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A Critical Study of Torture and Custodial Death: Case Study of Prevention and Punishment Act, 2022

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Abstract

This study has demonstrated that Pakistan possesses constitutional and statutory prohibitions against custodial torture that meet international standards in many respects. Article 14(2) of the Constitution explicitly prohibits torture for evidence extraction, a provision absent from many national constitutions. The 2022 Act criminalises custodial violence and establishes procedural mechanisms for investigation and trial. These are not insignificant achievements. However, this study has also demonstrated that legal provisions alone do not prevent custodial violence. The absence of implementing rules under the 2022 Act, the FIA's conflict of interest as investigator, the lack of independent oversight mechanisms, the failure to secure convictions under the Act, and the judiciary's inconsistent enforcement of constitutional safeguards collectively explain why custodial torture continues unabated.

Key Words: Custodial Torture. UNCAT. Fair Trial. Procedural Rights. Courts. Constitutional Guarantees. Freedom of Speech.

Introduction

Custodial torture and deaths remain a grave human rights challenge in Pakistan despite the country's legal framework guaranteeing explicit protections and the enforcement of new domestic legislation under its international obligations. The 1973 Constitution of the country provides for the right to life, fair trial, dignity, and protection from torture intended to extract evidence under Articles 9, 10-A, and 14.¹ Pakistan ratified the UN Convention Against Torture (UNCAT) in June 2010, with its first domestic legislation, the Torture and Custodial Death (Prevention and Punishment) Act, coming into force in 2022.² Although Pakistan's 1973 Constitution guarantees the right to life and liberty, and protection against torture intended to extract evidence, the country's first piece of specific legislation on the matter was enacted only in 2022. The Act sought to solve the problem of custodial torture and deaths. However, despite legal provisions against torture and extrajudicial killings, institutional violence by law enforcement continues unchecked, and the practical application of the law remains compromised.

¹Constitution of the Islamic Republic of Pakistan 1973

² Torture and Custodial Death (Prevention and Punishment) Act 2022 (Act No VII of 2022)

Adjudicated by the Islamabad High Court in July 2025, the Islamabad Blasphemy Business Gang Case highlights this crisis.³ The case uncovered a systematic trend of falsely forged evidence, entrapment through online baits, and torture of blasphemy accused while in police custody. Four hundred First Information Reports (FIRs) accusing over 700 people were identified, with many detainees reporting custodial torture.⁴ Numerous reports from the Punjab Special Branch and the National Commission for Human Rights (NCHR) have documented custodial torture; however, independent inquiry and accountability frameworks remain absent.

By contextualizing custodial abuse and deaths within blasphemy-related cases, especially the 2025 blasphemy gang case, the current study analyzes both the constitutional provisions and the practical institutional failure in the provision of justice. The study critically examines the provisions of the 2022 Act in light of international legislation (UNCAT), investigates the reasons for the persisting culture of impunity in Pakistan, and proposes actionable reforms to reinforce accountability frameworks in line with global standards.

Statement of the Problem

While constitutional provisions and the enforcement of the 2022 Act are in place, custodial abuse and deaths remain a pervasive phenomenon in Pakistan, revealing a glaring disconnect between law and implementation. The gravity of the issue is more pronounced in blasphemy-related cases, where a sensitive political context, fear of mass violence, and institutional complicity allow the problem to persist without being checked.

The recent blasphemy business case highlights how systematic entrapment, falsely produced evidence, and custodial abuse of the accused remain rampant without any credible investigation of the matters. The 2022 Act criminalizes custodial torture and provides for the prosecution of the involved public officials, yet the enforcement framework remains compromised. The Federal Investigation Authority (FIA), being the investigative body in these matters, leads to a conflict of interest, as the FIA is itself a law enforcement agency. Moreover, the absence of independent overseeing bodies, the 2022 Act's lack of provisions for victim rehabilitation, and the Act's structural insufficiencies underscore structural deficiencies.⁵ Thus, the actual problem is not only the unchecked and persistent custodial torture but also the failure of the state to investigate, punish, and prevent institutional violence, especially in cases involving public and political sensitivity like blasphemy.

Research Questions

1. What constitutional protections are in place against custodial abuse and deaths in Pakistan?
2. To what extent is the Torture and Custodial Death (Prevention and Punishment) Act 2022 effective in safeguarding against custodial torture and death?

