[Sahiwal shooting: probing the police](https://nation.com.pk/28-Jan-2019/sahiwal-shooting-probing-the-police%22%20%5Ct%20%22_new)

Mohsin Raza Malik January 28, 2019 the nation

 Sending shock waves across the country, the tragic and traumatic Sahiwal incident has made countless Pakistanis feel shaken, dejected and heartbroken. It was really a tragedy that three children just saw their both parents and a sibling being brutally shot dead by the police. The Counter-Terrorism Department (CTD) of Punjab Police also killed a suspected terrorist in this shady encounter. Though its detailed investigation is underway, this unfortunate incident appears to be a typical case of abuse of authority by our trigger-happy police- a civil force which has become quite habitual of killing innocent citizens in staged encounters. Noticeably, Punjab Police, the country’s largest police organization, has somehow managed to established its complete “monopoly on violence”, including the monopoly of the ‘illegitimate’ use of physical force in the province over a period of time.

Prime Minister Imran Khan has promised “swift action” against those responsible for this gruesome incident. An FIR, based on the version of victims’ relatives, has also been registered against 16 CTD personnel. The Punjab Government has also formed a Joint Investigation Team (JIT) to probe into Sahiwal killings, headed by an additional IG police, ordering to submit a report within 72 hours. And the entire command hierarchy of CTD has also been removed on the basis of initial report submitted by this JIT. Nevertheless, some provincial ministers were seen actively trying to cover up or dilute the gravity of this incident, helping the CTD officials get away with these killings. Firstly, they tried to establish that it was just a case of “poor judgment” or “mistaken identity” on the part of CTD personnel. Afterwards, they readily termed the innocent casualties in this unfortunate incident “collateral damage”. They also looked hell-bent on proving Zeeshan, the owner-driver of the car targeted by the police, a hardcore terrorist and an Islamic State affiliate.

It is the stated position of the Punjab Government as well as Punjab Police that the Sahiwal shooting was a perfectly justified ”intelligence-based operation”, which, though, has been poorly executed by the CTD officials. No cogent evidence, however, has yet been presented to irrefutably establish suspected terrorist Zeeshan’s alleged links with any terrorist outfit. At this stage, one can’t precisely analyze the quality and accuracy of such intelligence information. But observably, it was essentially an ill-executed, or rather illegally-executed operation where the police officials have just restored to illegitimate, unjustifiable and excessive use of force against the innocent individuals.

The law of the land authorizes an individual to use force against any aggressor in exercise of his/her right of private defence. At the same time, it also imposes some restrictions on the exercise of such right. Pakistan Penal Code strictly prohibits inflicting more harm than it is necessary to inflict for the purpose of self defence. Similarly, be one an ordinary person or a public servant, the right to private defence extends to cause the death of an assailant only if such assault reasonably causes the apprehension of death. Therefore, anyone, including a police official, can only use physical force or resort to open fire on others only to save his own or someone’s life. The law, by no means, grants the police a license to kill on the pretext of nabbing a criminal or even countering terrorism.

On the basis of a number of video footages that have become viral on social media, eye-witnesses’ statements, and a survival’s account; one can easily infer that CTD personnel had successfully managed to make the ill-fated car stopped before they callously shot all the persons inside dead. Moreover, there is every likelihood that none of the victims opened any fire on the chasing CTD personnel. So logically, these personnel unlawfully and unjustifiably opted to open straight fire on the victims rather than nabbing the suspected terrorist Zeeshan alive. According to post-mortem report, all of the four victims in this incident received as many as 31 bullets, showing that the CTD personnel just illegally resorted to use of excessive force against the unarmed persons.

Inquiry and investigation are the two important pre-trial legal stages in a criminal case. The purpose of an inquiry is to determine the truth or falsehood of a specific charge, or to discover some real facts in a case. And the primary purpose of an investigation is to collect evidence to support a trial. A preliminary inquiry is generally conducted to ascertain some legal and factual aspects of a matter before this matter is formally investigated. The Punjab Government has chosen to instantly constitute a JIT to investigate into Sahiwal killings following the registration of two separate FIRs vis-à-vis this single incident. In fact, it has been a shady police shooting involving a number of controversies and contradictory claims. Therefore, the Punjab Government should have ensured an independent and impartial inquiry into this incident before it is investigated by a JIT. Certainly, an independent probe is needed to determine, inter alia: the accuracy and legal value of the intelligence information to presume victim Zeeshan a terrorist; whether any of the victims possessed any fire arm; whether any of the victims first opened fire on CTD officials; whether CTD personnel unnecessarily fired on the victims; and whether they resorted to use excessive force while doing so.

Sahiwal shooting is essentially a case against Punjab Police. This is the reason there are currently deep reservations and some doubts about the credibility and impartiality of the JIT headed by a senior officer of Punjab Police. The Law Minister and Information Minister of Punjab Government have been found covering up this incident. CTD officials have been blowing hot and cold about this incident from its very beginning. The local police readily registered an FIR based on the version of CTD officials without trying to ascertain real facts. It did also not bother to properly preserve the crime scene to collect material evidence in this case. The JIT has failed in reaching any conclusion within the specified 72 hours. The relatives of the victims have already rejected this JIT demanding an independent probe into this matter. Therefore, it is now incumbent upon the Punjab Government to instantly constitute a high-powered independent inquiry committee or commission, preferably headed by a High Court judge. This judicial inquiry will certainly help diluting all controversies and mysteries shrouding this unfortunate incident.

Through a constitutional petition, Lahore High Court has been moved seeking a judicial inquiry into Sahiwal encounter. The LHC Chief Justice has also constituted a two-judge bench to hear this case while pointing out that forming a judicial commission is the prerogative of the federal government rather than the provincial government. Notwithstanding this observation, the Punjab Government is legally empowered to constitute an inquiry tribunal to probe any matter under The Punjab Tribunals of Inquiry Ordinance, 1969 after duly framing its TORs in the same manner as does the federal government under Pakistan Commissions of Inquiry Act, 1956. The Justice Baqar Najafi Inquiry Tribunal was one of similar inquiry tribunals constituted in Punjab. This tribunal was constituted by the then Punjab Government in June 2014 to probe into Model Town tragedy.

The opposition parties have also demanded a judicial inquiry into the Sahiwal incident. Irrespective of this demand, Pakistanis are also keenly expecting from the government justice and fair-play in this high-profile tragic case. Therefore, the PTI government in Punjab should come clean about its promise to ensure justice in this case. An independent and impartial judicial inquiry into Sahiwal killings is advisable to ensure justice to victims. It would help discover some important facts in this case. The JIT would also be in a better position to efficiently conclude its investigation following the submission of inquiry report by the proposed inquiry tribunal. This unfortunate incident should also be a precursor to some extensive police reforms in Pakistan primarily aiming at devising a comprehensive institutional mechanism to prevent the police from abusing its authority. It is also advisable to introduce legislation requiring a mandatory judicial inquiry by a High Court judge into every extra-judicial killing in the country.

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