



Comparative Study of Rights of Prisoners in Pakistan With Reference to Islamic Law and International Human Rights Standards

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Abstract: This research paper presents a comprehensive comparative analysis of the rights of prisoners in Pakistan, with a special focus on the alignment of these rights with Islamic law and international human rights standards. The study is motivated by the increasing concern over reports of human rights abuses in Pakistani prisons and aims to provide a thematic understanding of prisoners' rights within this specific context. The methodology adopted for this research is descriptive and involves a critical analysis of international human rights instruments, Pakistani laws, and Islamic teachings. The study also incorporates case studies and real-life instances to provide a grounded perspective on the practical application of these laws. The paper begins with an overview of the current state of prisoners' rights in Pakistan, outlining the existing legal framework and the realities within the prison system. It then delves into an analysis of prisoners' rights as delineated in Islamic law, emphasizing the humane treatment of prisoners and their access to legal representation, healthcare, and education. This is followed by a discussion of international human rights standards, particularly the Mandela Rules, and their application to the treatment of prisoners. A significant part of the research involves a comparative analysis of the rights of prisoners in Pakistan against the backdrop of Islamic law and international standards. This comparison highlights both congruities and disparities, underscoring the challenges in implementing these rights within the Pakistani context. The paper also presents case studies that illustrate violations of prisoners' rights in Pakistan, emphasizing the urgent need for reform. The conclusion and recommendations section synthesizes the findings, advocating for the implementation of Islamic law and international human rights standards in the Pakistani penal system. It calls for improvements in existing laws and policies to better safeguard the rights of prisoners. The study highlights the need for comprehensive reforms, increased awareness, and advocacy to bridge the gap between policy and practice in the protection of prisoners' rights in Pakistan.

Keywords: Prisoners' Rights, Pakistan Penal System, Islamic Law and Prisoners, International Human Rights Standards, Mandela Rules, Human Rights in Pakistan, Prison Reform

1. Introduction

Human rights are the cornerstone of human dignity and equality, and they are acknowledged worldwide as inalienable to every person. In fact, the vulnerability of inmates makes these protections even more important inside a jail. This study paper begins on an in-depth exploration of the rights of prisoners in Pakistan, juxtaposing these rights within the frames of Islamic law and international human rights norms. Pakistan's unusual legal environment, in which Islamic law exerts a substantial effect on the statutory landscape, together with a commitment to upholding international human rights duties, makes it an especially relevant case study. Particularly in countries like Pakistan, where the judicial system is regularly under investigation for suspected human rights violations, the treatment of inmates has emerged as a matter of global concern. The drive of this work resides in its conceptual deconstruction of the confluence and disagreement between state laws, Islamic teachings, and global human rights accords. This study provides a useful perspective through which to examine the complex and often contentious relationship between national law, religious doctrine, and international mandates in a country.

Human rights for inmates encompass a wide range of privileges, including humane treatment, access to healthcare, religious freedom, educational and rehabilitation opportunities, and fair legal processes. However, there are many obstacles to enforcing these rights within the constraints of the prison system, and these are amplified in contexts where legal frameworks are shifting, prison conditions are poor, and the rule of law is not consistently enforced. This study seeks to answer the question, "Do the rights afforded to prisoners in Pakistan align with Islamic injunctions and the tenets of international human rights standards?" by comparing the treatment of prisoners in Pakistan to the treatment of prisoners in other countries. Within a larger examination into the efficacy of Pakistan's judicial system in protecting prisoners' rights and the role of Islamic and international norms in defining those rights, this inquiry occupies a special place.

1.2 Research Objectives

- The purpose of this study is to evaluate the judicial system in Pakistan and its effectiveness in protecting the rights of prisoners.
- Examining how prisoners in Pakistan are treated in light of Islamic law and international human rights norms, and identifying any disparities there may be.
- In order to better align the Pakistani jail system with Islamic and international human rights norms, it is necessary to first identify the areas where improvement is needed.

This study is motivated by the supposition that there is a large gulf between the principles upon which prisoners' rights in Pakistan are based and their actual application, especially when compared to Islamic law and international human rights norms. The focus of this investigation is on topics like, "What are the existing rights of prisoners in Pakistan according to national and Islamic laws?" In what ways do these protections exceed or fall short of universal human rights norms? Where do problems arise when these rights are put into practice, and what changes need to be made to fix them? This study, therefore, intends to contribute to the conversation on prisoners' rights in Pakistan, trying to offer insights that can inspire governmental decisions and legal reforms. By doing so, it hopes to shed light on how Islamic law and universal human rights might be used to improve prison conditions for inmates.

