

# Overcrowding and its Impacts on the Reintegration of Prisoners in Selected Jails of Khyber Pakhtunkhwa, Pakistan

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## Abstract

*This paper examined the impacts of overcrowding on the reintegration of the prisoners with specific focus on Khyber Pakhtunkhwa (Pakistan) jails. Triangulation method was adopted for data collection and analysis. Four central jails and three district jails i.e., seven prisons were purposively selected from all the seven divisions of Khyber-pakhtunkhwa province. Within seven jails 250 inmates were interviewed through semi-structured questionnaire adopting random sampling technique. Moreover, jail officials, ex-prisoners, human right activists, judges and lawyers were purposively selected and their views were taken through interview schedule. Throughout the study it was found that overcrowding gave birth to various problems such as, spread of chronic diseases, unhygienic environment, no effective programmatic (educational, vocational, religious, psychological etc) interventions, lack of check and balance, prisons' rioting, non-classification of the prisoners (on the basis of age, sex, nature of crime etc). Moreover, the larger part of the budget as well as the main focus of prisons' staff was directed towards handling the huge prisons' population, rather than ensuring rehabilitative setting. Fair and speedy justice, construction of more jails, extension of existing jails, alternative to imprisonment in petty nature crimes, efficient probation and parole system and the rehabilitative prisons' setting to overcome the cycle of recidivism are suggested remedial measures.*

**Key Words:** Reintegration, Prison, Overcrowding, Prisoners

## Introduction

Reintegration is the process whereby offenders are prepared to contribute actively to community, rather than just passively getting the services. This process also covers supporting an offender to lead a law abiding life on release from jail<sup>1</sup>. According to Braithwaite<sup>2</sup> reintegration is the process which turns a past offender into a full member of society instead of his past status of "persona non grata". Reintegration encompasses all out efforts of an offender's correction and through the needed services let him/her enters into their communities with productive and contributing life style<sup>3</sup>. To conclude, reintegration means to equip a past criminal with

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the skill and capability to have law abiding, productive and pro-social life.

There are diverse opinions about the term 'prison'. For example, in India and Pakistan, the term 'prison' or 'jail' refers to the penal institution where the convicted and the under trial are housed together<sup>4</sup>. Kelley<sup>5</sup> says that, in a traditional sense, prisons are the places where people pending trial or as a punishment after conviction are kept. Amerendara & Narayan<sup>6</sup> quoting Oxford Dictionary said, "Prison is a place properly arranged or equipped for the reception of prisoners who by legal process are committed to it for safe custody while awaiting trial or for punishment". **Prison Act 1894** framed by the British Indian Government, and which is still in force in Pakistan's jails with slight modifications, says:

"Prison means any jail or place used permanently or temporarily under the general or special orders of a (Provincial) Government for the detention of prisoners, encompassing all lands and buildings appurtenant thereto, but not including (a) any place for the confinement of prisoners who are exclusively in the custody of the police; (b) any place specially appointed by the (Provincial) Government under section 541 of the [9]Code of Criminal Procedure, 1882; or (c) any place which has been declared by the (Provincial) Government, by general or special order, to be a subsidiary jail<sup>7</sup>"

Thus, considering the aforementioned definitions, the term prisoner as described by United Nations<sup>8</sup> can be referred to all persons detained or imprisoned on the basis of or allegation of a criminal offence, including pretrial, under-trial detainees and convicted and sentenced prisoners.

In the modern penology, prisons are supposed to correct the prisoners and not be settings characterized by the brutalities and atrocities of 18<sup>th</sup> and 19<sup>th</sup> centuries. It was believed in Europe till the end of the eighteenth century that the best way to defend the society, socially and morally, is to inflict drastic punishments on the offenders. However, this outlook was replaced by a new philosophy in 1870 whereby the focus shifted from punitive to the rehabilitative and corrective role of the prisons. The first Prison Congress in 1870 in its declaration stressed the need for treating offenders according to their needs and reaffirmed the belief in the institution as the most effective means of reclaiming offenders<sup>9</sup>. Robinson & Crow<sup>10</sup> stated as "Modern rehabilitative policies challenge the fantasy that deviant can be simply placed off to prison, rather they are to be provided a sound and trustworthy opportunity to

