



Submission to the Thematic Report of the Special Rapporteur on Torture

Current issues and good practices in prison management

Submitted by:

Justice Project Pakistan

27th November 2023

About Justice Project Pakistan

The Justice Project Society, commonly referred to as Justice Project Pakistan (**JPP**), is a legal action non-government organization dedicated to representing the most vulnerable Pakistani prisoners facing the harshest punishments, including those facing the death penalty, prisoners with mental illness, victims of police torture, and juvenile prisoners, and overseas Pakistani prisoners. JPP was formed in Lahore, Pakistan in December 2009.

JPP investigates, advocates, educates, and litigates, building public and political support as well as legal precedents that will lead to systemic reform of the criminal justice system in Pakistan. Our work combines strategic litigation, fierce domestic and international public and policy advocacy campaigns, and building the capacity of stakeholders who can improve the representation and treatment of individuals facing capital punishment in Pakistan and abroad.

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I. Overview

Pakistan signed the United Nations Convention Against Torture (UNCAT) in 2008 and ratified it in 2010 to strengthen its candidacy for European Union's Generalised Scheme of Preference (GSP+) status. In November 2022, 10 years after the ratification, Pakistan passed the **Torture and Custodial Death (Prevention and Punishment) Act 2022**, effectively defining and criminalising torture by public officials for the first time in the country's history.

Torture by police and other law enforcement agencies is endemic in Pakistan.¹ Pakistan's civil society has a long and extensive history of documenting torture and ill treatment by the police.² Most instances of torture are typically uncovered in police custody; however, there is a growing awareness of ill treatment within Pakistan's prisons, whether administered by prison officials or stemming from inhumane conditions.

These jails suffer from severe administrative issues and are plagued with human rights violations, ranging from unsanitary conditions and overcrowding to a lack of clean water and healthy food.

This submission will explore the regime of prison management in Pakistan, examining the legislative framework under which jails are run, exploring the key challenges that arise, and highlighting some of the best practices employed by prison officials. The submission will provide strategic recommendations for addressing major concerns and improving existing prison management in Pakistan.

A. Data on Pakistan's Prisons

To comprehend the broader challenges inherent in the management of prisons in Pakistan, it is crucial to begin by presenting data on the country's prison population. The following disaggregated data has been shared with Justice Project Pakistan by provincial prisons departments excluding Gilgit-Baltistan.³

i. Punjab

As of August 2023, jails in Punjab house a total of 58,534 prisoners, making up 58% of the overall prison population of Pakistan. Punjab jails are operating at 159% of its capacity; while, 42,175 individuals (72%) are under-trial, awaiting conviction. Adult males constitute 98.3% of the total prison population, leaving 998 female prisoners in the entire province. Significantly, there are 745 juveniles in detention, of whom 81% are housed in regular prison, while only 144 juveniles have been placed in Borstal Institutes or Juvenile Reformatory Centers. This scenario suggests a notable gap in implementing the Juvenile

¹ Justice Project Pakistan, World Organisation Against Torture (2021) *Criminalising Torture in Pakistan: The Need for an Effective Legal Framework*. https://www.jpp.org.pk/wp-content/uploads/2021/03/2021_03_11_Criminalising-Torture_JPP-OMCT-final.pdf

² *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, Yale Law School. Retrieved from: <https://data.jpp.org.pk/en/entity/jdcjcywv4l?searchTerm=policing%20as%20torture>; 'Statement: PAKISTAN: 52 illegal torture and detention centres identified' Asian Human Rights Commission, 2008 <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-158-2008/l>; Human Rights Watch, 2016. *The Crooked System: Police Abuse and Reform in Pakistan*. <https://www.hrw.org/report/2016/09/27/crooked-system/police-abuse-and-reform-pakistan>; Human Rights Commission of Pakistan, "HRC Stats", <http://hrpmonitor.org/search/?id=29>.

³ JPP was unable to retrieve data from the Gilgit-Baltistan Prisons Department despite filing a request under the Right to Information Act.

Justice Systems Act 2018, designed to provide non-custodial measures for juvenile offenders. There are 2,400 prisoners on death row in Punjab, comprising 2,380 men and 20 women. The majority (94%) are facing death sentences for Murder, 1.2% are on death row for Rape, 1% are convicted under the Pakistan Army Act (having been convicted on terrorism charges), 1% under Anti Terrorism Act (ATA), 1% for Blasphemy, and 0.3% are on death row for Narcotics offences (CNSA)⁴.

ii.Sindh

As of October 2023, Sindh houses a prison population of 24,904 distributed among its 23 operational jails. Of this total, 80% are under-trial prisoners. Overall, Sindh jails are operating at 184% of its capacity. There are 287 female inmates and 407 juveniles. Many of the jails, which were built in the previous century, operate well over capacity; 15 out of 23 functional jails in Sindh are overcrowded. District Prison Malir Karachi, for example, has authorised space for 1800 people but hosts 6,052 inmates, operating at the rate of 336.2% exceeding its capacity by 236.2%. There are 526 male prisoners on death row in the province while no woman is on death row in Sindh. Out of which, 55% are facing death sentence for Murder, 30% for Dacoity with murder, 6% for Kidnapping & Abduction, 4% for Rape, while 4% are charged under Explosives Act and 1% under Anti Terrorism Act (ATA).

iii.Khyber Pakhtunkhwa

As of October 2023, Khyber Pakhtunkhwa has 13,056 prisoners, of which 10,204 (78%) are still under-trial. Moreover, there are 358 juveniles and 160 women in the prisons of Khyber Pakhtunkhwa. The capacity of the province's prisons is 12,160. Therefore, KP jails are operating at 107.4% of its capacity. There are 2,326 death row prisoners in the province, 2297 men and 29 women. The majority (60%) are facing death sentences for murder, 19% are convicted under the Pakistan Army Act (having been convicted on terrorism charges), 16% are on death row for Narcotics offences (CNSA) and 4% are sentenced to death under Anti Terrorism Act (ATA).

iv.Balochistan

Balochistan's overall prison population stands at 2,874. As of November 2023, the total prison capacity stands at 2,764, with the current prisoner population exceeding this at 2,874, resulting in an operating rate of 105.3%. A notable 62.9% of the incarcerated population, totaling 1,809 individuals, are currently awaiting conviction as under-trial prisoners. While the provincial overcrowding rate of 105.3% is relatively low, Central Jail Gaddani and District Jail Quetta stand out with operating rates of 183.0% and 216.9%, The prison system houses 20 female under-trial prisoners, 15 female convicted prisoners, and one detainee contributing to a total of 36 women in the province's jails. Moreover, there are no Borstal Institute or Juvenile Reformatory centres for the 3 under-trial and 4 convicted juvenile prisoners in Balochistan. There are 396 prisoners on death row in the province, 392 men and 4 women.

