

Open Prisons, Rehabilitation and Human Rights: A Comparative Critical Analysis of the United Kingdom and Pakistan

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Abstract

The growing emphasis on rehabilitation in modern penal framework has encouraged jurisdictions to develop correctional approaches that support prisoners' gradual reintegration into society. Open prisons represent one such model, based on trust, reduced security restrictions, responsibility, and preparation for early release to ensure the prisoner's enhanced acceptability on the part of the family and society at large. This article provides a comparative socio-legal analysis of open prison systems in the United Kingdom and Pakistan, examining their legal frameworks, institutional structures, and compliance with human rights principles. The study critiques and evaluates both jurisdictions, on the topic, against international standards, particularly the Nelson Mandela Rules and European Prison Rules. It argues that while the UK has established a structured open prison system supported by risk assessment and reintegration mechanisms, challenges relating to resources and equality still remain potential hurdles. Pakistan's current prison system is hindered by outdated legislation, weak institutions, and limited rehabilitation opportunities, let alone introducing the idea of the Open Prison in the country. This article endeavors to pitch the idea of Open Prison system in the penal framework of Pakistan. The article proposes reforms to strengthen open imprisonment and align correctional practices with human rights standards by learning from the UK's experience on the topic.

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1. Introduction

The legitimacy of imprisonment in contemporary criminal justice systems is increasingly assessed not only through its punitive objectives but also through its capacity to rehabilitate offenders and facilitate their successful reintegration into society. Historically, imprisonment was primarily conceived as a mechanism of retribution, deterrence, and incapacitation. However, modern penological thought has gradually shifted towards a rehabilitative model that recognises prisoners as individuals capable of reform and social reintegration. Within this transformation, open prisons have emerged as an important correctional innovation, representing a less restrictive form of custody that seeks to balance public protection with the preparation of prisoners for lawful participation in society. Unlike traditional closed prisons, open prisons emphasise trust, responsibility, employment, education, family relationships, and gradual transition from custody to community life (Coyle, 2005; Liebling & Maruna, 2023).

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The contemporary debate on prison reform is closely connected with international human rights standards, which increasingly view rehabilitation and social reintegration as fundamental objectives of imprisonment. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) recognises that imprisonment should not aggravate the suffering inherent in the deprivation of liberty and emphasise the importance of preparing prisoners for their return to society (United Nations General Assembly, 2015). Similarly, the European Prison Rules require prison administrations to respect human dignity, provide opportunities for rehabilitation, and ensure that restrictions imposed on prisoners remain proportionate and necessary (Council of Europe, 2020). Consequently, open prisons represent not merely an administrative arrangement but a broader philosophical commitment to humane punishment, reduced institutionalisation, and the restoration of offenders' social capacities so that they are accepted by the society and they are given the opportunities to catch up with the society.

This article undertakes a comparative critical analysis of the open prison systems and correctional frameworks of the United Kingdom and Pakistan. These jurisdictions provide a valuable comparative framework because they represent contrasting penal traditions, legal histories, and institutional capacities. The United Kingdom has developed a comparatively sophisticated correctional system characterised by statutory reforms, institutional oversight mechanisms, and the incorporation of human rights principles into domestic law. In contrast, Pakistan's prison framework continues to operate largely within the structure of colonial-era legislation, particularly the Prisons Act 1894, with limited movement towards comprehensive rehabilitative reform. Despite these differences, both jurisdictions experience common challenges, including prison overcrowding, limitations in rehabilitative provision, resource constraints, and difficulties in ensuring full compliance with international human rights obligations.

