

**Prisoners' Right to Fair Justice, Health Care and Conjugal Meetings:
An Analysis of Theory and Practice
(A case study of the selected jails of Khyber Pukhtunkhwa, Pakistan)**

Rais Gul¹

Abstract

Imprisoned people are deprived of their liberty, yet they are human beings entitled to well-defined human rights, recognized on international level, regional levels and enshrined in the legal statutes of nation-states.

This paper is aimed at exploring the massive gap between theory and practice in terms of prisoners' rights to fair justice, conjugal meetings and proper health care with special focus on jails in Khyber-Pukhtunkhwa, Pakistan. Seven jails of the province were purposively selected. Of all seven jails, 250 prisoners were randomly selected and interviewed. Other key respondents who were interviewed included six **jail officials** and five **former prisoners**. The study was based on **Concurrent Triangulation** (Mixed Methodology) technique.

It was concluded that prisoners are denied there legally guaranteed rights, i.e., conjugal meetings, swift and fair justice and proper health care. In this study, for instance, more than 85 % inmates revealed that their jail had no proper space to ensure conjugal meetings, 51.2% disclosed that they were denied fair and swift trial, while 46.8% and 92.8% unveiled that they had no access to doctors and psychiatrists respectively. Moreover, it was found that prisoners once deprived of these rights, are less likely to play a law abiding and contributory role in the after-release life. It is, therefore, recommended that Pakistan, being a signatory to all the International covenants on prisoners' rights and having its own Constitution and Prison Rules which safeguard prisoners, must put all the rights of the caged people into practice, so as to enable its prisons to work as correction centers.

Key words: Prison, Prisoners, Rights, Conjugal, Fair justice, Health, Reintegration, Rehabilitation

¹ Lecturer in Sociology, Islamia College, Peshawar, KP

1. Introduction

1.1. Prisoners' Rights to communicate with outside world

The rights prisoners are legally entitled to; also include their healthy ties with the liberal world around them. For instance, it was revealed by UNODC (2006) in the light of the Standard Minimum Rule (henceforth SMR), Rule 61 & 80 that under-custody people enjoy the rights to be in touch with their friends, relatives, and supporting agencies. Moreover, Principle 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment clarifies that prisoners are to be provided easy access to their lawyers. Likewise, Lawyers Committee for Human Rights (2000:10) disclosed that incommunicado state of incarceration is repugnant to international norms safeguarding the rights and wellbeing of the inmates. Furthermore, Principles on Detention or Imprisonment, principal 19, demands that as per the law, prisoners are to be checked-up medically by the doctors of their choice. It is also disclosed by the committee, citing SMR Rule 6 and Rule 92 that the pre-trial prisoners are to be freely visited by their kith and kin. Moreover, SMR, Rule 38 lays down that prisoners captivated in foreign jails have the rights to be accessed to, by the diplomats of their respective countries. Even prisoners having refugee status are allowed to have contact with the diplomatic representatives of their states, or any regional, national or international agency looking after their interests. So much so, that the prisoners' wish to be detained in the jails near their homes would be honored to the maximum (United Nations Office on Drugs & Crime, 2006: 11). Similarly, United Nations (2005: 11) lays down, referring to Principles on Detention or Imprisonment, principle 12 and Principles on Summary Executions, Principle 6 that family members and diplomatic representatives wanting to know the whereabouts and condition of the inmates should be facilitated. Worth mentioning is what Hairston (1991) revealed that the advantages of the desired ties with outside people, as endorsed by empirical outcomes of various research studies, include lower ratio of reoffending, sound mental health of the prisoners as well as their families, and the strong likelihood of reorganization of the family life after-release.

1.2. Conjugal Meetings and Their Utility

Thompson & Loper (2006) describe that conjugal visits within prisons refer to interaction of male and female with their consort having no restrictions to do any legal act, they desire for. Literally, the term conjugal applies to the widely accepted inborn

rights of spouses to have association with each other, organize familial life together as well as enjoy intimate sexual relationship (Hensley, Rutland & Gray-Ray, 2002). However, conjugal visits are yet to be put into practice by majority of the countries. Currently, Australia, Canada, Denmark, Germany, Israel, Mexico, India, Jamaica, Pakistan, Saudi Arabia, Spain, United Kingdom and some states of the USA, namely, Connecticut, New York, California and Washington have legally recognized these visits. Also, in some countries, these rights are granted as a special package subject to the prisoners' good demeanor (Temitayo, 2018; Correctional Service of Canada, 2002; Wyatt, 2005). Research studies have linked conjugal visits to positive changes in the behavior of inmates during custody and after release (Tewksbury & DeMichele, 2005). These visits are very helpful to overcome sexual and non-sexual violence. Moreover, they make family and marital bonds sound and stronger (Turner, 2000). In this regard, the findings of D'Alessio, Flexon & Stolzenberg (2012) also show that the states where spousal meetings within jails are arranged have experienced very rare cases of violent sexual offences and vice-versa. In **Pakistan**, as per the Supreme Court order passed on 6th April 2010, prisoners are to be provided with opportunities of conjugal relationships inside prisons. In compliance with this order, the Sindh Home Department allowed convicted inmates' meetings with their spouses for one day or night in 3 months. In the light of the facts stated above, we can say that prisoners' having conjugal meeting opportunities have been proved to be more rules-abiding during captivity, that they are more likely to be rehabilitated successfully in the post-release life and that the prison regimes can better realize the goal of prisoners' rehabilitation by granting them more opportunities of conjugal meetings (Temitayo, 2018).

