

**RESEARCH PAPER****From Custodial Violence to Justice: Evaluating Pakistan's Torture Prevention Legislation in Light of International Standards**Qutatulain<sup>1</sup> Hafiz Muhammad Azeem<sup>2\*</sup> Zaheer-ud-Din Ahmad<sup>3</sup><sup>1</sup> Assistant District Public Prosecutor, Gujranwala, Pakistan<sup>2</sup> Assistant Director (Legal), Federal Investigation Agency, Lahore, Pakistan<sup>3</sup> Advocate High Court, Sialkot, Pakistan\*Corresponding Author [hafizazeemkhokhar@gmail.com](mailto:hafizazeemkhokhar@gmail.com)

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**ABSTRACT**

Custodial violence remains a pressing human rights issue worldwide, especially in Pakistan. This research evaluates the effectiveness of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 in controlling custodial violence. This study employs a qualitative, comparative and doctrinal methodology to critically analyze the custodial-violence legislative framework with the help of case laws, articles, books, and through its comparison with international standards, particularly with the United Nations Convention Against Torture. The findings of this study reveal that though the Act, 2022, is a significant step toward opposing custodial violence, it falls short in several areas. It includes the exclusion of mental torture from its scope, lack of distinct and independent penalties for custodial crimes, inadequate victim rehabilitation mechanisms, and ambiguous supervision mechanisms, etc. This study recommends expansion of its scope to include mental torture, consideration of offences as standalone, investigation by specialized FIA units, victim rehabilitation, and independent supervision. This research contributes to the existing knowledge through offering a comprehensive evaluation of Pakistan's legislative framework against custodial violence and highlighting actionable reforms to bridge the gap between national law and international human rights standards regarding custodial violence.

**Keywords:** Custodial Violence, Torture, the United Nations Convention Against Torture, Custodial Death, Human Rights, Criminal Justice System.

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**INTRODUCTION**

Custodial violence is a broader term, it includes physical, psychological, besides sexual abuse of accused persons during their custody. It has long been a critical human rights concern internationally (Modvig & Jaranson, 2004; Nagan & Atkins, 2001), such as in India (Heera et al., 2021; Kesavan, 2022; R. Kumar, 2022), in United States (Banteka, 2023; Johnson et al., 2016; Solanki, 2023), in Bangladesh (Hasan et al., 2017; Mamun, n.d.; Ovi & Reza, 2022), especially in Pakistan (Adil, 2024b; Agha, 2024; Ahmed & Minhas, 2024; Chaudhry et al., 2008; Murad, 2019; Qayyum et al., 2023; Rasool et al., 2024). Though judicial bodies worldwide are playing their

positive role in eradication of this menace from society (N. K. Kumar, 2021); yet it is rooted in systemic flaws and cultural practices (Chaudhry et al., 2008; Qayyum et al., 2023). This issue not only undermines the rule of law but also violates the fundamental rights of victims (Dubey, 2024) enshrined in the Constitution of Pakistan as well as international human rights instruments (Girfanova, 2021) and injunctions of Islam (Rabbi & Badshah, 2018). There is no justification for it (Jain, 2024). The higher courts also recognized this issue in their judgements (Amir Sajjad v. The State, 2023; Benazir Bhutto v. President of Pakistan, 1998; Govt. Of Sindh v. Muhammad Sarwar, 2023.). Although many people have asked for an end to torture and cruel treatment of accused persons during their custody, yet these practices remain a serious problem in criminal justice system of Pakistan. Illegal arrests upon false accusations, torture and deaths during custody, sexual harassment, and other forms of abuse are just some of the corrupt practices that plague our Criminal Justice System (CJS) (Zaman, 2023). Unfortunately, this violence against accused persons is a widespread issue in Pakistan. Justice Project Pakistan has documented thousands of cases of torture, and found that the 1,876 medical reports examined, 76% showed violence (Mir, 2022), and in 2016, Human Rights Watch also reported some horrific instances of torture in police custody. Writers observed that even if politicians and journalists are subjected to violence, despite that the situation for ordinary citizens who are arrested by the police is likely even worse (Niazi, 2022).