remake their lives". Universally acknowledged aim of punishment is to protect the society. This aim can be materialized only if prisons are geared to rehabilitate and reform the offenders instead of just punishing them<sup>11</sup>. Prisons' dominant objectives as identified by Pakistan's Law and Justice Commission<sup>12</sup> are 6 Cs i.e., custody, care, control cure, correct and community readjustment. The statement of the Prison Department of *Khyber- Pakhtunkhwa* is also crystal clear: "The imprisonment of convicts is aimed at their segregation from the peaceful society for correction and reformation in the custody of the state authorities<sup>13</sup>".

However, there are many hurdles standing in the way of this goal. One such potent obstacle is overcrowding, which is a global phenomena, yet more sever in developing countries including Pakistan, for instance, Human Rights Commission of Pakistan<sup>14</sup> reported, "Rehabilitation of convicts was no one's priority and the severity of overcrowding undermined what little initiatives were aimed at prisoners' reclamation".

### **Overcrowded prisons and its Disastrous Impacts**

Both developed and developing countries are witnessing the problem of overcrowded prisons, for example, Mullen<sup>15</sup> described that since its invention in 19<sup>th</sup> century to date overcrowding has been a troubling characteristic of modern prisons. Penal Reform International<sup>16</sup> findings say that overcrowding is a global phenomenon; almost 114 countries of the world are accommodating more prisoners than the certified level. It is worth noting, as the findings say, that overcrowding is the biggest single challenge for prison systems around the globe and its consequences can at worst be life-threatening and at best prevent prisons from fulfilling their desired function. The impacts of overcrowding are multi-dimensional as John Howard Society of Alberta's<sup>17</sup> findings revealed that overcrowding would affect jails' settings in three ways. Firstly, the things of need would be in scarcity. Secondly, self-building through rehabilitative programs such as educational and vocational are downsized considerably. Thirdly, the idleness, which is the natural outcome of overfilled prisons, ingrain unrest and disruptive attitude in the inmates. Haney<sup>18</sup> has discussed the effects of overcrowding on prison system saying that the cramped prisons cannot fulfill even the basic educational needs of the inmates. He further explained that for the last several decades prisons' overcrowding has jeopardized the well-being of prisoners as well as correctional staff and stood in the way of much desired goal of reducing crime rates. Home Affairs Committee<sup>19</sup> stated that rehabilitative services are considerably undermined both in quality and quantity by the congested prisons. Criminal Justice Alliance<sup>20</sup>

reported that overcrowding could have various outcomes, which include strain on prison staff, reduced access to educational and training programs, and lack of mental health and substance abuse treatment services. In addition, one of the natural results of overcrowding is the non-classification of prisoners, which further reduces their chances of reformation as Sinha<sup>21</sup> said, "Mixing of prisoners, without any scientific classification leads to the breeding of more criminals rather than reforming them". Overcrowded prisons are also one of the recruiting grounds for militancy and criminality. For example, Younes<sup>22</sup> stated that being in the same barracks and close association with high profile criminals the petty ones become hardened and professional once they come out. Nguyen<sup>23</sup> has identified overcrowding to be the main responsible factor which escalates the ratio of suicide in French jails. He recommends to the government that prisons population must be reduced to achieve the rehabilitative goals, France is striving to accomplish. Shabangu<sup>24</sup> mentioned that an overcrowded environment could result in the spread of tuberculosis and other deadly diseases that prey on AIDS victims and deteriorate their overall health conditions. Besides, Goyer<sup>25</sup> unearthed that due to overcrowding scarcity of basic things such as blankets, pillows, and shoes could often lead to trade for sexual favors and acts.

