

INTERNATIONAL HUMAN RIGHTS CONVENTIONS AND PAKISTAN'S COMPLIANCE WITH ANTI-TORTURE MEASURES

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Abstract

This paper examines the obligations of Pakistan under major international human rights instruments, especially the United Nations Convention on Torture (UNCAT), and the status of its observance of antitorture laws. It begins from the core research question: what extent has Pakistan brought international antitorture norms home within its national legal and institutional arrangements? The research follows a qualitative approach that has focused on an analysis of some of the international treaties, the norms of domestic law, case laws, judgments and reports provided by international organizations and local NGOs, while also using a descriptive overview of certain court cases and the reasons they failed. The study suggests a wide gulf between Pakistan's international obligations and on-ground reality characterized by systemic custodial violence, weak accountability structures and legislative deficit. The research highlights the necessity of a comprehensive legal reform, institutional strengthening, and the enhancement of the political will for the harmonization of national practices with international human rights standards.

Keywords

Anti-torture, human rights, Pakistan, UNCAT, international law, compliance, custodial violence.

Introduction

Torture is still one of the most appalling affronts to human dignity and human rights; it is a crime under international law, with no exception or time limitation. Torture is characterized broadly as the willful administration of intense pain, whether physical or mental, on the part of government agents, for purposes ranging from the extraction of information to punishment and intimidation (UN General Assembly, 1984). Torture is prohibited anywhere and everywhere, and yet the practice endures worldwide, typically in detention facilities, police custody and intelligence services. Torturing as a matter of policy destroys not just the rule of law, but the very legitimacy of the state itself.

The world has addressed these abuses in the context of international law, principally the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). As a State party to UNCAT, States are required to prohibit torture, prosecute perpetrators and prevent torture from occurring (Rodley & Pollard, 2009). Adherence to such conventions is essential, not just as a matter of form, but as a mechanism to promote accountability, safeguard core rights, and nurture a culture of respect for human dignity.

In Pakistan, practice of anti-torture standards has been irregular. Pakistan did ratify UNCAT in 2010; however, the integration of its provisions into domestic law is inadequate (Amnesty International, 2021). These appear to be rare and have been widely reported by human rights groups that talk of a general problem of institutional lacunae in enforcement (Human Rights Commission of Pakistan [HRCP], 2023). While there have been some legislative and judicial responses, the lack of an extensive anti-torture law and weak enforcement leave much to be desired.

This article assesses Pakistan's conformity to international anti-torture standards through an analysis of its legal architecture, institutional habits, and wider sociopolitical context. The aim is to see how the current system is working and where significant reform is required.

Overview of International Human Rights Conventions Against Torture

The absolute prohibition of torture is at the heart of international human rights law and is contained in numerous international and regional instruments. These conventions set out both the normative standards as well as the enforcement mechanisms, which aim to prevent and punish torture in its entirety.

United Nations Convention Against Torture (UNCAT)

Adopted in 1984 and entered into force in 1987, the UNCAT is the main international instrument focused solely on torture. UNCAT(ART.1) defines torture to mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official (UN General Assembly, 1984). State parties must legislate against torture, establish effective administrative, judicial, police and other bodies to prevent it, and make known the applicable punishment (Article 2). The Convention also bans refoulement, criminalizes torture, and requires the prosecution or extradition of torturers (Articles 3–7).

Optional Protocol to the Convention Against Torture (OPCAT)

The Optional Protocol to UNCAT – OPCAT Adopted in 2002, OPCAT creates a framework for unannounced visits to places of detention by international and national mechanism in the effort to prevent torture and other cruel, inhuman or degrading treatment or punishment (UN General Assembly, 2002). State parties should set up or designate National Preventive Mechanisms (NPMs) with the power to inspect detention centers and advise on reforms. Whereas the standards guaranteed by the UNCAT is set, OPCAT ensures practical and preventative measures for compliance on the ground.

Other Related Treaties and Frameworks

Under the other principal international instruments, torture is also barred. Article 5 of the UDHR states that, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (United Nations General Assembly 1948). The International Covenant on Civil and Political Rights (ICCPR), to which Pakistan became a state party in 2010, further enhances this prohibition in Article 7 and obliges states to give victims effective remedies (UN General Assembly, 1966). In the same vein, other regional treaties such as the European Convention of Human Rights (Art 3) and the American Convention of human rights (art 5) also prohibit torture although Pakistan is not a party to it.

