

# **POLICY PAPER**

# **PROTECTION OF PAKISTANI PRISONERS DURING COVID-19 PANDEMIC**



# Policy Paper

## Protection of Pakistani Prisoners during COVID-19 Pandemic

March 25, 2020

Legal Rights Forum (LRF) is an independent, not-for-profit organization working for strengthening the rule; improving criminal justice system and providing legal aid based in Karachi, Pakistan. LRF is envision a Democratic, Just, Peaceful and Inclusive Society. LRF is a registered non-profit entity under the Societies Registration Act XXI of 1860, Pakistan.

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Malik Muhammad Tahir Iqbal is a prominent Human Rights Advocate. He has done LLM in social legislation from Karachi University. He has developed many policy papers for strengthening the rule of law, improving criminal justice system, legal aid in Pakistan. He has also developed training manuals and capacity building resources for women legal-socio-economic empowerment, women lawyers, judiciary, prosecution and police. He is devoted for the promotion and protection of women, children, minorities, transgender and person with disabilities rights. He is the founder and Chief Executive Officer of Legal Rights Forum since June 1, 2007. He is the recipient of numerous awards, including Human Rights Activist Award from Govt. of Pakistan which recognizes those who have made extraordinary contributions to the cause of human rights, rule of law, good governance and struggle for access to justice. He has working experience as a consultant with Federal Ministry of Human Rights Sindh Region, Law Justice & Commission of Pakistan, Bar Councils, Bar Associations, High Courts, District Courts, Sindh Human Rights Commission, Social Welfare Department, Labour Department, Police Department, Prosecution Department, Women Development Department. He has won competition Justice Makers Fellow Ship 2008 of International Bridges to Justice Geneva Switzerland.

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## EXECUTIVE SUMMARY

The Coronavirus (COVID-19) is currently affecting 195 countries and territories around the world and 01 international conveyance (the Diamond Princess cruise ship harbored in Yokohama, Japan). So far, as of 25<sup>th</sup> March 2020, 435,366 COVID-19 cases have been reported worldwide and in which 19,618 have been dead.<sup>1</sup>

During the global coronavirus pandemic, Pakistan confirmed its first two COVID-19 cases on 26 February 2020 and as of March 25, 2020, the virus effected cases has risen to 1,039. So far, the majority of COVID-19 cases (455 out of 1,000) have been reported in Sindh.<sup>2</sup>

The Government of Pakistan has an obligation, under domestic and international law, to protect the rights of prisoners during pandemics and public health emergencies. March 11, 2020, the World Health Organization (WHO) declared COVID-19 a global pandemic.<sup>3</sup>

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. Pakistan has one of the largest prison populations in the world, totaling over 77,275 prisoners<sup>4</sup>. 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.<sup>5</sup> 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.

According to Ms. Rimmel Mohyidin of Amnesty International, “conditions in prisons in Pakistan not up to mark and can put even the healthiest detainees at risk of infectious diseases. COVID-19 will spread like fire in a prison and will not be easily doused. Not providing appropriate medical treatment to prisoners that could reasonably be expected of the state may amount to ill-treatment”.<sup>6</sup>

According to media reports, an inmate at Camp Jail, Lahore has tested positive for COVID-19. The prisoner had been arrested in Italy, one of the worst-hit countries by the disease. After his deportation to Pakistan, he was taken to different barracks of the prison, that houses at least 3,500 inmates. Although he has now been shifted to a medical facility, it is unclear how many other prisoners and prison staff members were inadvertently exposed to the virus.<sup>7</sup>

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<sup>1</sup> <https://www.worldometers.info/coronavirus/>

<sup>2</sup> <https://www.bbc.com/urdu/pakistan-51837259>

<sup>3</sup> <https://time.com/5791661/who-coronavirus-pandemic-declaration/>

<sup>4</sup> Federal Ombudsman Secretariat, Fourth Implementation Report in Suo Moto Case No. 01 of 2006

<sup>5</sup> <https://www.hrw.org/news/2020/03/19/pakistan-prisoners-risk-covid-19>

<sup>6</sup> <https://www.amnesty.org/en/latest/news/2020/03/pakistan-must-protect-prisoners-during-covid-19-outbreak/>