⁴ Justice Project Pakistan, *Death Penalty in Pakistan: Data Mapping Capital Punishment*, October 2023, <https://jpp.org.pk/report/death-penalty-in-pakistan-data-mapping-capital-punishment/>

v. Azad Jammu & Kashmir

As of October 2023, there are 958 inmates in seven jails of Azad Jammu & Kashmir (AJ&K). A total of 59% of the prisoners in AJ&K are under-trial. Out of seven jails, 4 prisons are operating beyond their capacity, with District Jail Bagh showing an alarming operating rate of **190.9%**, signifying a critical issue of overcrowding. The overall overcrowding percentage for AJ&K stands at **43.6%** (operating rate 143.6%), indicating a substantial strain on the prison infrastructure. There are 391 prisoners on death row in AJ&K, 382 men and 9 women.

vi. Summary of data

The disaggregated data, when pieced together, paints a picture of mismanagement, inefficiency and failure to uphold the rights of persons deprived of liberty. In total, Pakistan holds 100,366 prisoners in its 127 jails.⁵ In every province, the number of under-trial prisoners exceeds the number of convicted inmates, which underscores the failure of Pakistan's bail and parole regimes, an over-reliance on custodial measures, and the pressing need to reform laws and practices related to pre-conviction detention and incarceration. Lastly, a nation-wide overcrowding rate of 152.2%, with some jails operating over 200% of their capacity, highlights the bleak conditions within which Pakistani prisoners are imprisoned.

B. State-led Efforts to Reform Pakistan's Prisons

In recent years, several committees were established to assess the conditions of Pakistani prisoners and propose necessary reforms for the prison system. In 2019, the Islamabad High Court established a Commission with the mandate to investigate human rights violations within Pakistan's prisons, particularly focusing on the absence of adequate medical assistance. The Commission was entrusted with the responsibility of conducting a comprehensive review of the Prison Rules and relevant laws, presenting solutions to address human rights violations in prison settings, and putting forth proposals for improved governance and management systems.⁶ Justice Project Pakistan provided a gap analysis to the Commission between the different provincial prison rules, the Mandela rules and the Bangkok rules.

In the same year, the Prime Minister instituted a Prisoners Aid Committee⁷ that brought all provinces on one platform for effective prison reform, so that authorities may ensure greater public safety and rehabilitation of prisoners. The Committee was chaired by a legal expert, included all provincial home secretaries and inspector-generals, and included one civil society member. The reform plan proposed measures which would help prisoners access rehabilitation programs to gain skills, expand their knowledge, and obtain training for employment during the period of their incarceration so that they can lead law-abiding and meaningful lives after their release. Secondly, the package proposed means to decongest prisons through an integrated approach between criminal justice stakeholders and various departments. The level of implementation of the report's recommendations remains unclear.

Moreover, some provincial Prison Inspectorates have revised the legal framework for the administration of prisons. The Prison Rules in Sindh underwent extensive revisions in the Sindh

⁵ Based on primary data obtained by JPP from provincial prison departments in October 2023, excluding Gilgit-Baltistan.

⁶ Islamabad High Court in the matter titled *Khadim Hussain vs Federation of Pakistan* W.P. No. 4037 of 2019

⁷ PPAC. (2019). First report of the Prime Minister's prisoners' aid committee. Prime Minister's Office

Prisons and Corrections Services Act 2019.⁸ Additionally, the KP Prison Rules were amended in the Prisons Amendment Act, 2020, bringing them more in line with international standards.⁹

A working group was formed in March 2020 under the leadership of the Chief Minister of Punjab to review the Pakistan Prison Rules 1978 and propose amendments in compliance with international obligations. The Working Group consisted of a sitting member of the provincial assembly, the Inspector General Punjab Prisons, and the Punjab home department, members of the civil society, prison officials, and representatives of the Advocate General Punjab's office.¹⁰ The working group's focus was to modernise the rules to make prisons more humane. The new amendments attempt to bridge the gaps in the rules that have historically led to inadequate protections for vulnerable groups like mentally ill persons in prison. The most important updates include a proposed chapter on psychologists and welfare officers, a revamped chapter on the care of female prisoners, juvenile prisoners, and prisoners with psychosocial disabilities, and new chapters on staff training and complaint redress. However, Punjab, which houses the largest prison population in the country, is yet to pass the Draft Punjab Prison Rules 2020.

In May 2020, Prime Minister Imran Khan established the Committee to "Study and Investigate the Plight of Women in Pakistan's Prisons, chaired by the Federal Minister for Human Rights. On 26th August 2020, the Committee released its report.¹¹ The Committee acknowledged that although women only make up a small proportion of the total prison population, they have been found to be 'less knowledgeable, more disempowered and vulnerable to the existing criminal justice system'.¹² The Committee's core recommendations include the need to fast-track revision of the prison rules, reduce the under-trial prisoner population and develop diversion-methods. It additionally highlighted the importance of developing post-release programmes focusing on rehabilitation and education of prisoners and training staff, particularly on mental health issues, and addressing individual cases of human rights abuse and humanitarian needs.

In 2022, the Chief Minister Punjab Moonis Ilahi constituted a Committee to bring about reforms in prisons in Punjab.¹³ It was composed of the Provincial Minister for Prisons, the Additional Chief Secretary of the Home Department, the Inspector General of Prisons, Punjab, and the Director General of Punjab Probation and Parole Services. The Committee was tasked with assessing the current state of prisons in Punjab, addressing the issue of overcrowding, and proposing a plan for the welfare of vulnerable prisoners. The committee presented short-term and long-term reforms in a report before the Chief Minister, including the adoption of the revised Punjab Prison Rules, health screenings for female prisoners upon admission focused on reproductive health and detection of signs of sexual abuse, and provision of meaningful work and healthy recreational activities for prisoners.

⁸ Sindh Prisons and Corrections Services Act 2019, Act No. X of 2019, <http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.X%20of%202019.pdf>

⁹ Prisons Amendment Act, 2020, Act No. XLIII of 2020, <https://www.pakp.gov.pk/wp-content/uploads/The-Prisons-Amendment-act-2020-Act-No.XLIII-of-2020-1.pdf>

¹⁰ The Express Tribune, *Government to expedite jail reform*, Rana Yasif, March 03, 2021, <https://tribune.com.pk/story/2287186/govt-to-expedite-jail-reforms>

¹¹ Government of Pakistan Ministry of Human Rights, *Plight of Women in Pakistan's Prisons Report* (August 2020), <https://portal.mohr.gov.pk/wp-content/uploads/2020/11/Prison-Report-acknowledgment.pdf>

¹² *Id.*

¹³ Chief Minister's Office, Punjab Notification: No.PS/SCM(Impl)/CMO/22/OT-47/ Constitution of Committee for Prison Reforms

These efforts by the Government of Pakistan show an emerging commitment to understanding and tackling the problems raised by prison administration in Pakistan. Some committees, such as the Committee on the plight of women prisoners, were formed in the wake of individual cases of human rights violations which gained attention in the news. Others, such as the Prime Minister's Prisoners Aid Committee, appear to have followed the release of local research on prison conditions. While this focus is commendable and has resulted in the collection and publication of data on prisons which are otherwise inaccessible, the lack of oversight on implementation of the recommendations of these committees results in minimal improvement of the prison system.

With unproductive efforts to reform prisons in Pakistan being undertaken periodically over the last 30 years¹⁴ including in 1997, 2004, and 2018, it is essential that the Government of Pakistan shift its focus towards implementing the findings of various Committees and Working Groups formed since 2019.

