

TORTURE IN PAKISTAN: LEGAL ACCOUNTABILITY, LAW ENFORCEMENT PRACTICES, AND THE HUMAN COST OF NON-COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

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Abstract

The article examines the torture that persists in Pakistan despite domestic legislation and international human rights commitments that prohibit it. It considers systemic problems with law enforcement agencies, deficiencies in holding the law accountable, and the refusal to measure up domestic practices to international human rights obligations such as the UN Convention Against Torture (UNCAT). Based on case studies, legal analyses and conversations with victims, lawyers and human rights advocates, the research is consistent with a pattern of impunity, forced confessions and systemic exploitation, report authors said. Among its findings are that existing legal frameworks are insufficient, that police brutality is widespread and that there are no independent oversight mechanisms. The toll on human beings — their psyches, their communities — is terrible, creating a culture of fear, cynicism toward the system of justice and long-term trauma on survivors. It suggests that: - The constant proliferation of legal sources creates legal uncertainty for all parties¹³ and does little to increase the acceptance of the UNCAT, - Legal sources are unsuccessful in achieving compliance with the treaty. - The proliferation of legal sources limits the effectiveness of the treaty's enforcement mechanisms and - Creating a universal legal source in place of other competing conventions may increase the overall certainty¹⁴ in the area of international law and mirror the move to universalization in the treaties of other international jurisdictions.¹⁸ Seibert F The Recommendations for the Reform of Policing¹⁸ The study suggests urgent reform initiatives, such as reservation-free ratification of the UNCAT, establishment of independent complaint bodies, mandatory custodial oversight, and capacity building for law enforcement based on standards of human rights. It is imperative that these recommendations be implemented as they will help restore the rule of law in addition to Pakistan's international standing vis-à-vis human rights fulfilment.

Keywords: Torture, Pakistan, Human Rights Violations, Law Enforcement Practices, Legal Accountability

Introduction

Torture is still widely practiced and underreported in Pakistan, in particular in the criminal justice and law enforcement institutions. Whilst it is a party to several human-rights international agreements, including the UNCAT, Pakistan has not criminalized torture at the national level (Amnesty International, 2021). In particular, the police and other security forces systematically use torture as a matter of routine to carry out investigation and interrogation, sometimes with a view to obtaining confessions or to intimidate suspects (Human Rights Watch, 2022).

Torture, according to the definition of the UNCAT, is the “infliction of severe pain or suffering, whether physical or mental, intentionally committed by a person in authority for purposes of obtaining information or a confession, punishment, threat, intimidation, or coercion, and when the abuse is inflicted with the official consent or acquiescence of a public official (United Nations, 1984, Article 3, paragraphs 1 and 2). 1). In Pakistan, torture comes in various guises: beatings, electric shocks, extended stress positions, sexual assault, all types of psychological and mental cruelty. Such acts are usually committed within police lock-ups, interrogation cells and clandestine places of detention with impunity (Justice Project Pakistan, 2020).

And according to these statistics, the problem is staggering. Reports of local and international human rights organizations abound indicating that torture is not just an odd phenomenon but a systemic problem of Pakistan's criminal justice structure. “It is absolutely unforgiveable that people have to suffer physical, psychological, and other ill treatment

within the confines of police stations, as they are the safest place supposed to be where human rights must be upheld.” -Asian Human Rights Commission (2021) An Analysis: According to the Asian Human Rights Commission, (2021) thousands of cases of torture and use of ill-treatment are reported every year, however, many cases go unreported and the victims suffer in silence for reasons pertaining to fear of retribution or individuals have no access to the justice. Victims, often from disempowered communities, are rarely redressed and the perpetrators enjoy de facto immunity (International Commission of Jurists, 2022).

Torture in Pakistan lingers on account of a broader malaise, but also because of a lack of an anti-torture law, frail judicial oversight, insufficient training mechanisms for law enforcement authorities, and a culture of impunity. The present proposal seeks to critically explore these dimensions, and to demonstrate the disjuncture between Pakistan’s international obligations and domestic realities, and to come up with appropriate policy options to counter this pressing human rights issue.