Jurisprudence from International Bodies

The international jurisprudence also elaborated the state obligations under these conventions. The UN Committee Against Torture (CAT) has been creating jurisprudence through its concluding observations and its decisions pursuant to Article 22 UNCAT (complaints provided for by the Convention). The Committee provided clarification by stating in particular in *Agiza v. Sweden* (CAT/C/34/D/233/2003) that diplomatic assurances under no circumstances relieve States from their non-refoulement obligations. Likewise, the Human Rights Committee, for example, in *Vuolanne v. Finland* (CCPR/C/35/D/265/1987) has upheld the non-derogable and absolute character of the prohibition of torture according to the ICCPR.

In their entirety, these standards and the jurisprudence create a strong legal framework in which states are obligated to take effective action to prevent, investigate and punish acts of torture. But the effectiveness of these devices relies on the political will and state capacity and especially in a place like Pakistan, enforcement is still weak.

Shadow Reporting and Civil Society Engagement

Civil society is a key watch dog and advocate in ensuring that the state is held accountable for fulfilling its international human rights obligations especially in environments where government transparency and accountability is compromised. Shadow reports or alternative reports, submitted by NGOs [organized on national and international levels through their unity organization, the Geneva NGO Committee] and INGOs to the UN treaty bodies, provide independent and often contrasting views to those advanced by state parties.

NGO and INGO Responses

In Pakistan, there has been a concerted effort by national and international institutions to document torture and other forms of cruel, inhuman or degrading treatment or punishment to counter the lack of reporting being conducted by State mechanisms. Groups like the Human Rights Commission of Pakistan (HRCP), Justice Project Pakistan (JPP), and the Foundation for Fundamental Rights (FFR) routinely produce fact-based reports of torture in custody and extra-judicial killings, and of the culture of impunity that presides over them (HRCP, 2023; JPP, 2019). Amnesty International and Human Rights Watch, among the international human rights organizations, have similarly published comprehensive criticisms of Pakistan's noncompliance with the United Nations Convention Against Torture (Amnesty International, 2021; Human Rights Watch, 2020). These activists always emphasize the absence of sound legal policies, implementation mechanism and torture practices by the law enforcement agencies.

Reports Submitted to UN Treaty Bodies

Alternative assessments of Pakistan's implementation of its treaty obligations have been submitted in shadow reports to the UN Committee Against Torture and the Human Rights Committee.' When Pakistan was reviewed by the UN Committee Against Torture in 2017, for instance, a number of civil society organizations filed shadow reports on such abuses as on-based killings, and the systematic use of torture during questioning (Justice Project Pakistan, 2017). To the extent that officialdom (which regularly downplayed or denied the frequency of police brutality) existed, however, so too were there movements to counterbalance it. Shadow reporting consequently adds strength to international oversight and makes sure that the treaty bodies receive a more varied range of data from the ground on which to assess the compliance of states.

Advocacy, Awareness, and Legal Aid Initiatives

But other than reporting, CSOs in Pakistan have been involved in advocacy and providing support to victims of torture as well. Organizations such as the Dastak Foundation, the AGHS Legal Aid Cell, and the Legal Aid Society are among those that offer legal assistance and psycho-social support to victims of custodial torture. For instance, police, legal practitioners and the public are sensitized through a series of workshops on human rights law and awareness campaign (AGHS, 2020). Although they remain under-resourced and face political backlash, these NGOs remain important in terms of shaping public opinion, advocating for legal changes and holding state institutions to account.

These concurrent processes of civil society and international monitoring have not only enriched the global human rights vocabulary but contributed in significant ways to a key check upon state practices in Pakistan, that not only promoted transparency and accountability as part of a grammar of grassroots and transnational engagement.

Role of International Pressure and Diplomacy

International pressure, by means of diplomatic channels, trade incentives and human rights monitoring, has a strong influence on exhorting states such as Pakistan to comply with anti-torture obligations. Despite relatively weak domestic implementation, these have in many cases led to gradual legislative and institutional responses within Pakistan in response to international pressure.

UN Committee Against Torture Observations

The UN Committee Against Torture (CAT) which oversees implementation of the UN Convention Against Torture has on numerous occasions raised alarm over Pakistan's abysmal compliance with its treaty obligations. In its concluding observations on Pakistan's review in 2017, the Committee noted serious concerns, including the lack of a comprehensive anti-torture law, ongoing reports of custodial torture, and inadequate accountability mechanisms (CAT, 2017). The Committee called upon Pakistan to criminalize torture in conformity with the definition in Article 1 of the Convention, carry out independent investigations and introduce effective complaints mechanisms for victims. These assessments are not just diplomatic leverage, but a roadmap for rule of law reform and institutional development.