II. Legislative Framework for Detention in Pakistan

With 73.2% of Pakistan's prison population being under-trial prisoners, the legal framework on arrest and detention directly determines the number of prisoners behind bars, and as such, and the effectiveness of prison administration in Pakistan and the ability of prison officials to manage facilities safely, humanely and in accordance with international human rights standards.

A. Prison Administration in Pakistan

Like policing, prisons are a provincial subject in Pakistan. Provincial governments are responsible for the establishment, maintenance and improvement of prisons. Legislation on prisons, recruitment and salaries of prison staff come under the jurisdiction of the government of each province.

In Punjab, the administration of prisons is governed by the Prison Act 1894 and the Pakistan Prison Rules 1978. In Sindh, it is regulated by the Prison and Corrections Service Act and Rules 2019; in KPK, by the Prison Act 1894 and the KPK Prison Rules 2018; and in Balochistan, by the Prisoners (Balochistan Amendment) Act 2011.

As outlined in Section 5 of the Prisons Act 1894, an Inspector General appointed by the provincial government assumes the leadership role, exercising comprehensive control and supervision over all prisons in the respective province. Each prison is overseen by a Superintendent, supported by two or more Deputy Superintendents responsible for the day-to-day operations. The subordinate prison staff includes chief warders, head warders, and warders. Women's prisons have a female Assistant Superintendent, overseen by the Superintendent of a local prison, who manages daily affairs.¹⁵ Under Rule 916 of the Pakistan Prison Rules, Provincial Governments may appoint a number of Non-Official Visitors, depending on the population of the prison. However, these Non-Official Visitors, appointed by the Provincial Government, are not independently vetted and do not meet the criteria to be considered as an independent oversight mechanism.

¹⁴Justice Project Pakistan, *Serving time: Pakistan's Prisons Through the Ages*, Author: Radha Shah, in collaboration with JPP, Published 10th August, 2022, <https://jppprisonreforms.com/>

¹⁵ Akbar & Bhutta, Prison reforms and situation of prisons http://pu.edu.pk/images/journal/PSR/PDF/3_v1_1_12.pdf

B. Rights of detained persons under Pakistan’s legal framework

A concise list of the legal framework that grants rights and safeguards of civilians in relation to detention is as follows:

1. Every person has a right to be safe from arbitrary deprivation of liberty (**Constitution of Pakistan, Article 9**).¹⁶
2. Every person detained in custody has a right to be informed of the reason for his arrest as soon as possible; moreover, he has a right to consult and be defended by a legal practitioner of his choice (**Constitution of Pakistan, Article 10. (1)**).¹⁷
3. Every person detained in custody is required to be produced in front of a magistrate within a period of 24 hours, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate. No person can be detained for more than 24 hours without the authority of the magistrate (**CrPC, Section 61 and Constitution of Pakistan, Article 10 (2)**).
4. The above-mentioned provisions of Criminal Procedure Code, 1898 and Constitution of Pakistan do not apply to any person who is arrested or detained under any law providing for preventive detention (**Constitution of Pakistan, Article 10 (3)**).
5. Women being investigated, other than those arrested, cannot be detained at the police station for anytime longer than necessary to record information that they are willing to provide, while no such women, under any condition, shall remain with the police between sunset and sunrise. Once arrested, a woman must immediately be presented before a magistrate. If she is admitted into judicial remand, she shall immediately be transferred to police headquarters or other ‘properly equipped sub-divisional female judicial lock-ups’. (**Police rules, 1934, Rule 26.18-A. (3)**).¹⁸
6. A person can be detained for a maximum of 15 days on the approval of the magistrate if the accusation appears to be well-founded and investigation cannot be completed within 24 hours (**CrPC, Section 167(1) & 167 (2)**).
7. For cases under the Anti-Terrorism Act, the maximum period of remand can extend to 90 days (**Anti-Terrorism Act, Section 21E**).¹⁹
8. No person shall be subjected to torture for the purpose of extracting evidence (**Constitution Article 14 (2)**).

C. Article 10 of the Constitution as a safeguard against preventive detention

Article 10(4) of the Constitution provides that those, “acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or

¹⁶ Constitution of the Islamic Republic of Pakistan [Pakistan], 10 April 1973, Art. 9. available at: <https://www.refworld.org/docid/47558c422.html>

¹⁷ Constitution of the Islamic Republic of Pakistan [Pakistan], 10 April 1973, Art. 10. available at: <https://www.refworld.org/docid/47558c422.html>

¹⁸ Pakistan Police Rules, 1934 Rule 26.18-A.

¹⁹ Anti Terrorism Act, 1997 §21E

public order, or the maintenance of supplies or services” may be preventively detained. The preventive detention regime is implemented through various pieces of legislation including but not limited to the Protection of Pakistan Act, 2014, the Anti-Terrorism Act, 1997 and the Maintenance of Public Order Ordinance, 1960. In interpreting the preventive detention legal regime, Pakistani courts emphasise valid grounds for detention. The Supreme Court mandates that authorities provide "complete and full" grounds, ensuring detainees are informed of the allegations justifying their detention. The court has declared that a detention order based on irrelevant, vague, or extraneous grounds is invalid.²⁰

While expounding on the scope of Article 10, Pakistani courts have held that courts are duty bound to inform the accused about grounds of his arrest, and the accused has a right to oppose his remand and ask for release on bail.²¹ The Lahore High Court emphasised the importance of the communication of the grounds of detention to be essential because “it is the material ingredient upon which the authority relies to pass orders of detention”.²² One of the leading judgments interpreting the scope of Article 10 is the *Ghulam Sarwar* case clarified that police remand should only be authorised by a magistrate under compelling circumstances. If the police fail to file charges within 15 days, the accused must be granted bail. Courts have consistently emphasised that holding an accused without legal justification for an indefinite period, even if the investigation is ongoing, is not permissible.²³

D. Analysing preventive detention in light of recent political unrest

Pakistan’s predominant preventive detention laws are contained in the Maintenance of Public Order Ordinance, 1960 (MPO) and the Anti-Terrorism Act, 1997 (ATA).

Section 3 of the MPO states that the Government may preventively detain a person if they foresee an intention to engage in activities likely to disturb public order or endanger public safety.²⁴ The MPO is a blatant violation of both the fundamental rights contained in Sections 10 and 10A of the Constitution, and of international human rights law. Individuals face unspecified periods of arbitrary detention without being informed of the grounds to do so, and without having committed any offence to begin with.

Similarly, the Anti-Terrorism Act of 1997 (ATA) “overrides all other legal provisions and applies to the entire country.”²⁵ The ATA defines “terrorism” as use or threats of action that are designed to—among other things—intimidate the Government or the public, advance a religious purpose, or damage public installations.²⁶ Multiple due process rights are curtailed under this Act, such as search and arrest without a warrant, admissibility of confessions made in detention which lead to heightened police torture, extremely short deadlines for investigation and trial, and non-compoundability of offences.

²⁰ *Govt of E. Pakistan v. Mrs RB Shaukat* PLD 1966 SC 286

²¹ 1993 P.Cr.L.J 2066; PLD 1993 Pesh. 252.

