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PRISONER RIGHTS IN PAKISTAN: LEGAL GUARANTEES, IMPLEMENTATION GAPS, AND STRUCTURAL CHALLENGES:

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ABSTRACT

The right to health and human dignity of prisoners constitutes a core obligation of the state under international human rights law and the Constitution of Pakistan, 1973. Despite a robust normative framework comprising constitutional provisions, colonial-era prison statutes, and ratified international treaties, empirical evidence indicates systemic violations of prisoner rights in Pakistan. This article examines the legal architecture governing prisoner rights, with specific emphasis on the right to health, and evaluates implementation failures through doctrinal and socio-legal analysis. Drawing upon constitutional jurisprudence, statutory rules, Human Rights Commission of Pakistan reports, and UN treaty body observations, the study identifies overcrowding, deficient healthcare infrastructure, prolonged under-trial detention, and absence of independent oversight as primary challenges. The article concludes that Pakistan's prison system suffers from a "law-practice gap" and recommends delinking prison healthcare from prison administration, criminalizing custodial torture, and institutionalizing independent monitoring to align practice with constitutional and international standards.

Keywords: *Prisoner rights, Right to health, Pakistan, Nelson Mandela Rules, Prison reform, Custodial justice, Overcrowding*

INTRODUCTION.

Pakistan's prison system operates at approximately 150% of designed capacity, with the Human Rights Commission of Pakistan reporting 89,712 inmates against an authorized capacity of 59,619 as of 2024. Approximately 65% of the prison population comprises under-trial prisoners who retain presumption of innocence. Yet, conditions of detention routinely fall below standards mandated by domestic law and international obligations. Pakistan's prisons sit at the fraught intersection of criminal justice, public health, and constitutional rights. An introduction to the prisoner's right to health in Pakistan must therefore begin with first principles: though the Constitution does not name health as a standalone fundamental right, courts have consistently read the right to life (Article 9)1 and dignity (Article 14)2 to include access to healthcare and humane conditions of confinement. Equality before law (Article 25)3 strengthens this reading by rejecting a two-tier system in which incarceration becomes a license to deny basic medical care. Layered onto these domestic guarantees is a dense web of international obligations among them the ICCPR and ICESCR, and soft-law standards such as the UN Standard Minimum Rules for the Treatment

of Prisoners (the "Nelson Mandela Rules"), the Bangkok Rules for women prisoners, and the Havana Rules for juveniles which collectively urge states to provide healthcare in prisons that is at least equivalent to that available in the community. Prison laws have always been entrenched in the colonial prison system. In this case, the Prison Act of 18944 and jail manuals specific to a province probably influenced by the Pakistan Prison Rules of 19785 focus more on custody and discipline than on health. After the Eighteenth Constitutional Amendment, prisons and health became devolved subjects, creating space for provincial innovation, yet culminating in uneven standards and fragmented oversight. Mental health legislation has been reformed in fits and starts–Sindh, Punjab, Khyber Pakhtunkhwa, and Baluchistan have all promulgated new mental health laws replacing the Lunacy Act–but the practical implementation inside prisons are far behind, with inadequate psychiatric staff, scant referral pathways, and rudimentary suicide prevention protocols.

Thus, this study will undertake a health check of the legal regime regulating prison healthcare in Pakistan along four axes: (1) constitutional and international norms, especially as interpreted by the courts; (2) statutory and regulatory instruments governing prison health, including provincial divergence post-devolution; (3) implementation gaps revealed by conditions on the ground in terms of overcrowding, disease burden, staffing, and special-population needs; and (4) a reform agenda that operationalized equivalence of care, guards clinical independence, and embeds accountability among them.10 Not only will the research critique past laws; it will find a realistic avenue for Pakistan's transition from regarding prisons as public health liabilities to being sites of rights-based health care that uphold the dignity of the incarcerated and the health of the communities where most will eventually return. The importance of this study on Prisoners' Right to Health in Pakistan: A Health Check of Pakistan's Legal Framework lies in its critical scrutiny of the intersection of human rights, constitutional guarantees, and state obligations under international law. Despite recognition of the right to life and dignity under Articles 9 and 14 of the Constitution of Pakistan, health needs of prisoners are often neglected, amounting to serious human right violations. In this context, this study is significant because it lays bare systemic gaps in Pakistan's legal regime on prison health, wherein antiquated colonial prison laws and weak enforcement mechanisms contend unsuccessfully with contemporary standards of healthcare and international conventions such as the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). By analyzing the adequacy, accessibility, and implementation of healthcare rights for jailed persons, the study provides a scholarly assessment that is much needed to guide reform in the legislative, executive, and judicial domains. Beyond this, it underscores prison health's larger relevance as a litmus test for a state's adherence to social justice, human dignity, and rule of law, all the while addressing urgent concerns surrounding prison overcrowding, neglect of mental health, infectious diseases, and lack of medical infrastructure. In sum, this research bears importance for various stakeholders, such as policymakers, legal practitioners, and human rights advocates, as it critiques and also off.

