

Pakistan's Anti-Torture Law: Progress, Gaps, and Recommendations

قانون مكافحة التعذيب في باكستان: التقدم، الثغرات، والتوصيات

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Citation

Baluch, Bilal Riaz, Dr. Sohaib Mukhtar, and Commander (R) Abdul Ghaffar. "Legal Challenges and Technological Advancements in Intellectual Property Rights Protection in Pakistan." *Al-Marjān Research Journal* 3, no. 1 (January–March 2025): 61–74.

Submission Timeline

Received: Dec 07, 2024
Revised: Dec 21, 2024
Accepted: Jan 03, 2025
Published Online:
Jan 15, 2025

Publication, Copyright & Licensing



Article QR



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Abstract

This research provides a comprehensive analysis of the Custodial Torture & Death Prevention Act 2022 in Pakistan, a significant legislative step towards the prevention of torture and ill-treatment in custody. This study examines provisions of the Custodial Torture & Death Prevention Act 2022, enforcement mechanisms, and its impact on reducing the number of torture cases and fatalities in custody. It further assesses the Custodial Torture & Death Prevention Act 2022 alignment with international human rights norms, particularly the UN Convention against Torture. Despite the Custodial Torture & Death Prevention Act 2022 promising framework, the study identifies key challenges in its implementation, including lack of awareness among law enforcement officials, inadequate resources for oversight and monitoring, and a culture of impunity for perpetrators. Through legal analysis, case studies, and comparative analysis with similar laws from other countries, this study offers insights into the effectiveness of the Custodial Torture & Death Prevention Act 2022 and proposes recommendations for enhancing its efficacy. The findings of this research contribute to the understanding of the potential and challenges in preventing torture and ill-treatment in custody in Pakistan.

Keywords: Pakistan; Custodial Torture & Death Prevention Act 2022; United Nations Convention against Torture; Torture; Ill-Treatment

Introduction

This research aims to critically analyze the effectiveness of Pakistan's Anti-Torture Law, formally known as the Torture and Custodial Death (Prevention and Punishment) Act 2022. Despite being a significant step towards aligning, Pakistan with international human rights standards, the implementation of this law faces numerous challenges. This study provides an in-depth examination of its provisions, its alignment with international standards, and its practical implementation. It also explores the sociocultural and institutional barriers that hinder its effective enforcement. Through a comprehensive review of existing literature, legal analysis, and case studies, this research seeks to identify the gaps in the current system and propose recommendations for enhancing the effectiveness of the law. The findings of this study contribute to the ongoing discourse on human rights in Pakistan and provide valuable

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insights for policymakers, law enforcement agencies, and human rights advocates. The ultimate goal is to contribute to the development of a more robust and effective legal framework that can effectively deter and prevent torture and ill-treatment in custody in Pakistan.

In the realm of human rights, the prohibition of torture and ill-treatment is a fundamental and absolute principle. Despite this, the practice of torture and ill-treatment in custody remains a pervasive issue in many countries, including Pakistan. This research critically examines the Custodial Torture & Death Prevention Act 2022 in Pakistan, a significant legislative measure aimed at addressing this grave human rights violation. Historically, Pakistan has grappled with numerous instances of torture and ill-treatment in custody, often carried out with impunity. The absence of specific legislation criminalizing torture allowed these practices to persist, leaving victims without recourse and perpetrators without accountability. The enactment of the Custodial Torture & Death Prevention Act 2022 marked a significant milestone in Pakistan's efforts to combat these abuses. The Act criminalizes torture and establishes safeguards against deaths in custody, demonstrating a commitment to uphold rights and dignity of individuals in custody.

However, the passage of a law is only the first step towards addressing a deeply entrenched issue. The effectiveness of the Act in reducing instances of torture and ill-treatment in custody, ensuring accountability for violations, and aligning Pakistan's legal framework with international human rights norms, particularly the UN Convention against Torture, is yet to be thoroughly examined. This research aims to fill this gap by providing a comprehensive analysis of the Act's provisions, enforcement mechanisms, and impact on the ground. This study also acknowledges the challenges in implementing the Act. These include a lack of political will to prosecute acts of torture, a lack of awareness about the Act's provisions among law enforcement authorities and the judiciary, and insufficient resources for the oversight and monitoring of detention facilities.

By employing a mixed-methods approach, including legal analysis, case studies, and comparative analysis with similar laws from other countries, this research seeks to provide a nuanced understanding of the potential and challenges in preventing torture and ill-treatment in custody in Pakistan. The findings of this research are expected to contribute to the discourse on torture prevention and provide actionable recommendations for enhancing the efficacy of the Act. This sets the stage for a critical examination of the Custodial Torture & Death Prevention Act 2022, its implementation, and its impact on the ground. It highlights the significance of the study, outlines its objectives, and provides a brief overview of the methodology. This research delves deeper into these aspects, providing a comprehensive analysis of the Custodial Torture & Death Prevention Act 2022 and its role in preventing torture and ill-treatment in custody in Pakistan.

