



Women in Punjab Prisons

DESK REVIEW



PUNJAB COMMISSION ON THE STATUS OF WOMEN

DISCLAIMER

The “Women in Punjab Prisons Desk Review 2016” has been prepared to encourage research to generate information, analysis and studies as well as to maintain a database relating to women and gender issues. The report is produced with official data provided by Government Departments/ Government Organizations. While the Punjab Commission on the Status of Women (PCSW) has checked the data provided to the fullest possible extent, the responsibility for accuracy of information provided lies with original providers of data.

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Executive Summary

This study presents an assessment of the literature on conditions of women in Punjab prisons, and a review of prison policies. It was conducted by the Punjab Commission on the Status of Women (PCSW) to fulfill its mandate that requires the Commission to "inspect any jail, sub-jail or other places of custody, where women and girls are kept" and "make appropriate recommendations to the concerned authority or agency" (PCSW Act Section 9(2)).

The study was based on an in-depth analysis of prison rules, a desk review of published and unpublished material including academic publications, international and local NGO assessments, newspaper articles, government reports, and legal petitions filed with the Lahore High Court; a series of key informant interviews; visit of a district jail; and observations of Sessions Court and High Court in Lahore. Study limitations included lack of access to jails and limited availability of data on prisoners and jail facilities. Key findings for the study are presented below.

1. What is the current situation of women in jails and which aspects of women's incarceration have been overlooked in recent assessments?

As of December 2016, 926 female prisoners were held across 26 facilities in Punjab, comprising less than 2% of the total prison population of 48,088. Literature suggested that like men, women are held as under-trial prisoners for extended periods of time and have limited access to legal services. However, it is unclear whether the types of offences for which they are remanded, differ across men and women. Education and vocational facilities within the prison were found to be lacking due to staff shortages and resource constraints. Unlike male prisons, structural conditions of women's facilities were reasonably maintained, and problems of overcrowding were not documented. However, no facilities for recreation were available for juvenile females, who were often held in the same quarters as adult females. Evidence suggested that young children often accompanied their mothers in jail but standards for their care were missing. Medical officers were generally male, and unable to conduct in-depth physical or mental assessments of female inmates upon admission, thereby failing to capture evidence of prior abuse or trauma. Psychological counselling facilities for patients with low to moderate levels of mental health needs were unavailable. Although options for community based sentencing exist, literature suggested that these options were not widely used. There was no evidence of re-entry/reintegration planning for prisoners.

Existing assessments were largely silent on questions of recidivism or comparisons of men and women based on the types of offenses for which they were incarcerated, case processing times, and availability of and access to facilities in jails. Studies failed to assess outcomes from probation and parole, and did not offer insight into prisoners' mental health needs or re-entry planning.

There was a lack of evidence on the utilization and effectiveness of complaint mechanisms, including the Punjab Women's Helpline. Finally, existing studies failed to capture the constraints faced by prison authorities and their implications on standards of care.

ii. What are the rules governing women's incarceration and which prison oversight mechanisms are mandated by law?

The review found that while they had significant gaps and limitations, existing rules identified fairly detailed standards for jail administration and management. In particular, Pakistan Prison Rules, 1978 provide benchmarks for prisoners' daily routines, jail facilities, provision of legal, medical and educational services, visitation rights and complaint mechanisms. However, the Rules failed to reflect more recent advancements in prison research, such as re-entry planning, or a consistent institutional approach toward incarceration, e.g. whether the philosophy underlying incarceration is retributive or restorative in nature. Further, they exclude initiatives such as the Punjab Women's Helpline – a service to enable female prisoners to register complaints with the Punjab Commission on the Status of Women.

Prison rules also fail to incorporate the oversight mandate of PCSW and the role of the Chairperson, PCSW, in this regard. The rules clearly identify the Jail Superintendent as the key official for administration; the Inspector General of Prisons, who reports to the Secretary of the provincial Home Department, as the one responsible for prison management across the province; and the District Coordination Officer (DCO), along with official and unofficial Visitors, as the one responsible for external oversight. However, the Rules fail to lay out implications upon these officials for failure to uphold set standards.

For example, if the DCO or Visitors observed insufficient implementation of Prison Rules in a jail, and the Superintendent failed to address this lapse, the rules neither present a description of further recourse by the DCO or Visitors, nor do they detail the implication of inaction by the Superintendent. Despite their identification of the factors responsible for the functioning of a prison, existing Prison Rules constitute an insufficient mechanism for their own implementation, and by extension, for ensuring adequate standards of care for inmates.

iii. In which areas are Prison Rules in need of amendment?

The policy review identified **insufficient rules and standards** of care in several areas:

a. Legal services: The frequency of mandated interaction with lawyers is less than adequate. The Rules should also grant under-trial prisoners the right to information about their case.

b. Formal education and vocational training: The minimum levels of education and training for adult prisoners are insufficient and should be revised in light of current best practices.

c. Female doctors: Health examinations at admission should be undertaken by qualified female doctors to thoroughly determine existing health needs of female inmates.

d. Mental health care: Beyond the separation of severely mentally ill patients, the Rules do not cater for psychological services to address more common mental health problems such as depression, abuse, and trauma.

e. Facilities for accompanying children: The Rules do not specify standards for their health or education; legal age of marriage is not reflected.

Several aspects of prisoners' care are **omitted from the rules**:

f. Complaint mechanisms: Complaint mechanisms identified in the Rules do not reflect recent advancements in prisons. The Punjab Women's Helpline – a major step forward in allowing PCSW to maintain its oversight function – is omitted from the Rules.

g. Juvenile females are not treated as a distinct entity. Given their small numbers, the extent to which they can be securely separated from adults, and their rights for education and recreation opportunities should be addressed.

h. Opportunities for women to work and earn remission while in jail are absent.

i. Re-entry planning reflects a proactive service plan developed for an inmate upon conviction, which continues throughout her incarceration and for a limited time, upon her release. Re-entry planning has been lauded as preventing future offending by creating community-based linkages to facilitate the transition of prisoners into their community. Existing Rules do not include any reference to re-entry planning.

j. Implications upon prison officials for insufficient implementation of the Rules are not defined. As a result, identified oversight mechanisms fail to uphold prisoners' rights.

Finally, **insufficient implementation of existing rules** was documented in the literature review:

k. Constitutional right to length of police custody before being charged;

l. Arrest and interrogation of women by female police officers;

m. Ready access to complaint mechanisms allowed in the current Rules;

n. Several staffing posts are vacant;

o. Material required for vocational training is insufficient.

The findings identified through the policy and literature review resulted in the following **recommendations** to the Inspector General, Prisons and Secretary, Home Department of Punjab:

1. Improved implementation of the Rules, particularly in the areas of: enforcing constitutional limits to length of police custody before being charged; arrest and interrogation of women by female police officers; access to complaint mechanisms allowed in the current Rules; hiring to provide resources at existing vacant posts; provision of adequate supplies of material required for vocational training such as thread and fabric for sewing classes.
2. Revision of the prison Rules in the following areas, in keeping with current best practice: access to legal services; standards for provision of formal education and vocational training to adults; improved provision of mental health care; access to female doctors for physical examination at admission; complaint mechanisms and facilities for accompanying children.
3. Development of new rules in the following areas: specialized rights for juvenile females; opportunities for women to work and earn remission, re-entry planning, and implications upon prison officials of a failure to uphold the standards set in the Rules.
4. Monitoring and oversight function of PCSW: The oversight function of PCSW must be appropriately institutionalized, such as by being assigned as an Official Visitor in the Prison Rules. Moreover, the Punjab Women's Helpline, which facilitates PCSW in performing this function, should be activated as per the directive of the IG Prisons, and should be added to the Rules as an official complaint mechanism for inmates.
5. Computerized systems for case management and tracking of prisoners as they progress through the system should be developed to allow for a granular and real-time approach to prison based studies and facilitate the creation of integrated re-entry plans for inmates.
6. Field based studies undertaken by qualified researchers should be conducted to examine current conditions of women in Punjab Prison.

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1: Introduction

A quote from the Punjab Prisons website (May, 2016) suggests that the philosophy of incarceration employed in Punjab separates the crime, or the action, from the perpetrator;¹

"Nafrat insaan se nahin, jurm se hae."

(We despise the crime, not the person committing it)

This stands in stark contrast with earlier approaches, such as that published in the Report on Jail Reform, Pakistan Law Commission, Murree (July, 1997).

"The main object of maintaining prisons is to keep the convicted prisoners in confinement so as to save the society from their evil influence."

This contrast between the restorative approach to punishment – incarcerating someone with a view to creating an improvement in their future behavior – and the retributive approach – placing someone in prison due to the belief they don't deserve to be free – creates inconsistent policies that underlie incarceration in Punjab. The objective of this paper is to identify where such inconsistencies exist, how current policies place incarcerated women at a disadvantage, and how the rules can be amended to make the system more effective.

1.1 Background

Anecdotal evidence regarding jail conditions in Pakistan consistently points out overcrowding, lack of sanitation, extensive under-trial detention, and exploitation of minorities and vulnerable groups.² Over the last few years, the state of jails, prison practice and the criminal justice system more generally, has become the subject of public scrutiny.³ In March 2015, a *suo moto* case regarding the condition of women in jails was heard by a three-member bench of the apex court headed by Justice Mian Saqib Nasir. A report outlining recent investments in the infrastructure of women's jails, and reduction in the overall female prisoner population was also presented by Assistant Advocate General, Punjab.⁴ In July 2015, a report submitted to the Supreme Court by the Home Secretary and Inspector General Prisons, Punjab, provided a roadmap to implement the Supreme Court's order to the Lahore High Court (dated July 14, 2015), regarding "Miserable Condition of Women in Jails." Key elements of the road map include improved monitoring of jails and inmates, and dissemination of current data on jail facilities through the website of the Inspectorate of Prisons. These proceedings provided a key impetus for this study.

¹ <http://www.prisons.punjab.gov.pk/>, downloaded 5/3/2016; also seen prominently displayed on the outside wall of a prison in south Punjab (author's notes, February 2016).

² Baloch, S. (2015)

³ <http://pakistanijails.blogspot.com/>

⁴ Malik (2015) .

As of July 2016, Punjab has a total of 37 prison facilities with an annual budget of Rs.7.5 billion and a total staff of 17,795. At the same time, Sindh prisons had a budget of Rs.3.1 billion and a staff of 4593. Table 1. presents a comparison of the daily population and prison resources in Punjab and Sindh.

Table 1. PRISON POPULATION AND RESOURCES IN PUNJAB AND SINDH

| PRISON STATISTICS | PUNJAB | SINDH |
|-----------------------------|-----------------|---------------------|
| DAILY POPULATION | | |
| Under trial prisoners (UTP) | 31,119 | 15,878 |
| Convicted | 12,680 | 3453 |
| Condemned | 5,153 | 269 |
| Total | 48,952 | 19,604 ⁵ |
| ANNUAL RESOURCES | | |
| Budget | Rs. 7.5 billion | Rs. 3.2 billion |
| Staff | 17,795 | 4593 |
| Number of facilities | 37 | 25 |

Source: Websites of Punjab and Sindh Prisons departments. Downloaded on 8/20/16.

As of March 2016, 26 facilities in Punjab housed female prisoners. Over a third of all female prisoners resided in three facilities – Central Jail, Rawalpindi, Central Jail, Lahore and Women Jail, Multan.⁶ According to data published by the Punjab prisons department, there were 916 women in Punjab's jails – 575 (62.7%) were under-trial, 295 (32.2%) were convicted, and 46 (5%) had been condemned (sentenced to death). The most common offenses for which women are incarcerated were murder (41%)⁷, drug-related (31.3%)⁸, and kidnapping for ransom (7%)⁹ followed by several less-common charges including theft, robbery/burglary, and rape.¹⁰ Recent analysis of female, under-trial prisoners accused of violent offences in Sindh illustrated similar offending patterns; when disaggregated by age or marital status, the data revealed that older, married women were most often incarcerated for murder whereas younger, single women were more likely to have been incarcerated for charges of burglary or robbery.¹¹

Evidence collected on factors contributing to offending patterns is fairly sparse and draws mostly on urban data. Neighborhoods with higher rates of entrenched poverty, and those that are more ethnically heterogeneous are correlated with higher rates of arrest.¹² At the individual level, behavioral factors including revenge, anger and lack of empowerment have been associated with offending.¹³

5 4 civil prisoners are included in the total but not in the breakdown.

6 Figures are current as of March 1, 2016: http://www.prisons.punjab.gov.pk/female_prisoners_in_punjab_jails

7 302 PPC Pakistan Penal Code, downloaded from

<http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

8 9C, CNSA Control of Narcotic Substances Act, 9C, downloaded from <http://www.fmu.gov.pk/docs/laws/Control%20of%20Narcotic%20Substances%20Act.pdf>

9 363/364/365/365-A/366/367/369 PPC Pakistan Penal Code, downloaded from

<http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

10 http://www.prisons.punjab.gov.pk/crime_wise_population_statement. The rape charges may have been recorded under the *Hudood* ordinance, and may represent the victim being accused of a crime when she herself lodged a rape complaint.

11 Boxwala (2016)

12 Latif (2012)

13 Khalid and Khan (2013)

1.2 Methodology And Research Questions

Policies governing procedures within the jail facility are published in the Pakistan Prison's Code (Jail Manual), based on the Prisons Act of 1894.¹⁴ While these policies are outdated in several respects, as will be discussed, the extent to which they are followed has implications on the rights of female prisoners. A recent report on the condition of female prisoners in Punjab compiled by the Punjab Commission on the Status of Women identified several areas for policy and administrative intervention, necessary to create a humane environment.¹⁵

The Punjab Commission on the Status of Women (PCSW), a statutory body formed under the Punjab Commission on the Status of Women Act, 2014, is mandated to "inspect any jail, sub-jail or other places of custody, where women and girls are kept" and "make appropriate recommendations to the concerned authority or agency" (PCSW Act, section 9 (2)). As per PCSW's mandate, the Chairperson of PCSW has visited several jail facilities in Punjab and findings from her observations are included as part of this study. This study presents findings with respect to current prison rules and policies, their implementation and existing evidence on conditions in jails.

- Desk review of published and unpublished material including: academic publications, international and local NGO assessments, newspaper articles, government reports, and legal petitions filed with the Lahore High Court for various improvements in the prison system;
- In-depth analysis of Prison Rules;
- A series of key informant interviews conducted in Lahore in February, 2016 with: two retired jail superintendents, senior lawyer of the Lahore High Court, group of judges at judicial training institute, and lawyers working on rights of condemned prisoners;
- Day-long visit to a district jail, where interviews were conducted with: one active jail superintendent, lady assistant superintendent, lady warder, twenty female prisoners, visiting lady doctor;
- On-site observations of Sessions Court and High Court in Lahore.

