



**Civil Society Submission in Advance of the Adoption of the List of Issues for the Second Periodic Report of Pakistan in the 82nd Session of the UN Committee Against Torture**

**Submitted by Justice Project Pakistan**

**and**

**The Advocates for Human Rights**

13<sup>th</sup> January 2025

**Justice Project Pakistan (JPP)** is a legal action non-governmental organization dedicated to representing the most vulnerable Pakistani prisoners facing the harshest punishments at home and abroad including persons facing the death penalty, victims of torture, persons with psychosocial disabilities, juveniles and other overseas Pakistani prisoners. 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.

**The Advocates for Human Rights (The Advocates)** is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, the Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently hold a seat on the Steering Committee of the World Coalition against the Death Penalty.

1. During future sessions, the Committee Against Torture (the Committee) will undertake its examination of Pakistan’s second periodic report on the implementation of the United Nations Convention Against Torture (UNCAT).
2. Ahead of this, during its 82<sup>nd</sup> session, from 07 April 2025 to 02 May 2025, the Committee will prepare and adopt a List of Issues on Pakistan. Justice Project Pakistan (JPP) welcomes the opportunity to provide information to the Committee Against Torture’s preparation of the List of Issues.
3. Torture by law enforcement in Pakistan is so common that it is largely an endemic practice, with police officials regularly accused of abusing their powers with impunity, including against vulnerable groups such as women, children and religious/ethnic minorities. The years since Pakistan’s last review by the Committee in 2017 have seen several milestones, including the passage of legislation criminalising torture and the Faisalabad torture investigation and report by the National Commission for Human Rights, but also several systemic issues that plague the implementation of Pakistan’s obligations under the UNCAT.

## **I. Defining and criminalising torture**

### **a. Prior Recommendations**

4. In 2017, the Committee expressed concern that Pakistan had not yet incorporated a comprehensive definition of torture aligned with Article 1 of the Convention. This legislative gap contributed to impunity and hindered the prosecution of acts of torture. The Committee underscored the need for clear legal provisions categorising torture as an independent offence, with penalties that reflect the gravity of the act.
5. The 2024 ICCPR review of Pakistan saw the Human Rights Committee examine and request information on the use of torture in Pakistan. During the review, Pakistan reported that it was intensifying efforts to prevent torture including through the passage of legislation criminalising torture.<sup>1</sup>

### **b. Current State Policy and Practice**

6. The Government of Pakistan passed the historic Torture and Custodial Death (Prevention and Punishment) Act in November 2022, which defines and criminalizes torture, and imposes sanctions and punishment for public servants who employ torture. The Act “provide[s] for the prevention of all acts of torture, custodial death and custodial rape perpetrated by public servants or any person acting in an official capacity.”<sup>2</sup>
7. The Act sets up a complaint and investigation procedure whereby the Federal

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<sup>1</sup> Human Rights Committee, *Summary Record of the 4154th meeting* (24 October 2024) UN Doc. CCPR/C/SR.4154

<sup>2</sup> Pakistan National Assembly, *The Torture and Custodial Death Prevention and Punishment) Act (Jul. 12, 2021)*, available at: [https://na.gov.pk/uploads/documents/1415360249\\_881.pdf](https://na.gov.pk/uploads/documents/1415360249_881.pdf).

Investigation Agency (FIA) is authorized to investigate under the supervision of the National Commission for Human Rights (NCHR) and the Sessions Court has the jurisdiction to try cases. The Act also renders evidence extracted through torture inadmissible in judicial proceedings.<sup>3</sup> While this is a tremendous step in the right direction, there remain key aspects in which the Act falls short of meeting the international norms on torture prohibition.

### c. Key Updates

8. The most significant shortcoming is the omission of psychological pain and suffering from the definition of torture. The judiciary of Pakistan has maintained that mental abuse is just as much torture as physical, while interpreting Article 14 of the Constitution.<sup>4</sup> At many instances confessions have been discarded due to the fact that mental torture was inflicted upon a person which led to a confession.<sup>5</sup>
9. The Act does not provide punishments for torture and custodial death itself but falls back on already stipulated punishments in Pakistan Penal Code, 1860 (PPC) which do not correspond completely with the nature or gravity of the crime of torture and custodial death. Additionally, the prescribed punishments for offences under the PPC are not in line with the UNCAT and international standards because they lack specificity and do not outright punish the crime of torture. The PPC only punishes the general offence of ‘hurting’ someone, making no explicit reference to torture, which by nature is an offence of severe gravity and warrants specific punishment. Further, the definition and penalty for custodial rape does not encompass all forms of sexual violence, falling back on the heteronormative definition contained within the PPC which only penalises male-on-female penetrative rape.
10. The Act defines cruel, inhuman or degrading treatment but does not specify any penalties for this, barring that evidence is made inadmissible if extracted through CIDT.
11. By penalising *malafide*, (false) complaints, the Act violates Article 13 of the UNCAT. Penalising “malafide” complaints may discourage victims from lodging complaints and be detrimental to the objectives of the Act, as it opens them up to potential reprisals.
12. Other issues with the law include unclear complaint and investigation procedures, inconsistencies with international law in medical examinations, absence of non-refoulement provisions, no *suo moto* investigations and lack of compensation. The FIA, tasked with receiving and investigating torture complaints under the Act, lacks a dedicated wing for this purpose and an online complaint mechanism on its

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<sup>3</sup> Government of Pakistan, *Torture and Custodial Death: Prevention and Punishment Act (2022)*.