1. Torture Prevention Obstacles in Pakistan

A detailed report by the World Organization against Torture (OMCT) and Justice Project Pakistan (JPP) "Criminalizing Torture in Pakistan: the Need for an Effective Legal Framework" offers a critical analysis of torture in the country. It underscores that torture by police and other law enforcement agencies is so deeply ingrained and systematic in Pakistan that it has become a common and accepted practice within law enforcement agencies. This widespread acceptance, along with a deficit in independent oversight, limited investigative mechanisms, extensive powers of arrest and detention, and various procedural gaps, collectively contribute to perpetrators of torture enjoying impunity. A key challenge is that under the existing system, the Code of Criminal Procedure 1898 (CrPC) governs the investigation and trial of torture-related offenses (like those for extorting confessions),

meaning the police and other law enforcement agencies are tasked with investigating themselves.¹

Another significant piece of scholarship is the article "Torture Law and The Criminal Justice System in Pakistan" which provides a critical analysis of the genesis, characteristics, and impact of the Torture and Custodial Death (Prevention and Punishment) Act 2022. The article argues that while the Act is a significant step forward, its effectiveness is undermined by various challenges, including a lack of awareness among law enforcement officials and the public, inadequate resources for training, monitoring, and investigations, and a culture of impunity. The Asian Human Rights Commission has also contributed to the scholarship on this issue, highlighting that Pakistan does not have any specific law relating to torture, despite Article 14 (2) of the Constitution of Pakistan 1973 expressly prohibit the use of torture for extracting evidence.²

This gap in the legal framework has allowed torture to continue unchecked, contributing to a culture of impunity. The Human Rights Commission of Pakistan (HRCP), an independent non-governmental organization has been instrumental in documenting cases of torture and advocating for the rights of victims. Their annual reports provide a wealth of information on the prevalence of torture in Pakistan and the systemic issues that contribute to this problem.³

The Custodial Torture & Death Prevention Act 2022, also known as the Torture and Custodial Death (Prevention and Punishment) Act 2022, is a significant piece of legislation in Pakistan's legal framework. It was enacted with the primary objective of deterring public officials from engaging in acts of torture, a gross violation of human rights. This Act, while a commendable step towards aligning Pakistan's legal framework with international human rights standards, still faces substantial challenges in terms of implementation and enforcement. A detailed legal analysis of the Act reveals both its strengths and the areas that require further development.⁴

This Act aims to bring Pakistan's legal framework in line with international human rights standards, specifically the UN Convention Against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR). Despite its progressive stance, the Act's provisions, scope, and enforcement mechanisms require a thorough analysis to understand its potential impact and areas needing improvement.⁵

Article 1 of the UN Convention against Torture (CAT), which Pakistan ratified in 2010 defines torture as the cumulative act must be inflicted of severe mental or physical suffering. The Act includes provisions that recognize both physical and mental suffering, thus ensuring

¹ Lassi, Nicholas. "Legislating Anti-Torture Reform and Harm Reduction Services to Protect Incarcerated Opioid Users in Pakistan." *Pakistan Journal of International Affairs* 5, no. 3 (2022).

² Adil, Kamran. "Torture Law and the Criminal Justice System in Pakistan." *Pakistan Journal of Criminology* 16, no. 03 (2024): 1427-1432.

³ Zaheer, Babar, Amir Aleem Saddique, Hafiz Muhammad Haseeb Ulla, and Muhammad Kashif. "Violation of Human Rights in Pakistan, Challenges and Progress." *The Critical Review of Social Sciences Studies* 3, no. 1 (2025): 1864-1878.

⁴ Mustafa, Atta ul, Hamaish Khan, and Riaz Aslam. "Critical Analysis of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 in light of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984." *Competitive Research Journal Archive* 3, no. 02 (2025): 152-164.