The primary limitation of the study is the lack of primary evidence to support its conclusions. The reason for this was the lack of access to jails. The Inspector General of Prisons, Punjab did not permit research visits to prisons to assess the situation of female inmates held there. The Secretary of the Home Department, which holds regulatory responsibility for the Prisons Department, also denied permission. As a result, the study relies mostly on secondary information.

¹⁴ Jarra (2014)

¹⁵ Government of Punjab (2015)

In addition, the study was unable to obtain disaggregated data on prisoners and jail facilities. Although the official website for Punjab prisons provides data on the aggregated number of inmates in each jail, it does not provide disaggregated details on prisoners such as offense type or length of stay, or jail resources such as numbers of filled and vacant posts. The Prisons department did not respond to a request for disaggregated data.¹⁶

Finally, while the report highlights areas where current policies are lacking, it maintains a broad lens and does not offer systematic assessments of best practice in any single area. Doing so was beyond the scope of the report but is an important aspect of comprehensive policy reform.

Specific questions addressed through the study are:

- i. What is the current situation of women in jails and which aspects of women's incarceration have been overlooked in recent assessments?
- ii. What are the rules governing women's incarceration and which prison oversight mechanisms are mandated by law?
- iii. In which areas are Prison Rules in need of amendment?

The report is organized as follows. The following section discusses the analytical approach used in the study. Chapter 2 presents an overview of the literature on females in prison, including access to justice, health needs and sanitation, conditions in police custody, and elements of probation and parole. In chapter 3, the report presents a policy review of the Prison Rules which govern the day-to-day life of female inmates. The review assesses the extensive rules around classification and admission, those pertaining to daily life, staffing, and prison management and oversight. Based on this policy assessment, conclusions and recommendations in chapter 4 present some mechanisms to address emerging areas of concern.

1.3 Analytical Approach

Traditional theories of punishment suggest that imprisonment reduces crime in three ways: deterrence from committing future offenses for the offender as well as the wider society; reformation of the offender; and segregation of the offender from society, thereby preventing him from engaging further in crime. These theories assume the criminal justice system constitutes a legitimate, predictable and proportional system of justice.¹⁷ Modern approaches in penology dictate that the period of incarceration constitutes a pivotal opportunity for investments in offenders' needs: treatment for mental and physical ailments and enhancement of their education and vocational skills, thereby creating increased potential for future earnings, and better improving chances of positive experiences upon their return.¹⁸

¹⁶ Conversely, this data is readily available on the Sindh Prisons website, http://sindh.gov.pk/dpt/sindh_prisons/index.htm

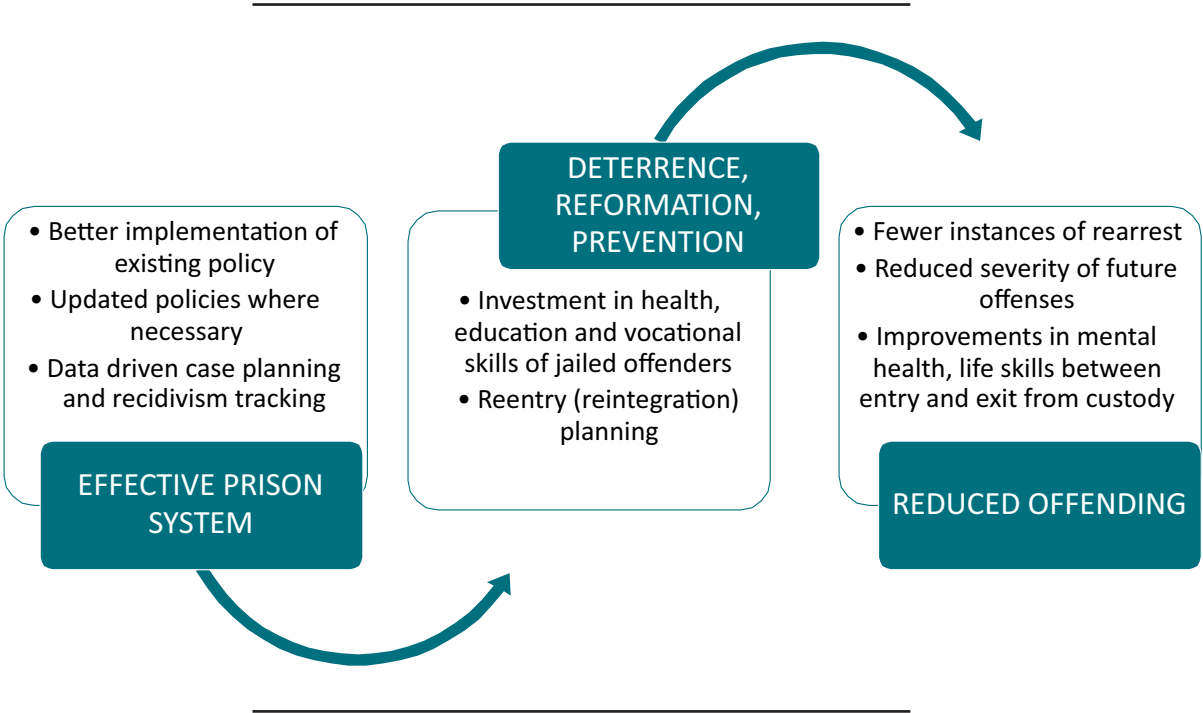
¹⁷ In a survey of 600 adults in Bahawalpur as part of the Access to Justice Project, Punjab, nearly 50% stated that justice meant everyone is treated equally. Retrieved from <http://eu-a2j.com/project-locations>.

¹⁸ Weiss and South (1998)

A clear focus on reintegration to society from the early stages of incarceration allows for the development of an integrated case plan, spanning the time the offender is locked up, as well as the period immediately following her return home.

The policy analysis and desk review undertaken in this report is built on the premise that interventions to improve the effectiveness of prisons must adopt a tri-pronged approach, improving the implementation of current policies, enhancing policies where necessary, and developing a rigorous, computerized case tracking system which can be used to monitor case-by-case progress and recidivism outcomes. Table 2 summarizes this approach.

TABLE 2. REDUCED OFFENDING THROUGH AN EFFECTIVE PRISON SYSTEM



2: Situation of Women in Jails – Review of Existing Literature

Evidence on the conditions of female inmates in Punjab suggests significant gaps in the creation of a just and humane environment. Reports also highlight other vulnerabilities faced by women as a result of their engagement with the criminal justice system. This chapter presents a review of the literature on incarcerated women in the areas of access to legal services, health needs, and sanitation. Subsequently, the literature on torture and abuse by the police and the use of non-custodial sentencing is discussed. The policy landscape within which these events occur is reviewed in the next chapter.

2.1 Pre-trial Detention and Access to Legal Services

According to a 2011 report from United Nations Office on Drugs and Crime (UNODC), 74% of all prisoners, and 68% of female prisoners in Pakistan were pending decisions by a judge.¹⁹ Moreover, a fifth of these women had been in jail for over a year, and half had been in jail for over 30 days, which is statutorily the maximum length a person can be detained without a conviction.²⁰ Globally, Pakistan ranks 205th in the Global Prison Index (prison population rate per 100,000), but 14th in the rate of pre-trial detainees (69.1% of the total prison population).²¹

Several studies have attempted to understand the causes of high levels of pre-trial detention. Insufficient resources, lack of coordination between prosecution, courts and prisons, backlog of cases and systemic corruption are cited as some of the factors responsible.²² As of 2013, there were over 1.1 million pending cases in Punjab's district courts²³, with cases taking between 5 to 20 years before being decided. A report by the International Crisis Group found that recommendations to increase the number of courts and judicial officers had not been implemented; politics, bribes, and the socio-economic status of the accused often played a role in the selection of cases for consideration. One report quoted a former Inspector-General of Prisons in Punjab who said that the swiftest way for a prisoner to have their case heard was through a bribe.²⁴

Existing policies are designed to ensure that any prisoner detained without a conviction for 30 days is brought to the attention of the Inspector-General. Furthermore, Article 10(2) of the Constitution requires the accused to be brought before a magistrate within 24 hours of arrest, and forbids detention that lasts longer than two weeks. However, in practice, this does not happen. For example, in order for a detainee to be brought to court, a case brief (challan) must be prepared by police. If the preparation of the challan is delayed, by the time a case is presented in court, the statutory detention time may already have lapsed.

¹⁹ UNODC, 2011:2

²⁰ Ibid, 17

²¹ In terms of the proportion of females in the prison population, Pakistan ranks 188th. World Prison Brief, Institute for Criminal Policy Research. Available at http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=All

²² Bhandari, 2014. Study compared disjuncture between law and practice with regard to pre-trial detention in India, Pakistan and Bangladesh.

²³ Khattak, 2015

²⁴ International Crisis Group, 2011.

Conversations with judges and observations in courts suggest that in many cases, record keeping and systems of checks and balances are woefully inadequate to uphold limits on pre-trial detention.

Under-trial prisoners are particularly reliant on access to legal services while incarcerated. Women are at a disadvantage in this regard because of their low level of legal literacy, exacerbated by illiteracy or very limited schooling – one report found that 68% of women prisoners were illiterate, and only 10% had 10 years or more of education.²⁵ According to the current legal framework, as outlined in the Prison Rules, under-trial prisoners should be provided assistance in contacting their legal advisers once every two weeks.²⁶ If they wish to write a letter regarding their defense, prisoners may do so at the expense of the government.²⁷ Interviews with legal advisers must take place within sight of a prison official but the official should not be able to hear the conversation.²⁸ Prisoners may only hold an interview with a legal advisor after the advisor has sent an application stating the nature of the visit and it has been approved by the superintendent of the jail.²⁹

Further, the Prison Rules make special provisions for illiterate prisoners in the case of appeals. Clause 2 of Rule 94 of the Prison Rules mandates that if illiterate prisoners wish to write an appeal of their case, the Superintendent of the prison must appoint a literate prisoner or a prison official to write the appeal based on the prisoner's dictation.³⁰ The rule also specifies the procedure for handling appeals, such as providing copies of documents to prisoners and assigning officers to send appeals to court. A notification to this clause, added in 1992, stresses that this must be applied "strictly" to women as well.³¹

Existing Prison Rules are limited in the extent to which they ensure prisoners' access to legal services. There is no stipulation that holds an official accountable for making sure that procedure for under-trial prisoners is followed. Policies omit enhanced provisions for illiterate prisoners – male or female – to access legal services while their original case is under-trial. No official means for educating prisoners on legal processes are supported by the Prisons Department. Moreover, evidence collected by PCSW points to the limited usage of existing, ad hoc legal services by women. For example, the fund established by the Women in Distress and Detention Fund Act is meant to provide financial support for women needing legal assistance, but reports suggest that the Act has limited usage.³² Similarly, defense attorneys appointed by the court for destitute women often fail to show up in court, leading to further delays.³³

25 UNODC 2011: 14

26 Pakistani Prison Rules, 1978, Chapter 22, Rule 564

27 *Ibid*, Chapter 22, Rule 565

28 *Ibid*, Chapter 22, Rule 566

29 *Ibid*, Chapter 22, Rule 567

30 Pakistan Prison Rules, 1978, Chapter 5, Rule 94, ii

31 *Ibid*, Chapter 5, Rule 94, iv

32 The Punjab Commission on the Status of Women. "Women in Distress and Detention Fund Act 2010,"

http://pcsw.punjab.gov.pk/women_in_distress_and_detention_fund

33 Government of Punjab, 2015

Efforts to increase legal awareness among prisoners have been undertaken by several offices including the Law and Justice Commission of Pakistan (LJCP) and PCSW. However, these efforts require monitoring, and sanctions for lack of implementation. PCSW, for example, has advocated for the widespread use of the Punjab Women's Helpline by allowing prisoners to call this number if they wish to file a concern or complaint. The Inspector-General of Prisons has responded by issuing a directive to that effect, but an on-going monitoring effort is needed to determine the extent to which the effort has been successful.³⁴ Similarly although several recent initiatives have been taken by the LJCP, including the development of an Urdu compendium of easily accessible prisoner rights information, it is difficult to assess the extent to which these resources are being utilized.³⁵ Deeper assessments are needed to identify the extent to which these initiatives are being used, and the challenges which prevent more widespread usage.

2.2 Education and Vocational Training

In the jail visited as part of this study, the women's facility was an airy, well-constructed facility with ample light and ventilation, outdoor space and clean beds and bathrooms. The facility comprised two large rooms: one room was used by the twenty inmates for sleeping; the other room was carpeted, sparsely furnished, and had around six sewing machines neatly arranged and covered. However, the Lady Assistant Jail Superintendent reported that since there were no supplies – cloth and thread for the machines – and no available instructors, the inmates had not been trained in the use of the sewing machines. Similarly, when asked about any classes or educational opportunities in the jail, the inmates responded that their literacy and religion classes had ceased since their teacher had taken maternity leave.

Observations made during PCSW Chairperson's inspections also noted the partial provision of education or vocational training. She observed a lack of systematic provision of formal, vocational and religious education across all the prisons she visited. The report noted, "The limited personal efforts that are being made in this regard by the prisons staff are carried out in a sporadic and haphazard manner, thereby compromising their own effectiveness."³⁶ Further, her inspections found that several posts related to education and health remained vacant in several prisons. A similar trend was observed in a report on juvenile detention centers in Punjab.³⁷ Although interviews with lawyers revealed several ad hoc initiatives that had been developed for inmates at the Women's Prison at Central Jail, Lahore, no supporting documentation could be obtained.

2.3 Health Needs

Inspections conducted by PCSW revealed a wide gap in the healthcare services available to women in jails across Punjab.

³⁴ Government of Punjab, 2015

³⁵ Law and Justice Commission of Pakistan, available at http://www.ljcp.gov.pk/R_P/trapp/index.html

³⁶ PCSW (2015:5)

³⁷ Human Rights Watch (1999)

In several cases, Female Medical Officers were not appointed, had not joined, were not accessible or were negligent.³⁸ Earlier observations also found a similar trend, as female prisoners in very few facilities reported access to female doctors.³⁹ Testing or diagnostics for sexually transmitted infections was not available in most jails, and treatment was only offered when symptoms emerged.⁴⁰ NGOs and civil society organizations provided medical assistance in some prisons where doctors were not available.⁴¹

Although data on mental health needs amongst women is lacking, some studies have shown that as many as 76% of remanded women have signs of neurosis, 15% higher than their male counterparts.⁴² However, no systematic services by qualified mental health counsellors were offered across any of the prisons visited by PCSW. Mental health is not addressed in Prison Rules, except in the case of severe psychosis. As a result, there is an absence of systematic mental health counselling for inmates. Existing legislation provides for an initial mental health examination, and subsequent regulation of prisoners with mental health disorders. Chapter 18 of the Prison Rules requires the separation of mentally ill prisoners, an assessment by a Medical Officer as to whether the prisoner is "dangerous" or "harmless" and "adequate arrangements for the comfort and care" of the prisoner by the Superintendent.⁴³ The Mental Health Ordinance of 2001 requires an evaluation by the Inspector-General of a prisoner with a mental disorder to be written every half year.⁴⁴ However, jail observations conducted for this study revealed female inmates with significant symptoms of mental health needs, who were reportedly not receiving any services for their illness. Despite reports that NGOs provide ad hoc mental health services in some facilities,⁴⁵ the lack of mental health services within the prison system is a persisting concern noted by several authors.⁴⁶

Prison Rules also state that a female doctor or a midwife must be present in the event of childbirth. Prison officials are required to request a female doctor or midwife from a local maternal and child welfare center to deliver the child, when one is nearby.⁴⁷ The only pre-natal care offered to women is a change in diet plans as determined by the medical officer, and Prison Rules do not address neo-natal care⁴⁸. In practice, there are reports that pregnant women are often referred to District Headquarters Hospitals as prisons are ill-equipped to cater to complex cases of pregnancy or child-birth. Moreover, there is no systematic vaccination program available for the children accompanying women prisoners.⁴⁹ Detailed numbers of sanctioned and vacant health related posts was requested but not received from the Prisons Department.