<sup>4</sup> Saifuddin Saif v the Federation of Pakistan. PLD 1977 Lahore 1174

<sup>5</sup> PLD 1977 lahore 1174

official website.<sup>6</sup> Furthermore, the FIA is a federal security agency under the Ministry of Interior, staffed largely by police/security officers. This calls into question the impartiality and independence of investigations into torture by law enforcement.

13. Effective supervision by the NCHR, which is tasked with investigative oversight under the Act, requires more resources and a more clearly defined, expanded role to ensure independent and impartial investigation.<sup>7</sup> As the country's National Human Rights Institution, accredited with 'A status' by the Global Alliance of NHRIs, the NCHR should be the primary body responsible for receiving and investigating complaints of torture in Pakistan.
14. The Act does not lay out a framework, in line with the Istanbul Protocol, on Medico-Legal Examinations by forensic medical experts. These examinations are carried out by District Standing Medical Boards (DSMBs), but these boards often do not have an expert of forensic medicine, and the procedure is carried out in an arbitrary and cursory manner.
15. The Act does not mention the Istanbul Protocol, the Minnesota Protocol or the Mendez Principles, which should be explicitly referenced to ensure their use in understanding and implementing the Act.

#### **d. Recommended Questions**

- What steps are being taken to address legislative shortcomings in the Torture and Custodial Death (Prevention and Punishment) Act 2022 and bring it in line with the UNCAT and other international legal standards, particularly with regard to:
  - i. Including psychological suffering in the definition of torture under the Act
  - ii. Expanding the definition of custodial rape to encompass all forms of sexual violence
  - iii. Including the principle of *non-refoulement*
  - iv. Introducing standalone penalties commensurate with the gravity of the criminalised offences in the Act
  - v. Providing standalone penalties for cruel, inhuman and degrading treatment
  - vi. Excluding penalties for *malafide* complaints, which may deter legitimate complainants due to fear of reprisal
  - vii. Expanding the role of the NCHR to ensure impartial and independent investigations into complaints of torture
  - viii. Laying out a framework for conducting medico-legal examinations in line with international standards in the Istanbul Protocol.
  - viii. Incorporating international guidelines and standards including the Istanbul Protocol, the Minnesota Protocol and the Mendez Principles.

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<sup>6</sup> For a detailed analysis, see: Justice Project Pakistan and National Commission for Human Rights, *Gap Analysis: Torture and Custodial Death (Prevention and Punishment) Act 2022* (June 2024),

<https://jpp.org.pk/report/gap-analysis-torture-and-custodial-death-prevention-and-punishment-act-2022/>

<sup>7</sup> Agha, R. J. (2024, June 26). Eradicating torture. DAWN.COM. <https://www.dawn.com/news/1842059/eradicating-torture>

## II. Allegations of widespread use of torture by police and law enforcement

### a. Prior Recommendations

16. In 2017, The Committee raised concerns about consistent reports on the use of torture by law enforcement to extract confessions from persons in custody throughout Pakistan. A principal subject of concern was the lack of any meaningful accountability mechanisms, particularly in the form of criminal proceedings and penalties against law enforcement officials responsible for torture, death in custody, misuse of official power, misbehaviour and illegal confinement. In its 2017 Concluding Observations, it recommended that Pakistan take measures to ensure that all police officers are prohibited by law from engaging in torture, and that any acts of torture are met with adequate, transparent prosecution and penalties commensurate with the gravity of the offence.<sup>8</sup> The Committee further recommended that law enforcement be trained on the absolute ban on torture, the provisions of the Convention, and forensic evidence-gathering techniques to reduce their reliance on securing confessions as the basis for criminal investigations.
17. The 2017 Concluding Observations issued by the Committee also highlighted the lack of prompt, impartial, and thorough investigations into allegations of torture that contributed to a culture of impunity, with perpetrators rarely held accountable. Victims faced significant barriers in lodging complaints, including threats of retaliation and fear of further torture. Additionally, the Committee noted that there were no independent bodies tasked with investigating torture allegations outside the control of law enforcement agencies.
18. In 2017, the Committee also recommended that Pakistan “Strengthen the independence of the district standing medical boards and ensure that the authorities promptly open criminal investigations into all cases in which medico-legal boards find evidence that a person has been subjected to torture in custody.”<sup>9</sup>
19. During Pakistan’s 2024 ICCPR review, the Government reported that it was taking extensive steps to implement the Torture and Custodial Death (Prevention and Punishment) Act and ensure accountability.<sup>10</sup> It stated that the FIA had established internal accountability branches and a hotline for receiving complaints of torture. The State delegation reported that the FIA had received 39 complaints since 2017, and initiated disciplinary and criminal proceedings against 28 officials. This, however, does not reflect the prevalence of torture and ill-treatment reported in the media.