⁵ Azeem, Hafiz Muhammad. "From Custodial Violence to Justice: Evaluating Pakistan's Torture Prevention Legislation in Light of International Standards." *Traditional Journal of Law and Social Sciences* 4, no. 01 (2025): 66-80.

a comprehensive understanding of the types of harm that constitute torture. Act or omission must be inflicted intentionally. The Act criminalizes intentional acts and omissions by law enforcement officials, reinforcing the need for deliberate conduct to be considered torture. For a specific purpose. The Act specifies that torture may be inflicted for purposes such as obtaining information, punishment, intimidation, or coercion, which aligns with the specific purposes outlined in the Convention. By a public official or with the consent or acquiescence of a public official. The Act applies to all law enforcement officials and any person acting in an official capacity, thereby addressing the requirement that torture be perpetrated by or with the involvement of public officials.⁶

Considering the aforementioned definition, the National Commission for Human Rights (NCHR) asserts that Pakistan's laws do not comply with Article 1 of the Convention. Despite the availability of numerous constitutional provisions, statutory laws, and case law, torture has not been explicitly defined in national legislation as per Article 1 of the United Nations Convention against Torture (UNCAT) in conjunction with Article 7 of the International Covenant on Civil and Political Rights (ICCPR). Article 14 of the Constitution of Pakistan 1973 enshrines the dignity of man and prohibits torture to extract evidence. While this provision marks a significant step towards safeguarding human rights, it falls short of the comprehensive prohibition mandated by Article 1 of the UN Convention Against Torture (UNCAT) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR). To ensure full compliance with these international standards, Pakistan must close existing loopholes by adopting a broader definition of torture.⁷

Reports and case studies on torture and ill-treatment in Pakistani custody paint a grim picture, consistently revealing a disturbing pattern of abuse that often goes unpunished. A significant study by Yale University and Justice Project Pakistan (JPP), "Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan," analyzed 1,867 medico-legal certificates from Faisalabad (2006-2012) and documented the endemic use of torture by police. The study specifically highlighted the state's systemic failure to conduct "prompt and impartial investigations," as mandated by Article 12 of the UN Convention against Torture (UNCAT).⁸

The World Organization against Torture (OMCT) and JPP's comprehensive report, "Criminalizing Torture in Pakistan: the Need for an Effective Legal Framework" further details this issue. It emphasizes that torture by police and other law enforcement agencies is so widespread and systematic in Pakistan. It's largely considered a common practice. Under the Code of Criminal Procedure 1898 (CrPC), Pakistani police wield extensive powers of arrest and detention. Most reported incidents of torture and ill-treatment occur during this period, while suspects are in police custody.⁹

⁶ Meskele, Kidus. "Interpretation of Article One of the Convention against Torture in Light of the Practice and Jurisprudence of International Bodies." *Beijing L. Rev.* 5 (2014): 49.

⁷ Baig, Mahnoor, Zuntyqam Ul Hassan, and Imtiaz Ahmad Khan. "Legal Reforms for Prevention of Custodial Torture in Pakistan." *Research Journal of Psychology* 3, no. 1 (2025): 461-478.

⁸ Bibi, Sughra, Qian Hongdao, Najeeb Ullah, Muhammad Bilawal Khaskheli, and Hafiz Abdul Rehman Saleem. "Excessive use of Death Penalty as Stoppage Tool for Terrorism: Wrongful Death Executions in Pakistan." *JL Pol'y & Globalization* 81 (2019): 42.

⁹ Ahmed, Rais Nouman, and Rashid Minhas. "Police Interviewing Practices in Pakistan." *Routledge International Handbook of Investigative Interviewing and Interrogation* (2024): 270.

Disturbingly, in numerous cases of alleged custodial deaths due to torture, police have claimed suicide or natural causes. Evidence in several of these cases indicates that suspects were not presented before a Magistrate within the legally mandated 24-hour period. Furthermore, there's evidence that police attempted to cover up crimes, sometimes by manipulating police records or ensuring post-mortem and medical reports aligned with their version of the detainee's death.¹⁰

These comprehensive studies and reports underscore the urgent need for effective implementation of the Torture and Custodial Death (Prevention and Punishment) Act 2022 and broader systemic reforms. They clearly highlight the significant gap between existing law and its enforcement, emphasizing the necessity for greater accountability and transparency within law enforcement agencies.¹¹

Sections 4 and 5 of the Act criminalize both custodial torture and custodial deaths. It is a fundamental requirement of the Convention that States criminalize acts of torture. Article 4 mandates that every State party ensures all instances of torture are punishable offenses under its criminal law. This provision underscores the necessity for torture to be treated as a distinct crime, separate from other offenses in criminal law, furthermore, the Convention obliges States to criminalize various aspects related to torture, including attempts to commit torture, complicity, participation, instigation, and acts by public officials that acquiesce or consent to torture. Despite the existence of numerous constitutional clauses, statutory provisions, and case law, custodial torture remains inexplicitly defined and criminalized in accordance with Articles 1 and 4 of the Convention, along with Article 7 of the ICCPR. The Constitution of Pakistan 1973 does not provide a definition of torture or designate it as a criminal offense. However, Article 14(2) explicitly prohibits the use of torture to extract evidence. The absence of specific legislation addressing torture creates a situation where perpetrators, often law enforcement officials or members of the armed forces, can act with impunity.¹²