38 Government of Punjab, 2015.

39 UNODC 2011: 16

40 *Ibid*, 16

41 *Ibid*, 4

42 Abbasi 2009

43 *Ibid*.

44 Mental Health Ordinance for Pakistan, Chapter IX, 54(1)

45 *Ibid*, 26

46 Government of Punjab, 2015

47 *Ibid*, Chapter 13, Rule 323

48 *Ibid*, Chapter 20, Rule 488

49 Government of Punjab, 2015

2.4 Sanitation

Evidence with respect to the hygiene of prisons varied. One report found that despite specific Prison Rules concerning the maintenance of hygiene and cleanliness, the availability of cleaning staff, frequency of cleaning, and sanitation facilities available varied widely.⁵⁰ The number of washrooms ranged from one for every three to four prisoners to one for 60 prisoners. Three prisons surveyed had no separate washrooms, and in one prison, washrooms had not been functional for several months. Only one prison had safe drinking water processed through a filter, while the rest had water on tap that had not been purified.⁵¹

On the other hand, PCSW inspections suggested that overall sanitation of prison facilities for female inmates is generally positive. However, its report noted the need for more washrooms along with separate shower facilities, accessible for disabled inmates, as well as the need for hot water for bathing during winter.⁵²

2.5 Telephone Access as a Means for Maintaining Family Ties

Evidence suggests that family visitation is supported throughout the prison system. The prison department has made recent investments in waiting areas outside some prison facilities which facilitate families who have to wait outside in extreme temperatures. However, it has been noted that lack of access to the phone and high cost of phone-calls in those jails where a Public Call Office has been established, prevent inmates from calling their families and receiving phone-calls. Given that jails are often at considerable distance from their home communities, this presents a significant barrier to continued communication between the inmate and her family.

2.6 Lack of Activation of Punjab Women's Helpline

In an effort to allow PCSW to fulfill its oversight mandate, IG Prisons made a notification to all jails regarding the Punjab Women's Helpline. As noted by the Chairperson of PCSW, this was a major step forward with regards to allowing PCSW to fulfill its oversight function as well as the provision of a modern and efficient complaint mechanism for inmates. There is no evidence, however, that this service has been used as PCSW has yet to receive any complaints from jail inmates.⁵³ Moreover, the Helpline has not been institutionalized in Prison Rules.

2.7 Torture and Abuse by the Police

Situating inmates' prison experience in the context of the broader criminal justice system offers insights into their condition upon arrival at prison.

⁵⁰ United Nations Office on Drugs and Crime. *Females Behind Bars: Situation and Needs Assessment in Female Prisons and Barracks*. UNODC, Country Office Pakistan: 2011, 24

⁵¹ *Ibid*, 25

⁵² Government of Punjab, 2015.

⁵³ Email correspondence, Chairperson, PCSW, September 19, 2016

There is considerable evidence that the police in Punjab have been engaging in torture and abuse of the women and men in their custody since as far back as 1980.⁵⁴ After the enactment of the *Hudood* ordinances the number of women in the criminal justice system went up dramatically: according to one study, for example, the number of women incarcerated in Punjab went from 70 in 1980, to 738 in 1990.⁵⁵ Their increased involvement in the criminal justice system exposed more women to the risk of abuse by the police. In a 1988 survey of female prisoners in the Punjab, 78% alleged maltreatment while they were in police custody, while 72% claimed rape or sexual abuse by the police.⁵⁶

A series of reports by Justice Project Pakistan (JPP) based on medico-legal cases (MLCs) from Faisalabad (recorded between 2006-2012), provided further documentary evidence of the extent of police brutality and abuse.⁵⁷ Physicians found signs of abuse in over 80% of all cases. The data revealed that severe beating was the most common form of abuse, including slaps, punches, kicks, whipping with leather objects, beating with blunt objects such as sticks, batons, canes and handgun grips. Eighty-four percent of victims of abuse had been severely beaten.

JPP reports suggested that females were at a higher risk of abuse by the police, than men. One hundred and fifty-seven out of 1,867 cases in JPP's sample represented female victims. Physicians on the District Standing Medical Board confirmed injury in 88% (134) of the female cases. JPP found that – like their male counterparts - 84% of women in the sample displayed evidence of having been severely beaten. Women experienced some forms of torture less often than men, such as suspension, stretching and crushing, sleep deprivation and solitary confinement. However, they were far more likely to have experienced sexual violence - 62% of women showed confirmed signs of sexual abuse, compared to only 3% of men.⁵⁸ Women were also more likely to suffer cultural humiliation, including ripping off of *chaddar* or veil in front of onlookers, and were twice as likely to witness other people's torture.⁵⁹ Table 3 compares the ways in which men and women were abused by the police.

54 See for example, Human Rights Watch, 1992.

55 *Ibid*: 91. Hudood Ordinance requires four, male Muslim witnesses to impose maximum punishment for rape, and in the absence of those witnesses, leave female rape victims susceptible to charges that instead of having been raped, they have committed the crimes of adultery or fornication. There have been widespread critiques of the Hudood laws from women's rights activists, legal scholars, and Islamic scholars. See one such critique by the Council of Islamic ideology in the Hudood Report, available at <http://cii.gov.pk/publications/h.report.pdf> The Women's Protection Act of 2006 changed the law to make it less discriminatory and susceptible to misuse. Paracha, N. (2011)

56 Jahangir and Jilani (1990)

57 The series of three reports published by Justice Project Pakistan and Lowenstein Clinic, Yale Law School examine overall police use of torture, as well as police abuse of women, and police abuse of juveniles, respectively. To make an allegation of abuse by the police, a victim may bring a complaint before a magistrate and ask to be referred to the District Standing Medical Board, comprised of four government physicians. These physicians evaluate the allegations and document any physical or psychological evidence of abuse in a medico-legal certificate (MLC). In their reports, JPP analyzed data for 1867 MLC evaluations conducted by District Standing Medical Board physicians in Faisalabad (Punjab) between 2006 and 2012.

58 Sexual abuse included rape, unwanted touching or other physical transgressions and forced nudity.

59 JPP 2014b, p.5.

TABLE 3. INCIDENTS OF POLICE BRUTALITY IN FAISALABAD DISTRICT 2006-2012: TYPES OF TORTURE

| TYPES OF INJURY | MALE VICTIMS | | FEMALE VICTIMS | |
|--|--------------|------|----------------|------|
| Any confirmed injury | 1,290 | 100% | 134 | 100% |
| Severe beating | 1,090 | 84% | 111 | 83% |
| Suspension | 143 | 11% | 0 | 0% |
| Stretching and crushing | 33 | 3% | 1 | 1% |
| Witnessing other people's torture | 382 | 30% | 82 | 62% |
| Sleep deprivation | 15 | 1% | 0 | 0% |
| Solitary confinement | 58 | 4% | 3 | 2% |
| Light deprivation, confinement to small spaces, exposure to extreme temperatures | 9 | 1% | 1 | 1% |
| Cultural humiliation | 317 | 25% | 109 | 81% |
| Sexual violence amounting to penetration | 9 | 1% | 1 | 1% |
| Sexual violence not amounting to penetration | 32 | 2% | 82 | 61% |

Source: JPP (2014b)

An analysis of the 15 case studies published by JPP (2014a, 2014b) further reveals structural differences in the abuse of men and women in their sample. While male victims were more likely to be the main accused or target of intimidation, female victims were more often relatives of the main accused. Male victims were mostly tortured at police stations or at other secluded locations, whereas the abuse of females occurred more often at home and on the street. Table 4 compares the incidents of abuse across male and female victims.

TABLE 4. INCIDENTS OF POLICE BRUTALITY IN FAISALABAD DISTRICT 2006-2012: DETAILS OF EVENTS

| | MALE VICTIMS | FEMALE VICTIMS |
|---|------------------|------------------------------|
| Nature of victim | | |
| Victim was main accused or target of intimidation | 7 | 4 |
| Victim was relative of the accused | 0 | 6 |
| Place of occurrence | | |
| Abuse occurred at police station | 4 | 2 |
| Abuse occurred at 'torture cell' outside police station | 3 | 0 |
| Abuse occurred at victim's home | 1 | 10 |
| Abuse occurred in public | 1 | 6 |
| Length of abuse episodes (range) | 1 day to 29 days | Few minutes to several hours |
| Total case studies | 7 | 10 |

Source: JPP, 2014a & 2014b. Data Condensed by author.

By law, if victims are able to obtain evidence of their abuse by the police (as served by the MLC), magistrates may order redress in three ways: reinvestigation of any criminal charges against the victim, monetary compensation, and criminal charges against the police officers.⁶⁰ In practice, however, it is reported that such measures are seldom taken and police officers tend to act with impunity. As noted by the JPP, police abuse tends to occur in the initial stages of an arrest.⁶¹

⁶⁰ Under article 199 of the Constitution; JPP (undated)

⁶¹ JPP 2014a: 27

If lawyers meet with the accused while they are held in police detention, they may be able to observe evidence of torture and raise it with the court, potentially leading to a timely intervention. The cases in the JPP sample were brought to the magistrate after the victim was released from incarceration or from police custody. At this stage it is often too late to take any meaningful steps to amend the wrongful nature of treatment that the accused has received.

The evidence from JPP's study sheds light on several aspects of women's susceptibility to abuse by the police. In the first instance, the nature of the cases suggested that the police choose to abuse those who are particularly vulnerable, including women and the poor.⁶² Not only do such victims pose an easy target, but they are also less likely to press charges against the police. Being largely poor and illiterate, women in custody represent the weakest group against whom the police can use force.

The process of obtaining an MLC requires the victim or her lawyer to either file a first information report (FIR) with the police, or file a complaint directly in front of a magistrate, and obtain the order for an examination by a board physician. Given the complex nature of the system, it is unlikely that most female prisoners would possess the resources to obtain an MLC. This raises important questions about the experience of incarcerated women while in the custody of the police.

Furthermore, while several forms of abuse were recorded, women were more likely to experience gendered forms of violence, including cultural and sexual abuse, than men, and often within the home or private domain. This raises questions around the sanctity of the home and state brutality within private spaces. It was not noted if any of the female victims had been charged with a crime or if they were incarcerated before or after obtaining MLCs. Criminal history of the victims was not available.

Finally, the evidence collected by JPP suggested that police routinely violate the rights of the accused by detaining them for extended periods of time before filing an initial report and producing them before a magistrate.⁶³ Doing so allows the police to act with impunity and without fear of their actions jeopardizing the case in court. According to Human Rights Watch (1992), police officers frequently detain women without registering a formal charge against them and without producing them in front of a magistrate within the required 24-hour period.⁶⁴ Evidence suggests that these periods of "invisibility" create the greatest vulnerability to abuse.⁶⁵ According to Police Rules, women may not be arrested by anyone below the rank of an Assistant Sub-Inspector unless she is arrested in front of her male relatives and village or town elders.⁶⁶ Once arrested, female suspects must be searched only by female police officers.⁶⁷ At the first appearance, the magistrate is empowered to release or remand the suspect into police custody for up to 15 days to allow for police to conduct an investigation.⁶⁸

62 JPP 2014a: 12

63 Code of criminal procedure, 1878

64 Criminal Procedure Code, 1898 sections 60 and 61

65 Human Rights Watch, 1992

66 Police Rules, 1934, Rule 26-18-A

67 *Ibid*, Rule 26-3

68 Criminal Procedure Code, 1898 section 167 (2)

Also, all arrests of female suspects must be immediately reported to the Superintendent of Police. Female suspects are not to be detained overnight, and for a period of time, they are offered protection from being questioned or interrogated by male police officers.⁶⁹

However, the report goes on to note that police regulations are routinely ignored, and at each stage of the process, the lack of implementation results in a systemic failure, increasing female suspects' vulnerability to custodial abuse. Furthermore, they have little or no recourse to justice in the event that they are abused. Although the Police Rules of 2002 mandate the creation of several internal and external oversight bodies with a view to curtailing police abuse and creating mechanisms for aggrieved parties to obtain redress, there is no evidence that these bodies have been formed, that they are used, or that they have successfully investigated or punished any police officers for engaging in abuse or brutality.

2.8 Non-Custodial Sentencing – Probation and Parole

The slow demise of non-custodial sentencing, i.e. probation and parole, emerged as an important element in key informant interviews.⁷⁰ It was suggested that the disuse of parole and other community-based sentencing options such as 'open farms' had created an inability of the prison system to frame the reintegration of the offender with society.⁷¹ However, recent evidence suggests that while non-custodial sentencing is still under-used, particularly with regard to parole, there has been a recent resurgence in the use of probation.⁷² Bhutta et al (2014) note that the use of probation in Punjab went up from 6,254 cases in 2008 to 21,478 cases in 2013 - an increase of 243%. The authors note that the major impetus for this increase was the National Judicial Policy of 2009 which emphasized the use of non-custodial sentencing.

Probation, i.e. the decision by the judge to award a community-based sentence to an offender, is governed by Probation of Offenders Ordinance XLV of 1960, the West Pakistan Probation of Offenders Rules, 1961, and the Juvenile Justice System Ordinance (JJSO) 2000 and its rules for implementation. Parole, i.e. the early release from prison of a prisoner into a community-based setting to serve the remainder of his or her sentence, usually on the basis of good behavior, is governed by The Good Conduct Prisoners' Probational Release Act, 1926, and the Good Conduct Prisoners Probational Rules, 1927. Administration of probation and parole is managed by the Provincial Directorates of Reclamation and Probation, working as departments under the provincial Home Departments.⁷³ The purpose of these community-based settings is to create a supervised, yet non-custodial environment for an offender to socialize, reintegrate and make the transition back into his life.

69 Police Rules, Rule 26-18-A. Prime Minister Nawaz Sharif ordered a ban on the arrest and interrogation of women by male police officers on September 21 1991, as reported in Human Rights Watch (1992); Jehangir and Jilani (1990)

70 Author's notes, February 2016.

71 Open farms were semi-secure facilities where offenders could reside with their families, and had been popular as non-custodial sentencing options in the late 1950s and early 1960s.