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<sup>8</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.

<sup>9</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.

<sup>10</sup> Human Rights Committee, *Summary Record of the 4154th meeting* (24 October 2024) UN Doc. CCPR/C/SR.4154

## **b. Current State Policy and Practice**

20. The Government of Pakistan, in their 2022 State Report, reported on reforms undertaken to prevent torture and enhance accountability. The Report states that a zero-tolerance policy against torture has been enforced across police forces in all provinces, with directives issued to replace coercive interrogation methods with scientific investigation techniques.<sup>11</sup> In Punjab, for instance, 624 police officials were ‘disciplined’ in 2021 for involvement in torture or misconduct, and two Deputy Superintendents of Police (DSPs) in Balochistan were prosecuted for acts of torture, with the Government saying that these examples showed how internal accountability mechanisms are operational and effective.<sup>12</sup> However, cases of torture and deaths in custody are reported in the news and media on a very regular basis, calling into question just how effective these mechanisms are.
21. The State Report further spoke about the training initiatives undertaken at the Federal and Provincial level to capacity-build and sensitise judges, law enforcement, lawyers and prosecutors. On the provincial level, efforts included trainings and symposiums in provincial judicial academies for judges; joint training sessions for police investigators and forensic experts; and specialised courses for the police on gender-based violence (GBV), the treatment of juvenile detainees, and handling cases involving marginalised communities. At the federal level, the Ministry of Human Rights was reported to be engaged in training the judiciary and law enforcement, collaborating with NGOs and UN organisations to this end.

## **c. Key Updates**

22. There persists a notable lack of public and stakeholder awareness regarding the rights and procedures enshrined within the ambit of this significant legislation.
23. In the two years since the Act was passed, JPP’s information shows that only a handful of complaints have resulted in actual prosecutions being initiated under the Act.<sup>13</sup> Media reports over the past two years show that torture and ill-treatment by law enforcement remain widespread. The discrepancy between these reports and the few complaints filed, investigated, or prosecuted under the Act can be attributed to several factors: lack of operational rules for handling complaints, limited awareness among justice stakeholders about torture being a distinct offence, and insufficient training for government institutions on accountability procedures.
24. In May 2024, the Lahore High Court in *Sarriya Bibi v. RPO Sheikhpura*<sup>14</sup>

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<sup>11</sup> Government of Pakistan, *Second periodic report submitted by Pakistan under article 19 of the Convention, due in 2021* (Dec. 19, 2022), UN Doc. CAT/C/PAK/2.

<sup>12</sup> Government of Pakistan, *Second periodic report submitted by Pakistan under article 19 of the Convention, due in 2021* (Dec. 19, 2022), UN Doc. CAT/C/PAK/2.

<sup>13</sup> In 2024, the Prosecutor General Punjab invoked the Act to prosecute a complaint of torture submitted by a member of the transgender community; in another instance, a Magistrate referred a case to the FIA for investigation under Section 6 of the Act.

<sup>14</sup> *Mst. Sarriya Bibi vs. RPO Sheikhpura etc.* <https://sys.lhc.gov.pk/appjudgments/2024LHC2550.pdf>

highlighted the lack of implementation of the Act and directed its immediate and complete enforcement, emphasising the roles of the FIA and NCHR. The judgement mandated awareness and sensitization training for public officials to ensure effective implementation of the Act.

