

Torture and Custodial Deaths in Pakistan: Effectiveness of Anti-Torture Laws and Compliance with International Conventions

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Abstract

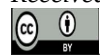
Tortures and in-custodial deaths remain a major human rights issue in Pakistan as they erode the rule of law, and destroy citizen trust in the law enforcers. Although this may be counter-intuitive in regard to the constitutional protection that renders individuals as persons and forbids the use of torture, empirical data show that the problem of custodial abuse still comes out in many parts of the country. Pakistan has signed major documents of human-right, including the United Nations Convention against Torture and the International Covenant of the civil and political rights. The state has tried to fulfill the international obligations, in an attempt to do so, it promulgated the Torture and Custodial Death Prevention and Punishment Act in 2022. However, there is still a concern in the substantive functioning and the working implementation of the law. This study examines the legal framework of torture and death in custody within Pakistan, including how much it has the ability to protect those who are in custody. At the same time, it reviews the compliance levels by Pakistan with international human-rights laws against torture. This paper utilizes a qualitative legal research approach to investigate both constitutional provisions, stertorous act, international conventions, human rights, documents, and a collection of appropriately selected case studies to shed light on the topic of custodial violence. The results indicate that despite the legal framework created to criminalize torture, there are extensive gaps in implementing the legal framework. Among the major barriers are weak law enforcement, lack of strong independent investigative system, institutionalized resistance within the policing organizations and limited structures of accountability. The given work adds to the academic discussions as it outlines the most important weaknesses in the existing legal framework and offers specific legislative and institutional changes that will improve the protection of detainees and prevent the emergence of custodial torture in Pakistan.

Keywords: Torture; Custodial Deaths; Pakistan; Torture and Custodial Death (Prevention and Punishment) Act 2022; Human Rights; Police Accountability

Introduction

Human dignity protection is one of the fundamental values of the modern juridical systems. Torture and any other cruel, inhuman or degrading treatment is unequivocally outlawed by international human-rights law. Torture erodes the individual dignity and at the same time invalidates the legitimacy of the justice processes. Thus, a host of international conventions and national constitutions entrench strong legal protection against such abuses. Islamic Republic of

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Pakistan Constitution entails a range of universal rights alleged to guard citizens against maltreatment perpetrated by the state. **Article 9** ensures the right to life and liberty, and **Article 14** clearly protects the dignity of people and forbids the use of torture as the way of collecting evidence. Despite these constitutional commitments, cases of torture and custodial deaths are still witnessed in different parts of Pakistan. In fact, human-rights groups have reported various cases where probes by law enforcers have physically abused detainees in the process of eliciting confessions or getting information as fast as possible. Such practices dismiss belief in the criminal-justice system and cause trepidation among the masses. Pakistan has made immense international commitments to discourage torture. The state signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment hence it had an obligation to enforce the provisions of the Convention. Pakistan met these requirements with the act of Torture and custodial death (prevention and punishment) act of 2022, which criminalizes custodial violence and its commissioners. Although this law is a significant move toward the punitive deterrence of torture, the fact that one has decrees does not guarantee the respect of human-rights. It has been argued by several authors that the existence of institutionalized cultures in law-enforcement institutions, with their inefficient enforcement systems and ineffective accountability, are the obstacles to ending custodial violence. It is therefore urgent that the effectiveness of the existing system of law in Pakistan to prevent torture and custodial deaths is examined and whether the country has met its international human-rights duties.

The main findings of this research are the following:

Firstly, the law governing torture and custodial deaths in Pakistan identifies as legal matters the provisions of the constitution and criminal law as well as the Torture and Custodial Death (Prevention and Punishment) Act 2022. **Second**, the paper assesses the compliance of Pakistan on the international human-rights conventions on the ban of torture. **Third**, the study determines the very important gaps in the enforcement of anti-torture policies and accountability measures. **Lastly**, the paper provides policy suggestions of both legal and institutional reforms that might strengthen the protection of detainees and reduce the effects of custodial violence.