72 Bhutta et al, 2014.

73 Ali, 2013.

High court and Sessions court judges, judicial magistrates and other specifically empowered magistrates may award probation sentences.⁷⁴ Under section 10(1)(b) of the JJSO, the police should inform the concerned probation officer immediately following the arrest of juvenile male or female (i.e. less than 18 years of age). The probation officer must then produce a Social Investigation Report (SIR) to assist the court while it considers the juvenile's case. Under section 10(2) of the JJSO, a juvenile must be presented before Juvenile Court within 24 hours of arrest for a non-bailable offence, and for a bailable offence the court must immediately release the juvenile into the custody of a responsible adult, or a probation officer.⁷⁵ However, experts have raised concerns about the failure to establish Juvenile Courts, despite their provision in the law.⁷⁶ Furthermore, despite the regulation for a probation officer to produce an SIR, in practice, this is seldom prepared, nor considered, in assigning probation. Although the law allows probation sentences for female offenders in all offences except those punishable by death, in practice, few females are placed on probation because of the low number of female probation officers employed by the government.

TABLE 5. STAFF OF THE PROVINCIAL RECLAMATION AND PROBATION DEPARTMENTS

| PROVINCE | DIRECTOR | DEPUTY DIRECTOR | ASSISTANT DIRECTOR | PROBATION OFFICERS | | PAROLE OFFICERS | | TOTAL |
|-------------|----------|-----------------|--------------------|--------------------|--------|-----------------|--------|-------|
| | | | | Male | Female | Male | Female | |
| Punjab | 1 | 1 | 10 | 53 | 4 | 16 | 4 | 89 |
| KP | 1 | 1 | 0 | 21 | 7 | 2 | 0 | 32 |
| Sindh | 1 | 0 | 2 | 15 | 1 | 14 | 0 | 33 |
| Balochistan | 1 | 2 | 2 | 7 | 2 | 5 | 1 | 20 |

Source: Penal Reform International, 2012.

Table 5 presents a breakdown of the staff employed in the Provincial Reclamation and Probation Departments as of March 2012. Data suggests that the use of non-custodial sentencing varies dramatically across provinces, illustrating the preferences of judges in different jurisdictions. Although staffing resources impact the extent to which non-custodial options can be used, and the province with the highest staffing numbers have the highest number of probationers and parolees – this is not a proportionate effect, for example while the Punjab directorate employs nearly three times as many staff as KP and Sindh, judges in that province employ the use of non-custodial sentencing nearly ten times as often as any other province.

⁷⁴ Penal Reform International, 2012.

⁷⁵ SPARC, 2005.

⁷⁶ Unknown (2016); Ali, 2013:4.

TABLE 6. NUMBER OF PROBATIONERS AND PAROLEES BY PROVINCE

| PROVINCE | PAROLEES | PROBATIONERS | | | TOTAL PROBATIONERS |
|-------------|----------|------------------|----------------|--------------|--------------------|
| | | <i>Juveniles</i> | <i>Females</i> | <i>Males</i> | |
| Punjab | 150 | 247 | 243 | 21,510 | 22,000 |
| KP | 14 | 59 | 33 | 1697 | 1789 |
| Sindh | 22 | 50 | | 950 | 1000 |
| Balochistan | 76 | 5 | | 20 | 25 |

Source: Penal Reform International, 2012; data provided by Provincial R&P Directorates, current as of Dec. 2011 (for Punjab, Sindh, Balochistan) and Sept. 2011 (for KP)

Table 6 presents an overview of the numbers of individuals on non-custodial sentences across each province. Besides Balochistan, data for each province indicates a far greater usage of probation than parole. In general, the use of parole is fairly limited. Parolees are supervised by parole officers while being employed on fixed contracts with employers from a preapproved roster with the provincial R&D directorate. Prisoners are entitled to a small wage for their work, although it is unclear whether those wages meet minimum wage requirements. Prisoners may apply for parole themselves or through their families, or they may be recommended for parole by the jail Superintendent. The Home Secretary is also empowered to grant parole on the basis of good behaviour. Assistant Directors of Reclamation and Probation department and parole officers are also authorized to visit jails to select suitable parolees, but it is reported that these visits do not occur. As a remedy, the National Judicial Policy Making Committee (NJPMC) recommended that each province establish district level Parole Committees, including key officials from parole, prisons and police, as well as members of civil society, for the purpose of making recommendations for eligible parole cases to the Home Secretary.⁷⁷ The extent to which these committees are operational across any province is unclear.

2.9 Gaps in the Literature

This chapter identified several themes in the literature on female incarceration, including access to legal services, education, physical and mental health, residential and sanitation facilities, abuse in police custody, and the limited use of non-custodial sentencing. Other aspects of incarceration including the provision of recreation and employment, with respect to juveniles, adults and mothers in jail, and issues around raising children in jail, have been discussed to a lesser extent. A lack of systematic evidence prevents a deeper assessment of prison performance in these areas. Further data-driven tracking and assessment are necessary to develop a more complete understanding of the prisoner experience.

Broadly, existing assessments are largely silent on questions of recidivism or comparative studies for men and women on the types of offenses for which they are incarcerated, case processing times, and availability and access to facilities in jail.

⁷⁷ Penal Reform International, 2012:13.

Studies fail to assess probation and parole outcomes, and do not offer an insight into the specific needs for the prisoners with respect to mental health. There is a lack of evidence on the utilization and effectiveness of complaint mechanisms, including those enshrined in the rules, and those which have been recently introduced. Finally, existing studies fail to address the constraints faced by prison authorities and their implications on standards within the facilities.

A glaring gap in the policy and research literature is the absence of a discussion of re-entry/re-integration planning. Internationally, re-entry planning is being lauded as an avenue to facilitate the transition of women back into their home communities, and is considered to be a strong protector against reoffending and re-incarceration.⁷⁸ While a systematic review of best practice in the area of re-entry planning is beyond the scope of this report, it comprises an important area for further research and policy intervention.

3: Prison Rules and Oversight Mechanisms

The principles underlying prison administration in Pakistan are largely couched in The Prisons Act (1894), The Prisoners' Act (1900), the Lunacy Act (1912), The Punjab Borstal Act (1926), and Good Conduct Prisoners Probation Release Act (1926). In Punjab, the 2006 Punjab Employees Efficiency, Discipline and Accountability Act (PEEDA) is a recent addition to this legislation. While the expressed purpose of imprisonment is subject to inconsistencies such as those outlined in the chapter 1, contemporary commentators identify their fundamental purpose as correctional, with an aim to limit future offending (Ali and Shah, 2011). The main policy document governing prisons and jails is the Pakistan Prison Rules, 1978, also known as the Jail Manual, which contains 1,250 rules.⁷⁹ Framed upon the Prisons Act of 1894, the Prison Rules incorporate subsequent legislations and additional insertions to keep the laws up-to-date.

Many of the regulations in the Prison Rules are concerned with prison affairs that are not gender specific, e.g. food, residential facilities and family visitation. However, the Rules contain separate provisions for women in the form of notifications, sections and clauses within rules as well as a chapter dedicated to "women and innocent children."⁸⁰ Within this chapter, there are rules that address separate search procedures and enclosures for women, pregnancy, accompanying children and in-prison activities.

This section of the report presents a review of the Prison Rules as they apply to female prisoners. The chapter is divided into four sections: classification and admission, daily life, staffing and oversight. A critical assessment of the existing rules is presented in section 4.1.

⁷⁸ Vera Institute of Justice (2016)

⁷⁹ Wasim et al 2015:19

⁸⁰ Government of Pakistan (1978)

3.1 Classification and Admission

The classification and associated segregation of prisoners is clearly articulated in Prison Rules. Women's prisons are designated as "Special Prisons"⁸¹ which are distinct from Central Prisons and District Prisons.⁸² The classification of female prisoners is determined based on several factors including age-group: juvenile if under 18, adolescent if between 18 and 21 and adult if over 21.⁸³ During jail visits, however, it was observed that girls under 18 were housed with older females. Numbers of juvenile females held in prison facilities were unavailable, and it is unclear if this is tracked by authorities.

Upon admission, female prisoners are to be searched and examined by a female warder for both the routine search⁸⁴ and for the health examination.⁸⁵ The health examination requires the examining officer to indicate whether the prisoner's mental and physical health are "good, indifferent or bad" and an explanation of any reported ailments. The rules note that women prisoners must be in full attire when being weighed but do not authorize any further gender-based specifications regarding the admission procedure.⁸⁶

Appeals, Petitions and Release

Regarding the appeal procedures for female prisoners, Rule 94 specifies how a prisoner who does not have friends, family or counsel to file the appeal on their behalf can appeal their own case, and makes provisions for prisoners who are illiterate and the conditions in which court documents may be received.⁸⁷ Appeal regulations are particularly sensitive toward female offenders, and a notification on Rule 94 (dated July 8, 1992) states that the rule must be strictly applied in the case of women.

It was observed that most female prisoners were aware about the progress of their case. They were able to provide basic information about the charges against them, the judge in-charge, whether their lawyer had been appointed by the court or privately, and his level of responsiveness. However, women were largely unaware of their right to bail, or to complain about the prison conditions. Most women, even those who had experienced prior incarceration, displayed anxiety regarding the uncertain length of time it would take for the case to be decided, and were unaware of the reasons why they had made repeated appearances in front of the judge. Each woman had a paper record of her case and court appearances, although the record was often poorly maintained, with missing dates and pages. It was reported that this record was maintained by the Lady Assistant Jail Superintendent.

81 Government of Pakistan (1978), Chapter 2, Rule 6, iii

82 *Ibid*, Chapter 2, Rule 5, ii

83 *Ibid*, Chapter 9, Rule 230. Chapter 13, rule 308. Other factors include the status of their trial, conviction and nature of sentence, or, if under-trial, whether they are committed to sessions court or to other courts, their class (superior, ordinary or political), whether they are casual offenders (first-time offenders who commit crimes based on circumstance) or habitual prisoners (repeat offenders, professional criminals or people with mental defects).

84 Outlined in Chapter 3, Rule 16

85 *Ibid*, Chapter 3, Rule 21

86 *Ibid*, Chapter 32, Rule 779

87 *Ibid*, Chapter 5, Rule 94

When women prisoners are due for release, the Superintendent must inform the woman's relatives about the date she will be released.⁸⁸ If her relatives do not come to receive her, she must be escorted home if she is under thirty years of age by a woman warder or another designated woman. The released prisoner is allowed to stay the night at the women's ward if the release is made at night. Upon release, women prisoners will be provided with an unspecified "conveyance allowance" if their journey is between 0.6 km and 1 km. Conveyance is also provided for women traveling a shorter distance who would otherwise face a particular hardship.⁸⁹ Women prisoners who are destitute are entitled to blankets if they must travel by night in severe cold weather.⁹⁰

Housing and Transfer

Female detainees awarded a sentence of over two months, and female juvenile prisoners, must immediately be transferred to a women's prison upon conviction.⁹¹ In co-ed prisons, women must be kept in a separate facility or a separate part of the same prison so that male prisoners are out of sight and impossible to contact.⁹²

Rules for the transfer of female prisoners are strictly specified. When women are escorted by police, a notice for Requisition of Police Escort (a service provided for all prisoners) must state their number, class and whether they are violent, dangerous, under life sentences, condemned or dacoits.⁹³ Fetters cannot be worn by women prisoners,⁹⁴ nor can they ever wear handcuffs or be whipped.⁹⁵ Women prisoners must be transferred separate from male prisoners.⁹⁶ When being transferred by road, they must be given a conveyance and must travel during the daytime with a woman warder at all times.⁹⁷

3.2 Daily Life within the Prison

The Prison Rules are reasonably explicit in determining standards for certain aspects of prison life, but less specific in other aspects. For example, if there is only one woman in the prison, a woman warder must remain with her day and night, and special arrangements must be made for her transfer.⁹⁸ No women prisoner shall leave the women's enclosure unless for transfer, attendance in Court, release or specific circumstances such as a visit to the medical dispensary. All those who leave the enclosure will be accompanied by a woman warder at all times.⁹⁹ Women prisoners will have regular employment in "light activities" such as spinning, needlework and other "domestic" industries. "Irkesome" work, such as field tilling, is forbidden.¹⁰⁰

⁸⁸ *Ibid*, Chapter 6, Rule 137

⁸⁹ *Ibid*, Chapter 6, Rule 134, iv

⁹⁰ *Ibid*, Chapter 6, Rule 132

⁹¹ *Ibid*, Chapter 7, Rule 154, ii; Chapter 13, Rule 306

⁹² *Ibid*, Chapter 9, Rule 231, i; Chapter 13, Rule 305; Chapter 13, Rule 321, i

⁹³ *Ibid*, Chapter 7, Rule 169

⁹⁴ *Ibid*, Chapter 7, Rule 175, v, Chapter 27, Rule 650, i. However, the Rules allow fetters to be placed on male inmates of all ages, despite the widespread condemnation of this punishment technique.