The central argument of this article is that effective open prison systems require more than legislative recognition; they depend upon institutional capacity, rehabilitative philosophy, independent oversight, and sustained commitment to prisoners' human dignity which is why socio-legal research methodology is deployed. While the United Kingdom provides a more developed model of open imprisonment through Category D prisons, temporary release mechanisms, probation integration, and structured reintegration programmes, operational pressures continue to undermine its effectiveness. Conversely, Pakistan faces deeper structural obstacles arising from outdated legal frameworks, inadequate infrastructure, limited rehabilitative programmes, and weak institutional mechanisms. The comparative analysis therefore demonstrates that rehabilitation cannot be achieved solely through policy declarations, focusing on closed prison system only, but requires a fundamental transformation in the way imprisonment is conceptualised and administered in the contemporary world, with a particularly focus on the idea of Open Prison system.

The article is theoretically informed by major perspectives within punishment and criminal justice scholarship. The classical approach associated with Cesare Beccaria emphasises legality, proportionality, and rational punishment, arguing that criminal sanctions should be predictable and limited rather than excessive or arbitrary (Beccaria, 1764/1986). This

perspective remains relevant to contemporary debates concerning proportional sentencing and the legitimate boundaries of state punishment. John Rawls' theory of justice provides an additional normative foundation by emphasising fairness, equality, and the protection of fundamental liberties, suggesting that prisoners do not lose their basic human rights merely because they are deprived of liberty (Rawls, 1971). This article adopts the John Rawl's Theory of Justice.

A more critical understanding is provided by Michel Foucault, whose analysis of disciplinary power conceptualises prisons as institutions of surveillance, regulation, and social control. Foucault's concept of the "carceral archipelago" highlights how imprisonment operates within broader systems of social discipline and governance (Foucault, 1977). Complementing this perspective, Garland argues that penal policies are shaped not only by legal considerations but also by wider political, economic, and cultural conditions. His analysis of the modern penal state demonstrates that approaches to punishment reflect broader social priorities and institutional pressures (Garland, 2001). Together, these perspectives provide a multidimensional framework for evaluating whether open prisons function primarily as instruments of rehabilitation or remain influenced by broader punitive and managerial objectives.

In the United Kingdom, the legal foundation of imprisonment is established through the Prison Act 1952, which provides the statutory basis for prison administration and management. Subsequent legislative developments, including the Criminal Justice Act 2003 and the Offender Management Act 2007, strengthened sentencing policy and promoted greater integration between custodial and community-based supervision. Furthermore, the Human Rights Act 1998 incorporated the European Convention on Human Rights into domestic law, creating additional obligations concerning humane treatment, privacy, family life, and protection against degrading treatment (Ministry of Justice, 2022).

The institutional governance of prisons in England and Wales is administered by His Majesty's Prison and Probation Service (HMPPS), operating under the Ministry of Justice. HMPPS is supported by independent oversight institutions, including His Majesty's Inspectorate of Prisons (HMIP), the Prisons and Probation Ombudsman (PPO), and Independent Monitoring Boards (IMBs). These institutions contribute to accountability, transparency, and monitoring of prison conditions (HM Inspectorate of Prisons, 2025). Within this framework, open prisons operate as an established component of the correctional system, providing selected prisoners with opportunities for employment, education, temporary release, and gradual preparation for community reintegration (Ministry of Justice, 2025).

Nevertheless, the United Kingdom model is not without significant challenges. Contemporary prison conditions continue to be affected by overcrowding, staffing shortages, resource limitations, and persistent inequalities affecting vulnerable groups. High levels of reoffending demonstrate that institutional reforms have not completely resolved the challenges associated with rehabilitation and reintegration (Ministry of Justice, 2025). These limitations reveal an

important distinction between the existence of a sophisticated legal framework and the practical achievement of rehabilitative objectives.

Pakistan presents a different but equally significant set of challenges. Although constitutional protections, judicial decisions, and international commitments provide recognition of prisoners' fundamental rights, implementation remains inconsistent. The continued dependence on the Prisons Act 1894, developed within a colonial administrative context, has restricted the evolution of a modern rehabilitative prison philosophy. Overcrowding, extensive reliance on pre-trial detention, inadequate healthcare facilities, limited educational and vocational opportunities, and insufficient reintegration mechanisms continue to affect Pakistan's correctional system (Government of Pakistan, 1978; National Human Rights Commission of Pakistan, 2024). There is hardly any functional open prison in Pakistan.