To conclude, the Custodial Torture & Death Prevention Act 2022 is a noteworthy legislative measure that aims to bring Pakistan's judicial system into compliance with global human rights practices. Although it covers important topics related to the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention Against Torture (UNCAT), there are significant obstacles in the way of its implementation. Even though the Act has many provisions, more work needs to be done to provide clear definitions and strong enforcement procedures. A comprehensive definition of torture and the closure of current legal gaps are necessary for complete adherence to international obligations. Sustaining human rights and effectively preventing fatalities and torture in detention need ongoing efforts.

2. Comparison with International Standards and Case Studies

Pakistan's compliance with the UN Convention against Torture (UNCAT) has been a subject of contention with significant gaps between its official reports to the UN Human Rights Council (UNHRC) and ground realities. Despite ratifying UNCAT, Pakistan's efforts to

¹⁰ Chaudhry, Rabia. *Policing, Custodial Torture and Human Rights: Designing a Policy Framework for Pakistan*. Centre for Public Policy and Governance, 2013.

¹¹ Baig, Khuram, Abdul Salam Soomro, Shahzad Manzoor Khan, and Fariha Malik. "Critical Analysis of Legal Frameworks Relating to the Custodial Torture in Context of Pakistan." *Pakistan JL Analysis & Wisdom* 3 (2024): 140.

¹² Rasool, Kamran, Muhammad Mubashir, and Abdul Hameed. "In the Shadow of Justice: Custodial Torture and Human Rights Violations in Pakistan." *Pakistan JL Analysis & Wisdom* 3 (2024): 232.

address torture have been deemed unsatisfactory, with numerous reports highlighting widespread human rights violations, particularly in the context of custodial torture.¹³

Pakistan has maintained in its reports to the UNHRC that it is a torture-free zone. However, independent assessments by Non-Government Organizations (NGOs) paint a starkly different picture, revealing persistent violations of UNCAT provisions. One of the key deficiencies highlighted is the absence of legislation in Pakistan that ensures fair trials in torture cases. NGO reports from 2016 pointed out that Pakistan's legal framework contains laws that undermine established norms of justice, exacerbating the challenges in addressing torture effectively. Furthermore, the establishment of Military Courts in 2015 was criticized for weakening the right to fair trial, particularly in cases related to torture. These courts, while purportedly established to address terrorism-related offenses swiftly, have raised concerns about due process and accountability. Reports indicate that Pakistan's justice system lacks the necessary mechanisms to ensure accountability for torture perpetrators and provide adequate redress for victims.¹⁴

Article 1 of the UN Convention against Torture (UNCAT) highlights significant gaps in Pakistan's legal framework regarding the prohibition of torture. The Human Rights Commission of Pakistan (HRCP) has criticized Pakistan's legal systems for their non-compliance with international standards and noted a lack of proper articulation of torture laws. While Article 14 of the Constitution of Pakistan 1973 prohibits the use of torture for extracting evidence, the National Commission for Human Rights has proposed expanding this prohibition to encompass all forms of torture. The Torture and Custodial Death (Prevention and Punishment) Act 2022 enacted in Pakistan, is a significant piece of legislation aimed at addressing the deeply rooted issue of torture and ill-treatment in custody. This law marks a pivotal step in aligning Pakistan's domestic legal framework with its international human rights obligations, particularly the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which Pakistan ratified in 2010. The act is comprehensive, covering a wide array of acts that constitute torture and ill-treatment. It applies to all individuals in custody, irrespective of their legal status. This includes not only those who have been formally charged and are awaiting trial, but also individuals who are under temporary detention, ensuring a broad scope of protection. The act also establishes robust enforcement mechanisms. These include penalties for perpetrators and remedies for victims.¹⁵

The act thus represents a significant commitment on the part of the Pakistani government to uphold its international obligations and protect the rights of individuals within its jurisdiction. However, despite these strengths, the act has been met with criticism from various quarters. Some scholars argue that it falls short in certain areas. For instance, the enforcement mechanisms and protections for vulnerable groups are seen as inadequate. The act does not fully incorporate the principle of non-refoulement, which prohibits the return of a person to a country where they may be subjected to torture. This gap in the legislation could potentially leave some individuals at risk of abuse. Moreover, the implementation of the act has been

¹³ Qayyum, Sadia Abdul, Syed Mukaram Ali, Qarar Ahmed Abbasi, Muhammad Murad Zafar Marri, and Lubna Faisal. "Trends of Custodial Torture and Deaths. An Autopsy Based Study at Metropolitan City of Karachi." *Journal of Rehman Medical Institute* 9, no. 2 (2023): 14-17.

