

The struggle for prison reform in Pakistan

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Pakistan's prisons remain terribly overcrowded and under-resourced, and nascent efforts at progressive reform are stymied by ingrained attitudes of discrimination, including against religious and ethnic minorities

In September 2022, a complaint was filed before the Islamabad High Court by Imtiaz Bibi. She charged that her son had suffered severe torture at the hands of prison officials at the Central Jail in Rawalpindi. Shortly afterwards, a doctor examined Bibi's son and told the court that his injuries were likely caused by torture. On 21 September, the superintendent of Rawalpindi Central Jail denied the charges. However, the story didn't end there. The next day, the National Commission for Human Rights (NCHR) said in a report that officials at the Rawalpindi prison appeared to have committed gross abuses of power, and that further investigations were warranted. The Chief Justice of the Islamabad High Court then visited the jail, along with several fellow judges as well as representatives from the NCHR, the ministry of human rights and the home department of Punjab province, where Rawalpindi is located. In a final NCHR report filed in October, 26 out of the 35 inmates interviewed said they had experienced torture and other inhuman and degrading treatment in prison. In the pursuit of justice for her son, Imtiaz Bibi had brought attention to the larger pattern of inmates' mistreatment within Rawalpindi's Central Jail.

Soon after the Rawalpindi case, in November 2022, the Torture and Custodial Death (Prevention and Punishment) Act was passed into law, making torture, custodial death and custodial rape criminal offences. The new law introduced a maximum penalty of death for anyone causing custodial death and fines of up to PKR 100,000 for using evidence obtained through torture, yet there have been no convictions under it so far. The promulgation of the act signalled Pakistan's attempts at progressive reform of its carceral system, yet while there is official willingness to change the pace of progress has been slow, and many obstacles persist.

Pakistan's criminal justice system continues to bear the imprint of British colonial rule. The 1894 Prisons Act and the 1900 Prisoners Act are the main laws which govern prisons in the country, alongside the Penal Code, introduced in 1860, and the Code of Criminal Procedure introduced in 1898. A significant post-independence turn came in the late 1970s and the 1980s, when the dictatorship of Muhammad Zia ul-Haq began to intertwine religion with the law in a bid to transform Pakistan into an "Islamic state". This included the establishment of Sharia courts with the power to review and annul almost all legislation they found to be un-Islamic. The widely criticised Hudood Ordinances, which criminalised extramarital sex and alcohol consumption and were deemed discriminatory towards women and religious minorities, were also introduced. Pakistan's legal system shares many common elements with India's, a result of their shared colonial histories, although India maintains a comparatively more secular legal framework. In Pakistan, the Islamisation of the legal framework is ongoing, while reforms that could materially improve the lives of prisoners move at a glacial pace.

There has yet been no attempt to address one of the most urgent issues facing Pakistan's prisons, which is overcrowding. As of October 2023, Pakistan held around 100,366 prisoners in its 127 jails,

according to primary data obtained by the Justice Project Pakistan. (These figures exclude the administrative territory of Gilgit-Baltistan.) As much as 73 percent of prisoners were being held while awaiting verdicts in their cases. Almost everywhere, the number of such under-trial prisoners exceeded the number of convicted inmates, highlighting Pakistan's over-reliance on pre-trial detention even for relatively minor offences. The occupation rate across Pakistan's prisons stands at 152.2 percent of intended capacity, with some jails operating with occupancy of over 200 percent of their capacity.

Despite an ever-growing prison population, there is a shortage of officials to handle detainees and detention facilities. As of August 2023, Punjab's probation and parole service had only 79 probation officers, meaning roughly 500 offenders are assigned to each officer. International standards recommend around 50 offenders per officer at most. In 2020, in the case of *Khadim Hussain vs Federation of Pakistan and others*, the Islamabad High Court ruled that detention in overcrowded and unsanitary prisons amounted to "cruel and inhuman treatment" for which the state should be held accountable. However, despite this, meaningful reform on this front is yet to follow.

Prisons and provinces

Pakistan's prisons cannot be viewed as a monolith. The 18th Amendment to the Constitution of Pakistan, passed in 2010, delegated powers from the central government to regional and local governments, with the aim of making governance structures more efficient as well as responsive to local needs. An unintended result of this is that each province has its own story of criminalisation of particular acts and communities, revealing sociopolitical fractures often dating back to colonial times.

In Punjab, the most populous province in Pakistan, there is criminalisation of religious diversity in favour of Islamic conformity. As one former prisoner recounted to Justice Project Pakistan, "Upon entry to jail, prisoners are asked how they identified according to caste, and if [a person from a minority faith] provided association such as jutt or malik, which is a common way of identification in Pakistan, they would be told, 'No, you are [from the minority faith]'. [Our faith] becomes our caste... for us religion is noted in place of caste." Ahmadi prisoners, members of a persecuted Islamic minority, received less food and often served their sentences in solitary confinement - supposedly for their own safety, and in accordance with Punjab prison rules that seek to prevent religious disputes. Christian prisoners, meanwhile, were penalised for attempting to assert their right to religious freedom. Minority prisoners in Punjab were segregated from the main prison population just as they were segregated from society while outside prison.