The rest of the paper is structured in the following way:

Section 2 includes the **literature review** and the discussion of the previous studies on torture and custodial violence. **Section 3** describes the research methodology that was used in this study. **Section 4** outlines the international legal responsibility of Pakistan with regards to the ban of torture. **Section 5** discusses domestic law in the case of torture and custodial deaths in Pakistan. **Section 6** examines recent statistics and some cases that were chosen in the context of custodial violence. **Section 7** points out key issues and loopholes in the current legal framework in implementation. **Section 8** provides policy guidelines that would reduce the practice of torture and deaths in custody. **Section 9** concludes the study.

Literature Review

The use of torture and custodial violence has received a lot of researches as well as international bodies and human rights organizations. The empirical evidence indicates that torture is a common phenomenon in those settings where law-enforcement services fall under the ineffective regulation and scarce accountability procedures. The international human-rights law speaks of

torture, as well as cruel, inhuman, or degrading treatment of any person, as a category of criminal activity, which is categorically forbidden. According to the United Nations Convention against Torture, torture is any act in which a person encounters severe inflictions of, either physical or mental suffering purposely, in order to gain information, punish or frighten [1]. Similarly, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights forbid torture and underline the human dignity safeguard [16], [17]. A number of studies emphasize the use of torture in the investigation of crime. Researchers claim that in the state where police officers are not well trained in scientific investigative methodologies, they are easily tempted to apply coercive techniques of interrogation as a way of eliciting confessions [10]. These practices are also referred to as the third-degree approaches and are mostly linked to poor institutional control and pressure to deliver quick investigative results. Ahmed further claims that lack of investigative resources and absence of forensic capacity among others has been seen to perpetuate application of coercive interrogation practices in Pakistan [10]. There are also indications of torture in the police custody as evidenced through empirical research. In a study carried out by the Justice Project Pakistan and Yale Law School, the authors analyzed the case of detainees in Faisalabad and found evidence of torture in many of the cases, and suggested that torture might be institutionalized as opposed to singular [11]. Human-rights groups also have expressed similar concerns. Multiple cases of custodial violence have been reported by Amnesty International, Human Rights Watch, as well as the Asian Human Rights Commission [4], [6], [7], and the article highlights the necessity of introducing more effective accountability measures within law-enforcement organizations. This problem of custodial torture has been discussed in different national human-rights reports in Pakistan. Incidences of in-custodial deaths and alleged police encounters have been recorded several times by the Human Rights Commission of Pakistan, raising an issue of the absence of transparency and accountability [8], [18]. Documents of the National Commission of Human Rights also highlight the fact that numerous claims of torture are just not adequately pursued hence leading to a culture of impunity among the law-enforcement organs [13]. A number of researchers argue that legal reform is not enough to deal with the issue of custodial torture. Studies show that the opposite measures to prevent torture are institutional changes, training of police force, and independent scrutiny agencies [9], [12]. It is also emphasized by international organizations like the United Nations Office on Drugs and Crime, and the International Bar Association that police accountability, judicial control, and open the door policy to investigating custodial abuse are key elements in prevention of custodial abuse [14], [22]. The legal changes that have taken place in Pakistan have tried to correct these fears. The adoption of the Torture and Custodial Death (Prevention and Punishment) Act 2022 is a major move in the direction of making the criminal the use of torture and custodial abuse illegal [5]. However, a number of studies indicate that institutional resistance, low capacity to carry out investigations and effective mechanisms to check the implementation are just some of the issues that remain to be implemented [15], [21]. International oversight institutions, such as the United Nations Committee against Torture and European Union human -rights reports have also been found to be concerned about the adherence of Pakistan to its international human-rights commitments [28], [29].

Table 1: Relevant Studies on Torture and Custodial Deaths

Study	Author/Institution	Focus	Findings
Police Torture Study	Justice Project Pakistan & Yale	Prevalence of torture	Evidence of torture in 76% of examined cases
HRCP Annual Reports	Human Rights Commission of Pakistan	Custodial deaths	Increase in police encounters and deaths
NCHR Reports	National Commission for Human Rights	Human rights monitoring	Weak enforcement of anti-torture laws
UN Reports	United Nations	International compliance	Pakistan criticized for weak investigations

Table 2: Comparison between International Standards and Pakistan's Laws

Issue	International Standard	Pakistan Law	Gap
Definition of torture	Includes physical and mental torture	Focus mostly on physical torture	Psychological torture weakly addressed
Investigation	Independent investigation required	FIA responsible but operational issues	Implementation gap
Victim compensation	Guaranteed compensation	Limited enforcement	Weak mechanisms
Accountability	Command responsibility recognized	Not clearly included	Senior officers rarely punished