¹⁴ Rasool, Kamran, Muhammad Mubashir, and Abdul Hameed. "In the Shadow of Justice: Custodial Torture and Human Rights Violations in Pakistan." *Pakistan JL Analysis & Wisdom* 3 (2024): 232.

¹⁵ Baig, Barrister Dr Anwar. "Judicial Responses to Torture: Evaluating the Efficacy of Pakistan's Legal System." *Al-Aasar* 1, no. 4 (2024): 49-56.

fraught with challenges. A major barrier to its effectiveness is the lack of awareness among law enforcement officials and the public. Inadequate resources for training, monitoring, and investigations also hinder the act's enforcement.¹⁶

Furthermore, despite the act's clear provisions, many instances of torture and ill-treatment go unpunished. This contributes to a culture of impunity and allows the misuse of the law by law enforcement agencies to continue unchecked. The victims of such misuse are often the most vulnerable and marginalized individuals, who face the greatest obstacles to obtain justice in a system that is rigged against them.¹⁷

While the enactment of the anti-torture law is a significant step towards addressing the issue of torture in Pakistan, its effectiveness is undermined by various challenges. Article 4 of the UN custodial Convention against Torture (UNCAT) mandates State parties to prosecute acts of torture and other related offenses, including attempted commission, connivance, intervention, instigation, and acts by public officials who acquiesce to torture. Despite this mandate, Pakistan has failed to provide victims of custodial torture with justice and redress. The prevailing clauses of the Pakistan Penal Code 1860 (PPC) have proven inadequate in addressing the issue. Article 14 of the Constitution of Pakistan safeguards every individual right to be free from torture. However, the reality contradicts this constitutional provision, as instances of torture by law enforcement agencies continue to be reported. The failure to effectively prosecute and punish perpetrators of torture undermines the fundamental rights guaranteed by the Constitution and international human rights standards.¹⁸

Before the Torture and Custodial Death (Prevention and Punishment) Act 2022, torture and ill-treatment were pervasive and systematic in Pakistani custody. Amnesty International frequently voiced concerns about reported cases of torture, affecting both criminal suspects and political prisoners, at hands of police, military, and prison officials. Pakistan's police held extensive arrest and detention powers under the Code of Criminal Procedure 1898 (CrPC). It was primarily during this period of police custody that most reported incidents of torture and ill-treatment occurred. In numerous cases where deaths in custody were attributed to torture, police often claimed suicide or natural causes. However, available evidence in many of these instances reveals that, despite legal requirements, suspects weren't brought before a Magistrate within the mandated 24 hours. In some cases, there's even evidence that police tried to cover up crimes by interfering with official records or manipulating post-mortem and medical reports to align with their version of the detainee's death.¹⁹

Following the passage of the Torture and Custodial Death (Prevention and Punishment) Act 2022, there have been several attempts to enact similar legislation to fully criminalize torture in Pakistan, in line with the UN Convention against Torture (UNCAT). Unfortunately, none of these subsequent efforts were successful. For instance, a bill introduced by legislator Maiza Hameed in the National Assembly in 2014 failed to pass in the Senate. In 2015, former

¹⁶ Sherwani, Mariam. "Rights of the Accused in the Legal System of Pakistan: A Legal Analysis." *Islamabad Law Review* 3, no. 3&4 (2019): 100-111.

¹⁷ Fayaz, Muhammad. "Human Rights Law and Police Interrogation: A Doctrinal Analysis of Anti-Terrorism Legislation of UK and Pakistan." *Journal of Law & Social Studies* 5, no. 3 (2023): 468-479.

¹⁸ Kanwel, Sidra, Tayyaba Yasmin, and Muhammad Usman. "Crime and Human Rights in Pakistan: An Analysis in Light of International Law." *Traditional Journal of Law and Social Sciences* 2, no. 02 (2023): 71-81.

¹⁹ Chattha, Zubair Nawaz, and Sanja Kutnjak Ivković. "Police Misconduct: the Pakistani Paradigm." In *The Contours of Police Integrity*, pp. 175-194. SAGE Publications, Inc., 2004.