25. In August 2024, the National Commission for Human Rights prepared a draft version of operationalising rules under the Act, and has held a series of consultations with relevant stakeholders to finalise these rules. The consultations included the FIA, the provincial prosecution departments, representatives from the Ministries of Human Rights and Law & Justice, the police, prison officials, forensic experts, and civil society. There have been three consultations so far, aimed at incorporating feedback from all relevant actors to ensure unambiguous implementation of the Act, with more planned to finalise the rules.
26. In December 2024, the FIA, pending the passage of the rules, introduced Standard Operating Procedures (SOPs) for the implementation of the Act with regard to receiving and investigating complaints of torture. These SOPs include the formation of ‘Anti-Torture Units’ (ATUs) in each Zone of the FIA (2 in the provinces of Punjab and Sindh, and one each in Balochistan and Khyber Pakhtunkhwa). These ATUs have been charged with receiving and investigating complaints, and the SOPs lay out the procedure under which investigating officers will proceed, including a provision whereby the NCHR must be notified of and given supervisory powers over any inquiries initiated under the Act by the FIA. While this is an important step in promoting implementation of the Act, there is nevertheless still an urgent need for the Ministry of Interior to pass official rules.
27. In December 2024, the Ministry of Human Rights piloted a training for the officers going through the National Police Academy, on their obligations and responsibilities under the Act. During the training, it was revealed that many officers have a fundamental misunderstanding of the scope and ambit of the Act, and its applicability to their conduct. Serving police officers from across the country are obligated to regularly undergo capacity-building training at the Academy, so there is a critical need to institutionalise this course and make it mandatory for all officers across the country.
28. To effectively reduce torture in Pakistan, specialised legislative action and capacity building are needed. This includes creating rules to define stakeholder duties, ensure accountability, and raise public awareness of their rights under the Act. These rules must also establish detailed guidelines for conducting medico-legal examinations, in line with the Istanbul Protocol, and the District Standing Medical Boards that conduct these examinations must be strengthened and have at least one expert of forensic medicine. Additionally, the State must collect and publish disaggregated data on torture to identify systemic issues and guide future policy changes. Lastly, coordinated efforts to train and capacity build all relevant stakeholders must be implemented and institutionalised at the federal and provincial level.

## **Recommended Questions**

- What steps are being taken to implement the Torture and Custodial Death (Prevention and Punishment) Act 2022?
- What steps are being taken to comply with the Lahore High Court's judgement in the *Sarriya Bibi* case?
- What steps have been taken to spread public awareness about the Torture and Custodial Death (Prevention and Punishment) Act 2022?
- What steps have been taken to address the under-reporting of cases of torture, including due to a fear of reprisals?
- What safeguards are available to protect those making complaints of torture from facing prosecution for bringing malafide complaints?
- Provide information submitted to the NCHR and the FIA by concerned authorities on punitive actions taken in response to torture complaints submitted to the NCHR and FIA.
- Provide information on the number of complaints received, number of cases prosecuted, and number of convictions and the nature of sentences for torture and cruel, inhuman and degrading punishment.
- What concrete measures has the State Party implemented to develop and standardise protocols for medico-legal examinations in accordance with the Istanbul Protocol, and what specific actions have been taken to enhance the capacity of District Standing Medical Boards by ensuring the mandatory inclusion of forensic medicine experts in their composition?
- What steps are being taken to train all relevant stakeholders on their roles and responsibilities in implementing the Act, and to continue the Ministry of Human Rights training of police officers?
- What steps are being taken to implement the Human Rights Committee's 2024 recommendations on the implementation of the Act?

### **III. Detention conditions in Pakistan violate national and international standards.**

#### **a. Prior Recommendations**

29. The Committee expressed concern over custodial deaths as a result of torture and ill treatment, sexual abuse, overcrowding and inadequate detention conditions in Pakistani prisons, which lead to unsanitary facilities and inadequate access to medical services. The Committee raised concerns over the high proportion of persons held in prolonged pre-trial detention, the incarceration of juveniles alongside adults, and the



use of solitary confinement.<sup>15</sup> It recommended that Pakistan ensure effective investigation into custodial deaths and establish an independent and confidential complaint mechanism for all persons in detention. The Committee further recommended that Pakistan “urgently strengthen efforts to alleviate overcrowding in detention facilities” and “take effective measures to improve sanitation, health services and facilities available to all detainees and ensure that conditions of detention in the State party are brought into line with the Mandela Rules”.<sup>16</sup>

30. The Committee additionally expressed worry over the lack of independent monitoring mechanisms for places of detention. It recommended that “independent national and international monitors, including representatives of non-governmental organizations, are able to monitor all places of arrest, detention and imprisonment through regular visits, including unannounced visits.”<sup>17</sup> The Committee further recommended that Pakistan regularly collect data on these visits, and consider establishing a national preventive mechanism under the Optional Protocol of the UNCAT.

#### **b. Current State Policy and Practice**

31. Pakistan’s 2022 State Report lists measures taken to reduce overcrowding and improve detention conditions. The Punjab Probation and Parole Services Act (2019) has established an active provincial Parole Board, and the report says that the Juvenile Justice System Act, 2018 (JJSA) ensures the diversion of juvenile offenders to rehabilitation-focused alternatives like probation and community-based corrections.<sup>18</sup> The Government reports that it is constructing new jails across the country, and that there is no overcrowding in female jail barracks.
32. Pakistan’s 2024 Reply to the ICCPR List of Issues reports over 100,000 prisoners in the country. Measures cited to address overcrowding include establishing a parole and probation service in Punjab, a new Offender Management System, and building new jails. Four new jails in Punjab, with a total capacity of 2,268, were planned by 2024, but Punjab currently holds 61,813 prisoners with a capacity of only 37,217, operating 173.6% over-capacity. As such, it is unlikely that reactionary measures such as building more jails will do much to stem the ever-increasing tide of prisoners in Pakistan.