In recent years, high-profile cases of custodial deaths have sparked public outrage. It draws attention to the urgent need for reforms. In the last year from January to June reports revealed that twenty-seven persons passed away in police custody owing to torture (United States Department of State, 2023). Incident of death of Salahuddin Ayubi is an example of it. He was a man with a mental illness, and he was arrested for ATM theft in Punjab. A video showed he was looking very upset and being questioned by police officers. A few days later, he died in jail. At first, the police said he died of natural causes; however, people protested and demanded an investigation. The investigation showed that he had been badly beaten while in custody (Haq, 2019). Furthermore, the National Commission for Human Rights (NCHR) investigated allegations of torture at Adiala Jail, Rawalpindi, upon a complaint presented before the Islamabad High Court. According to the NCHR's findings, there are numerous inmates who have been subjected to torture and cruel, inhumane treatment by prison staff. Among the 35 prisoners interviewed, 26 (74%) reported torture or mistreatment, while all 35 (100%) revealed that they were compelled to pay bribes to access basic amenities within the jail (Agha, 2024).

Internationally, Pakistan is a signatory to the United Nations Convention Against Torture (UNCAT), making it obliged to prevent torture during custody. However, despite these commitments, Pakistan has faced criticism for inadequate legislative measures in contesting custodial violence (Baig, Soomro, et al., 2024). The Torture and Custodial Death (Prevention and Punishment) Act, 2022, (TCDPPA, 2022) marks as a significant step toward tackling this issue. It aims to fill the legal vacuum in prohibition and penalize torture. Stopping custodial violence is very important to strengthen the CJS and to restore public trust in the system. It is not merely a legal obligation but also morally imperative to ensure justice (Lassi, 2022). Although courts are trying through interpretation to cover gaps in legislative framework of custodial violence, it is insufficient to effectively combat this menace (Zubaida Qureshi v. Ex-officio Justice of Peace and

others, 2024). Through evaluation of the effectiveness of the TCDPPA, 2022, this research seeks to contribute to ongoing efforts to control torture and to foster a culture of justice and human rights compliance.

## **CONCEPTUAL AND THEORETICAL FRAMEWORK**

This study employs a human rights-centered framework to evaluate Pakistan's Torture and Custodial Death (Prevention and Punishment) Act, 2022 considering international legal standards, particularly the United Nations Convention Against Torture (UNCAT). Grounded in human rights theory, rule of law and accountability theory, and deterrence theory, this research examines whether the Act effectively criminalizes custodial violence, ensures accountability, and provides adequate victim rehabilitation. The analysis highlights legal and procedural gaps, such as the exclusion of mental torture, lack of standalone offenses, weak enforcement mechanisms, and inadequate victim support. Using a comparative legal approach, the study contrasts Pakistan's framework with international best practices to propose reforms that align domestic law with global human rights obligations.

## **RESEARCH METHODOLOGY**

This study primarily uses qualitative research methodology in combination with doctrinal and comparative analysis. The research mainly focuses on a critical examination of the TCDPPA, 2022, within the Pakistani legal framework and considering international human rights standards, particularly the UNCAT. The doctrinal analysis is used to make a detailed examination of the TCDPPA, 2022 and its relevant provisions. Comparative analysis is used to assess the Act against international human rights standards. Landmark judicial decisions are employed to understand the existing legal framework and its practical implications. Primary sources included the TCDPPA, 2022, the Constitution of Pakistan, and relevant international treaties. Secondary sources included academic literature, articles, human rights reports from national and international organizations, judicial precedents, government reports, and official documents. Data was collected through a thorough review of these sources. Thereafter, the collected data was analyzed qualitatively to identify key themes, gaps, and challenges in the TCDPPA, 2022. Because of the findings, this study aims to provide actionable recommendations to strengthen the legal and practical framework for prevention of custodial offences in Pakistan.

## **OVERVIEW OF THE TORTURE AND CUSTODIAL DEATH (PREVENTION AND PUNISHMENT) ACT, 2022**

The TCDPPA, 2022 symbols an important step toward addressing the pervasive issue of custodial violence in Pakistan. It is applicable nationwide. The Act criminalizes acts of torture by public officials and sets out mechanisms for complaint, investigation, and trial, which is the right of person under custody (Mairaj et al., 2024). The Act introduces serious definitions and safeguards, with its 20 sections, which are aimed at prevention of abuse of power during detention. Most notably, it formally defines torture in Pakistani law, the analysis of the same is another aspect of an independent research work (Adil, 2024b).