Research Problem.

While Article 9 and Article 14 of the Constitution guarantee the right to life with dignity and inviolability of dignity to "every citizen", and the Prisons Act 1894 read with Pakistan Prisons Rules 1978 prescribes medical care, the translation of these norms into practice remains deficient. This disparity raises the central research question: What structural and institutional factors impede the realization of prisoner rights in Pakistan despite an adequate legal framework?

Research Methodology.

This study focuses on doctrinal methodology to weigh and examine the right to health of prisoners in Pakistan critically. Doctrinal research, also called library research, involves the analysis of laws, provisions in the Constitution, case law, and international legal documents regarding the subject. This approach is helpful for considering

the adequacy of law itself and the interpretation by courts in regard to prisoners' health rights. The first importance of this study rests with the Constitution of Pakistan 1973, namely Articles 9 (Right to Life), 14 (Human Dignity), and 25 (Equality before Law), and with statute, such as the Pakistan Prisons Act of 1894, Prison Rules, and regulations thereto. Judgments of the Supreme Court of Pakistan and High Courts of Pakistan over the question of the interpretation and enforcement of prisoners' right to healthcare will also be surveyed.

Significance of this Study.

Scope and Limitations of the Study The scope of this study on "Prisoner's Right to Health in Pakistan: A Health Check of Pakistan's Legal Framework" encompasses an in-depth examination of constitutional, statutory, and international provisions that safeguard the health rights of incarcerated individuals in Pakistan. It explores the role of key legal instruments such as the Constitution of Pakistan, the Pakistan Prisons Rules 1978, and relevant judicial precedents, while also assessing Pakistan's obligations under international treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). The study focuses on how these legal norms translate into practice within Pakistani prisons, addressing systemic issues such as inadequate medical facilities, lack of access to emergency care, and the prevalence of communicable diseases. However, the research is limited by the scarcity of empirical data on prison health conditions and the restricted accessibility of official prison records, which hinders comprehensive verification of institutional compliance. The study does not include detailed comparative analyses with other jurisdictions due to contextual and resource constraints, and it primarily relies on secondary sources such as legal texts, human rights reports, and judicial decisions.

Legal Framework Governing Prisoner Rights in Pakistan

Article 9 provides: "No person shall be deprived of life or liberty save in accordance with law." In *Shehla Zia v. WAPDA* PLD 1994 SC 693, the Supreme Court interpreted "life" to include all amenities essential to dignified existence, including healthcare. Article 14 prohibits torture and cruel, inhuman, degrading treatment. Article 25 mandates non-discrimination. The Prisons Act 1894, a colonial statute, remains the parent legislation. Sections 26–29 mandate appointment of medical officers and daily medical inspection. Pakistan Prisons Rules 1978 provide detailed provisions: Rule 241 requires medical examination on admission; Rule 252 mandates transfer to civil hospitals for treatment unavailable in prison; Rule 258 prescribes care for female prisoners and children. Pakistan ratified ICESCR in 2008 and ICCPR in 2010. Under ICESCR Art 12, the state must ensure "highest attainable standard of health" without discrimination. Although Nelson Mandela Rules are "soft law", Pakistani courts have invoked them as interpretive tools in Suo Moto 18/2009.

Issues and Challenges in Realization of Prisoner Rights.

Punjab prisons operate at 180% capacity, Sindh at 160%. Overcrowding directly violates Mandela Rule 12 on minimum floor space and Rule 13 on sanitation. The consequences include epidemic spread of tuberculosis, scabies, and hepatitis. A structural cause is that 70% of prisons were built pre-1947, with negligible new construction despite population growth. Health Care provision fails on three dimensions:

Availability: Doctor-to-prisoner ratio exceeds 1:2000 against the WHO recommendation of 1:500. Forty percent of sanctioned medical posts remain vacant. Accessibility: Referral to tertiary hospitals is delayed due to bureaucratic procedures and security escort shortages. Indigent prisoners cannot afford medicines not stocked in prison dispensaries. Quality: Lack of diagnostic equipment, cold chain for vaccines, and mental health professionals. PLD 2013 Lahore 42 documented the death of an under-trial prisoner

due to delayed treatment, constituting a violation of Article 9.