Research Gap: The literature available currently demonstrates the prevalence of custodial torture and the need to introduce more powerful accountability processes and institutional changes. Nevertheless, according to many previous studies, most researchers simply reproduce the incidents of custodial violence instead of analyzing the success of the new legal currents in Pakistan. Specifically, there is scarcity of the studies that explore how the Torture and Custodial Death Act 2022 is implemented practically and influences the elimination of custodial abuse. Thus, it can be stated that the present paper attempts to fill this gap by assessing the efficiency of anti-torture legislation in Pakistan and measuring the adherence of the country to the international human-rights regulations. To analyze whether the current legal system is sufficient, the study looks at the association between the law provisions, practices in institutions and reported incidences of custodial violence.

Methodology

The given research uses the qualitative approach to the legal study to examine the phenomenon of custodial deaths and torture in Pakistan.

Qualitative legal research focuses on the interpretation of texts in law, institutional practices and documented cases to understand the way statutes work in practice. This area of research is appropriate to the current investigation, the goal of which is to evaluate the efficiency of the anti-

torture legal framework in Pakistan and its compliance with the international Laws on human-rights.

The research study takes a keen analysis of both primary and secondary sources. The Constitution of the Islamic Republic of Pakistan (1973), the Pakistan Penal Code, the Code of Criminal Procedure, and the Torture and Custodial Death (Prevention and Punishment) Act 2022 are considered to be primary.

The international instruments, i.e. the United Nations Convention Against Torture, the International Covenant on civil and political Rights and the Universal Declaration of human rights are also examined as a way of understanding the duty of Pakistan in regard to the fact against the use of torture.

The secondary sources include academic articles, monographs, policy reports, and other publications created by human-rights organizations. The reports by the Human Rights Commission of Pakistan, Amnesty International, Human Rights Watch and National Commission to human rights offer a priceless contribution to the incidence of custodial violence and the policymaking practices of law-enforcement agencies hence enable the determination of systematic trends of torture and custodial killings.

Besides textual examination of the law, the research will seek to use quantitative evidence and recorded case studies with regard to custodial abuse. Human-rights organizations and monitoring institutions spread empirical statistics used to track the trends of custodial deaths, police interactions, and torture claims.

Widely publicized cases in the national media as well as in human-rights story are also reviewed to show the practical application of torture and the reaction of the legal system to such cases.

The general objective of such methodological approach is the demarcation of the gap between the statutory and the actual implementation. The research compares the efficacy of legal provisions and rules against the theoretical nature and available evidence and published cases of preventing torture and custodial abuse in Pakistan.

Research Questions: The research will attempt to answer the following research questions:

1. Are there any legal safeguards in place in Pakistan to arrest torture and custodial murders?
 2. How committed is Pakistan in keeping the international conventions regarding prohibition of torture?
 3. What do anti-torture legislations in Pakistan dramatically overlook?
 4. Which legal and institutional changes are needed in order to decrease torture and custodial deaths?
- Methodology Framework: The chronological research process that will be used in this study is presented as below.

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Figure 1: Presents the Methodological Framework Used in this Study.

Figure 1 outlines the methodology that was used in this study. The research problem, concerning the torture and custodial death in Pakistan is identified, which is followed by the examination of the international human-rights law, including the United Nations Convention against Torture, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

Afterwards, the domestic legal architecture of Pakistan is studied and it includes the Constitution, the Pakistan Penal Code, the Code of Criminal Procedure, and the Torture and Custodial Death (Prevention and Punishment) Act 2022. The research paper then reviews the existing literature and other human-rights reports that are formed by the state agencies and international organizations, utilizes statistical evidence and documented case studies to explain the patterns of custody violence and finally gives policy suggestions that can reduce the problem.

International Legal Framework on the Prohibition of Torture

One of the highest principles that are part of the international human-rights law is the ban of torture. In the modern international legal doctrine, torture is considered an extremely severe crime that infringes upon human dignity and human inalienable rights. Numerous international documents compel the states to thwart torture and to punish people who are responsible of this act. By being a member of many applicable conventions, Pakistan must then be legally obligated to protect people against torture and abuse in custody. The main international law tools that

relate to the ban of torture are the United Nations Convention against torture (UNCAT), the International Covenant in Civil and Political Rights (ICCPR), and the Universal Declaration of Human Rights (UDHR). These documents include international standards that require the states to enact legal, administrative and judicial actions that are geared towards averting torture.

