

MENTAL HEALTH AWARENESS TOOLKIT

FOR PRISON AUTHORITIES



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PREFACE

“the federal government (for Islamabad capital territory) and all the provincial governments shall immediately launch training programs and short certificate courses on forensic mental health assessment for psychiatrists, clinical psychologists, social workers, lawyers, prison staff, police personnel, court staff, prosecutors and the judges of trial courts.

*Mst. Safia Bano vs Home Department, Government of Punjab
Judgment of the supreme court of Pakistan,
Feb 2021.”*

People with mental illness are among the most vulnerable group of individuals in society. Their vulnerability is, unfortunately, seldom recognised or afforded the appropriate level of protection in the criminal justice system.

Worldwide, the rate of mental illness among the prison population is very high. According to research 40% of prisoners have a mental illness. Given the lack of mental health services in Pakistan, there is a high probability that prisoners with mental illness have not been diagnosed or treated for their condition.

There are 96, central and district level, prisons across Pakistan which house a diverse mix of people. Some inmates may be dangerous and violent, many in need of medical attention and others who may be physically or mentally vulnerable for socio-economic reasons. While all those who deal with prisoners with mental illness do not have a duty to diagnose mental disorders or provide welfare services to defendants, they do have a duty to ensure that vulnerable defendants are treated fairly and in accordance with domestic law and international obligations.

Prison authorities are not solely responsible for prison conditions. The size of the prison population and the resources available, determines how prisons are managed. The number of inmates, in turn, is determined by how the criminal justice system deals with offenders. The criminal justice system itself does not function in a vacuum and is influenced by government policies, the prevailing political climate and, in democratic countries, by the public.

Thus any attempt at improving prison conditions and treatment of prisoners, must be multipronged and target various key players including prison staff, medical practitioners, judges, magistrates, police and policy makers.

Recognizing this complexity, the Supreme Court gave a landmark judgment providing broad guidelines for managing offenders living with mental illness. Issued on 10th February 2021, in the case of ***Mst. Safia Bano vs Home Department, Government of Punjab***, the court banned capital punishment for prisoners with mental illness. It also directed authorities to set up special forensic mental health facilities and institute training and awareness programs on forensic mental health for medical personnel, social workers, police, prison staff, lawyers, judges, magistrates and other court personnel.

This manual seeks to help prison staff understand better and respond appropriately to the mental health needs of prisoners. It focuses on the steps the prison staff can take to promote and protect mental health and well-being of prisoners.

The detail on the diagnosis and symptoms of various mental health conditions has been gathered in collaboration with both local and international medical professionals and the majority of recommendations and guidelines have been taken from the “Mental Health in Prison: A short guide for prison staff” published by the Penal Reform International. This manual has been drafted by Eman Ahmed , with assistance from Zainab Mahboob of Justice Project Pakistan.

INTRODUCTION

GOALS

- Increase awareness regarding mental health, mental illnesses and challenges, specifically in a prison setting
- Identify common causes and symptoms of mental illness
- Highlight what prison staff should and should not do, as well as best practices when dealing with mentally ill prisoners
- Highlight relevant legal instruments, both domestic and international

DISCLAIMER: This training does not equip attendees to clinically diagnose or treat mental illnesses.

BENEFITS

Increased capacity of prison staff. Dealing with mentally ill prisoners can be emotionally, physically and psychologically challenging for prison staff. It requires a range of skills and competencies. A prison worker who has the requisite skills and knowledge, will be better equipped to deal with people in their charge in a fair and humane way.

Less stressful work environment. When prison staff do not have the skills to recognize and manage symptoms of mental health problems, 'bad' or difficult behavior of a prisoner can be misinterpreted as a behavioral problem. This can lead to a prisoner being unfairly and unnecessarily punished rather than being given the care and treatment they need. Punishment can further worsen mental illness it can lead to the prisoner being more difficult and creating further problems for the staff.

Heightened awareness. Prison staff will develop greater insights into mental health issues they may encounter in their personal lives.

TOPICS COVERED

This training is divided into three modules covering:

- Mental health and mental illness
- Role of prison staff
- Relevant legal instruments (domestic & international)

MENTAL HEALTH & MENTAL ILLNESS

01

INTRODUCTION

In Pakistan, it is estimated that 50 million people suffer from mental illness. The number of trained mental health professionals is abysmally low, and it is estimated that there is approximately only one psychiatrist for every 10,000 persons experiencing mental disorders; one child psychiatrist for every four million children experiencing mental health issues, and only four major psychiatric hospitals for the entire population of 220,000,000.

A severe shortage of mental health facilities, treatment and training in particular as it relates to prisoners, means that many individuals are never diagnosed, leave alone treated for mental illness. However, in the recent landmark judgment of *Mst. Safia Bano vs Home Department, Government of Punjab*, the supreme court of Pakistan directed federal and provincial governments to set up special forensic mental health facilities for the treatment, assessment and rehabilitation of prisoners living with mental illness. The judgment also recommends that forensic training programs be launched immediately for prison staff, police, and prison social workers among others.

Before learning about specific rules and regulations applicable to mentally ill prisoners, it is important to understand what is mental illness, the symptoms and causes of mental illness as well as cultural factors and attitudes towards mental illness.

LEARNING OBJECTIVES

This module covers the following topics:

- What is mental health and mental illness
- Types of mental illnesses
- Causes of mental illness
- Symptoms and possible warning signs of mental illness
- Cultural attitudes towards mental illness

MENTAL HEALTH

Mental health affects how we think, feel and act. It also affects how we handle stress and relate to others. Those with good mental health can better handle life's challenges and stress, make appropriate decisions and maintain healthy relationships.

The World Health Organization (WHO) defines mental health as "... a state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community."

Mental health is important at every stage of life. Starting from childhood to adolescence, throughout adulthood and old age. Like physical health, a person's mental health can change as they experience difficult situations in life. For example, somebody who is caring for a sick relative or going through economic difficulties can experience poor mental health.

Those with good mental health are generally able to enjoy life. Those with poor mental health can find the stresses of life difficult to cope with and have difficulty interacting with people. Prisoners with poor mental health may not participate in daily prison life, including in rehabilitation services. This can lead them to reoffending after they have been released.

MENTAL ILLNESS

Poor mental health is not the same as a mental illness. However, prolonged poor mental health can lead to a mental illness. Mental illness can increase the risk of physical health problems, like stroke, type 2 diabetes and heart disease.

It is estimated 792 million people worldwide suffer from mental illness. A mental illness is a medical condition that can affect how an individual interacts with others and affects their moods, feelings, thoughts and behavior. For example, there have been cases of men and women killing their own children, believing they were protecting them. This is not because they had a bad day at work or an argument with their spouse. Rather in the majority of such cases, their actions were a result of a mental illness.

Having a mental illness is not related to a person's strength of character or intelligence. Examples of famous and successful people who have/had a mental illness include Bollywood stars Parvin Babi and Yo Yo Honey Singh. Michael Jackson, Shakespeare and, Nobel prize winner, John Nash, all suffered from mental illness. In 1998, the Prime Minister of Norway took time off while in office to deal with mental health issues, and was successfully re-elected to a second term.

Mental illness is treatable, and most people with mental illness manage to live productive and happy lives. The treatment is different for each type of mental illness, and depends on the individual, the severity of the illness and past history of illness.

MENTAL ILLNESS IN PRISONERS

The rate of mental illness among the prison population worldwide is very high. According to research, globally 40% of prisoners have a mental illness. This is due to a number of factors, such as the failure to promote treatment and lack of mental health services in many countries.

It is also due to the mistaken belief that those with a mental illness are a danger to the public. There is no co-relation with the type of mental illness a prisoner has and the type of crime committed. Given the lack of mental health services in the country, there is a high probability that the prisoners have not been diagnosed or treated for their condition.