Methodologically, this article adopts a comparative socio-legal approach to critique and evaluate the laws and practices of prison system, with a focus on to seek the introduction of open prison system in Pakistan, to help improve the reintegration of the prisoners in the country. It examines legislation, government policies, institutional reports, international standards, and academic literature to assess the extent to which the United Kingdom and Pakistan utilise imprisonment as a mechanism of rehabilitation rather than solely punishment. The comparison is structured around four principal dimensions: (1) legal and institutional frameworks; (2) operational challenges, including overcrowding, staffing, and infrastructure; (3) human rights concerns relating to healthcare, treatment, and protection of vulnerable prisoners; and (4) rehabilitation, probation, and reintegration mechanisms.

The article contributes to comparative prison scholarship by demonstrating that open prisons should be understood as a reflection of broader penal philosophy rather than merely a particular institutional arrangement. It argues that while the United Kingdom has developed a comparatively advanced model of rehabilitative imprisonment, continuing operational pressures reveal the difficulties of translating legal commitments into practice. Pakistan, by contrast, requires more fundamental reform involving legislative modernisation, institutional readiness and restructuring, and greater alignment with international human rights standards. Through this comparative analysis, the article highlights the continuing global challenge of balancing the coercive authority of the state with the principles of rehabilitation, reintegration, and human dignity to transform from a conservative prison mind-set to a more relaxed and trust-based prison system that is the Open Prison.

This article has three main parts. Part I is dedicated to critically reviewing the literature and the Open Prison system of the United Kingdom. Part II will examine and critique the correctional system of Pakistan. Part III will provide a comparative analysis, findings and recommendations.

PART I

2. Literature Review

The contemporary discourse on imprisonment has increasingly shifted from a purely punitive understanding of punishment towards rehabilitation, social reintegration, and respect for human dignity. Open prisons represent one of the most significant developments within this reformative approach, providing a less restrictive custodial environment aimed at preparing prisoners for their eventual return to society. Scholars argue that open prisons are founded upon the principles of trust, responsibility, and gradual reintegration, distinguishing them from traditional closed prisons that primarily emphasise security and confinement (Coyle, 2019). The literature highlights that effective correctional systems should not merely incapacitate offenders but should address the social, psychological, and economic factors contributing to criminal behaviour.

International human rights instruments have significantly influenced the development of rehabilitative imprisonment models. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) establish that imprisonment should focus on rehabilitation and social reintegration while ensuring respect for prisoners' inherent dignity (United Nations, 2015). Similarly, the International Covenant on Civil and Political Rights recognises that penitentiary systems must treat prisoners with humanity and aim towards their reformation (United Nations, 1966). Scholars such as van Zyl Smit and Snacken (2009) argue that modern imprisonment must be evaluated through a human rights framework, where legitimacy depends not only on lawful detention but also on the protection of prisoners' fundamental rights.

The United Kingdom provides a developed model of open imprisonment through its Category D prisons and Release on Temporary Licence (ROTL) schemes. Academic research demonstrates that the UK prison system increasingly incorporates risk assessment, offender management, education, employment training, and community engagement as essential elements of rehabilitation (Liebling & Maruna, 2023). Open prisons allow suitable prisoners to work outside prison, maintain family relationships, and develop social responsibility before release. According to Crewe (2011), contemporary British prisons operate through a combination of security and autonomy, where carefully managed freedom can contribute positively to prisoners' behavioural transformation. However, scholars have also criticised the UK system for increasing managerialism, risk-based decision-making, and inequalities in access to rehabilitative opportunities (Garland, 2001).