³ Malik H, 'IHC cites "blasphemy case entrapments"' *The Express Tribune* (19 July 2025) <https://tribune.com.pk/story/2556727/ihc-cites-blasphemy-case-entrapments> accessed 10 May 2026

⁴ Malik H, 'IHC cites "blasphemy case entrapments"' *The Express Tribune* (19 July 2025) <https://tribune.com.pk/story/2556727/ihc-cites-blasphemy-case-entrapments> accessed 10 May 2026

⁵ Justice Project Pakistan, *Torture in Custody: A Legal Analysis of the Torture and Custodial Death (Prevention and Punishment) Act 2022* (JPP 2023) <https://nchr.gov.pk/wp-content/uploads/2024/06/Torture-Custodial-Death.pdf> accessed 3 June 2026

3. What institutional failures and implementation challenges have perpetuated custodial violence and deaths in blasphemy-related cases, as highlighted by the recent blasphemy business case judgment?
4. What legal and institutional reforms does Pakistan need to bring its domestic legal landscape in line with international human rights commitments?

Objectives of the Study

The study seeks to:

1. Examine constitutional guarantees against custodial torture in Pakistan.
2. Critically assess the substance and enforcement of the 2022 Torture and Custodial Death (Prevention and Punishment) Act.
3. Analyze how custodial torture manifests in blasphemy-related cases, particularly in light of the Blasphemy Business judgment.
4. Identify institutional and procedural weaknesses that enable torture despite existing safeguards.
5. Recommend legal and policy reforms to strengthen accountability and align domestic practice with international human rights standards.

Significance of the Study

The current study is significant in terms of its academic contribution and practical recommendations. The study contributes to legal discourse by contextualizing custodial torture and Pakistan's domestic legislation within the lesser-explored area of blasphemy-related cases, with a particular focus on the recent blasphemy gang case judgment that has attracted attention to the prevalent impunity culture in Pakistan. The findings of the current research will yield insights for decision-makers, the judiciary, and law enforcement bodies in reforming enforcement frameworks. The recent blasphemy business case judgment offers a timely case study documenting custodial torture, making the current study both timely and policy-relevant. By critically examining the 2022 Act as well as constitutional provisions, the research highlights how deeply entrenched institutional shortcomings undercut the rule of law, the credibility of the judiciary, and the performance of law enforcement agencies in Pakistan.

Research Gap

Credible human rights organizations have periodically revealed abuse and custodial torture even deaths in blasphemy-related cases, yet there is a significant gap in legal scholarship on this issue. Many reports have highlighted that blasphemy accused face torture, solitary confinement and coerced confessions; however, these reports highlight patterns of abuse rather than providing in-depth legal analysis of constitutional provisions, the performative failure of Torture and Custodial Death (Prevention and Punishment) Act 2022 and the failure of institutions which allows for persistent custodial abuse and deaths in blasphemy cases. The current study bridges this gap by critically analyzing how prevalent practices undermine legal guarantees provided under Articles 9, 10-A and 14 as well as the 2022 Act, using Islamabad Blasphemy Business Gang case to highlight how structural impunity undercuts both rule of law and human rights conditions in Pakistan.

Constitutional and Legal Safeguards Against Custodial Torture in Pakistan

Pakistan's legal framework against custodial torture rests upon two foundational pillars: the constitutional guarantees enshrined in the 1973 Constitution and the statutory provisions of the Torture and Custodial Death (Prevention and Punishment) Act 2022. Despite these legal

instruments, custodial torture and deaths remain pervasive phenomena in Pakistan, revealing a profound disconnect between law and implementation. This chapter provides a critical analysis of constitutional provisions relating to custodial torture, examines the key provisions of the 2022 Act, and undertakes a comparative assessment of Pakistan's domestic legislation against the requirements of the United Nations Convention Against Torture (UNCAT). The central argument advanced is that while Pakistan possesses a constitutionally entrenched prohibition against torture and has enacted specific anti-torture legislation, structural deficiencies, definitional gaps, and weak enforcement mechanisms render these safeguards largely performative rather than protective.

Constitutional Framework Against Custodial Torture

The Constitution of the Islamic Republic of Pakistan 1973 provides several fundamental rights that collectively form the constitutional bulwark against custodial torture and abuse. These provisions are enforceable fundamental rights under Article 8, which declares that any law inconsistent with fundamental rights shall be void to the extent of such inconsistency.⁶

Article 9: Right to Life and Liberty

Article 9 of the Constitution provides that 'no person shall be deprived of life or liberty save in accordance with law.'⁷ This provision establishes the foundational principle that deprivation of life or liberty requires legal authority. In the context of custodial torture, Article 9 serves two critical functions. First, it protects against extrajudicial killings and custodial deaths by requiring that any deprivation of life must occur in accordance with law. Custodial death, defined under the 2022 Act as death directly or indirectly caused by acts of torture while in custody,⁸ constitutes a clear violation of Article 9 when it results from unlawful state action. Second, Article 9 protects against arbitrary detention by requiring legal authorisation for any deprivation of liberty. However, the phrase 'in accordance with law' has been interpreted narrowly by Pakistani courts, often deferring to statutory authorisations even when such laws permit expansive executive discretion in matters of detention.