In Sindh, there is criminalisation of ethnic diversity and sub-nationalism. This is deeply tied to the rise in Sindh from the 1980s onwards of the Muttahida Qaumi Movement (MQM), a party representing the Muhajirs - migrants from what is now India who settled in Sindh after Partition. The MQM's assertion led it into conflict with the Pakistan military as well as local Sindhis and Balochs, with the violence particularly intense in Karachi. Years later, such sub-national movements in the province are still seen as a threat to national security. In Sindh's prisons, people are often detained for their affiliations with these movements. At times, prisoners told the Justice Project Pakistan, they were relocated to prisons outside their hometowns, cut off from family and friends. This was seen as a method of additional punishment. Sindh has had to struggle to receive its fair share of federal resources due to Punjab's growing dominance over the Pakistan state, meaning that prisons in Sindh are also relatively less well-resourced.

In Khyber Pakhtunkhwa, there is criminalisation of dissent as militancy. Incarceration is an integral part of heightened securitisation in the province, especially since the start of the global war on terror after 9/11, often targeting the resident Pashtun ethnic majority. At times, this includes

targeting people for their political views and support of the [Pashtun Tahafuz Movement](#), a popular movement for Pashtun rights, or for speaking out about how the Islamist militancy plaguing the area impacts their lives. In 2019, Wasim Mehsud was arrested for his posts on social media about Pakistani politicians' hypocrisy in criticising the Indian judicial system, among other things. This was used as supposed proof to claim he was "working against the country." Mehsud was incarcerated for 43 days in the Central Jail in Peshawar. Several former inmates from the region said they were not informed of what charges they were being arrested under. One former inmate from Waziristan, arrested for social media posts contradicting the military's account that it had found and killed terrorists in South Waziristan district, said he was not produced before a magistrate for four days, and was not even sure if the people arresting him were from the police.

In Balochistan, the strategic use of disenfranchisement by the Pakistan state has fed separatism and militancy. The roots of Baloch discontent trace back to colonial times, when Balochistan was strategically used by the British to bolster their military presence in the region and maintain borders with Afghanistan and Iran, resulting in the colonial administration building military outposts and other such infrastructure but not schools, hospitals or other facilities to improve locals' lives. The province remains underdeveloped and underserved, resulting in abysmal facilities in Balochistan prisons. Poverty pushes people into criminality. A former inmate told Justice Project Pakistan of how he was apprehended after stealing a motorbike and two mobile phones. Although he and his accomplice told the police where the motorbike was and returned the stolen property, they were beaten for two weeks and transferred to a central jail. A student activist told the Justice Project that he was never given a formal reason for his arrest, and that he could tell from the very general questions asked during his interrogation that even the officers speaking to him did not know why he had been picked up. "As Balochs, we are third-class citizens," he said.

Baloch insurgent groups such as the Balochistan Liberation Front and Balochistan Liberation Army have been attacking security and military personnel of the Pakistan government, with 71 such attacks reported by the Pakistan Institute of Peace Studies in 2022 alone. The Baloch insurgency has intensified in the last decade because the Pakistan state has failed to address Baloch demands for control of the province's natural resources and a fair share of political power. The [Pakistan military's support](#) of select political parties such as the Balochistan Awami Party has only added fuel to the fire.

Women, already subject to societal discrimination in Pakistan, report discriminatory treatment in prison as well. Women have described seeing signs emphasising the importance of *purdah* (the veil) and *haya* (modesty) at female barracks. Breastfeeding mothers spoke of the lack of privacy in some prisons, and of being subjected to lewd remarks by jail wardens. Those who, having no alternative, brought their young children with them into prison also reported a lack of nutritious food and proper education facilities suitable for them.

Across the country, there is a lack of standardisation when it comes to the detention of women prisoners - some provinces have mixed-gender prisons, while others have gender-segregated ones. This has sometimes led to situations where women are transferred far away from their families to be put in facilities deemed suitable for them. Women prisoners also face increased risks of abuse since they sometimes have to share space with men due to overcrowding and since prison guards and wardens were often men. In Faisalabad district, 82 out of 134 women prisoners had experienced sexual violations between 2006 and 2012, a report from Justice Project Pakistan found. Women also said that they often did not receive sanitary napkins during menstruation: prisoners at Kot Lakhpat Jail in Lahore reported tearing off pieces of their shawls to use instead. This is in violation of international norms like the Bangkok Rules, which provide guidelines for the treatment of women prisoners that include the provision of sanitary products when needed.