#### **c. Key Updates**

33. The levels of overcrowding in Pakistani prisons and detention centres is life threatening. Recent estimates of Pakistan’s prison population place the number of

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<sup>15</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.

<sup>16</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.

<sup>17</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.

<sup>18</sup> Government of Pakistan, *Second periodic report submitted by Pakistan under article 19 of the Convention, due in 2021* (Dec. 19, 2022), UN Doc. CAT/C/PAK/2.

people deprived of their liberty at 102,026 inmates, housed across 128 jails.<sup>19</sup> In total, these prisons have an estimated capacity of around 65,811 inmates, which places Pakistani prisons over capacity by 52% (152% overcrowded).<sup>20</sup> On a small scale, this means that prison cells designed for a maximum of three people may hold up to 15 people.<sup>21</sup> This degree of overcrowding directly impacts prisoners' due process rights.

34. 73% of the prison population (74,918 detainees) across the country are under-trial prisoners, who are still awaiting the conclusion of their trial proceedings.<sup>22</sup>
35. 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.<sup>23</sup>
36. A major reason behind the significant jump in Pakistan's prison population, from 88,687 in 2022 to over 100,000 in 2023, is the passage of a 2022 Amendment to the Control of Narcotics Substances Act 1997 (CNSA). This amendment introduced stricter penalties at wider quantity thresholds, resulting in increasingly harsh sentences being meted out to persons charged with drug offences. Importantly, the amendment stripped away the possibility of parole, probation or remission for anyone (excluding women and juveniles) sentenced under the CNSA. The Inspector General of Punjab Prisons said he had witnessed a 12,000 person spike in the prison population in the three months after the Amendment was passed.<sup>24</sup> Currently, 23,367 people are imprisoned under the CNSA, almost 23% of the national prison population significantly contributing to prison overcrowding.<sup>25</sup> Worryingly, this number represents an increasing trend since the amendment, rising by 18.98% from the 2023 figure of 19,636.
37. The judiciary of Pakistan does not adhere to any uniform sentencing standards for drug offences, with wildly varying and discretionary sentences being observed for the same offence and quantity of narcotics across the country. The 2009 *Ghulam Murtaza* sentencing guidelines for drug offences, introduced by the Lahore High Court and reaffirmed by the Supreme Court in 2019, lay out progressive standards for

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<sup>19</sup> Justice Project Pakistan, *Data Dashboards: Prison Population of Pakistan* (2023).

<https://jpp.org.pk/report/data-dashboards-prison-population-of-pakistan-2023/>, <http://jppprisonreforms.com/>

<sup>20</sup> Justice Project Pakistan, *Factsheet 2023: Prison Population of Pakistan* (2023),

<https://jpp.org.pk/report/fact-sheet-2023-prison-population-of-pakistan/>

<sup>21</sup> 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>.

<sup>22</sup> Justice Project Pakistan, *Factsheet 2023: Prison Population of Pakistan* (2023),

<https://jpp.org.pk/report/fact-sheet-2023-prison-population-of-pakistan/>

<sup>23</sup> 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>.

<sup>24</sup> Justice Project Pakistan, *Post Event Report: Reimagining Justice: Public Health and Human Rights Policy* (Apr. 2024), <https://jpp.org.pk/reimagining-justice-public-health-human-rights-centered-drug-policy/>

<sup>25</sup> Justice Project Pakistan, *Narcotics Offences Dataset* (2024),

<https://jpp.org.pk/wp-content/uploads/2024/04/Narcotics-Offences-Dataset.pdf>

sentencing of persons charged with drug offences.<sup>26</sup> Unfortunately, these have not been uniformly adhered to by the lower judiciary.

38. Non-custodial measures introduced have proven to be inadequate in addressing overcrowding. The implementation of the Punjab Probation and Parole Services Act (2019) has been severely hindered by chronic underfunding and understaffing, with 53 probation officers managing over 36,000 probationers. This scenario is mirrored across other provinces, where the use of probation and parole is inconsequentially low in the face of the country's massive overcrowding. The absence of community service as a recognised alternative to incarceration further limits the potential for non-custodial sentencing options.
39. Prisoners often lack access to healthy food and clean water, relying on family support or buying food from the commissary. Many prisons lack clean drinking water, giving rise to severe health issues.<sup>27</sup> Pakistan's prisons are "notoriously unsanitary," with the 2020 *Khadim Hussain v. Secretary, Ministry of Human Rights* judgement by Islamabad High Court highlighting the "grave conditions" and overcrowding, and observing that such conditions were tantamount to cruel and inhuman treatment.<sup>28</sup>
40. Additionally, there are persistent reports of torture in Pakistan's prisons. In September 2022, the NCHR's inquiry into the *Imtiaz Bibi* case revealed numerous instances of torture in Central Jail, Rawalpindi. Of 35 prisoners interviewed, 26 (74%) reported being tortured, with methods ranging from beatings with rubber tires to solitary confinement. Additionally, all prisoners mentioned financial extortion for basic necessities.<sup>29</sup>
41. While the passage of the Torture and Custodial Death (Prevention and Punishment) Act in November 2022 was a concrete step towards addressing torture in Pakistan's jails, it is a matter of concern that there are no independent and accessible accountability mechanisms for prisoners to submit complaints of torture and abuse in any of Pakistan's jails.
42. Monitoring and oversight of places of detention remains a matter of concern. While the NCHR is mandated to visit any place of detention across the country, and makes active efforts to do so, a lack of resources limits the frequency and spread of these visits. There is a need to allocate further resources and a dedicated provincial unit for

