

Safeguards for Pakistani Prisoners during COVID-19

Executive Summary

The Government of Pakistan has an obligation, under domestic and international law, to protect the rights of prisoners during pandemics and public health emergencies. On March 11th, 2020, the World Health Organisation declared COVID-19 a global pandemic¹. In Pakistan, there are currently more than 5,988 reported cases.² As of 15th April, a total of 2,945 confirmed cases have been detected in Punjab, 240 in Balochistan, 865 in Khyber Pakhtunkhwa, 55 in Gilgit Baltistan, 1,518 in Sindh, 140 in Islamabad and 46 in Azad Jammu and Kashmir.³

The most egregious costs of COVID-19 will be borne by those who are most vulnerable. Pakistani prisoners are an exceptionally vulnerable class, who risk being infected due to living in grossly overcrowded prisons in unsanitary, unhygienic conditions.

Government's Duty of Care to Prisoners

The International Covenant on Economic, Social and Cultural Rights stipulates the obligation on states "to respect, protect and fulfill the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12), including those who are imprisoned or detained. **As set out in the Nelson Mandela Rules, prisoners' health care is a state responsibility** and prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status (rule 24 (1)) [Paragraph 63] [22]."

In 2019, a landmark judgment reaffirming prisoners' rights came out of the Islamabad High Court (IHC). The Chief Justice Ather Minallah, emphasised that the Federal Government is duty bound to hold the respective governments accountable for "*the neglect and recklessness for dealing with helpless persons who are in custody.*" The judgement further states, "**The status of a prisoner is similar to that of a ward of the State because he or she, as the case may be, is in its legal custody and care. The prisoner is thus entirely dependent on the State and at its mercy for the purposes of safeguarding the right to life. The State, therefore, owes a duty of care to every prisoner regardless of his or her nature of imprisonment.**"

Article 10 of the International Covenant on Civil and Political Rights (ICCPR) states that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." This establishes the need for humane prison conditions which do not violate the dignity of those incarcerated.

The spread of Covid-19 is an unprecedented global public health crisis which requires extraordinary measures to ensure the safety and welfare of the prison population. Pakistan's existing legal framework allows executive and judicial authorities the discretion to carry out exceptional measures such as immediate release, commutation, suspension of sentences, conditional early releases and

Policy Recommendations

REDUCING OVERCROWING IN PRISONS

- I. IDENTIFY and consider conditional release of particularly vulnerable, at-risk prisoners including elderly prisoners, prisoners with existing medical conditions or physical and mental disabilities, women and children
- II. IMPLEMENT measures to safeguard health, hygiene and sanitation needs of prisoners, ensuring access to competent medical professionals and isolating affected prisoners to contain the spread of the virus
- III. REVIEW cases of pre-trial detention for non-violent and minor offences and consider alternatives
- IV. LOWER the rate of new intake of prisons

¹ <https://time.com/5791661/who-coronavirus-pandemic-declaration/>

² <https://www.geo.tv/latest/277778-cm-sindh-announces-rs3bn-coronavirus-relief-fund>

³ <https://arynews.tv/en/pakistan-tally-coronavirus-cases-700/>

granting bail to under trial prisoners. The Public Health Emergency Provisions Ordinances 1944 further empower the government to make rules¹ to carry out the object and purpose of the ordinance.

On 20th March 2020, the Islamabad High Court passed orders stating that prisoners should be released amidst the COVID-19 outbreak: all under trial prisoners under the IHC's jurisdiction, imprisoned for bailable offenses, were to be granted bail after submitting surety and assessment that they are not a threat to public safety and a medical screening. 292 prisoners were released pursuant to the IHC's order. The Sindh High Court similarly ordered the release of 829 under-trial prisoners facing minor sentences from jail⁴. Provincial governments also took steps to reduce overcrowding in prisons.

