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## Liberty vs. Procedure: A Critical Assessment of Prolonged Judicial Remand and Human Rights Infringements within Pakistan's Criminal Justice System

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### Abstract

The sanctity of individual liberty is a foundational tenet of both domestic constitutionalism and international human rights jurisprudence. However, in the legal landscape of Pakistan, pre-trial detention has transitioned from an exceptional procedural necessity into a pervasive mechanical practice. This study critically evaluates the systemic reliance on prolonged judicial remand, which frequently results in "punishment before conviction" for a vast population of under-trial prisoners, many of whom are ultimately acquitted. By synthesizing the protections offered under Articles 9 and 10A of the Constitution of Pakistan with international benchmarks, specifically Article 3 of the UDHR and Articles 6, 9, and 14 of the ICCPR, this research highlights a widening gap between statutory ideals and judicial realities. The analysis contends that current detention practices undermine the presumption of innocence and violate the right to a fair trial. The paper concludes by advocating for substantive institutional and legislative reforms to harmonize Pakistan's criminal justice framework with global human rights obligations, ensuring that liberty remains the rule and incarceration the exception.

**Keywords:** Pre-Trial Detention, Judicial Remand, ICCPR, Article 10A, Presumption of Innocence, Pakistan Criminal Justice.

### Introduction

Individual liberty is not a mere statutory privilege but an inalienable prerogative inherent to human existence, recognized by every civilized legal jurisdiction. It serves as the cornerstone of human dignity and the bedrock upon which social order and justice are constructed. Globally, criminal justice systems are anchored by the foundational maxim of Presumption of Innocence, which dictates that an accused individual remains innocent until a competent court establishes

guilt. However, the pervasive use of pre-trial detention (PTD) fundamentally challenges this doctrine, as it empowers the State to curtail personal freedom before any legal determination of culpability.

In the contemporary legal landscape of Pakistan, pre-trial detention has emerged as a critical human rights crisis. A disproportionate segment of the national prison population comprises "under-trial" detainees who have never been convicted of a crime. These individuals often endure years of incarceration due to systemic failures, including protracted investigations, inefficient prosecution, and an overwhelming judicial backlog. The gravity of this issue is compounded by the fact that even when an acquittal is eventually secured, the subsequent loss of liberty, social reputation, and psychological well-being remains uncompensated, as Pakistan currently lacks a statutory framework to address or rectify such grievances.

While international human rights jurisprudence treats pre-trial detention as a strictly justifiable exception, the Pakistani legal reality often utilizes it as a default procedural response, particularly in high-stakes or politically sensitive litigation. This article critically interrogates whether such a "mechanical" application of detention aligns with the constitutional mandates and international obligations pledged by the State.

### **Analytical framework**

The implications of pre-trial detention extend far beyond the corridors of procedural law; they resonate deeply within human lives, domestic stability, and the social fabric. Prolonged incarceration without conviction precipitates severe economic hardship for families, erodes personal reputations, and inflicts lasting psychological trauma upon detainees. Furthermore, the arbitrary use of detention undermines public trust in the judiciary and weakens the overarching Rule of Law.

Despite the severity of these consequences, Pakistan lacks a cohesive legislative instrument specifically designed to regulate pre-trial detention in accordance with global human rights benchmarks. Existing criminal procedural laws remain fragmented, and "special laws" frequently strip the judiciary of its discretionary power to grant bail. This study is academically and practically significant as it identifies critical legal lacunae and institutional deficiencies. By synthesizing constitutional law, international human rights standards, and domestic criminal procedure, this research aims to sensitize judges, legal practitioners, and policymakers to view pre-trial detention not merely as a procedural formality, but as a direct challenge to the fundamental rights of the citizen.