1.3. Prisoners' Right to Health Care

Health rights are recognized even for those prisoners who belong to the enemy camps. For instance, Geneva Convention's Article 13 states that torturing war prisoners is against the established legal principles. Article (15) of the Third Geneva Convention lays open that the detaining forces are bound to take care of all the medical needs of the incarcerated one. Its Article 19 ensures that war prisoners are to be accommodated in the settings where they are fully protected from dangers of all sorts and their health requirements would be met in the light of its Article 20. With a view to minimizing the risk of illness, sanitary conditions in jails would be ensured. Moreover, Articles 30, 31 & 32 emphasize that mental and physical health of the

prisoners is to be safeguarded at all cost (International Committee of the Red Cross, 2012). Similarly, SMR, Rules 21, 22, 24, 25, 26, 82(1) and 82(2) safeguard the rights of the inmates encapsulated as under.

Prisoners are entitled to the highest attainable standard of health; hence they are to be medically examined on their reentry to the jails. Only a competent Medical Board has the right to take necessary steps with regard to the prisoners' health condition. Prison settings will be monitored by the medical officer concerned so as to ensure that all the requirements in respect of the prisoners' health are fulfilled. He will, moreover, ensure that the food, drinking water, accommodation, lighting, heating, clothing, bedding and ventilation are in line with the set international standards. Likewise, medical staff along with health facilities must be in place in every prison and the chronically ill prisoners are to be shifted to the specialized hospitals outside. The mentally ill prisoners should be separated and shifted to mental institutions to be properly treated there. Also, prisoners will get at least one hour to do physical exercise. United Nations Office on Drugs & Crime (2006: 8) regulated, in the light of various SMR rules, that the medical officer on duty in prison should have some knowhow of psychiatry as well. Besides, every prison should have one dental officer. Pre-natal and post-natal requirements of female prisoners should also be in place. The pregnant women have the right to be shifted to civilian facilities. International Asia Crisis Group (2011: 8) laid down, in the context of Pakistan's Jail Manual, that a senior Medical Officer, assisted by other officers will safeguard the medical rights of the prisoners. The officers concerned will be on duty round-the-clock in Central Prisons and First-class District Prisons and part-time in other jails. These officers will weekly examine every nook and corner of the jail to ensure that nothing harmful to the health of the prisoners exists there. Furthermore, they will visit every sick prisoner on routine basis and would refer to the hospital anyone of the inmates suffering from serious illness. There should be at least one or more full-time Junior Medical Officers in each prison. Similarly, Law and Justice Commission of Pakistan (1997) described that prisoners suffering from any disease must be thoroughly examined by Prison's Medical Officer in order to better decide where to treat him/her. Every prison should have a hospital within its premises. The court will be informed, if an under-trial inmate has any illness. The seriously ill prisoners will be shifted to the outside civil hospitals.

1.4. Prisoners' Rights to Fair Justice

Sparks and Bottoms (1995: 60) state: "...every instance of brutality in prisons, every casual racist joke and demeaning remark, every ignored petition, every unwarranted bureaucratic delay, every inedible meal, every arbitrary decision to segregate or transfer without giving clear reasons, every petty miscarriage of justice, every futile and inactive period of time – is delegitimizing".