However, on 7th April 2020 the Supreme Court of Pakistan issued its order in Criminal Petition No.299 of 2020 *Raja Muhammad Nadeem Versus The State and another*, which recommends that only the following categories of under-trial prisoners charged for offences under non-prohibitory clauses, vagrancy law or offences carrying less than three years sentence may be considered for bail:

- Persons suffering from ailments or physical or mental disability
- All women and juvenile under-trial prisoners
- Under-trial prisoners who are 55 years of age or older
- Other male UTPs provided there is no history of past convictions

The Supreme Court's order excludes various vulnerable, at-risk categories of **convicted prisoners**.

COVID-19: Transmission and Risk of Infection

TRANSMISSION

The coronavirus is transmitted through human-to-human contact, droplets carried through sneezing or coughing as well as germs left on inanimate objects. A new study has revealed that the coronavirus can go airborne, staying suspended in the air depending on factors such as heat and humidity, causing the World Health Organization to consider "airborne precautions" for medical staff.⁵ Researchers from the National Institutes of Health, Centers for Disease Control and Prevention, UCLA and Princeton University have found that **COVID-19 was detectable in aerosols i.e. solid or liquid particles that hang in the air, including fog, dust, for up to three hours**.⁶ It is detectable for up to four hours on copper and up to 24 hours on cardboard. The new coronavirus can also last up to three days on plastic and stainless steel.⁷

The results suggest "that people may acquire the virus through the air and after touching contaminated objects," according to Dr. Neeltje van Doremalen, a scientist from NIH and a lead researcher on the study.⁸

CONTAGIOUSNESS

There is consequently a high risk of frequent transmission of the virus. According to the Professor Trevor Drew of the Commonwealth Scientific and Industrial Research Organisation, an Australian federal government agency: "The virus is very contagious meaning it is efficient in how it spreads."⁹ Disease experts estimate that each COVID-19 sufferer infects between two to 3 others.¹⁰

FATALITY RATES

The World Health Organization (WHO) has estimated the mortality rate from Covid-19 is about 3.4%.¹¹ "There is still considerable uncertainty around the fatality rates of COVID-19 and it likely varies depending on the quality of local healthcare," said Francois Balloux, Professor of Computational Systems Biology at University College London.¹² Italy has been estimated to have a mortality rate of more than 6%.¹³

INCREASED RISK TO OLDER MALES

The 2019-nCoV infection is more likely to affect older males with comorbidities, and can result in severe and even fatal respiratory diseases such as acute respiratory distress syndrome.¹⁴

⁴ <https://www.dawn.com/news/1544810/move-to-release-4000-convicts-from-sindh-prisons-to-stop-spread-of-covid-19>

⁵ <https://www.cNBC.com/2020/03/16/who-considers-airborne-precautions-for-medical-staff-after-study-shows-coronavirus-can-survive-in-air.html>

⁶ <https://www.cNBC.com/2020/03/18/coronavirus-lives-for-hours-in-air-particles-and-days-on-surfaces-new-us-study-shows.html>

⁷ <https://www.cNBC.com/2020/03/18/coronavirus-lives-for-hours-in-air-particles-and-days-on-surfaces-new-us-study-shows.html>

⁸ <https://www.cNBC.com/2020/03/18/coronavirus-lives-for-hours-in-air-particles-and-days-on-surfaces-new-us-study-shows.html>

⁹ <https://www.news.com.au/lifestyle/health/health-problems/coronavirus-experts-prove-covid19-can-become-airborne/news-story/f5749c2cb4ed39bbfcb1e645300840ed>

¹⁰ <https://www.sciencealert.com/the-new-coronavirus-isn-t-like-the-flu-but-they-have-one-big-thing-in-common>

¹¹ <https://www.theguardian.com/world/2020/mar/13/how-many-will-die-of-coronavirus-in-the-uk-a-closer-look-at-the-numbers>

¹² <https://www.sciencealert.com/the-new-coronavirus-isn-t-like-the-flu-but-they-have-one-big-thing-in-common>

¹³ <https://www.theguardian.com/world/2020/mar/13/how-many-will-die-of-coronavirus-in-the-uk-a-closer-look-at-the-numbers>

¹⁴ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30211-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30211-7/fulltext)

Due to the unprecedented rate of spread of the virus coupled with its high mortality rate, **the Pakistani government must devise a coherent approach to protect its prison population, totaling over 77,275 prisoners¹⁵. Should the government fail to act now, Pakistani prisons and detention centers will become epicenters for the transmission of COVID-19.**

Particular Vulnerability of Prisoners

According to Penal Reform International's briefing titled "Coronavirus: Healthcare and human rights of people in prison" (March 2020), "Where widespread community transmission of COVID-19 is occurring, there are legitimate concerns of this spreading to prisons. The outbreak of any communicable disease presents particular risks for prisons due to the vulnerability of the prison population and not least because of the difficulties in containing a large outbreak in such a setting."