²² *Mamoona Saaed v. Government of Punjab* at paragraph 10

²³ 2009 SCMR 181

²⁴ Maintenance of Public Ordina

²⁵ Justice Project Pakistan, *Reforming the Anti-Terrorism Act, 1997* 1 (last visited Jul. 13, 2023), available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/AdvisoryCom/Terrorism/JusticeProjectPakistan_3.pdf; Justice Project Pakistan (JPP) *Follow-up report on Pakistan Under Para. 18, CCPR/C/PAK/CO/1, 120th Session of Human Rights Committee* (Sept. 2019) (last visited Jul. 7, 2023).

²⁶ National Assembly of Pakistan & Senate of Pakistan, Anti-Terrorism Act, 1997 (Aug. 20, 1997) [ATA], ¶ 6.

The broad scope of Pakistan's preventive detention laws not only creates a potential for misapplication and overreach but is situated in a historical context of recurrent misuse.²⁷ Most recently, on 9th May 2023, nationwide protests erupted following the arrest of the Chairperson of Pakistan Tehreek-i-Insaf (PTI). The protests quickly escalated into riots in some parts of the country and over 9,096 people were arrested, predominantly under the Maintenance of Public Order Ordinance, 1960 and the Anti-Terrorism Act, 1997 (ATA).²⁸

On 14th June 2023, Pakistan's National Commission for Human Rights (NCHR) released a comprehensive report on abuse and ill-treatment suffered by political prisoners in custody. In response to media reports of torture, sexual abuse and ill-treatment against political prisoners, the NCHR, along with independent monitors including JPP and the Human Rights Commission of Pakistan undertook detention visits across the country.²⁹ The objective of the NCHR inquiry was 'to investigate the veracity of the allegations of torture and review the protections afforded to the May 9th protestors, specifically female protestors, under imprisonment in line with domestic law and international human rights conventions ratified by Pakistan'.³⁰

While the NCHR did not uncover any cases of torture or sexual abuse, concerns over lapses in upholding safeguards as to arrest and detention, prison conditions, health and sanitation were raised.³¹ Moreover, the inquiry stands as a clear good practice example of the NCHR performing its mandate to "visit any jail, place of detention or any other institution where convicts, under trial prisoners, detainees or other persons are lodged or detained for purposes of ascertaining the legality of their detention as well as to find out whether the provisions of the applicable laws or other provisions relating to the inmates living conditions and other rights are being complied with".³²

Preventative detention of the nature and scale outlined above worsens prison overcrowding. Extended remand periods under preventive detention and misapplication of the law contributes to an exponential increase in prison population causing a strain on prison management.

²⁷ Canada: Immigration and Refugee Board of Canada, *Pakistan: Section 16 of the Maintenance of Public Order Ordinance; whether that section is still extant; whether that section is still being enforced, and any information on penalties provided for violations*, 21 February 2000, <https://www.refworld.org/docid/3ae6ad6d88.html>; Express Tribune, *What is the MPO - the rules under which Afaq Ahmed is being detained?* Nov 30, 2011 <https://tribune.com.pk/story/299952/what-is-the-mpo-%E2%80%93-the-rules-under-which-afaq-ahmed-is-being-detained>

²⁸ Geo News, *Fact Check: How many people have been arrested post May 9 riots*, Jun 07 2023

<https://www.geo.tv/latest/491585-fact-check-how-many-people-have-been-arrested-post-may-9-riots>

²⁹ 'Report on Allegations of Torture and Sexual Abuse of Prisoners in Connection with May 9th Protests', National Commission for Human Rights, Pakistan <https://www.nchr.gov.pk/wp-content/uploads/2023/06/Allegations-of-Torture-and-Sexual-Abuse-of-Prisoners-in-Connection-with-May-9th-Protests.pdf>

³⁰ *Id.*

³¹ *Id.*

³² The National Commission for Human Rights Act 2012, § 9

https://senate.gov.pk/uploads/documents/1358919417_548.pdf

III. Major Challenges and Strategic Recommendations

A. Overcrowding

One of the most persistent and pressing issues plaguing Pakistan’s prisons is the excessive, dangerous level of overcrowding. These levels are life threatening³³, with recent estimates of Pakistan’s prison population placing the number of people deprived of their liberty at over 100,366.³⁴ In total, these prisons have an estimated capacity of around 65,935 inmates, which places Pakistani prisons over capacity by 52.2% (i.e., 152.2% overcrowding rate).³⁵ Prison cells designed for a maximum of three people may hold up to 15 people.³⁶ This degree of overcrowding directly impacts prisoners’ due process rights.³⁷

High rates of pre-trial detention, delayed trial proceedings, the difficulty of obtaining bail, the expansive power of police to arrest and detain suspects, limited state-provided legal aid, and a “reluctance of judges to impose non-custodial sentences” also contribute to overcrowding.³⁸ As highlighted in the previous section, the majority of prisoners across provinces are under-trial. It is often the case that these prisoners spend a longer period of incarceration awaiting a sentence than the sentence itself.

Overcrowding further impacts Pakistan’s death row prisoners. Cells on death row usually measure 8ft x 12ft, and were originally designed to hold one or two prisoners. They now typically hold more than six condemned inmates each. Extreme overcrowding sometimes causes nine or more prisoners to be held in each small cell. Prisoners are confined to these cells for up to 23 hours per day. They suffer from inadequate nutrition, sanitation and lack of exercise. The stress of such degrading living conditions leads to frequent outbursts of violence, sometimes resulting in inmate violence and death.³⁹

In recent years, there have been some steps in the right direction. Pakistan has promulgated the Punjab Probation and Parole Service Act 2019 and the Sindh Prisons and Corrections Services Act 2019 to safeguard prisoner’s rights.⁴⁰ In their second periodic report to the Human Rights Committee, the Government of Pakistan stated that the Punjab Probation and Parole Services Act seeks to establish an “effective and efficient probation and parole service” and ensure that

³³ U.S. State Department, *2022 Country Reports on Human Rights Practices: Pakistan*, available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>.

³⁴ Data obtained by JPP from provincial prison departments in October 2023.

³⁵ *2022 Country Reports on Human Rights Practices: Pakistan*, United States Department of State (last visited Jul. 7, 2023), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>; Human Rights Watch, *A Nightmare for Everyone: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>.

³⁶ Human Rights Watch, *A Nightmare for Everyone: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>.

³⁷ *2022 Country Reports on Human Rights Practices: Pakistan*, United States Department of State (last visited Jul. 7, 2023), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>.

³⁸ Human Rights Watch, *A Nightmare for Everyone: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>.

³⁹ FIDH and HRCP (2019). *Punished for being vulnerable: How Pakistan executes the poorest and most marginalised in society* <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2019-Punished-for-being-vulnerable.pdf>

⁴⁰ Human Rights Committee, *Second periodic report submitted by Pakistan under article 40 of the Covenant, due in 2020* (Dec. 7, 2022), UN Doc. CCPR/C/PAK/2, ¶ 87, 90.

conditions of release and rehabilitation of offenders are fulfilled.⁴¹ The Sindh Prisons and Corrections Services Act seeks, in part, to transform prisons into more rehabilitative spaces.⁴²

However, the bail and parole regimes in the country suffer from significant resource constraints, which has led to the above-mentioned laws not being effectively implemented. Punjab is a prime example of these resource constraints. As of August 2023, the Punjab Probation & Parole department has only 79 probation officers whereas there are 42,426 probationers at their disposal. According to the Punjab Probation department, roughly 500 offenders are assigned per officer whereas the international standard allots 50 offenders per officer.