The Pakistani prison system presents a contrasting picture. Although Pakistani prison laws recognise rehabilitation as an objective of imprisonment, including provisions under the Prisons Act 1894 and Prison Rules 1978, the system remains largely influenced by colonial-era custodial traditions. Existing literature identifies overcrowding, inadequate healthcare, limited educational facilities, insufficient vocational training, and weak post-release support as major barriers to effective rehabilitation (Ahmed & Shah, 2020). Unlike the UK, Pakistan has limited implementation of open prison concepts, and correctional policies continue to emphasise containment rather than reintegration. Scholars argue that the absence of comprehensive rehabilitation programmes undermines prisoners' ability to successfully reintegrate into society and increases the risk of reoffending (Qureshi, 2021).

Comparative scholarship suggests that open prisons cannot simply be transferred from one jurisdiction to another without considering social, economic, and institutional contexts. While the UK model demonstrates the potential benefits of structured openness, Pakistan faces significant challenges related to resources, governance, prison administration, and public perceptions of offenders. Therefore, a human rights-based approach requires not only legal reform but also institutional transformation. The literature indicates a research gap concerning comparative analyses that critically examine how open prisons can contribute to rehabilitation and human rights protection within different legal and socio-economic environments. This study addresses this gap by analysing the UK and Pakistan through a comparative framework, evaluating whether open prisons provide a sustainable pathway towards humane punishment and effective social reintegration.

3. A Critical Analysis of the Open Prison System of the United Kingdom

The open prison system of the United Kingdom represents a significant development in contemporary penology, reflecting a transition from purely punitive imprisonment towards rehabilitation, responsibility, and social reintegration. Category D prisoners are those assessed as presenting a low risk of escape or harm to the public and are considered suitable for imprisonment under minimal security conditions. Unlike closed prisons, open prisons aim to prepare prisoners for eventual release by restoring autonomy, encouraging responsibility, and developing practical skills necessary for community reintegration (Coyle, 2019).

The legal and administrative foundation of open prisons is primarily derived from the *Prison Rules 1999*, supported by operational policies issued by His Majesty's Prison and Probation Service (HMPPS). These policies regulate prisoner categorisation, risk assessment, rehabilitation programmes, and temporary release mechanisms. Category D institutions represent the final stage of the custodial progression system, providing a transition between secure imprisonment and release into society. Through this gradual reduction of restrictions, prisoners are tested in conditions that approximate normal life while remaining subject to institutional supervision (Ministry of Justice, 2023).

A central feature of the UK open prison model is Release on Temporary Licence (ROTL), which permits eligible prisoners to leave prison temporarily for employment, education, training, or resettlement purposes. ROTL serves as both a rehabilitative mechanism and a risk-management tool because prisoners are given opportunities to demonstrate reliability and self-discipline before release. Breaches of ROTL conditions, including failure to return or unlawful behaviour, may result in transfer back to closed conditions. Therefore, the system operates upon a balance between trust and accountability (Liebling & Maruna, 2023).

Open prisons such as HMP Ford, HMP Leyhill, and HMP North Sea Camp provide prisoners with employment, vocational training, and opportunities to maintain family relationships. These activities reflect the principle of normalisation, according to which prison conditions should, as far as possible, resemble life outside prison to facilitate successful reintegration (van Zyl Smit & Snacken, 2009). Educational programmes, including partnerships with higher

education providers, and work-based training contribute to improving employability and reducing the likelihood of reoffending.

Despite these strengths, the open prison system faces several criticisms. Access remains highly selective, as eligibility depends on security classification, previous behaviour, risk assessments, and the nature of the offence. Consequently, some prisoners who may benefit from rehabilitative opportunities remain excluded. Critics argue that this creates unequal access to rehabilitation and may disproportionately affect prisoners serving longer sentences or those convicted of serious offences (Crewe, 2011).

Operational challenges also affect the effectiveness of open prisons. Limited resources, staff shortages, and pressure on prison budgets can restrict access to meaningful work and educational opportunities. Additionally, incidents involving absconding or breaches of temporary release attract significant public criticism and create tension between rehabilitative objectives and demands for public protection. The legitimacy of open prisons therefore depends heavily on maintaining public confidence while demonstrating that reduced security does not compromise safety.