Chantal Edge, of the Department of Epidemiology at University College London has said: "We are advocating that to save lives we need to cocoon our vulnerable population." Edge said **many prisoners had more than one illness or disease, and this meant the death rate could be significantly steeper than in the wider population.** "A lot of people in prison are from deprived backgrounds, have a history of drug use, and may have smoked things that are even more damaging to their lungs than tobacco." Nick Davies, programme director of the Institute for Government, warned that prisons also have an ageing population. **The disease appears to affect older patients more severely... That group already has higher levels of illness.**¹⁶

Pakistani prisoners are an exceptionally vulnerable class, who may be susceptible to risk of infection by COVID-19. **Pakistan has one of the largest prison populations in the world, totaling over 77,275 prisoners¹⁷.** This consists of individuals from the most vulnerable segments of society, including juveniles, mentally ill, physically disabled prisoners, terminally ill and the elderly. According to the report of a judicial inquiry commission, almost 2,400 prisoners already suffer from chronic contagious diseases such as hepatitis, HIV, and tuberculosis.¹⁸ A lack of adequate medical facilities and doctors for prisoners has exacerbated the situation. Moreover, overcrowding, unsanitary conditions, lack of proper ventilation, insufficient provision of means for maintaining personal hygiene, lack of access to clean drinking water, and poor nutrition make Pakistani prisoners especially vulnerable.

Overcrowding in Prisons

While it is crucial that important preventive measures such as ensuring prisoners' hygiene and providing competent medical professionals and experts' access to prisons are undertaken, criminal justice systems globally are now understanding that the threat of rapid spread of the virus is particularly egregious for prison populations.

Prison overcrowding presents a high risk for any situation of outbreaks of communicable diseases.¹⁹ In cases of emergency, overcrowding challenges prison management to the extreme.²⁰ Overcrowding seriously challenges a state's ability to deliver on its obligation to provide healthcare in cases of health emergencies, such as the outbreak of COVID-19.²¹ **Lowering the number of people in detention facilities is therefore a key way to lower the risk of irreversible health consequences or death for people in prison, including prison staff, due to an emergency situation.**²²

According to the fourth implementation report by the Federal Ombudsman Secretariat in Suo Moto Case No. 1 of 2006, there are 77,275 prisoners in Pakistani prisons against the authorised capacity of 57,742 prisoners. This is 34 per cent more than the official capacity. A provincial breakdown is provided in the third implementation report by the Federal Ombudsman's report:

¹⁵ Federal Ombudsman Secretariat, Fourth Implementation Report in Suo Moto Case No. 01 of 2006

¹⁶ <https://www.theguardian.com/uk-news/2020/mar/21/prisons-could-see-800-deaths-from-coronavirus-without-protective-measures>

¹⁷ Federal Ombudsman Secretariat, Fourth Implementation Report in Suo Moto Case No. 01 of 2006

¹⁸ <https://www.hrw.org/news/2020/03/19/pakistan-prisoners-risk-covid-19>

¹⁹ Penal Reform International, "Coronavirus: Healthcare and human rights of people in prison" (2020), page 10

²⁰ Penal Reform International, "Coronavirus: Healthcare and human rights of people in prison" (2020), page 11

²¹ Ibid

²² Ibid

OVER-CROWDING					
	PUNJAB	SINDH	KPK	BALUCHISTAN	TOTAL
TOTAL JAILS	42	24	37	11	114
CAPACITY	32,477	13,038	9,642	2,585	57,742
CURRENT PRISONERS	47,077	17,239	10,871	2,088	77,275
OVER-CROWDING	12,946	4,201	1,229	-497	19,510
PERCENTAGE	45%	32.22%	12.74%	-	33.78%

These statistics represent the gravity of the problem. As reported in the Prison Reform Commission's Report, in Punjab, 29 out of 41 prisons are said to be overcrowded. There are 47,077 prisoners in jails of Punjab against the authorized capacity of 32,477. These levels of overcrowding amidst a global pandemic will not only lead to the rapid spread of the pandemic in and outside the jails but also high levels of mortality.