In *Rida Qazi vs The State*, a public interest litigation currently being heard by the Lahore High Court, redress is being sought for the overarching issues of overcrowding, mental health, addiction, conditions of detention and standard of living in jails in Punjab.⁴³ Under directions from the Lahore High Court in this case, the Government of Punjab has built 13 new jails in the districts where previously no jails existed.

However, it is widely accepted that increasing prison capacity does not, on its own, constitute a sustainable strategy to combat prison overcrowding. The United Nations Office on Drugs and Crime has expressed concerns that in the long term a constant expansion of the prison estate may even lead to an increase in imprisonment rates.⁴⁴

As such, there is a dire need to combat overcrowding by implementing effective, progressive bail and parole structures and increasing the use of non-custodial measures for under-trial prisoners and vulnerable groups such as women and juveniles.

(i) Recommendations

- Improve parole department capacity and allocate adequate resources for the implementation of the Punjab Probation and Parole Service Act 2019;
- Reform the state's bail structure to allow for more under-trial prisoners to be released on bonds, unless detention is absolutely unavoidable;
- Initiate judicial visits to jails, especially those with over 200% overcrowding and high levels of under-trial prisoners, to release prisoners who are eligible for bail and whose detention has exceeded the prescribed time limits for under-trial prisoners;
- Implement sentencing guidelines for judges to allow bail unless there are reasonable grounds to believe the detainee would abscond or reoffend;
- Reform the sentencing structure for non-violent petty crimes and first-time offenders to include non-custodial alternatives;

⁴¹ The Punjab Probation and Parole Service Act 2019 (Act XXXVI of 2019).

⁴² Sindh Prisons and Corrections Service Act 2019.

⁴³ Writ Petition No. 16322/2010

⁴⁴ UNODC, 'Handbook on strategies to reduce overcrowding in prisons' 2013, https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf

- Minimise preventive detention by introducing strict conditions for its use, including time limits, judicial oversight, prompt and regular review, and an escalating threshold, proportionate to the duration of detention, for its legitimacy;
- Redirect juvenile offenders to juvenile rehabilitation centres;
- Improve the framework for adequate and effective legal aid for defendants who do not have the resources to engage private legal representation;
- Prevent unnecessary arrests and imprisonment at the police level by revising their performance criteria to de-incentivise high number of arrests;
- Amend, and where possible, repeal legislation criminalising petty offences, which unfairly discriminates against and impacts marginalised and destitute groups of society, including begging, loitering, water theft, kite-flying, encroachment and trespassing.

B. Access to food, water, and sanitation

Prisoners are often without access to nutritious food and clean water.⁴⁵ Prisoners frequently rely on family members to provide them with sufficient food and essential supplies, and those without this familial support are forced to purchase food from the prison commissary.⁴⁶ Many prisons also lack clean drinking water. One prisoner who spent three months in Faisalabad prison told Human Rights Watch, “If there was a water filter, we never saw it. Everyone had stomach and water-related issues.”⁴⁷

In August 2020, the Committee constituted by former Prime Minister Imran Khan to investigate the plight of Women in Pakistan’s Prisons made several key observations and recommendations in terms of legislative, policy and training reforms needed to protect the rights of prisoners, particularly female prisoners, in the country.⁴⁸ One of these observations was that only in a few cases was water purified through a water filtration plant and made available around the clock. The majority of jails had tap water available for 24 hours, but the water was not purified leading to the spread of various waterborne diseases.

It must be noted that while there have been significant improvements and renovations of sanitation facilities in the provinces in the past few years, there is a need for more updated primary research into the issue.

i. Recommendations

- Provide all prisoners with a balanced diet which takes their health conditions, gender, and age into consideration, comprising of food that is adequate in terms of quality and quantity, and is prepared in accordance with proper hygiene standards;

⁴⁵ Human Rights Watch, *‘A Nightmare for Everyone’: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>,

⁴⁶ Human Rights Watch, *‘A Nightmare for Everyone’: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>.

⁴⁷ Human Rights Watch, *‘A Nightmare for Everyone’: The Health Crisis in Pakistan’s Prisons*, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>.

⁴⁸ Government of Pakistan Ministry of Human Rights, *Plight of Women in Pakistan’s Prisons Report* (August 2020), https://portal.mohr.gov.pk/wp-content/uploads/2020/11/Prison-Report_acknowledgment.pdf

- Provide children living with their mothers in prison with nutritious, age-appropriate foods;
- Ensure the uninterrupted supply of clean drinking water for prisoners through the provision of water filters in each jail, with regular tests carried out to ensure the purity of drinking water;
- Ensure all prisoners have adequate supply and free access to essential hygiene and sanitation items including soap, shampoo, sanitary pads;
- Reduce the number of prisoners assigned to a single cell in line with the official capacity of the cell to reduce unsanitary conditions;
- Schedule regular inspections of sewage and waste management facilities in prisons to maintain proper standards of sanitation, particularly in toilet facilities in barracks and on death row.

C. Access to healthcare

Long-term imprisonment can have lifelong detrimental effects on the health of prisoners, especially those with increased vulnerabilities including illness or disabilities and old or young age.

As per data published by the Punjab Prisons Department, all provincial prison authorities have employed female medical officers in jails and prisons, and there are 20 female medical workers employed by the Inspectorate General of Prisons Punjab.⁴⁹ However, this count falls short of adequately catering to the needs of the entire female prison population, which currently stands at 998. Based on an interview conducted by JPP with a prisoner with physical ailment at Central Jail Lahore in 2020, Medical Officers only visit if a prisoner makes a request to be examined and the hospital is only able to carry out 'first aid' medical attention.

The Islamabad High Court in *Khadim Hussain vs The State*⁵⁰ ordered an investigation after hearing the case of prisoner Khadim Hussain in which he had become permanently disabled at Central Jail, Rawalpindi due to medical negligence. In relation to obligations under international law, the Islamabad High Court in this case directed the Federal Government to play its role to ensure enforcement of fundamental rights of prisoners as per international conventions and treaties. It was specifically directed that:

“The Federal Government is directed to take immediate steps, pursuant to its jurisdiction vested under item 13 of Part II read with items 3 and 32 of Part I of the Federal Legislative List under the Fourth Schedule of the Constitution, to ensure that prisoners incarcerated in the prisons across Pakistan are dealt with and treated in conformity with the obligations of the State of Pakistan pursuant to ratification of the conventions.”

⁴⁹ Punjab Prisons Department, Government of Punjab, *Medical Officers*, https://prisons.punjab.gov.pk/medical_officers

⁵⁰ PLD 2020 Islamabad 268

Islamabad High Court further established a commission connection with the case which published its findings in 2020.⁵¹ The report found procedural delays in obtaining permission from home department in transferring sick prisoners to medical facilities, lack of adequate provision of medical and technical equipment such as ECG machines, X-Ray machines, ultrasound machines, oxygen cylinders, dental units, laboratories and beds in prison hospitals, and a lack of coordination with health department.

