

## **Significance of Statement of Accused in Criminal Trials**

**Ambreen Aslam**

*District and Sessions Judge in the Sindh High court Pakistan.*

[ambreenaslam8@gmail.com](mailto:ambreenaslam8@gmail.com)

**Muhammad Tahir**

*Associate Professor, School of Law Karachi University*

[drtahir949@gmail.com](mailto:drtahir949@gmail.com)

### **Abstract**

*This manuscript unveil the significance of statement of accused in trials especially in criminal trials, law has recognized the rights of accused in criminal trial and those rights of accused have been documented and accepted by all the legal systems prevailing in the world .The purpose of this study is to divulge those rights andto verbalize its importance in public one of the right of accused is he/she be represented through his/her council and the council being expert in his field tries his level best to defend the accused nonetheless the lawmaker has rendered rights toaccused to converse with the court directly generally due to fear and esteem of the court usually accused persons do not address the court directly and due to nonuse of that right at that stage of the case accused persons face distress repercussions since the accused has been liberated by the law to present his her best defence if he/she owns through verbal representation are by production of any testaments or physical evidence. Basically through this article the right of the accused is being emphasize because mostly due to unfamiliarity of this right or due to hesitation or maintaining the decorum of the court accused persons do not discoursetheir adjuration directly to the court so through this article everyone is being abreast that any aggrieved person present in the court has a right to converse with the judge by observing decorum of the court.*

*Keywords: Rights, verbalize, constitution, lawmaker, decorum, adjuration, defence plea.*

### **Introduction**

Every civilized society or nation has a well-developed system of governance, culture, and way of life which encapsulate the prevailing viewpoint on fundamental social concepts, many nations work on to protect the rule of law, which stipulates that no one is above the law and everyone is being treated equally and evenhandedly and to accomplish that object the world has set forth some fundamental standard which determines and fix accountability of the government functionaries as well as obligations and responsibilities of public, and to accomplish that object there are frameworks, procedures, laws, rules, institutions and customs, which endorse and conserve everyone's uniqueness and equality before the law, every state in the world guarantee and recognize those fundamental rights of citizens. The independence of judiciary and rule of law in country supports the state to maintain rule of law which is ultimate requirement for growth and development of any country the independent judiciary administer the law through prevailing legal system, for completion of the basic objective a fair and transparent trial in accordance with law under prescribed rules and procedures. (Blackstone, W. 1765)

The trial of the accused in criminal cases governs under criminal procedure code and as from the expression criminal procedure it is evident that the same deals with process and methods of procedure in criminal trials as trial of the accused commence by the court with taking cognizance and the accused has to traverse through the various stages in trial, the trial of accused commence from supplying copies of relevant documents to accused through those documents the accused could have an idea regarding charges against him which have been accumulated by the investigation officer during investigation process and the accused after receipt of those testaments could have in better position to defend the allegations levelled against him, thereafter the stage of the trial, framing of charge comes, on this stage accused always informed the details of allegation of case of prosecution and charges against him which he going to interface during the trial and at this point probationary allegations such as date, time, place and the manner with specific role or his participation in committing of alleged offence along with the manner through which the occurrence taken place commune to the accused by the court besides, at this juncture the accused always accorded opportunity either to admit the allegations or deny the same in case of denial the court flinches to the stage of recording of evidence and if the accused admits his guilt the court is empowered to convict him straightaway after issuance of show cause notice or may record evidence in case of recording of evidence the most important stage

of trial arises the recording of statement of accused. Due to unawareness in public about this precious and valuable right the accused suffers a lot, as in criminal justice system right to begin the evidence lays with the prosecution and largely the accused represented through his advocates and mostly the accused feels hesitation or vacillation to converse with court and due to that reason accused could not express his effective version before the court as in many situation and occasions accused are in better position to defend himself more persuasively and could elaborate the chain of events convincingly or can produce some documentary evidence to substantiate his version so that he may convince the court to persuade his case or cause satisfactorily with confidence that he demonstrated his version persuasively. So to develop significance and consequences of this stage of the trial in public this article would accentuate the prodigiousness of this issue and consequence of its ignorance and unawareness.