<sup>7</sup> <https://www.amnesty.org/en/latest/news/2020/03/pakistan-must-protect-prisoners-during-covid-19-outbreak/>

The nature of the disease mandates preventative steps that are often not available to prisoners, including social distancing. Overcrowding and unsanitary conditions mean that preventative steps such as washing hands are harder to follow. Pakistan authorities should consider whether the outbreak qualifies certain prisoners for probation, parole and legal aid or early release, taking into account their individual circumstances and the risk posed to vulnerable groups. Efforts should be made to release older detainees or those in poor health and those under trial prisoners (UTPs), prisoners involved in minor offences, women prisoners and juveniles who no longer pose a threat to public safety, and there should be a presumption of release for people charged with a criminal offence who are awaiting trial.

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 on parole and probation and granting bail to under trial prisoners. The Public Health Emergency Provisions Ordinances 1944 further empower the government to make rules to carry out the object and purpose of the ordinance. Particularly in Sindh has the Sindh Epidemic Disease Act 2014 (The Sindh Act VIII of 2015).

## 1. Government's Duty of Care to Prisoners

The International Covenant on Economic, Social and Cultural Rights (ICESCR) 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, emphasized 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 judgment 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.”*

In Sindh, the Honorable Chief Justice Mr. Ahmed Ali Shaikh while observing the present scenario of spreading of Pandemic novel Coronavirus cases across the Country has been pleased pass the orders on top Priority (No. RHC/PA/MISC/2020 dated March 16, 2020) through its Registrar, High of Sindh Mr. Ghulam Rasool Samoon to Chief Secretary, Mr. Mumtaz Ali Shah, Government of Sindh and Inspector General Prison, Sindh Mr. Nusrat Hussain Mangan *“to screening of Inmates*

in Prisons/Lockups/Jail of Sindh. He also orders to comply this order in letter and spirit and submit requisite reports positively for kind perusal of the Honorable Chief Justice as desired. According to another letter No. RHCP/PA/MISC, 2020 dated 17<sup>th</sup> March 2020 from Sindh High Court, through Registrar High Court of Sindh-Karachi addressed to the Inspector General of Prisons Sindh, “no inmate is admitted in prisons without proper screening and submit such reports through the learned MIT-II (Mr. Abdul Razaq, District and Sessions Judge) of this Court”.

## 2. 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.<sup>8</sup> In cases of emergency, overcrowding challenges prison management to the extreme.<sup>9</sup> 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. 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.

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 authorized 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:

Overcrowding in Prisons in Pakistan					
	Punjab	Sindh	Khyber Pakhtunkhwa	Baluchistan	Total
<b>Total Jails</b>	42	24	37	11	114
<b>Capacity</b>	32,477	13,038	9,642	2,585	57,742
<b>Current Prisoners</b>	44,077	17,239	10,871	2,088	77,275
<b>Over-crowding</b>	12,946	4,201	1,229	- 479	19,510
<b>Percentage</b>	45.00%	32.22%	12.74%	-	33.78%

<sup>8</sup> <https://www.hrw.org/news/2020/03/19/pakistan-prisoners-risk-covid-19>

<sup>9</sup> Penal Reform International, “Coronavirus: Healthcare and human rights of people in prison” (2020), page 10

### 3. Women and Children in Prisons

According to the fourth implementation report by the Federal Ombudsman Secretariat in 2016, there are a total of 1,204 female prisoners in Pakistan: 769 in Punjab, 214 in Sindh, 201 in Khyber Pakhtunkhwa and 00 in Baluchistan.

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.

According to the fourth implementation report by the Federal Ombudsman Secretariat in 2016, there are a total of 1,248 juveniles imprisoned in Pakistan.