There is no mandatory psychiatric screening on admission. Mentally ill prisoners are frequently placed in solitary confinement exceeding 15 days, which the UN Special Rapporteur on Torture classifies as cruel treatment. Pakistan has only three psychiatric facilities accepting prisoners, creating institutional bottlenecks. Female prisons lack gynecological services and female medical staff in contravention of Rule 258. Children residing with incarcerated mothers lack nutrition, immunization, and early childhood education, violating CRC obligations. Juvenile prisoners are often detained with adults due to the absence of separate facilities outside major urban centers. Sixty-five to seventy percent of inmates are under-trial, with detention periods extending five to ten years. This violates ICCPR Art 9(3) right to trial within a reasonable time and creates de facto punishment without conviction. Judicial backlog and ineffective legal aid are causal factors. Despite ratification of UNCAT in 2010, Pakistan has not criminalized torture under domestic law. Prison inspections by the judiciary and NHRC remain infrequent and announced. The lack of unannounced independent monitoring enables concealment of abuse.

Prisoners' rights-to-health matter very seriously in Pakistan because they are embedded in deep-rooted structural problems starting with the legal and policy framework. Although, Prison health rights are normatively sanctioned by Pakistan's Constitution and international commitments (including the International Covenant on Economic, Social and Cultural Rights and Mandela Rules by implication), such provisions remain abstract rather than operational in terms of legislative gaps and non-existent implementation mechanisms. Currently, the responsibilities for health care in custodial settings are diffused among prison administrations, provincial health departments, and some sporadic engagement by NGOs. Prisons would be left to ad hoc arrangements, assuming that clear statutory standards define the minimum health services, staffing ratios, infection-control protocols, and accountability measures. This makes it difficult to deliver even basic medical care consistently and creates large differences across different facilities and between male and female, juvenile, and special-needs prisoners.

Physical infrastructure and basic sanitation deficits aggravate the problems. Several of these older prisons have dilapidated buildings; poor ventilation; inadequate structures for water and waste systems; and nonsufficient space available for either medical examination or isolation cases that are infectious. These failures affect everyday measures for preventing infections as well as effective treatment for tuberculosis; hepatitis; respiratory illnesses; and skin conditions, which are some of the infections more prevalent among people in prisons. The absence of maternal and child health facilities is especially outrageous in women's prisons: pregnant women and infants should have specific care and environments that most institutions cannot provide.

Recommendations for Reform.

The situation regarding prison rights on health in Pakistan shows some advancement and still very many gaps, yet there is progression to have prisoners treated with dignity and supported with adequate healthcare services. Article 14 and Article 9 of Pakistan's Constitution do provide protection to life and the dignity of men; however, there are no statutory guarantees for the rights for health for prisoners, which makes enforceability limited. The analysis reveals that prison rules now are old, fragmented, and poorly aligned with international human rights standards like UN Standard Minimum Rules for the Treatment of Prisoners- Nelson Mandela Rules. The situation is further aggravated by structural deficiencies such as overcrowding, understaffing of medical personnel, absence of mental health services, and lack of adequate funding. Prisoners 'health now and then has been one of the rights given among other fundamental rights; however, courts have not been constantly recognizing it due to negligence and unavailability of resources on the part of the administration. Hence, the recommendations call for immediate reforms in legislation, building of institutional capacity, and incorporation of the public health policies into