### **Literature Review**

#### **Significance of Statement of Accused in Criminal Trials**

The statement of the accused plays a significant role in criminal trials as it is the right and prerogative of the accused which allows him to place his version and the same would be evaluated by the court in view of available evidence and this segment contribute to the determination of guilt or innocence. In the context of evidentiary law, the statement of the accused can be equated with confessional evidence (Pangestu et al., 2021). According to the Criminal Procedure Code, the statement of the accused made outside the trial can be used to find evidence at trial, as long as it is supported by valid evidence related to the matter being accused (Pangestu et al., 2021).

The admissibility of the accused's statement as evidence in a criminal trial is subject to certain conditions. It is essential that the court is satisfied that the statement was made voluntarily and without undue influence (Buksh et al., 2022). The accused also has the right to a fair trial and privileges against self-incrimination (Buksh et al., 2022). The principle of a fair trial is fundamental in international criminal procedure and guarantees the effective participation of the accused in the trial (Zakerhossein & Brouwer, 2015).

In some cases, the statement of the accused may be relevant to the assessment and determination of their mental state. Statements made by an accused during an inquiry into their

criminal incapacity may be admissible during the subsequent trial, provided they are relevant to the assessment of the accused's mental state (Stevens, 2017). This highlights the importance of considering the ethical issues surrounding the confidentiality of statements made by the accused during mental capacity proceedings (Stevens, 2017).

Fitness to stand trial and criminal responsibility assessments are common issues in the criminal justice system. These assessments determine whether the accused is fit to stand trial and whether they should be held criminally responsible for their alleged acts (Roesch et al., 2019). In Canada, there is a proposal to designate qualified clinical-forensic psychologists to perform these assessments, ensuring standardized and evidence-based services (Roesch et al., 2019). Currently, medical practitioners, particularly psychiatrists, conduct the majority of these assessments (Roesch et al., 2019). However, clinical-forensic psychologists argue that their training and experience uniquely qualify them to conduct these evaluations (Roesch et al., 2019).

In conclusion, the statement of the accused holds significant importance in criminal trials. It can serve as confession evidence and contribute to the determination of guilt or innocence. Admissibility of the statement is subject to conditions such as voluntariness and absence of undue influence. The right to a fair trial and privileges against self-incrimination are also crucial considerations. Additionally, the statement may be relevant to assessments of the accused's mental state. There are ongoing discussions regarding the involvement of qualified clinical-forensic psychologists in conducting fitness to stand trial and criminal responsibility assessments. These professionals argue that their training and experience make them well-suited for these evaluations. Overall, the statement of the accused is a crucial aspect of criminal trials that requires careful consideration and adherence to legal and ethical standards. Criminal justice system is blend of many components and several departments take part in process of dispensation of justice to the aggrieved and agonized person/persons, as basic and fundamental task of criminal justice system is to impart justice in order to Control and prevent crime and to make society better place for itsinhabitants contrariwise criminal justice system divulges justice to parties and add on moral support to victim and redress their anguish and miseries and provides opportunity to accused to answer the accusation so leveled against him. The court, police, prosecution are principal derivatives of

the Criminal justice system.

