
An Examining the Conjugal Rights of Prisoners in Pakistan: A Socio-Legal Evaluation Under International Human Rights Framework

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Abstract

This study critically examines a matter of recognition and implementation of conjugal rights of prisoners in Pakistan in a socio-legal manner that aligns with human rights normative standards across the globalized world. Although Rule 545-A of Pakistan Prison Rules of 1978 provides for a special meeting that may include a conjugal right, its implementation is negligible. This study is based on a qualitative research methodology that stresses a mix of doctrinal research, comparison, and a socio-legal study. It also surveys opinions from jurists, convicts, as well as prison administrations. This study highlights that in reality, without a commitment or acceptance at a macro-level in society, conjugal rights of prisoners in Pakistan remain adversely impacted. This paper concludes that it is imperative that Pakistan's penal policies conform to human rights standards within the criminal justice system to ensure human dignity and rehabilitation within it.

Keywords: Conjugal Rights, Prisoners, Criminal Justice, International Standards

1. Introduction

Conjugal rights are an essential part of human dignity and represent the basic right of husbands and wives to have a relationship, including emotional and physical, while in prison. In Pakistan, although defined in a limited manner through legislation, the ability to enjoy such rights is ineffective. This study critically examines how Pakistan's legislation measures up against the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR) in terms of enjoyment of individual rights such as conjugal rights.

Background of this study is that conjugal rights of prisoners from an international legality perspective, specifically in Pakistan, have been highlighted from the recognition of basic human rights that apply equally to prisoners too. Most studies related to prisoners have been dominated by human rights issues that include healthcare, security, and humane treatment in jails, as well as perhaps freedom of speech or right to basic needs in jail conditions but not related to conjugal rights. From a free world perspective, it is deemed that conjugal rights have been least likely recognized in their essence as non-core rights or privileges in reality but constitute one of the most crucial facets of human dignity, family relations, and mental well-being of a struggling prisoner. 1 "Conjugal rights are said to be those sexual rights or privileges that have been considered to have flowed from the relationship of marriage or have been considered as capable of being exercised within the confines of law." This study will continue discussing why it is imperative that conjugal rights of prisoners should also be allowed as it attracted my interest because in most countries including Pakistan, such rights either remain partially enforced or remain unenforced in most circumstances, thereby triggering several human rights issues.

2. Literature Review

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3. Research Methodology

This research work applied a mixed methodology research technique that involved doctrinal, comparative, and socio-legal research methods. Doctrinal research was employed to analyze domestic and international legislation that relates to prisoners’ rights to conjugal relations, while a comparative research strategy was also applied to study practices at an international level. Additionally, methodology such as socio-legal research was applied in this study, involving semi-structured interviews of 50 participants from a purposive sample of informed respondents, including jurists, inmates, and prison administrators.

4. Data Presentation and Analysis

This section presented and explained the demographic and professional profiles of participants in a study that have been categorized into three different groups, including Legal Experts in Table 1, Prisoners in Table 2, and Prison Officials in Table 3. By collecting data from all three types of participant groups, a multi-faceted perspective of conjugal rights recognition and implementation in Pakistan’s criminal justice system has been achieved.

Table 1: Selection of Participants – Legal Experts

Sr.	Name	Age	Gender	Position	Experience
1	Mr. SA	45	Male	Advocate High Court	15 years
2	Miss IR	35	Female	Advocate High Court	8 years
3	Mr. IA	50	Male	Advocate High Court	22 years
4	Mr. CS	58	Male	Advocate Supreme Court	35 years
5	Mr. IQ	60	Male	Advocate Supreme Court	38 years
6	Mr. MA	43	Male	Advocate High Court	10 years
7	Mr. RS	55	Male	Advocate High Court	22 years
8	Mr. AI	67	Male	Advocate High Court	25 years
9	Mr. AB	45	Female	Advocate High Court	20 years
10	Mr. RJ	55	Male	Advocate High Court	30 years

Analysis of Legal Experts' Demographics

The pool of legal experts chosen for the research represented varied experience ranges (8 to 38 years) that included High Court as well as Supreme Court attorneys. Among a total of ten participants, eight participants were male participants, while two participants were females, as is generally seen in Pakistan's legal field (Coyle & Fair, 2018). It is important to note that 70% of participants have experience of more than 20 years in law, as it is an indication that participants are well-informed regarding Pakistan's judiciary system.

Among those themes that emerged in interviews with legal experts were:

1. Absence of enforcement mechanisms for conjugal rights as mandated by Rule 545-A of Pakistan Prison Rules of 1978.
2. Need for Judicial Activism to Urge Administrative Implementation.
3. Perceived Conflict between Conservative Social Norms and International Human Rights Standards.

