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Pakistan's Prison System: Outdated Regulations and Modern Challenges

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About the Author

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Table of Contents

Executive Summary.....	3
I Colonial Influences in Pakistan’s Domestic Framework.....	5
II International Standards for Prisoners.....	5
III Shortcomings in the Pakistan Prison Rules.....	6
Mental Healthcare.....	6
Rights of Foreign Nationals.....	7
Transparency in Healthcare.....	7
Prenatal and Postnatal Care.....	7
Rights of Disabled Persons.....	8
IV Recommendations.....	8
V Action Matrix.....	10

Executive Summary

Issue

Pakistan's prison system, established under the Pakistan Prison Rules (PPR) of 1978, purports to uphold basic human rights and promote prisoner rehabilitation. However, a significant disparity exists between the codified regulations and their real-world implementation, exposing underlying flaws within the broader criminal justice system. The PPR itself demonstrates shortcomings, failing to adequately address mental health needs, ensuring protection of foreign nationals incarcerated in Pakistan, and transparency in medical care. Furthermore, the PPR offers inadequate support for the specific requirements of pregnant and disabled inmates. These limitations undermine the rights of prisoners and expose the discrepancies between Pakistan's criminal justice ideals and their practical application.

Recommendations

Pakistan can take the following measures:

- Amend Chapter 18 of PPR to move beyond the basic categorization of "good," "indifferent," or "bad" health. Establish a clear and standardized protocol for addressing suspected mental health issues during the initial assessment. This protocol should involve further evaluation by a qualified mental health professional and a documented plan for ongoing care, if needed.
- The PPR should directly incorporate the text of Mandela Rule 62 which clearly outlines the right of foreign nationals and stateless persons to maintain communication with diplomatic or consular representatives.
- Revise rule 166 of PPR to explicitly grant prisoners the right to authorize third-party review of their medical records to become compliant with Mandela Rule 26.
- Expand the scope of Pakistan Prison Rule 488 beyond just dietary needs. The rule should be revised to incorporate provisions for comprehensive prenatal and postnatal care for pregnant and nursing women incarcerated in Pakistan.

- To improve the lives of disabled prisoners in Pakistan, revise the PPR to include specific accessibility and healthcare provisions, aligning with the Mandela Rule 5 on reasonable accommodation.
- Guarantee humane treatment by implementing mandatory Mandela Rules training for all prison officials. Inter-provincial staff exchanges can promote the adoption of best practices across provinces.

I) Colonial Influences in Pakistan's Domestic Framework

The struggles of Pakistan's criminal justice system stem from its colonial past. Laws enacted between 1835 and 1947, particularly after a rebellion in 1857, prioritized control over justice. This focus on suppression continued with the creation of core prison regulations, including the Prisons Act 1894 and the Prisoners Act 1900¹. These regulations still remain unchanged to some extent, which consequently contributes to Pakistan's present day challenges.

Pakistan's prisons are governed by the Pakistan Prison Rules (PPR) 1978, a detailed manual outlining everything from prison types and prisoner classification to staff duties. It dictates procedures for admission, release, transfers, and sentence reductions, while also ensuring prisoners receive basic necessities like food, clothing, and equipment.

II) International Standards for Prisoners

The international benchmark for the treatment of prisoners is the Nelson Mandela Rules, adopted by the United Nations in 2015. These rules are a revision of the Standard Minimum Rules for the Treatment of Prisoners, originally established in 1955.

The Nelson Mandela Rules establish a detailed framework encompassing twenty-seven critical domains of prison life. These domains range from the classification of prisoners and the management of their living conditions to the provision of healthcare and the facilitation of communication with the external world. Notably, the Nelson Mandela Rules incorporate the Bangkok Rules, which specifically address the treatment of female prisoners. These comprehensive regulations aim to ensure humane treatment and promote rehabilitation for all prisoners.

¹ Kalim Imam (2011), "Police and the Rule of Law in Pakistan: A historical analysis", Berkeley Journal of Social Sciences, Vol. 1, No. 8.