MENTAL ILLNESS IN FEMALE PRISONERS

Data shows, that globally mental illness rates are higher in female prisoners than male prisoners. Female inmates with mental illness are likely to have a history of trauma and of sexual and physical abuse.

While in prison, women are also more vulnerable than male prisoners. According to research, in Pakistan 12.5% of female inmates have been sexually harassed. This too may be a contributing factor to the high levels of mental illness and poor mental health in the female prison population. Also, many women admitted to prison are mothers and separation from their children can have a negative impact on their mental health. Depression and mood disorders are more common among female prisoners, as compared to male prisoners.

TYPES OF MENTAL ILLNESSES

Common mental health illnesses which prison staff may encounter include:

DEPRESSION & MOOD DISORDERS

We all have bad moods but the bad mood eventually passes. Those suffering from clinical depression and mood disorders

experience constant and severe feelings of hopelessness and worthlessness. If left untreated this illness can affect quality of life, lead to physical health problems such as diabetes and heart disease, and in some cases lead to self-harm or suicide.

ANXIETY

This involves extreme worry or intense fear about everyday life and things which likely won't happen. Those with anxiety can experience sleeplessness, panic attacks and an increased heartbeat.

POST-TRAUMATIC STRESS DISORDER (PTSD)

An anxiety disorder is caused by traumatic events. PTSD may develop months or years after the traumatic event. Those who have PTSD often relive the traumatic event, mentally and emotionally. This can happen through flashbacks and nightmares. The individual often experiences physical pain, nausea, sweating and trembling.

PANIC DISORDER

This involves repeated and sudden panic attacks and may include palpitations, sweating, shaking, shortness of breath, or a feeling that something terrible is going to happen.

SCHIZOPHRENIA

Schizophrenia is a severe mental illness that affects the way a person thinks, feels and behaves. Symptoms include hallucinations, delusions, and a reduced interest in daily life. It usually occurs between the ages of 16-30.

BIPOLAR DISORDER

Bipolar disorder involves extreme and overwhelming mood swings. Research suggests it is slightly more common in men than in women.

ALCOHOL & DRUG ABUSE

Substance misuse and addiction are widespread in Pakistan. According to one estimate, around 6.7 million adults are using drugs. Substance abuse and mental illness such as depression and anxiety are closely linked and can often occur together.

Symptoms of drug use, or drug withdrawal, may be similar to those of mental illness.

People often abuse alcohol or drugs, as self-medication to ease the symptoms of an undiagnosed mental disorder. Unfortunately, such self-medicating causes side effects and often worsens the symptoms and can even trigger new symptoms.

CAUSES OF MENTAL ILLNESS

No one is immune from mental illness. Anyone can develop a mental illness no matter their gender, religion, race, socio-economic status, level of education, employment status etc. There is no one single reason a person develops mental illness. Rather, mental illnesses are the result of different factors, including:



GENETICS

Mental illness can often be hereditary and run in the family.



IMBALANCE IN THE BRAIN CHEMISTRY

Mental illness can be the result of an imbalance in the naturally occurring chemicals in the brain and body.



STRESSFUL ENVIRONMENT

Mental illness can develop if person is/was living in a stressful environment, such as poverty or for example where there is abuse.



TRAUMA & STRESSFUL EVENTS

Traumatic events such as a car accident, the death of a loved one, or being sentenced to prison can also lead to mental illness.



SUBSTANCE ABUSE

Drugs and alcohol can also trigger mental illness. Substance abuse can also make it more difficult to recover from mental illness.

Mental illness may be present before an individual is admitted to prison, and may further worsen due to the stress of imprisonment. Mental illness may also develop while in prison as a result of prison conditions, possible torture and other human rights violations.

SYMPTOMS OF MENTAL ILLNESS

Unlike physical disability, we cannot see mental illness. It is therefore difficult to detect mental illness, especially if you are not a trained mental health professional. Due to a lack of mental health services in the country, many with mental illness themselves may not be aware of their condition.

The following signs can be indicators of an existing mental health condition in a prisoner:

- Confused thinking/ speech
- Not looking after oneself
- Being sad and withdrawn
- Rigidity
- Prolonged sadness
- Extreme and excessive fear and worry
- Suicide or self-harm
- Disruptive and aggressive behavior
- Extreme mood swings
- Problems communicating with others
- Strange thoughts (delusions)
- Dramatic changes in eating or sleeping habits
- Changes in energy levels
- Drug/alcohol abuse
- Seeing/hearing things that are not there

While many prisoners may demonstrate such behavior, it does not necessarily mean they are mentally ill. Such behavior is also a common response to being imprisoned. Only one or two of these symptoms alone do not suggest a mental illness. If a person is demonstrating many of these symptoms at one time, they should be referred immediately to the prison health workers.

It is important that health professionals do a proper mental and physical screening of prisoners when they are admitted. This can help detect mental illness and allow prison staff to ensure appropriate interventions.

SUICIDE

Suicide is a serious community problem. According to the World Health Organization there is one suicide attempt every three seconds. The rate of suicide is higher amongst those who are incarcerated, as compared to the general community. Suicide is the leading cause of death amongst the prison population. Within prisons there are certain high-risk groups who are especially vulnerable to suicide. These include:

- Individuals between the ages of 30-35;
- Individuals who have a long sentence, especially those who are called “lifers”, are at a higher risk
- Elderly people, in particular elderly males;
- Individuals with mental illness;
- Individuals with alcohol and/or substance abuse problem;
- Individuals who have attempted suicide in the past

Not only are prisoners as a group more vulnerable to suicide than the general population, this risk increases further when dealing with mentally ill prisoners. A number of factors contribute to the high rates of suicide in jails. For example, the stress of arrest and incarceration, an expected long prison sentence, the loss of family and social support, a fear of the unknown, embarrassment and guilt over the offence or the day-to-day stresses of prison life may be too much to handle for some, leave alone for the more vulnerable individuals.

The majority of suicides in prisons happen by hanging, when a prisoner is isolated from staff and fellow inmates. If isolation is the only option, prison staff should closely monitor the prisoner in particular during the night shift. Close observation can mean

checking in on the prisoner at 5-15 minute staggered intervals. According to research a suicide attempt by hanging takes only three minutes to result in permanent brain damage, and 5-7 minutes to be fatal. A round even every 10-15 minutes might not be enough to prevent a suicidal inmate.

SUICIDE AMONGST FEMALE PRISONERS

Although more men in prison attempt suicide, the rate of completed suicides is higher in women. Female pre-trial prisoners are particularly vulnerable to suicide. Female prisoners lacking social and family support or those who have a history of suicidal behavior and mental illness, should also be closely monitored and observed.

SUICIDE PREVENTION IN PRISON

All prisons should have a comprehensive suicide prevention policy. Of course, it is not the duty of prison wardens or inspectors to approve and install such programs but of those who are in charge of managing and overseeing the prison. It is the duty however of prison staff to implement the policy. Broadly speaking a suicide prevention policy should include:

RELEVANT TRAININGS FOR PRISON STAFF

It is important that correctional officers are properly trained in suicide prevention. Very few suicides in jails are actually prevented by the prison mental-health care staff. Suicide attempts are often during late evening hours or on weekends, when the health care professionals may not be around. Trainings for prison staff should cover: why prison environments are conducive to suicidal behavior, staff attitudes about suicide, what makes a prisoner vulnerable to suicide, when prisoners are at their most vulnerable,

warning signs and symptoms.

Staff who come into regular contact with prisoners should also receive standard first aid training.

INTAKE SCREENING

Some suicides occur within the first hours of arrest and detention. Screening for suicide should happen immediately upon entrance into the prison. If the screening can't be done by a trained professional, a checklist for assessing suicidal risk should be developed for prison staff.