From a human rights perspective, open prisons align closely with international standards requiring imprisonment to focus on rehabilitation and preparation for release. The United Nations Mandela Rules emphasise that prison systems should promote prisoners' social reintegration and preserve human dignity (United Nations, 2015). However, the effectiveness of open prisons depends not only on institutional design but also on adequate resources, effective supervision, and wider support from probation and community services.

Overall, the UK open prison model represents one of the most advanced examples of rehabilitative imprisonment. Its emphasis on gradual release, responsibility, and social reintegration provides a strong alternative to traditional custodial approaches. Nevertheless, continuing challenges relating to selectivity, resource limitations, and public perceptions demonstrate that open prisons require continuous reform to achieve their full rehabilitative potential.

4. Critiquing the Law Governing Open Prisons in the United Kingdom

The legal framework governing open prisons in the United Kingdom reflects a significant transformation in penal philosophy from retribution towards rehabilitation, risk management, and social reintegration. Category D prisoners are individuals considered suitable for open conditions due to their low risk of escape and limited threat to public safety. Open prisons represent the least restrictive form of custody and operate as transitional institutions designed to prepare prisoners for release through mechanisms such as Release on Temporary Licence (ROTL), employment, education, and community engagement (Coyle, 2019).

The statutory foundation of the UK prison system is primarily derived from the *Prison Act 1952*, which empowers the Secretary of State to regulate prison administration through secondary legislation. Pursuant to this authority, the *Prison Rules 1999* provide the principal

regulatory framework governing prison management, prisoner discipline, welfare, and security. The legal framework is further supported by the *Criminal Justice Act 2003*, which recognises rehabilitation, punishment, deterrence, and public protection as key purposes of sentencing, and the *Offender Management Act 2007*, which promotes coordinated management between custodial and community services. Collectively, these instruments establish rehabilitation as a formal objective of imprisonment.

The incorporation of the *Human Rights Act 1998* has further strengthened prisoners' legal protections by applying the rights contained in the European Convention on Human Rights (ECHR) to domestic prison administration. Articles 3 and 8 of the ECHR provide protection against inhuman or degrading treatment and safeguard prisoners' private and family life. Judicial decisions have confirmed that imprisonment does not remove fundamental rights, and the state retains positive obligations to ensure humane conditions of detention (van Zyl Smit & Snacken, 2009).

However, despite this apparently comprehensive framework, significant legal weaknesses remain. A major limitation is the dependence on non-statutory instruments, including Prison Service Instructions (PSIs) and HMPPS policy frameworks, to regulate crucial aspects of open prisons, such as prisoner categorisation, eligibility criteria, and ROTL procedures. Although these policies guide administrative decision-making, they lack the legal status and democratic scrutiny associated with legislation. This creates uncertainty and inconsistency, particularly where decisions directly affect prisoners' opportunities for rehabilitation.

Another important weakness is the absence of enforceable legal rights to rehabilitation. Although legislation recognises rehabilitation as a purpose of imprisonment, prisoners do not possess a statutory entitlement to education, vocational training, or psychological support. Access to rehabilitative resources often depends upon institutional capacity, funding, and administrative discretion. Consequently, there exists a significant gap between the legal commitment to rehabilitation and its practical implementation (Liebling & Maruna, 2023).

The categorisation process for admission to Category D prisons also raises concerns regarding transparency and accountability. Decisions are based on risk assessments conducted by prison authorities, considering factors such as behaviour, criminal history, and likelihood of absconding. While risk assessment is necessary for public protection, the discretionary nature of these decisions provides limited opportunities for effective challenge or independent review. This may create inconsistencies and potential inequalities, particularly for vulnerable groups.