EU GSP+ Status and Its Human Rights Conditionalities

Pakistan's trade access to European Union, under the Generalized Scheme of Preferences Plus (GSP+) is one more source of international lever. The GSP+ status was granted in 2014, and is conditional upon Pakistan demonstrating effective implementation of 27 international conventions — amongst them, UNCAT and the ICCPR (European Commission, 2022). Regular reviews by the EU have raised concerns over torture, enforced disappearances, and judicial independence. The prospect of losing GSP+ privileges has spurred some law- and policy-making efforts by the authorities, however, with critics claiming that reforms have largely remained skin-deep and lacked genuine political backing (FIDH, 2021). Trade has via the human rights linkage thus given us an external accountability mechanism that supplements advocacy at home.

Role of International Media and Watchdogs

International monitoring groups and the international media have been important in revealing human rights abuses in Pakistan, especially in regard to torture, extrajudicial killings, and enforced disappearances. Analyses by Human Rights Watch, Amnesty International and the International Commission of Jurists all have repeatedly raised questions about institutionalized torture and impunity in Pakistan's security agencies (Amnesty International, 2021; Human Rights Watch, 2020; ICJ, 2021). These concerns have been enhanced by stories in the foreign press, including The Guardian, BBC and Al Jazeera, and have raised reputational costs for the Pakistani state on the global stage. The continuing visibility creates diplomatic pressure on the government to remedy the situation, and sensitive relationships and foreign aid can be motives for action.

Together, these various types of international pressure — through treaty bodies, economic tools and media exposure — are important drivers shaping Pakistan's relationship to anti-torture norms. However, internal reforms remain "inconsistent" and outside pressure is forcing the STRI, — and other such institutions — to demonstrate increasing transparency and "compliance with international standards".

Recent Reforms and Legislative Developments

Anti-Torture and Custodial Death (Prevention and Punishment) Act, 2022

In a major step toward influencing international human rights norms, Pakistan passed the Torture and Custodial Death (Prevention and Punishment) Act 2022. This law makes torture, death in the custody and rape in prison of a public official a crime. The Act was enacted by the National Assembly on 1 August 2022 and subsequently assented to by the president on 1 November 2022.

Key provisions of the Act include:

- **Definition of Torture:** The Act defines torture and includes its physical and mental dimensions as internationally accepted for purposes of obtaining information or for punishment.

- **Criminalization and Penalties:** Officials can be sentenced as in Pakistan Penal Code applicable for analogous acts in such cases to punish the torture accordingly.
- **Admissibility of Evidence:** Evidence elicited by torture is inadmissible in court, protecting the rights of the accused and maintaining the integrity of the justice system.
- **Complaint Mechanisms:** The Act authorizes NCHR and FIA to receive complaints, ensuring that victims have access to effective remedies.

Developments in Implementation and State Response

The adoption of the Act is a landmark, but implementation is key. Amnesty and other human rights groups have raised alarms over a general lack of knowledge about the new laws among police and magistrates. Capacity building is urgently required so that the provisions of the Act are known and enforced at all levels.

Also, there is a lack of specific regulations and guidelines for the implementation of the Act which has impeded its effective implementation. Civil society actors stress the need for the Government to establish clear guidelines and training to implement the Act and for monitoring compliance.

Finally, the Torture and Custodial Death (Prevention and Punishment) Act, 2022 is a major step forward in the legislative quest to prevent and combat torture and custodial violence in Pakistan, but concerted efforts are needed to ensure its procedural content lead to real protection from torture and from custodial violence.

Conclusion

This research has brought forward some of the challenges that must be addressed in terms of Pakistan's approach with respect to international anti-torture obligations, especially under the UNCAT and other regimes. While it has signed several key human rights treaties and passed legislation in a recent attempt to formalize its stance on the issue, such as the recently passed Torture and Custodial Death (Prevention and Punishment) Act, 2022, Pakistan continues to grapple with a range of systemic obstacles in the fight against custodial torture and to bring justice to its victims.

Stories from NGOs' parallel reports, diplomatic expression such as the EU GSP+ status, and continued attention by international treaty bodies show a disconnect between Pakistan's official promises and ground reality. Quick fact: Legal changes are a step forward, but enforcement continues to be challenged by structural inertia, official ignorance and sparse accountability.

Wholesale reforms on paper are not going to be enough – there is a desperate need for strong, enforceable measures. This can include strengthening institutions, establishing independent oversight mechanisms, and the political will to investigate and prosecute those responsible for torture. Civil society, international partners, and the media should remain vigilant and focus on monitoring implementation and transparency.

Finally, as a state party to the UNCAT and other international treaties, Pakistan has a legal and moral responsibility to respect the dignity of human beings and eliminate torture. A continued commitment to implementing these standards is vital for not only justice and the rule of law, but also in order for Pakistan to increase its influence on the global stage as a responsible member of the international community.

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