#### Current Population in Sindh Prisons

<b>Status of Overcrowding in Prisons</b>	
<b>Total Prisons</b>	24
<b>Capacity to house Prisoners</b>	13,038
<b>Current Prisoners</b>	17,239
<b>Over-crowding</b>	4,201
<b>Percentage</b>	32.22%

<b>Male Prisoners in Sindh</b>	
<b>Convicts Prisoners</b>	4,379
<b>Condemned</b>	555
<b>UTPs</b>	10,758
<b>Detenus</b>	318
<b>Civil</b>	14
<b>Total</b>	16,024

<b>Female Prisoners in Sindh</b>	
Convicted Prisoners	57
Condemned	07
UTPs	164
Detenus	00
<b>Total</b>	<b>228</b>

<b>Male Juveniles Prisoners Sindh Prisons</b>	
Convicted Prisoners	12
Condemned	00
UTPs	136
Detenus	00
<b>Total</b>	<b>148</b>

<b>Babies with their Mothers in Prisons</b>	
Women Special Prison Karachi	20
Women Special Prison Hyderabad	04
Women Special Prison Sukkur	00
Women Special Prison Larkana	02
<b>Total</b>	<b>26</b>

## 4. POLICY RECOMMENDATIONS

The right to health is guaranteed under several human rights treaties. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) includes the “prevention, treatment and control of epidemic, endemic, occupational and other diseases” as a part of the right to health. In the context of an epidemic and pandemic<sup>10</sup>, this includes the obligation on States to ensure that preventive care, goods, services and information are available and accessible to all persons.

Article 37 of the Constitution of Islamic Republic of Pakistan, 1973 includes the “Promotion of social justice and eradication of social evils. (i) decentralize the Government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.”

Under the right to health: health care goods, facilities and services should be available in sufficient quantity within the State; physically, socially and financially accessible to all without discrimination; provided respectfully as per medical ethics, and culturally appropriate manner; and scientifically and medically sound in standardized way to yield good quality. To be considered “accessible”, these goods, facilities and services must be in reach to all, especially the most vulnerable or marginalized sections of the population. The right also includes the access to health promotion and health-related information.

Since December 2019, the world is facing COVID-19 pandemic situation which affected more than 700,000 people in 198 countries and causing about 10% mortality. The infection is spreading through droplet infection, from person to person and prevention include social isolation and proper hygiene especially hand washing.

### RECOMMENDATIONS

In order to protect prisoners in Sindh, LRF recommends:

1. To release all Under Trial Prisoner (UTPs) confined in any Prison, juvenile Jail, Remand Home, judicial lockup or in Darulaman on bail or probation or parole on furnishing surety;
2. To release all convicted for minor or non-violent offenses, and all other petty offences should be considered for immediate release.
3. To release the Prisoners/ UTPs who are 60+ of aged / ***if she/he has served/completed “1/2” portion of their sentence with demonstrated capability of reform*** as per provision of Rule 146 of Pakistan Prison Rules, 1978 and Section - 49 (1)(c) of the Sindh Prisons and Corrections Service Act, 2019.

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<sup>10</sup> A pandemic is a global disease outbreak. It differs from an outbreak or epidemic because it infect a greater number of people, affects a wider geographical area, often worldwide and causes much higher numbers of deaths than epidemics.

4. To release prisoners / UTPs of mentally ill, disable prisoners, through due recommendations of Medical Board.
5. To release women's (pregnant & having minor with them in jail) under-trial prisoners (UTPs) detained in jails having jurisdiction of Sindh High Court involved in minor crimes.
6. To direct concern authorities to submit report of their respective prisons regarding Healthcare, Medical facilities and precautionary measures regarding Coronavirus.
7. The Supreme Court of Pakistan may direct Provincial Governments (Ministry of Home and Home Departments Sindh, as the case may be) to consider:
  - a. Immediate releasing of all under trial/convicts not booked in heinous offences detained in prisons or Reformatory School set up for juvenile offenders or Remand Home on furnishing surety;
  - b. Where possible, the Provincial Governments under section 401 (I) of Cr.PC may suspend the execution of sentence of convicts in prisons, subject to the condition as at section 402-C Cr.PC, ATC, 9-C of Narcotics Act for four month; 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.
  - c. To direct authorities for rehabilitation and reintegration of the prisoners in the society in compliance of Chapter IX of the Sindh Prisons and Corrections Service Act, 2019.
8. The Supreme Court of Pakistan should direct the Prison authorities that they should:
  - a. Ensure to appropriately coordinate with public health departments and communicate openly with staff and people in custody and further perform screening and test for COVID-19 according to the most recent recommendations of health authorities.
  - b. Develop plans for housing people exposed to or infected with the virus, and to ensure that individuals released or put on supervised leave have access to appropriate accommodations and health care.
  - c. Limit any plans for lockdowns or isolation in scope and duration based on the best science available, and ensure that such measures are not seen as punitive, as fear of being placed in lockdowns or isolation could delay inmates notifying medical staff of symptoms of infection.
9. Authorities in Pakistan must ensure that necessary measures are taken to protect prisoners confined in all kind of detention facilities including prisons and judicial lockup.
10. Authorities should ensure that all prisoners have prompt access to medical attention and health care. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, including when it comes to testing, prevention and treatment of COVID-19.
11. Where a prison service has its own hospital facilities; they must be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care. Prisoners who require specialized treatment, not available at the prison facilities, should be transferred to specialized institutions or to civil hospitals.