⁹⁵ *Ibid*, Chapter 13, Rule 131

⁹⁶ *Ibid*, Chapter 7, Rule 184

⁹⁷ *Ibid*, Chapter 7, Rule 185, ii

⁹⁸ *Ibid*, Chapter 13, Rule 310

⁹⁹ *Ibid*, Chapter 13, Rule 311, i to ii

¹⁰⁰ *Ibid*, Chapter 13, Rule 312

Male officers can only enter women's sections when accompanied by a woman warder and for special purposes.¹⁰¹ No police officer is ever allowed to enter a women's ward or cell without written permission of the Superintendent.¹⁰²

Women must be searched by women warders and out of sight of men.¹⁰³ Women prisoners are to keep their enclosures clean, and paid sweepers will conduct "conservancy work" such as planting flowers. Sweepers cannot have conversation with women or be out of sight of the warder.¹⁰⁴

Hygiene and Cleanliness

Prison Rules contain multiple provisions for sanitation both as a standard practice and, to a lesser extent, specific stipulations for women. The Rules require that sanitary bathrooms and toilets be provided in the women's ward.¹⁰⁵

Chapter 31 of the Prison Rules contains detailed instructions for maintaining sanitary spaces. These instructions fall under the responsibility of the superintendent, medical officer, deputy superintendent and all subordinate officer's.¹⁰⁶ The floors of workshops, factories, barracks cells and the hospital must be cleaned daily, while ceilings and walls must be cleaned every one or two weeks. Beddings must be spread out under the sun at least two times a week. Outdoor portions of the prison must be kept with "extreme neatness and tidiness".¹⁰⁷ Drains and latrines must be kept clean and accumulations of filth are prohibited.¹⁰⁸ Specific instructions are provided for the privacy and refurbishment of latrines.¹⁰⁹

The Rules further state that all cells that are marked for solitary confinement must be built with "suitable sanitary and bathing arrangements." All prison cells intended for "separate and cellular confinement" are explicitly required to be constructed with sanitation in mind and with a general yard for prisoners to exercise and have meals together.¹¹⁰ The Prison Rules also mention that cells will be "provided with a flush system when possible." In the absence of a flush system, there must be sanitary openings with latrine pans.¹¹¹ All prisoners are provided with a small pitcher of water for their own use, and water taps must be available in each yard and barrack. Where possible, overhead showers must also be made available.¹¹² Wards or cells in which there are prisoners with an infectious disease must be whitewashed and disinfected under the supervision of the medical officer. During the summer, the walls and ceilings of barracks must be sprayed with insecticide on a regular basis.¹¹³

101 *Ibid*, chapter 13, Rule 314

102 *Ibid*, Chapter 38, Rule 930, iii

103 *Ibid*, Chapter 13, Rule 315

104 *Ibid*, Chapter 13, Rule 319

105 *Ibid*, Chapter 13, Rule 317, I

106 *Ibid*, Chapter 31, Rule 770

107 *Ibid*, Chapter 31, Rule 761, i-iv

108 *Ibid*, Chapter 31, Rule 770, b

109 *Ibid*, Chapter 31, Rule 771, I

110 *Ibid*, Chapter 25, Rule 623, iii-iii

111 *Ibid*, Chapter 31, rule 774

112 *Ibid*, Chapter 31, Rule 768

113 *Ibid*, Chapter 31, Rule 763, i-ii

Specific rules are also in place to ensure the availability and quality of water. Before a prison determines where its water supply will come from, samples of local sources must be sent to the chemical examiner.¹¹⁴ The selected source should be reassessed for adequacy in January of each year, or more regularly at the request of the Medical Officer.¹¹⁵ Precautions must be taken to ensure that wells and drains are not contaminated and that any filth should not be placed or buried near water sources.¹¹⁶ Wells must be cleaned at least once a year in October, and as many times as the medical officer deems necessary.¹¹⁷

One of the duties ascribed to the Prison Medical Officer is to prepare a report for the Inspector-General in August of each year documenting the prison's "medical and sanitary administration."¹¹⁸ In the immediate term, all health hazards brought on by drains and sewers must be reported by the Medical Officer to the Superintendent, who must report them to the Inspector-General.¹¹⁹ It is the duty of the Junior Medical Officer to inspect wells, sources of water and drinking vessels "periodically" for quality, quantity and cleanliness. All latrines, urinals and bathing places must be inspected and cleaned. The hospital, barracks and workshops must be well ventilated, and prisoners should be protected from extreme temperatures.¹²⁰

Dietary Allowance

Prison Rules allow female prisoners a non-labouring diet, i.e. lesser quantity of food than males who have been laboring in the prison.¹²¹ The Medical Officer must pay special attention to the diet of pregnant prisoners and arrange for milk, fresh vegetables and fruit, and other food items to be provided. Specific quantities are to be determined by the Medical Officer but are limited to 700 grams of milk and 233 grams of fresh fruit and vegetables per day.¹²²

Clothing and Equipment

Every woman will be provided with a cot, mattress and a pillow.¹²³ Female prisoners who are classified as Superior Class i.e. they have not committed a severe crime, are not repeat offenders and are of relatively high education and wealth¹²⁴ – are to be allotted a basic number of items of clothing, bedding towels and napkins over the course of the year. During the winter, they are to receive additional blankets, a foam mattress and an extra jersey.¹²⁵

¹¹⁴ *Ibid*, Chapter 31, Rule 765

¹¹⁵ *Ibid*, Chapter 31, Rule 769

¹¹⁶ *Ibid*, Chapter 31, Rule 766

¹¹⁷ *Ibid*, Chapter 31, Rule 767, i

¹¹⁸ *Ibid*, Chapter 40, Rule 994, ii, g

¹¹⁹ *Ibid*, Chapter 31, Rule 775, ii

¹²⁰ *Ibid*, Chapter 43, Rule 1059, a-c

¹²¹ *Ibid*, Chapter 20, Rule 471, i & ii; Rule 473, i; Rule 476, i; Rule 503, ii

¹²² *Ibid*, Chapter 20, Rule 488

¹²³ *Ibid*, Chapter 13, Rule 317, ii

¹²⁴ *Ibid*, Chapter 9, Rule 242

¹²⁵ *Ibid*, Chapter 10, Rule 261, ii

Lower class prisoners have lesser prescribed allowance,¹²⁶ although they are also allowed a set number of articles, including clothing, napkins, a towel, a comb, eating utensils, a blanket and a bed. During the winter, they must be given a woolen jersey and additional blankets.¹²⁷

All women are to be supplied with a specified quantity of soap and mustard oil each week. They are also to be provided with a comb, and mirrors are to be fixed on the wall of each ward. Each ward will contain an unspecified number of toilets and bathrooms.¹²⁸ Women have the right to keep small ornaments of low value such as a ring, nose-nail and bangles of glass or silver,¹²⁹ but must forfeit more expensive possessions made of gold and silver. The Superintendent has authority to confiscate ornaments for disciplinary reasons.¹³⁰

Pregnancy and Prisoners with Accompanying Children

The Junior Medical Officer must report to the Medical Officer if he has reason to believe that a female prisoner is pregnant, usually based upon the medical exam undertaken upon admission to jail.¹³¹ All prisoners in an advanced stage of pregnancy must be reported to the Inspector-General who will consult the government on their sentences. A full statement about the case made by a gynecologist must be included in report. A gynecologist or qualified midwife must be available to deliver a child if a prisoner is giving birth. Pregnant prisoners with less than a two-month sentence are to be confined in the prison where they are committed.¹³² The case of under-trial prisoners expecting confinement shall be referred to Trial Court for release. The Session Judge is empowered to postpone the sentence for pregnant women who have been sentenced to death.¹³³ In fact, the High Court is advised to postpone their execution and may commute their sentence to life imprisonment.¹³⁴

Female inmates are allowed to keep their children with them until the children are six years old.¹³⁵ The rules allow them some accessories for looking after the children, such as a feeding bottle, inexpensive toys, jail-made nappies and clothing.¹³⁶ Rules do not define appropriate standards for the children's learning or recreation. If neither the mother nor her family can take care of the child, the District Coordination Officer (DCO) shall arrange for him or her to live in "healthy nursery societies", and will be returned to the mother upon her release if she is then in a position to look after the child. If the child is a girl who has reached the age of puberty, the Sessions Judge of the District shall arrange for her marriage.¹³⁷

126 *Ibid*, Chapter 9, Rule 242

127 *Ibid*, Chapter 21, Rule 518, I and Punjab Amendment

128 *Ibid*, Chapter 13, Rule 317, i

129 *Ibid*, Chapter 13, Rule 316, i-ii

130 *Ibid*, Chapter 4, Rule 75, ii

Act, 1829).

131 *Ibid*, Chapter 43, Rule 1057, ii

132 *Ibid*, Chapter 13, Rule 307, i

133 *Ibid*, Chapter 14, Rule 348

134 *Ibid*, Chapter 14, Rule 350

135 *Ibid*, Chapter 13, Rules 322, 323, 324, 326

136 *Ibid*, Chapter 21, Rule 518, iv

137 *Ibid*, Chapter 13, Rule 327, I and ii. This rule should be updated based on the legal age for marriage which is 16 years in Punjab (Child Marriage Restraint Act, 1829)

Education and Work

Standards specified for education and work are particularly weak. The Rules state that all illiterate prisoners must receive primary-level education for at least one hour a day.¹³⁸ It does not distinguish between religious, formal or vocational education, and is non-specific based on age, gender, or prior educational attainment. When being assigned for work in a prison industry, women prisoners will not be assigned any labour that is more than two-thirds of the labour given to adult male convicted prisoners.¹³⁹ These tasks may involve sweeping, carrying water, working in the garden, working as a clerk or working in a prison industry.¹⁴⁰ However, elsewhere it states that convicted women prisoners shall be employed in spinning, needle work, knitting and other domestic industries. They are not to grind grain or perform "irksome" work.¹⁴¹ Women prisoners are not explicitly barred from becoming prison guards,¹⁴² but no provision defines women's participation in these or other positions of responsibility within the jail.¹⁴³

3.3 Staffing: Lady Assistant Superintendent and Warders

The Women's Prison is to be the headquarters for all authorities overseeing incarcerated women. The position of Lady Assistant Superintendent will have complete authority of all women prisoners and is assisted by women warders.¹⁴⁴ All warders will be provided four months of training. A copy of the Prison Rules should be provided to trainees at a discounted rate, and they are to be trained in the use of firearms.¹⁴⁵

Female warders maintain charge of female prisoners, and work under the supervision of the superintendent and the deputy superintendent.¹⁴⁶ All rules and duties that are applicable to male warders are applicable to female warders.¹⁴⁷ Their recruitment is based on the following conditions: they should be from 25 to 35 years old, they must be in good medical condition, the superintendent should determine that they are of good character and they must be literate.¹⁴⁸

No male person with any form of employment related to the women's prison is permitted to enter the women's barrack or cell unless in the case of an emergency or on the permission of female staff.¹⁴⁹ Any male prisoner or officer entering or attempting to enter the women's enclosure without authority must be reported to the deputy superintendent and the superintendent.¹⁵⁰ A woman warder may not communicate with male prisoners unless required by her duties.¹⁵¹

138 *Ibid*, Chapter 28, Rule 679, i

139 *Ibid*, Chapter 33, Rule 816, ii

140 *Ibid*, Chapter 33, Rules 832-838

141 *Ibid*, Chapter 13, Rule 312

142 *Ibid*, Chapter 19, Rule 465. Given these constraints, other suitable employment opportunities should be considered to allow women to earn remission.

143 *Ibid*, Chapter 19, Rules 457-458 and 460

144 *Ibid*, Chapter 46, Rule 1180, i and iii

145 *Ibid*, Chapter 45, Rule 1129

146 *Ibid*, Chapter 46, Rule 1181, i

147 *Ibid*, Chapter 46, Rule 1181, ii

148 *Ibid*, Chapter 46, Rule 1182

149 *Ibid*, Chapter 46, Rule 1183, i

150 *Ibid*, Chapter 46, Rule 1188

151 *Ibid*, Chapter 46, Rule 1189

The in-charge head-warder will ensure the accuracy of the prisoner's headcount provided by the female warder, without entering the women's enclosure.¹⁵² Women prisoners are to be searched by female warders in a secluded place and not in the presence of any male.¹⁵³ A subordinate officer may only enter a women's cell or ward with authorization and in the presence of a woman warder.¹⁵⁴ The female warder is responsible for distributing food among the inmates, and must report to the deputy superintendent if food is poorly prepared or is insufficient in quantity. Female warders must escort any woman leaving the women's enclosure and remain with her until she returns.¹⁵⁵

The female warder is responsible for ensuring that the prisoners in her charge are safe, that sick prisoners receive a special diet as ordered by the Medical Officer, and that children in the prison receive adequate care. The female warder must inform prisoners of their daily tasks and ensure that they perform those tasks satisfactorily. She must report any default to the deputy superintendent.¹⁵⁶ Each evening she must search female prisoners and their cells, report the completion of lock-up to the deputy superintendent, and record it in the lock-up register. She must deliver all keys to the women's enclosure to the deputy superintendent.¹⁵⁷ The entrance to the women's enclosure must be locked from the inside and the outside. A call-bell is to be used in case of emergency.¹⁵⁸ These restrictions present a concern around the safety of the staff and prisoners in the women's ward in the event of a fire or other threat.

3.4 Prison Administration and Oversight

Prison Administration

As noted in interviews with former jail superintendents, in practice, the Superintendent is "the King" of the jail as he has nearly complete autonomy to manage the prison and determine its culture. While on the one hand this allows some superintendents to adopt partnerships with outside agencies and to be creative in their approach toward the culture within their facility, on the other, limited oversight poses risks of exploitation of prisoners.

However, Prison Rules clearly note that the Superintendent is obliged to follow the orders of the Inspector General of Prisons (IG). Rule 939 states, "The overall responsibility for the security and management of the jail shall squarely revolve on the Superintendent ... subject to the orders of the Inspector-General". Also, the rules state that the Superintendent must comply with all orders made by the District Coordination Officer (DCO), so long as they are not inconsistent with the Prisons Act, and any actions taken at the behest of the DCO must be reported to the IG. This indicates the integral nature of the relationship between the Superintendent and the IG on the one hand, and the civilian oversight capacity of the DCO, on the other

¹⁵² *Ibid.*, Chapter 45, Rule 1143

¹⁵³ *Ibid.*, Chapter 45, Rule 1166, iv, and Chapter 46, Rule 1186

¹⁵⁴ *Ibid.*, Chapter 44, Rule 1095, c

¹⁵⁵ *Ibid.*, Chapter 46, Rule 1183 Note, 1184, 1185

¹⁵⁶ *Ibid.*, Chapter 46, Rule 1191, i and ii

¹⁵⁷ *Ibid.*, Chapter 46, 1192, i to iii

¹⁵⁸ *Ibid.*, Chapter 46, Rule 1187, i and ii

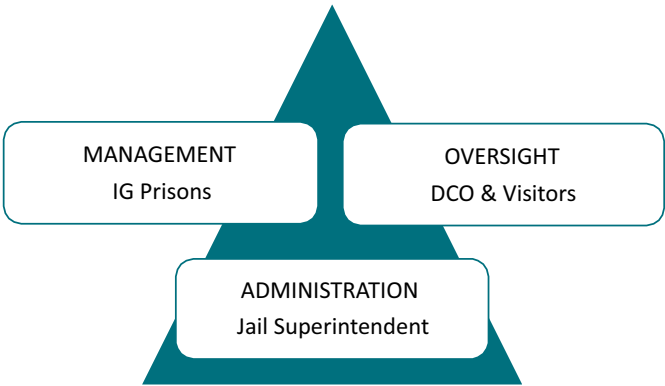
According to the Rules, the Superintendent is to visit the prison daily and as far as possible, is to see each prisoner daily or once in two days.¹⁵⁹ He is also responsible for inspecting the food, conducting surprise visits of the facility, conducting weekly visits to the garden and ensuring the storage of grain. The Superintendent must also conduct a weekly parade, accompanied by the Medical Officer to determine the overall health and hygiene of the inmates.¹⁶⁰

At the same time as being responsible for the internal working of the prison, the Superintendent also has responsibility to share data and information on relevant events with the IG. For example, the Superintendent is supposed to "regularly and punctually" submit financial information, prisoner reports and other prison statistics to the IG. By August 31st of each year the Superintendent is to submit a report detailing the administration in his prison over the course of the year, to the IG. The Senior Medical Officer works with the Superintendent, ensuring the hygiene and health of the prisoners, and taking appropriate measures to safeguard against the outbreak of disease.¹⁶¹

Oversight

Table 7 summarizes the agents responsible for prison administration, management and external oversight. There are at least three elements of checks and balances in existing regulations: IG, DCO, and Visitors (official and non-official). These elements are described below.