## **The Jurisprudence of Liberty: International Human Rights Standards**

### **The Universal Mandate of Individual Freedom**

Liberty is universally acknowledged as a foundational and inherent human right. The Universal Declaration of Human Rights (UDHR) affirms that every individual possesses the right to life, liberty, and personal security.<sup>1</sup> It strictly prohibits arbitrary arrest and detention while guaranteeing the right to an impartial trial. Although the Declaration was originally conceived as a non-binding instrument, its core principles have matured into widely accepted customary international law.<sup>2</sup>

The International Covenant on Civil and Political Rights (ICCPR) further fortifies the protection of personal freedom. Article 9 of the Covenant explicitly forbids arbitrary detention and mandates that any individual arrested must be brought promptly before a judicial authority.<sup>3</sup> It further guarantees the right to trial within a reasonable duration or, alternatively, release pending trial. These benchmarks are designed to ensure that incarceration does not devolve into a de facto form of punishment prior to a formal conviction.<sup>4</sup>

International jurisprudence has consistently reinforced the primacy of liberty. The European Court of Human Rights (ECtHR), in the landmark case of *Assanidzé v. Georgia*, ruled that continued detention devoid of lawful justification constitutes a grave infringement of human rights, subsequently ordering the state to provide compensation for the period of unlawful confinement.<sup>5</sup>

### **Conceptualizing Pre-Trial Detention: Purpose and Constraints**

Pre-trial detention (PTD) is defined as the custodial confinement of an accused individual during the pendency of criminal proceedings. Legally, its objective is strictly limited to facilitating the administration of justice. International standards recognize only a narrow set of justifications for such detention, specifically:

1. The risk of the accused absconding (flight risk).
2. The potential for interference with evidence or witnesses.
3. An immediate threat to public safety.<sup>6</sup>

International human rights law dictates a clear hierarchy: bail is the normative rule, and detention is the exception. The Presumption of Innocence becomes a hollow concept if the state routinely resorts to incarceration in a mechanical and arbitrary fashion.<sup>7</sup> In contrast, the judicial landscape in Pakistan often reflects a departure from these global norms.

Domestic courts frequently prioritize the gravity of the offense as the primary criterion for detention rather than assessing the actual necessity of incarceration. This practice essentially transforms pre-trial detention into "punishment before conviction," directly contradicting the constitutional guarantees and international covenants to which Pakistan is a signatory.

### **Constitutional Safeguards and Judicial Interpretations in Pakistan**

The Constitution of the Islamic Republic of Pakistan (1973) enshrines personal liberty as a fundamental, non-negotiable right. Article 9 mandates that no individual shall be deprived of life or liberty except in strict accordance with the law.<sup>8</sup> This is further bolstered by Article 10A, which constitutionalizes the right to a fair trial and due process, a provision that reflects Pakistan's high-level commitment to safeguarding individual freedom within its supreme legislative framework.<sup>9</sup>

The superior judiciary has consistently maintained that liberty cannot be curtailed through arbitrary or mechanical means. In the landmark case of *Asif Faseehuddin Khan v. Government of Pakistan*, the Supreme Court established that any state action depriving a citizen of liberty must satisfy a three-fold test of proportionality, necessity, and reasonableness.<sup>10</sup>

Similarly, the Lahore High Court, in *Khizar Hussain v. State*, observed that bail must not be withheld as a form of "pre-emptive punishment," nor should pre-trial detention be utilized to bridge the gaps created by a lethargic investigation or a weak prosecution.<sup>11</sup>

## Fundamental Rights and the "Basic Structure" Doctrine

Fundamental rights in Pakistan are viewed as inalienable and form an integral part of the Constitution's Basic Structure. The judiciary has increasingly recognized that these rights are so central to the democratic fabric of the state that they remain beyond the reach of even constitutional amendments.<sup>12</sup>

In *District Bar Association Rawalpindi v. Federation of Pakistan*, the Supreme Court affirmed that liberty and the right to a fair trial are core components of this basic structure.<sup>13</sup> These judicial advancements elevate the status of personal freedom, imposing a proactive duty upon the courts to shield under-trial prisoners from unwarranted or prolonged incarceration.<sup>14</sup>

## Historical Evolution: From Colonial Legacies to Pre-Arrest Bail

Historically, the concept of bail emerged as a democratic check against the state's potential for custodial abuse. Developed within common law jurisdictions, bail serves as a balancing mechanism between the state's authority to maintain order and the individual's right to freedom.<sup>15</sup>

Pakistan inherited its bail framework from the British colonial era. However, through judicial innovation, the Pakistani legal system developed the unique safeguard of pre-arrest bail (anticipatory bail) to protect citizens against malicious or politically motivated prosecution. This was famously articulated in *Hidayat Ullah Khan v. Crown*, where the Lahore High Court recognized pre-arrest bail as an essential tool to preserve human dignity and liberty.<sup>16</sup>

Despite these progressive legal milestones, the system remains plagued by an over-reliance on pre-trial detention. This is especially evident under special laws (such as anti-terrorism or accountability laws) that severely restrict judicial discretion in granting bail, creating a significant disconnect between lofty legal principles and the grim reality of the prison system.