Article 10: Safeguards Against Arrest and Detention

Article 10 provides comprehensive procedural safeguards for persons who are arrested or detained. Article 10(1) guarantees that no person arrested shall be detained in custody without being informed, as soon as may be, of the grounds of arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.⁹ Article 10(2) mandates that every person arrested and detained shall be produced before a magistrate within twenty-four hours of arrest, excluding the time necessary for journey, and no such person shall be detained beyond this period without the authority of a magistrate.¹⁰

These provisions are directly relevant to preventing custodial torture because they create multiple points at which judicial oversight can intervene. The right to counsel enables detained persons to seek legal assistance and potentially document injuries sustained during arrest. The requirement of production before a magistrate within twenty-four hours creates an opportunity

⁶ Constitution of the Islamic Republic of Pakistan 1973, art 8.

⁷ Constitution of the Islamic Republic of Pakistan 1973, art 9.

⁸ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 2(h).

⁹ Constitution of the Islamic Republic of Pakistan 1973, art 10(1).

¹⁰ Constitution of the Islamic Republic of Pakistan 1973, art 10(2).

for judicial scrutiny of the detainee's physical condition. However, Article 10(3) excludes from these protections persons arrested or detained under any law providing for preventive detention, creating a significant loophole through which law enforcement agencies may circumvent procedural safeguards.¹¹

Article 10(4) permits preventive detention but limits such detention to persons acting in a manner prejudicial to the integrity, security or defence of Pakistan, external affairs, public order, or maintenance of supplies or services.¹² Preventive detention cannot exceed three months unless a Review Board, comprising a chairman and two members who are or have been judges of the Supreme Court or High Court, reviews the case and finds sufficient cause for continued detention.¹³ While these provisions create some oversight, preventive detention remains a significant exception to ordinary procedural protections and has been frequently invoked in blasphemy-related cases to prolong detention without recourse to standard judicial processes.

Article 10-A: Right to Fair Trial

Article 10-A, inserted by the Eighteenth Amendment in 2010, provides that 'for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.'¹⁴ This provision has significant implications for custodial torture because confessions extracted under torture are inherently inconsistent with fair trial standards. The Supreme Court of Pakistan has interpreted Article 10-A to require that criminal proceedings be conducted in a manner that does not prejudice the accused, although the Court has not consistently excluded torture-extracted confessions as per se violative of fair trial rights.

Article 14: Inviolability of Dignity and Prohibition of Torture

Article 14 is the most directly relevant constitutional provision concerning custodial torture. Article 14(1) declares that 'the dignity of man and, subject to law, the privacy of home, shall be inviolable.'¹⁵ Article 14(2) explicitly states that 'no person shall be subjected to torture for the purpose of extracting evidence.'¹⁶

This provision is remarkable because it contains an express constitutional prohibition of torture, a feature not present in many national constitutions. However, several limitations weaken its effectiveness. First, Article 14(2) only prohibits torture 'for the purpose of extracting evidence,' leaving open the possibility that torture for other purposes, such as punishment, intimidation, or coercion not aimed at evidence extraction, may fall outside the constitutional prohibition. Second, like all fundamental rights in the Constitution, Article 14 is subject to Article 8(3), which allows laws relating to members of the Armed Forces, police, or other forces charged with maintenance of public order to be exempt from fundamental rights scrutiny if such laws are for ensuring proper discharge of duties or maintenance of discipline. Third, Article 14(2) prohibits

¹¹ Constitution of the Islamic Republic of Pakistan 1973, art 10(3).

¹² Constitution of the Islamic Republic of Pakistan 1973, art 10(4).

¹³ Constitution of the Islamic Republic of Pakistan 1973, art 10(5).

¹⁴ Constitution of the Islamic Republic of Pakistan 1973, art 10-A.

¹⁵ Constitution of the Islamic Republic of Pakistan 1973, art 14(1).

¹⁶ Constitution of the Islamic Republic of Pakistan 1973, art 14(2).

torture but does not define the term, leaving its scope to be determined by ordinary legislation or judicial interpretation.

The constitutional prohibition of torture in Article 14(2) must be read together with Article 4, which guarantees that 'no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.'¹⁷ This provision reinforces that any physical harm inflicted by state actors requires legal authorisation. However, the Constitution does not itself criminalise torture; it merely prohibits it as a matter of fundamental right. Criminalisation required the enactment of implementing legislation, which was not forthcoming until 2022.