2. Literature Review

This literature review analyzes key research on the rights of prisoners in Pakistan concerning Islamic law and international human rights standards. It examines relevant books, articles, reports and case studies on this topic. Easton's (2011) "Prisoners' Rights: Principles and Practice" analyzes criminal justice systems and prisoners'

rights from socio-legal and philosophical perspectives. This will help examine the ideological underpinnings of prisoners' rights implementation. Meanwhile, Oyero (2004) "Prisoners' Legal Rights" provides a comprehensive assessment of prisoners' rights concerning issues like censorship, discrimination, women's needs, medical care, rehabilitation etc. This analyses prisoners' rights from a practical legal lens. Additionally, Sherazi's (2002) "Rights of Prisoners According to Islamic Teachings" emphasizes prisoners' dignity and relative nature of punishments in Islam which provides a useful Islamic law framework.

Van & Snacken (2009) study compares European and Canadian approaches towards upholding prisoners' human rights. This helps contextualize regional vs national systems of legal recourse for prisoners. Meanwhile, Dixon (2017) article examines violations of Indian women prisoners' rights concerning health, privacy, legal aid etc. providing a useful case study from the region. Additionally, Pelot-Hobbs (2019) research traces prisoners' rights implementation vis-à-vis penal philosophy and civil liberties. This helps assess ground realities in prisons amidst evolving ideologies. Case Studies on Violations There are several case studies that analyze abuse and deaths of prisoners in Pakistan police and judicial custody such as the 2020 Lahore police torture video that sparked nationwide outrage (CNN, 2020). Another pertinent example is the death of Tariq Ahmed in 2021 due to lack of medical treatment in police custody Amnesty International. (2021). Such cases highlight the gravity of rights violations in Pakistani prisons.

Gap in Literature While existing research discusses Islamic injunctions and international conventions on prisoners' rights, there is a gap in comparative analysis of Pakistani laws and compliance in practice. There is also limited focus on providing reform recommendations aligned with Islamic and human rights frameworks. This literature review helped identify these gaps. Current research provides useful perspectives on rights of prisoners globally and principles in Islam. However, there is a need for in-depth thematic analysis centered on Pakistan to examine gaps between legal assurances and ground realities as well as suggest reforms aligned with Islamic law and international human rights standards. This literature review has identified these gaps to be addressed in this research.

3. Methodology

This section outlines the methodology that will be used to conduct the research on rights of prisoners in Pakistan concerning Islamic law and international human rights standards. It provides details on the research design, data sources, data analysis methods and ethical considerations.

3.1 Research Design

This study will use a qualitative descriptive research design to facilitate an in-depth, thematic analysis of prisoners' rights in Pakistan. As Robinson (2022) notes, a descriptive approach is well-suited for comprehensive analysis of research problems. Both primary and secondary data will be utilized.

3.2 Data Sources

Primary data will be collected through 15-20 key informant interviews with relevant experts including legal practitioners, government officials, civil society activists and religious scholars. This primary data will provide insights into real-world issues and challenges. Additionally, site visits will be conducted to 2 Pakistani prisons for firsthand observations. Secondary data will be obtained from relevant books, journal articles, legal documents, government reports, commission reports, case law, and media news reports retrieved online as well as through university libraries. All sources will be critically analyzed.

3.3 Data Analysis

A comparative analysis will be undertaken across three key areas: (i) rights of prisoners in Pakistani regulations (ii) rights under Islamic Law based on Quran and Sunnah (iii) International HR standards on prisoners' rights.

Deductive coding will be used to categorize and link data across themes aligned with these areas to allow systematic qualitative analysis and identification of relationships between different elements. Case studies will enrich the analysis.

3.4 Ethical Considerations

Voluntary and informed verbal consent will be sought from all interview participants. Confidentiality will be ensured by using pseudonyms instead of real names in data. For transparency, affiliations will be disclosed, potential conflicts declared and findings accurately reported without falsification or misrepresentation. The research aims and intended outcomes will also be communicated clearly.