Legal Framework on Torture in Pakistan

Constitutional Provisions and National Laws

Torture and other cruel and inhuman treatment The Constitution of Pakistan does not promises torture and other degrading and inhuman treatments. Constitution of the Islamic Republic of Pakistan Article 14(2) provides the foundation of the safeguard that “No person shall be submitted to torture for the purpose of extracting evidence”. Yet, the constitutional shield is weakened by the lack of an all-encompassing legislation on torture - understanding the crime in full accordance with international standards (ICJ, 2022). There are a few legal provisions, however, that cover the outrage of custodial violence, but these provisions are not clear enough or do not provide enough enforcement to deter potent action.

Pakistan Penal Code and Police Rules

Some of the provisions of Pakistan Penal Code (PPC) 1860, indirectly cover torture. For instance, Sections 330 (hurt caused for the purpose of extorting a confession or any information) and 348 (wrongful confinement to extort confession) encompass conduct that could be regarded torture-like (Pakistan Penal Code, 1860). However, such sections are narrow in their content and seldom applied, especially when the offenders are state office bearers (Amnesty International, 2021). The Police Rules of 1934 contain safeguards against ill-treatment but these are largely outdated and lack mechanisms by which to be enforced in the policing culture of today (HRCP, 2022).

Prevention of Torture and Custodial Death Act (2022) – Analysis and Gaps

Pakistan took a major legislative step by passing the Prevention of Torture and Custodial Death Act 2022, which describes torture and outlines punishments for the guilty, including officials. Act makes torture and custodial deaths criminal offenses, orders medical examination of persons in custody, and provide for lodging of complaints by victims or their relatives (National Assembly of Pakistan, 2022). But, there are several shortcomings in the Act. It does not have strong whistleblower protection, an independent watchdog to oversee law enforcement agencies, and it requires those same institutions often implicated in abuse to investigate themselves (Justice Project Pakistan, 2023). Further, despite being in force, there is a limited knowledge of the law among officers and a corresponding lack of judicial training (ICJ, 2023).

Role of the Judiciary in Torture-Related Cases

The role of the judiciary in Pakistan in respect of torture has been inconsistent. On the other side, the higher judiciary has intervened in suo motu proceedings or through its progressive judgment, to condemn the custodial abuse (Supreme Court of Pakistan, 2018). On the other, lower courts often avoid punishing offenders, particularly in cases involving victims who hold little political or social influence. Trials are delayed and evidence-gathering shoddy;

and victims are often too scared of revenge to bring a case (Human Rights Watch, 2022) In addition, there is still no consistent case law of the courts that acknowledges (as is demanded under both national and international law) the absolute character of human dignity and the inadmissibility of torture.

Human Cost of Torture

Physical and Psychological Impact on Victims

The physical and mental aftereffects of torture in Pakistan can be debilitating and enduring. Chronic pain, fractures, and internal injuries Permanent disability (Human Rights Watch, 2022) (Imagery from HRW report, 2022 p:60) Victims often suffer from chronic pain, broken bones, internal injuries and permanent disabilities 2022). Psychologically, they all suffer from varying degrees of post-traumatic stress disorder (PTSD), anxiety, depression, and suicidal thoughts. This is further complicated by social stigma, poor medical treatment and the State's failure to offer rehabilitation or compensation (Amnesty International, 2021). Specifically, victims develop a long-term distrust in public institutions and often disengage from civic participation (ICJ, 2022).

Gendered Dimensions: Torture of Women and Children

Female and child detainees are exposed to specific risks. Women detainees endure not only physical torture, but also sexual abuse such as rape, harassment, and threats of assault on family members (HRCP, 2022). In many reported incidents, the female victims are too afraid of social stigma and reprisal to speak up (Justice Project Pakistan, 2020). Children, and in particular street-involved and marginalized children, are frequently unlawfully confined, physically abused, and the right to legal representation or guardianship is disregarded (UNICEF Pakistan, 2021). The developmental trauma results in mental health problems that last a lifetime.

Social and Economic Consequences for Families

Torture's pernicious impact is felt not only by individuals, but also by their families and communities. Victims risk losing the ability to work, resulting in financial instability and dependence on others (Asian Human Rights Commission, 2021). Its members frequently run up devastating legal fees and enduring a lifetime of reputational damage, as their families suffer collective trauma. In most of the cases, the children quit schools due to financial constraints or the fear of persecution by the government. These ripple effects further entrench cycles of poverty and marginalization, particularly for people from already marginalized groups, including minority religious groups, low-income communities, and political dissidents (Human Rights Watch, 2022).