United Nations Convention Against Torture (UNCAT)

The major international treaty that comes to mind to handle the problem of torture is the United Nations Convention against Torture or Inhuman or Degrading treatment or punishments. It has been adopted by the United Nations General Assembly in 1984 and it entered into force in 1987 [1] and provides a detailed framework of the outlawing of torture. Article 1 of the Convention defines torture as any act by which a person suffers severe physical or mental pain or suffering with the purpose of extracting information or evidence, punishment, intimidation or coercion, and thus understands that torture encompasses both psychological and physical pain and suffering. In Article 2, the states parties commit themselves to employ effective legislative, administrative and judicial procedures to eliminate torture on any territory under its jurisdiction. It also provides that there is no extraordinary situation that can be used as an excuse to apply torture such as war and public emergency. Article 12 demands that charges of torture should be addressed by effective authorities as soon as possible in an unbiased manner. Article 14 guarantees the rights of victims to get compensation and rehabilitation. Pakistan acceded to UNCAT, and this has given it a legal obligation to ensure the outlawing of torture through laws and even practice.

International Covenant on Civil and Political Rights (ICCPR)

The UN convention on human rights, the International Covenant on civil and political rights (I.C.C.P.R) had a direct impact on the defense system in the United Kingdom of Great Britain. Another important treaty that serves as a protective measure to people against torture is the International Covenant on Civil and Political Rights. Article 7 covertly states the fact that no human being is to be subject to torture or cruel inhuman or degrading treatment or punishment [16]. The ICCPR has additional rights concerning the detainees and they include the right to liberty, a trial that is just, and protection against arbitrary arrest or detention. Pakistan has taken global responsibilities towards protecting people against torture by signing the ICCPR and commensurate to the importance of human person; keep a detainee because of his or her detention he deserves a treat that is worthy of human dignity.

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights, which was adopted by the United Nations in 1948, is said to be the backbone of the modern human-rights law. Article 5 of the declaration contains the absolute statements that no subject of torture or other inhuman or degrading treatment or punishment should be engaged in [17].

The UDHR does not play the role of law, but rather, it exerts normative power that is present in various international treaties and national constitutions and Pakistan is no exception.

Compliance of Pakistan with International Standards

Having been previously on a path to bring their country to the global benchmarks of human-rights, Pakistan has made a number of steps in that direction. In the Constitution of Pakistan, there are provisions to ensure that a person is not subjected to torture and custodial abuse, and Article 14 clearly prohibits torture as a method to collect evidence. In addition to these constitutional guarantees, Pakistan has passed Torture and Custodial Death (Prevention and Punishment) Act 2022 that has criminalized the act of torture and custodial abuse. In part, this legislation was enacted to address the obligations of Pakistan by using its international human-rights conventions [5]. However, the international watchdog agencies have raised their eyebrows over the application of these legal safeguards in practice. United Nations Committee Against Torture reports as well as other international organizations have reported of ongoing custodial violence and lack of proper investigations into alleged cases of the violence [28]. These issues suggest that even though legal frameworks that are compatible with international standards have been adopted by Pakistan, there are still much more issues to be resolved to achieve proper implementation and responsibility.

Table 3: Comparison Between International Standards and Pakistani Law

International Standard	Pakistani Legal Framework	Implementation Challenge
UNCAT requires criminalization of torture	clear Torture and Custodial Death Act 2022 criminalizes torture	Act Implementation remains limited
Independent investigation of torture allegations	FIA responsible for investigation	Operational gaps remain
Compensation for victims	Legal remedies exist but rarely applied	Weak enforcement
Protection of detainee rights	Constitutional protections under Articles 9 and 14	Institutional resistance