Various clauses of Article 9 of ICCPR state that arbitrary arrest has no room in the law, that liberty can only be restricted on logical lawful grounds, that the arrestee should be informed of the reasons and the charges against him/her and that he/she must be produced before the judicial authority and need to be tried within a reasonable time or otherwise released. A person under-trial will be kept in jail. However, their release will be based on their assurance to appear for trial on the dates fixed for hearing. Moreover, a person arrested will be produced before the court as speedily as possible and will be released if his detention is found to be unlawful. The affectees of the illegal arrests have the right to be compensated for the damage done to their name, fame, time, family and social status, etc. United Nations (2005) has laid down a range of international provisions with respect to prisoners' right to fair justice, encapsulated herein. Every individual will be treated as innocent until proven guilty according to UDHR, Article 11; ICCPR, Article 14, Para. 2; Principles on Detention or Imprisonment, Principle 36; SMR, Rule 84 (2). Detained people would have no obstacles in their way to communicate with their legal representative as per UDHR Article 11; ICCPR, Article 14 Para 3 (b) and (d); Principles on Detention or Imprisonment, Principles 17 and 18; SMR, Rule 93. The detention detail of untried prisoners must be shared with their families and their communication with the families and friends will be facilitated to the maximum as endorsed by Principles on Detention or Imprisonment, Principle 16 Para 1; SMR, Rules 44 (3) and 92; Declaration on Enforced Disappearance, Article 10, Para 2 Principles on Summary Executions. Prisoners having pre-trial-status are entitled to appeal to a judicial/impartial authority and to challenge the legality of their detention as guaranteed by Tokyo Rules, Rule 6.3. Pre-trial prisoners and those in custody without charge must be housed in facilities, where they feel protection, described by SMR, Rule 95. The Constitution of the Islamic Republic of Pakistan (1973) has guaranteed the rights of the prisoners thus:

"Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of

such arrest (Article 10 (1) and (2)). The dignity of man and, subject to law, the privacy of home, shall be inviolable. No person shall be subjected to torture for the purpose of extracting evidence (Article 14 (1) & (2)). Likewise, Article 14 reads: "When a person is confined in accordance with law, the conditions of the confinement ought to meet the requirements as are inevitable for treatment conforming to the norms of humanity and for the purposes of upholding the dignity".

2. Methodology

In this study, Mixed Methodology has been used to achieve the objectives. Moreover, it represents the case study of Khyber-Pakhtunkhwa (henceforth, **KP**) Pakistan jails. Case study is chosen in order to have a clear and vivid picture of the topic under investigation and for the best comprehension of the social situation (Gall, Borg & Gall, 1996). According to Robson (2002: p.146), case study is characterized by an empirical examination of a contemporary issue into its real life settings applying different sources of data. **Seven Jails** within KP province of Pakistan, one jail each, in all the seven administrative divisions, were purposively selected. So, the four central prisons ---Peshawar, Bannu, Haripure, DI Khan and three district prisons --- Temargara, Mardan and Kohat --- were selected. Of all the 261 respondents, 250 prisoners (under trial and convicted adults and male juveniles) were randomly selected from among the seven jails and interviewed through semi-structured questionnaire. The remaining 11 key respondents, including six jail officials and five ex-prisoners were purposively selected and interviewed through interview-guide. Researcher's own observation was also part of the study. Concurrent Triangulation technique was applied to collect and analyze the data. To put simply, Concurrent Triangulation method is a suitable way of combining qualitative and quantitative approaches in order to confirm, cross-validate and corroborate findings within a single study (Creswell *et al.*, 2003).

3. Results and Analysis

3.1. Observance of Prisoners' Rights at a Glance

Regarding prisoners' rights, the superintendent of District Jail *Mardan*, disclosed that all prisoners at his jail were granted their well-defined rights grounded in International Law, Constitution of Pakistan and the Islamic Shariah. Besides, he told that, these rights were clearly enunciated in the Jail Manual of Pakistan and they left no stone unturned to implement them in latter and spirit (Interview with S. Khan, 8th May 2014). The employees of the Jail Department stated that, due to judicial activism, the jails in the province were frequently visited by the judges of High Court, which had made the situation far better than it was in the past. It was, however, observed that they were not telling the whole truth and that they were deliberately concealing the ground realities to avoid the wrath of their high-ups. But once they were assured that the research was only an academic activity and that their identity would not be disclosed, some of them revealed that they earned their livelihood through their jobs and, therefore, it would be an uphill task for them to expose their own machination (Interview with jail officials, May 2014). Some of the employees expressed the apprehension that if they dared to expose the factual condition of the jail and went against the official version; they would have to face the music in terms of degradations, demotions and other penalties. Unfortunately, this mindset is deeply-rooted in Pakistan (Personal Observations May 2014). It was stated, for example, by another prison official that they were unable to transgress their limits because they received their perks and privileges from the Prison Department, unlike the researcher who would leave once the interview was over (Interview with Prison officials, May 2014). Yet, another official disclosed that they were like caged prisoners, shackled mentally. (Interview with Jail officials, September 2014). In contrast to the views of the jail officials, **ex-prisoners** presented a very gloomy picture. For example, one of the ex-prisoners, in his thirties, expressed that "**SAB ACCHA (everything is ok)**" is the oft-repeated chorus of jail officials, that the prisoners were told to remain mum and be tight-lipped and to willy-nilly bear the prevailing situation. (Interview with S. Fida, 4th November 2014). Another educated ex- prisoner divulged that '**Might is Right**' law prevails within their jails. The Prison Rules, he opined, were rooted in the colonial era; hence obsolete. He further stated that Pakistan had given commitment to the world by signing with the UN various protocols regarding human rights and the rights of the prisoners. However, these laws are rarely implemented and often ignored