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<sup>26</sup> *Ghulam Murtaza and another v. The State* (PLD 2009 LAH 362),

<http://sindhimemions.blogspot.com/2017/04/p-l-d-2009-lahore-362.html>

<sup>27</sup> 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>.

<sup>28</sup> *Khadim Hussain v. Secretary, Ministry of Human Rights* (IHC Prison Reforms case), Writ Petition No. 4037 of 2019, Islamabad High Court, per Chief Justice Athar Minallah, Mar. 14, 2020, [http://mis.ihc.gov.pk/attachments/judgements/WP-4037-2019\\_637216920356707546.pdf](http://mis.ihc.gov.pk/attachments/judgements/WP-4037-2019_637216920356707546.pdf)

<sup>29</sup> *Khadim Hussain v. Secretary, Ministry of Human Rights* (IHC Prison Reforms case), Writ Petition No. 4037 of 2019, Islamabad High Court, per Chief Justice Athar Minallah, Mar. 14, 2020, [http://mis.ihc.gov.pk/attachments/judgements/WP-4037-2019\\_637216920356707546.pdf](http://mis.ihc.gov.pk/attachments/judgements/WP-4037-2019_637216920356707546.pdf); see also 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>

jail and detention centre visits for the NCHR, which is formally trained in conducting detention visits in line with international standards.

43. Prisons continue to operate without separate barracks for transgender persons as mandated in the Transgender Persons (Protection of Rights) Act.<sup>30</sup> In 2021, the Sindh High Court noted the lack of these barracks in Sindh prisons was a direct violation of both the Transgender Persons Act, the Sindh Prison Rules and the Sindh Prisons and Corrections Services Act 2019.<sup>31</sup>
44. Extended time on death row can also amount to cruel, inhuman or degrading treatment or punishment.<sup>32</sup> Pakistan has a death row of 3,646 prisoners. While there have been no executions since December 2019, judges continue to sentence people to death. Detention conditions on death row are even more egregious than the rest of the jail, with prisoners incarcerated in incredibly small and overcrowded cells, and they often spend decades awaiting the conclusion of their legal process.<sup>33</sup>
45. Police often subject individuals to torture to illicit confessions that may land them on death row.<sup>34</sup> Courts also rely on these forced confessions in determining an individual's guilt and in sentencing.<sup>35</sup> It remains to be seen how this issue will be resolved in light of the new Torture and Custodial Death (Prevention and Punishment) Act 2022 which prohibits the admissibility of evidence extracted through coercion.
46. In August 2024, while hearing a criminal appeal filed by condemned prisoner Ghulam Shabbir, Supreme Court Justice Jamal Khan Mandokhail highlighted the inhumane conditions and interminably long periods of time spent on death row. Ghulam Shabbir had spent 34 years in jail, including 24 years in a death cell. The judgement stated that having already served a life sentence, Shabbir could not be executed for the same offence or this would count as double punishment, and as such he was to be released. The judgement referenced the Mandela Rules and urged the Federal and Provincial

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<sup>30</sup> United States Department of State, “2022 Country Reports on Human Rights Practices: Pakistan” (December 7, 2023), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>

<sup>31</sup> Dawn News, “SHC Seeks Report about Separate Barracks in Prisons for Transgender Inmates” (March 7, 2021), <https://www.dawn.com/news/1611039>

<sup>32</sup> International Federation for Human Rights & Human Rights Commission of Pakistan, ‘Pakistan: Briefing note on the death penalty’ – 10 October 2022 (Oct. 10, 2022), <https://www.fidh.org/en/region/asia/pakistan/World-Day-Against-Death-Penalty-capital-punishment-Pakistan> (citing *Case of Soering v. the United Kingdom* (Application no. 14038/88), European Court of Human Rights (Jul. 7, 1989), available at: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22:%5B%22soering%22%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22:%5B%22001-57619%22%5D%7D>).

<sup>33</sup> International Federation for Human Rights & Human Rights Commission of Pakistan, ‘Pakistan: Briefing note on the death penalty’ – 10 October 2022 (Oct. 10, 2022), <https://www.fidh.org/en/region/asia/pakistan/World-Day-Against-Death-Penalty-capital-punishment-Pakistan>.