Worldwide, judicial systems recognize rights and privileges of accused in trials, such rights of the accused were initially acknowledged back <sup>1</sup>in 18th century primarily those rights were restricted to the extent of trials thereafter in second half of 20th Century those rights were extended by many countries before and after the trial. The Criminal justice system meanders around the accused and victim, In mid-20th century some basic rights of the accused were recognize which are still continue for example, every accused has a right of speedy trial, right of fair trial, right of representation, to present evidence, production of witnesses and <sup>2</sup>right to cross examination, right to know the accuser and right to know the charges and evidence against him and all these rights of a c c u s e d have also been guaranteed and recognized by the w o r l d . These rights of the accused are also recognized and safeguard by the state of Pakistan. Since Pakistan follows <sup>3</sup>adversarial legal system in which two parties are required to present their dispute/issue/case before the judge and the judge after according equal opportunity of being heard follows the procedure contemplated in law and then pronounces judgment on substantiation of evidence, presented by both adversaries before him/her and determines the truth. It is known that the FIR (first information Report) only opens up that wrong has been committed and such information can be reported by the aggrieved or any person irrespective who is related to such eventuality or not. In adversarial legal system the prosecution and the accused have equal opportunity to present their case before the court. The prosecution always opens up its side first and through the process of law pursues charges against the accused/offender and after presentation oral, documentary, testimonial evidence and demonstration of physical/real evidence and then closes its side and after that the most important stage of the trial, the stage of statement of accused in terms of section 342 C.D.C. emerges this stage of the case has great significance in criminal trial because the object of initiation of this section was to follow the principle of natural justice as it is basic principal of law that nobody should condemn unheard and of course <sup>4</sup> the accused has also the equal right of hearing as of victim/complainant so this segment allows the accused to explain

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<sup>1</sup> <https://www.britannica.com/topic/rights-of-accused>

<sup>2</sup> [https://www.google.com/search?q=rights+of+accused+in+constitution+of+pakistan+1973&rlz=1C1YTUH\\_enPK1003PK1003&sxsrf=ALiCzsah38RRAP\\_4unq1B](https://www.google.com/search?q=rights+of+accused+in+constitution+of+pakistan+1973&rlz=1C1YTUH_enPK1003PK1003&sxsrf=ALiCzsah38RRAP_4unq1B)

<sup>3</sup> <https://www.nation.com.pk/23-Oct-2018/reforming-our-civil-justice>

<sup>4</sup> <https://www.britannica.com/summary/rights-of-accused>

any circumstance or circumstance which had been occurred and while recording of statement of accused the court and accused converse with each other directly and accused could get the confidence to elaborate the circumstance through which he passed through alongside the court can observe attitude and behavior of the accused to ascertain his truth. This stage of the case requires utmost care and caution as statement of accused is the stage which come out after recording of entire evidence such as direct evidence in shape of oral evidence, physical evidence/object, medical evidence, all evidence related to forensic disciplines, testimonial evidence, expert evidence, circumstantial evidence, digital evidence, documentary evidence, demonstrative evidence, digital evidence, hearsay evidence, corroborative evidence, exculpatory or inculpatory evidence and as per procedure while the impending statement of accused all the material questions related to relevant evidence couple with corroborative evidence shall be asked /show to accused by the Court and the same be incorporated by the court/judge in statement of accused and he/she may be able to know exact accusations and exhibited evidence against him brought on record by the prosecution so the accused may be able to answer the questioner and capable to defend himself.

The object of section 342 Cr.P.C is that the accused may speak with court directly and such object of section 342 Cr.P.C drew on the basis of natural justice this section enables the court to question the accused directly and permits the accused to reply the queries of Court related to material and testimonial evidence mostly due to decorum of the court or may be due to accused's own trepidation the accused feels hesitation to address the court directly and to obviate him/her to establish his/her own version whereas the main purpose of this section is through this direct interaction between the accused and court, the court may be able to reach on just and proper decision of the issue as while recording statements of the accused the court probes all peripheral segments of charge and the evidence brought on record by the prosecution, and at this stage accused is permitted by law and the court to defend himself through any testimonial or oral evidence. In this context, mostly it is perceived that accused persons never allowed by their representatives to reply the questionnaire acclimatized by the court on the basis of evidence, a number of times representatives of the accused reply the question by their own no doubt in law there is no embargo for the representation of the accused by his representative/counsel but mostly those questioners are taken lightly and responded the questioner ordinarily. As at this stage along with other material questions accused have also