Some possible items on the list could be:

- The prisoner is intoxicated and/or has a history of substance abuse.
- The prisoner expresses unusually high levels of shame, guilt, and worry over the offense, arrest and incarceration.
- The prisoner expresses hopelessness or fear about the future, exhibits signs of depression, such as crying, lack of emotions, staying silent and isolated.
- The prisoner admits to current thoughts about suicide
- The prisoner has previously received treatment or is currently under treatment for mental health problems.
- The prisoner shows unusual behavior, such as difficulty focusing, talking to self, or hearing voices.

If the answer is yes to one or more of the above items, the risk of suicide is high and further intervention is needed.

POST-INTAKE OBSERVATION & MONITORING

While such intake screening is important to alert staff to high risk prisoners, they cannot predict when an attempt will occur or what the exact situation will be. Suicide prevention

must involve on-going observation and monitoring, through regular security checks to watch for warning signs of suicide or mental illness such as crying, insomnia, sluggishness, extreme restlessness or pacing up and down; sudden change in mood, eating habits or sleep; divestment such as giving away personal possessions; loss of interest in activities or relationships.

CONVERSATIONS WITH PRISONERS

Conversations with prisoners around the time of court hearings or other periods (such as the death of a family member) can also help prison staff to identify feelings of hopelessness or suicidal intent. Prison staff should develop a relationship of trust with the prisoners. This encourages prisoners to share and disclose feelings of distress and despair.

In some prisons, suicidal prisoners are placed with trained-inmate 'listeners'. In some places this has been successful since prisoners may find it easier to open up to other inmates as opposed to prison staff.

Prison staff should pay attention during the prisoner's visits with family or friends to identify disputes or problems during the visit. Families should be encouraged to notify staff if they fear that the prisoner may be suicidal.

SUICIDE-SAFE ENVIRONMENT

Most inmates commit suicide by hanging themselves using bedding, shoelaces or clothing. A suicide-safe environment would be a cell or dormitory that has no or minimal hanging points and no unsupervised access to lethal materials.

DEBRIEFING STRATEGY

Each prison should also have a strategy for debriefing after an attempted suicide or a suicide. This should include documenting

the incident, identifying factors that may led to the incident, evaluating the effectiveness of staff's response, and identifying ways of improving suicide detection, monitoring, and prevention.

URGENT RESPONSES

If there is a suicide or a suicide attempt, prison staff should act immediately to protect the safety of prisoners, themselves and the facility. In such situations staff should:

- Take urgent protective action. Staff should secure the area and if needed provide first aid to the prisoner. It is important that all correctional staff have first aid training.
- Inform the prison healthcare staff and their superiors. To avoid delays, efficient channels of communication between correctional staff and health staff should be established in advance and drills should be carried out on a regular basis. This will help prison staff to act quickly and appropriately in an actual emergency situation.
- Communicate necessary information to other relevant staff members.
- Speak in an open and sympathetic manner with the relevant individual to try to understand their situation.

When dealing with prisoners with mental illness in a crisis situation, there are certain things prison staff should not do. These include:

- Not use restraints, unless it is absolutely necessary to stop prisoner from injuring themselves or others or from damaging property.
- Not use force, except in self-defence,

to stop an attempted escape or if there is physical resistance to an order. Such force must be based on laws or regulations.

- Not place the prisoner in solitary confinement as it will make the prisoner's condition worse.

Prison staff who have experienced the suicide of an inmate may experience a range of emotions, from anger and resentment to guilt and sadness. It is important that prison management either organize a more detailed briefing or more formal counseling support.

CULTURAL FACTORS & STIGMATIZATION

There are many different ideas about the causes and diagnoses of mental ill-health and which treatments are the most effective. In some cultures, mental illness is associated with religious or spiritual traditions, beliefs, supernatural forces, witchcraft, possession and black magic. As a result, and also in the absence of mental health services in the country, many turn to shrines and spiritual leaders and healers to 'cure' a mental illness.

In most cultures there is a stigma attached to mental illness. While it is acceptable to seek help for physical disorders, seeking help for psychological disorders is not easy. Myths regarding mental illness add to the stigma so does media coverage. Some believe those who are mentally ill are violent, and others believe that mental illnesses are contagious and communicable. It is for such reasons that those who are suffering, face discrimination and at times are abandoned by their families. It is important to raise awareness of these issues within the prison population.

REVIEW

MENTAL HEALTH & MENTAL ILLNESS

- Mental illness and mental health are not the same thing
- Mental illness is a medical condition that can affect how an individual interacts with others and affects their moods, feelings, thoughts and behavior
- Having a mental illness is not linked to a person's character or intelligence

MENTAL ILLNESS IN PRISONERS

- The rate of mental illness among the prison population worldwide is 40%
- Due to the lack of mental health services in Pakistan many prisoners have not been diagnosed or treated for their condition
- Mental illness rates are higher in female prisoners

TYPES OF MENTAL ILLNESS

- Depression & mood disorders
- Anxiety
- Post-traumatic stress disorder (PTSD)
- Panic disorder
- Schizophrenia
- Bipolar disorder
- Alcohol & drug abuse

CAUSES OF MENTAL ILLNESS

- Genetics
- Imbalance in Brain chemistry
- Stressful environment & events
- Substance abuse

SYMPTOMS OF MENTAL ILLNESS

- Confused thinking/speech
- Being sad and withdrawal
- Mood swings
- Delusions
- Change in energy levels
- Drug/alcohol abuse
- Not looking after oneself
- Rigidity
- Excessive fear and worry
- Aggressive behaviour
- Communication problems
- Dramatic changes in eating or sleeping habits

SUICIDE

- Suicide is the leading cause of death amongst the prison population
- Majority of suicides in prison happen by hanging
- Check-in on prisoners with 05-15 minutes' intervals

ROLE OF PRISON STAFF 2

INTRODUCTION

Prison staff do not have control over how many individuals with mental illness are sent to jail. However, they can help detect, prevent and treat mental disorders, and promote good mental health within the prison. This is beneficial not only for the prisoners but also for the prison staff.

A prisoner with mental illness, who receives proper medical treatment, will better adjust to community life after their release. There is also less of a chance that they would offend again and return to prison.

Prisons are difficult working environments. Prisoners with undetected and untreated mental illness place even greater demands upon the staff. This can negatively impact the mental health of prison staff themselves.

Awareness and sensitivity towards the mental status of inmates can help the staff in their main duty of protecting the security and safety of the prison, the inmates and themselves.

LEARNING OBJECTIVES

This module covers the following topics:

- What staff should do when dealing with prisoners with mental illness
- What staff should not do when dealing with prisoners with mental illness
- How to promote mental health in prisons

✓ WHAT TO DO WHEN DEALING WITH PRISONERS WITH MENTAL ILLNESS

Prison staff are not expected to perform the role of a medical health professional. They cannot diagnose or treat an inmate. What they can do is monitor risk factors, positively communicate with prisoners and ensure prisoner records are updated regularly. This can help with early detection of a mental illness and prevent a minor issue from developing into a serious mental illness.

✓ MONITOR RISK FACTORS

There are certain circumstances and factors that can worsen the condition of prisoners with a mental illness or lead to the onset of one. Staff should be aware of such risk factors and monitor prisoners for symptoms.

SHOCK & TRAUMA

Shock and trauma can trigger mental illness. Therefore, staff should carefully monitor inmates who receive upsetting news, such as the death or illness of a loved one. Those whose family relationships have broken down and those who are in debt and have financial worries, should also be closely monitored. Prisoners who receive unfavorable news related to their case, trial, sentencing or detention can also be vulnerable to mental illness. Major religious or public holidays can worsen the condition.

DETENTION CONDITIONS

Detention conditions can also put prisoners at risk. For example, solitary confinement and other disciplinary measures such as the use of restraints or force can negatively impact the mental health of prisoners.