Pakistan's prisons have an atmosphere of surveillance and repression where poverty, minority ethnic or religious identity, sub-nationalism and dissident political activism are punished under the guise of protecting national security. Reforming the prison system is a thorny issue because it requires not just introducing new laws and systems but also undoing ingrained discriminatory attitudes that fuel miscarriages of justice.

In pursuit of justice

In 2023, the World Justice Project ranked Pakistan 130th out of 142 countries in a list regarding the application of the rule of law, and 99th on a list regarding systems of criminal justice. In real terms, this means that cases of both wrongful conviction and wrongful prosecution abound. Take the case of Mazhar Hussain, convicted of murder in 1997 and later given the death penalty. In 2016, Pakistan's Supreme Court acquitted him and ruled that his conviction had been based on false testimony. But the ruling came too late for him: Hussain died in 2014 after spending 17 years in prison.

Stories of negligence are also not uncommon. A prisoner detained in Faisalabad, Abdul Basit, was denied urgent medical care for over a month before finally being shifted to DHQ Hospital as an emergency case. This resulted in him developing complications from tuberculous meningitis, resulting in paraplegia. Moreover, many prisoners, including Basit, were confined to the punishment ward of the prison as a form of collective discipline after riots broke out, and were not allowed any contact with their families. Prisoners' perpetual detention on the punishment ward constitutes a serious breach of legal provisions relating to solitary confinement.

As Imtiaz Bibi's pursuit of justice revealed, torture by prison authorities is also a sad reality within Pakistan's prison system, even though it is not reported frequently. Across different prisons, there are sometimes eerie similarities reported on the use of torture. For instance, an Ahmadi prisoner told Justice Project Pakistan that he was beaten by prison officials on his first day in Jhelum Jail in Punjab as a rite of passage. Similar accounts were given by former inmates of Turbat Central Jail in Balochistan, and at Karachi Central Jail prisoners recounted being beaten at the gate until they reached their barracks. Women prisoners were not spared: at least one prisoner said she witnessed a woman being beaten on her first day in prison. She was told by way of explanation that the new prisoner was a thief and drug addict who was being beaten and deprived of food because she had refused to sweep the floors.

After such initiation, many prisoners said, beatings would only happen if a prisoner refused assigned work - or, as in Central Prison Peshawar, refused to do "mandatory" activities. In Karachi Central Jail, in Sindh, prisoners also said that guards would beat them in front of family members in order to extort money. Torture is used in prisons as a method to ensure discipline, and to make prisoners psychologically subservient.

Torture is also embedded within the police system. In 2014, a study conducted by Justice Project Pakistan and the Allard K Lowenstein International Human Rights Clinic at Yale Law School found that police brutality is widespread and systematic. This was based on investigation of allegations of torture in Faisalabad district from 2006 to 2012. Analysing 1867 medico-legal certificates prepared by the Faisalabad District Standing Medical Board, set up by the government to conduct medical examinations in response to allegations of torture, the study found that physicians had identified conclusive signs of abuse in 1424 cases. It is likely that the actual number of victims of torture in Faisalabad over the period scrutinised is even higher than the figures reported in the study, since the researchers included only complainants who were willing to come forward.

Apart from the 2022 national legislation to prevent torture and custodial deaths, there have been

several attempts at the provincial level to introduce reform. The Prison Rules in Sindh underwent extensive revisions via the Sindh Prisons and Corrections Services Act 2019. The act seeks, in part, to transform prisons into more rehabilitative spaces. Additionally, the Khyber Pakhtunkhwa Prison Rules were amended and the province also passed the Khyber Pakhtunkhwa Probation and Parole Bill 2021, which aimed to bring the province's system more in line with international standards.

Similarly, in 2020, Punjab drafted the Punjab Prison Rules, which were to replace 1978 legislation. Justice Project Pakistan was able to participate in a consultative process as part of this, alongside various legislators and officials including the province's Deputy Inspector General of Jails, Naveed Rauf. The resulting draft came as close as any document in Pakistan ever has to accepted international minimum standards for prisoners. Yet, three years later, the draft has yet to be passed into law.

In order to bring about change, prison rules in each province must be amended to more closely align with international standards, particularly with a view to maintaining a prison environment free from torture as well as all forms of inhuman or degrading treatment. Pakistan needs to move beyond its practice of inordinate pre-trial detention and seek out ways to reduce its prison population. Basic facilities including accommodation, healthcare, education, recreation and food services should be provided in line with internationally accepted standards, and prisoners should be taught vocational skills to facilitate their reintegration into society. But in order to achieve reform, what is most urgently needed is a change in mindset - moving from a punitive to a rehabilitative approach in incarceration. Until progress is achieved on changing societal attitudes, Imtiaz Bibi's bid for justice, while brave, will not be fully realised.

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