## The ICCPR and Pakistan's International Obligations

The prohibition of arbitrary detention is among the most established principles of international human rights law, rising as a response to historical state overreach.<sup>17</sup> The Universal Declaration of Human Rights (UDHR) was the first global instrument to articulate this, with Article 3 (right to liberty) and Article 9 (prohibition of arbitrary arrest) setting the international standard.<sup>18</sup>

The International Covenant on Civil and Political Rights (ICCPR) gives these principles binding legal force. As a State party, Pakistan is legally obligated to harmonize its domestic criminal procedures with the Covenant. While the ICCPR does not entirely forbid detention, it imposes stringent limitations to ensure that liberty remains the normative rule and incarceration the strictly justified exception<sup>19</sup>.

## The 2024 UN Human Rights Committee Review and the Contemporary ICCPR Landscape

In late 2024, during its 142nd session in Geneva, the UN Human Rights Committee conducted a pivotal review of Pakistan's second periodic report regarding the International Covenant on Civil and Political Rights (ICCPR). The subsequent "Concluding Observations" adopted in

November 2024 serve as the most contemporary and authoritative indictment of Pakistan's compliance, or lack thereof, with global mandates on liberty and fair trial protocols.<sup>20</sup>

The Committee articulated grave concerns regarding the persistent infringement of Articles 9 and 14 of the ICCPR. It specifically identified the arbitrary deprivation of liberty and the systemic erosion of fair trial guarantees as areas of urgent crisis. A central finding was that a staggering number of individuals in Pakistan remain incarcerated without timely judicial oversight, effective legal safeguards, or the prospect of an expeditious trial. The Committee reiterated a fundamental legal truth: pre-trial detention must remain an exceptional measure; when it becomes prolonged, it triggers a "strong presumption of arbitrariness" under international law.<sup>21</sup>

### **The Challenge of Military Jurisdictions and Special Laws**

A significant point of contention in the 2024 review was the expansion of military court jurisdiction over civilian populations. The Committee observed that such trials inherently undermine the Presumption of Innocence and deny the accused access to independent tribunals and competent legal counsel. It issued a stern recommendation for Pakistan to cease the prosecution of civilians in military forums, ensuring that all detainees are afforded the comprehensive protections mandated by Article 14 of the ICCPR.<sup>22</sup>

Furthermore, the Committee linked the crisis of arbitrary detention to Pakistan's "Special Laws" governing counter-terrorism and accountability (such as the NAB and ATA frameworks). These statutes often curtail judicial discretion, making incarceration the default rather than the exception. The Committee emphasized that neither the "gravity of allegations" nor "political sensitivity" can legally justify the suspension of an individual's right to liberty.<sup>23</sup>

### **Institutional Inefficiency and the Burden of Proof**

The 2024 Observations clarified a vital principle of state responsibility: administrative backlog and institutional lethargy cannot be used as legal justifications for continued detention.

The obligation to provide a prompt trial rests solely with the State; therefore, the burden of judicial delay must not be shifted onto the accused through prolonged incarceration.<sup>24</sup> This perspective aligns with the findings of the UN Working Group on Arbitrary Detention, which has consistently criticized the "routine use of pre-trial detention as a substitute for weak investigation", a phenomenon highly prevalent in the Pakistani context.<sup>25</sup>

### **Soft Law Instruments and Global Normative Standards**

Beyond binding treaty obligations, international human rights jurisprudence encompasses several "soft law" instruments. While these are not strictly legally binding, they represent a global consensus and provide authoritative guidance that is frequently utilized by superior courts to interpret constitutional mandates.<sup>26</sup>

