



Submission for the United Nations Special Rapporteur on Torture: Information on Psychosocial dynamics conducive to torture and ill-treatment for the Special Rapporteur's Annual Interim Report to the General Assembly at its 75th Session in October 2020

Submitted by:
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The Justice Project Society, commonly referred to as Justice Project Pakistan (JPP), is a legal action non-government organization representing the most vulnerable Pakistani prisoners facing the harshest punishments, including those facing the death penalty, mentally ill prisoners, victims of police torture, and detainees of the “War on Terror.” JPP was formed in Lahore, Pakistan in December 2009. JPP investigates, litigates, and advocates strategically in the courts of law and the court of public opinion, pursuing cases on behalf of vulnerable individuals with the potential to set precedents and bring systemic change in the criminal justice system.

The key to JPP’s success is our methodology, which combines strategic litigation, led by our lawyers and investigators, with fierce domestic and international public and policy advocacy campaigns led by our communication and advocacy teams. This combined approach educates and informs civil society as well as policymakers to generate effective legislative and policy reform of Pakistan’s criminal justice system.

A. Introduction

In this submission presented to the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the JPP takes an opportunity to comment on Pakistan's compliance with the United Nations Convention against Torture (CAT) and the prevalent psychosocial dynamics conducive to custodial torture, rape and sexual violence based upon findings from its research, observations while representing its clients and interactions with victims of police torture, lawyers, and human rights activists.

B. Background and Systemic Issues

Torture is endemic and systematic in Pakistan, propelled by entrenched psychosocial dynamics. Through its research and through representing victims of torture, JPP has observed that: (i) torture is accepted as an inevitable part of law enforcement in Pakistan, and; (ii) perpetrators of torture are granted impunity through a combination of socio-cultural acceptance, lack of independent oversight and investigation mechanisms, widespread powers of arrest and detention, procedural loopholes and ineffective safeguards, including Pakistan's failure to criminalize torture. Pakistan currently has no domestic legislation that defines and criminalizes torture by public officials and provides effective redress for the victims. Additionally, there is no independent body to investigate reported cases, which creates impunity for the police, who seldom lodge criminal complaints against their colleagues.

C. A Culture of Impunity: Socio-cultural Acquiescence and Lack of Accountability Mechanisms

A study conducted by Yale University and JPP on a sample of 1,867 Medico-Legal certificates from the District of Faisalabad from 2006-2012, titled "*Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan*" documented an endemic use of torture by the police authorities¹ and a systemic failure by the state to conduct a "prompt and impartial investigation", as required by Article 12 of UNCAT.

Out of 1,867 cases, the report confirmed 1,424 allegations of police torture with physical evidence- not a single allegation was pursued to a proper investigation and prosecution. In 96 other cases, physicians found signs indicating injury which needed further testing; in not a single case was this testing carried out. 347 other cases were, for the most part, not disproven, but rather may have involved abuse methods that do not leave residual marks. In not a single case was there any follow up investigation to determine, one way or the other, whether the allegations were credible.

The marked failure by authorities to conduct an impartial investigation in a single case, even after this evidence was made public in March 2015, is not only a violation of Pakistan's commitment to UNCAT, but illustrates the fact that torture is accepted by the authorities as routine criminal investigation and part of life in the country².

¹ "Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan." Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic. March 2014.

<https://www.jpp.org.pk/report/policing-as-torture/>
² Ibid, pages 4-5

NCHR Inquiry

Following a complaint filed by JPP, in May 2018, the National Commission for Human Rights Pakistan (NCHR) initiated a ground-breaking inquiry into the confirmed cases of torture by the Faisalabad police³. As part of the inquiry, the NCHR recorded testimonies of witnesses and survivors, conducted a hearing with police officers named in complaints and surveyed a random sample of 350 MLCs from the 1,424 categorized by gender, age, and religious affiliation to uncover systemic flaws.

Oral testimonies of 9 victims were recorded in a closed hearing held in Faisalabad on 28th May 2018 by the NCHR. The victims in their testimonies described enduring various forms of torture by the Faisalabad police including being beaten with sticks and leather straps; being forced to witness the torture of their family members; being stomped on their faces and being stripped and beaten publicly. The victims who testified during the hearing included 4 juveniles, 3 women, and 2 men.