12. Authorities must also take care to ensure that prison staff and health care workers have access to adequate information, equipment, training and support to protect themselves.
13. Authorities ensure that inmates be given healthy food and healthy environment to avoid any illness among them during these days.
14. Pakistani authorities must ensure that all people affected by the coronavirus have access to adequate health care, including those detained in prisons.
15. Authorities should consider whether the outbreak qualifies certain prisoners for probation or parole or early release, taking into account their individual circumstances and the risk posed to vulnerable groups such as the elderly or those in poor health. Efforts should be made to release older detainees, who no longer pose a threat to public safety, and there should be a presumption of release for people charged with a criminal offence who are awaiting trial. Authorities should seriously consider reducing the prison population.
16. Authorities should be allowed to release the fresh prisoners in violation of Section 144 during ongoing lockdown on bail (even on personal bound).
17. In case the intake of new prisoners continue, jail authorities should ensure Coronavirus Screening facilities to ensure no case in Jails exists. In this regards, Health Department must depute trained medical staff to help provide the screening facilities in jails for new commers.
18. All the barracks of prisons in Sindh should be cleaned well and sprayed with disinfectant to fight coronavirus.

## **5. RECOMMENDATIONS FOR REDUCING OVERCROWDING IN PRISONS**

- I. **IDENTIFY** and consider conditional release of inmates particularly vulnerable, at risk prisoners including elderly prisoners, prisoners with existing medical conditions or physical and mental disabilities, women especially pregnant or with children.
- II. **IMPLEMENT** measures to safeguard health, hygiene and sanitation needs of prisoners, ensuring access to trained 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, that do not fall within prohibitory class and consider alternatives rehabilitation and reintegration in the society.
- IV. **LOWER** the rate of new intake of prisoners.

## 6. Annexure

### **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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

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.<sup>14</sup>

#### **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 Organization, an Australian federal government agency: “The virus is very contagious meaning it is efficient in how it spreads”.<sup>15</sup> Disease experts estimate that each COVID-19 sufferer infects between two to 3 others.<sup>16</sup>

#### **FATALITY RATES**

The World Health Organization (WHO) has estimated the mortality rate from Covid-19 is about 3.4%.<sup>17</sup> “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

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<sup>11</sup> <https://www.cnn.com/2020/03/16/who-considers-airborne-precautions-for-medical-staff-after-study-shows-coronavirus-can-survive-in-air.html>

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> <https://www.news.com.au/lifestyle/health/health-problems/coronavirus-experts-prove-covid19-can-become-airborne/news-story/f5749c2cb4ed39bbfcb1e645300840ed>

<sup>16</sup> <https://www.sciencelert.com/the-new-coronavirus-isn-t-like-the-flu-but-they-have-one-big-thing-in-common>

<sup>17</sup> <https://www.theguardian.com/world/2020/mar/13/how-many-will-die-of-coronavirus-in-the-uk-a-closer-look-at-the-numbers>

Computational Systems Biology at University College London.<sup>18</sup> Italy has been estimated to have a mortality rate of more than 6%.<sup>19</sup>

### **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.<sup>20</sup>

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 prisoners.<sup>21</sup> Should the government fail to act now, Pakistani prisons and detention centers will become epicenters for the transmission of COVID-19.