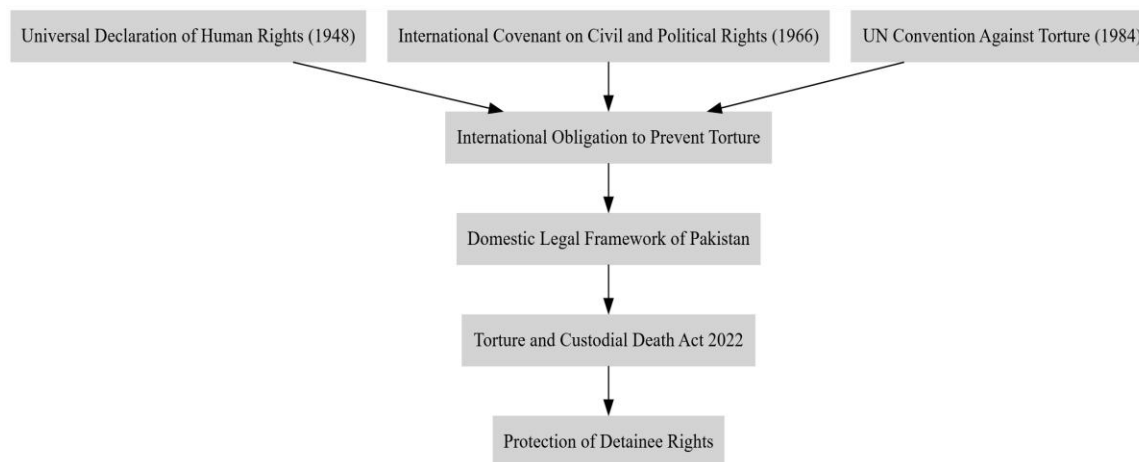


Figure 2: International Legal Framework for the Prevention of Torture

Figure 2 demonstrates that there is a linkage between international law of human rights and the local Pakistani legislation of preventing torture. The diagram illustrates the manner through which the international human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on civil and political rights, and the United Nations Convention Against torture are used to set international standards against torture. These supranational commitments define the local law and encourage the states to establish domestic laws that are used in the criminalization of torture. The international commitments in the situation with Pakistan have led to the formation of national laws, including such as the Torture and Custodial Death (Prevention and Punishment) Act 2022. The figure has thus shown that international law rules are converted into national regulations in ensuring that the detainees are not subjected to torture and abuses during custody.

Domestic Legal Framework on Torture and Custodial Deaths in Pakistan

The legal system of Pakistan consists of variety of constitutional and statutory acts which are aimed at banning torture and protecting people against custodial abuse. All these provisions are aimed at safeguarding the most basic rights and hold defendants to responsibility when the most basic rights are infringed on by state officials. However, even with existence, cases of torture and custodial deaths continue to increase and this is a cause of concern as regards the effectiveness as well as legal application. Torture has been covered by the domestic legal system of Pakistan involving constitutional provisions, criminal law and special legislation, the most prominent is Torture and Custodial Death (Prevention and Punishment) Act 2022. These legal tools taken in conjunction with each other are the basis of Pakistan as it aims to prevent torture and put its efforts in line with international human-rights commitments.

Constitutional Protections

The main rights are listed in the Constitution of the Islamic Republic of Pakistan which guarantees people against torture and their imprisonment. These are the major pillars of human dignity and individual freedom that are set by these constitutional provisions. Article 9 provides the right to life and liberty, according to which no individual shall be unlawfully denied life or liberty [3]. Mainly custodial torture and deaths are the most obvious form of violating this basic right where the state authorities use illegitimate violence. Article 10 protects against arbitrary arrest and detention, which means that an arrested individual must be told the reason of arrest and brought before a magistrate within twenty-four hours; these are in place to avoid wrongful detention and mistreatment during the premises. Article 10A responsible is the right to obtain a fair trial and due process and in that regard, enforced be reasonable treatment of people who are suspected about a crime in the criminal justice system. Above all, Article 14 expressly mentions that the dignity of man is unimpeachably holy and no individual is supposed to be tortured in an attempt to gain evidence, hence the international human-rights norms and a definite ban on torture is created. Although these constitutional guarantees have been provided, they are not easily enforced, since a significant number of cases of custodial torture are committed before the judiciary takes office.