The victims explained that the police subjected them to torture for not paying bribes, questioning them and their actions, and even appealing to their seniors to convince them to withdraw from the hearing. They stated that the physical and mental suffering they entailed continued to plague them.

In February 2019, the NCHR released *Police Torture in Faisalabad*³, the first ever comprehensive report on torture by a state body in Pakistan. The report highlighted an ineffective state response and weak accountability and redress mechanisms. As part of its major recommendations, the report emphasized the need to enact a law criminalizing torture and the creation of an independent investigative mechanism.

D. Vulnerability of Women to Police Torture

The greatest costs inherent in the absence of a legislation criminalizing torture are borne by women, who are most vulnerable to “mistreatment, including physical, sexual, and psychological torture” in police custody⁴. According to a report titled “Abuse of Women by the Faisalabad Police”, 134 out of the aforementioned 1,424 cases of torture in Faisalabad were women, comprising roughly 9%.⁵ There were likely more female victims of abuse than the MLCs suggest.⁶ None of the victims received effective legal redress for the violations committed against their welfare, dignity and safety. None of the cases resulted in punishments for perpetrators or redress and rehabilitation for the victims.

There are no doubt countless more victims who are deterred from reporting such violations due to the risk of further harassment and retaliation by the police, the inherently skewed power imbalance, and the “heavy social stigma”⁷ associated with sexual abuse.

³ “Police Torture in Faisalabad” National Commission for Human Rights (NCHR)

⁴ “Judged for More Than Her Crime”. The Cornell Centre on the Death Penalty Worldwide: A Report of the Alice Project (2018), page 31.

⁵ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan, page 2
<https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>

⁶ Abuse of Women by the Faisalabad Police.” Justice Project Pakistan, page 2
<https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>

⁷ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 7

Abuse of Women in their Homes

In many cases, women were abused in their own homes by police when they came to arrest male family members.⁸ In others, women were harassed by the police in the absence of male family members.⁹ In one case, police dragged a pregnant woman into the streets and kicked her with such force that she was knocked unconscious for two to three days and suffered a miscarriage.¹⁰

Case Studies

When Zahira* and her mother, Zakia*¹¹ approached the police to complain about the repeated incidents of the Faisalabad police harassing them at home, they were viciously beaten with sticks and kicked with boots. According to Zahira, the police beat them with sticks on their head, arms, abdomen, shoulders and necks. They also slapped them several times. To sexually humiliate the women, the police pulled their hair, kicked them between their legs, and tore off their clothes, exposing their chests in the middle of the street. When Zakia and her mother went to the hospital for a medical examination, the police were already there. To prevent the women from getting a medical certificate, the police took them into custody and harassed them on the way to the police station. On arrival, the women were dragged out of the car; Zakia was left on the footpath, while Zahira was taken to an isolated room, where the police tortured her, beating her with large sugar cane sticks till late into the night. Zakia was bed-ridden for several weeks due to her injuries and it took Zahira two months to partially recover from her injuries. The police approached the village *panchayat* (the village assembly of elders) to compel the women to forgive the police. As a result, no complaint was filed against the police by the women.¹²

Police barged into the home of Huriya*¹³, who was pregnant at the time, to arrest her husband on suspicion that he had committed theft. The police tortured both of them by kicking them repeatedly with jackboots. Huriya informed the police that she was pregnant, yet they continued to torture her. As a result of the torture carried out by the police, Huriya miscarried and remained in a coma for three days. Huriya filed a complaint with the Magistrate and initiated a criminal investigation. The police initially offered Huriya a bribe to drop the charges, however, upon her refusal, they filed a false case of theft against her and continued to harass her and her husband. Eventually, Huriya had to drop the charges as a result of her inability to afford the legal costs, including lawyer's fees, associated with the legal complaint.¹⁴

⁸ Abuse of Women by the Faisalabad Police.” Justice Project Pakistan, page 7

<https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>

⁹ Abuse of Women by the Faisalabad Police.” Justice Project Pakistan, page 7

<https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>

¹⁰ *Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan.* Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic. March 2014. Page 4

¹¹ Names have been changed to protect identities.