Furthermore, the Act designates the courts of sessions as the jurisdiction for trial of these cases under its provisions. To expedite justice, the Act imposes strict timelines by limiting trial adjournments to no more than 30 days and by requiring investigations to conclude within 30 days of filing a complaint, besides with a possible five-day extension under exceptional circumstances. The Federal Investigation Agency (FIA) is tasked with receiving complaints and conducting investigations into them. This covers independent investigation. These investigations are required to be supervised by the NCHR, though the Act does not provide clear operational guidelines for this oversight, and it has room for ambiguities in this regard (Mst. Sarriya Bibi vs. RPO Sheikhupura, etc. 2024).

Moreover, there are some new offences which have been introduced in the Act, it includes torture, custodial death, and custodial rape, with punishments which are aimed to be aligned to the corresponding provisions of the Pakistan Penal Code (PPC). For instance, punishment for torture is the same as provided in PPC. Custodial death is also penalized under Section 302 of the PPC, while custodial rape is addressed in line with existing laws against rape (Ahmed & Minhas, 2024).

However, this reliance on existing punishments has also raised questions about whether crimes which are involving abuse of public office, and it should warrant distinct and more stringent penalties. Another important aspect of the Act is its provision for making these violations a non-bailable, non-compoundable, and cognizable offence. Evidence obtained through torture is again deemed inadmissible in court. Moreover, public officials accused of torture are also held subject to departmental inquiries, and credible cases may result in suspension or removal from their jobs.

Despite its progressive elements, the Act faces several implementation challenges. The FIA lacks dedicated resources or a specialized wing to investigate custodial offences, whereas the NCHR's supervisory role is also limited by inadequate jurisdiction and infrastructure and lack of rules or guidelines. Furthermore, the Act also penalizes individuals who are in habitual in filing false complaints, because this act has the potential to deter victims from reporting genuine incidents in our system which is already fraught with power imbalances and corruption.

### ***Definition of Torture***

The TCDPPA, 2022, is the first law in our CJS which formally defines "*torture*". It is an attempt to align with international obligations under the UNCAT. The definition of torture under international standards requires independent research work as authors have done (Baolu, 2017; Rodley, 2002; ul Haq, 2014), yet Section 2(n) of the TCDPPA, 2022 provides a comprehensive legal framework for identification and to tackle acts of torture in Pakistan (Islam et al., 2022). It describes torture as an act which is intentionally inflicted to cause severe physical pain or suffering on an individual for specific purposes. These purposes include procurement of information or confessions, punishing for an act they or another person is suspected of commission, to intimidate or coerce the individual, or for any other reason to discriminate against them.

The Actus Reus part of the definition is its "*infliction of severe physical pain or suffering*". This element limits the scope of this definition, and it is excluding mental torture, which is equally damaging but not explicitly covered by this definition. Moreover, the requirement of "*severe*" pain or suffering also creates another threshold: it distinguishes the torture under this law from less

severe forms of abuse or mistreatment in other laws. However, the term "severe" is subjective in its nature and it is open to varying interpretations, which may ultimately affect the consistency of its application.

The definition also covers the Mens Rea of the act as it uses the word "*intentionally*" which is inflicted on the victim. This intentionality is a key ingredient because it separates accidental or negligent acts from deliberate acts of torture. This specific intent is tied to purposes of definition such as to procure information or a confession, punishment, intimidation, coercion, or discrimination, as provided. The explicit mention of intention underscores that this definition covers the calculated and purposeful nature of torture. This may reduce its scope and create ambiguities in its application.

Another significant feature of this definition is its focus on the involvement of public officials. As per definition, torture must be inflicted by, instigated by, or carried out with the consent or acquiescence of a public official; otherwise, someone who is acting in an official role. This definition obviously excludes pain or miseries which resulted from lawful sanctions. This ensures that punishments or actions that comply with legal frameworks (e.g., imprisonment or fines prescribed by law) are not classified as torture, even if they cause distress.