In 2019, the Prime Minister's Prisoners Aid Committee⁵² found a dire need for provision of medical equipment in prisons all over Pakistan, i.e., ECG machines, ultrasound machines, diabetes testing machines, X-rays, nebulizers, thermometers, drip metres, BT sets, dedicated ambulances, hospital beds, and other necessary medical facilities at the prison hospitals. According to the report, a mental health diagnostic assessment conducted recently for female prisoners in Karachi's women prison used the Mini International Neuropsychiatric Interview (MINI) with 140 female prisoners. The results indicated that a majority of women reported symptoms of mental health disorders. Over two thirds of the sample met the criteria for suffering with one or more psychiatric disorders.⁵³

Moreover, in 2021, in the case titled *Mst. Safia Bano vs Government of Punjab*, the Hon'ble Supreme Court opined that the mental health of a person is as important and significant as his physical health. The judgement settled that a sentence of death cannot be executed against a prisoner who suffers from serious mental illness. The five-member bench of the Supreme Court while deciding whether a condemned prisoner with a mental illness should be executed, unanimously held that,

"if a condemned prisoner, due to mental illness, is found to be unable to comprehend the rationale and reason behind his/her punishment, then carrying out the death sentence will not meet the ends of justice".

Recognition of the importance of factoring in mental illness in prison sentencing marks a significant step towards addressing the mental health needs of prisoners. However, one of the parties to the *Safia Bano* case, Ghulam Abbas, who was shifted to a mental health facility under the direction of the Court, is still living in inhumane conditions. Currently confined in a mental health facility, he endures inhumane treatment, with both his hands and feet bound in heavy shackles, connected to an iron rod. This treatment not only contravenes the rationale behind the *Safia Bano* judgement, but also violates Ghulam Abbas's right to life and dignity under domestic and international law. In light of such circumstances, there is a critical need ensure humane treatment for individuals grappling with mental health issues within the confines of the legal system, which would require effective implementation of judicial decisions by prison authorities.

⁵¹ Prison Reform in Pakistan, Report by the Commission constituted by Islamabad High Court in Khadim Hussain v. Federation of Pakistan. January 2020, <https://mohr.gov.pk/siteimage/misc/files/prisonsreforminpakistan.pdf>

⁵² PPAC. (2019). First report of the Prime Minister's prisoners' aid committee. Prime Minister's Office

⁵³ The Express Tribune, 'Under-trial prisoners 'victims of slow judicial system' February 10, 2020 <https://tribune.com.pk/story/2154246/trial-prisoners-victims-slow-judicial-system>

CASE STUDY: ABDUL BASIT

On 19 May 2009 Abdul Basit, was sentenced to death under section 302(b) of the Pakistan Penal Code.

In February 2010, riots broke out in Central Jail, Faisalabad, against the persistent brutal and cruel treatment meted out to the prisoners by the Superintendent Jail. As a result, many prisoners, including Abdul Basit, were confined to the punishment ward of the prison. In the punishment ward, Abdul Basit was subjected to cruel, inhumane, and degrading treatment in extremely unhygienic living conditions for a prolonged period.

During this time, Basit became severely ill. Drifting in and out of consciousness, he passed urine and stool on the bed, but authorities were reluctant to change his clothes or remove his fetters, which was a clear violation of Rule 650 (iv), Pakistan Prison Rules, 1978 and Rule 47 of the Mandela Rules. Basit was denied medical care for a month before being shifted to DHQ Hospital. In DHQ hospital Faisalabad, Basit was diagnosed with Tuberculous (TB) Meningitis, a rare and dangerous disease that is characterised by inflammation of the membrane around the brain or spinal cord. The failure to provide timely medical assistance by the jail authorities directly contributed to his paraplegia, which could otherwise have been avoided.

Abdul Basit is paralysed from the waist down in addition to long-term complications arising from spinal cord atrophy, both of which appear to be the direct consequences of the TB meningitis contracted in prison. Consequently, he is unable to walk and fully reliant on a wheelchair or on others to carry out the most basic of functions. He suffers a loss of sphincter control and has decreased power in his upper arms. The chances of recovery have been classed as 'minimal' by several different medical practitioners. In December 2011 it was deemed by a Medical Board at Services Hospital, Lahore that management of Abdul Basit's condition "would be very difficult in jail."

It is evident that few – if any - measures have been taken to ensure that Abdul Basit's treatment in prison is humane. Despite numerous applications requesting Basit be moved to a specialised medical facility, he remains imprisoned in deplorable conditions in Central Jail Faisalabad without access to a wheelchair and developing bed sores from not being moved frequently enough. As Abdul Basit also suffers from loss of sphincter control, the conditions in which he is imprisoned are unhygienic, inhumane, and undignified.

Given Abdul Basit's permanent, life-altering disability and his ongoing imprisonment in appalling and humiliating conditions, the fact that Abdul Basit remains subject to a death sentence is unjustifiably cruel and harsh.

(i) Recommendations

- Ensure that all prisons in Pakistan have adequate medical facilities, including medical officers, psychologists, sufficiently stocked hospital pharmacy and a prison hospital with all necessary equipment for primary and secondary care;
- Ensure specialised medical care for different groups of prisoners such as those with pre-existing psychological issues, victims of torture, persons with neuro-diverse conditions etc.;
- Allow ease of access to medical records for prisoners, legal representatives and family members;
- Formulate Standard Operating Procedures (SOP) with strict time-limits on the assessment, treatment and rehabilitation of under trial prisoners and convicts with psychosocial ailments in line with international safeguards;
- In line with the directions of the Supreme Court, arrange courses for trial court judges, prosecutors, lawyers and court staff on protections and safeguards entitled to persons with psychosocial and/or intellectual disabilities, including forensic mental health assessment at the federal and provincial levels;
- Enact legislation prohibiting the executions of all prisoners suffering from psychosocial disabilities, incorporating international safeguards and providing for the commuting of all applicable death sentences;
- Assign mental health professionals, employed under the provincial health departments rather than the prison services to provide mental health services to death row inmates in all provinces;
- Amend the Prison Rules for all provinces to describe the functions and responsibilities for mental health professionals assigned to provide mental health services to prisoners on death row.

D. Torture and ill-treatment in Prisons

Custodial torture is a largely common practice in Pakistan. Torture is accepted as an inevitable part of policing, and 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.

A 2014 report by Justice Project Pakistan, in collaboration with Yale Law School, discovered conclusive signs of abuse in 1,424 cases out of a sample of 1,867 Medico-Legal Certificates (MLCs) compiled by a government-appointed District Standing Medical Board in the district of Faisalabad between 2006 and 2012. Taking note of the JPP-Yale report, the National Commission for Human Rights of Pakistan (NCHR) initiated a ground-breaking inquiry into the confirmed cases of torture by the Faisalabad police. As a result, the NCHR issued recommendations to the government to enact legislation to criminalize torture, be compliant with international obligations, provide redress to the victims, amongst other institutional and criminal justice reforms.