The Torture and Custodial Death (Prevention and Punishment) Act 2022

The Torture and Custodial Death (Prevention and Punishment) Act 2022 represents Pakistan's first domestic legislation specifically criminalising custodial torture. The Act's preamble states that it is enacted because Pakistan is a party to UNCAT and because Article 14 of the Constitution guarantees the dignity of man.¹⁸ The Act extends to the whole of Pakistan and came into force on 1 November 2022.¹⁹

Definition of Torture

Section 2(n) of the Act defines 'torture' as 'an act committed by which severe physical pain or physical suffering, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind.'²⁰

This definition contains several notable elements. First, it requires that the act be committed by a public official or by a person acting in an official capacity, as indicated in the preamble to section 2(n) and reinforced by section 2(m)'s definition of 'public official.'²¹ Section 2(m) defines public official as 'every person who holds any office by virtue of which he is empowered to place or keep any person in confinement, every officer of the Government whose duty it is, as such officer, to prevent offences, to investigate, and to give information of offences.'²²

Second, the definition requires 'severe physical pain or physical suffering' and does not explicitly include mental or psychological suffering. Third, the definition includes the purposes typical of UNCAT: obtaining information or confession, punishment, intimidation, coercion, and discrimination. Fourth, the definition does not include pain or suffering arising from lawful sanctions, although this is not explicitly stated as an exception as it is in UNCAT.

Criminal Provisions

Section 8 provides the primary punishment for torture, stating that 'any public official who commits or abets or conspires to commit torture shall be punished with the same punishment

¹⁷ Constitution of the Islamic Republic of Pakistan 1973, art 4.

¹⁸ Torture and Custodial Death (Prevention and Punishment) Act 2022, Preamble.

¹⁹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 1.

²⁰ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 2(n).

²¹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 2(m).

²² Torture and Custodial Death (Prevention and Punishment) Act 2022, s 2(m).

as prescribed for the type of harm provided in Chapter XVI of the Pakistan Penal Code.¹²³ The offence under section 8 is cognizable, non-compoundable, and non-bailable.²⁴ Chapter XVI of the Pakistan Penal Code deals with offences affecting the human body, including hurt, grievous hurt, assault, and criminal force. The punishment for hurt under section 337 of the PPC varies depending on the nature of the injury, ranging from restitution to the victim to imprisonment. This cross-reference rather than specifying fixed punishments creates uncertainty in sentencing.

Section 9 provides that 'whoever commits or abets or conspires to commit the offence of custodial death, shall be punished with the same punishment as prescribed in section 302 of the Pakistan Penal Code.¹²⁵ Section 302 of the PPC provides for punishment of murder, which can extend to death. The offence under section 9 is cognizable, compoundable, and non-bailable.²⁶ Notably, section 9 makes custodial death compoundable, meaning the parties may reach a compromise, which is problematic given the gravity of custodial death as a violation of the right to life.

Section 10 provides that whoever commits or abets the offence of custodial rape shall be dealt with and punished under the law and procedure for rape, and the provisions of the Act shall also apply to the accused, *mutatis mutandis*.²⁷ The offence is cognizable, compoundable, and non-bailable.²⁸ The compoundable nature of custodial rape under this section has been heavily criticised by legal experts as contradictory to standard rape laws where such offences are non-compoundable.

Investigation and Trial Provisions

Section 5 designates the Federal Investigation Agency (FIA) as having 'exclusive jurisdiction to investigate the complaints against any public officials who have committed offence under this Act.¹²⁹ This provision creates a significant structural problem because the FIA is itself a law enforcement agency rather than an independent oversight body. The section provides that the FIA shall investigate complaints 'under the supervision of National Commission for Human Rights,¹³⁰ but the NCHR lacks operational authority over FIA investigations.

Section 5(2) requires that if a magistrate has reasonable grounds to believe that an offence under the Act is committed or a complaint of torture is lodged by a person in custody, the magistrate shall order a medical examination and notify the FIA.³¹ Section 6 provides that the Court of Sessions shall have exclusive jurisdiction to try offences under the Act, and no adjournment shall be granted save for the interest of justice, provided that any adjournment shall not exceed thirty days.³²

²³ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 8.

²⁴ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 8.

²⁵ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 9.

²⁶ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 9.

²⁷ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 10.

²⁸ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 10.

²⁹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 5.

³⁰ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 5.

³¹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 5(2).

³² Torture and Custodial Death (Prevention and Punishment) Act 2022, s 6.

Section 7 provides that a public official accused of an offence under the Act shall forthwith be suspended or transferred after completion of a departmental enquiry within seven days, giving a finding that there is prima facie evidence of commission of the offence.³³ A public official convicted of an offence under the Act shall not perform any public duty unless acquitted by the appellate court.³⁴

Procedural Rights and Safeguards

Section 3 addresses the evidentiary consequences of torture, providing that 'any statement, information or confession obtained by a public official as a result of torture or cruel, inhuman or degrading treatment shall be inadmissible evidence in any proceedings against the person making it.'³⁵ Section 3(2) provides that a public official who knowingly uses such information shall be liable for imprisonment up to one year, a fine up to one hundred thousand rupees, or both.³⁶