(Interview with ex-prisoners, 10th August 2014). Narrating his personal experience, a former prisoner from Mardan disclosed that one day he fell seriously ill, but he was provided no treatment at all, thanks to the inhuman regime of the prisons. Jails were plagued by mental and physical diseases, but prisoners had no remedy available to them. They were like caged birds, viciously treated. (Interview with M. Khan, 18th August, 2014). Findings of other studies are not much different from the views of the release jail birds. For instance, Ibrahim (2015) revealed that poor physical conditions, lack of access to medications, sanitations and the culture of torture reflect that prisoners' rights have no significance and value in Pakistan prisons. Zubair & Khattak (2014: 122) unveiled that the rich one and those having political clout get illegal favors in Pakistan and the basic rights of the inmates are disregarded at every step, thanks to the failed criminal justice system. Malik & Sherazi (2010) disclosed that even children are denied their rights to education, health care, recreation, safety and security, respect and dignity in Pakistani jails. Roth (2006) described that Prison Rules, which are supposed to regulate Pakistani jails, are yet to be implemented in latter and spirit. Sumera (2010) states that the plight of the prisoners in Pak jails corroborate the facts that prisoners' rights are flouted audaciously.

3.2. Practices of Conjugal Rights within Jails

Table (see Annexure A) shows the extent to which conjugal rights of the prisoners are intact in KP jails. Conjugal ties mean relationship with the close family members; more specifically spousal meetings enabling intimate sex between life partners (see Thompson & Loper, 2006; Hensley, Rutland, & Gray-Ray, 2002). These spousal meetings inculcate a sense of optimism into the prisoners, which further pave their ways to a successful reintegration. That is why; separate settings inside jails are supposed to be reserved for the spousal/conjugal meetings ensuring complete privacy. Equally important to note is the fact that when conjugal rights are denied to the prisoners, they are likely to resort to violent sexual behavior such as homosexuality, sometimes even against their will. Therefore, many reports have identified the widespread practice of sexual abuse, particularly among young inmates, to be epidemic in the jails. This further leads to fatal diseases such as HIV/AIDS etc. A recent incident of juvenile sexual abuse in Central Jail Peshawar, for instance, might be a robust manifestation of denying this right. The judicial investigation revealed that 32 juvenile prisoners' claim that they were sexually abused by the adult prisoners due to the connivance of prison officials in the Central Jail, Peshawar, was absolutely correct (Anjum, 20th December 2015). Parek (1999:2) also unveiled that, along with

other inhuman practices, juvenile were vulnerable to sexual assaults throughout their detention period. It may be noted that the Supreme Court of Pakistan has safeguarded and emphasized on the implementation of conjugal rights of the inmates in all jails of the country (see Mansoor, 8th May 2010; Temitayo, 2018). Moreover, a committee formed by the Federal Ombudsman, in order to fix the broken and failed prison system of Pakistan, strongly recommended that the spousal meeting in complete privacy should be put into practice (Federal ombudsman of Pakistan, 2015). Also, worth noting is the fact that, around the globe, this right is legalized and institutionalized considering its positive impacts on the personality of a prisoner. (see Palmer, 2015; Correctional Service of Canada, 2002; Wyatt, 2005).

A large number of inmates, i.e., 213 out of 250 (85.2%) responded that they had no proper settings for holding conjugal/spousal meetings. While, 37 (14.8%) disclosed that they did have settings for the same. The Jail officials, in this regard, stated that although, in a few jails, there were special quarters to facilitate the spousal meetings, but due to overcrowding prisoners are housed therein. The rebuilding and renovation work in some jails, which was in progress, was described as a hindrance in the way of spousal meetings. This situation has made prisoners disconnected with their spouses, offspring and near and dear ones, resulting in the psychological disturbances of the inmates. (Field Observations May 2014). It is therefore, concluded that to address psychological vulnerability, which is one of the leading causes of failed reintegration among the prisoners, conjugal meetings are to be facilitated to the maximum (see for instance Tewksbury & DeMichele, 2005; Turner, 2000; D'Alessio, Flexon & Stolzenberg, 2012). But, ironically, as Niazi (2016) unearthed, in Pakistani jails, even routine meetings of family members with prisoners are hindered deliberately by the staff not to talk of these people facilitating spousal/conjugal meetings in the desired settings.

