.7)	204 (77.3)	264 (100.0)	
	Total	122 (30.5)	278 (69.5)	400 (100.0)	
Grand Total	Poor (Low)	326 (71.2)	132 (28.8)	458 (100.0)	167.457 (.000) -0.452
	Fair (High)	112 (32.7)	230 (67.3)	342 (100.0)	
	Total	438 (54.8)	362 (45.3)	800 (100.0)	

(Observation 3) Interpretation to be written

Discussion

The uni-variate analysis showed that for the 10 attributes of the independent variable, Knowledge of Law and Related Matters, put up in questions form to the 800 sample respondents, 3510 (43.9%) responses out of the total 8000 responses were “Yes”, which reflected the extent of positive Knowledge of Law and Related Matters of the

respondent, while 3470 (43.4%) responses of “No” reflected the lack of such knowledge. The remaining 1020 (12.7%) responses were “Uncertain”. It is obvious from the data that most of the respondents were lacking knowledge of law and related matters to the full extent in terms of the given attributes, but had partial knowledge of the same at their trial.

The table shows that both variants of the cases (plead guilty and contested trials), where the respondents had Poor (Low) knowledge of the law and related matters, ended up with higher percentage (71.2%) of “deficient” trials and lower percentage (28.8%) of “Just” trials, compared to those with Fair (High) knowledge of the law and related matters, the cases ended up with lower percentage (32.7%) of “deficient” trials and higher percentage (67.3%) of “Just” trials. It indicates that with improvement of knowledge of law and related matters of the respondents in both types of cases, the prospects of “Just” (Fair Trial) trial increases.

The table also shows that the plead guilty cases, where the respondents had Poor (Low) knowledge of the law and related matters, ended up with higher percentage (82.0%) of “deficient” trials and lower percentage (18.0%) of “Just” trials, compared to those with Fair (High) knowledge of the law and related matters, the cases ended up with lower percentage (66.7%) of “deficient” trials and higher percentage (33.3%) of “Just” trials. It indicates that with improvement of knowledge of law and related matters of the respondents in plead guilty cases, the prospects of “Just” (Fair Trial) trial increases.

The table further shows that the contested trial cases, where the respondents had Poor (Low) knowledge of the law and related matters, ended up with lower percentage (45.6%) of “deficient” trials and higher percentage (54.4%) of “Just” trials, compared to those with Fair (High) knowledge of the law and related matters, the cases ended up with lower percentage (22.7%) of “deficient” trials and higher percentage (77.3%) of “Just” trials. It indicates that with improvement of knowledge of law and related matters of the respondents in contested cases, the prospects of “Just” (Fair Trial) trial increases. It is also evident that with improvement in knowledge of the law and related matters in both plead guilty and contested trials, the occurrence of deficient trial is comparatively lower, but it is more so in cases of the contested trials.

It has been reported that in order to ensure the impartiality of the trial, the prosecution is required to disclose the evidence, statements, and other information that will assist the defendant in preparing a defense (Burgess, 2005). Disclosure and provision of all relevant evidence, both inculpatory and exculpatory, are necessary for a fair trial (Yang, 2016). The results of this study indicated the lack of

proper knowledge of the accused persons to defend themselves, which causes high incidence of deficient trials.

Conclusions

The conclusions of the study are given below:

- i. A majority of the people charged in criminal cases under Pakistan Penal Code for minor offences and Section 9a of the Narcotics Substances Control Act in the Khyber Pakhtunkhwa have no or inadequate knowledge of law and related matters at the time of their trials which results into plead guilty.
- ii. A significant number of persons charges in such cases were uncertain about the attributes of Law and related matters.
- iii. The frequency distribution of lack of the knowledge of law and related matters different attributes of law and related matters varies in narrow band among the sampled population.
- iv. The lack of the knowledge of law and related matters is associated with higher occurrence of deficient trails i.e., conclusion of cases falling short of attributes of fair trial.
- v. In disposal of cases by plead guilty and contested trials, where the respondents had poor knowledge of the law and related matters, the occurrence of “deficient” trials was higher, compared to the cases where the respondents had fair knowledge of the law and related matters. Comparatively, this trend was more intense in cases disposed of through plead guilty.
- vi. The table also shows that the plead guilty cases, where the respondents had Poor (Low) knowledge of the law and related matters, ended up with higher percentage (82.0%) of “deficient” trials and lower percentage (18.0%) of “Just” trials, compared to those with Fair (High) knowledge of the law and related matters, the cases ended up with lower percentage (66.7%) of “deficient” trials and higher percentage (33.3%) of “Just” trials. It indicates that with improvement of knowledge of law and related matters of the respondents in plead guilty cases, the prospects of “Just” (Fair Trial) trial increases.
- vii. In both plead guilty and contested trials, the perception of the respondents feeling their disposal of cases as just (fair) increases with increases in knowledge of law and related matters.

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