Moreover, on 22nd September, 2022, an initial report was submitted by NCHR in the Honourable Islamabad High Court noting that the administration of Central Jail, Rawalpindi appears to have committed gross abuse of power and mistreatment of inmates, and there were reasonable grounds for conducting further inquiry into the allegations. On 24th October 2022, the final inquiry report was submitted by NCHR in the Court, which found that out of the 35 inmates that were interviewed, 26 inmates (74%) experienced torture or cruel, inhuman and degrading treatment of different types. Accounts of torture and ill treatment ranged from physical beatings to solitary confinement.

On 24th October, 2022, a detailed order was passed by the Islamabad High Court on the basis of the final inquiry report, in which directions were given to the Federal Government and NCHR to prevent custodial torture from taking place in Central Jail, Rawalpindi.

In October 2022, Pakistan's legislature passed the **Torture and Custodial Death (Prevention and Punishment) Act, 2022**, effectively defining and criminalizing torture for the first time in the country's history. The Act addresses torture comprehensively, encompassing situations of custody⁵⁴ including judicial custody, all situations where a person is detained or deprived of liberty, and all forms of temporary and permanent restraint upon the movement of a person by law or by force or by other means. This indicates a substantial effort to address and prevent torture and ill-treatment within the country's prison system. Now there is a need for implementation through the drafting of rules that operationalise this Act.

However, it is important to note that there are no independent accountability mechanisms for prisoners to submit complaints of torture and abuse in any of Pakistan's jails, which masks the possibility of a higher number of cases. The necessity of establishing such an independent tribunal or complaint forum is more urgent than ever, in light of recent developments surrounding the May 9th protestors.

(i) Recommendations

- Formulate comprehensive rules and procedures for the investigation, documentation and prosecution of torture which is in line with international best practices, including the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2002 and the Principles on Effective Interviewing for Investigations and Information Gathering (the Mendez principles);
- Build the capacity of forensic experts, the Federal investigation Agency and the National Commission for Human Rights for the investigation, documentation, and prosecution of torture, with a view to ensuring that the NCHR maintains oversight over the investigation into complaints of torture;
- Amend the prison rules in each province to ensure that international standards including the Mandela, Bangkok and Tokyo rules are being met particularly with a view

⁵⁴ Torture and Custodial Death (Prevention and Punishment) Act, 2022, § 2(f).
https://na.gov.pk/uploads/documents/62fcce84e1c58_437.pdf

to maintaining a prison environment free from torture, ill-treatment, inhuman or degrading treatment;

- Train all prison staff on the standards of treatment of prisoners in line with the Mandela Rules, the Bangkok Rules and the Tokyo Rules;
- Establish a Prisons Tribunal to hear prisoners' complaints regarding mistreatment and maladministration, and to hold prison officials accountable for failure to uphold prisoners' rights;
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

E. COVID-19 in prisons

With the outbreak of the COVID-19 pandemic, prisons were identified early on as places where outbreaks were likely and would require urgent government attention.⁵⁵ In Pakistan, prisons are notoriously overcrowded, making physical distancing and other public health recommendations impossible to implement. They lack adequate health care facilities and have unsanitary conditions, accelerating the spread of infectious diseases. These and other underlying systemic issues lead to a catalogue of human rights violations. By August 2020, at least 2,313 prisoners had tested positive for COVID-19.⁵⁶

The COVID-19 pandemic served to starkly highlight the dire conditions of Pakistan's prisons. The norms of food scarcity, untenable rates of overcrowding, poor sanitation and hygiene conditions and insufficient provision of health facilities, all served to significantly hamper any efforts to respond to the pandemic in Pakistan's prisons.

Pakistan's prison population increased from 73,242 to 88,687 during the COVID-19 pandemic, bringing the occupancy rate from 117% to 136%. Overcrowding seriously challenges a state's ability to deliver on its obligation to provide healthcare in cases of health emergencies. In March 2020, at the start of the pandemic, prison authorities suspended visits of family members and legal representatives. Provision of personal protective equipment and adequate screening were both found wanting in Pakistani prisons.⁵⁷ In July 2020, restrictions were lifted for family members, but lawyers were still denied the right to visit their clients. Interviews with former prisoners and family members point to insufficient measures to support inmates to ensure continued communication with their loved ones and to be able to communicate confidentially with their lawyers.⁵⁸ There appear to be minimal preventative efforts to mitigate disruption of communication and visits for future contingencies.

⁵⁵See OHCHR, Urgent action needed to prevent COVID-19 "rampaging through places of detention" –Bachelet, 25 March 2020, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E

⁵⁶ Amnesty International & Justice Project Pakistan (2020) *Prisoners of the Pandemic: The Right to Health and COVID-19 in Pakistan's Detention Facilities*. <https://jpp.org.pk/report/prisoners-of-the-pandemic/>

⁵⁷ Prisoners of the Pandemic, Justice Project Pakistan & Amnesty International, Dec. 2020, <https://www.amnesty.org/en/documents/asa33/3422/2020/en/>

⁵⁸ Prisoners of the Pandemic, Justice Project Pakistan & Amnesty International, Dec. 2020, page 6 <https://www.amnesty.org/en/documents/asa33/3422/2020/en/>

(i) Limited attempts to reduce arrests and detention during the COVID-19 pandemic

Amnesty International and JPP found that there was continued intake of prisoners with minimal precautions to prevent transmissions.⁵⁹ While recognizing that a range of offences warrant arrest and detention and that COVID-19 should not provide cover to those who commit those crimes, the overuse of incarceration for minor offences is problematic in the context of a pandemic.

In March 2020, the Islamabad High Court ordered that no unnecessary arrests be made, stating that “prisons, which are overcrowded, have high turnover and intolerable living conditions, could potentially become epicentres for outbreak of the deadly virus”.⁶⁰

During the outbreak, the police arrested several individuals simply for exercising their rights to freedom of expression and peaceful assembly. On 6 April 2020, 53 doctors and other health workers protesting the lack of resources, personal protective equipment (PPE) and security from the government in Quetta were baton-charged, arrested and then detained in police stations.⁶¹ In June 2020, at least 24 students who were protesting the lack of internet access to attend their classes virtually in Quetta were also detained and kept in prisons for almost 24 hours.⁶² Transgender rights activist Julie Khan was also arrested on what her lawyer has called “fabricated charges” and was kept in Rawalpindi Central Jail – a prison with a known COVID-19 outbreak – for eight days.⁶³

When COVID-19 cases began to be reported in the country, announcements by prison authorities to the press seemed to indicate that steps were being taken immediately to help control the spread in prisons by reducing prison populations. According to media reports, at least 20,000 prisoners across Punjab were scheduled to be released,⁶⁴ a number that would have seen the prison population in the province almost halved. Similarly, the Sindh government prepared a list of 512 prisoners to be released,⁶⁵ including individuals who had been detained for petty crimes, people who had served out the majority of their sentences. However, this momentum was curtailed by the Supreme Court, who issued a harsh rebuke to the lower courts planning these releases and framed the issue to appear as though the risk of a rise in crime resulting from freeing these many prisoners superseded the need to protect them.⁶⁶