The definition shows a purpose-oriented approach through specifying the intentions and reasons behind torture which is in alignment with international norms of UNCAT. It focuses on accountability by making the requirement of involvement by a public official in it. This underscores the responsibility of the state to prevent and to tackle abuses of its own powers. Moreover, the legal precision is also shown by the exclusion of lawful sanctions in it, which provides clarity and limits in application of the definition.

Despite its strengths, the definition has some prominent gaps. It does not explicitly recognize mental torture, which is now considered as a serious form of abuse in custodial situations, and it is acknowledged by international standards such as the UNCAT. Mental torture may include psychological intimidation, threats, and coercion. This form of violence is now widely documented in custodial situations as an offence but for our CJS under this definition it remains outside the legal scope of this definition. Furthermore, the threshold of "*severe*" pain or suffering, though provides clarity, however, it may inadvertently exclude less extreme but still harmful acts of abuse or violence.

Overall, the definition sets a strong foundation for beginning custodial violence as an independent offence in our CJS with alignment of international norms through emphasizing intention, severity, and state accountability in it. Though the definition introduced by the Act is a significant step forward, it falls short of the broader standards which have been set by international frameworks like the UNCAT, which obviously cover mental anguish and suffering. However, in its scope and limitations, the exclusion of mental torture and the lack of gender-inclusive language, may reduce its effectiveness which needs to be covered to bring it further in line with global human rights standards.

### ***Forms of Torture and Custodial Violence***

The Act identifies and penalizes several crucial offences which are related to custodial violence. Key provisions are Sections 3, 8, 9, and 10 (Mst. Sarriya Bibi vs. RPO Sheikhpura, etc. 2024; Zubaida Qureshi v. Ex-officio Justice of Peace and others 2024); below is an explanation of these offences:

Section 3 specifies that any statement, confession, or evidence gained through torture is inadmissible in legal proceedings. This provision intends to discourage the use of torture as an investigative method by law enforcement agencies. The law further makes intentional usage of such statements during trial which have been obtained through torture, despite their inadmissibility, offence for imprisonment up to one year or with fine up to hundred thousand rupees or with both.

Section 8 establishes the penalty for individuals who are found guilty of committing, abetting, or conspiring torture. Public officials who are responsible for such acts are to be punished in accordance with the severity of harm which they have caused, as per the relevant provisions of PPC. For instance: injuries caused during torture will be punished as PPC prescribed sentences for similar bodily harm. This provision emphasizes liability for acts of torture but depends on existing legal frameworks rather than establishing distinct penalties for specific abuse of power by state actors.

Section 9 applies to those cases where torture results in the death of a detainee. It also prescribes the same punishment as Section 302 of the PPC, which deals with murder. The penalties include death penalty or life imprisonment, and it depends on the nature of the offence and circumstances of the case. Though through connecting custodial death with murder, this section highlights the severity of such crimes but then again it does not differentiate custodial murders from other murders of PPC, which may involve different circumstances and levels of liability.

Section 10 criminalizes custodial rape. It is no doubt a heinous form of custodial violence. The provision stipulates that perpetrator should be punished according to the law and procedures for rape as provided under the PPC. This provision ensures that custodial rape be treated as a grave offence but does not introduce it as a standalone case and not provides penalties which reflects the unique abuse of authority and trust that is involved in custodial situations.

### **GAPS AND AMBIGUITIES IN THE TORTURE AND CUSTODIAL DEATH (PREVENTION AND PUNISHMENT) ACT, 2022**

A closer examination of the TCDPPA, 2022, reveals that there several gaps and ambiguities that may impede its effectiveness in prevention of torture and custodial deaths in Pakistan (National Commission for Human Rights, 2024). These deficiencies are discussed below:

#### ***Exclusion of Mental Torture***

Though the TCDPPA, 2022, represents a significant step forward in tackling custodial violence in Pakistan, yet it contains several gaps and ambiguities that could hinder its effective implementation. One distinguished omission is the exclusion of mental torture from the

definition of "torture," despite its prevalence in custodial situations (Rodley, 2002). The focus of the TCDPPA, 2022 on severe physical pain or suffering abandons the psychological harm which is caused by intimidation, threats, or coercion, which are normally working methods of violence and abuse of power by officials.

### ***Lack of Gender-Inclusive Language***

Furthermore, the language of the Act is not gender-neutral, though it does not effect, however, it is kept in due consideration than it may not misunderstood by common person and marginalized women, transgender individuals, and other vulnerable groups, who may also become victims of custodial violence.