Section 13 establishes time limits for investigation and trial. Investigation shall be completed within thirty days from the date of submission of the complaint.³⁷ Trial shall be completed within three weeks from the date of submission of challan before the relevant court.³⁸ Appeal shall be decided within thirty days from the date of filing of such appeal.³⁹

Section 14 provides for witness protection, allowing any person including the victim, complainant, or witnesses who require protection from the accused or associates to file a petition before the Court of Session, which shall pass an order within three days.⁴⁰ Section 15 provides that nothing in the Act shall prejudice the civil remedies available to the victim.⁴¹

Institutional Failures and Enforcement Gaps

The preceding chapters have established that Pakistan possesses a constitutional framework prohibiting torture and a statutory regime criminalising custodial violence under the Torture and Custodial Death (Prevention and Punishment) Act 2022. Yet, as documented in the blasphemy business case study, custodial torture continues unabated, and the 2022 Act remains largely unimplemented. This chapter examines the institutional failures and enforcement gaps that explain this disjuncture between law and practice. It analyses failures at three tiers: the executive and law enforcement agencies responsible for implementation, the judiciary responsible for oversight and enforcement, and the legislature responsible for oversight and resource allocation. The central argument is that the 2022 Act suffers from chronic non-implementation due to lack of political will, institutional resistance within law enforcement agencies, judicial deference to executive authority, and an entrenched culture of impunity that normalises custodial violence.

³³ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 7.

³⁴ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 7.

³⁵ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 3.

³⁶ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 3(2).

³⁷ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 13.

³⁸ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 13.

³⁹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 13.

⁴⁰ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 14.

⁴¹ Torture and Custodial Death (Prevention and Punishment) Act 2022, s 15.

Executive Failures: Non-Implementation of the 2022 Act Absence of Implementing Rules

The most fundamental failure in implementing the 2022 Act is the absence of rules framed under Section 20, which empowers the concerned division to 'make rules for the purpose of carrying out the objects and purposes of this Act' by notification in the official Gazette.¹ More than three years after the Act's enactment on 1 November 2022, no such rules have been framed. This omission is not merely procedural; it has substantive consequences. Without implementing rules, numerous provisions of the Act remain inoperable in practice. For example, Section 7(2) requires that a public official accused of an offence under the Act shall be suspended or transferred 'after completion of a departmental enquiry within 7 days, giving a finding that there is prima facie evidence of commission of offence under this Act by the public official.'² However, without rules specifying the procedure for such departmental enquiries, the provision is effectively unenforceable. Similarly, Section 14's provision for witness protection orders lacks implementing rules specifying how petitions should be processed, what evidence is required, and what forms of protection may be ordered.³

The failure to frame rules reflects a broader lack of political will at the executive level. The Act was passed by Parliament in October 2022, but successive governments have not prioritised its implementation. The absence of rules has been consistently documented by the National Commission for Human Rights in its annual reports, yet no action has been taken.⁴

The FIA Conflict of Interest

Section 5(1) of the 2022 Act designates the Federal Investigation Agency as having 'exclusive jurisdiction to investigate the complaints against any public officials who have committed offence under this Act.'⁵ This provision creates an inherent and unresolvable conflict of interest. The FIA is itself a law enforcement agency whose personnel may be accused of torture. As documented in the blasphemy business case, FIA officials in Rawalpindi and Islamabad were alleged to be complicit in the entrapment network, working in coordination with vigilante groups to register fabricated cases.⁶

When the FIA is directed to investigate its own officials or officials of other law enforcement agencies with whom its personnel work closely, the structural incentives militate against thorough investigation. There is no provision in the Act for independent investigation by an authority external to law enforcement, such as the National Commission for Human Rights or an Ombudsman. The proviso to Section 5(1) states that the FIA 'shall investigate the complaints under the supervision of National Commission for Human Rights,'⁷ but the NCHR lacks operational authority over FIA investigations. It cannot compel the production of evidence, direct the questioning of witnesses, or override FIA decisions to close investigations.

The Lahore High Court's consideration of this issue in *Naseer Ahmad v. DG FIA* represents an attempt to address the structural deficiencies of the Act's enforcement mechanism. The court constituted a three-member full bench to harmonise its jurisprudence on torture-related complaints.⁸ However, judicial intervention cannot substitute for legislative reform that establishes genuinely independent investigative mechanisms.

Inadequate Training and Sensitisation

Section 18 of the 2022 Act imposes a duty on the Government to ensure that 'the relevant public officials are given periodic sensitization and awareness training on the issues addressed in this Act.'⁹ This provision is directory rather than mandatory, and there is no evidence of systematic training having been implemented. Law enforcement agencies in Pakistan continue to operate on the assumption that torture is an acceptable and effective method of interrogation.