Interventions to Reduce Prison Overcrowding

In its order dated 20th March 2020²³, the Islamabad High Court recognized the critical need to reduce the rampant overcrowding in the jail to combat the spread of the virus. "The World Health Organization has declared emergency in the wake of the outbreak of "corona virus". The prisoners are vulnerable and exposed to suffer irreparably in case of an outbreak. Prisons, which are overcrowded, have high turnover and intolerable living conditions, could potentially become epicenters for outbreak of the deadly virus. A prison outbreak is likely to present potentially deadly risk not only to its inmates but the general public as well... The Federal Government has, therefore, justifiably adopted the policy of reducing the population of the prisons in order to meet the challenges posed by the invisible enemy i.e. the corona virus."

The Court ordered the release of several categories of prisoners, in view of the vulnerabilities of the virus and to reduce overcrowding.

On 25th March 2020, the United Nations High Commissioner for Human Rights, Michelle Bachelet, urged governments and relevant authorities to work quickly to reduce the number of people in detention.²⁴ "Authorities should examine ways to release those particularly vulnerable to COVID-19, among them older detainees and those who are sick, as well as low-risk offenders."²⁵

Significant policy arguments may be made in support of the conditional release of particularly vulnerable, at-risk prisoners including elderly prisoners, prisoners with existing medical conditions or physical and mental disabilities, women and children, as well as under-trial prisoners whose release will not pose a threat to public safety, and those convicted for minor and non-violent offences.

Categories of Prisoners

A. CONVICTED PRISONERS CURRENTLY SERVING SENTENCES

To prevent grave consequences related to the spread of COVID-19, particularly at-risk, vulnerable categories of convicted prisoners should be identified and considered for immediate release, subject to adequate screening protocols.

i. Elderly Prisoners:

Elderly prisoners represent the most vulnerable section of Pakistan's prison population. According to the report by the commission constituted by the Islamabad High Court²⁶, **there are currently 1,500 prisoners who are above the age of 60 in Pakistan's prisons.**

²³ *The State versus District Administration* (In the matter of "Threat of corona virus outbreak and overcrowding in Adiyala Jail, Rawalpindi)

²⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>

²⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>

²⁶ Writ Petition No. 4037 of 2019

There is a high risk of coronavirus to old individuals in incarceration. “Their advanced age, coupled with the challenges of practicing even the most basic disease prevention measures in prison, is a potentially lethal combination. To make matters worse, correctional facilities are often ill-equipped to care for aging prisoners, who are more likely to suffer from chronic health conditions than the general public. As the virus spreads into the prisons, advocates and public health officials are urging corrections departments to release their aging prisoners.”²⁷

In many cases, their weak or compromised auto-immune systems make them particularly vulnerable to contracting infections, as well as less likely to recover from them.

“Research shows that seniors in prison have more health issues than their younger counterparts on the outside. They suffer more often from chronic health conditions such as hypertension and diabetes, and they’re more likely to have limited mobility and increased mental health issues. The stress of prison life, coupled with a lack of access to quality medical care, means that many prisoners age faster than they would in the free world. By age 50, incarcerated people tend to suffer from health problems more commonly seen in people many years older. These health conditions put them at greater risk of serious complications from COVID-19.”²⁸

“At a nursing home in Kirkland, Wash., the illness spread rapidly, infecting 59 of the 72 residents and more than a quarter of the staff. Till Monday 16th March 2020, 29 people had died. A similar catastrophe will take place inside prisons. Similar to a nursing home, the disease will spread through these facilities like fire through a dry barn, endangering corrections officers, prison staff, healthcare workers and the surrounding community.”²⁹

ii. Women with Children:

According to the fourth implementation report by the Federal Ombudsman Secretariat in 2016³⁰, there are a total of 1,204 female prisoners in Pakistan.