BULLYING & HARASSMENT

Inmates with a mental illness are also at a high risk of being bullied and harassed. Bullying and harassment can also worsen the symptoms of mental illness. Other at-risk inmates would include children, foreign nationals LGBTI inmates, the elderly and those who are physically disabled. Staff should keep a watchful eye on such prisoners and take necessary precautions.

✓ COMMUNICATE POSITIVELY

Isolation and a lack of communication with others is a common cause of mental illness in prisons. Staff can help with this by regularly and positively engaging with those who have poor mental health.

In practical terms this would mean building a rapport and an understanding with the inmates. This can be done by actively listening, asking questions in a non-judgmental and sympathetic manner, and by involving them in positive discussions. In some cases, just being able to share and talk about their problems may relieve the stress prisoners might be experiencing.

Such interactions will also allow prison staff the opportunity to identify and monitor warning signs and potential triggers for mental illness.

✓ UPDATE PRISONER RECORD

It is important that prison wardens and superintendents inform prison healthcare staff and mental healthcare staff, regarding their observations and interactions with prisoners who have a mental illness. This can be done partly through good record keeping.

X WHAT NOT TO DO WHEN DEALING WITH PRISONERS WITH MENTAL ILLNESS

When dealing with a prisoner who is mentally unwell, prison staff should not do anything that could exacerbate the symptoms and condition of the inmate. Instead prison staff should try to de-escalate the situation by using techniques such as negotiation and mediation.

Prison staff works hard to ensure the prison is running smoothly and to secure the safety of the prison, the prisoners and their colleagues. In most prisons this depends on regimentation, control, and an unquestioned obedience to rules and orders.

Staff who may not have received mental health awareness training may find such behavior annoying, frightening, provocative, and in some cases dangerous. They tend to use restraints and force to pacify the prisoner, and punish them for their disobedience or disruptive behavior by putting them in solitary confinement. Both these measures are detrimental to prisoner rehabilitation and can further worsen the mental and physical well-being of prisoners with mental illness.

X SOLITARY CONFINEMENT

There is ample research that shows the negative health impacts of solitary confinement, including death and suicide. Solitary confinement can be as distressing as physical torture and can result in anxiety, depression, panic attacks, hallucinations, deteriorating eyesight, headaches, sleep problems, and weight loss among other conditions.

As part of the international community, Pakistan also abides by the Mandela Rules (discussed in the next module) according to which solitary confinement should be for as short a time as possible and should not last more than 15 days. Prisoners should be placed in solitary confinement only in exceptional cases and as a last resort. If there is no other option but to put a prisoner in solitary confinement, it is important to closely monitor them and keep a watchful eye on their symptoms and condition.

X USE OF RESTRAINTS & FORCE

Restraints contribute to both physical and psychological injuries. Prison staff should not use restraints or force unless strictly necessary to prevent prisoners from damaging prison property, and from injuring themselves or others. If a mentally ill prisoner is put in restraints, staff should ensure that they have access to health professionals. Restraints and force should not be used as a form of punishment.

Not only does the use of restraints and force violate the human rights of prisoners, they also erode the relationship and trust between inmates and staff, and can cause further psychological trauma in patients who are already suffering from mental illness. Restraints can also result in physical injuries such as bruises, lesions, and broken bones.

As mentioned above, Pakistan abides by the Mandela Rules which expressly forbid the use of restraints and force unless strictly needed. There are certain situations where restraints are allowed. For example, restraints can be used to prevent the prisoner from escaping when being transferred.

HOW TO PROMOTE A HEALTHY PRISON ENVIRONMENT

In an ideal world there would be adequate special facilities for those with mental illness, there would be special programs specifically for mentally ill prisoners and regular visits by mental health professionals. However, even with the limited resources that prisons have, there is a lot staff can do to encourage good mental health and to help those with mental illness.

PROMOTE PHYSICAL HEALTH

Poor physical health increases the risk of developing mental health conditions, and poor mental health can negatively impact physical health. Staff can promote physical health by:

- talking to the prisoners about health problems they may be facing
- ensuring they have access to prison health facilities and health workers
- encouraging prisoners to participate in physical activities
- ensuring prisoners have access to adequate food and water

PROMOTE MEANINGFUL ACTIVITIES

Prisoners can develop mental ill-health due to a lack of physical activity and mental stimulation. Prisoners who participate, on a voluntary basis, in different aspects of prison life are less isolated, more engaged and less troublesome for prison staff. Prisoners who are engaged in physical and intellectual activities generally have improved moods and self-esteem, as well as reduced levels of stress and anxiety

ADDRESS BARRIERS TO PARTICIPATION

Staff should talk to the prisoners about the available activities, such as work, training, sports and recreation and their potential participation in such activities. While talking to them staff should be aware that those with existing mental health conditions may face barriers to getting involved with physical or educational activities. They could feel anxious about participating or lack the confidence to participate. Staff should try to understand and address any barriers the prisoners face.

IMPROVE THE PHYSICAL CONDITIONS OF DETENTION

Conditions of detention can have a significant impact on mental health and well-being.

Factors include:

- constant noise or specific noises like doors banging
- smells, temperature and ventilation
- hygiene levels and access to toilets/showers
- sleeping arrangements and a lack of privacy

Prison staff can take steps to improve conditions of detention for individual prisoners. In many cases, the costs of dealing with physical conditions are less than the long-term costs of mental ill-health.

KEEP PRISONERS INFORMED

Uncertainty, doubt and fear of the unknown can lead to mental ill-health. Prison staff can offset some of these issues by making sure prisoners receive and understand information about prison life, their rights and responsibilities, and how to make requests and complaints. Prison staff should check that prisoners understand what is happening in relation to their case and that they are informed about key dates, decisions, etc.

PROMOTE CONTACT WITH THE OUTSIDE WORLD

The lack of contact with family and friends is a key reason for poor mental health in prisons. Those who have regular outside contact are less isolated and may be able to participate in decisions about family and community life. Such contact can reduce prisoners' anxieties about their family members and other personal matters.

Prison staff can inform prisoners of the different ways they can contact their family/friends. They should pay special attention to ensuring that those with mental health conditions are able to establish and maintain this contact. They should ensure that all prisoners have equal access to different means of communication and should help to overcome any difficulties in contacting families/friends.

STOP BULLYING, HARASSMENT & VIOLENCE

Prisoners with mental illness are more likely to be bullied, harassed or subjected to violence, by either staff, other inmates or external visitors. Staff should report any instances of bullying, harassment and violence and ensure there are avenues for complaints and safe spaces for prisoners to speak with someone they trust.

PREPARE PRISONERS FOR RELEASE

Release for prisoners can be a stressful time, especially if they have a mental illness. Many fear the discrimination they might face, and some might fear being rejected by their families. Prison staff can help them through this difficult time by talking to the prisoners and their family and by providing them information on post release programs

REVIEW

WHAT TO DO WITH PRISONERS DEALING WITH MENTAL ILLNESS

- Monitor risk factors
- Communicate positively
- Update prisoner record

WHAT NOT TO DO

- Solitary confinement
- Restraints & force

HOW TO PROMOTE A HEALTHY PRISON ENVIRONMENT

- Promote physical health
- Promote meaningful activities
- Improve the physical

CONDITIONS OF DETENTION

- Keep prisoners informed
- Promote contact with the outside world
- Stop bullying, harassment and violence

RELEVANT LEGAL INSTRUMENTS

03

INTRODUCTION

There are two sets of domestic laws that deal with prisoners who have mental illness: Sindh Mental Health Act, 2013; and Sindh Prisons and corrections service Rules 2019. In addition, a recent Supreme Court judgment issued on 10th February, 2021, will also guide the treatment of mentally ill prisoners going forward.