### **Overcrowding in Pakistan's Prisons**

The Express Tribune<sup>26</sup> while presenting Human Rights Commission of Pakistan report on Pakistan's prisons make known that the province of the *Punjab* accommodates 48,225 prisoners against the official capacity of 21,527 in its 32 jails. The same report presents a gloomy picture that 31,401 i.e., 65.11% are under trial inmates in the *Punjab* jails. *Khyber Pakhtunkhwa* accommodates 8,139 against the authorized capacity of 7,982 with 5,217 (64.09%) under trial prisoners. In *Baluchistan* there are 11 jails with the official capacity of 2,585 and housing 2,862 with 1,288 (45%) under trial prisoners. The data of *Sindh* jails is not shown in the report. Collectively, according to the available data the total 72 jails, house 59,492 prisoners against the official capacity of 32,794 with 38,097 (64.03%) under trial prisoners. Furthermore, State of Human Rights report (2014) disclosed that Pakistan's prisons accommodate 71,567 prisoners against the official capacity of 45,210 with a huge number, 49,188 i.e., (68.73%) of under trial prisoners in its 97 jails. Moreover, Hassan<sup>27</sup> disclosed the report of a committee formed for the welfare of prisoners, which divulged that out of 17 jails visited by the committee 7 had blended the convicted and under trial, 5 prisons had no separation between the adults and juvenile, 12 jails in the *Sindh* province

had no classification between the dangerous criminals and under trial. Moreover, in 15 jails under trial prisoners were not distanced from the prisoners having chronic diseases.

In KP as highlighted by Ghyyasi<sup>28</sup> there are 10444 prisoners against the official capacity of 6600 in 22 jails. There are 1,991; 253 and 428 more prisoners than the approved number in the Central Jail *Peshawar*, in Central Jail *Haripur* and in Central Jail *Bannu* respectively. While District jails *Timergara*, *Mardan*, and *Kohat* are housing 374; 307 and 72 more prisoners respectively than the authorized number. Besides, only 20% of the prisoners are convicted, while the rest 80% are languishing undecided due to inefficient Criminal Justice System.

#### Methodology:

**Concurrent** Triangulation i.e., mixed method was adopted for the collection and analysis of data. To simply put, concurrent triangulation technique combines qualitative and quantitative approaches to confirm, cross-validate or corroborate findings within a single study<sup>29</sup>. In all the seven division of the Khyber Paktunkhwa, which is one of the administrative provinces of Pakistan, seven jails were purposively selected. Hence, the Central jails *Peshawar*, *Bannu*, *DI Khan*, *Haripure* and District jails, *Timergara*, *Mardan* and *Kohat* were taken as sampling units. In these jails, 250 prisoners were randomly selected through the proportionate technique, i.e., the more the population of the jail, the larger was the sample size (details of the population of each jail and sample size is shown in Table 1). Furthermore, the jails' superintendents (6 in number), judges (3 in number), lawyers(3 in number), ex-prisoners (5 in number) and human rights activists (3 in number) were purposively picked up to have a more deep insight into the study in question. Semi-structured interview schedule was used for collecting data from prisoners, while in-depth interview was adopted for other respondents to understand their views.

**Table 1** Population of the selected jails in the time of data collection

Name of the Jail	Population Size	Sample Size
Central Jail Peshawar	2474	97
Central Jail D I khan	399	16
Central Jail Haripur	1359	54
Central Jail Bannu	813	32
District Jail Temergara	533	21
District Jail Mardan	453	18
District Jail Kohat	315	12
Total	6346	250

**Source:** Bangash, M. (2013, April 8<sup>th</sup>) Investigation Report in *Daily Mashriq* Peshawar.

### Prisoners' views on Overpopulated Prisons

**Table 2** Overcrowding and its impacts

Overcrowding one of the big problems of your Jail	Frequency	Impacts of Overcrowding				All of the mentioned	No Overcrowding	Row Total &%
		Increase in jail rioting	Unhygienic environment	No viable reintegration program	No proper check and balance			
Yes	206 82.4 %	13 6.31 %	3 1.45 %	8 3.90%	3 1.45%	179 86.8 9%	0%	206 100%
No	44 17.6 %	0%	0%	0%	0%	0%	44 17.6%	44 100%
Total	250 (100%)	13 5.2%	3 1.2%	8 3.2%	3 1.2%	179 71.6 %	44 17.6%	250 100%

### Results and discussion

Table 2 shows that majority i.e., 82.4% prisoners said that overcrowding was one of the big problems of their prisons. Whereas, a smaller number i.e., 17.6% prisoners, didn't consider overcrowding one of the big problems. Responding to the impact of overcrowding 6.31% said that overcrowding has escalated jail rioting, 1.45% inmates responded that it resulted in unhygienic environment, 3.90% answered that due to overcrowding there is no viable reintegration programs inside prisons and 1.45% inmates described that there was no proper check and balance due to overcrowding. While, majority of the respondents i.e., 86.89% stated that prisons were witnessing unhygienic environment, increase in rioting, lack of reintegration efforts and lack of proper check and balance owing to overpopulation of the inmates.