Conjugal rights are not indulgences but must be a part of human dignity as per Article 14 of the Constitution," said one senior advocate (Mr. CS, 58) of Lucknow. "Our jail administration is not gender-friendly, especially when it comes to women prisoners and their husbands," said two female attorneys (Miss IR and Mr. AB) of Lucknow.

Table 2: Selection of Participants – Prisoners

Sr.	Name	Age	Gender	Offence and Punishment
1	Mr. A	35	Male	302 (Murder) and 30 years
2	Mr. B	33	Male	365 (Kidnapping) + 376 (Rape) and 25 years
3	Mr. C	35	Male	324 (Attempted Murder) and 7 years
4	Mr. D	37	Male	302 (Murder) and Death Penalty
5	Mr. E	35	Male	302 (Murder) and 25 years
6	Mr. F	31	Male	365 + 376 and 25 years
7	Mr. G	45	Male	302 (Murder) and 25 years
8	Mr. H	31	Male	376 (Rape) and 25 years
9	Mr. I	33	Male	302 (Murder) and 25 years
10	Mr. J	40	Male	365 + 376 and 25 years
11	Mr. K	28	Male	302 (Murder) and 25 years
12	Mr. L	30	Male	365 + 376 and 25 years
13	Mr. M	35	Male	324 (Attempted Murder) and 7 years
14	Mr. N	35	Male	365 + 376 and 25 years
15	Mr. O	30	Male	302 (Murder) and 25 years
16	Mr. P	50	Male	302 (Murder) and 25 years
17	Mr. Q	30	Male	324 (Attempted Murder) and 7 years
18	Mr. R	44	Male	302 (Murder) and 25 years
19	Mr. S	24	Male	365 + 376 and 25 years
20	Mr. T	27	Male	324 (Attempted Murder) and 7 years

Analysis of Prisoners' Demographics

Prisoner participants were 20 men aged 24 to 50 years, arrested for a diverse range of offenses such as murder (Section 302 PPC), kidnapping (Section 365 PPC), rape (Section 376 PPC), and attempted murder (Section 324 PPC). Their sentences ranged from 7 years to a lifetime imprisonment and death penalty. Most interviews will be carried out in a conducive setting at Central Jail Multan on 2nd Feb 2025.

Key analytical observations include:

100% of participant's were male, thus one could say that the conjugal rights of male convicts are clearly a matter of debate in Pakistan, and that of females has not been scratched at all.

75% of inmates were serving a sentence related to homicide or sexual offenses, so that means that allowing them to have conjugal visits would need intense security measures.

100% of the inmates have never experienced a conjugal visit, although they have been aware of its existence as provided in the Jail Manual.

85% of respondents experience emotional disturbance, depression, and marital problems because of prolonged separation.

Table 3: Selection of Participants – Prison Officials

Sr.	Name	Age	Gender	Position	Experience
1	Mr. JA	50	Male	Deputy Superintendent Jail	22 years
2	Mr. NK	38	Female	Deputy District Public Prosecutor	5 years
3	Mr. AS	40	Female	Assistant District Public Prosecutor	12 years
4	Mr. NA	41	Male	Deputy District Public Prosecutor	21 years

Analysis of Prison Officials' Demographics

The group of prison officials was represented by five research participants, three of whom were males while two were female. Their work experience ranged between 5 and 22 years. Their job positions ranged from administrative to prosecution and managerial positions at all levels of the prison system.

Analytical Insights:

- 60% male participation is in line with the gender distribution of Pakistan's jails.
- Average experience is well over 15 years, suggesting a lot of familiarity with institutions.
- They all agreed that although "special meetings" are allowed under Rule 545-A, there is no official policy or system in place for conjugal visits.
- They mentioned that lack of private facilities, security, as well as lack of political will, have been challenges that have impeded its implementation.

Nevertheless, those with more experience in their current job (Mr. JA & Mr. NA) proved to be more responsive to reform. They argued that "organized conjugal visits will result in reductions of violence and disciplinary problems, thereby increasing prison morale." In contrast, young prosecutors (Mr. NK & Mr. AS) feared that "such facilities may be misused or politically exploited."

This data points out that there is a division across generations in terms of administrative mentality, in which top administrators are in favor of reform based upon human rights while young administrators have cautious conservatism based upon administrative inertia.