There are many international agreements and standards detailing with the rights and treatment of people with mental illnesses, for example: International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention on the Rights of Persons with Disabilities.

However, the two most relevant are the UN Minimum Standard Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules).

LEARNING OBJECTIVES

This module covers the following topics:

- Domestic law
 - Sindh prisons and corrections service rules 2019
 - Sindh Mental Health Act 2013
 - Relevant case laws
- International Rules and Standards

DOMESTIC LAW

SINDH PRISONS & CORRECTIONS SERVICE RULES 2019

MENTAL PATIENT- GENERAL

SINDH MENTAL HEALTH ACT 2013

Section 2(n) definition of mental disorder

means a mentally ill person who is in need of treatment by reason of any disorder of the mind other than mental impairment and severe personality disorder;

Section 2 (o) mentally disordered prisoner

a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898



RULE 744: CLASSIFICATION OF MENTALLY UNSOUND PRISONERS

The term “mentally unsound prisoners”, shall include persons of the following classes:-

- (i) An accused person, in respect of whose soundness of mind, doubts are entertained by the Magistrate trying the case, and who is sent to a prison for medical observation, under section 464 of the Code of Criminal Procedure;
- (ii) an accused person, who by reason of unsoundness of mind, is incapable of making his defense, and who is in consequence, detained under section 466 of the Code of Criminal Procedure, pending the orders of the Government; 192
- (iii) a person who is held to have committed an act which would have constituted an offence but for the unsoundness of his mind, and who has been acquitted on the ground that he was of unsound mind when the act was committed and is detained under section 471 of the Code of Criminal Procedure, pending the orders and during the pleasure of Government; and
- (iv) A sentenced prisoner who, during the course of his incarceration, develops a mental illness as diagnosed by a qualified medical practitioner



RULE 751: CONFINEMENT OF MENTALLY UNSOUND PRISONERS

Mentally unsound prisoners may in the discretion of the Medical Officer, be detained in the prison hospital or in a ward set apart for the purpose.



RULE 750: MENTALLY ILL PRISONERS TO UNDERGO IMMEDIATE PSYCHIATRIC EVALUATION

Mentally unsound patient shall be considered dangerous until an approved psychiatrist as defined by the Sindh Mental Health Act 2013 has certified that he is harmless. The Officer In-charge and Medical Officer in consultation with a qualified psychiatrist, shall from time to time, give such directions as may be necessary, for proper guarding of the mental unsound patient and shall warn every officer of any Symptoms which may necessitate greater watchfulness. The Officer In-charge will ensure the presence of specialists, including approved psychiatrists and psychologists as defined by the Sindh Mental Health Act 2013, to conduct regular visits and prepare reports as necessary for the Incharge on any concerns or developments in the mental and psychological state of all such prisoners and course of treatment prescribed, if any.

**SINDH PRISONS & CORRECTIONS SERVICE RULES 2019-
CHAPTER XXXII PRISONER WELLBEING & REHABILITATION
MENTAL PATIENT-CRIMINAL**

SINDH MENTAL HEALTH ACT, 2013

Section 2(n) definition of mental disorder

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a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898.



744. CLASSIFICATION OF MENTALLY UNSOUND PRISONERS.

Classification of mentally unsound prisoners.

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- (ii) an accused person, who by reason of unsoundness of mind, is incapable of making his defense, and who is in consequence, detained under section 466 of the Code of Criminal Procedure, pending the orders of the Government;
- (iii) a person who is held to have committed an act which would have constituted an offence but for the unsoundness of his mind, and who has been acquitted on the ground that he was of unsound mind when the act was committed and is detained under section 471 of the Code of Criminal Procedure, pending the orders and during the pleasure of Government;
- (iv) A sentenced prisoner who, during the course of his incarceration, develops a mental illness as diagnosed by a qualified medical practitioner.



750. MENTALLY UNSOUND PRISONERS TO UNDERGO IMMEDIATE PSYCHIATRIC EVALUATION.

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522. CLOSE SUPERVISION OF PRISONERS CONFINED IN CELL.

(1) A strict watch shall be kept over all prisoners confine in cells to prevent them from committing suicide, injuring themselves or doing any other unauthorized acts. Every mental patient, suspected mental patient, or prisoner suspected of suicidal tendencies under medical observation in cells shall be carefully watched both by day and night.

(2) A prisoner sent to a cell for medical observation shall be frequently visited by the Junior Prison officer on duty who shall send information to the medical Officer of any change which may take place in the prisoners' condition.

751. CONFINEMENT OF MENTALLY UNSOUND PRISONER.

Mentally unsound prisoners may in the discretion of the Medical Officer, be detained in the prison hospital or in a ward set apart for the purpose.



48. INSPECTION OF CRIMINAL LUNATICS BY THE INSPECTOR GENERAL OF VISITORS.

(1) When any person is confined under the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898, the Inspector General, if such person is confined in a prison or the visitors of the mental hospital or any two of them, if he is confined in a mental hospital, may visit him in order to ascertain his state of mind and he shall be visited once at least in every six months by the Inspector General or by two such visitors. The Inspector General or visitors shall make a special report about the state of mind of the person to the authority under whose order he is confined.

(2) Government may empower the officer-in-charge of the prison in which such person may be confined to discharge all or any of the functions of the Inspector General under the above clause.

760. OFFICER EMPOWERED TO ACT AS INSPECTOR GENERAL.

The Administrative Secretary may empower the officer in charge of the prison in which a person is confined under the provisions of Section 461 or 471 of Criminal Procedure code, to discharge all or any of the functions of Inspector General, under Section 473 or Section 474 of the Code.



758. PROCEDURE WHEN PRISONER IS REPORTED CAPABLE OF MAKING HIS DEFENCE.

If such person is confined under the provisions of section 466 of the Criminal Procedure Code and such Inspector General or Deputy Inspector General or visitors shall certify that in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court, appoints and the Magistrate or Court shall deal with such person under provisions of section 468 ; and the certificate of such Inspector General or visitors shall be receivable as evidence. (Section 473 of Criminal Procedure Code).

SINDH PRISONS & CORRECTIONS SERVICE RULES 2019-
CHAPTER XXXII PRISONER WELLBEING & REHABILITATION
MENTAL PATIENT - CRIMINAL SUSPECTED FEIGNING INSANITY

752. CLOSE OBSERVATION OF PRISONERS FEIGNING INSANITY.

When any Prisoner is acting as if he were mentally unsound, the Officer In-charge shall put him under observation. The Medical Officer shall scrutinize his symptoms closely so as to preclude the possibility of a criminal feigning mental illness.



SINDH MENTAL HEALTH ACT, 2013

Section 2(n) definition of mental disorder

means a mentally ill person who is in need of treatment by reason of any disorder of the mind other than mental impairment and severe personality disorder;

Section 2 (o) mentally disordered prisoner

a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898



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- (i) An accused person, in respect of whose soundness of mind, doubts are entertained by the Magistrate trying the case, and who is sent to a prison for medical observation, under section 464 of the Code of Criminal Procedure;
- (ii) an accused person, who by reason of unsoundness of mind, is incapable of making his defense, and who is in consequence, detained under section 466 of the Code of Criminal Procedure, pending the orders of the Government;
- (iii) a person who is held to have committed an act which would have constituted an offence but for the unsoundness of his mind, and who has been acquitted on the ground that he was of unsound mind when the act was committed and is detained under section 471 of the Code of Criminal Procedure, pending the orders and during the pleasure of Government;
- (iv) A sentenced prisoner who, during the course of his incarceration, develops a mental illness as diagnosed by a qualified medical practitioner.



RULE 522. CLOSE SUPERVISION OF PRISONERS CONFINED IN CELL.