### ***Reliance on Existing Punishments***

Moreover, the reliance on prevailing punishments under the PPC for offences of torture, custodial death, and custodial rape is another limitation. The Act does not establish standalone penalties to reflect the aggravated nature of these crimes.

### ***Penalization of Mala Fide Complaints***

Moreover, the provision which penalizes the filing of mala fide complaints, whereas no such definition of malafide complaint is provided under this legislation, could discourage genuine victims from coming forward, especially when there is an obvious power imbalance and systemic issues within law enforcement agencies.

### ***Limited Capacity of FIA***

Furthermore, the Act also entrusts the FIA the role of investigation of complaints of custodial torture, but on the other hand it does not provide additional resources or establish an independent specialized circle of FIA to handle such cases. This lack of institutional capacity raises concerns about the new investigation officers to conduct impartial investigations of another investigation agency (Sadiq, 2020).

### ***Ambiguous Supervision Mechanism***

Additionally, though the Act mandates supervision of investigations by the NCHR, the NCHR's jurisdiction and resources are also limited. It also does not explain the supervisory role and its purpose. There are no rules or guidelines that are available for NCHR to play this role.

These legal, language-based and structural issues, combined with the absence of clear implementation guidelines, may dilute the TCDPPA, 2022 intended impact in prevention and punishment of custodial violence effectively. To address these gaps, there are legal and structural reforms which are necessary to broaden the definition of torture, to introduce distinct penalties for custodial crimes, and to enhance the capacity and independence of investigative bodies. These measures would help to implement the TCDPPA, 2022 effective enforcement.

## COMPLIANCE WITH INTERNATIONAL STANDARDS

### *International Treaties and Standards*

The TCDPPA, 2022 deals with Pakistan's obligations under international human rights treaties, particularly the UNCAT, about the violence of torture, that has been ratified in 2010 by Pakistan. The UNCAT explicitly requires all its member-states to criminalize torture, then establish preventive mechanisms, and ensure liability for violations such legislations. The Act also aligns with the principles of the Universal Declaration of Human Rights (UDHR), especially its article 5, which also prohibits torture and cruel, inhuman, or degrading treatment or punishment. Similarly, the Act also reflects commitments under Article 7 of the International Covenant on Civil and Political Rights (ICCPR). Moreover, the Geneva Conventions also prohibit torture in armed conflicts, and the Rome Statute of the International Criminal Court defines torture as a crime against humanity. There is a universal prohibition against these crimes (Rodley, 2002). These treaties and standards together establish clear prohibitions against torture, and they require states to take strict measures to prevent, investigate, and punish acts of torture, and provide victims of torture with the right to seek redress and compensation (Baig, Tanveer, et al., 2024).

### *Overview of the UNCAT*

The UNCAT was adopted by the United Nations General Assembly in 1984. It is a vital international treaty which is aimed at prevention of torture and ensuring that victims may receive justice and remedy. It defines torture as the intentional infliction of severe pain or suffering, either physical or mental, for intentions to gain information, punishment, or intimidation. UNCAT strictly prohibits torture under all circumstances, including during war or public emergencies; emphasis that there is no situation that justifies torture. State parties are required to adopt effective legislative, administrative, judicial, or other measures to prevent these crimes. They must also ensure that individuals at risk of torture are not extradited to other countries where they may face such dangers. The Convention also mandates that those who are subjected to torture have the right to file complaints. States must conduct effective investigations into allegations of these crimes. Additionally, the establishment of the Committee Against Torture, which monitors the implementation of the UNCAT through state reports and investigations, also plays an important role in ensuring liability. The UNCAT further encourages international cooperation in these matters. However, despite its comprehensive provisions, the effectiveness of the UNCAT depends on the commitment of state parties. In due course, the success of the UNCAT depends on both international cooperation and national efforts to implement its provisions (Assembly, 1984; Burgers, 1988; Danelius, 2008; Lippman, 1994).