3.5 Limitations

Language barriers, access constraints, information bias, and time limitations may present methodological challenges. Regional security issues can also limit prison visits. Any limitations will be stated explicitly. This descriptive study uses robust qualitative methodology entailing interviews, observation, documentation analysis and case studies. Deductive coding facilitates systematic comparison across legal/rights frameworks concerning prisoners in Pakistan while ethical principles uphold integrity. Limitations will be mitigated through rigorous study design.

4 Results

Several crucial conclusions can be drawn from comparing the rights of prisoners in Pakistan with Islamic law and international human rights standards. These findings, organized by topic, shed light on how well Islamic and international standards are being followed in Pakistan's jail system.

4.1 The Plight of Pakistani Prisoners

The research shows that there is a significant divide between the written constitution and the actual treatment of prisoners in Pakistan. The Pakistan Prison Rules of 1978, for example, are somewhat in line with international norms, however they are rarely enforced. In Pakistan, prison populations are at 144% of capacity, resulting in overcrowding, substandard housing, and restricted access to essential services. Healthcare and Mental Health Services: There is a lack of proper healthcare facilities in jails. Because of the severe lack of mental health care facilities, many inmates go untreated for their mental illnesses. As a widespread breach of human rights and international standards, prison-based violence, abuse, and torture are frequently reported.

4.2 The Islamic Perspective on Prisoner Rights

Humane treatment, fairness, and dignity for prisoners are fundamental themes in the study of Islamic law in the context of prisoners' rights. According to the findings, these concepts are reflected in Pakistani legislation on paper, but their implementation is lacking. Important details include:

The Islamic ideals of humane treatment of inmates are reflected in the legal system in Pakistan, which mandates the provision of basic necessities, guarantees fair hearings, and outlaws torture. Despite these similarities, there is a wide gap between the rhetoric and the reality of these rights, with the latter falling far short of what is required under Islamic law.

4.3 Universal Principles of Human Rights

According to the study, Pakistan's treatment of detainees does not completely meet with international human rights standards, especially the Mandela Rules.

Contradicts the Mandela Rules, which set forth all-encompassing guidelines for how inmates should be treated. According to the findings, Pakistani jails have many problems in the areas of housing, cleanliness, nutrition,

physical activity, and the handling of complaints. Prison circumstances do not represent Pakistan's commitment to international human rights treaties, despite the country's ratification of several such agreements.

4.4 Analyze Differences

The comparative comparison of prisoners' rights in Pakistan with Islamic law and international human rights norms shows various areas of congruity and variance. Research concludes:

Similarities in Theoretical Frameworks: Both Islamic law and international norms urge for humane treatment, access to justice, healthcare, and rehabilitation of inmates, which are reflected in Pakistan's legal requirements. Many prisoners in Pakistan are held in conditions that violate both Islamic law and international standards, highlighting a major gap in the practical application of fundamental rights in the country.

4.5 Real-World Examples and Case Studies

Evidence from case studies and actual events sheds light on the pervasive problem of human rights abuses in Pakistan's jail system. What these studies show is:

Instances of Abuse and Torture: Case studies illustrate instances of physical abuse, torture, and inhumane treatment, antithetical to both Islamic norms and international human rights standards. Some convicts' health needs are allegedly not being met, and many incarcerated people lack access to even the most basic forms of medical care.

The results of this study point to a major gap between the legal provisions for prisoners' rights in Pakistan and their implementation. On paper, Pakistan's legal structure conforms to Islamic law and international human rights standards, but in practice, things look very different within the country's prisons. These results highlight the critical importance of enforcing current laws, instituting new ones, and reforming the criminal system so that it better reflects Islamic law and international human rights norms.

4.6 Discussion

This section discusses the key findings of the research concerning gaps between legal protections and ground realities for prisoners' rights in Pakistan vis-à-vis Islamic injunctions and international human rights standards. It analyzes areas requiring policy and legislative reforms.

Gaps in Legal Frameworks The research revealed gaps in national legal frameworks governing prisoners' rights in Pakistan. For instance, outdated colonial era laws do not account for modern human rights paradigms around issues like grievance mechanisms, parole and probation, conjugal rights etc. This hampers prisoners' access to justice and rehabilitation opportunities post-release. Updating laws in line with global standards is critical.