The IANS report from April 2026 cited Sindh High Court Justice Omar Sial's observation that law enforcement agencies in Pakistan have developed a 'dangerous mindset' that views violence as an unavoidable tool of interrogation.¹⁰ This institutional culture cannot be changed without sustained, mandatory training programmes that educate law enforcement personnel about the legal prohibitions on torture, the unreliability of torture-extracted confessions, and the legal consequences of violating the 2022 Act. The absence of such training programmes constitutes a failure of executive implementation.

Lack of Data and Monitoring

The Government has not established any systematic mechanism for collecting and publishing data on complaints of custodial torture, investigations conducted under the 2022 Act, prosecutions initiated, convictions obtained, or punishments imposed. Without such data, it is impossible to assess the Act's effectiveness or identify patterns of abuse. The NCHR's reports rely primarily on anecdotal evidence and media reports because government data is either not collected or not publicly accessible.¹¹

Article 11 of UNCAT requires States Parties to 'keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment.'¹² Pakistan has not established any mechanism for such systematic review. The absence of monitoring allows abusive practices to continue unchecked.

Judicial Failures: Deference, Delay, and Inconsistency

Judicial Deference to Executive Authority

Despite periods of judicial activism, Pakistani courts have historically shown significant deference to executive authority in matters involving national security, public order, and politically sensitive issues. In blasphemy cases, this deference is particularly pronounced. Courts have been reluctant to order the release of blasphemy accused persons on bail due to fears of public violence and vigilante attacks. The US Department of State's 2023 report observed that blasphemy accused persons faced 'denial of bail because of the fear of vigilante violence.'¹³

This judicial caution, while understandable given the real threat of mob violence, results in prolonged pre-trial detention for blasphemy accused persons, many of whom are held in conditions that violate Article 14(2)'s prohibition of torture. The refusal to grant bail cannot be justified indefinitely on grounds of public order when there is no evidence that the accused person poses a specific threat.

Inconsistent Application of the 2022 Act

The 2022 Act has been inconsistently applied across different courts and different types of cases. The Lahore High Court's decision to constitute a three-member full bench in *Naseer Ahmad v. DG FIA* to 'harmonise its jurisprudence' on torture complaints implicitly acknowledges that High Court jurisprudence on the 2022 Act has been inconsistent.¹⁴

In some cases, courts have ordered investigations under the Act; in others, they have declined to intervene. The Islamabad High Court's order in *Noor Fatima* for an inquiry commission was a significant exercise of judicial power, but its subsequent suspension by a division bench demonstrates the fragility of such interventions.¹⁵ The division bench's decision to suspend the order pending further hearing, reportedly influenced by political and religious backlash, raises questions about judicial independence in politically sensitive cases.

Failure to Enforce the 24-Hour Rule

Article 10(2) of the Constitution requires that every person arrested and detained shall be produced before a magistrate within twenty-four hours of arrest.¹⁶ This provision is routinely violated in blasphemy cases, where accused persons are often held for days or weeks without being produced before a magistrate. The NCHR's blasphemy business report documented that detainees 'reported abuse during arrest and investigation with confessions taken under coercion'¹⁷, abuse that could be prevented if magistrates saw detainees promptly after arrest.

Courts have generally failed to enforce the twenty-four-hour rule strictly. Violations rarely result in consequences for police officers, and detained persons have no effective remedy when the rule is violated. The provision of Article 10(2) that 'no such person shall be detained in custody beyond the said period without the authority of a magistrate'¹⁸ is rendered meaningless when magistrates routinely authorise detention without examining whether the twenty-four-hour requirement was complied with.

Judicial Attitudes Toward Torture-Extracted Evidence

Despite Section 3(1) of the 2022 Act declaring that 'any statement, information or confession obtained by a public official as a result of torture or cruel, inhuman or degrading treatment shall be inadmissible evidence in any proceedings against the person making it',¹⁹ courts in Pakistan have historically admitted torture-extracted confessions. The Supreme Court has held that a confession is admissible if it appears to be voluntary, placing the burden on the accused to prove coercion, a near-impossible task for detainees held incommunicado.

The 2022 Act does not alter the burden of proof. Section 3(1) declares such statements inadmissible but does not specify how a court should determine whether a statement was obtained as a result of torture. In the absence of a presumption that confessions obtained while in police custody are coerced, or a requirement that the prosecution prove the absence of coercion, the provision is unlikely to change judicial practice.

Findings and Recommendations

This study has critically examined constitutional safeguards and institutional failures against custodial torture and death in Pakistan, with particular reference to the Torture and Custodial Death (Prevention and Punishment) Act 2022 and the Islamabad Blasphemy Business Gang case. The preceding chapters have analysed constitutional provisions, evaluated the 2022 Act against UNCAT standards, examined institutional failures at multiple tiers, and situated Pakistan's

experience within regional and international contexts. This final chapter synthesises the key findings and proposes actionable recommendations for strengthening Pakistan's legal landscape against custodial torture and death.