### *Comparative Analysis of the TCDPPA, 2022 Act with the UNCAT*

The TCDPPA, 2022 of Pakistan shows an important legislative step toward torture and custodial violence within the country. However, its alignment with the standards set by the UNCAT brings to light some areas of progress and gaps (Haseeb et al., 2021; Ul Mustafa, 2017). Below is its comparative analysis:

<b>Aspect</b>	<b>United Nations Convention Against Torture, 1984</b>	<b>Torture and Custodial Death (Prevention and Punishment) Act, 2022</b>
<b>Definition of Torture</b>	It has broad definition which covers physical as well as mental pain.	It defines torture similarly but focuses on custodial situations; less emphasis was placed on broader contexts like mental torture.
<b>Prohibition of Torture</b>	It places absolute prohibition under all circumstances, including war or public emergencies (Article 2).	Though it also prohibits torture but it does not explicitly rule out exceptions under extraordinary circumstances as by UNCAT.
<b>Preventive Measures</b>	It requires legislative, administrative, and judicial measures, as well as training for law enforcement agencies and other officials (Articles 2, 10, and 16).	Though it focuses on procedural safeguards like medical examinations for victims, it lacks comprehensive training mandates for law enforcement agencies
<b>Accountability and Redress</b>	It ensures victims can lodge complaints; mandates impartial investigations; it also provides compensation and rehabilitation (Articles 13 and 14).	Though it criminalizes torture and custodial deaths and allowed complaints and judicial oversight, it lacks explicit victim rehabilitation mechanisms.
<b>Monitoring and Reporting</b>	It establishes the Committee Against Torture for periodic reporting; call for independent inquiries, and systematic torture supervision (Articles 17-24).	There is no such provision available for an independent monitoring body; it relies on judicial inquiries and internal accountability mechanisms.
<b>Criminalization and Punishment</b>	It requires states to criminalize torture and prescribe appropriate penalties (Article 4).	It relies on available offences for criminalizing torture but not independently provides punishments.
<b>Extradition and Cooperation</b>	It includes provisions for extradition and international cooperation in torture-related matters (Articles 8 and 9).	No provision deals with extradition or international cooperation; it focuses solely on domestic enforcement.

<b>Aspect</b>	<b>United Nations Convention Against Torture, 1984</b>	<b>Torture and Custodial Death (Prevention and Punishment) Act, 2022</b>
<b>Victim Remedies</b>	It mandates fair compensation and the fullest possible rehabilitation for victims (Article 14).	Though it relies on the existing legal framework for compensation to victims, it lacks emphasis on independent compensation and comprehensive rehabilitation programmes.

The UNCAT offers a broader, more comprehensive framework to cover torture-related issues; it also provides for international cooperation and rehabilitation for victims. Whereas the TCDPPA, 2022 is also a good and focused step toward custodial torture and deaths but it requires expansion and refinement to meet international standards completely. It includes enhanced measures for prevention of crimes, independent oversight mechanisms, and victim support programmes, which are essential for making TCDPPA, 2022 in complete alignment with the UNCAT.

**RECOMMENDATIONS**

Based on the above-mentioned analysis of the TCDPPA, 2022, the following recommendations are proposed to address its gaps and to enhance its alignment with international standards:

1. The definition of torture under the TCDPPA, 2022 is required to be expanded to explicitly include mental and psychological torture in it (Luban & Shue, 2011) with an aim to align in with the broader definition as provided by the UNCAT. This change will ensure that all forms of custodial violence are comprehensively covered by the TCDPPA, 2022.
2. There is also a requirement for treating custodial torture, death, and rape as standalone offences with distinct and strict penalties. This enactment would reflect the aggravated nature of these crimes because these crimes are damaging public trust, and these are abuse of authority by state officials.
3. There is also a requirement for clear rules and guidelines to define the supervisory role of the NCHR on investigations of these crimes. Moreover, the NCHR is also required to be equipped with adequate resources and expanded jurisdiction to ensure effective oversight of these crimes.
4. Though it is right step for transferring investigations of these crimes to FIA, however, the FIA needs a dedicated and specialized unit or circle for investigation of these custodial violence cases (Adil, 2024a). This unit will be required to be trained in human rights standards to conduct impartial and effective investigations.