Criminal Law Provisions

The criminal law of Pakistan also has provisions that are relevant to tortures and custodial violence which are very much found in the Pakistan Penal Code (PPC). Section 330 imposes

punishment on any individual who improperly causes injury with an aim of obtaining a confession or discussing crime information, unlike Section 331 which imposes punishment on an individual who causes grievous injury with a similar intention. These are provisions that seek to avoid physical violence as part of the interrogation process. There could be other clauses as well: Section 342 is about wrongful confinement, and Section 302 should be resorted to in case of custodial torture, leading to the death. But, these provisions are already limited to a considerable extent; they do not consider torture an independent violating of human rights committed by the state officials, but not an ordinary criminal offence. Thus, the provisions have hardly been utilized successfully to prosecute law-enforcement officers who are suspected of torture.

Torture and Custodial Death (Prevention and Punishment) Act 2022

The passage of the Torture and Custodial Death (Prevention and Punishment) act 2022 is significant development on the legislation in fighting torture in Pakistan. Part of the introduction of the law was to meet the requirements of the United Nations Convention against Torture [5] as required by Pakistan. The Act establishes torture and custodial death and criminalizes any of these acts perpetrated by officers or other persons acting in an official capacity and it states that no evidence that has been obtained by torture should be admissible as evidence in a court of law. The other salient provision is that torture allegations should always be investigated through the Federal Investigation Agency (FIA) as opposed to the police, which will reduce the conflict of interest that could be eminent when the police officers investigate the allegations against their colleagues. The legislation also provides punishments on officials of tortures or custodial abuse thus enhancing responsibility in law-enforcement agencies.

Defects and Implementation Challenges

Although laws against torture are in place, there are a number of barriers on the way to the adoption of such laws. The lack of efficient enforcement of laws is a primary concern; reports provided by the human-rights organizations have shown that numerous claims on custodial torture are not properly researched [8]. In other instances, victims or their parents are faced with problems when making complaints against law-enforcement authorities. The second hurdle is that there are no independent oversight mechanisms; although the Torture and Custodial Death Act assign an investigative role of the FIA, the operational constraints and inherent institutional constraints could hinder the effectiveness of the said investigations. The culture of law-enforcement agencies is also critical since some investigators still use coercive interrogation procedures because of the necessity to find a resolution to a case within a short period of time or because they have not been taught contemporary methods of forensic investigation [10]. Also, when the victims and witnesses pursue justice on cases of torture, they might fear any form of retaliation, thereby deterring other people to pursue justice and an atmosphere of impunity.

Comparison with International Standards

The international human-rights law calls upon the states to implement strong legal and institutional policies to prevent torture. Although Pakistan has made efforts to bring its laws to the international standard; significant loopholes between the verbal agreements on the laws and the real enforcement of the laws still exist.

Table 4: Comparison between International Standards and Pakistan's Legal Framework

International Standard	Pakistani Legal Framework	Implementation Challenge
Clear prohibition of torture under UNCAT	Constitutional protection under Article 14 and Torture Act 2022	Weak enforcement
Independent investigation of torture allegations	FIA responsible for investigations	Operational limitations
Compensation for victims of torture	Legal remedies exist	Rarely implemented
Accountability of state officials	Criminal penalties introduced	Limited prosecutions

To conclude, Pakistan has an extensive domestic law system that includes a variety of provisions aimed at preventing the use of torture and at the abuse of women detained. Torture of detainees occurs due to a legal basis that is constituted of constitutional protections, criminal law, and the Torture and Custodial Death (Prevention and Punishment) Act 2022. However, the effectiveness of such laws highly depends on how they will be implemented. Lack of proper enforcement, institutional and lack of accountability continue to undermine the rights of detainees. In turn, the effective enforcement mechanisms and institutional control are inalienable to make sure that the legal bans on torture are implemented in Pakistan effectively.

Statistics and Case Studies of Custodial Deaths in Pakistan

The continuing Muhammad custodial violence and death in police custody is the serious issue in Pakistan. NGOs that observe human-rights, media inquiries, and outside vigilant groups reported a large number of cases of torture and killings during imprisonment, thus conducting a significant change between legislative provisions and real enforcement patterns.

This is following a number of custodial deaths that have been registered in the past few years, as documented by the Human rights commission of Pakistan. Such cases often include claims of torture in the interrogation.

In many instances, the victims die in the custody of the police or soon after being released, which, in turn, has a tremendous impact on the actual practices of the law-enforcement agencies and the efficiency of current accountability measures.