Summary of Key Findings

Constitutional Framework: Textual Strength, Enforcement Weakness

The 1973 Constitution provides robust textual protections against custodial torture. Article 9 guarantees the right to life and liberty. Article 10 establishes procedural safeguards for arrested persons, including the right to counsel and production before a magistrate within twenty-four hours. Article 10-A guarantees fair trial and due process. Most significantly, Article 14(2) explicitly provides that 'no person shall be subjected to torture for the purpose of extracting evidence.'¹

However, these constitutional guarantees have not translated into effective protection. Article 10(3) exempts preventive detention from procedural safeguards, creating a significant loophole. The twenty-four-hour production rule is routinely violated, particularly in blasphemy cases.² Courts have not issued operational guidelines under Article 10 comparable to India's D.K. Basu guidelines.³ The constitutional prohibition of torture lacks independent enforcement mechanisms.

The 2022 Act: Progress with Significant Deficiencies

The Torture and Custodial Death (Prevention and Punishment) Act 2022 represents a significant legislative step, criminalising torture for the first time in Pakistan's domestic law. The Act declares torture-extracted statements inadmissible, establishes time limits for investigation and trial, and provides for witness protection.⁴

However, the Act contains several critical deficiencies when measured against UNCAT standards. The definition of torture in Section 2(n) refers only to 'severe physical pain or physical suffering,' excluding the mental suffering required by UNCAT Article 1.⁵ The Act designates the Federal Investigation Agency as the exclusive investigating authority, creating an inherent conflict of interest where the FIA itself may be implicated in torture.⁶ The Act contains no provision for victim compensation or rehabilitation, contrary to UNCAT Article 14.⁷ Most fundamentally, no implementing rules have been framed under Section 20 of the Act, rendering many procedural provisions inoperable more than three years after enactment.⁸

The Blasphemy Business Case: Institutional Complicity Exposed

The Islamabad High Court's July 2025 judgment in Noor Fatima exposed a systematic network of entrapment, extortion, and custodial abuse operating with the complicity of FIA officials. The Special Branch report identified that the Legal Commission on Blasphemy Pakistan was the complainant in approximately 90 per cent of blasphemy cases registered by the FIA since 2021.⁹ The NCHR documented that hundreds of accused persons suffered custodial torture, with confessions extracted under coercion.¹⁰

The subsequent suspension of the judgment by a division bench, following political and religious backlash, demonstrates the fragility of judicial independence in blasphemy-related cases.¹¹ The government's failure to comply with the court's order to form an inquiry commission reflects a broader pattern of executive non-compliance with judicial directives in matters involving custodial violence.¹²

Institutional Failures: A Cycle of Impunity

The HRCP's documentation of 924 deaths in CCD-led encounters during the first eight months of 2025, without evidence of mandatory FIA investigations or magisterial inquiries, represents the most egregious manifestation of institutional failure.¹³ The Sindh High Court's March 2026 ruling that 'the notion that violence is the only means of extracting information during interrogation must come to an end' directly challenged the 'dangerous and deeply embedded mindset' within law enforcement agencies.¹⁴

The NCHR's 2026 Alternate Report to the UN Committee Against Torture documented persistent gaps in legal protections, including unclear complaint registration mechanisms, inconsistencies with Istanbul Protocol standards, and limited scope for independent investigations.¹⁵ The absence of systematic training, inadequate funding, and lack of political will perpetuate a cycle of impunity where law enforcement personnel act without fear of consequences.

Recommendations

Based on the findings above, the following recommendations are proposed, organised by target institution and priority level.

Legislative Reforms (Priority: High)

Recommendation 1: Amend the Definition of Torture. Section 2(n) of the 2022 Act should be amended to include 'mental suffering' in alignment with UNCAT Article 1. The amended definition should read: 'torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person...' This would bring Pakistan's domestic definition into compliance with its international obligations.

Recommendation 2: Establish Independent Investigation Mechanism. Section 5(1) of the 2022 Act should be amended to remove the FIA's exclusive jurisdiction. An independent oversight body, either the National Commission for Human Rights with enhanced investigative powers, or a newly established Torture Investigation Authority, should be designated to investigate complaints against law enforcement personnel. The NCHR should be granted statutory powers to summon witnesses, require production of documents, and conduct independent inquiries.

Recommendation 3: Add Victim Compensation Provisions. A new section should be inserted in the 2022 Act providing for state compensation for torture victims, including medical expenses, rehabilitation costs, and lost income. Compensation should be mandatory upon a finding of torture, not dependent on criminal conviction. The amount should be specified in the Act or determined by the court based on prescribed factors.