### **The Framework for Humane Treatment and Non-Custodial Alternatives**

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment establishes that pre-trial incarceration must remain exceptional and subject to rigorous judicial oversight. Crucially, it mandates the humane treatment of detainees and the

strict segregation of under-trial prisoners from convicted inmates ,a standard often neglected in Pakistan's overcrowded facilities.<sup>27</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) further delineate standards for dignity, health care, and the protection of legal rights. These rules reinforce the principle that under-trial prisoners must be treated with the deference due to innocent individuals, free from any unnecessary restrictive measures.<sup>28</sup>

Furthermore, the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) advocate for alternatives to incarceration, such as bail supervision and reporting requirements. These rules acknowledge that detention carries devastating socio-economic repercussions and should only be employed as a last resort.<sup>29</sup>

### **Global Jurisprudence on Arbitrary Detention**

International tribunals have been instrumental in defining the legal boundaries of pre-trial confinement. The European Court of Human Rights (ECtHR), in particular, offers a sophisticated body of case law that serves as persuasive authority for Pakistani jurists.

In *Assanidzé v. Georgia*, the ECtHR held that continued detention without a clear, lawful justification violates the fundamental right to liberty. The Court emphasized that administrative "inconvenience" faced by the State cannot justify a failure to comply with legal requirements.<sup>30</sup> Similarly, in *Brogan v. United Kingdom*, the Court ruled that even in matters of national security, detention without prompt judicial oversight is a violation of human rights, affirming that "exceptional situations" do not grant the State a license to bypass judicial control.<sup>31</sup>

In cases involving financial crimes, such as *Frommelt v. Liechtenstein*, the Court rejected the notion that the complexity of an investigation justifies prolonged detention, reinforcing the mandate that incarceration must always be temporary and grounded in concrete evidence.<sup>32</sup>

### **The Presumption of Innocence and the Crisis of Routine Detention**

The Presumption of Innocence, protected under Article 14 of the ICCPR, is fundamentally compromised when pre-trial detention becomes a default response. International courts have consistently ruled that incarceration should never be used as a tool for public "messaging" or deterrence before a trial concludes. As noted in *Bell v. Wolfish*, the state cannot impose punishment before conviction, and any restrictions on detainees must be strictly tied to the legitimate aims of the judicial process.<sup>33</sup>

Scholars like Schönteich and Varenik argue that the "mechanical" use of detention effectively reverses the burden of proof, transforming the accused from a "presumed innocent" citizen into a "presumed offender" in the eyes of the law and society.<sup>34</sup>

### **Domestic Integration: The South Asian Context**

International human rights standards are increasingly serving as a "living instrument" to interpret domestic law. In South Asia, courts have begun integrating ICCPR benchmarks into bail decisions. For instance, the Indian judiciary has frequently relied on international norms to reinforce the doctrine that "bail is the rule and jail the exception."<sup>35</sup>

In Pakistan, while the superior courts have occasionally invoked international principles, their consistent integration into the lower judiciary ,where the majority of detention orders are issued

,remains limited. Greater reliance on this global jurisprudence is essential to bridge the gap between Pakistan's statutory ideals and its current procedural realities.<sup>36</sup>

### **Pre-Trial Detention within the Domestic Legal Framework of Pakistan**

The procedural landscape of pre-trial detention (PTD) in Pakistan is primarily governed by the Code of Criminal Procedure (CrPC) 1898. The Code establishes a binary classification of offenses: bailable and non-bailable. While bail is considered an inherent right in bailable offenses, it remains a matter of judicial discretion in non-bailable cases.<sup>37</sup> However, in practice, this discretion is often exercised with extreme conservatism. Subordinate courts frequently prioritize the "gravity of the offense" over the "necessity of detention," leading to a systemic culture of prolonged incarceration for under-trial prisoners.

This procedural reality stands in stark contrast to the Constitution of Pakistan (1973). Articles 9 and 10A mandate that any deprivation of liberty must be lawful, reasonable, and proportionate.<sup>38</sup> Judicial precedents, such as *Mushtaq Ahmad v. State*, have sought to rectify this by emphasizing that incarceration prior to conviction must not be treated as a *de facto* punishment. The Lahore High Court held that keeping an individual in custody without significant progress in their trial is a direct violation of the principles of justice and fair trial.<sup>39</sup>

### **The Expansion of State Power: The Impact of Special Laws**

The crisis of pre-trial detention is exacerbated by a cluster of special statutes that significantly broaden the State's power to detain. These include the National Accountability Ordinance (NAO) 1999, the Anti-Terrorism Act (ATA) 1997, and the Maintenance of Public Order (MPO) Ordinance 1960. These laws often function as "parallel" legal systems that restrict judicial discretion and extend remand periods far beyond standard criminal law limits. The National Accountability Ordinance is particularly contentious due to its restrictive bail provisions.