A study conducted by Justice Project Pakistan in cooperation with Yale Law School also supports the use of torture in the police custody. Their systematic analysis of cases of detainees in Faisalabad brought to light indications of torture in about seventy six percent of the cases investigated and this led them to believe that this is not an isolated phenomena but has a wider institutional concern.

The various high-profile cases have raised the levels of national interest and raised the level of questioning custodial violence. As an example, the police killing of Naqeebullah Mehsud led to a wave of protests across the country and enhanced calls to hold the police accountable.

Similarly, when Ali Bilal, also referred to as Zille Shah, was killed after he was detained in Lahore, it raised more concerns regarding the mistreatment of detainees during political demonstrations.

In the recent years, the police encounter killings are also reported to be high by human-rights organizations. A lot of these supposed encounters have been denounced as fake to authenticate the extrajudicial killings.

These practices undermine citizens trust on the criminal-justice system and increases human-rights abuse. The fact that custodial torture and deaths have remained common indicates that legal reform is not enough to address the problem.

Proper prevention requires a strong institutional responsibility, open process of investigations and an upgraded monitoring of enforcers of the law.

Challenges and Implementation Gaps

Although there are some constitutional guarantees and special laws against torture, it is still reported that there is custodial violence in Pakistan. This suggests that the lack of laws is not the only issue but also flaws in its application. The anti-torture legislations are constrained by a few structural and institutional obstacles that encourage the expanded presence of custodial abuse. This is one of the tremendous obstacles of poor enforcement of the laws. Despite the fact that the Constitution outlaws torture, and that the Torture and Custodial Death (Prevention and Punishment) Act is a criminal statute that criminalizes torture, the prosecution of law enforcement officials due to torture is an infrequent event. Custodial torture has remained poorly investigated, and complaints made by either victims or their family members do not necessarily lead to a court case. The second key problem is that there is no self-investigation mechanism. The institutions that are accused of tortures in most instances end up being the ones that investigate the allegations. This scenario brings a conflict of interest and compromises credibility of investigations. Despite the investigative power given to the Federal Investigation Agency by the 2022 Act, there can be disruptions in the operation and environmental constraints placed on institutions and other institutional factors that can influence the efficacy of this mechanism. The institutional culture of law enforcement agencies is also the reason why torture exists and is persistent as well. In other cases, the police may employ the use of coercive interrogation as a result of the pressure to deliver fast outcomes during criminal investigation. The lack of access to contemporary forensic technology and training on how to conduct investigations is another factor that promotes the adoption of the confession-based method of investigation. The second hurdle is the absence of proper mechanisms to protect the victims. Torture victims and their families are likely to be reluctant to report the abuse as they are afraid of being retaliated against by the law enforcement officers. In the absence of efficient witness protection and support frameworks, most of the cases are not reported or solved. The judicial systems may also pose hindrances to accountability. Red tape in court procedures, inability to gather evidence and flaws in forensic records may decrease the likelihood of effective prosecution. In other instances, medical checkups as well as post-mortem reports might not capture the indications of torture fully, which undermines legal proceedings against the attackers. Moreover, political and institutional concerns can affect the inquiry into custodial deaths. There are also instances where the killings that police officers face have been viewed as fabricated in order to legitimize extrajudicial

killings. These acts deter the respect of ordinary people towards criminal justice and cause severe human rights issues. These predicaments indicate that legal changes will not be effective in ending custodial torture. Prevention of such kind may only be affected by larger institutional changes such as training of law enforcement officers, better checks and balances as well as conducting independent investigations. The discrepancy between the norms and the reality in the legal sphere is bound to continue without solutions to these structural problems.

Policy Recommendations

Continuous use of torture and custodial death in Pakistan has led to the realization that legal changes cannot be used on their own to eliminate custodial violence. To resolve this issue, it is necessary to introduce legal and institutional changes. The subsequent recommendations of the policies are suggested to strengthen the protection of the detainees and improve the adherence to the international standards of human rights. Existing anti-torture laws were violated by the Bush Administration, which was compelled to endure significant pressure to terminate these acts that various legal experts considered as torture including waterboarding.