5. The TCDPPA, 2022 also needs to incorporate provisions for comprehensive rehabilitation of torture victims, including medical, psychological, and financial support programmes, in line with UNCAT's emphasis on victim remedies.
6. There is also a requirement of regular training programmes for law enforcement officers covering morality and legal subjects as well; it should be made mandatory to educate them on human rights standards, the prohibition of torture, and the consequences of non-compliance (Rehman & Iftikhar, 2024). In a recent case, the Lahore High Court also stressed on these training in custodial violence cases (*Mst. Farzana Bibi v. Capital City Police Officer, etc, 2024*).
7. The provision which is penalizing false complaints under the TCDPPA, 2022 should be clearly defined to avoid misuse, to ensure that it does not deter genuine victims from reporting custodial violence due to fear of retaliation.
8. Though in legal language it is not the requirement to cover gender-based language, however, if amendments will be made to the TCDPPA, 2022 to include gender-neutral language and protections for marginalized groups, such as women, transgender individuals, and other vulnerable populations, to address their specific vulnerabilities to custodial violence, then it will be considered more inclusive legislation for common citizen.
9. Provisions for extradition and mutual legal assistance in cases of torture should be included to foster international liability and to make it more aligned with UNCAT.
10. An independent monitoring mechanisms and record-based-system should be created to oversee the implementation of the TCDPPA, 2022 and to conduct regular audits of law enforcement agencies regarding these crimes.

## CONCLUSION

This research was conducted to evaluate the effectiveness of the TCDPPA, 2022 and to analyze custodial violence legislation in Pakistan and its alignment with international standards, particularly with the UNCAT. The study was conducted due to the persistent issue of torture and custodial violence in Pakistan (Haseeb et al., 2021; Nadeem & Khan, 2018). The research aimed to evaluate the scope of the Act; to identify its gaps; to propose reforms to strengthen its implementation. To achieve these objectives, this study adopted a qualitative and comparative methodology. Additionally, a doctrinal approach was also used to evaluate Pakistan's compliance with its obligations under the UNCAT. This research also explored implementation challenges, such as institutional weaknesses and procedural hurdles.

A comparative analysis was also conducted to highlight significant gaps between the TCDPPA, 2022, and the comprehensive framework provided by the UNCAT. Although the Act criminalizes torture and violence, it lacks provisions for mental torture, and distinct penalties for these offences, and victim rehabilitation. Furthermore, the study also reveals that its reliance on existing laws, absence of oversight mechanisms, and limited capacity of investigative bodies like the FIA and NCHR may hinder its effectiveness. The findings also revealed that though the

TCDPPA, 2022, marks progress in addressing custodial violence, however, it falls short of in fully aligning with international standards.

To address these gaps, this research recommends broadening the definition of torture, introduction of standalone penalties for custodial crimes, enhancement of the capacity and independence of investigative bodies, and establishment of comprehensive victim rehabilitation programmes (Kälin, 1998). Additionally, incorporation of provisions for international cooperation can further strengthen the legislation. Through implementation of these reforms, Pakistan can create a more effective framework for treating custodial violence, to ensure justice for victims, and to foster public trust in its CJS.

### ***Limitations of the Research***

Though this research provides a comprehensive evaluation of Pakistan's TCDPPA, 2022, considering existing international standards; however, it does not look into the practical challenges which are associated with its implementation. Issues which are related to enforcement gaps, procedural hurdles, institutional behaviors and resistance, lack of awareness among law enforcement agencies, and delays in judicial processes remain outside the scope of this study. These aspects are also important for further progress in the implementation and assessment of the TCDPPA, 2022, in controlling custodial violence and bringing accountability.

### ***Future Research***

This study highlights significant gaps in the TCDPPA, 2022, particularly the exclusion of mental torture from the existing definition of torture in it. The absence of mental and psychological abuse as a recognized form of custodial violence limits this legislation's effectiveness in tackling all types of harm inflicted during detention. It is recommended that future research should focus on the implications of this exclusion, examining the prevalence, impact, and legal challenges of incorporation mental torture into the Act. Independent studies are required to establish justifications for integration and inclusion of psychological and mental abuse into the legal definition of torture in Pakistan. Moreover, the future research may focus on empirical studies and field-based assessments to explore the gaps in practical enforcement of this legislation and propose strategies for its effective implementation. The future research should also explore comparative approaches which are adopted by other jurisdictions and international frameworks like the UNCAT. This will provide an effective foundation for legislative reforms that will the evolution of understanding torture and its multifaceted nature.

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