### **COVID and Prisons: A Global Response?**

Prisons have been a flashpoint in many countries' battles against the virus with several, including Spain, the US and Iran, ordering the release of many inmates to lessen the risk of transmission among detainees and jail staff.<sup>22</sup>

#### **United Kingdom**

Provisional estimates from epidemiologists at University College London suggest that uncontrolled outbreaks of infection could lead to the deaths of up to 1% of the prison population of the UK but that this could be substantially reduced if steps are taken to protect elderly prisoners and those with chronic illnesses. The UK government's advice for prisons last Wednesday recommended "protective isolation" for inmates displaying symptoms. However, this has been updated following discussions with Public Health England to introduce "robust contingency plans". Andrew Hayward, professor of infectious disease epidemiology at UCL, said: "Isolating suspected cases is important but because some people spread infection before they develop symptoms. Outbreaks can still start easily and spread rapidly through overcrowded prisons.<sup>23</sup> Those fears follow the first indications of an outbreak at a UK prison with around 75 officers at HMP Berwyn in Wales currently thought to be either off work sick or self-isolating, and 22 prisoners showing symptoms, who have been isolated. Hayward, who is also on a government national advisory committee for tackling coronavirus, added: "One of my main concerns is that we've not really got to grips with the likelihood of big outbreaks in institutional settings."

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<sup>18</sup> <https://www.sciencealert.com/the-new-coronavirus-isn-t-like-the-flu-but-they-have-one-big-thing-in-common>

<sup>19</sup> <https://www.theguardian.com/world/2020/mar/13/how-many-will-die-of-coronavirus-in-the-uk-a-closer-look-at-the-numbers>

<sup>20</sup> [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)

<sup>21</sup> Federal Ombudsman Secretariat, Fourth Implementation Report in Suo Moto Case No. 01 of 2006

<sup>22</sup> <https://www.theguardian.com/uk-news/2020/mar/21/prisons-could-see-800-deaths-from-coronavirus-without-protective-measures>

<sup>23</sup> Ibid

## United State of America

In the United States, New York City, Los Angeles and Cleveland have begun releasing hundreds of vulnerable prisoners. Prison reform advocates say those in jail are at higher risk of catching and passing on Covid-19.<sup>24</sup> According to Los Angeles Sheriff Alex Villanueva, “Our population within our jails is a vulnerable population just by who they are, where they are located, so we’re protecting that population from potential exposure.”<sup>25</sup> New York City Mayor Bill de Blasio said on Wednesday that city officials will this week identify individuals for release, including people who were arrested for minor crimes and those most vulnerable to infection due to underlying health problems.<sup>26</sup> “Reform campaigners say prisoners face unique risks, due to a lack of hygiene in overcrowded cells and hallways. Handcuffed people cannot cover their mouths when they cough or sneeze, sinks often lack soap and hand sanitizer is considered contraband due to its alcohol content.”<sup>27</sup>

## Italy

More than 50,000 cases of COVID-19 have been detected in Italy as the country continues to be in lockdown, closing parks, including walking or jogging far from home. Nearly 5,000 people have reportedly died of the virus. Prisoners’ rights group Antigone has called on the Italian government to release over 14,000 prisoners.<sup>28</sup> There were riots in almost 50 prisons throughout Italy in early March linked to anxiety about COVID-19. The unrest led to 13 deaths among detainees and 59 injured guards. On March 16, the government adopted a decree that, among other measures, will allow for early supervised release of prisoners with less than 18 months left to serve on their sentence. The Italian government has also ordered the suspension of outside visits, including by lawyers and family members, and limited the possibility for detainees to get probation and special permits to leave facilities. Defender of the Rights of Detained Persons Mauro Palma has stressed that prison authorities should guarantee to all detainees access to video calls as a substitute for visits.<sup>29</sup>

## Iran

Iran has temporarily released 85,000 prisoners and has pardoned another 10,000. It is the worst affected country by the pandemic in the Middle East with over 1,200 deaths by mid-March, the highest after Italy and China.<sup>30</sup> Javid Rehman, the United Nations special rapporteur on human rights in Iran, has called on Tehran to free all political prisoners and prisoners of conscience to help stem the spread of the novel virus. In a February report, Rehman had described how the overcrowded and unhygienic conditions were causing the spread of infectious diseases such as tuberculosis and hepatitis C. Quoting inmates, he said prisoners even had to provide their own