Table 7. Responsibilities for Prison Administration and Oversight



The Inspector-General of Prisons

The provincial Inspector-General of Prisons (IG) has ultimate responsibility for the "general control and superintendence of all prisons".¹⁶² In Punjab, rules state that a Deputy Inspector-General may exercise the powers of the IG in the region. The IG is responsible for construction, supplies, and entering into deeds for the sale of articles manufactured in the prisons.

¹⁵⁹ *Ibid*, rules 943 and 941

¹⁶⁰ *Ibid*, rule 955

¹⁶¹ *Ibid*, rule 968

¹⁶² *Ibid*, rule 888

Rule 893 states, "Subject to the budget provision and allotment of funds to meet the expenditure of the Prison Department, the entire control over all expenditure on the maintenance of prisons and on all matters in any way relating to, or connected with, the administration of prisons, shall vest in the IG." Ultimate responsibility for prison management, therefore, falls upon the IG. In addition, all contracts with the exception of petty contracts must be cleared with the IG before they are awarded to outside contractors.¹⁶³ The IG is required to conduct a detailed visit of each prison at least once a year to determine compliance with the rules of the Prisons Act (1894) and efficient and satisfactory management.¹⁶⁴ During the tour, the IG is required to visit all parts of the prison with a view to whether the prison structure allows for the required separation of prisoners; examine the gardens and food generation capacity; note the water supply and medical care arrangements; assess overcrowding; inspect warder and armament arrangements; assess adequacy of watch and guards; assess record keeping; and finally, to "see every prisoner confined in the prison, noting ... adoption of task to physique and capability, condition and sufficiency of clothing, employment of fetters, working of the remission system, the award of punishments and afford every prisoner a reasonable opportunity of making any request or complaint and investigate those relating to prison discipline".¹⁶⁵ The IG is also required to submit a report to the Government in the first week of October each year, which describes prison administration, as well as statistics and statements as prescribed by the government.¹⁶⁶ In addition, the IG or prison Visitors must visit any mentally ill person confined in a mental hospital at least once every six months, and make a special report about the patient's state of mind. In fact, Rule 904 notes that the IG is an ex-officio Visitor of all mental hospitals established in the province.¹⁶⁷ Financial management and annual inspection of judicial lockups is also ascribed to the IG.¹⁶⁸

The District Coordination Officer

While the IG has ultimate responsibility for management and supervision, the District Coordination Officer (DCO) bears responsibility for oversight. With regard to "discipline and management" these powers must be discharged subject to "general control of the IG". This indicates that the DCO has considerable authority and responsibility for ensuring that rules in the Prison Act are being followed. In fact, sub-section 2 of section 11 of the Prisons Act (1894) reads, "Subject to such general or special directions as may be given by the Provincial Government, the Superintendent of a prison ... shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the 'District Magistrate' ..." - replaced in Prison Rules in 2002 with 'DCO' - "... and shall report to the IG all such orders and the action taken thereon."¹⁶⁹ While Rule 909 notes that such actions should be expressed by the DCO in a way which allows the Superintendent to have time to refer to the IG before taking action, it also notes that in situations where the DCO opines that "immediate action is ... necessary" this requirement for advance notice need not be observed.¹⁷⁰

¹⁶³ *Ibid*, rule 896

¹⁶⁴ *Ibi*

¹⁶⁵ *Ibid*, rule 897

¹⁶⁶ *Ibid*, rule 900

¹⁶⁷ Under Section 54 of the Mental Health Ordinance 2001

¹⁶⁸ *Ibid*, rule 906 d, rule 897

¹⁶⁹ Elsewhere, the rules note, "the Superintendent of a prison, other than Central Prison, shall comply with all orders not inconsistent with the said Act... which may be given respecting the prison by the DCO subject to such general or special directions as may be given by the Government." *Ibid*, rule 908

¹⁷⁰ *Ibid*, rule 909

In fact, sub-section 2 of the same rule notes, "All orders issued by the DCO shall *if expressed in time requiring immediate compliance* be forthwith complied with and a report made to the IG".¹⁷¹ While all communications of the DCO are to be addressed to the Superintendent and must be issued in writing (rule 910) or as entry in the Visitors Book, it is noted that for issues relating to the "safety of the public, the prison or the prisoners", the DCO is empowered to take all measures necessary, and such action shall be "promptly reported to the IG".¹⁷² The DCO is further authorized to appoint honorary teachers in "religious and moral subjects" to lecture in the prison on a weekly basis as defined by the Superintendent.¹⁷³

Official and Non-official Visitors

Government appointed official and non-official Visitors constitute a second oversight mechanism. Officials visitors may include district Nazim, District and Sessions Judges, DCO, Deputy Inspector-General Police, Superintendent of Police, Executive District Officer (Health), Director of Reclamation of Probation, Executive District Officer (Agriculture), Head of Department of Social Work, Psychology and Psychiatry of the University, Administrator of the Auqaf Department, Director of Industries and District Officer Revenue.¹⁷⁴ DCO and Sessions Judges must visit the prison at their headquarters at least once a month.¹⁷⁵ The Superintendent is required to submit an annual report to the Government on number of annual visits, through the Inspector-General, every January. Official Visitors are empowered to interview any prisoner or any paper record and must satisfy themselves that the Prisons Act 1894 and the rules defined under that Act are being observed. They must also determine if any prisoner is illegally detained or is detained for an undue length of time, pending trial. Further, they must "bring to notice any complaint or representation made by any prisoners".¹⁷⁶ Official Visitors have considerable responsibility and authority for oversight under Prison rules.

In addition to Official Visitors, each prison may have between 10-15 non-official Visitors, depending on the size of its population. Non-official Visitors are to be appointed by Government for terms of four years (renewable) by a selection board comprising local members of National and Provincial Assemblies, Superintendent of Police, Superintendent of Prison and the Secretary of the Prisoners Aid Society and chaired by the DCO. The Secretary of the Prisoners Aid Society shall serve as the Secretary of the selection board and shall forward two names for every vacant, non-official Visitor position, to the board six months prior to the expiry of the incumbent's term. The selection board shall then make recommendations to the Government. In addition, the Minister for Prisons and the Home Secretary may also nominate any person to be non-official Visitor to any prison in the province on the basis of their interest in prisoners' welfare.

Members of the Provincial Assembly may be appointed as non-official Visitors in their constituency, provided that members of the National Assembly are also appointed.

¹⁷¹ *Ibid*, rule 909 (ii), emphasis added

¹⁷² *Ibid*, rules 910 & 911

¹⁷³ *Ibid*, rule 912

¹⁷⁴ *Ibid*, rule 913

¹⁷⁵ *Ibid*, rule 914

¹⁷⁶ *Ibid*, rule 916, ii

In fact, every member of the Provincial Assembly has the authority to visit prisons in his constituency as soon as he is elected. At prisons where women are confined, lady non-official Visitors should be appointed from "amongst prominent lady social workers and lady teachers of industrial homes".¹⁷⁷ The appointment of non-official, Visitors is to be notified in the Provincial Gazette and the DCO is responsible for maintaining their roster of visits. Names of all Visitors are to be displayed at the main gate of the Prison.¹⁷⁸

Prison officials are required to facilitate all Visitors in observing the state of the prison, its management, and their right to see and speak with any prisoner.¹⁷⁹ According to the Prison Rules, Visitors must be accompanied by an escort for personal safety but the guard should permit adequate distance and "withdraw out of hearing" to permit the Visitors' private communication with prisoners.

The rules prohibit the punishment of a prisoner for complaints made to Visitors unless an inquiry made by the Magistrate deems that the complaint was false.¹⁸⁰ Any political prisoners, however, are not to be interviewed by the Visitors except in the presence of the Superintendent or the Deputy Superintendent. Further, the rules note that when Lady Visitors are appointed to a facility where women are confined, they shall "have the same functions and duties as male visitors", except that they will have nothing to do with any male inmates at the prison.¹⁸¹ Their observations are to be noted in the Visitors book, and a copy of those remarks, along with a detailed note on the response of the Superintendent as well as any subsequent actions taken by the Superintendent, are forwarded to the Inspector-General as well as, in the event of extended detention of under-trial prisoners – to the Sessions Judge and the DCO.

However, any remarks not immediately noted by a non-official Visitor in the log book shall be ignored. Visitors are prohibited from sharing their remarks with the Press or any other means of publication.¹⁸² The Inspector-General may pass orders based on the comments made by Visitors, and in the case of the DCO's visit, his comments as well as a copy of the comments of the Superintendent and Inspector General shall be forwarded to the Government.

The DCO is also responsible for coordinating a Board visit of the prison once every three months. The Board is comprised of the DCO, two official and one non-official Visitor. The Board is required to "inspect all buildings prisoners, hear any complaints and petitions that may be preferred, inspect the prisoners' food and see that it is of good quality and properly cooked, inspect the punishment register and satisfy themselves that it has been kept up-to-date".¹⁸³ The rules also expressly note that these functions are not to be delegated subordinates of members of the Board. Table 8 summarizes the core responsibilities for each agent of administration, management and oversight. The extent to which these mechanisms are successful in ensuring a just, fair and humane environment for female prisoners in Punjab is discussed in section 4.

¹⁷⁷ *Ibid*, rule 917

¹⁷⁸ *Ibid*, rule 929

¹⁷⁹ *Ibid*, rule 919

¹⁸⁰ *Ibid*, rule 923

¹⁸¹ *Ibid*, rule 926

¹⁸² *Ibid*, rule 928

¹⁸³ *Ibid*, rule 921

Table 8. Core Responsibilities of Agents of Administration and Oversight

| ADMINISTRATION | |
|-------------------------------------|--|
| Superintendent | <p>REPORTS TO: IG</p> <p>RESPONSIBLE FOR: Security and administration of the jail</p> <p>MUST: Comply with orders of the District Coordination Officer; visit prison daily and see each prisoner daily or once in two days; conduct weekly parade accompanied by the Medical Officer to determine the overall health and hygiene of inmates; work with Senior Medical Officer to safeguard against the outbreak of disease, be responsible for inspecting food, conducting surprise visits, conducting weekly visits to the garden, ensuring adequate storage of grain etc.</p> <p>REPORTING: Regularly to IG on financial information, prisoner reports and other prison statistics; by August 31st each year must submit an annual report detailing prison administration over the course of the year; each January must submit details of all visits to the prison during the prior year.</p> |
| MANAGEMENT | |
| Inspector-General, Prisons (IG) | <p>REPORTS TO: Secretary, Home Department, Government of Punjab</p> <p>RESPONSIBLE FOR: Ultimate responsibility for general control and superintendence of all prisons; construction, supplies, and sale of articles manufactured in prison; financial management and annual inspection of judicial lock-ups</p> <p>MUST: Visit each prison at least once a year to ensure compliance with rules and satisfactory management; engage control over all expenditure on maintenance or administration of prisons; must approve all contracts; visit any mentally ill persons confined in a mental hospital at least once every six months and make a special report about the patient</p> <p>REPORTING: Required to submit a report to the Government in the first week of October each year describing prison administration and stats and statements as prescribed by the government.</p> |
| OVERSIGHT | |
| District Coordination Officer (DCO) | <p>IS THE Coordinating head of the district's government administration</p> <p>RESPONSIBLE FOR: coordinating a Board visit each quarter, where the Board is comprised of the DCO, two ex-officio and one non-official Visitor, to inspect all buildings, hear any prisoner complaints, inspect prisoners' food, inspect the punishment register, and determine if anyone is being detailed illegally or for excessive time;</p> <p>MAY PROVIDE general or specific directions to any Superintendent (except for Central Jail); directions should give the Superintendent time to consult with the IG unless DCO opines that immediate action is necessary; all communications to be addressed to Superintendent and recorded in writing; for issues related to the safety of the public, the prison or the prisoners, the DCO may take any necessary measures.</p> |
| Visitors | <p>MUST: Join DCO and Board on quarterly visit to the jail; Official visitors must visit the prison at district headquarters at least once a month;</p> <p>MAY INCLUDE: non-officials appointed by name, officials including district Nazim, District and Sessions Judges, DCO, DIG Police, Superintendent Police, Executive District Officer (Health), Director of Reclamation of Probation, Executive District Officer (Agriculture), Head of Department of Social Work, Psychology and Psychiatry of the University etc.</p> <p>NOTES: May interview any prisoner or any paper record and bring to notice any representation made by a prisoner; non-official Visitors need not give advance notice of their visit; local MNA/MPAs may also visit prison as soon as they are elected; lady non-official visitors should be appointed for each women's prison where women are confined; guards must allow Visitors to speak freely to prisoners and rules prevent prisoners from being punished for making a complaint to the Visitor; all remarks are to be immediately noted in the Visitors' book and may not be published or shared with the press.</p> |

4: Conclusion & Recommendations

4.1 Analytical Summary

The policy review highlights several areas where concrete interventions – including improved implementation of existing policies, policy reform, and robust systems for tracking cases to enable data-driven decision-making – are needed to improve the prison system for female offenders.

1. *Violations in Police custody:* Evidence suggests that abuse by the Police is fairly widespread and that it affects women more than men. By the time female offenders arrive in jail, there is a significant risk that they will have been abused by the authorities. It has been suggested that women are often held in police custody for longer than 24 hours before they are produced in front of a magistrate, as police don't file a challan when they first take them into custody. Better implementation of police laws is needed to limit the time women spend in limbo and between custodial settings. It is important to view the criminal justice system as a continuum and present a consistent commitment to the security and safety of female offenders. Redressal mechanisms in jail may be expanded to tackle Police violations as well.

2. *Case information for under-trial detainees:* Under current rules, inmates have the right to legal assistance, including information about the period within which to appeal a judgement, assistance in meeting lawyers, obtaining copies of legal documents, writing out an appeal, and filing an appeal in court. Furthermore, the Superintendent of the Jail is required to forward appeals to the Registrar of the Supreme Court of Pakistan in cases where the prisoner presents his or her petition to the Superintendent.¹⁸⁴ These policies must be implemented consistently. In addition, there is a need for developing a broader legal assistance policy which provides comprehensive legal assistance to all under-trial prisoners, and not just appeal cases.

3. *Classification and admission:* Admission rules include provisions for the separation of juvenile females from adults, but it has been suggested that these rules are not systematically applied. Furthermore, the rules omit a discussion of opportunities for recreation and education for female juveniles. Further, outdated and classist language (e.g. separation of prisoners into classes A, B and C depending on their social status) allows prisoners to be treated differently based on their wealth. Such language must be abolished.

4. *Right to work in jail:* While men are allowed to attain positions of responsibility and earn wages while they are incarcerated, no such provisions exist for women.¹⁸⁵ There is no evidence on

¹⁸⁴ Pakistan Prison Rules (1978), Rules 90, 92, 94 and 102 as noted in Siddique (2015)

¹⁸⁵ Shah (2015)

women's experience with regard to access to work and to earning remission while incarcerated.