(1) A strict watch shall be kept over all prisoners confined in cells to prevent them from committing suicide, injuring themselves or doing any other unauthorized acts. Every mental patient, suspected mental patient, or prisoner suspected of suicidal tendencies under medical observation in cells shall be carefully watched both by day and night.

(2) A prisoner sent to a cell for medical observation shall be frequently visited by the Junior Prison officer on duty who shall send information to the medical Officer of any change which may take place in the prisoners' condition.

RULE 751. CONFINEMENT OF MENTALLY UNSOUND PRISONER.

Mentally unsound prisoners may in the discretion of the Medical Officer, be detained in the prison hospital or in a ward set apart for the purpose.



RULE 753. PROCEDURE IN CASE OF A PRISONER OF UNSOUND MIND.

Whenever it appears to the Officer In-charge that any Prisoner is of unsound mind, he shall, in the first instance, place the prisoner under the observation of Medical Officer for a period of 24 hours. During this time, a qualified psychiatrist shall undertake a psychiatric evaluation of the prisoner and prepare a report of his/her findings, diagnosis, and recommend course of action and treatment. Such report shall be submitted to the DIG or Inspector General as the case may be for the orders for shifting to a psychiatric facility.



RULE 754. TRANSFER OF A MENTALLY UNSOUND PRISONER TO PSYCHIATRIC FACILITY.

On receipt of an order from Deputy Inspector General or Inspector General for the shifting of a mentally unsound prisoner, the Officer In-charge shall transfer him to the psychiatric facility with the following documents: -

The order directing his transfer.

His descriptive roll

Warrant of imprisonment.

Remission sheet if any

History ticket and private property (if any).

A copy of the Court's judgment in his case.

RULE 755. CONDITIONS BEFORE A TRANSFER CAN BE MADE.

A mentally unsound prisoner shall not be transferred from a prison to a psychiatric facility -

- (i) unless the Medical Officer certifies immediately before his transfer, that he is physically fit to undertake the journey; and
- (ii) until it has first been ascertained that Medical Superintendent of the psychiatric facility is prepared to receive him.

756. TRANSFER IN ANTICIPATION OF SANCTION IN URGENT CASES.

In urgent cases (i.e., if the prisoner is disruptive, dangerous, or unable to maintain basic hygiene), Medical Officer may, if he considers it necessary and with the previous consent of the Medical Superintendent of the psychiatric facility concerned, transfer the prisoner to such psychiatric facility in anticipation of the sanction of Deputy Inspector General or Inspector General as the case may be. In such case the prescribed documents shall be sent with the patient and a copy of order shall be forwarded as soon it is received.



RULE 757. PROCEDURE WHEN A RECOVERED PRISONER HAS A RELAPSE OF MENTAL ILLNESS.

When a recovered mentally unsound prisoner undergoing sentence in a prison has a relapse of mental illness he shall be immediately returned to the psychiatric facility in anticipation of the orders of Deputy Inspector General or Inspector General. In such a case the prescribed documents shall be forwarded with him & copy of order shall be forwarded as soon it is received.



RULE 423: PERIOD SPENT IN HOSPITAL TO COUNT TOWARDS SENTENCE.

The period spent by a prisoner in an outside hospital shall count towards his sentence.



RULE 759: TREATMENT OF PRISONERS RETURNED TO PRISON.

When a recovered mentally unsound prisoner is returned to a prison, he shall be assigned some suitable work and such liberty as the Medical Officer may consider safe.



RULE 761: DISCIPLINE OF UNSOUND MIND PRISONER

- (1) An unsound mind prisoner cannot be punished for any breach of discipline or offence committed by him but such restraints can be imposed as are necessary to prevent him from injuring himself or others, or causing inconvenience.
- (2) A person confined during the pleasure of Government under section 471 of the Criminal Procedure Code when not actually insane, is subject to the same discipline as a prisoner sentenced to rigorous imprisonment, except that he cannot be put to labour.
- (3) A person confined under observation if sane, is liable to prison discipline.

SINDH MENTAL HEALTH ACT, 2013

Section 54 and 55 of Sindh Mental Health Act 2013 also deal specifically with prisoners who suffer from mental illness. Section 54 requires the Inspector General of Prisons or two members of the Board of Visitors to visit a prisoner who has been ordered to be removed to a psychiatric facility under section 466 or 471 of the CrPC, at least once every six months to make a report as to the prisoner's state of mind.

Section 55 of the Act requires special security forensic psychiatric facilities to be developed by the Government to house prisoners and offenders suffering with mental illness. This section also requires the admission, transfer or removal of prisoners in such facilities to be under the administrative control of the Inspector General of Prisons. Further, the Board of Visitors may inspect such psychiatric facilities at any time but is required to periodically inspect every part of a psychiatric facility to examine every mentally disordered prisoner. The Board is also required to inspect records and documents relating to mentally disordered prisoners since its last visit.

LANDMARK SUPREME COURT JUDGMENT

In a landmark judgment of Supreme Court in the case of *Mst. Safia Bano vs Home Department, Government of Punjab*, issued on 10th February 2021, the Supreme Court of Pakistan ruled that enforcing the death penalty for prisoners living with a serious mental illness "*will not meet the ends of justice*". The judgment reads "*...if a condemned prisoner, due to mental illness, is found to be unable to comprehend the rationale and reason behind his/her punishment, then carrying out the death sentence will not meet the ends of justice*".

Not all mentally ill prisoners will be considered exempt from the application of the death penalty. "*This exemption will be applicable in*

case where a Medical Board that the condemned prisoner no longer has the higher mental functions to appreciate the rationale and reasons behind the sentence of death awarded to him/her."

Of equal importance, this judgment is also a milestone since it directed the Federal Government and all the Provincial Governments to immediately establish/create high security forensic mental health facilities in the teaching and training institutions of mental health for assessment, treatment and rehabilitation of under trial prisoners and convicts who have developed mental ailments during their incarceration. This is the first time that a direction has ever been passed to set up forensic facilities by a superior court. This is also in accordance with the Sindh Mental Health act 2013 which requires such facilities to be set up as they are essential for the understanding of complex mental disorders. The Court has further directed the Federal Government and all the Provincial Governments to immediately launch training programs and short certificate courses on forensic mental health assessment for psychiatrists, clinical psychologists, social workers, police and prison personnel. Furthermore, the Federal Judicial Academy, Islamabad and all the Provincial Judicial Academies shall also arrange courses for trial Court judges, prosecutors, lawyers and court staff on mental illness including forensic mental health assessment.

INTERNATIONAL INSTRUMENTS & STANDARDS

There are many international agreements that deal with treatment of prisoners and the mentally ill. As a member of the international community, Pakistan is obligated to abide by these agreements. These include:

- Standard Minimum Rules for the Treatment of Prisoners. These Rules are now known as the Mandela Rules.
- The Bangkok Rules, formally known as "The

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders”

- Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.
- Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.
- Basic Principles for the Treatment of Prisoners.
- Convention on the rights of persons with disability.
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
- UN Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- International Covenant on Economic, Social and Cultural Rights (1966)
- International Covenant on Civil and Political Rights (1966)

For our purpose the two most relevant ones are the Mandela Rules and The Bangkok Rules on Women in Detention.

- The Mandela Rules, are a set of 122 agreed on standards by the international community regarding the treatment of prisoners. The Rules provide direction on aspects of prison management, from admission to the prohibition of torture and limits on solitary confinement and use of restraints and force.
- The Bangkok Rules, or formally, “The United

Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders”, comprise 70 rules focusing on the treatment of female prisoners.