3.3. Views of prisoners on their Judicial Proceedings

Majority of the prisoners (see **Table 1: Annexure A**), i.e., 128 (51.2%) revealed that they were not getting swift and fair justice. While, on the other hand, 122(44.8%) expressed their satisfaction. Most of the prisoners were greatly disappointed with the way judiciary process was heading. Among the prisoners, one namely Khan Niaz from Bannu Jail complained that he was not being released despite the fact that he had already completed his due sentence and that he was being unduly kept in the jail which was causing him growing tension and stress, both physically and mentally

(Interview with a prisoner, 13th May, 2014). Another prisoner from the Central Jail Peshawar by the name of Obaidullah, stated that money played a decisive role in the dispensation of justice. He explained that he was unjustly incarcerated in a murder case, and relying on judiciary, he had voluntarily appeared before the Honorable Court. He, however, regretted that his case had been lying in the cold storage for the last 15 months (Interview with a Prisoner, 27th May 2014). International Crisis Group Asia Report (2010:12) certifies the concern of the detainees by revealing that the politically and financially sound often escape punishment. The report further states that the vulnerable and marginalized segments of the society have been jailed for years on fabricated charges, which is a mockery of justice. Worst of all is that some authoritative people favored extra judicial killings and detention, citing the current situation of Pakistan. Hamidullah, 39, from Bannue Jail shared that he had been kept imprisoned for the last 4 long years without his trial starting in the High Court. He regretted that after such a long traumatic period of wait his case was sent back to the Session Court to be reviewed, for session court had passed an incomplete verdict. His fate, he opined, was yet to be decided (Interview with a prisoner, 13th May, 2014). Hence, the findings of the International Crisis Group Asia (2011: i) validate that long detentions without trials and unsystematic herding of misdemeanors and felons is an established phenomenon in Pakistani jails. Khan (10th September, 2015) highlighted the remarks of the outgoing Chief Justice of Pakistan in his farewell address to the Full Court on 9th September, 2015, saying that the judicial system had badly failed in the dispensation of cheap and speedy justice to the masses in contrast with Article 37(d) of the Constitution of Pakistan. Dawn (2016, 26th November) unveiled that Mazhar Farooq, a death-row convict was proclaimed to be innocent by the Supreme Court of Pakistan after having been kept in jail for almost 24 years. Similarly, in October 2016, the Apex Court acquitted two brothers, Ghulam Sarwer and Ghulam Qadir, in a 2002 murder case. But shockingly, it came to the light that they both had already been executed in the Central Jail, **Bahawalpur**, in October 2015. Considering both these cases, characterized by chronic delays, one can easily understand that judicial system of Pakistan is inefficient and flawed. It may be mentioned here that, the victims of the failed criminal justice system, i.e., wrongfully incarcerated and convicted or tortured don't get any compensation in the existing CJS of Pakistan, disregarding Article 9 of ICCPRP². The affectees of the system may lose family,

² Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation"

friends, freedom, property, jobs and reputation, but, ironically, they get no compensation for all the afore-mentioned damages (Qayum *et al.*, 2016). In addition, Human Rights Commission of Pakistan (2013) published that many under-trial prisoners have been jailed for several years without being convicted. Rehman (8th August, 2011) revealed that 927438, 99981, 99511 and 7383 cases were pending in the Punjab, Sindh, KPK and Balochistan's lower courts respectively by August 2011. International Crises Group Asia (2011) reports divulged the unfortunate fact that, 10 to 20 years is the likely duration of the civil cases to be decided, while criminal cases would probably be decided within a span of five years. International Crisis Group Asia (2010) hence, highlighted that 80% of prisons' population in Pakistan is under-trial. Similarly, the Government of Khyber Pakhtunkhwa (2014:29) admitted that 63% of the jailbirds are yet to be convicted in the KP jails. Slow trial process, coordination challenges, bail and non-custodial provisions in law and dysfunctional and outdated parole system are the obvious causes of the flawed system, as per the official findings. Likewise, International Crisis Group Asia (2010) uncovered that, in the face of overburdened judiciary there were 177,000 cases in the state of pendency in the superior courts, i.e., Supreme Court, the provincial High Courts and the Federal Shariat Court; and more than 1.3 million in the subordinate judiciary. Moreover, the Armed Forces of Pakistan are transgressing their legal powers when it comes to the rights of the detainees. As an example, a report by Dawn (21 April, 2011) can be cited, which revealed that the Inter-services Intelligence (ISI) Directorate, on 29th May 2010, took in custody, without legal authority, the eleven prisoners acquitted by the court from the Adiala Jail, Rawalpindi. This apart, Amin (28th September, 2010) unearthed that the Federal Attorney General of Pakistan admitted before the court that the Army had about 6,000 individuals under their detention. Ironically, the fate of the prisoners taken into illegal custody is still not known despite the numerous reminders and instructions of the Supreme Court of Pakistan (The News, 2013 December 3). Hence, the Justice Project of Pakistan (2016:7), disclosed that Article 14 of the Constitution of Pakistan, which safeguards the citizen's right to fair trial, is often disregarded. It is further revealed that 60% plus death row prisoners are likely to be innocent. Hence, Niazi (2016) rightly observed:

“Our corrupt, deteriorated and counterproductive prison system illustrates collapse of the rule of law and failure of criminal justice system. The dreadful injustices caused to poor and vulnerable inmates are never compensated; their life is anonymous and their voices are out of earshot, under such

circumstances, these fortified castles will only produce hardened criminals not rehabilitated individuals”.