In the significant ruling of *Khuwaja Saad Rafique v. NAB*, the Supreme Court of Pakistan criticized the routine denial of bail under accountability laws, observing that detention should never be weaponized as a tool for political victimization or social humiliation.<sup>40</sup>

Similarly, while anti-terrorism statutes address legitimate security concerns, international law mandates that even in "exceptional" security contexts, detention must remain subject to rigorous judicial review<sup>41</sup>.

### **Systemic Paralysis: Investigation and Judicial Delays**

The over-reliance on PTD in Pakistan is often a symptom of institutional failure rather than legal necessity. Investigations are frequently hampered by a lack of forensic capacity and political interference, while the prosecution service often lacks the independence and resources to conclude cases efficiently. Judicial delays further entrench this problem.

As courts buckle under a massive backlog of cases, detention becomes a "temporary fix" for a broken system, effectively shifting the burden of state inefficiency onto the accused.<sup>42</sup> The Karachi High Court, in *Sikandar v. State*, accurately noted that liberty cannot be sacrificed at the

altar of systemic failure; the court granted bail on the grounds that prolonged incarceration due to trial delays constitutes a grave injustice.<sup>43</sup>

### **The Socio-Economic and Human Cost of Incarceration**

The human toll of Pakistan's detention practices is profound. Under-trial prisoners are often subjected to substandard living conditions, chronic overcrowding, and a lack of essential medical care. The failure to segregate them from convicted criminals exposes them to a "school of crime," violence, and infectious diseases.

The Supreme Court, in *Shehla Zia v. WAPDA*, expanded the Right to Life to encompass a "healthy environment" ,a principle that extends to the humane treatment of detainees.<sup>44</sup> Beyond the physical suffering, the social impact is devastating. Families often lose their primary breadwinners, leading to economic collapse and the withdrawal of children from education. As scholars Scott-Hayward and Fradella observe, this system disproportionately penalizes the poor, who lack the financial capital to secure bail or competent legal counsel, thereby entrenching a cycle of poverty and social stigma.<sup>45</sup>

### **The Vacuum of Remedy: Compensation for Unlawful Detention**

One of the most glaring lacunae in Pakistan's criminal justice framework is the absence of a statutory mechanism for compensating individuals who have endured prolonged, unjustified incarceration. While international human rights jurisprudence recognizes the right to a remedy for unlawful detention, Pakistan offers no such restitution.<sup>46</sup>

The European Court of Human Rights, in *Assanidzé v. Georgia*, established a vital precedent by awarding damages for the violation of the right to liberty, signaling that the State must be held financially accountable for procedural negligence.<sup>47</sup> In the Pakistani context, the lack of a compensatory framework not only exacerbates the suffering of the acquitted but also creates a culture of institutional impunity, where investigators and prosecutors face no consequences for "pre-emptive" punishment.<sup>48</sup>

### **Judicial Guardianship: Navigating the Rule vs. the Exception**

As the custodian of the Constitution, the judiciary is the primary shield for individual liberty. Despite the Supreme Court's repeated exhortation that "bail is the rule and jail the exception," the lower courts often remain reluctant to exercise this principle, particularly in high-profile cases.

In *Al-Jehad Trust v. Federation of Pakistan*, the Supreme Court emphasized that judicial independence is the prerequisite for the protection of fundamental rights.<sup>49</sup> To bridge the gap between higher-court ideals and lower-court practice, there is an urgent need for comprehensive judicial training, modernized bail guidelines, and a shift away from "administrative fear" toward constitutional courage.<sup>50</sup>

### **Strategic Recommendations for Reform**

To harmonize Pakistan's detention protocols with the 2024 UN Concluding Observations and the ICCPR, the following legislative and institutional shifts are proposed:

1. **Legislative Consolidation:** Enact a dedicated "Pre-Trial Detention Act" to codify international standards and strictly limit the duration of remand.
2. **Mandatory Judicial Reasoning:** Require judges to provide written, evidence-based justifications for denying bail, moving beyond the "gravity of the offense" as a sole criterion.
3. **Non-Custodial Prioritization:** Institutionalize alternatives to incarceration, such as electronic monitoring, travel restrictions, and personal recognizance, as mandated by the Tokyo Rules.<sup>51</sup>
4. **Statutory Redress:** Introduce legislation for mandatory state compensation for individuals acquitted after prolonged detention.
5. **Police Accountability:** Implement strict criminal and administrative penalties, including dismissal and imprisonment, for investigation officers found complicit in lodging "frivolous" or "malicious" FIRs.
6. **Independent Oversight:** Establish "Detention Monitoring Boards" comprising judicial officers and human rights experts to review the status of under-trial prisoners every 30 days.

## Conclusion

Pre-trial detention in Pakistan has undergone a regressive metamorphosis, evolving from a strictly exceptional measure into a routine procedural weapon. This shift represents more than a legal failure; it is a systemic erosion of the Presumption of Innocence and a direct affront to the constitutional promise of Adl (Justice). When incarceration is used as a surrogate for investigation, it effectively transforms the criminal process into "punishment before conviction," a practice that is fundamentally destructive to the rule of law.

While the Constitution of Pakistan and international instruments like the ICCPR provide a clear mandate for liberty, the current practical reality falls abysmally short. Bridging this chasm requires more than just judicial pronouncements; it demands a radical commitment to institutional accountability and legislative reform. Protecting liberty is not merely a treaty obligation for the State, it is a moral imperative. Until the Pakistani justice system prioritizes the sanctity of individual freedom over procedural convenience, the promise of a fair trial will remain an elusive ideal rather than a lived reality.

## References

<sup>1</sup> Anti-Terrorism Act. 1997. (Act No. XXVII of 1997). Government of Pakistan.

<sup>2</sup> Asif Faseehuddin Khan v. Government of Pakistan. 2014. SCMR 676 (Supreme Court of Pakistan).

<sup>3</sup> Assanidzé v. Georgia. 2004. No. 71503/01, ECHR 2004-II.

<sup>4</sup> Basu, Durga Das. 2020. Introduction to the Constitution of India. 25th ed. New Delhi: LexisNexis, 110–145.

<sup>5</sup> Bell v. Wolfish. 1979. 441 U.S. 520.

<sup>6</sup> Bhandari, Vrinda. 2015. Pretrial Detention in South Asia. New York: Open Society Justice Initiative, 12–58.

<sup>7</sup> Brogan v. United Kingdom. 1989. (No. 11209/84; 11234/84; 11266/84; 11386/85), 11 EHRR 117.

<sup>8</sup> Code of Criminal Procedure. 1898. (Act V of 1898). Government of Pakistan.

<sup>9</sup> Constitution of the Islamic Republic of Pakistan. 1973. Articles 9, 10, 10A.

<sup>10</sup> District Bar Association Rawalpindi v. Federation of Pakistan. 2015. PLD SC 401 (Supreme Court of Pakistan).

<sup>11</sup> Frommelt v. Liechtenstein. 2004. No. 49158/99, ECHR 2004.

<sup>12</sup> Hussain, Tauqeer. 2018. "Pre-Trial Detention and Its Compensation in International and Pakistani Law." Policy Perspectives 15 (3): 47–66.

<sup>13</sup> Khizar Hussain v. State. 2005. PLD Lahore 470 (Lahore High Court).