With regard to densely populated prisons an inmate from *Peshawar* jail remarked as, "Our prison is so much overcrowded that we are laying over one another at night; hardly can we stretch out our hands and feet" (Interview with a prisoner, 27<sup>th</sup> May, 2014). *Nawz*, in his thirties, from *Timergara* jail remarked that often majority of the prisoners suffered from psychological trauma owing to overcrowding. He further said that they had recorded their complaints repeatedly but to no avail (Interview with a prisoner, 7<sup>th</sup> May, 2014). An educated prisoner from *Mardan* Jail said, "The root cause of all the problems inside prisons is overcrowding. The very moment the government overcome this issue the prisons would be reformatories" (Interview with a prisoner, 8<sup>th</sup> May, 2014). One of the inmates from *Peshawar* Central Jail linked overcrowding to many diseases prevalent inside jails as he put:

“Overcrowding in prisons resulted in various problems such as hygiene, sanitation and the spreading of contagious diseases such as tuberculosis, Hepatitis C, HIV and skin infections. Also, the jail budget is directed towards buying the needed medicines resulting in the short falls of budget for other pressing needs (Interview with a prisoner, 27th May, 2014)”.

Jail officials, Lawyers, Judges, Human Right activists and Ex-prisoners also admitted that overcrowding was the most pressing problem, which had resulted in many other problems as its by-products. In this regard a civil society member remarked, “Overcrowding is on its peak in the jails of KP. We therefore, through “free legal aid” try to release 100 under trial prisoners monthly. The prisoners are double in number than the official capacity in almost all the jails of the province” (Interview with Z. Wazir, 30<sup>th</sup> May 2014). *Bannu* Jail Deputy Superintendent arrived at, “Currently we have 700 plus prisoners in our jail against the certified capacity of 600 prisoners. I have firm belief that to reform prisons, overcrowding issue must be tackled on war footing” (Interview with T. Sehbaz, 13<sup>th</sup> May, 2014). Assistant Superintendent *Peshawar* jail put, “Overcrowding is a severe problem inside our jails, a new jail is under construction in *Mardan*, while extension of *Peshawar* jail is also under way now- a-days, which will hopefully, overcome this problem”(Interview with Q. Khan, 27<sup>th</sup> May, 2014). *Mardan* Jail’s superintendent had the following remarks,

“*Mardan* Jail is constructed in 1850 and has witnessed very little modification. We have the capacity of 314 prisoners but till last night we had 603 prisoners, almost double than the official capacity. Petty nature cases need to be settled outside prison by the courts, more jails are to be constructed, and probation and parole releases must be increased to lessen the burden on the prisons (Interview with S. Khan, 8<sup>th</sup> May, 2014)”.

As pinpointed by *Mardan* Jail’s superintendent, Ghayyasi<sup>30</sup> too has identified that 24 jails of the country were constructed in 19<sup>th</sup> century and 27 more jails were even older than that. Having such an antiquated structure some jails were always at the stake of being fallen. Furthermore, out of 22 jails of the *Khyber Paktunkhwa*, 11 had been constructed in the pre-independence period, while 2 jails had its origin long before independence. However, the various jails under construction in different districts of the province, if completed successfully could create space for more 10000 prisoners.