3.3. Prisoners’ Health dilemma in jails

Table 1 (see Annexure A) exhibits the state of availability of health facilities in the prisons. As regards the availability of qualified doctors in prisons, 133 inmates, i.e., 53.2% replied that they had qualified doctors inside jails; whereas 117 prisoners, i.e., 46.8% respondents, denied the existence of qualified doctors in jails. Regarding the availability of a psychiatrist, an overwhelming majority of the inmates, i.e., 232 (92.8%) said ‘no’; whereas a microscopic minority, i.e., 18 (7.2%) replied in the affirmative. Surprisingly, the jail officials presented a rosy picture in this regard. For instance, Support officers to I.G Prison, KP, stated that, barring liberty, all other rights of the prisoners were honoured. Prisons, they said, had qualified doctors, psychiatrists and vocational trainings and food facilities, etc. Even female inmates were getting proper treatment for even minor ailments. Moreover, adequate nutritious food was provided to the patients of all the ages in consultation of their doctors. (An Interview with jail officials: 6th February, 2015).

Prisoners, however, depicted a gloomy state of affairs. Riaz, in his forties, from Peshawar Central Jail, stated that psychological services are denied to an affluent person in Pakistan, let alone prisoners in the restricted world. (Field Notes: 27th May, 2014). It was revealed by another educated prisoner that psychological services had been on the back burner in Pakistan jails since its inception. (Field Notes: 27th May, 2014). It is mandatory that Prison Management would medically examine the new prisoners. But, it was noted that the new prisoners were thrown behind bars without being medically checked-up. It is understood that diagnosing a prisoner properly would stop the spread of communicable diseases and would ensure timely treatment as well. (Personal Observation: May, 2014). Akhtar (2009:55) stated that everybody inside prison, irrespective of the nature of his illness, was treated with the same prescriptions by the name of No 25, No 28 & No 20. International Crisis Asia (2011) revealed that people in captivity didn’t get the required medical treatment. The report stated that Karachi’s Malir Jail had only 3 physicians for as many as 2,200 inmates. Furthermore, the number of prisoners who suffered from HIV/AIDS and scabies were 50 and 400, respectively. Likewise, 255, 1,979, 5,223 and 483 prisoners were found to be suffering from HIV/AIDS, Hepatitis B, Hepatitis C and tuberculosis in that order within the jails of Punjab Province. Shockingly, from October to December 2010, in the Jhang District Jail of Punjab, eleven inmates were reported to have died thanks to

the shortage of doctors. In Sindh province, it was stated by the IG Prison in 2011 that 34 doctors' and 11 dispensers' posts in the jails under his charge remained vacant. The jails, as revealed by the report, had no basic emergency care, and the inmates had to bribe in order to have medicines or a bed in the hospital (p.14). Similarly, Ghyyasi (14th February, 2016) exposed the situation in the KP prisons by saying that many posts of Medical Officers in the jails were yet to be filled. The Urdu Daily, *Mashriq* (2nd April, 2016) disclosed that, in 2016, the KP government allocated Rs 6.434 million to all the 22 jails of the province to meet the health needs of the inmates. Out of this peanut, every prisoner will get the meagre amount of Rs. 600, i.e., 5.72 US dollars annually for their overall health needs. It was further stated that in Central Jail Bannu, District Jail Kohat, District Jail Daggar, District Jail Mansehra, Judicial lock up Malakand, Sub Jail Daso and Sub Jail Charssada, prisoners are short of the basic medicine, while in the Central Jail D I Khan, Sub Jails Lakki Marwat, Chitral and Dir Upper, the Judicial lock up Tank and the District Jail Temergara, only the first aid treatment is available; and, in case of emergency, there is very little that the prison administration can do. The Government of Khyber Pakhtunkhwa (2014:26) described that in the Central Jail Haripur and Mardan Prison, 1,937 and 510 prisoners are treated by 4 and 1 doctors, respectively. Moreover, there is 109 health care staff, including 27 medical officers, 10 psychologists and 82 paramedics for the total 8,901 inmates in the entire province. Hence, it may be rightly stated that Pakistan and KP jails are far from the standards set by the international laws and Pakistan's own Prison Rules.