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<sup>24</sup> <https://www.bbc.com/news/world-us-canada-51947802>

<sup>25</sup> Ibid

<sup>26</sup> <https://www.bbc.com/news/world-us-canada-51947802>

<sup>27</sup> Ibid

<sup>28</sup> <https://news.sky.com/story/coronavirus-lockdown-tightens-in-parts-of-italy-hardest-hit-by-covid-19-11961710>

<sup>29</sup> <https://www.channelnewsasia.com/news/world/italy-release-inmates-fight-coronavirus-prison-rights-group-12553514>

<sup>30</sup> <https://www.hrw.org/news/2020/03/20/wider-steps-needed-protect-prisoners-health-italy>

soap. Rehman said Iran's efforts to contain the coronavirus had been inadequate. "In my estimation, the state has done too little and too late."<sup>31 32</sup>

### **Austria**

According to the leader of the Australian National University criminology program Professor Lorana Bartels, "Australian prisons and detention centres will become epicentres for the transmission of COVID-19 if governments don't act now".<sup>26</sup> Experts from the Australian National University and the University of Technology Sydney are urging the early release of vulnerable prisoners and detainees who are at high risk of harm from COVID-19, such as those with pre-existing conditions, the elderly and the young.<sup>33</sup>

### **Scotland**

Scotland's largest jail is currently operating at 140 per cent of its capacity and has the 'biggest risk of failure' in the prison system. MSPs have warned that urgent back-up plans are needed in case HMP Barlinnie in Glasgow becomes uninhabitable and its 1,400 inmates have to be moved. A recently published report Holyrood's Public Audit Committee has revealed that despite chronic overcrowding at the jail, authorities have no clear contingency plan for what to do with its 1,460 prisoners should moving them become necessary. The report says developing such a plan should be the "highest priority" of the Scottish Prison Service (SPS) given the state of the jail.<sup>34</sup>

### **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."<sup>35</sup>

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<sup>31</sup> <https://www.theguardian.com/world/2020/mar/19/iran-to-pardon-10000-including-security-prisoners>

<sup>32</sup> <https://www.aljazeera.com/news/2020/03/hard-hit-iran-frees-prisoners-coronavirus-outbreak-200317110516495.html>

<sup>33</sup> <https://7news.com.au/lifestyle/health-wellbeing/call-to-free-virus-vulnerable-prisoners-c-755762>

<sup>34</sup> <https://7news.com.au/lifestyle/health-wellbeing/call-to-free-virus-vulnerable-prisoners-c-755762>

<sup>35</sup> <https://inews.co.uk/news/scotland/scotland-hmp-barlinnie-failure-risks-biggest-jail-warning-1884759>

## Interventions to Reduce Prison Overcrowding in Pakistan

In its order dated 20th March 2020,<sup>36</sup> 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. 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 undertrial prisoners whose release will not pose a threat to public safety, and those convicted for minor and non-violent offences.

## About Legal Rights Forum

Legal Rights Forum (LRF) seeks strengthening the Rule of Law, improving criminal justice system and providing legal aid to the poor and legal Empowerment of the poor in Pakistan. LRF works for the promotion and respect of human rights for all including marginalized communities and also focusing on quality education for all, early childhood development in developing society a prerequisite for an inclusive society based on The Rule of Law wherein democratically elected governments and public officials are accountable, the governance is transparent and the Right to Information (RTI) is available to all.

LRF seeks to strengthen “The Rule of Law” on supply side LRF implements a comprehensive initiative in policy engagement, capacity building, set-up support, advocacy, lobbying with all stakeholders for the better services to the poor and vulnerable communities. On the demand side LRF initiative legal rights awareness, pro-bono legal aid, psycho-social support, community paralegal trainings, awareness on participatory Democracy and Human Rights for strong demand among poor and venerable communities. LRF also promote gender equality, environmental rights, labor rights and independent media for progressive sustainability.

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<sup>36</sup> *The State versus District Administration* (In the matter of “Threat of corona virus outbreak and overcrowding in Adiyala Jail, Rawalpindi)