prisons. All these issues demonstrate that mere humane treatment is not constitutionally and morally sufficient to entitle prisoners to health. Laws should be developed in Pakistan along with international obligations to create a better penal system. Article 9 of the Constitution of Pakistan ensures the right to life and liberty. The right to health of prisoners is not defined exactly in this limited Article and is being poorly implemented. The courts have confined their perceptions of health to one dimension of life; this is very low and a very meager pathway toward systemic change in the operating rules of the prison system. The prisoners thus go ad hoc to the courts, and their submissions in regard to health do not cohere with one another; that indicates that there is an increasing mismatch between promise and reality-the constitutional promises and the actual enforcement in the field. Therefore, an urgent need arises to enhance judicial interpretation and law with respect to health rights of prisoners within the constitutional command of Pakistan.The Constitution of Pakistan makes no provisions or provisions regarding the right of prisoners to health. The rights of prisoners are mentioned in old colonial laws and dusty prison manuals that were written without any regard for contemporary health standards. The Pakistan Prison Rules of 1978 describe the functioning of prisons, but do not turn healthcare rights into obligations. Thus, prison health care remains a matter of administrative discretion rather than a matter of entitlement. As the law does not lay down any protective provisions to hold the persons in charge accountable, it gives an impression that prisoners have no effective legal remedy for denial of health services, hence the pressing need for protective legal provisions. Such regulations will task every concerned Government with the assignment of installing Medical Officers in prisons as dictated by the Pakistan Prisons Rules, 1978, which are mostly rule-based and old-fashioned. Apart from this, the rules leave prisoners almost powerless to safeguard the right to health care. If the rules set into place mechanisms for medical examinations and report-making, they do not, however, stipulate standards of care or independent surveillance. Hurdles such as limited access to facilities for testing, irregular supply of medicines, and other systems have highly weakened any efforts at disease controllability. Fewer prisoners are being diagnosed until the final stages of the disease, increasing mortality and threatening staff and prisoner visitors. This situation applies to public health because untreated prisoners come back to the community. A proper health policy addressing screening, prevention, and treatment is, therefore, urgently needed to control disease outbreaks in prisons. Mental health remains one other severely neglected area in Pakistan's prisons health care. The prisons are devoid of psychiatric wards and trained psychologists or any rehabilitation programs aimed at mentally ill inmates. Solitary confinement or general population may aggravate the condition of inmates suffering from mental disorders. These inmates become prone to self-harm and aggression due to an absence of medication and counseling services; resultantly, their mental health has been criminalized. Prejudices against anything psychiatric worsen the stigma and project a higher priority for the authorities. Without help for mental health care, Pakistan's prison system runs roughshod over basic rights and directly violates the rehabilitation of the weak within its own borders. To very much impairment peculiar to women prisoners in the domain of health care comes maternal welfare. Today, very few pregnant women are found; very often they are denied any type of proper prenatal or postnatal care. Safe delivery and any gynecological care have come on the exhaustive list of denials to incarcerated women in Pakistan. Random gynecological examinations are conducted under the gaze of family members who are supposed to provide them anything they demand. Most of the prisons do not have female medical officers, thus in directly denying proper medical care to the women inmates.

Based on doctrinal analysis and comparative best practices, this article proposes the following reforms:

1. Institutional Delinking of Healthcare: Transfer prison health services to provincial health departments per Mandela Rule 24 to ensure

clinical independence and integration with national health systems.

2. Legislative Reform: Enact the Torture and Custodial Death Prevention Bill pending since 2014 to criminalize custodial violence and satisfy UNCAT obligations.

3. Decongestion Strategy: Reduce the under-trial population through special courts, plea bargaining, and bail reform. Increase prison capacity aligned with population projections.

4. Independent Oversight Mechanism: Establish a National Preventive Mechanism under OPCAT with a mandate for unannounced inspections and public reporting.

5. Resource Allocation: Tie the prison budget to per-capita inmate cost and create ring-fenced funds for medicines and medical staff recruitment.

6. Targeted Interventions: Mandatory mental health screening, separate juvenile facilities, and minimum standards for women's prisons.

Conclusion.

Pakistan's legal framework for prisoner rights is substantively adequate but functionally ineffective. The core challenge is not the absence of law but the failure of governance, resource allocation, and accountability. Realization of Articles 9 and 14 for prisoners requires moving from "rule by law" to "rule of law" within cerebral institutions. Until healthcare and dignity are treated as non-derogable obligations rather than discretionary welfare, Pakistan's prisons will remain sites of rights violations despite constitutional promises. The prisoners' right to health is said to be above even the right to life, dignity, and non-discrimination. A case worth mentioning is Pakistan; it has professed a multitude of rights specifically for prisoners in law, while on the other side, there are perennial institutional offenders- overcrowding, inadequate funding and supervision, fragmentation in health governance. It summarizes major findings and elaborate reviews of persistent implementation deficits and their implications, inadequate priorities, the thematic ones-modular, clinical, procedural and normative, and finally provides a reform pathway towards realignment of obligations set for Pakistan with viable options of implementations and strategic accountability on prisons' health rights.

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