4. Conclusion and Recommendations

The above findings reveal the fact that Pakistan's prisons present a gloomy picture in terms of prisoners' rights to conjugal meetings, fair justice and healthcare. Despite Supreme Court's Order to facilitate conjugal meetings, prisoners remain deprived of this right. Prisons don't have proper infrastructure to arrange such meetings. Denying prisoners conjugal meetings negatively affect them, increasing their frustration, pessimism, anxiety and the resulting sexual violent behaviour. Homosexuality in jails is a natural outcome of the denial of conjugal rights to the prisoners. These negative personality traits hinder their successful reintegration into the society on their release. Moreover, prisoners' health needs are also not met satisfactorily. Prisons lack the required number of qualified doctors and psychiatrists. Prisoners are not medically examined on their entry to the prisons nor do they get periodic check-ups. Therefore, the spread of communicable diseases is very high inside jails. Psychiatric services

are yet to be provided to the inmates within Pakistan and the KP jails. Moreover, justice delayed is justice denied is true in the case of Pakistani jails. Only the mighty few get the extra favour, while the huge numbers face tremendous hardships. They languish in the prisons for years without their trial being started. Sometimes they are declared innocent only when they have served lifelong or a good time in jail. Extra-judicial arrests, killings and torture are also an open secret making mockery of the right to fair trial and justice. Ironically, the affectees of the failed criminal justice system are not compensated for the damage done to their reputation, time, family life and money, etc. In the face of this situation it is, therefore, suggested that theoretical and legal provisions (International norms, Pakistan Constitution and Prison Rules) which safeguard prisoners' rights must be translated into action. Government commitment to prioritize prison reforms, revisiting its colonial-inherited criminal justice system and abiding by the internationally recognized norms would make our prisons compatible with the theoretically and legally set objectives, i.e., prisons should serve as rehabilitation centers.

Table 1: Primary Data Related to Conjugal, Fair-Justice and Health-Care Rights of the Prisoners (Annex A)

Statements	Response		Total
	Yes	No	
Jail has proper infrastructure to facilitate conjugal meetings	37 (14.8%)	213 (85.2%)	250100%
Prisoners are satisfied with their judicial Proceedings	122 (48.8%)	128 (51.2%)	250100%
Doctors Availability	133 (53.2%)	117 (46.8%)	250100%
Psychiatric availability	18 7.2%	232 92.8%	250 100%

References

- Akhtar, H. (2009). *Kal Kotri*. Lahore: Book Home Pakistan.
- Amin, A. (2010, September 28th). Peshawar high court puts military officers on notice in missing persons' case. *The Daily Times Pakistan*
- Anjum, S. (2015, December 20). Jails, safe heavens for the criminals. *Daily Aaj Peshawar*
- Justice Project Pakistan (2016). *Pakistan: Alternative report to the human rights committee*. World Organisation Against Torture
- Correctional Service of Canada. (2002). *Private family visits: Standard operating practices*. Retrieved from <http://www.csc-scc.gc.ca> on 14th August 2016
- Creswell, J. W., Plano Clark, V. L., Gutmann, M., & Hanson, W. (2003). *Advanced mixed methods research designs*. In A. Tashakkori & C. Teddlie (Eds.), *Handbook of mixed methods in social and behavioral research*. Thousand Oaks, CA: Sage.
- D'Alessio, S. J., Flexon, J., & Stolzenberg, L. (2013). The effect of conjugal visitation on sexual violence in prison. *American Journal of Criminal Justice*, 38(1), 13-26
- Daily Mashriq (2016, 2nd April). Only 600 rupees are to be spent on the treatment of each Prisoner annually. *Islamabad*
- Dawn (21st April, 2011). LHC seeks trial status of 11 detained men. *Islamabad*
- Dawn (26th November, 2016). Death-row convict found not guilty after 24 years. *Islamabad*
- Federal Ombudsman of Pakistan (2015). *Report of the National committee on prisons constituted by the Federal Ombudsman of Pakistan in the pursuance of the orders of the Honorable Supreme Court of Pakistan*. Islamabad: Wafaqi Mohtasib Secretariat.
- Gall, M. D., Borg, W. R., & Gall, J. P. (1996). *Educational research (6th ed.)*. NY: Longman Publishers.

Ghyyasi , A.N. (2016, 14th February). Prisons: Is there any Listener?. *Sunday Magazine Daily Aaj*

Government of Khyber Pakhtunkhwa (2014). *Annual report 2013-14*. Peshawar: Home Department Inspectorate of Prison.