III) Shortcomings in the Pakistan Prison Rules:

PPR has various shortcomings in addressing the well-being of prisoners.

Mental Healthcare

Mental health is a major, yet neglected, issue within Pakistan's prison system. Studies suggest a significant portion of the prison population in Pakistan suffers from mental health conditions². This is furthered underscored by the fact that within the framework of Sections 295 A and 295 B of the Pakistan Penal Code (PPC) 1860, individuals convicted under these provisions, despite subsequent diagnoses of mental illness by the Punjab Medical Board (PMB), often encounter a lack of leniency in final verdicts³.

Mandela Rule 25 requires “every prison to have a healthcare service tasked with evaluating, promoting, protecting, and improving the mental health of prisoners”. Chapter 18 of PPR establishes mandatory medical examinations for all incoming prisoners. This examination, conducted by a medical officer within 24 hours of admission, aims to assess both physical and mental health. However, the current system presents limitations. The prescribed evaluation format requires a basic categorization of the prisoner's health on a scale of "good," "indifferent," or "bad." Furthermore, PPR lacks any specific protocol to address situations where a mental health issue is suspected during the initial assessment. As a result, individuals like those convicted under Sections 295 A and 295 B face a system ill-equipped to provide the necessary support for their mental health conditions, perpetuating a cycle of neglect and exacerbating their vulnerability within the legal framework. This absence of clear guidelines creates a gap in the system, hindering proper care for prisoners with mental health needs⁴.

² Tareen A, Tareen KI (2016) “Mental health law in Pakistan”, BJPsych Int,

³ *Causes of Gender-Based and Religiously Motivated Crimes in Punjab: An Empirical Analysis of Prison Inmates' Criminal Behaviour* (Islamabad Policy Research Institute 2023)

<<https://ipripak.org/causes-of-gender-based-religiously-motivated-crimes-in-punjab-an-empirical-analysis-of-prison-inmates-criminal-behaviour/>>

⁴ Human Rights Watch (2023), “Pakistan: Prisoners Deprived of Adequate Health Care”

Rights of Foreign Nationals

A study on prison overcrowding revealed the presence of over 1,100 foreign nationals incarcerated within the country⁵. To address the specific needs of this population, PPR should be amended to incorporate provisions that guarantee diplomatic protection for foreign nationals, including unrestricted consular access. Additionally, the rules should encompass stateless persons, ensuring they receive similar protections. The Mandela Rule 62 serves as an ideal framework and could be directly incorporated into the PPR. This rule stipulates that “Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong”

Transparency in Healthcare

The current regulations within PPR exhibit a significant shortcoming regarding transparency and continuity of care for prisoners' medical data. Mandela Rule 26 states that “that health-care service shall prepare and maintain accurate, up-to date and confidential individual medical files on all prisoners, and all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file.”

The current rules lack clear provisions for prisoners' access to third-party review of their medical records. Additionally, while highlighting the documents to be sent with the prisoner on transfers, Rule 166 provides no detailed guidelines for transferring prisoners' health files.

Prenatal and Postnatal Care

A report issued by the Punjab Commission on the Status of Women⁶ identified a systemic deficiency in healthcare facilities for female inmates within Pakistan's

⁵ “Addressing Overcrowding in Prisons by Reducing Pre-Conviction Detention in Pakistan”, NACTA, ICRC, and CODE Pak, 2018

⁶Punjab Commission on the Status of Women “Report on the Condition of Women Prisoners in Punjab: Observations and Recommendations” (2015)

correctional institutions. The report noted that these facilities are not equipped to address complex medical conditions, including those of a gynecological nature.

Rule 48 of the Bangkok Rules prioritizes the well-being of incarcerated pregnant and breastfeeding mothers by guaranteeing access to free healthcare consultations, nutritious meals, a sanitary environment, and opportunities for exercise. While Pakistan Prison Rule 488 addresses the dietary needs of pregnant inmates, it fails to provide for more comprehensive prenatal and postnatal care.