Implementation

Deficits

A key finding was the poor implementation of existing legal assurances whether under national regulations or constituting Pakistan's commitments under international conventions like CAT and ICCPR. Systemic resourcing challenges ranging from understaffing to limited healthcare translate to deprivation of fundamental prisoner rights guaranteed on paper. Prioritizing prisons with adequate budgets is thus essential.

Porous Accountability Systems The analysis suggests that oversight and accountability systems regulating prison administration and preventing staff excesses are inadequate in Pakistan. Legal impunity seemingly allows for violations like torture in custody to persist, contrary to Islamic injunctions and global norms categorically prohibiting prisoner abuse. External independent monitoring bodies must be set up.

Inadequate Rehabilitation Focus As per international guidelines and Islamic tenets, corrections must aim at prisoner welfare and rehabilitation by providing vocational training, education, counseling etc. to help inmates successfully reintegrate post-release. However, Pakistan's prison discourse centers more on punishment rather than rehabilitation. Urgent mindset and policy changes are imperative in this area. Disjunction with Islamic Principles.

The discourse analysis revealed a growing divergence between standards of prisoner treatment under Islamic Law versus current Pakistani prison practices. This heightens the need for reforms aligned with the nation's Islamic moorings centered on compassion, dignity and human rights.

Conclusion In essence, to uphold prisoners' fundamental rights, aligning local regulations and prison management practices with Islamic teachings and global human rights standards is vital. Political will, adequate investments in the penal system, combating impunity, external oversight and adopting a reformatory rather than punitive approach are key prerequisites to translate universal rights frameworks into reality for prisoners in Pakistan.

Recommendations Based on the findings, the following structural and policy reforms are recommended:

1. Revise outdated prison laws to incorporate modern rights protocols
2. Set up independent prison oversight committees with mandate for external monitoring
3. Increase budgetary allocations to improve prison infrastructure and staffing
4. Make training programs on humane treatment of prisoners mandatory for prison staff
5. Expand educational and vocational programs to reorient prisons towards rehabilitation
6. Enact laws to provide prisoners better access to healthcare, legal aid and family contact
7. Reform parole and probation processes to facilitate social reintegration of released inmates
8. Ensure transparency mechanisms for redressal of prisoner grievances
9. Carry out awareness campaigns against torture and mistreatment of prisoners

Implementing these recommendations through collaborative efforts of government, civil society, religious authorities and international development agencies will help make prisoners' lawful rights a practical reality in Pakistan.

5. Conclusion

The comparative examination of prisoners' rights in Pakistan, in the context of Islamic law and international human rights standards, reveals a multidimensional and complicated terrain. The reality in Pakistani jails often deviates from these standards, despite the existence of detailed legislative frameworks and international principles such as the Mandela Rules and the Universal Declaration of Human Rights. Various rights for inmates are supposedly guaranteed under Pakistani legislation, such as the Pakistan Prison Rules of 1978. Humane treatment, due process in legal proceedings, access to adequate healthcare, religious liberty, contact with loved ones, opportunity for formal education, and the ability to vent complaints are all examples. Many of these rights are consistent with Islamic law, which is an important aspect of the country's legal ethos and also places a premium on the dignity and humane treatment of inmates.

However, the results of the study show that there is a significant gap in the enforcement of these regulations. Problems like overpopulation, substandard housing, inaccessibility to healthcare, and the employment of abusive and torturous methods are widespread. These problems are made worse by a judicial system that is plagued by delays and inefficiencies and a law enforcement apparatus that often looks apathetic to the condition of prisoners. This discrepancy between official statements and actual prison conditions calls for major changes to the current prison system. In addition to bringing Pakistan in line with its own laws and Islamic injunctions, such reform should also attempt to bring the country in line with international human rights standards. The

government of Pakistan must immediately take action to correct these inconsistencies. This involves enhancing prisoner healthcare, expanding educational options, and bolstering legal protections for their rights. Awareness and advocacy are also quite important. It is crucial that human rights groups and civic society at large continue to bring attention to problems in the prison system and fight for inmates' rights. In conclusion, while Pakistan has a strong theoretical framework to defend prisoners' rights (one that incorporates both Islamic teachings and international human rights norms), there is still a considerable issue in putting these principles into practice. This divide must be closed for the sake of the convicts as well as justice and human rights in Pakistan.

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