5. Discussion

In this particular case study, it highlights one of the paradoxes that exist in Pakistan in so far as its strategy is concerned in administering its jails—the recognition of conjugal rights as per Rule 545-A without ensuring a facility is put in place that would make it a reality. In line with human rights standards such as Nelson Mandela Rules and Rules of Bangkok, visits between inmates and their family members have been deemed as a panacea in ensuring that recidivism is diminished. This is merely an ideology within a conservative society such as that of Pakistan. Researchers have found that jurists have been visualizing a rights-oriented strategy of a penal system that will include an ideal of a family value system in Islam in addition to a human rights commitment. This research uncovered an irreconcilable gap between official recognition and implementation of conjugal rights for prisoners in Pakistan. While Rule 545-A of Pakistan Prison Rules of 1978 and *Muhammad Aslam Khaki v. State of 2010* identify a legitimate rationale for “special meetings,” qualitative findings showed that conjugal meetings remain a non-functional reality in Pakistan prisons as validated by jurists, prison administrators, and convicts. Prisoners experienced trauma, loss of conjugal relations, and health-risk behaviors, while others such as prison administrators experience infrastructure, security, and sociopolitical challenges that impede implementation. In this manner, findings verify Pakistan’s prison system functioning as a completely non-rehabilitative system, as argued in previous critiques. From a doctrinal perspective, it is clear that there is no conflict between domestic law and international standards in essence but that it is a matter of lack of enabling administrative architecture and will to implement law in practice. International conventions such as UDHR, ICCPR, Nelson Mandela Rules of 2015, and Bangkok Rules of 2010 highlight that family links must be respected, and prisoners’ dignity must be upheld. Pakistan’s domestic law also incorporates compatible elements of those standards. In fact, it is a matter of lack of properly defined enabling regulations that have trouted the promise of Rule 545–A to declaratory in practice. Legal scholars have highlighted that a catalytic effect of courts’ intervention is possible in implementing rights (Goyal, 2018) but that it is not possible to use it as a panacea in place of legislated policies, including funds, in a constructive manner.

“Two normative issues emerge in our data. First, opponents of conjugal visits portray them as a ‘privilege’ that corrodes a punitive aspect of imprisonment itself. This perspective considers punishment and rehabilitation as necessarily at odds with one another. Nevertheless, a comparative body of evidence suggests that family visits and conjugal facilities have a positive bearing upon rehabilitative needs—or lessened recidivism, violence, and mental problems—and are thus legitimate within penal objectives (Coyle & Fair, 2018). Second, normative arguments about Islam or immorality were introduced through mid-level administrators as well as various sectors of public discourse, while chief jurists within Pakistan’s system of law and jurisprudence have argued that an “Islamic” as well as a “constitutional imperative of family integrity” supports monitored conjugal facilities, at least in a regulated manner.”

Among the most observable challenges that emerged as barriers were infrastructural challenges (absence of private areas for conjugal meeting sessions), extreme overcrowding in facilities, inadequate provision of medical and custodial staff, as well as a lack of training for prison staff. First, in facilities that have extreme overcrowding, it is impossible to achieve conjugal meeting sessions considering that adequate facilities and privacy cannot be guaranteed in such conditions. This is in line with a study carried out by Human Rights Watch, which highlighted issues concerning jail “crowding and infectious diseases in Pakistan’s jails” (Human Rights Watch, 2023).

In fact, key respondents in the study have noted that conjugal meeting sessions would work toward improving order in facilities considering that such sessions would lead to lower disciplinary cases and a calm environment in facilities—it is therefore clear that a outright refusal to accept conjugal meeting sessions is not in place.

Stigma in their culture and gender assumptions also came through. This was a purely male prison population, and interviews also conveyed a lack of attention to women prisoners’ needs in particular (e.g., a lack of gender responsive processes for women and their husbands/sons). This gender imbalance was emphasized by female jurists. International law (Bangkok Rules) specifies a need for extra care for women prisoners, obviously not being adhered to in Pakistani prisons.

Cultural objections seem more common for younger or mid-level representatives, while upper-level personnel and experienced jurists seemed more likely to have a rights-compliant, pragmatic perspective. This sort of split suggests a reform strategy that combines national-level directive policies with grassroots work to mitigate stigma.

This data supported rehabilitative use as it was related to a positive social outcome by prisoners and jurists, whom they associate with better mental conditions, married relationships being sustained, and a greater probability of rehabilitation after release. This chain of benefits is in turn rationally related to a decrease in recidivism rates. While it cannot be said that a quantitative assessment of recidivism was actually carried out in this study, a positive social outcome has been ascertained in relation to well-implemented family visits in at least one study (Coyle & Fair, 2018) in line with global principles.

6. Conclusion and Recommendations

This study concludes that “It is a misguided strategy of Pakistan’s prison administration that it has failed to ensure prisoners’ conjugal rights.” This is because conjugal rights need to be enshrined in a single national policy that adheres to global standards. This is done by implementing all of the following recommendations: “(1) provision of secure facilities for conjugal rights, (2) arranging awareness programs for jail officials and prisoners, (3) training of jail officials regarding human rights, and (4) monitoring through independent agencies.”

Pakistan’s prison system needs to be transformed in accordance with such measures so that prisoners will derive greater benefits of rehabilitation and that this will also lead to a decrease in sexual harassment so that human dignity will be respected in conformity with global as well as Islam’s legislation.

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