(ii) Lack of adequate preventative measures during arrest and police custody

⁵⁹ Amnesty International & Justice Project Pakistan (2020) *Prisoners of the Pandemic: The Right to Health and COVID-19 in Pakistan's Detention Facilities*. <https://jpp.org.pk/report/prisoners-of-the-pandemic/>

⁶⁰ Amnesty International (2020). *Pakistan: Overcrowding in Pakistan's prisons is a ticking time bomb*. <https://www.amnesty.org/en/latest/news/2020/12/pakistan-overcrowding-in-pakistans-prisons-is-a-ticking-time-bomb/>

⁶¹ 4 See *Pakistan arrests doctors protesting over lack of virus safety equipment*, The Guardian, 6 April 2020, www.theguardian.com/world/2020/apr/06/pakistan-arrests-doctors-protect-lack-coronavirus-safety-equipment

⁶² See “Protesting students arrested for demanding internet facilities in Quetta”, The Express Tribune, 25 June 2020 <https://tribune.com.pk/story/2249922/protesting-students-arrested-demanding-internet-facilities-quetta>

⁶³ Amnesty International & Justice Project Pakistan (2020) *Prisoners of the Pandemic: The Right to Health and COVID-19 in Pakistan's Detention Facilities*. <https://jpp.org.pk/report/prisoners-of-the-pandemic/>

⁶⁴ “Punjab to let go 20,000 prisoners over coronavirus scare: Sources”, Geo News, 27 March 2020, www.geo.tv/latest/279491-punjab-to-let-go-20000-prisoners-over-virus-scare-sources

⁶⁵ Supreme Court order of Criminal Petition No. 299 of 2020, 1 April 2020, para. 9 – available here: www.supremecourt.gov.pk/downloads_judgements/crl.p.299.2020.01042020.pdf

⁶⁶ “No release of prisoners without due process of law, says chief justice”, Geo News, 1 April 2020, www.geo.tv/latest/280312-no-one-can-consider-themselves-as-a-king-and-issue-orders-cjp-ahmad

As established in the UN Code of Conduct for Law Enforcement Officials, police bear the responsibility for the good health of persons in their custody.⁶⁷ However, more often than not, police stations and prisons were not equipped to keep persons in custody with the required protective measures to avoid the spreading of COVID-19, including enough space to be able to effectively implement physical distancing rules, the availability of medical staff to identify persons displaying symptoms and in need of quarantine, and the lack of PPE for officials working in a custody location.

(iii) Inconsistent screening measures during prison admission

On 1 April 2020, the Supreme Court called upon prison authorities to ensure that “the new entrants are screened before they are allowed to enter the prison premises and if they are found to have a symptom typical of COVID-19, they should be appropriately quarantined and not put in jail directly”.⁶⁸ Despite the importance of this ruling, the Court did not make specific recommendations regarding how these health screening of new inmates ought to be conducted.

After COVID-19 cases began to be reported in April 2020, specific procedures were put in place to screen potential COVID-19 carriers. However, interviews conducted by JPP point to different COVID-19 screening and admission practices depending on the prison, highlighting the need for uniform implementation of medical screening procedures in the future.

(iv) Recommendations

- Develop and enact a policy and action plan to respond to future outbreaks of infectious diseases, and be transparent about the number of infections, testing and fatalities.
- Introduce specific training for medical officers to the particular vulnerabilities of prisoners to communicable diseases, and the potential impact of comorbidities;
- Introduce measures that would ensure undisrupted communication and access to prisons to ensure smooth entry of food and medical supplies, continued teaching and vocational services and uninterrupted visitation for family members and lawyers.

F. Responding to the effects of climate-change on prisons and climate-proofing prison management and conditions of detention

The floods of 2022 brought about distinct challenges for Pakistani prisons revealing critical issues such as overcrowding, weak infrastructure, and inadequate healthcare prioritisation. The floods exacerbated overcrowding by damaging prisons, specifically in the Sindh province.⁶⁹ Individuals in detention were transferred from impacted areas to other facilities, increasingly burdening already overcrowded facilities.⁷⁰ In the aftermath of these floods, several facilities were forced to

⁶⁷ See Article 6 of the Code of Conduct: www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx

⁶⁸ Supreme Court order of Criminal Petition No. 299 of 2020, 1 April 2020, para. 10 – available here: www.supremecourt.gov.pk/downloads_judgements/crl.p.299.2020.01042020.pdf

⁶⁹ Human Rights Watch, ‘A Nightmare for Everyone’: The Health Crisis in Pakistan’s Prisons, (Mar. 29, 2023), <https://www.hrw.org/report/2023/03/29/nightmare-everyone/health-crisis-pakistans-prisons>; see also Fatima Umer Farooqui, The forgotten fraction and floods, The Express Tribune (Oct. 30, 2022), <https://tribune.com.pk/story/2383875/the-forgotten-fraction-and-floods>.

⁷⁰ Pakistan: submerged and forgotten, Prisoner Insider (Oct. 18, 2022), <https://www.prison-insider.com/en/articles/pakistan-submerges-et-oublies>.

close or lost all access to light and electricity for weeks.⁷¹ The provinces of Punjab, Balochistan, and Khyber Pakhtunkhwa (KPK) were relatively less affected by the floods, with no direct impact on prison facilities. However, the destruction and damage to many roads in these regions affected both prisoners and prison staff, hindering family visits and transportation to court hearings.

In contrast, the province of Sindh faced severe consequences due to the floods, causing damage to several prisons, especially in Sukkur and Hyderabad districts. While there were no reported prisoner deaths, a prison guard lost his life when a roof collapsed at a check post. The Dadu district jail's had to be closed and prisoners transferred due to the destruction of walls and the kitchen. The aftermath included prison staff remaining at their posts, even residing in camps due to destroyed homes. Challenges persisted, including prolonged power outages, loss of food stocks, and limited healthcare prioritisation for prisoners.

Sindh's prison administration struggled with maintaining staff safety, insufficient resources, and a lack of priority for prisoner healthcare amidst the broader humanitarian crisis. The administration's focus on external relief efforts raised concerns about disease prevention outside prisons, while inside, the potential risks were downplayed, leaving prisoners' health needs unaddressed beyond basic medications.

The devastation caused by floods in prisons across Pakistani provinces highlight the need for a region-specific approach to address challenges faced by prison administrations. The aftermath in Sindh underscores critical issues such as staff safety, healthcare prioritisation, and infrastructure challenges that warrant immediate attention and strategic planning.

(i) Recommendations

- Take concrete measures to ensure the safety of prisoners by enacting an emergency response plan for natural disasters and climate-driven catastrophes;
- Ensure that prisoners are provided with adequate ventilation, and that air quality in prisons is managed in light of escalating air pollution levels;
- Mitigate the impact of extreme heat in summer months by installing fans and air-coolers, particularly for prisoners with increased vulnerability to heat-related illness.

⁷¹ Pakistan: submerged and forgotten, Prisoner Insider (Oct. 18, 2022), <https://www.prisoner-insider.com/en/articles/pakistan-submerges-et-oublies>.