BASIC PRINCIPLES

1. All prisoners have a human right to the highest attainable standard of physical and mental health. **(International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12);**
2. States have an obligation to provide adequate treatment and care for the mental health of all prisoners, and to mitigate the effects of imprisonment on mental well-being. **(Mandela Rules 24, 25 and 33);**
3. Mental healthcare and support must be provided at the same level of care as in the community. **(UN Principles of Medical Ethics, Principle 1; Mandela Rule 24);**
4. Prisons should retain a sufficient number of specialists on their staff, including psychiatrists and psychologists. **(Mandela Rule 25);**
5. Prisoners with mental ill-health must be treated with humanity and respect for their inherent dignity. **(Mandela Rule 1);**
6. Gender-specific provision of mental healthcare should be provided to women prisoners. **(Bangkok Rule 10);**
7. All prisoners have the right to protection from exploitation and abuse, including torture and ill-treatment. **(CRPD, Article 16; Convention against Torture, Article 2; Mandela Rule 1);**
8. Prisoners with mental health conditions have the right to equal recognition before the law. **(CRPD, Article 12);**
9. All prisoners must be protected from discrimination, including on the grounds of their mental health status. **(Mandela Rule 2).**

REVIEW

DOMESTIC LAW

Sindh Prisons & Corrections Service Rules 2019

- Mental Patient-General
- Mental Patient-Criminal
- Close observation of prisoners feigning insanity
-

Sindh Mental Health Act, 2013

Supreme Court Judgment

- *"...if a condemned prisoner, due to mental illness, is found to be unable to comprehend the rationale and reason behind his/her punishment, then carrying out the death sentence will not meet the ends of justice"*
- *"This exemption will be applicable in case where a Medical Board that the condemned prisoner no longer has the higher mental functions to appreciate the rationale and reasons behind the sentence of death awarded to him/her"*
- Direction from SC to establish high security mental health forensic facilities for treatment and rehabilitation of prisoners
- Direction from SC to federal and provincial governments to launch training programs in prisons, judiciary, police, prosecutors and lawyers

INTERNATIONAL STANDARDS

- **Mandela Rules:** A set of 122 agreed on standards by the international community regarding the treatment of prisoners. The Rules provide direction on aspects of prison management, from admission to the prohibition of torture and limits on solitary confinement and use of restraints and force
- **Bangkok Rules:** Formally known as "The United Nations Rules for the Treatment of Women Prisoners and non-custodial Measures for Women Offenders" comprise 70 rules focusing on the treatment of female prisoners

04

APPENDIX

STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (ADOPTED BY THE FIRST UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS. THESE RULES ARE NOW KNOWN AS THE MANDELA RULES

In December 2015, the revised UN Standard Minimum Rules for the Treatment of Prisoners (the “Nelson Mandela Rules”) were adopted unanimously by the UN General Assembly that set out the minimum standards for good prison management, including to ensure the rights of prisoners are respected. The Mandela Rules are a set of 122 agreed on standards by the international community regarding the treatment of prisoners. The Rules provide direction on aspects of prison management from admission to the prohibition of torture and limits on solitary confinement, the use of restraints and force.

THE BANGKOK RULES

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (“Bangkok Rules”) were developed in December 2010 to recognize the gender-specific needs of women in criminal justice systems. They provide the standards that should be applied in the treatment of women in prisons.

PRINCIPLES FOR THE PROTECTION OF PERSONS WITH MENTAL ILLNESS AND THE IMPROVEMENT OF MENTAL HEALTH CARE

The Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care are agreed international standards of best practice that serve as legal precedent. These include the UN Declaration on the Rights of Mentally Retarded Persons (1971), the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991), the Standard Rules for Equalization of Opportunities for Persons with Disabilities (1993), the Declaration of

Madrid (1996) and other standards such as WHO's Mental Health Care Law: ten basic principles and WHO Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (1996).

These standards serve countries as interpretative guides to international treaty obligations. They create numerous broad protections that provide important rights to people with mental illnesses such as the right to the highest attainable standard of physical and mental health, protections against discrimination, protections against torture, inhuman, or degrading treatment, and protection against arbitrary detention.

PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT

The Basic Principles for the Treatment of Prisoners were adopted and proclaimed by the General Assembly of the United Nations by resolution 45/111 on 14 December 1990. They were developed to ensure that the rights of prisoners are protected and upheld. United Nations member states are required to abide by international principles.

BASIC PRINCIPLES FOR THE TREATMENT OF PRISONERS

The Basic Principles for the Treatment of Prisoners were adopted and proclaimed by the General Assembly of the United Nations by resolution 45/111 on 14 December 1990. They were developed to humanize the criminal justice system and to protect human rights.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES.

Pakistan ratified the Convention on the Rights of Persons with Disabilities in July 2011. Article 14 of the CRPD guarantees

the right to liberty and security of all persons with disabilities and "especially persons with intellectual disabilities and psychosocial disabilities". The access to justice provision in Article 13 of the CRPD both reminds us and confirms that people with disabilities face problems with legal representation and protection. People with disabilities often must rely on increasingly scarce or low-cost legal services and therefore have less choice in who represents them, and generally, have less understanding and access to the legal system. It is critically important to recognize the problems involving cost and availability of competent legal services.

UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY

The Rules for the Protection of Juveniles Deprived of their Liberty were adopted by the General Assembly through its resolution 45/113 of 14 December 1990. The UN Rules for the Protection of Juveniles Deprived of their Liberty operates to ensure that juvenile detainees, and offenders, are given fair treatment and receive consideration for their age. They aim to ensure that the juvenile justice system uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

UN Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In its resolution of December 1982, the General Assembly of the United Nations

adopted the Principles of Medical Ethics, prepared by the Council for International Organizations of Medical Sciences. The principles supplement the Declaration of Tokyo of the World Medical Association and United Nations Standard Minimum Rules for the Treatment of Prisoners. The principles are relevant to the role of health care personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment. They establish a minimum standard that is to be followed in the provision of healthcare, globally.

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Pakistan is a party to the United Nations Convention Against Torture (“UNCAT”) which provides the minimum standard of a definition of torture and obliges the Government of Pakistan to legislate to prevent and criminalise torture and make it an offence punishable with appropriate penalties.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1966)

Pakistan ratified the International Covenant on Economic, Social and Cultural Rights in 2008. Article 12 of the ICESCR establishes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” General Comment 14 recognizes the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (MI Principles: see below) as a guide to State obligations under the

Convention, particularly with respect to protection against improper coercive treatment. General Comment 5 of the Economic, Social and Cultural Rights Committee states that UN human rights standards – such as the MI Principles and the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities – should be used to interpret a member state’s obligations under the covenant.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966)

Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) in 2010. The civil and political rights contained in the ICCPR protect individuals from government actions that infringe on their liberty, privacy, and freedom of expression and association. Persons with mental disorders have frequently invoked these rights and benefited from the protection they provide. For example, the prohibition of cruel, inhuman, and degrading treatment has empowered people with mental disorders who are subject to civil commitment to argue for more humane conditions of confinement and treatment. Likewise, the right not to be subject to arbitrary arrest or detention has bolstered efforts to require adequate procedural protections for persons with mental disorders who are subject to civil or criminal confinement.

SINDH MENTAL HEALTH ACT 2013

Section 2(n) definition of mental disorder

means a mentally ill person who is in need of treatment by reason of any disorder of the mind other than mental impairment and severe personality

disorder;

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a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898

CHAPTER V INSPECTOR GENERAL, DUTY INSPECTOR GENERAL AND ASSISTANT INSPECTOR GENERAL

RULE 48.

Inspection of Criminal lunatics by the Inspector General of Visitors.

(1) When any person is confined under the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898, the Inspector General, if such person is confined in a prison or the visitors of the mental hospital or any two of them, if he is confined in a mental hospital, may visit him in order to ascertain his state of mind and he shall be visited once at least in every six months by the Inspector General or by two such visitors. The Inspector General or visitors shall make a special report about the state of mind of the person to the authority under whose order he is confined.