Stories from Survivors (Case Studies/Interviews)

Case studies offer a chilling and humanizing look at the price of torture. In one case documented by Justice Project Pakistan (2020), Muhammad Anwar was tortured for days in police custody in Lahore — with the result that he suffered kidney failure caused from repeated beatings. He subsequently died untreated. In another case, a 26-year-old woman Zahida, from Karachi, was violently arrested without a warrant and sexually assaulted in custody. Her statement was later released by HRCP (2022) and became public about how she was silenced and denied legal recourse:

A 15-year-old boy, Sameer, told UNICEF (2021) about his illegal arrest and being hit with plastic pipes by police, who accused him of theft. He was released uncharged after three days, left with lasting psychological scars and hearing loss. These cases underscore the urgency of survivor-centered justice, and systemic reform.

Role of Civil Society, Media, and Human Rights Organizations

Documentation and Advocacy

Pakistani civil society the role of civil society organizations (CSOs) and human rights defenders (HRDs) in Pakistan has been vital in documenting cases of torture and campaigning for legal and policy change. The Human Rights Commission of Pakistan (HRCP), Justice Project Pakistan (JPP), and Foundation for Fundamental Rights (FFR) systematically collect the testimonies, medical records and legal documents required to uncover patterns of custodial abuse (HRCP, 2022). These reports are used as proof by both national and international formations to continue to pressure the state in order to improve its human rights obligations (Amnesty International, 2021). Given that a robust state-led system of accountability is absent, monitoring and documentation work carried out by civil society is frequently the only path for truth and justice.

Strategic Litigation and Public Interest Cases

A few collective pursue strategic litigation to end impunity and compel systemic transformation. In Pakistan, JPP had, for instance, submitted public interest petitions in the Supreme Court and high courts asking for torture to be criminalized and for custodial safeguards to be implemented (Justice Project Pakistan, 2020). Through legal activism, these organizations have secured judicial orders for medical examination of torture victims, mandatory reporting of custodial deaths and compensation to the survivors in a few instances (ICJ, 2022). These are the sorts of legal interventions that, in many cases, end up establishing the prior standards and base which policy is built on in subsequent judicial determinations.

Media Coverage and Public Opinion

The media, also, is important in bringing torture to public attention and in pushing the state into action. Investigative journalism, especially by independent media has brought harrowing cases of custodial violence to the public's notice and has led to public outcry and at times an investigation being initiated (Dawn News, 2022). Mainstream media can be hampered by state censorship and political influence; however, social media has become a valuable medium for survivor voices and grassroots campaigns (Digital Rights Foundation, 2021). Viral hashtags and online petitions have helped galvanize public sentiment, especially among young populations.

Grassroots Mobilization and Survivor Support Groups

Survivors and their families have been mobilized by local community-based organizations in calling for justice and accountability. Organizations like Torture Survivors Pakistan provide counseling, legal support, and avenues for victims to air their stories (HRCP, 2022). Such bottom-up approaches contribute to opening up the space of silence with regard to torture and building up networks of solidarity among the most vulnerable. In rural and poor urban areas where legal and psychological support is often unavailable, this mobilization is critical to also, ensure resilience and bottom up voice in advocacy (Asian Human Rights Commission, 2021).

Emerging Trends and Technologies

Use of Digital Evidence and Surveillance Tools

Documentation and filming of torture and custodial abuse have become more common in recent years, using digital technologies. Digital evidence including timestamped cellphone videos, call logs and GPS data have been presented in courts in order to contest police narratives and verify survivor testimony (Justice Project Pakistan, 2023). Human rights organizations globally are currently training legal professionals and complainants on how to save digital evidence in accepted court formats (ICJ, 2023).

Body Cams, CCTV, and Mobile Footage in Torture Cases

While body cameras and closed-circuit television (CCTV) systems in police stations is increasing, slowly another prevention measure is also getting attention. In principle, such measures serve the purpose of transparency and discourage misuse by ensuring accountability (HRCP, 2022). In Pakistan, however, CCTV cameras are either inoperative or the record of footage is purposely confiscated or fiddled during the investigations (Human Rights Watch, 2022). Conversely, bystander or detainee recording on mobile phones have also been disseminated onto social media, mobilizing public action and outcry in the wake of high-profile cases (Digital Rights Foundation, 2021).