According to the report by the commission constituted by IHC, there are 83 mothers with children in various jails of Punjab and 90 children. In KPK, there are 37 mothers with 50 children. Women with children represent a vulnerable sections of Pakistan’s prison population who should be considered for immediate release in the wake of COVID-19.

GENDER BREAKDOWN		
	MALE	FEMALE
PUNJAB	45,646	769
SINDH	16,852	214
KPK	10,304	201
BALUCHISTAN	N/A	N/A

(Source: <https://eyepakistan.app.com.pk/jails-overcrowded-beyond-sanctioned-capacity/>)

iii. Children Accused of or Convicted of a Crime:

According to the fourth implementation report by the Federal Ombudsman Secretariat in 2016³¹, there are a total of 1,248 juveniles imprisoned in Pakistan.

Section 6 of the Juvenile Justice System Act (JJSA), 2018 provides solid ground for the release of all children accused of a crime on bail, with only a few exceptions. The essence of the law is reformatory; it emphasises social re-integration of juveniles instead of imprisoning them in jails. Additionally, in alignment with the UNCRC, **Section 2A of the JJSA 2018** defines the best interest of the child as “the basis for any decision taken regarding the child to ensure fulfilment of his basic rights and needs, identity, social well-being, physical, emotional and psychological development”.

Not releasing children accused or convicted of crimes in times of global health emergencies like COVID-19 and keeping them in jails with adults or with potentially other infected prisoners, puts the life and well-being of those juveniles at risk and therefore constitutes a direct violation of Pakistan’s international human rights and constitutional obligations.

- i. The Federal and Provincial Governments (Ministry of Interior and Home Departments, as the case may be) should consider:
 - Immediately releasing all under trial juveniles on personal surety;
 - Releasing all juvenile convicts not convicted for heinous offences on personal surety
 - Releasing those juvenile convicts from jails convicted for heinous offences and giving them under the custody of a suitable person (as defined under JJSA, 2018).

²⁷ <https://www.themarshallproject.org/2020/03/19/this-chart-shows-why-the-prison-population-is-so-vulnerable-to-covid-19>

²⁸ Nurses and LHV’s

²⁹ <https://www.foxnews.com/opinion/tolman-and-harris-coronavirus-crisis-requires-this-action-for-elderly-prison-inmates>

³⁰ Suo Moto Case No. 1 of 2006

³¹ Suo Moto Case No. 1 of 2006

- Where possible, the Provincial Governments may commute the punishment under Section 54 and 55 of the Pakistan Penal Code, 1860; and/ or
 - Request the President of Pakistan under Article 45 of the Constitution of Islamic Republic of Pakistan to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.
- ii. Juveniles released from jails should immediately be tested and treated for COVID-19 as per SOPs issued by WHO and Ministry of National Health Services.
- iii. There should be coordination with social welfare departments, health departments, bar associations and local CSOs specialized in child protection and child justice should be ensured for technical support and facilitation services whenever required.

iv. Prisoners with Existing Medical Conditions or Physical and Mental Disabilities:

Prisoners with mental or underlying physical health issues are particularly vulnerable to being affected by health emergencies, due to their compromised immune systems and the lack of existing medical facilities to fulfil their heightened health care needs and requirements. In **South Korea, there have been seven reported deaths from the Coronavirus in psychiatric wards**. Mentally ill patients in psychiatric wards that are 55+ usually have underlying diseases that make them more vulnerable to the virus.

A judicial inquiry commission constituted by the Islamabad High Court in 2019³² found that almost 2,400 prisoners already suffer from chronic contagious diseases such as hepatitis, HIV, and tuberculosis. In addition, there are 2,100 prisoners with physical ailments and 600 with mental illnesses. In Punjab alone, there are 66 disabled prisoners. These vulnerable prisoners must be released as soon as possible, as a first step in order to save their lives as well as to protect them transmitting to others.