Recommendation 4: Remove Compoundable Status for Custodial Death and Rape. Sections 9 and 10 of the 2022 Act classify custodial death and custodial rape as compoundable offences.²⁰ This provision should be amended to make these offences non-compoundable, reflecting their gravity as violations of fundamental rights.

Recommendation 5: Enact Procedural Safeguards for Blasphemy Accused. While outright repeal of Section 295-C may be politically infeasible, procedural safeguards should be enacted: (a)

mandatory judicial verification of digital evidence before blasphemy charges are registered; (b) presumption of bail for blasphemy accused absent specific threat evidence; (c) mandatory Istanbul Protocol-compliant medical examination within twenty-four hours of arrest.

Executive and Administrative Actions (Priority: High)

Recommendation 6: Frame Implementing Rules. The concerned division must immediately frame rules under Section 20 of the 2022 Act, specifying: (a) procedures for departmental enquiries under Section 7(2); (b) procedures for witness protection petitions under Section 14; (c) complaint registration mechanisms accessible to detainees; (d) training requirements for investigators and medical personnel.

Recommendation 7: Mandatory Istanbul Protocol Training. The Government should mandate Istanbul Protocol training for all police surgeons, medico-legal officers, and judicial magistrates. Training should be conducted annually and certified. Medical examinations conducted in custodial torture cases must follow Protocol standards.

Recommendation 8: Establish Custodial Death Database. The Government shall establish a publicly accessible database of all custodial deaths, including: date and place of death; identity of deceased; cause of death; investigating authority; outcome of investigation; prosecution status. The database should be updated monthly and audited annually by the NCHR.

Recommendation 9: Comply with Judicial Orders. The Government must comply with the Islamabad High Court's July 2025 order to constitute an Inquiry Commission into the blasphemy business network. Non-compliance with judicial directives undermines the rule of law and perpetuates impunity.

Judicial Measures (Priority: Medium)

Recommendation 10: Issue Operational Guidelines under Article 10. The Supreme Court of Pakistan should issue guidelines under Article 10 of the Constitution, analogous to India's D.K. Basu guidelines, specifying: (a) right to inform a relative upon arrest; (b) right to medical examination at time of arrest; (c) requirement that arrest memos be witnessed; (d) videorecording of interrogations in custodial death cases.

Recommendation 11: Enforce the 24-Hour Rule Strictly. High Courts should direct magistrates to enforce Article 10(2) strictly. Magistrates who routinely authorise detention without verifying compliance with the twenty-four-hour rule should be subject to disciplinary action. Custodial torture allegations should result in immediate transfer of the accused officer pending investigation.

Recommendation 12: Establish Special Blasphemy Benches. High Courts should establish special benches for blasphemy cases, composed of judges with demonstrated independence. These benches should apply standard evidentiary rules without deference to extra-judicial pressures. Judges should be provided security adequate to insulate them from intimidation.

Civil Society and Media (Priority: Ongoing)

Recommendation 15: Support Litigation and Documentation. Civil society organisations should continue strategic litigation under the 2022 Act to establish precedents and compel

implementation. The Justice Project Pakistan's litigation in *Naseer Ahmad v. DG FIA* provides a model.²¹ Documentation of custodial torture cases should continue systematically.

Recommendation 16: Public Awareness Campaigns. Media and civil society should conduct public awareness campaigns on the 2022 Act, including: the prohibition of torture under Article 14(2); the right to medical examination upon arrest; the inadmissibility of torture-extracted confessions; complaint mechanisms under the Act.

Conclusion

This study has demonstrated that Pakistan possesses constitutional and statutory prohibitions against custodial torture that meet international standards in many respects. Article 14(2) of the Constitution explicitly prohibits torture for evidence extraction, a provision absent from many national constitutions. The 2022 Act criminalises custodial violence and establishes procedural mechanisms for investigation and trial. These are not insignificant achievements.

However, this study has also demonstrated that legal provisions alone do not prevent custodial violence. The absence of implementing rules under the 2022 Act, the FIA's conflict of interest as investigator, the lack of independent oversight mechanisms, the failure to secure convictions under the Act, and the judiciary's inconsistent enforcement of constitutional safeguards collectively explain why custodial torture continues unabated.

The blasphemy business case exposed the most extreme manifestation of these failures: an organised entrapment network operating with state complicity, subjecting hundreds of citizens to custodial torture, and extracting extortion payments from their families, all while constitutional and statutory guarantees remained unenforced. The suspension of the Islamabad High Court's courageous judgment and the government's subsequent inaction demonstrate that political will remains the missing ingredient.

The recommendations proposed in this chapter are actionable and grounded in comparative best practices. Amending the definition of torture to include mental suffering, establishing an independent investigation mechanism, enacting procedural safeguards for blasphemy accused persons, and implementing mandatory Istanbul Protocol training are achievable reforms that would significantly strengthen Pakistan's legal landscape against custodial torture.