<sup>34</sup> See generally, Justice Project Pakistan & Allard K. Lowenstein International Human Rights Clinic, Yale Law School, *Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan* (Jun. 2014). <https://www.jpp.org.pk/wp-content/uploads/2018/08/policing-as-torture.pdf>

<sup>35</sup> Asad Hashim, ‘Pakistani academic Junaid Hafeez sentenced to death for blasphemy’, Al Jazeera (Dec. 21, 2019). <https://www.aljazeera.com/news/2019/12/21/pakistani-academic-junaid-hafeez-sentenced-to-death-for-blasphem>

Governments to minimise time spent on death row by aligning prison laws and rules with international standards, improving conditions for death row prisoners, and amending the procedure through which mercy petitions are filed before the President of Pakistan in line with international standards.<sup>36</sup>

47. Punjab, home to 60.7% of the incarcerated population, has retained unchanged prison rules since 1978 which considerably fall behind UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Efforts to revise these rules have repeatedly stalled. Two committees for prison reform, notified in 2020 and 2022, proposed amendments to over 1,2000 provisions of the Prison Rules 1978 in line with international standards. However, the Draft Punjab Prison Rules 2020 and the revised Punjab Prison Rules 2022 remain unadopted by the Government of Punjab.<sup>37</sup>
48. The Ministry of Interior's Prison Reform Committee is currently reviewing recommendations from its provincial counterparts to revise and harmonize the Pakistan Prison Rules, aligning them with international standards at the federal level. It is imperative that these efforts result in the Punjab Government expediting its rule adoption and the Federal Govt enacting unified, updated prison regulations that address systemic failures and comply with Pakistan's international obligations.

#### **d. Recommended Questions**

- Provide information on the number of prisoners released on parole, and measures being taken to reduce the significant overcrowding in Pakistan's prisons.
- Please confirm if the following new jails and prisons are now operating and whether their existence has reduced the prison population in Punjab and Sindh: District Jail Lodhran, High Security Prison Mianwali, Thatta District Prison, and the new barracks in District Prison Shikarpur.
- What steps have been undertaken to reduce the use and maximum allowed length for pre-trial detention?
- What measures have been implemented to further reduce overcrowding, such as reforming the State's bail structure?
- What steps are being taken to address the massive uptick in prisoners incarcerated for drug offences, including through amendments to the CNSA 1997 and introducing human rights and public health-based sentencing guidelines for these offences?

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<sup>36</sup> Ghulam Shabir and another vs. The State,

[https://www.supremecourt.gov.pk/downloads\\_judgements/crl.r.p.\\_103\\_2017.pdf](https://www.supremecourt.gov.pk/downloads_judgements/crl.r.p._103_2017.pdf)

<sup>37</sup> These standards included provisions related to humane and dignified treatment, such as banning the practice of whipping, fetters etc, as well as provisions pertaining to conditions of confinement such as food, healthcare, ventilation, transfer of prisoners to outside hospitals for treatment, and contact with the outside world.

- Please describe the provisions for food and water provided at each detention or prison facility, including whether authorities provide regular, sanitary and nutritionally adequate meals to persons being detained.
- What steps have been taken to ensure that detention conditions comply with the Nelson Mandela Rules, particularly Rules 15-18 regarding sanitation and personal hygiene, Rule 22 regarding food and drinking water, and Rule 43 regarding torture and other cruel, inhuman, or degrading treatment or punishment?
- What steps are being taken to eliminate torture in prisons, in light of the Torture and Custodial Death (Prevention and Punishment) Act 2022?
- What safeguards are in place to ensure that transgender individuals are housed in separate barracks while detained or imprisoned?
- What steps are being taken to introduce a confidential, impartial and effective complaint mechanism for prisoners across the country to report abuse, violence and harsh treatment throughout prisons in every province of Pakistan?
- What measures have been taken to improve the conditions of death row cells?
- What steps are being taken to reduce the death row population, including through the removal of crimes that carry the death penalty and introducing more stringent guidelines for lower courts to follow when conducting capital trials?
- What measures have been taken to update the Pakistan Prison Rules to bring them in line with international standards such as the UN Minimum Standards for the Treatment of Prisoners?
- What steps are being taken to implement the Human Rights Committee's 2024 recommendations on reducing prison overcrowding, improving prison conditions, and introducing/upholding safeguards for persons deprived of liberty?

#### **IV. Torture in the context of counter-terrorism efforts**

##### **a. Prior Recommendations**

49. The Committee, in 2017, expressed grave concern over Pakistan's Anti-Terrorism Act (ATA) 1997, which eliminates safeguards against torture for individuals deprived of liberty. The ATA allows law security agencies to detain suspects without review or habeas petitions for up to three months and permits year-long detention without trial. Importantly, the ATA allows courts to admit confessions made in police custody, unlike civil courts, which require confessions to be made before a magistrate. The Committee further raised serious concerns about the trial of civilians in military

courts, particularly due to the lack of judicial independence and the use of closed trials.