(2) Government may empower the officer-in-charge of the prison in which such person may be confined to discharge all or any of the functions of the Inspector General under the above clause.

CHAPTER XIX ADMISSION OF PRISONERS

RULE 423.

Period spent in hospital to count towards sentence.

The period spent by a prisoner in an outside hospital shall count towards his sentence.

CHAPTER XXIII PRISONERS IN CELLS

RULE 522.

Close supervision of prisoners confined in cell.

(1) A strict watch shall be kept over all prisoners confined in cells to prevent them from committing suicide, injuring themselves or doing any other unauthorized acts. Every mental patient, suspected mental patient, or prisoner suspected of suicidal tendencies under medical observation in cells shall be carefully watched both by day and night.

(2) A prisoner sent to a cell for medical observation shall be frequently visited by the Junior Prison officer on duty who shall send information to the medical Officer of any change which may take place in the prisoners' condition.

CHAPTER XXIV RESTRAINTS FOR SAFE CUSTODY

RULE 537.

Removal of restraints of patients.

Restraints of patients admitted to hospital shall be removed unless the Officer In-charge directs otherwise or when the prisoner is specially dangerous and the fact has been noted on his history ticket by the Officer In-charge. When the Officer In-charge considers it necessary he may direct the removal of restraints from one leg of the patient

and this fact shall be entered in his history ticket under his initials.

CHAPTER-XXXII PRISONER WELLBEING AND REHABILITATION

RULE 744.

Classification of mentally unsound prisoners.

The term “mentally unsound prisoners”, shall include persons of the following classes:-

An accused person, in respect of whose soundness of mind, doubts are entertained by the Magistrate trying the case, and who is sent to a prison for medical observation, under section 464 of the Code of Criminal Procedure;

an accused person, who by reason of unsoundness of mind, is incapable of making his defense, and who is in consequence, detained under section 466 of the Code of Criminal Procedure, pending the orders of the Government;192

a person who is held to have committed an act which would have constituted an offence but for the unsoundness of his mind, and who has been acquitted on the ground that he was of unsound mind when the act was committed and is detained under section 471 of the Code of Criminal Procedure, pending the orders and during the pleasure of Government;

A sentenced prisoner who, during the course of his incarceration, develops a mental illness as diagnosed by a qualified medical practitioner.

RULE 750.

Mentally Unsound Prisoners to Undergo Immediate Psychiatric Evaluation.

A mentally unsound patient shall be

considered dangerous until an approved psychiatrist as defined by the Sindh Mental Health Act 2013 has certified that he is harmless. The Officer In-charge and Medical Officer in consultation with a qualified psychiatrist, shall from time to time, give such directions as may be necessary, for proper guarding of the mental unsound patient and shall warn every officer of any Symptoms which may necessitate greater watchfulness. The Officer In-charge will ensure the presence of specialists, including approved psychiatrists and psychologists as defined by the Sindh Mental Health Act 2013, to conduct regular visits and prepare reports as necessary for the Incharge on any concerns or developments in the mental and psychological state of all such prisoners and course of treatment prescribed, if any.

RULE 751.

Confinement of mentally unsound prisoner.

Mentally unsound prisoners may in the discretion of the Medical Officer, be detained in the prison hospital or in a ward set apart for the purpose.

RULE 752.

Close observation of Prisoners feigning insanity.

When any Prisoner is acting as if he were mentally unsound, the Officer In-charge shall put him under observation. The Medical Officer shall scrutinize his symptoms closely so as to preclude the possibility of a criminal feigning mental illness.

RULE 753.

Procedure in case of a person of unsound mind.

Whenever it appears to the Officer In-charge that any Prisoner is of unsound mind, he shall, in the first instance, place the prisoner under the observation of Medical Officer for a period of 24 hours. During this time, a qualified psychiatrist shall undertake a psychiatric evaluation of the prisoner and prepare a report of his/her findings, diagnosis, and recommend course of action and treatment. Such report shall be submitted to the DIG or Inspector General as the case may for the orders for shifting to a psychiatric facility.

RULE 754.

Transfer of a mentally unsound prisoner to psychiatric facility.

on receipt of an order from Deputy Inspector General or Inspector General for the shifting of a mentally unsound prisoner, the Officer In-charge shall transfer him to the psychiatric facility with the following documents: -

- The order directing his transfer.
- His descriptive roll
- Warrant of imprisonment.
- Remission sheet if any
- History ticket and private property (if any).
- A copy of the Court's judgment in his case.

Explanation-1. If the Court's judgment does not contain full particulars of the offence committed, a copy of the Police report on the 195 arrest, or that of the Police roznamcha, should accompany with the prisoner.

Explanation-2. Government property accompanying a mental patient on

transfer to a psychiatric facility shall be returned to the dispatching prison.

RULE 755.

Conditions before a transfer can be made.

A mentally unsound prisoner shall not be transferred from a prison to a psychiatric facility -

(i) unless the Medical Officer certifies immediately before his transfer, that he is physically fit to undertake the journey; and

(ii) until it has first been ascertained that Medical Superintendent of the psychiatric facility is prepared to receive him.

RULE 756.

Transfer in anticipation of sanction in urgent cases.

In urgent cases (i.e., if the prisoner is disruptive, dangerous, or unable to maintain basic hygiene), Medical Officer may, if he considers it necessary and with the previous consent of the Medical Superintendent of the psychiatric facility concerned, transfer the prisoner to such psychiatric facility in anticipation of the sanction of Deputy Inspector General or Inspector General as the case may be. In such case the prescribed documents shall be sent with the patient and a copy of order shall be forwarded as soon it is received.

RULE 757.

Procedure when a recovered prisoner has a relapse of mental illness.

When a recovered mentally unsound prisoner undergoing sentence in a prison has a relapse of mental illness he shall be immediately returned to

the psychiatric facility in anticipation of the orders of Deputy Inspector General or Inspector General. In such a case the prescribed documents shall be forwarded with him & copy of order shall be forwarded as soon it is received.

RULE 758.

Procedure when prisoner is reported capable of making his defence.

If such person is confined under the provisions of section 466 of the Criminal Procedure Code and such Inspector General or Deputy Inspector General or visitors shall certify that in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court, appoints and the Magistrate or Court shall deal with such person under provisions of section 468 ; and the certificate of such Inspector General or visitors shall be receivable as evidence. (Section 473 of Criminal Procedure Code).

RULE 759.

Treatment of prisoners returned to prison.

When a recovered mentally unsound prisoner is returned to a prison, he shall be assigned some suitable work and such liberty as the Medical Officer may consider safe.

RULE 760.

Officer empowered to act as Inspector General.

The Administrative Secretary may empower the officer in charge of the prison in which a person is confined under the provisions of Section 461 or 471 of Criminal Procedure code, to discharge all or any of the functions of Inspector

General, under Section 473 or Section 474 of the Code.

RULE 761.

Discipline of unsound mind prisoner.

(1) An unsound mind prisoner cannot be punished for any breach of discipline or offence committed by him but such restraints can be imposed as are necessary to prevent him from injuring himself or others, or causing inconvenience.

(2) A person confined during the pleasure of Government under section 471 of the Criminal Procedure Code when not actually insane, is subject to the same discipline's a prisoner sentenced to rigorous imprisonment, except that he cannot be put to labour.

(3) A person confined under observation if sane, is liable to prison discipline.

JUSTICE PROJECT PAKISTAN IS A NON-PROFIT ORGANIZATION BASED IN LAHORE THAT REPRESENTS THE MOST VULNERABLE PAKISTANI PRISONERS FACING THE HARSHTEST PUNISHMENTS, AT HOME AND ABROAD. JPP INVESTIGATES, LITIGATES, EDUCATES, AND ADVOCATES ON THEIR BEHALF.

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