SICK PRISONERS				
	PUNJAB	SINDH	KPK	BALOCHISTAN
HEPATITIS	1,081	208	462	72
HIV	257	39	116	13
TUBERCULOSIS	87	27	52	7
MENTAL ILLNESS	298	235	50	11
OTHERS	1,460	662	50	0

Lack of Medical and Healthcare Facilities

Prisons in Pakistan are not sufficiently equipped to deal with the healthcare needs of at-risk individuals who already suffer from physical and mental disabilities or underlying medical conditions. There is a lack of adequate medical facilities and doctors for prisoners. According to the commission's report, half of the positions for prison medical staff are unfilled, and there are shortages of medical equipment and ambulances.

The following table shows a breakdown of vacant posts of doctors, paramedics and psychologists.

LACK OF HEALTHCARE FACILITIES								
	PUNJAB		SINDH		KPK		BALOCHISTAN	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
SANCTIONED STRENGTH OF MEDICAL OFFICERS	64	23	47	7	31	5	12	4
VACANT SEATS	36	9	31	6	17	2	4	3
SANCTIONED STRENGTH OF PSYCHOLOGISTS	93		N/A		11		N/A	
VACANT SEATS	56		N/A		2		N/A	
NURSES AND LHVS	15		13		11		15	

³² Writ Petition No. 4037 of 2019

In addition, there are other significant capacity issues highlighted in the Commission’s report, which would significantly hamper efforts by the prison authorities to curb the spread of COVID-19. This makes it clear that access to treatment and protection of health cannot be guaranteed — the costs of this will accrue disproportionately to those prisoners who already suffer from physical or mental illnesses.

- There are 30 ambulances and 06 labs in Punjab for prisoners.
- 10 per cent of the prisons in Punjab do not have ambulances and the available ambulances are not well equipped.
- 200 prisoners in Sindh were unable to receive medical assistance due to the lack of ambulances.

B. UNDER TRIAL PRISONERS

Out of 77,275 prisoners³³, Pakistan’s total prison population, 65% of all prisoners are currently undergoing trial. This means that 48,008 prisoners out of Pakistan’s prison population have not yet been convicted of a crime.

According to the Human Rights Committee, Article 9(3) ICCPR requires that detention in custody of persons awaiting trial shall be the exception rather than the rule (CCPR/C/GC/35, para 38). The general comment also explains in what circumstances pre-trial detention can be used. Further, article 9(3) ICCPR states that the person detained is entitled to trial within a reasonable time or to release. According to the Human Rights Committee, that requirement applies specifically to periods of pretrial detention, that is, detention between the time of arrest and the time of judgment at first instance; and extremely prolonged pretrial detention may also jeopardize the presumption of innocence under article 14(2) ICCPR (CCPR/C/GC/35, para 37 which also explains what delays might be reasonable). If the length of time that the defendant has been detained reaches the length of the longest sentence that could be imposed for the crimes charged, the defendant should be released (CCPR/C/GC/35, para 38).

i. Prisoners under trial for Bailable Offences:

Pursuant to the Islamabad High Court’s order, “under trial prisoners alleged to have committed offences falling within the ambit of the non-prohibitory clause” whose “cases are pending before courts and related to police stations under jurisdiction of the Islamabad High Court” shall be “admitted to bail”, subject to appropriate surety or security being furnished.

It is submitted that the same principle may be applied to under trial prisoners whose cases are pending before courts and related to police stations in all provinces. This should include “those cases in which bail has been refused because the declaration of emergency and the prevention of outbreak of corona virus is definitely a fresh ground”.

Screening Protocols

- The IHC stipulated that prior to releasing a prisoner, “proper screening shall be conducted by authorized officials nominated by the Ministry of National Health Services and Coordination, Government of Pakistan or the Director General (Health), Government of Pakistan, as the case may be.”
- In line with the IHC’s order, those under trial prisoners should be released on bail whose release “will not pose a threat to public safety”. In Islamabad, this is to be determined by the Deputy Commissioner, Islamabad Capital Territory, “in consultation” with the concerned incharge of the Police station. The same model may be applied to prisons in other jurisdictions.