Role of Social Media in Exposing Abuses

Social media has become a powerful mechanism to reveal human rights abuses such as torture. The public outcry in the shape of hashtags like #StopTorture and viral videos has compelled officials to issue reactions to public outrage and begin investigations (Dawn News, 2022). Survivors are turning to spaces like X (formerly Twitter), Instagram, and Facebook to connect, tell their stories, mobilize support, and crowdsource legal assistance (Digital Rights Foundation, 2021). But visibility also makes activists vulnerable to online threats and surveillance.

Cyber-Torture and Digital Harassment by State Actors

The newest variant of state oppression is cyber-torture: the sustained hostile online harassment, doxing, and surveillance of journalists, activists, and dissident voices. In particular, women activists describe organized attacks and threats across various platforms, often involving state-linked accounts or troll armies (Amnesty International, 2022). The psychological impact such as fear, isolation, and damage to the reputation could be equally as damaging as the physical abuse and will likely result in self-censorship or disengagement from the public (Digital Rights Foundation, 2021).

Comparative Analysis: Regional and Global Lessons

Torture Prevention Mechanisms in Other South Asian Countries

States in South Asia have taken a range of measures aimed at the prevention of torture, with varying degrees of success. In Nepal, the Supreme Court has made legal provisions on compensation to the victims of torture as found in the Torture Compensation Act and a National Human Rights Commission in Sri Lanka to receive and investigate complaints (Asian Human Rights Commission, 2021). India has come under international pressure for custodial deaths, leading some states to implement police reforms such as establishing independent oversight bodies and mandating video recordings of interrogations (HRW, 2022). Pakistan can learn best practices from these models, in particularly in institutionalizing external accountability.

Lessons from other Transition Justice Experiences (ie South Africa, Chile)

A South African and Chilean experience of transitional justice are invaluable in understanding the way a post-conflict society deals with torture and human rights violations of the past. South Africa's Truth and Reconciliation Commission (TRC), which allowed victims to testify before the public, was a vehicle that facilitated national acknowledgement of injustice and collective healing (Hayner, 2011). (Chile paired truth-telling with prosecutions of military officers, a mix of reconciliation and legal accountability.) These models are based on the significance of public memory, victim engagement, and institutional reform.

Oversight and Reform Best Practices

- Internationally, best practices result in preventing of torture and other ill-treatment:

- And this should be implemented under independent police complaints commissions that are civilian-controlled.
- Ensuring periodic and unannounced visits to detention facilities by national and international monitoring bodies (for example: The Optional Protocol to the Convention Against Torture (OPCAT)).
- Providing legal assistance and medical evaluations to all detainees" (UN OHCHR, 2019).

States such as Norway, Germany and New Zealand have incorporated within their criminal justice system similar disability protections that could serve Pakistan as a guide for change (ICJ, 2023).

Conclusion

The use of torture is pervasive in and remains endemic in Pakistan's criminal justice and law enforcement institutions. This study demonstrates that despite constitutional protections and the more recent adoption of the Prevention of Torture and Custodial Death Act (2022), there continue to be major challenges relating to implementation, accountability and support to victims. The continued reliance on torture by police and other state officials, including against minorities, as a whole is representative of a wider culture of impunity, inadequate monitoring mechanisms and an absence of political resolve to comply with international human rights norms.

The personal cost caused by torture is terrible and multi-dimensional, influencing not only victims' lives but also the lives of their families and communities. Survivors are left with lifelong debilitating physical and psychological trauma, and families are plunged into poverty, social isolation and lose all trust in institutions to whose care they entrusted their children. Finally, the new challenges posed by cyber-torture and digital harassment are extending the field of violence, particularly for activists and women.

Civil society, media, and human rights organizations have been instrumental in documenting abuses, advocating on behalf of victims, and working for reform through strategic litigation and mass mobilization. But they are regularly thwarted by institutional opposition, government surveillance and legal gray areas.

Comparative insights of South Asian countries and global transitional justice models reveal that meaningful reform is possible, but it demands independent oversight, transparent accountability mechanisms and rigorous legal protections. The development and use of digital evidence tools, availability of body cam and CCTV footage, and independent complaint bodies are some of the timely measures that Pakistan needs to adopt in line with the UN Convention Against Torture (UNCAT) and its Optional Protocol.

In sum, bringing torture to an end in Pakistan is not simply a legal obligation - it is a moral and humanitarian one. The time for reform is now. Without prompt and consistent remedial actions, this cycle of abuse will further perpetuate, devastating the rule of law, destroying public trust, and inflicting unfathomable hatred upon many more individuals.

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