- <sup>14</sup> Khuwaja Saad Rafique v. National Accountability Bureau. 2020. PLD SC 1 (Supreme Court of Pakistan).
- <sup>15</sup> Maintenance of Public Order Ordinance. 1960. (W.P. Ordinance No. XXXI of 1960).
- <sup>16</sup> Mushtaq Ahmad v. State. 2005. MLD 1298 (Lahore High Court).
- <sup>17</sup> Robinson, Nehemiah. 1958. *The Universal Declaration of Human Rights: Its Origin, Significance, and Interpretation*. New York: Institute of Jewish Affairs, 45–82.
- <sup>18</sup> Schönteich, Martin, and Robert O. Varenik. 2014. *Presumption of Guilt: The Global Overuse of Pretrial Detention*. New York: Open Society Foundations, 15–94.
- <sup>19</sup> Schwabe and M.G. v. Germany. 2011. Nos. 8080/08 and 8577/08, ECHR 2011.
- <sup>20</sup> Scott-Hayward, Christine S., and Henry F. Fradella. 2019. *Punishing Poverty: How Bail and Pretrial Detention Fuel Inequalities in the Criminal Justice System*. New York: Routledge, 102–148.
- <sup>21</sup> Shehla Zia v. WAPDA. 1994. PLD SC 693 (Supreme Court of Pakistan).
- <sup>22</sup> Sikandar v. State. 2007. PCrLJ 917 (Karachi High Court).
- <sup>23</sup> Smith, Rhona K. M. 2019. *International Human Rights Law*. 9th ed. Oxford: Oxford University Press, 150–178.
- <sup>24</sup> UN Human Rights Committee. 2017. *Concluding Observations on the Initial Report of Pakistan*. CCPR/C/PAK/CO/1. Geneva: United Nations.
- <sup>25</sup> UN Human Rights Committee. 2024. *Concluding Observations on the Second Periodic Report of Pakistan*. CCPR/C/PAK/CO/2. Geneva: United Nations
- <sup>26</sup> UN Working Group on Arbitrary Detention. 2000. *Deliberation No. 1 on Arbitrary Detention*. Geneva: United Nations.
- <sup>27</sup> United Nations. 1948. *Universal Declaration of Human Rights*. G.A. Res. 217 (III) A. New York: United Nations.
- <sup>28</sup> United Nations. 1984. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. G.A. Res. 39/46. New York: United Nations.
- <sup>29</sup> United Nations. 1988. *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*. G.A. Res. 43/173. New York: United Nations.
- <sup>30</sup> United Nations. 1994. *Human Rights and Pre-Trial Detention: A Handbook of International Standards*. New York: United Nations Professional Training Series No. 3, 25–60.
- <sup>31</sup> United Nations. 2015. *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*. G.A. Res. 70/175.
- <sup>32</sup> United Nations. 1984. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. G.A. Res. 39/46.
- <sup>33</sup> United Nations. 1988. *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*. G.A. Res. 43/173.
- <sup>34</sup> United Nations. 1990. *United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*. G.A. Res. 45/110.
- <sup>35</sup> United Nations. 1994. *Human Rights and Pre-Trial Detention: A Handbook of International Standards*. New York: UN Professional Training Series No. 3.
- <sup>36</sup> United Nations. 2015. *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*. G.A. Res. 70/175.
- <sup>37</sup> United Nations. 2015. *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*. G.A. Res. 70/175.
- <sup>38</sup> Weissbrodt, David, and Maria Stock. 1994. "The Rights to Liberty and Security of Person." In *International Human Rights Law*. Philadelphia: University of Pennsylvania Press.
- <sup>39</sup> Zafar Iqbal v. State. 2013. SCMR 403 (Supreme Court of Pakistan).
- <sup>40</sup> Nazir Ahmad v. State. 2014. SCMR 121 (Supreme Court of Pakistan).
- <sup>41</sup> Imtiaz Ahmad v. State. PLD 1997 SC 545.
- <sup>42</sup> Riffat v. State. 2021. PCrLJ 450.
- <sup>43</sup> Arshad v. State. 2019. MLD 890.
- <sup>44</sup> Hidayat Ullah Khan v. Crown. PLD 1949 Lahore 21.
- <sup>45</sup> Javed v. State. 2011. SCMR 102.

<sup>46</sup> Murtaza v. State. 2018. PCrLJ 12.

<sup>47</sup> Shahid v. State. 2015. SCMR 111.

<sup>48</sup> Akram v. State. PLD 2003 SC 110

<sup>49</sup> Baber v. State. 2022. SCMR 90.

<sup>50</sup> Basu, Durga Das. 2020. Introduction to the Constitution of India. 25th ed. New Delhi: LexisNexis, 145

<sup>51</sup> Sindh Prisons and Corrections Service Act. 2019. (Sindh Act No. IX of 2019). Government of Sindh.

Also see: United Nations. 1990. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). G.A. Res. 45/110, Rule 3.1.