According to the fourth implementation report by the Federal Ombudsman Secretariat in Suo Moto Case No. 1 of 2006, following is the breakdown of the prison population on the basis of the stage of their court proceedings:

CONVICTED & UNDER-TRIAL		
	CONVICTED	UNDER-TRIAL
PUNJAB	17,056	26,725
SINDH	4,808	12,431
KPK	2,794	7,668
BALUCHISTAN	798	1,184
TOTAL	25,456	48,008

(Note: The status of the remaining prisoners is not known)

³³ Federal Ombudsman Secretariat, Fourth Implementation Report in Suo Moto Case No. 01 of 2006

ii. Pre-trial Prisoners:

Approximately 30 per cent of the prison population worldwide comprises pre-trial detainees not yet convicted of a crime.³⁴ Lowering the number of people in detention facilities is therefore a key way to lower the risk of irreversible health consequences or death for people in prison, including prison staff, due to an emergency situation.³⁵ Pre-trial detainees are especially at risk, given that conditions in pre-trial detention facilities are often more dire than those in prisons. Significantly, those in pre-trial detention have reduced access to health-care, as well as the quality of health-care available being substantially lower than that in prisons.

Screening Protocols

- All cases of individuals in pre-trial detention for minor or non-violent offences should be reviewed.³⁶
- There should be individualized decisions on pre-trial detention; per Article 9(3) of the ICCPR³⁷, alternatives to pre-trial detention should in particular be considered for all those individuals presenting minimal flight risk, little risk of collusion, and presenting low risk to society.³⁸
- Authorities should consider lifting the cash bail system for suspects awaiting criminal trial in cases of emergency and solely impose pre-trial detention in exceptional circumstances.³⁹

Reducing the Churn Rate

STRATEGICALLY LOWERING NEW INTAKE OF PRISONS:

Thousands of new prisoners are brought into prisons in Punjab each month. **Between 1st March 2020 to 22nd March 2020 alone, 9,812 under trial prisoners were admitted to jails in Punjab.** This indicates an average of 500 new prisoners per day. This staggering statistic represents a much higher rate of intake in prisons than they have the capacity to accommodate. This creates conditions within prisons which are more susceptible to the spread of corona, due to highly close proximity between inmates. There is an urgent need to radically lower this intake.

- Strategically lower the rate of intake in prisons by liaising with Law Enforcement Agencies especially for petty crimes and misdemeanors

INDIVIDUALS CONVICTED FOR MINOR OR NON-VIOLENT OFFENCES:

Individuals convicted for minor or non-violent offenses, especially those sentenced for possession of narcotics or for socio-economic offenses, should be considered for immediate release⁴⁰. The prison sentences of those convicted for petty crimes should be temporarily suspended, as other jurisdictions have started to do.

 <p>JUSTICE PROJECT PAKISTAN</p>	<p>Justice Project Pakistan is a non-profit organization based in Lahore that represents the most vulnerable Pakistani prisoners facing the harshest punishments, at home and abroad. JPP investigates, litigates, educates, and advocates on their behalf.</p> <p>Reach out to us: For general queries, email info@jpp.org.pk For advocacy-related queries, email advocacy@jpp.org.pk For press queries, email communications@jpp.org.pk</p>	 <p>Group Development Pakistan</p>	<p>Group Development Pakistan (GD Pakistan) is a Pakistani non-profit organization registered under Society's Act 1860. GD Pakistan believes in a democratic and humanistic society in which the most important stakeholders-children-are acknowledged, respected and protected from violence, abuse and discrimination. GD Pakistan follows a holistic, child focused and human rights-based approach.</p>
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³⁴ Penal Reform International, "Coronavirus: Healthcare and human rights of people in prison" (2020), page 11

³⁵ Ibid

³⁶ Ibid

³⁷ Article 9 (3), International Covenant on Civil and Political Rights:

"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement."

³⁸ Penal Reform International, "Coronavirus: Healthcare and human rights of people in prison" (2020), page 11

³⁹ Ibid

⁴⁰ Penal Reform International, "Coronavirus: Healthcare and human rights of people in prison" (2020), page 11