5. Access to education/vocational training: While Prison Rules allow for one hour of literacy instruction per day, this falls short of current standards. Further, there is no systematic approach for replenishing resources for the acquisition of materials for vocational instruction, e.g. thread and fabric for stitching. Posts for female teaches, instructors and medical officers are found to be vacant.

6. Access to doctors in jail: Most female inmates reported that they could access a (male) doctor when needed. However, Prison Rules dictate that the physical health screening undertaken at the time of admission is conducted by a female warder, and not by a qualified doctor. As the warder is not equipped to conduct a thorough physical or mental health examination, the rules should be amended to require a female doctor to conduct a health examination upon admission.

7. Mental health: Prison Rules are notably lacking in the recognition of mental health needs of inmates and require significant additions to meet current international standards in this regard, which mandate that women and men who display signs of mental illness are entitled to receive mental health treatment. One way to do this would be to introduce a suitable mental health screening at the time of admission.

8. Complaint mechanisms: In several jails in Punjab, women can now make official complaints while they are incarcerated through systems such as the Punjab Women's Helpline – a telephone service monitored by PCSW. However, despite notification by the IG Prisons, because these mechanisms are not part of the rules, they appear not to be systematically implemented and rather are adopted on an ad hoc basis. Further, inmates are not informed about their rights to make complaints while in jail. These rights and associated complaint mechanisms must be clarified and included in the Prison Rules.

9. Sanitation: This is another area that has seen considerable advancements in recent years, particularly as overcrowding is not a large concern with respect to female prisoners. However, existing recommendations call for enhanced facilities with toilets and showers which are accessible for disabled inmates.

10. Accompanying children in jail: Prison Rules allow for children up to the age of 6 years to accompany their mothers in jail. However besides basic facilities such as clothes and food, there are no rules for adequate care for these children. Rules should provide for accompanying children to receive early literacy instruction as well as means for play and active recreation. Language in the rules should be modified to reflect the Child Marriage Restraint Act and minimum age for marriage and should be harmonized with other child protection laws.

11. Community-based sentencing: Non-custodial sentencing (probation) and supervised early release (parole) are known to be less disruptive to the family unit than incarceration. As primary caregivers for their children, these sentencing options are particularly relevant for women. Inadequate staffing prevents these mechanisms from being mainstreamed but recent policy developments have encouraged the use of these options.

12. Re-entry planning: The right for effective re-entry planning is a corner stone of modern penal systems and must be enshrined in the Prison Rules. Prison officials must be held responsible for adequate planning and implementation of a re-entry plan that caters to the specific needs of the inmate. In several progressive penal systems, re-entry planning begins as soon as inmates enter jail. Admission into custody is used to identify underlying physical or mental health issues, economic stressors, or other risk factors that can be addressed through counselling, treatment and other service provision while offenders are incarcerated. Well-integrated plans go further than offering family support upon prisoners' release. Creative use of public-private partnerships has allowed prison superintendents to circumvent resource constraints and produce positive results where such an approach has been adopted. Effective reentry planning requires a gender responsive approach which recognizes that the trajectory that brings women into the criminal justice system is different from that of men. Such an approach should recognize the violence and abuse that women offenders may have experienced, often creating heightened mental and physical health needs. Their pathways into the criminal justice system are often interlinked with those of their husbands or other male family members. Their socioeconomic needs are frequently heightened by their role as primary caregivers for their children. An integrated and multifaceted re-entry plan which acknowledges these trajectories unique to women and supports their return into their home community is therefore essential to prevent future offending.¹⁸⁶

13. Recruitment: Although provisions exist for the recruitment of qualified lady Warders and Lady Assistant Superintendents, these positions are often not filled. The reasons for this are unclear. Inadequate staffing disrupts the provision of adequate care. These positions should be filled with qualified candidates. Additional posts should be created for substantive experts, e.g. mental health counselor, dentist, vocational and literacy instructors etc.

14. Administration and oversight: Together, the roles of the Superintendent, Inspector-General of Prisons, District Coordination Officer and Visitors comprise a systematic array of regulatory authority responsible for prison functioning; ultimate responsibility for administration rests with the provincial Home Department, which is the parent Department for the Inspectorate General of Prisons. Enforcement mechanisms are weak, however, and the rules omit the implications upon Prison staff and officials when they fail to uphold the rules.

¹⁸⁶ Bloom, B, Barbara Owen, and Stephanie Covington (2003). Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders (NIC Publication No.018017). Washington, DC: National Institute of Corrections

15. Role of Chairperson, Punjab Commission on Status of Women: The oversight mandate of PCSW was significantly furthered through the directive of the Inspector General of Prisons, ordering jails to activate Punjab Women's Helpline thereby allowing female prisoners to make complaints regarding prison conditions over the phone to the PCSW. However, reports suggest that this facility remains largely unused. Reasons for this are unclear. This important initiative should be activated to allow PCSW to more effectively monitor the conditions of women in jail.

Data-driven Assessment And Case Tracking

An efficient and integrated prison system requires a strong case management system which can track an individual inmate and their case through their admission and release from prison.¹⁸⁷ At a minimum, such a system should record case details and identifying information for the individual such as a National Identity Card number. An ideal system would include outcomes from a needs assessment conducted at admission, prison based services and re-entry plans integrated across health, education, community based supports and legal services. Such a system would allow case and inmate-based tracking to monitor recidivism and community-based sentences. It is unclear whether the Prisoner Monitoring and Information System – currently being developed by the Government of Punjab – will fulfill this role. Table 9 summarizes the findings from this report. Column 1 indicates the areas of concern which have been identified in the literature or through policy review. Column 2 indicates relevant findings in the literature on prisoner experience, while column 3 notes the sufficiency of current prison rules. Column 4 summarizes the state of policy implementation, whereas column 5 notes how each area would benefit from data driven assessment and case tracking. Column 6 lists the relevant section of this report which provides further evidence. The colored background for each cell indicates the urgency of the situation: green indicates well-developed, yellow suggests some success with room for development, and red denotes an urgent need for intervention.

4.2 What has been Achieved?

Jails in Punjab have seen significant improvements in recent years. Investments in infrastructure development have helped ease problems of overcrowding, particularly for incarcerated women. The Punjab Prisons Department has launched a well-maintained website for the dissemination of information and current statistics. Visitation facilities have been systematically improved throughout most jails, and waiting rooms/visitation sheds now make it easier for inmates' families to visit them in jail. According to the website, a state of the art Prison Management Information System (PMIS) has been launched, so as to better track inmates using an automated finger-print based system, and allowing for tracking of recidivism and other longer term outcomes. CCTV cameras and mobile jammers have been installed throughout many jails, leading to safer environments for inmates and prison staff.

¹⁸⁷ Ibid

In an effort to increase staff responsiveness, IG Prisons has instructed all jail Superintendents to be present in a waiting room outside their offices from 11AM to noon every day, so that they can efficiently address any prisoner complaints. In the event that the complaint is not remedied, inmates can register a complaint on 1124 – a toll free helpline of Prisons Department, which is managed directly by the Home Department.¹⁸⁸

Other organizations have also taken considerable steps to improve the situation for those involved in the criminal justice system. The Law and Justice Commission of Pakistan, for example, has created a novel public awareness campaign to educate prisoners about their legal rights. The Commission is also facilitating complaint mechanisms for legal redress in the event that an injustice does occur. Overall, there are indications that the system is moving toward humane and constructive penal policy.

TABLE 9. SUMMARY OF POLICIES AND EXISTING EVIDENCE

| | 1 CONDITIONS OF FEMALE PRISONERS | 2 STATE OF EXISTING EVIDENCE | 3 ASSESSMENT OF POLICY | 4 ASSESSMENT OF IMPLEMENTATION | 5 DATA DRIVEN ASSESSMENT AND CASE TRACKING IS : | 6 DETAILS IN SECTION : |
|---|---|--|--|--|---|------------------------------|
| 1 | Violations in police custody | Considerable documentary evidence | Constitutional rights and Police rules provide statutory time limits for police custody | Lack of implementation of police law and constitutional rights makes women vulnerable | Necessary to determine resources and suitable points for intervention | 2.6 |
| 2 | Long spells of under-trial detention; access to legal services | Considerable documentary evidence | Police laws exist to limit time in custody; policy for providing legal services to inmates exists, but needs to be enhanced for women and non-appeal UTP | Lack of implementation of police laws makes women particularly vulnerable; partial implementation /ad hoc mechanisms | Necessary to: determine resource requirements and suitable points for intervention; to track cost/benefit of legal services; document existing service provision e.g. Sindh Prisons website . | 2.1 |
| 3 | Separation of juvenile and adult females, with specialized facilities for juveniles | Lack of separation of juvenile females from adults and no facilities for their education or recreation | Policy exists to separate juvenile and adult females; fails to address rights of juvenile females | Existing laws on separation must be implemented and new laws developed | Necessary to identify and track female juveniles, their needs and services provided to them | 3.1 |
| 4 | Opportunities to work and earn remission | Lack of evidence | No clear policy | Unclear how female prisoners can earn remission | Necessary for an assessment of related costs and benefits | 3.2 |
| 5 | Access to formal education / vocational instruction | Lack of evidence | Minimal policy exists – must be enhanced | Lack of systematic implementation of existing policy; lack of resources for systematic implementation | Necessary to document ad hoc measures in this area e.g. data provided on Sindh prisons website | 2.2 & 3.2 |
| 6 | Access to doctors | Considerable documentary evidence | Male dr. (medical officer) treats all inmates; admission exam conducted by female warder; | Admission medical exam should be undertaken by qualified, female, medical staff to document physical | Necessary for an assessment of the extent to which female doctors are available | 2.3 |

| | | | | | | |
|----|---|--|---|--|--|-----------|
| | | | female dr. from district hospital may visit | and mental health needs including indications of prior abuse | | |
| 7 | Access to mental health services | Lack of systematic evidence | Rules exist for the separation of severely impaired inmates; is absent for milder conditions | Extremely limited services provided by NGO-based mental health professionals | Necessary to determine extent and type of need, and cost/benefits of interventions . | 2.3 |
| 8 | Access to complaint mechanisms in jail | Lack of systematic evidence regarding usage of existing mechanisms | Complaint mechanisms e.g. helpline not reflected in rules | Implementation is sporadic at best | Needed to track usage | 2.5 |
| 9 | Sanitation in jail | Gaps in provision of adequate sanitation | Some rules exist | Significant variation but evidence of implementation | Maintenance of facilities should be tracked | 2.4 |
| 10 | Facilities for young children accompanying incarcerated mothers | Lack of systematic evidence | Existing rules allows children up to age 6 to accompany their mother; no policy regarding their schooling or health | Unclear if allowance for accompanying children is applied systematically | Necessary to determine the level of resources needed across jails based on age and needs of children | 3.2 |
| 11 | Community based sentencing options | Evidence that use was considered positive and that it is making a resurgence | Rules exist | Increasing implementation | Needed to track outcomes on recidivism | 2.7 |
| 12 | Re-entry planning for prisoner release | Lack of local evidence; strong international evidence recidivism | No policy for re-entry planning currently exists | N/A | Needed to track outcomes and develop roster or community based resources | 3.5 |
| 13 | Staffing | Lack of evidence on quality or sufficiency of staffing | Rules establish minimum qualifications for staff | Several empty posts across jails; additional posts needed | Further data needed to examine why posts are vacant | 2.2 & 3.3 |
| 14 | Prison administration and oversight | Evidence suggests that oversight is not effective | Rules exist regarding the demarcation of responsibility; omit clarification of enforcement mechanisms | Lack of implementation | Evidence required to determine obstacles to more successful implementation | 3.4 |
| 15 | Oversight mandate of PCSW through Punjab Women's Helpline | Reports that Punjab Women's Helpline is largely unused | Punjab Women's Helpline remains outside Prison Rules | Despite the notification of the Punjab Women's Helpline, it remains unused by female prisoners | Evidence required to determine obstacles to more successful implementation | |

Legend of colours:

| |
|----------------------------|
| WORKABLE, AS IT STANDS |
| REQUIRES SOME MODIFICATION |
| REQUIRES MAJOR OVERHAUL |

However, despite these positive developments, several challenges persist. As noted by the Chief Justice, "prisons lack an effective regulatory framework".¹⁸⁹ This statement reflects the limited enforcement mechanisms detailed in the Prison Rules. The implications of falling short of legal standards have not been expressed in the rules. As a result, it is unclear how the identified agents for management or control, including DCO and Visitors, have the necessary authority to protect prisoners' rights.

Furthermore, in the absence of a field based study which observes conditions within the jails, evidence regarding the extent to which current rules are being followed will continue to be patchy. Such a study is essential to identify areas of reform in a way that is responsive to the resources, limitations and requirements of prison authorities, and to the needs of the current population of female inmates. While it is clear from this review that prison policy is lacking in several areas, current data are required to accurately assess implications of these gaps on the condition of prisoners and precise ways in which policies must be amended.

Other experts have also identified key areas in the need of reform.¹⁹⁰ Section 4.3 identifies those areas of prison policy and practice which have been highlighted in prior studies and reports. For this purpose, three sets of recommendations have been selected for inclusion. This includes the recommendations drafted by the Punjab Commission on the Status of Women;¹⁹¹ reforms suggested by the Pakistan Law Commission in 1997¹⁹² which were subsequently approved by a committee including the Interior Minister, IGs of Police, and IGs of Prisons; and recommendations by Justice Syed Mansoor Ali Shah (2015). See Table 10 for a summary of these recommendations.

4.3 Addressing The Gaps: Recommendations for Reform

Several recommendations stemming from this review, as well as others from prior studies and reports on penal reform are discussed in this section and summarized in Table 10. Most of these relate to improvements in the implementation of current rules, and are addressed to the Inspector General of Prisons.

Recommendations which suggest review of the existing rules, or research into other avenues where the prison rules may be supplemented, are made to the Secretary of the Home Department. In addition, specific recommendations for upholding women's security while in Police custody are also made to Police authorities, and judges.

1. Violations in Police custody must be curtailed through improved monitoring of the police station (*thana*) and more proactive judges who ensure that the accused are aware of their right to bail.

¹⁸⁹ Malik (2015)

¹⁹⁰ See, for example, Bhutta et al (2012)

¹⁹¹ Government of Pakistan (2015)

¹⁹² Pakistan Law Commission (1997)

Evidence suggests that the risks faced by women in custody are greatest while they are in the "invisible" custody of the police, prior to the registration of their arrest.¹⁹³ The mandate of PCSW allows the organization to observe any custodial area where women and girls are kept. Comparable studies suggest that the incidence of females being in the police station lock-up are so low that these situations are very difficult to observe.¹⁹⁴ However with the help of a lady police officer – who is also reported not to be present consistently at every police station - it may be possible to assess the risks associated with being in official (post-arrest) or unofficial (pre-arrest) police custody.