50. Pakistan's 2024 ICCPR review saw the Human Rights Committee strongly recommend significant changes to the ATA, including a narrowing of the definition of terrorism, and the removal of any sections which violate Covenant rights. This was one of the Human Rights Committee's urgent recommendations, made in accordance with rule 75(1) of its rules of procedure, and Pakistan must provide information on its implementation by November 2027.<sup>38</sup>

#### **b. Current State Policy and Practice**

51. The Government of Pakistan's State Report notes that the 2019 Supreme Court decision in *Ghulam Hussain vs. the State* lays down a conclusive and narrow scope of the definition of terrorism and its application with respect to criminal cases, thereby preventing misuse of anti-terrorism law. The State Report mentions the directions of the Supreme Court to the legislature to limit the scope of the ATA by amending its preamble to only include acts of terrorism, and codify the 'three-fold' test laid down by the Supreme Court in the judgement. and by removing Schedule III from the Act. However, this judgement has not been codified and there has been no change in the scope of the definition of the ATA.

#### **c. Key Updates**

52. 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.<sup>39</sup> This overly broad definition often results in the arbitrary application of the ATA for crimes bearing no semblance to acts of terrorism, and increases the number of persons who may be deprived of their fundamental rights and safeguards in the justice system.
53. Under Section 21-H of the ATA, confessions made in police custody are admissible in the Anti-Terrorism Courts, greatly increasing the risk and likelihood of torture. While the Torture and Custodial Death (Prevention and Punishment) Act renders any confession extracted by torture inadmissible, there is a need to remove Section 21-H from the ATA.
54. Moreover, as previously discussed, without implementing operational rules for the Act, the widespread practice of extracting confessions through torture remains largely unaddressed.

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<sup>38</sup> Human Rights Committee, *Concluding Observations on the Second Periodic Report of Pakistan* (2 December 2024) UN Doc. CCPR/C/PAK/CO/2

<sup>39</sup> Anti-Terrorism Act, 1997.

#### **d. Recommended Questions**

- What steps have been taken to reduce the scope of the definition of terrorism under the Anti-Terrorism Act in order to bring it in line with the jurisprudence of the Supreme Court and international standards?
- What steps are being taken to amend provisions of the ATA that do not comply with international legal standards and lead to violations of fundamental rights, including Section 21-H which allows for confessions made in police custody to be admissible as evidence in court?
- What steps are being taken to implement the Human Rights Committee's 2024 recommendations on amending the ATA 1997?

### **V. National Commission For Human Rights**

#### **a. Prior Recommendations**

55. The Committee, in 2017, welcomed the NCHR's creation, but expressed concern that it was not being allowed to complete its mandate properly. It stated that Pakistan should "take immediate measures to ensure that the National Human Rights Commission is able to carry out its mandate fully and in an effective and independent manner, and in full conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by allowing the Commission to meet in person with international human rights mechanisms abroad." The Committee further said that Pakistan "should strengthen the power of the Commission and ensure that it is able to investigate all cases of torture or ill-treatment committed by any entity carrying out arrests and detentions in the State party and...strengthen its efforts to provide the Commission with sufficient financial and human resources for it to carry out activities throughout the State party."<sup>40</sup>

#### **b. Current State Policy and Practice**

56. Pakistan reported in 2022 that it strengthened the National Commission for Human Rights (NCHR) by granting it financial autonomy, quasi-judicial powers, and expanded resources, including a 126% budget increase from 2018 to 2020. After the Commission's reconstitution in 2021, it resumed investigating human rights violations, reviewing legislation, and conducting advocacy. Pakistan stated that the NCHR handled 2,435 complaints in 2018, including suo-moto cases on police torture and enforced disappearances. It also issued policy guidelines in 2019 to protect human rights defenders and collaborated with international bodies to strengthen its operations.

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<sup>40</sup> Committee Against Torture, *Concluding observations on the initial report of Pakistan*, adopted by the Committee at its 1530th and 1531st meetings, UN Doc. CAT/C/PAK/CO/1.



### **c. Key Updates**

57. In May 2024, the NCHR received ‘A status’ accreditation from GANHRI, certifying that it was being run fully in accordance with the Paris Principles. The NCHR regularly conducts visits to places of detention, receives and acts upon complaints of torture, and is actively involved in the passing of rules under the Act.
58. As mentioned earlier, there is a definite need to expand the NCHR’s role under the Torture and Custodial Death (Prevention and Punishment) Act 2022, granting it full investigative powers and the requisite resources and capacity-building to carry out these investigations.

### **d. Recommended Questions**

- What steps are being taken to expand the role of the NCHR under the Torture and Custodial Death (Prevention and Punishment) Act 2022, including through the allocation of more resources and capacity to carry out investigations into complaints of torture?