Senator Farhatullah Babar presented a bill against custodial torture in the Senate, but it never advanced to the lower house. Senator Farooq Naek also introduced a similar bill same year, which similarly failed to be enacted. Another attempt was made in 2018 when the federal government drafted the Torture and Custodial Death (Prevention and Punishment) Bill, though it was only tabled much later in 2020 by Senator Sherry Rehman.²⁰

The Torture and Custodial Death (Prevention and Punishment) Act 2022 was enacted in Pakistan to address the deeply rooted issue of torture and ill-treatment in custody. The Act is comprehensive, covering a wide array of acts that constitute torture and ill-treatment. It applies to all individuals in custody, irrespective of their legal status. This includes not only those who have been formally charged and are awaiting trial, but also individuals who are under temporary detention, ensuring a broad scope of protection. The Act also establishes robust enforcement mechanisms, including penalties for perpetrators and remedies for victims. These provisions align with international human rights standards, particularly the UN Convention against Torture, which Pakistan ratified in 2010. The Act thus represents a significant commitment on the part of the Pakistani government to uphold its international obligations and protect the rights of individuals within its jurisdiction. However, despite these strengths, the Act has been met with criticism from various quarters. Some scholars argue that it falls short in certain areas. For instance, the enforcement mechanisms and protections for vulnerable groups are seen as inadequate. The Act does not fully incorporate the principle of non-refoulement, which prohibits the return of a person to a country where they may be subjected to torture. This gap in the legislation could potentially leave some individuals at risk of abuse. Moreover, the implementation of the Act has been fraught with challenges.²¹

In conclusion, The Custodial Torture & Death Prevention Act 2022 is a landmark legislative achievement that aims to align Pakistan's legal framework with international human rights standards. However, the real test lies in its implementation. Addressing the entrenched culture of impunity, ensuring the operational capacity of the independent commission, reforming the judicial system, training law enforcement, and engaging civil society are essential steps to ensure the Act translates into tangible change. While the Act lays a strong foundation, ongoing efforts and commitment are needed to build a criminal justice system that truly respects and protects human rights. Without addressing these critical challenges, the Act risks becoming a symbolic gesture rather than a transformative tool for justice and human rights in Pakistan. The enactment of the Anti-Torture Law is a significant step towards addressing the issue of custodial torture in Pakistan, its effectiveness is undermined by various challenges. These include a lack of awareness among law enforcement officials and the public, inadequate resources for training, monitoring, and investigations, and a culture of impunity. Addressing these challenges require concerted efforts from all stakeholders, including government agencies, civil society organizations, and international partners. It is crucial to ensure that the Anti-Torture Law is not just a piece of legislation but a tool for change that can help to eliminate torture and ill-treatment in custody in Pakistan.

²⁰ Baig, Mahnoor, Zuntyam Ul Hassan, and Imtiaz Ahmad Khan. "Legal Reforms for Prevention of Custodial Torture in Pakistan." *Research Journal of Psychology* 3, no. 1 (2025): 461-478.

²¹ Mustafa, Atta ul, Hamaish Khan, and Riaz Aslam. "Critical Analysis of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 in light of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984." *Competitive Research Journal Archive* 3, no. 02 (2025): 152-164.

3. Obstacles in Implementation Efficacy Mechanism

The Torture and Custodial Death (Prevention and Punishment) Act 2022 in Pakistan has brought about significant changes in the training of law enforcement officials, monitoring of detention centers, and investigation of complaints. The implementation of the Torture and Custodial Death (Prevention and Punishment) Act 2022 in Pakistan faces several key challenges, including a lack of awareness, inadequate resources, and impunity for perpetrators. One of the primary challenges is the lack of awareness among law enforcement officials and the public about the provisions and implications of the Anti-Torture Law. Many law enforcement officials are not fully aware of the legal obligations under the Act and the public is often unaware of their rights under the law. This lack of awareness can lead to violations of the Act and hinder its effective implementation. There is a need for comprehensive training programs for law enforcement officials and awareness-raising campaigns for the public to address this issue.²²

The implementation of the Act is also hindered by inadequate resources. This includes insufficient funding for training, monitoring, and investigations, as well as lack of personnel and infrastructure. Without adequate resources, it is difficult to ensure that law enforcement officials are properly trained, that detention centers are regularly monitored, and that complaints of torture and ill-treatment are promptly and impartially investigated. Addressing this challenge require increased funding and resource allocation for the implementation of the Act. Impunity for perpetrators is another significant challenge. Despite the Act's clear provisions, many instances of torture and ill-treatment go unpunished. This contributes to a culture of impunity and allows the misuse of the law by law enforcement agencies to continue unchecked. The victims of such misuse are often the most vulnerable and marginalized individuals, who face the greatest obstacles to obtain justice in a system that is rigged against them. Ensuring accountability for violations is crucial for the effective implementation of the Act.²³