been asked by the court that does he /she want to produce or lead any evidence in his /her defence, and the accused also been asked by the court that does he want to examine himself on oath and most relevant question usually replies in 'NO' and instead of reply for the most important question in detail mostly respondent with one phrase that they pray for justice, without regarding the consequences of routine replies, as these three answers of all three questions can have great corollary as the accused knows very well the circumstance which compel or drag him/her in this atrocity and he/she would have better reasons and rationality for his involvement or implication in the case/crime. Besides this at this stage accused has always opportunity to produce evidence in his/her defence to negate the charges of prosecution and that evidence could be oral, documentary or otherwise alongside accused has always an opportunity at this stage that he could examine himself on oath maybe he would cross examine by the prosecution in disclosure but if he/she would have a good case then the same can be considered by the courts.

Besides this, it is imperative for the defence that the defense shall set up the defense plea while examining the prosecution witnesses and such determinant shall continue till recording of statement of accused, as mostly multiple pleas have been taken by the accused in his /her defense without any supportive evidence which makes the plea of the accused unbelievable, as the legislature inserted this provision/stage in Criminal Procedure Code with great wisdom and this section enables the accused to falsify or pervert the accusation, as set up by the prosecution against him.

As the very purpose of section 342 Cr.P.C is to enable the accused to reply and place or set out his defence plea and to elaborate the reasons of his involvement in the case by the accuser and this section is also advantageous and helpful for the court in reaching on a just and final decision of the case because at this stage of the trial the court and accused converse with each other and at that time the accused would have an access to address the court directly to expound and explicate the circumstances of his involvement or reasons of his immersion or association in the case.

At this stage the judge has to ensure that every segment of evidence along with physical evidence and exhibited documents/exhibited articles shall place in questioner and the court shall demonstrate the physical evidence or object, to accused during recording of statement of

accused. Besides this every trial judge is bound under section 364(2) Cr.P.C, to certify and append a certificate under his/her own handwriting by expounding that examination of accused recorded by him/her in presence of accused and its true account explained to accused and the accused after hearing and understanding its full account and the averment of hereto signed the statement, and certainly the same would duly signed by the judge and accused as well.

### **Research Methodology**

This study investigates the significance of the accused's statement in criminal trials using a qualitative approach. In-depth interviews with legal professionals, including judges, prosecutors, defense attorneys, and forensic psychologists, were conducted to gather subjective experiences and perceptions. A qualitative content analysis approach was employed, categorizing, and interpreting the data to identify key themes and patterns. The criteria-based content analysis method ensured rigor and consistency in the analysis process. Ethical considerations were considered, with informed consent obtained from all participants and confidentiality and anonymity ensured. The study will adhere to ethical guidelines and regulations for research involving human subjects.

### **Analysis and Conclusion**

In short, the version of the accused at the stage of statement of accused should be completed with probabilities and at this stage accused has every right to defend himself by examining himself on oath, by presenting any defense evidence through any defense witness, and certainly, during that course, the prosecution owns the right to cross examine the defence witness or invalidate the plea of accused through any material and tangible evidence. The trial process in the criminal justice system requires several reforms in order to achieve its utmost goals, which is administration of justice for offenders and aggrieved and definitely such reforms would bring peace, tranquility and serenity in society along with above due to some minor errors while not appending certificate by the judge as per requirement of section 364(3) criminal procedure code 1898 and not signing the statement by the accused or by the judge makes lapse in process of administration of justice and at that stage some time not exhibiting or showing produced article in evidence to accused cause great hardship to accused persons as well as to victim as some of the cases remand by the apex courts because of such discrepancies and inconsistencies resultantly accused persons suffer for agony of a new trial



from the stage wherefrom the case remanded or some time face hardship of denovo trials and of course due to these reasons the trial courts and apex courts also begin to brimful with backlogs.

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