Hairston, C. F. (1991). Family ties during imprisonment: Important to whom and for what?. *The Journal of Sociology and Social Welfare* 1(18) 87-104

Hensley, C., Rutland, S., & Gray-Ray, P. (2002). Conjugal visitation programs: The logical conclusion. In C. Hensley (Ed.), *Prison sex: Practice and policy* (pp. 143-156). Boulder, CO: Lynne Rienner

Human Rights Commission of Pakistan (2013). *Report on the status of the human rights*. Retrieved from <http://www.hrcp-web.org/hrcpweb/report14/AR2013.pd> on 29th January 2016

Ibrahim, N.Z. (2015). *Human rights abuses in Pakistan's prisons*. Human rights review University College Lahore & American Bar Association

International Asia Group Crisis Report. (2010). *Reforming Pakistan's criminal justice system report NO 196*. Retrieved from: <http://www.crisisgroup.org>

International Committee of the Red Cross (n.d). *Geneva convention, 1949*. Available at: <https://www.icrc.org>. Retrieved on 12th May 2016

International Covenant on the Civil and Political Rights of the Prisoners

International Crisis Group Asia.(2011). *Reforming Pakistan's prison system*. Retrieved from <http://www.crisisgroup.org/> on 30th January, 2016

Khan, S. (2015, September10th). People not getting speedy, inexpensive justice. *The News International Islamabad*.

Law and Justice Commission of Pakistan, (1997). *Jail Reforms Revised (Report 23, 1997)*. available at [www.ijcp.gov.pk/ Menu Items/publications/Report of the LJCP/Reports/73-89/80.doc](http://www.ijcp.gov.pk/Menu%20Items/publications/Report%20of%20the%20LJCP/Reports/73-89/80.doc)).

Lawyers Committee for Human Rights (2000). *What is a fair trial: A basic guide to legal standards and practice*. New York.

Malik M.A. & Shirazi, R.A (2010). An analytical review of Juvenile delinquents in jails of Sindh province: Some problems and suggestions to overcome. *Indus Journal of Management & Social Sciences*, 4(1):43-54.

Mansoor, A. (8th May 2010). Prisoners granted conjugal rights. *The Express Tribune Islamabad*

Niazi, A.S.H. (2016, December 8th). Prisons in Pakistan. *Pakistan Today*

Palmer, W.J. (2015). *Constitutional rights of prisoners*. London: Routledge

Parekh, V. (1999). *Prison bound: the denial of juvenile justice in Pakistan*. Human Rights Watch

Qayum, S., Farid, S., Shehzad, S., & Zhu, W. (2016). Shortcomings of criminal justice system of Pakistan and its effects on the rights of accused prisoner wrongfully convicted or imprisoned. *Journal of legal studies*, 18(32), 13-27.

Rehman, M. (2011, August 8). Backlog of over 1.35m cases 'haunts' the judiciary. *Pakistan Today*

Robson, C. (2002). *Real world research: A resource for social scientists and practitioner-researchers* (Second Edition). Oxford: Blackwell,

Roth, P.M. (2006). *Prisons and prison system: A global Encyclopedia*. London: Greenwood Press.

Sparks, R., Bottoms, A. E., & Hay, W. (1996). *Prisons and the problem of order*. Oxford: Clarendon Press.

Sumra, H.A. (2016, February 9). Mysterious deaths, suicides at jails more than double in 2009. *Daily Times Pakistan*.

Temitayo, B.H (2018). Conjugal rights of the prisoners: To be or not to be?. **Unilag Law Review** 21st January 2018

Tewksbury, R., & DeMichele, M. (2005). Going to prison: A prison visitation program. *The Prison Journal*, 85(3), 292-310

THE News International (2013, December 3rd). Status of 3 out of 33 missing persons known. *Islamabad*

Thompson, C., & Loper, A. B. (2006). Adjustment patterns in incarcerated woman: An analysis of differences based on sentence length. *Behavioral Sciences & the Law*, 32, 714-732

Turner, R. (2000). Sex in prison. *Tennessee Bar Journal*, 36(12), 26.

United Nations (2005). *Human rights and prisons: A pocketbook of international human rights standards for prison officials*. New York

United Nations Office on Drugs & Crime (2006), *Compendium of United Nations standards and norms in crime prevention and criminal justice*. New York: United Nation.

United Nations Office on Drugs & Crime (2009). *Handbook on prisoners with special needs*. UN.

United States (2012). *International prison condition*. New York: United States Department of State Bureau of Democracy & Human Rights.

United States Department of State. (2014). *Country reports on human rights practices*. <http://www.state.gov/documents/organization/204621.pdf>.

Wyatt, R. (2005). *Male rape in U.S. prisons: Are conjugal visits the answer?* *Western Reserve Journal of International Law*, 37, 579-614.

Zubair, M., & Khattak, S. (2014). Human rights violations in prisons and its reform from Pakistan's perspective. *Journal of Applied Environmental and Biological Sciences*, 4(10), 122-127.