Rights of Disabled Persons

A critical gap exists within PPR regarding the specific needs of disabled prisoners. While it outlines general healthcare regulations, these may not be sufficiently comprehensive to encompass the specialized care and accessibility requirements of disabled individuals. Rule 5 of the Mandela Principles states that "Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis."

IV) Recommendations:

Pakistan can take the following measures:

- Amend Chapter 18 of PPR to move beyond the basic categorization of "good," "indifferent," or "bad" health. Establish a clear and standardized protocol for addressing suspected mental health issues during the initial assessment. This protocol should involve further evaluation by a qualified mental health professional and a documented plan for ongoing care, if needed.
- The PPR should directly incorporate the text of Mandela Rule 62, which clearly outlines the right of foreign nationals and stateless persons to maintain communication with diplomatic or consular representatives.

- Revise Rule 166 of PPR to explicitly grant prisoners the right to authorize third-party review of their medical records to become compliant with Mandela Rule 26.
- Expand the scope of Pakistan Prison Rule 488 beyond just dietary needs. The rule should be revised to incorporate provisions for comprehensive prenatal and postnatal care for pregnant and nursing women incarcerated in Pakistan.
- To improve the lives of disabled prisoners in Pakistan, revise the PPR to include specific accessibility and healthcare provisions, aligning with the Mandela Rule 5 on reasonable accommodation.
- Guarantee humane treatment by implementing mandatory Mandela Rules training for all prison officials. Inter-provincial staff exchanges can promote the adoption of best practices across provinces.

Action Matrix

Options for Pakistan

Option	Pathways to Solution	Implementation of Solution	Actors Responsible	Implementation Timelines
Amend chapter 18 of PPR	A collaborative review process involving legal experts, policymakers, and stakeholders to be conducted to assess the propose amendments	Replace basic health categories with a standardized mental health evaluation protocol by qualified professionals, including ongoing care plans.	<ol style="list-style-type: none"> 1. Ministry of Law and Justice 2. Ministry of Health 3. Ministry of Planning, Development & Special Initiatives 4. Ministry of Human Rights 	<p>2-6 Months for Consultation.</p> <p>6-12 Months for Amendments.</p>
Incorporate Mandela Rule 62 in PPR	A collaborative review process involving legal experts, policymakers, and stakeholders to be conducted to assess the propose amendments.	Incorporate provisions that guarantee diplomatic protection for foreign nationals, including unrestricted consular access	<ol style="list-style-type: none"> 1. Ministry of Law and Justice 2. Ministry of Foreign Affairs 	<p>2-6 Months for Consultation.</p> <p>6-12 Months for Amendments.</p>
Revise rule 166 of PPR	A collaborative review process involving legal experts, policymakers, and stakeholders to be conducted to assess the propose amendments	The rule should explicitly grant prisoners the right to authorize third-party review of their medical records to become compliant with Mandela Rule 26.	<ol style="list-style-type: none"> 1. Ministry of Law and Justice 2. Ministry of Health 4. Ministry of Human Rights 	<p>2-6 Months for Consultation.</p> <p>6-12 Months for Amendments.</p>
Expand scope of rule 488 of PPR	A collaborative review process involving legal experts, policymakers,	Incorporate provisions for comprehensive prenatal and postnatal care	<ol style="list-style-type: none"> 1. Ministry of Law and Justice 2. Ministry of Health 	<p>2-6 Months for Consultation.</p> <p>6-12 Months for Amendments.</p>

	and stakeholders to be conducted to assess the propose amendments	for pregnant and nursing women incarcerated in Pakistan.	3. Ministry of Planning, Development & Special Initiatives 4. Ministry of Human Rights	
Mandatory Mandela Rules Training	Guarantee humane treatment by implementing mandatory Mandela Rules training for all prison officials. Inter-provincial staff exchanges can promote the adoption of best practices across provinces.	Ministry of Law provide a clear policy paper to serve as soft law for the implementation of Mandela Principles in Pakistani Prisons.	1. Ministry of Law and Justice 2. Ministry of Health 3. Ministry of Planning, Development & Special Initiatives 4. Ministry of Human Rights	3 - 6 Months to formulate the policy and training manuals.