Analysis of factors contributing to these challenges and their impact on the Act's effectiveness. One of the significant factors contributing to the challenges is the socio-cultural acceptance of torture as a necessary evil in Pakistan. This acceptance is often rooted in traditional beliefs about law enforcement and punishment, which can make it difficult to change attitudes and practices. This socio-cultural acceptance contributes to the lack of awareness among law enforcement officials and the public about the provisions and implications of the Anti-Torture Law, thereby undermining its effectiveness. The absence of independent oversight and investigation mechanisms is another major factor. The Act stipulates that complaints of torture and ill-treatment should be investigated promptly and impartially. However, in practice, law enforcement agencies often investigate themselves, leading to a lack of independent oversight and accountability. This lack of independence can hinder the effective investigation of complaints and contribute to the culture of impunity.²⁴

²² Masudi, Jawed Aziz, and Nasir Mustafa. "Policing in Pakistan: A Comprehensive Study of Law Enforcement Practices and Challenges for Reform." *Pakistan Journal of International Affairs* 6, no. 2 (2023).

²³ Sharmeen, Haiqa. "Mitigating White-Collar Crime in Emerging Economies: A Case Study of Law Enforcement Agencies in Pakistan." *International Journal of Applied Business and Management Studies* 9, no. 1 (2024): 28-41.

²⁴ Imam, D. S. "Community Policing: An Innovative Approach for Effective Law Enforcement." *Journal of Law & Social Studies* 4, no. 1 (2022): 30-44.

The widespread powers of arrest and detention granted to law enforcement agencies under the Code of Criminal Procedure 1898 (CrCP) also contribute to the challenges. These powers can be misused to detain individuals arbitrarily and subject them to torture and ill-treatment. This misuse of power can undermine the effectiveness of the Act and contribute to the culture of impunity. These factors significantly impact the effectiveness of the Torture and Custodial Death (Prevention and Punishment) Act 2022. Addressing these challenges require concerted efforts from all stakeholders, including government agencies, civil society organizations, and international partners. It is crucial to ensure that the Anti-Torture Law is not just a piece of legislation but a tool for change that can help to eliminate torture and ill-treatment in custody in Pakistan. The Act necessitates the training of law enforcement officials to ensure they understand the provisions of the law and the consequences of its violation. This includes training on the humane treatment of detainees, the rights of individuals in custody, and the legal procedures for dealing with suspects. However, the effectiveness of this training is contingent on the resources allocated for it, the quality of the training provided, and the willingness of law enforcement agencies to implement what they have learned.²⁵

The Act also calls for the monitoring of detention centers to prevent instances of torture and ill-treatment. This involves regular inspections of these facilities to ensure they comply with the standards set out in the Act. However, the effectiveness of this monitoring is dependent on the independence and impartiality of the monitoring bodies, their access to all areas of the detention centers, and their ability to speak privately with detainees. Under the Act, complaints of torture and ill-treatment are to be investigated promptly and impartially. The Act stipulates that the Sessions Court direct for an investigation to be conducted and the report submitted within 15 days. The Sessions Court hear the complaint on a daily basis and announce a verdict within 60 days. However, the effectiveness of these investigations is contingent on the independence of the investigators, the protection of complainants and witnesses from reprisals, and the willingness of the authorities to hold perpetrators accountable.²⁶

The effectiveness of the mechanisms outlined in the Torture and Custodial Death (Prevention and Punishment) Act 2022 in Pakistan can be evaluated based on several factors. The effectiveness of training programs for law enforcement officials can be measured by the decrease in reported instances of torture and ill-treatment in custody. However, despite the Act's provisions for training, reports suggest that instances of torture and ill-treatment continue to occur. This indicates that the training may not be adequately address the issue or that it is not being implemented effectively across all law enforcement agencies. The Act calls for regular inspections of detention centers to ensure compliance with its provisions. The effectiveness of this monitoring can be gauged by the conditions in these centers and the treatment of detainees. However, reports suggest that conditions in many detention centers remain poor, indicating that the monitoring mechanism may not be functioning as intended. The Act stipulates that complaints of torture and ill-treatment should be investigated promptly and impartially. The effectiveness of these investigations can be measured by the number of cases in which perpetrators are held accountable. However, many instances of

²⁵ Bibi, Salma, Asma Maryam, and Azmeena Mustafa. "The Police Culture in Pakistan; An Ethical Evaluation." *Review of Education, Administration & Law* 6, no. 2 (2023): 579-592.