Strengthening Enforcement of Anti-Torture Laws

The Bush Administration was also guilty of contravening existing anti-torture laws and had to absorb considerable pressure to stop the illegal activities that a number of legal experts denoted as the acts of torture such as waterboarding. One of the key measures will be to make sure that the current legislation is properly implemented. The Torture and Custodial Death (Prevention and punishment) act 2022 provides a legal trifle into which the tortures are prosecuted. However, the success of this law depends on how it is applied. The governments should make sure that torture claims are pursued promptly and those in charge brought to justice in a fair manner by being subjected to fair administration of justice.

Establishing Independent Investigation Mechanisms

The independence of the mechanism of investigation should be established. Autonomous inquiries are essential where accountability is required in the incidents of custodial violence. Investigations within the same institutions of the allegation of abuse may not be credible. In this respect, the body of independent oversight or investigative units are to be strengthened in investigating the cases of torture and custodial deaths without prejudice and effectively.

Improving Police Training and Professional Standards

The other important reform is the increase in law-enforcement training. The police officers must be trained on the modern investigative methods which focus on evidence rather than bullying confessions. The law on human rights and ethical guidelines within the criminal investigations should also be introduced in the training program in order to instill professional accountability.

Strengthening Judicial Oversight

The judicial system is very important in the forestalling of custodial torture. The courts need to put fire and brim when it comes to following the law on arrest, detention and interrogation. Magistrates are supposed to carefully question the detainees during remand hearings and enquire

into information given about torture by detainees. The victims and witnesses should be safeguarded so as to avoid accidents and any related events.

Protection of Victims and Witnesses

This should protect the victims and witnesses to prevent accidents and other incidences. Victims of torture and their families are often met with intimidation or revenge in cases where they report any abuse. By instituting adequate witness-protection systems, the victims can feel encouraged to seek justice and make the offenders answer to it.

Enhancing Transparency and Public Accountability

Transparency is a major requirement in terms of the avoidance of custodial abuse. The governmental institutions should also release frequent reports on the deaths of those in custody, tortures claims, and disciplinary actions taken on the officials. Such information when made available to the masses is capable of improving accountability and building of confidence in the criminal justice system.

Adoption of Modern Investigation Technologies

Modern investigation technologies should be adopted, and the latest IT equipment ought to be introduced to facilitate the implementation of investigations (Kores 1990). The reliance on the confession-based investigations can be reduced through the use of modern forensic and technological devices. The provision of video graphical documentation of questionings, provision of body cameras to policemen, the development of forensic laboratories, and so on may all help to make sure that the investigation is conducted within the limits of the law and in a transparent manner. The above policy recommendations help to highlight the fact that there is an urgent need to introduce far-reaching legal and institutional changes that will help to eliminate torture and custodial deaths in Pakistan. Enforcement mechanisms, accountability, and the consistency of domestic practices against the international standards of human rights are the necessary aspects of protecting detainees, as well as, the rule of law.

Conclusion and Future Work

Custodial death and torture remain high human rights issues in Pakistan. Nonetheless, even with the constitutional guarantees and the existence of particular legislation like the Torture and Custodial Death (Prevention and Punishment) Act 2022, the cases of custodial violence still take place. Such events undermine the trust of people in law-enforcement agencies and compromise the rule of law. This research paper has explored the legal aspect of torture and in custody deaths in Pakistan and observed how the country has performed against the international human rights regimes. Combined with an examination of the constitutional provisions, criminal legislation, international conventions as well as documented cases, it can be proven that despite the fact that Pakistan has created a legal framework to criminalize torture, there are still lots of gaps in adopting them. The lack of adequate enforcement mechanisms and institutional opposition, ineffective independent investigations, and a low level of accountability are some of the factors that led to the continuance of custodial violence. The research also focuses on the need to implement institutional reforms along with legislative actions. Improving monitoring systems, giving police better training, independent investigations, the safety of victims and witnesses all

are key measures to curb torture and the death of the people they are charged. The proper enforcement of these reforms may enhance the level of international human rights and strengthen the human rights rule in regard to the rights of the detainees in Pakistan.

Future Work

Further studies can also be conducted on the application of the Torture and Custodial Death (Prevention and Punishment) Act 2022 in practice in the future via empirical research and fieldwork research. Additional useful information about how to revise the institutional practice and efforts in Pakistan can be gained by conducting alternative research investigating the mechanisms of anti-torture in other nations. These types of studies have potential to help in coming up with a better approach at preventing custodial torture and also in improving accountability in law-enforcement organizations.

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