¹² Interview with Justice Project Pakistan, documented in “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>

¹³ Names have been changed to protect identities.

¹⁴ Interview with Justice Project Pakistan

Abuse of Women in Custody

According to a report published by the Cornell Centre on the Death Penalty Worldwide in September 2018, for which JPP collected data and interviews, women in police custody are particularly vulnerable to “mistreatment, including physical, sexual, and psychological torture”.¹⁵

The report delineates in stark detail the torture faced by JPP’s death row client, Kanizan Bibi. In 1991, 16-year-old Kanizan was working as a nanny for a family, when she was convicted of and sentenced to death for killing her pregnant employer and her young children.¹⁶ Following her arrest, she spent 11 “gruelling days” in police custody.¹⁷

“Villagers reported hearing cries and screams while she was being questioned in the police station. She was suspended from a fan by a rope and beaten. Police let mice loose in her pants. She was repeatedly electrocuted.”¹⁸

The result of this extensive torture was a confession, which formed the basis of her conviction and ultimate death sentence. Kanizan represents just one of many women who are subjected to extreme violence and abuse in police custody in order to extract confessions.

The torture had severe long-term effects on her mental health. Kanizan was diagnosed with schizophrenia in 2000. During the course of her incarceration, her medical condition deteriorated to the extent that she has not spoken a word in eight years. She is mute and at times unable to feed or clothe herself. She rarely recognizes family members. She was transferred to the Punjab Institute of Mental Health in 2006, wherein they tried to treat her for her mental illness. She was initially kept as an under-treatment patient, however in December 2017, on account of paucity of space, she was shifted back to a women’s ward in Central Jail, Lahore.

E. Torture by Police and Public Officials as a Form of Gender-Based Violence: Custodial Rape, Sexual Violence and Exploitation of Women

Women and female prisoners are subjected to a specifically gendered nature of torture in custody. They experience “psychological and sexual trauma”, with their bodies being used as “another site of torture for their male relatives.”¹⁹

In Faisalabad, while women were subjected to many of the same forms of abuse as men, they also experienced expressly “gendered” forms of violence.²⁰ A much greater proportion of

¹⁵ “Judged for More Than Her Crime”. The Cornell Centre on the Death Penalty Worldwide: A Report of the Alice Project (2018), page 31.

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ “Policing as Torture: Data Analysis of Punjab Police’s Use of Unlawful Torture.” Justice Project Pakistan. https://www.jpp.org.pk/wp-content/uploads/2019/02/2019_01_13_PUB_Policing_as_Torture.pdf

²⁰ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 2.

female victims suffered from “sexual assault”, “cultural humiliation”²¹ and “forced witnessing of torture”²², which effectively constitutes gender-based violence.

61% of the aforementioned 134 women had been sexually assaulted, 81% had been subjected to cultural humiliation, and 61% had been forced to witness others’ torture.²³ 1% of women reported sexual violence amounting to penetration, while 61% reported sexual violence not amounting to penetration.²⁴ Of the 82 women who were subjected to the latter, 71 were forced to remove all their clothing, while 52 were also subjected to “unwanted touching” and “other physical transgressions” by the police.²⁵ There was one confirmed case of rape, that of a fifteen-year-old girl, while there were two other possible but unconfirmed cases of rape.²⁶

These reported statistics from Faisalabad district constitute a small proportion of the gender-based violence that women in Pakistan are subjected to by police. Penetrative rape, sexual assault and being forced to strip all constitute sexual offences in the Pakistan Penal Code, but police in Faisalabad were able to commit them with impunity.

²¹ *Cultural humiliation* consists of “forcing victims to engage in or observe conduct that violates their cultural or religious rules or values”. In one case, the police forced victims to “strip nude and parade outside in front of their neighbours”. Defined in “*Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan*”. Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, page 13.

<https://www.jpp.org.pk/report/policing-as-torture/>

²² “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 4.

²³ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 2.

²⁴ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 5.

²⁵ “Abuse of Women by the Faisalabad Police.” Justice Project Pakistan. <https://www.jpp.org.pk/report/abuse-of-women-by-the-faisalabad-police/>, page 6.

²⁶ Ibid