²⁶ Aqeel, Wasiq B., Areeba Shahbaz, Tansif Ur Rehman, and Abdullah Nawaz. "Prospects and Barriers of Witness Protection Laws in Pakistan." *Human Nature Journal of Social Sciences* 5, no. 2 (2024): 91-103.

torture and ill-treatment go unpunished, suggesting that the investigation mechanism may not be effective in ensuring accountability.²⁷

In conclusion, while the Torture and Custodial Death (Prevention and Punishment) Act 2022 has brought about significant changes in the training of law enforcement officials, monitoring of detention centers, and investigation of complaints, the effectiveness of these measures is dependent on various factors. These include the resources allocated for training and monitoring, the independence and impartiality of monitoring bodies and investigators, and the willingness of the authorities to hold perpetrators accountable while the Torture and Custodial Death (Prevention and Punishment) Act 2022 has brought about significant changes in the training of law enforcement officials, monitoring of detention centers, and investigation of complaints, its effectiveness is undermined by various challenges. These include a lack of awareness among law enforcement officials and the public, inadequate resources for training, monitoring, and investigations, and a culture of impunity. Addressing these challenges require concerted efforts from all stakeholders, including government agencies, civil society organizations, and international partners. It is crucial to ensure that the Anti-Torture Law is not just a piece of legislation but a tool for change that can help to eliminate torture and ill-treatment in custody in Pakistan.

Conclusion and Recommendations

The Torture and Custodial Death (Prevention and Punishment) Act, 2022 of Pakistan is a significant piece of legislation aimed at protecting rights of individuals in custody. However, to enhance its effectiveness, several measures could be considered. Firstly, regular training and awareness programs for law enforcement officials about the provisions of the Act and the severe consequences of violating it could help in reducing instances of custodial torture. Strict implementation of the Act is also crucial. Any violation of the Act should be dealt with promptly and effectively, with punishments severe enough to act as a deterrent for others.

The establishment of an independent monitoring body could also be beneficial. This body, tasked with overseeing the implementation of the Act, should have the power to investigate any complaints of custodial torture and take necessary action. Support for victims is another critical area. Adequate support mechanisms, including legal aid, medical assistance, and psychological counseling, should be in place for victims of custodial torture. Furthermore, victims should be compensated for the harm suffered. Transparency and accountability in the functioning of law enforcement agencies are essential. Any instances of custodial torture should be made public, and the officials involved in such acts should be held accountable for their actions. Legal reforms could also enhance the effectiveness of the Act. The definition of torture could be broadened to include mental torture, and the Act should provide for the protection of witnesses and victims. Public awareness campaigns about the Act could inform the public about their rights and the remedies available in case of violation of these rights. Lastly, cooperation with international bodies working in the field of human rights could help in sharing best practices and improving the implementation of the Act. These recommendations, if implemented effectively, could significantly enhance the effectiveness of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 in preventing custodial torture and protecting the rights of individuals in custody.

In conclusion, the Torture and Custodial Death (Prevention and Punishment) Act, 2022 of Pakistan is a significant step towards safeguarding human rights and preventing custodial

²⁷ Khan, Muhammad Atique, Nasim Khan Mahsud, and Nudrat Mushtaq. "An Analytical Exploration of Finding out Effects of Reinforcing Factors on Human Trafficking in Pakistan: Perspective of Law Enforcement Officials and Lawyers in Twin Cities of Rawalpindi and Islamabad." *Russian Law Journal* 11, no. 4 (2023): 811-818.

torture. However, like any piece of legislation, there is always room for improvement. The proposed amendments aim to strengthen the Act's provisions and make it more effective. By broadening the definition of torture, providing stronger protections for witnesses and victims, establishing an independent oversight body, mandating reporting, strengthening penalties, creating a victim compensation fund, and conducting regular audits and reviews, the Act can be more robust and comprehensive. These amendments, if implemented, could significantly enhance the Act's effectiveness in preventing and punishing torture and custodial death, thereby upholding the dignity and rights of individuals in custody.

The Act currently focuses on physical forms of torture. However, torture can also be psychological or emotional. Amending the Act to include these forms of torture would cover a wider range of human rights abuses. This could include acts such as prolonged solitary confinement, intimidation, and other forms of mental distress. Witnesses and victims often face threats and intimidation, which can prevent them from coming forward or testifying. The Act could be amended to provide stronger protections for these individuals. This could include measures such as witness protection programs, anonymity provisions, and legal protections against retaliation. The establishment of an independent oversight body could ensure impartial investigations into allegations of torture. This body should be independent of the police and other law enforcement agencies to prevent conflicts of interest. It should have the power to conduct unannounced inspections of detention facilities, investigate complaints, and hold violators accountable. A provision for mandatory reporting could be added to the Act. This would require any law enforcement official who suspects or witnesses an act of torture to report it to the appropriate authorities. This could help to prevent cover-ups and ensure that instances of torture are properly investigated.



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