Regarding accommodation facilities *Haripur* Jail Deputy-superintendent arrived at, “Jails’ population is increasing, while no more jails are constructed. Prisoners on death row have also aggravated the

problem of overcrowding due to moratorium in death penalty<sup>1</sup>. The need of the day is to construct one central jail in each district” (Interview with S. Babak, 12<sup>th</sup> May, 2014). *Timergara Jail*’s superintendent indicated the issue of non-segregations to be the logical outcome of overcrowding, as he put:

“There must be segregations of prisoners on the basis of age, sex and nature of crime etc. Law and research supports this factor to be instrumental in the reintegration of the prisoners. However, overcrowding is the main obstacle in our way. Construction of more jails is the only viable option to address this problem (Interview with M. Attaullah, 7<sup>th</sup> May, 2014)”.

Ex-prisoners too had to bear the brunt of overcrowding, as an ex-prisoner put it, “Jail management was restricted only to control the huge population inside jail. They had no time and space to ensure the attainment of other corrective goals for which prisons were meant” (Interview with an ex-prison, 4<sup>th</sup> November, 2014). Another ex-prisoner while commenting on the problem of overcrowding said that for more than 100 people there was one Toilet and one Bathroom and that too in such a poor condition that the privacy of a person could hardly be ensured (Interview with an ex-prisoner, August, 2014).

#### **Overcrowding: Reasons and Remedies**

Atabay<sup>31</sup>research revealed that “delayed justice” is mainly responsible for prisons’ overcrowding, which is the result of dysfunctional criminal justice system characterized by untrained and under resourced police and prosecutors, delayed investigation, high number of arrests, no effective cooperation between police, prosecutors and courts. Furthermore, various levels of administration and legislation—at federal and state levels having very poor cooperation and exchange of information between them and the frequent postponement of trials for reasons such as case overload at the courts, shortage of judges, absence of witnesses, lack of transport to take defendants to court, lack of security for transport (particularly in crisis countries) and lack of proper filing and tracking systems in prisons to ensure that pre-trial detainees are taken to court on the fixed dates have made the timely justice something elusive. The research has highlighted that punitive based prisons’ system too is one of the contributing factors to overcrowding. The International Crisis Group Asia Report<sup>32</sup> on

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<sup>1</sup> At the time of interview there was ban on the death penalty in Pakistan, which was lifted in 2014.

Pakistan's prisons described that to lessen the burden on prisons, the government needs to respect the rights of remand of the prisoners and treat them innocent unless proven guilty; those who couldn't afford legal aid must be supported, the police must be given the necessary resources to transport prisoners to court on the day of their hearings. The judiciary should ensure that cases are processed through the courts according to constitutional provisions and, most importantly, the granting of bail should become the norm along with the construction of more jails. The report has validated that making probation and reclamation department efficient is pivotal to address the issue of congested prisons. Moreover, Younes<sup>33</sup> has argued that arresting the poor in petty crimes also make prisons overcrowded. In addition, she said that there are scores of inmates who are languishing in Pakistan's prisons even after the completion of their sentence period, because they don't have money to pay the bail bonds or fine amounting to a few thousand rupees (15 to 20 USD).

### **Conclusion and Recommendations**

The modern day's prisons are supposed to reform, correct, reclaim and reintegrate offenders. Rehabilitative prisons management approach is supported around the world to be more humane, just and compatible with the international norms. Pakistan's prisons too are for custody, control, care and correction purposes at least theoretically. However, prisons globally as well as in Pakistan are suffering from severe overcrowding making the end of reintegration almost impossible. Overcrowding gives birth to so many problems such as, spread of chronic diseases, no hygienic environment, no effective programmatic (educational, vocational, religious, psychological etc) interventions, no proper check and balance mechanism for the prisoners, prisons' rioting and no categorization of the prisoners (on the basis of age, sex, nature of crime etc). Moreover, the larger part of the budget as well as the main focus of prisons' staff is directed towards handling the huge prisons' population, rather than ensuring rehabilitative setting. To handle this menace, more prisons need to be constructed, existing prisons are to be extended and properly managed, petty crimes should not result in imprisonment, under-trial prisoners fate must be decided as speedy as possible, criminal justice system must be made fair and efficient and probation and parole releases are to be increased. Last but not least, punitive Criminal Justice System has worsen the problem of overcrowding and has consolidated recidivism cycle as well. Therefore, the need of the day is to introduce corrective based system both in theory and practice as international standards demand by addressing the issue of overpopulated prisons.

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