To tackle the rampant nature of police abuse, CCTV should be installed in each cell of each police station, and be monitored around the clock by the provincial Home Department. Moreover, every junior police officer, as part of his training, should be made to be the Station Head Officer (SHO) of a police station for at least 6 months. This will help build bridges between the officer cadre and constable cadre within the police, and lead to a better awareness of each other and the methods they employ in their work. Finally, the accused must be given a copy of the FIR registered against her, to present in court if required.

The courts may also take initiative to protect the accused from custodial violation. Judges themselves recommend the need to exercise their bail-oriented discretionary powers when they are faced with a female accused, based on which the bail amount can be set according to the financial means of the accused. In addition, judges should enforce the law that all prisoners are to be brought into court before being remanded into police custody, thus using the opportunity to convey essential information about the charges against her, and her right to bail, and to appeal. Junior judges should be trained in human rights and the option to hold courts which are closer to the jail should be explored.

2. Lengthy trials impede the provision of justice: in the absence of speedy trials, access to legal services in jail becomes ever more essential; Prison Rules must be amended, and systematically applied.

For this purpose, Prison Rules must be amended so that legal services for routine case processing, such as bail assistance and lawyers, can be incorporated in addition to existing rules regarding appeals.

3. Juvenile females must be separated from adults through improved implementation of existing Rules.

It is necessary to track the numbers of juvenile females in the prison system; while smaller numbers may prevent their secure separation from adult women in smaller facilities, larger jails must ensure that they are not housed with adults. They must also be allowed to access suitable recreational facilities and formal and vocational education.

¹⁹³ JPP, 2014a & b
¹⁹⁴ Staff (2016)

4. Across all jail facilities, women must have opportunities to work and earn remission through amendment in Prison Rules.

Opportunities for male prisoners are significantly greater than those for women to engage in productive work as convicted prisoners. Rule 465 should be revised in line with this principle.

5. Access to formal education and vocational training must be improved through hiring for vacant posts and improved allocation of resources. In addition, rules must be amended to reflect a more rigorous mandate toward education including literacy and vocational skills.

Existing rules with regard to education, including literacy and vocational skills fall short of acceptable standards. Furthermore, resource constraints and gaps in monitoring fail to ensure the systematic implementation of Prison Rules due to absent teachers and instructors and limited resources for provision of materials.

6. Access to female doctors/health workers must be increased, particularly to conduct a health examination at admission, since the current verbal affirmation of health falls short of acceptable standards.

A health examination at admission is critical in determining plans for re-entry or reintegration (see below).

7. Access to mental health treatment – psychologists and counsellors – must be included in the Prison Rules and resources for such treatment, particularly at larger facilities, must be provided.

It has been widely noted that a more thorough understanding of the limitations in existing medical facilities and its implications is needed to better cater to women inmates' mental health.¹⁹⁵ Most jails are currently ill-equipped to cater to problems related to the mental health of the inmates.¹⁹⁶ Mental health treatment also constitutes a significant component of re-entry planning (see below).

8. Complaint registration mechanisms and standards regarding the provision of information about prisoner rights should be enshrined in the Prison Rules. Telephone facilities should be made readily available, and costs maintained at affordable rates.

Women are not routinely informed about their right to use the Punjab Women's Helpline, despite the IG's directive to that effect. Moreover, in several cases, phone facilities are not available and it is nearly impossible for women either to receive or to make calls.

¹⁹⁵ Mumthaz (2013), Government of Punjab (2015)

¹⁹⁶ Government of Punjab (2015)

Recent reports by the Department of Prisons suggest that telephonic communication is being enhanced across several facilities in a popular experiment to increase inmates' communication with their families. However, there are concerns around the associated costs and whether this facility will be affordable for all inmates.

Prison Superintendents should facilitate temporary parole for non-dangerous inmates to attend the death of a loved one and overnight family visits where possible. Prison officials must assist inmates in maintaining positive relationships with their families as part of a holistic approach toward discharge planning and readjustment to their home surroundings

9. Jail facilities, particularly for women, must be improved.

While overcrowding is not an urgent concern for women prisoners - although larger facilities sometimes house more than their capacity - observers have noted the need to improve bathrooms, food quality and bedding provided within the jails, and allow for better protection against cold weather by covering windows and allowing extra blankets and bedding during winter. In addition, the following facilities will enable inmates to have a more constructive experience while incarcerated: additional washrooms; improved access to toiletries including toothbrush, toothpaste and feminine products, improved food, creating opportunities for male and female inmates to separately play team games, both outdoors and indoors, allowing male and female prisoners access to radio, headphones, a watch, paper, and pencil.

10. Improved documentation of accompanying children, and better policies regarding their care are needed.

In particular, their education, recreation and health should be addressed in the Prison Rules. Also, Rule 327 should be updated to reflect the minimum legal age of marriage for a girl.

11. The use of community based sanctions should be increased to allow judges and jail Superintendents more flexibility in awarding community-based sanctions.

This may involve the hiring of a greater number of probation and parole officers and educating decision makers about available options and the benefits of non-custodial sentencing. There has been a call for the reopening of open prisons (such as those in south Punjab which were closed in 1962) whereby prisoners can live with their families on semi-secure farms and grow crops.

There are also calls for increased numbers of female probation officers so more girls can be awarded probation; improved salary for parolees, and reassessment of the composition and effectiveness of parole boards.

12. A systematic study on the use of re-entry planning, resources required, and its potential benefits must be conducted to allow for a coherent set of mechanisms to introduce this element of effective incarceration into penal policy and practice in Pakistan.

In order for this to be effective, data driven decision making is essential, to determine whether efforts made in this regard are able to curtail future offending.

13. Unfilled posts for female staff must be filled, and additional positions created.

Reports suggest that women's facilities are experiencing staffing shortages as well as limitations in resources for existing staff. Given their reliance on female staff, such shortages have an immediate impact on service delivery in women's prisons. In addition to filling the current posts, additional posts should be created, including: mental health counsellors, dentist, vocational teacher, literacy instructor etc. Schedule of periodic visits of mental health professionals to visit the most troubled patients should be established.

14. There is a need to systematically identify and demarcate oversight responsibilities and authorities, and identify enforcement mechanisms

The entities tasked with prison management and oversight are the office of the Inspector General of Prisons, the office of the DCO, and Visitors. There needs to be more clarity with respect to the functions of each distinct unit and its authority to enforce existing rules.

15. There is a need to institutionalize the oversight role of PCSW and facilitate it through the activation of the Punjab Women's Helpline, as per the directive of IG Prisons

Given the mandate of PCSW, there is a need to institutionalize their role and facilitate their monitoring and oversight function. Therefore, Commissioner PCSW should be added to the list of Official Visitors and the demarcations of oversight responsibility with regard to women's facilities should be clearly laid out. The Punjab Women's Helpline, which enables prisoners to register complaints with PCSW, thereby facilitating their monitoring and oversight function, should be activated as per the notification of IG Prisons, and the existence of the Helpline as a formal complaint mechanism should be added to Prison Rules.

16. There is a persistent need for case management systems to enable the tracking of offenders throughout the criminal justice system.

Tracking of prisoners through the system and post-release, particularly to assess if they have been rearrested or re-incarcerated, can help allocate resources to the facilities and interventions which are more useful at preventing rearrest. At present, such research is hindered by the department's inability to track offenders using consistent and long term tracking numbers associated with an offender, not their case. Investment in such a tracking system would assist in a variety of long-term studies important to enter the next phase in our understanding of the prison system and its lasting effects on the population

. Similarly, while there is evidence that low-level female offenders under trial are released prior to the court's decision, instead of being remanded to custody, further research is necessary to determine whether this is consistently the case. Also, evidence suggests that the nature of cases for which women are arrested and remanded differs by region. Anecdotal reports indicate that the proportion of women involved with drug related offenses is increasing, while fewer women are incarcerated for *Hudood* related offences. Research which examines whether this is indeed the case and the causal mechanisms due to which this is occurring may have longer term, wider implications for addressing regional crime issues. It is therefore important to conduct further research into the reasons why women are entering the criminal justice system and being remanded or convicted to prison.

17. In addition to the areas identified above, amendments to the Prison Rules are needed in the following areas:

- a) Disallow the use of fetters for all prisoners;
- b) Add provisions for age appropriate health, recreation, including physical activities, and education facilities for juvenile girls;
- c) Disallow the use of any form of violent or degrading punishment which is not in line with international treaties to which Pakistan is a signatory.

TABLE 10. RECOMMENDATIONS FOR PRISON REFORM

| AREA | GOVERNMENT OF PAKISTAN, 2015 | SHAH, 2015 | CHAIRMAN, PAKISTAN LAW COMMISSION, 1997 | AUTHOR (numbered as per sec. 4.3) |
|----------------------------|---|---|--|---|
| Classification & admission | Separate convicted from under-trial prisoners | Reduce under-trial Prisoners by introducing a more efficient case processing system | Arrange for the construction of women's jails and juvenile jails. | 3.Keep juvenile females separated from older prisoners |
| Daily life in prison | Need to improve hygiene, e.g. access to toothbrush and toothpaste, additional washrooms where needed | Sports based interventions for prisoners | Improve the condition of visiting center | 9. Facilities within jails particularly for women must be improved, including: washrooms, food quality better protection against the winter, improved access to toiletries including toothbrush, toothpaste and feminine products, opportunities for male and female inmates to separately play team games outdoors and indoors, allowing male and female prisoners access to radio, headphones, a watch, paper, and pencil . |
| | Improve quality of food, special dietary needs for pregnant women, timings of food must be more evenly distributed | Ensure better diets | Allow more opportunities for fair work along with a fairer remission system | |
| | Set up public call offices in all prisons with reduced rates for destitute prisoners | Enhanced vocational training alongside labor market partnerships | Make it easier to obtain temporary parole for inmates who suffer a death in their family | 8.Telephone facilities so inmates can use the complaint helpline, and call their families; prices should be kept low, and Rules supplemented with these provisions for systematic application . |
| | Monitoring of access to and knowledge of PCSW helpline for women prisoners | | Create opportunities for team games such as cricket, football and in-door games | |
| | Implementation of conjugal rights | | Allow prisoners to have radio and headphones, watch, books, paper, pencil etc. | |
| | Transfer of convicted and UTC prisoners to home districts to facilitate family visits | Implementation of conjugal rights | Improve construction of jails to be more suitable for the weather and have flush system and better hygiene | |
| | Provisions for care, education and recreation, and vaccination of accompanying children | Separate transportation for women going to and from court | Let inmates wear their own clothes | 10.Improved documentation of accompanying children, and better policies regarding their care are needed . |
| Staffing | Additional posts to be created for substantive experts e.g. mental health expert, dentist, vocational teacher, literacy instructor etc. | Frequent visits of panel of psychologists to each jail facility | Improve the treatment of prisoners in death cells, reduce overcrowding and let them spend up to an hour twice a day, outside . | 13.Unfilled posts for female staff must be filled, and additional positions created. |

| | | | | |
|------------------------|--|--|---|---|
| | | Frequent visits of medical specialist to the jail | Arrange for periodic visits of psychologists, psychiatrist | <p>5. Access to formal education and vocational training must be improved through hiring for vacant posts and improved allocation of resources .</p> <p>6. Access to female doctors/health workers must be increased, particularly to conduct an admission examination where a verbal confirmation of health is not sufficient to determine the needs of the inmate .</p> <p>7. Access to mental health treatment – psychologists and counsellors – must be included in the Prison Rules and resources for such treatment must be provided particularly at the larger facilities.</p> |
| Reentry plan | For release and reintegration | | | 12. Assessment to determine how best to introduce mandatory reentry planning in conjunction with family members, upon conviction . |
| Management & oversight | Institutionalize the role of PCSW to be a women specific option for external oversight | Enhance jail budget for development work like education or vocational training | Strengthen the mechanisms of jail inspection to ensure compliance with rules. | 15a. Include PCSW as an Official Visitor for Punjab's jails; amend Rules to reflect this |
| | | Development of a Jail Regulator Authority or Commission | | <p>15b. Facilitate PCSW oversight role by activating Punjab Women's Helpline as per notification of the IG Prisons; amend Rules to reflect this as an official complaint mechanism available to inmates</p> <p>14. Ultimate responsibility for functioning of the prison falls to Home Secretary who must be held accountable for the multiple mechanisms of administration and oversight for the prison</p> |
| Security | | | Improve jail security through the use of CCTV | |
| Jail manual | Amendments to institute proposed recommendations | Amendments to allow UTPs to work | Disallow the use of bar fetters for all prisoners | 17a. Disallow the use of fetters for all prisoners |
| | Add provisions for juvenile females | | Government of Pakistan has already passed the Abolition of Punishment of Whipping Act 196. Prison rules should be repealed accordingly. | 17b. Add provisions for age appropriate health, recreation, including physical activities, and education facilities for juvenile girls |

| | | | | |
|---|--|--|--|--|
| | | | Disallow the use of any form of violent or degrading punishment which is not in line with international treaties to which Pakistan is a signatory | 17c. Disallow the use of any form of violent or degrading punishment which is not in line with international treaties to which Pakistan is a signatory |
| Police custody | | | Improve construction of police lockup | 1. Install CCTV in each cell of each police station to be monitored around the clock by Home Department. |
| | | | | 1. Mandate a copy of the FIR to be given to the accused |
| | | | | 1. Mandate part of the job of the officer class to spend time as in-charge of an individual police station |
| Courts | Judges should exercise their discretion to set the bail amount in accordance with the financial means of the accused. ¹⁹⁷ | | Improve construction of judicial lockup | 2. Judges should enforce the law that all prisoners should be produced in court before remand to police custody and ensure that women are informed of the charges against them, and their right to legal counsel, appeal, bail etc. ¹⁹⁸ |
| | Junior judges in particular should be trained in human rights. ¹⁹⁹ | | Establish courts on or near jail premises | |
| Access to justice in pretrial detention | Funds for bail and surety bonds – need to operationalize the Women in Distress and Detention Fund Act, 2010, to provide necessary funds for incarcerated women | | Government should share funds with Pakistan Bar Council and Provincial Bar Councils so that the quality of public access to justice improves | 2. Improve quality of indigent defense lawyers in Legal Aid. ²⁰⁰ |
| Noncustodial sentencing | | | Reintroduce the open jail concept along the lines of Bhurewala and Badin prior to 1962. | 11. Increase number of female probation officers so more girls can be awarded probation |
| | | | Improve salary for parolees and have them work in trade, industry and other commercial institutions, not just domestic labor | 11. Reassessment of composition and effectiveness of parole boards so that long term women prisoners can spend part of their sentence in supervised, community based settings |
| Data and monitoring | | | Strengthen the system of record keeping and inspection so that judicial officers and judges can give on the spot instructions regarding those cases whose have stayed incarcerated longer than needed. | 16. Use PIMS to assign a geometric ID (finger print based) to track recidivism. In the longer run, use this system throughout jails, and police stations to track re-arrest and conviction |

197 Khokhar (undated)

198 Ibid

199 Ibid

200 Ibid

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