Human rights law provides an important safeguard but remains largely reactive. Judicial review and human rights claims allow prisoners to challenge unlawful decisions; however, courts generally intervene only after alleged violations occur. This approach limits the ability of law to address broader systemic problems, including overcrowding, resource shortages, and unequal access to rehabilitation. Similarly, international standards such as the UN Mandela Rules establish important principles concerning dignity and rehabilitation but lack direct enforceability within UK domestic law (United Nations, 2015).

The legal framework also suffers from fragmentation, with prison governance dispersed across statutes, regulations, administrative policies, and international standards. This complexity reduces accessibility and weakens accountability. Furthermore, although the Equality Act 2010 provides protection against discrimination, concerns remain regarding unequal representation and access to rehabilitative opportunities among minority groups.

Legal framework governing UK open prisons demonstrates a strong commitment to rehabilitation and human rights in principle. However, its reliance on administrative discretion, limited enforceability of rehabilitation rights, and fragmented regulatory structure create significant challenges. A more coherent statutory framework, stronger accountability mechanisms, and clearer legal recognition of prisoners' rehabilitative rights are required to ensure that open prisons achieve their intended purpose as institutions of reintegration rather than merely transitional custody.

5. Critiquing the Institutional Framework of the UK Correctional System

The institutional framework of the United Kingdom's correctional system is often regarded as an advanced model of penal governance due to its extensive oversight mechanisms, legal safeguards, and formal commitment to rehabilitation. Open prisons form an important component of this framework, representing the final stage of custody where prisoners are gradually prepared for release through increased responsibility, community engagement, and resettlement opportunities. However, despite its sophisticated institutional structure, significant tensions exist between policy objectives and operational realities, particularly regarding accountability, resource limitations, inequality, and effective rehabilitation.

The UK correctional framework operates through several oversight institutions, including Her Majesty's Inspectorate of Prisons (HMIP), the Prisons and Probation Ombudsman (PPO), and Independent Monitoring Boards (IMBs). These bodies promote transparency and assess compliance with legal and human rights standards. HMIP evaluates prisons through its "healthy prison" criteria, focusing on safety, respect, purposeful activity, and rehabilitation, while the PPO investigates prisoner complaints and deaths in custody. Although these mechanisms contribute significantly to institutional accountability, their effectiveness is restricted by the absence of binding enforcement powers. Consequently, repeated identification of problems such as violence, overcrowding, and inadequate healthcare has not always resulted in meaningful institutional change (Liebling & Maruna, 2023).

Judicial oversight through the Human Rights Act 1998 and the European Convention on Human Rights (ECHR) has strengthened prisoners' legal protections. Cases such as *R (Daly) v Secretary of State for the Home Department* and *Hirst v United Kingdom (No 2)* demonstrate the judiciary's role in affirming that prisoners retain fundamental rights despite imprisonment. However, judicial intervention remains largely reactive, addressing individual violations rather than correcting systemic weaknesses. As van Zyl Smit and Snacken (2009) argue, human rights litigation alone cannot resolve structural deficiencies within prison systems.

Operational challenges further weaken the effectiveness of the institutional framework. Rising levels of violence, the spread of psychoactive substances such as synthetic cannabinoids, and declining prison safety have created significant difficulties for prison management. Staff shortages, partly resulting from austerity policies after 2010, have reduced institutional capacity and limited access to rehabilitation programmes. Research by Liebling highlights that positive staff-prisoner relationships are essential for prison legitimacy and rehabilitation; therefore, inadequate staffing undermines both security and reformatory objectives (Liebling, 2011).

Overcrowding remains another major institutional weakness. Excessive prison populations place pressure on infrastructure, reduce access to education and vocational training, and negatively affect prisoners' wellbeing. The European Court of Human Rights has recognised that overcrowding combined with poor conditions may violate Article 3 of the ECHR. Similarly, outdated prison buildings, inadequate sanitation, and poor living conditions continue to raise concerns regarding human dignity and humane treatment (Coyle, 2019).

The rehabilitative function of the correctional system is also affected by limited access to meaningful education, employment, and mental health services. Although rehabilitation is central to official policy, many prisoners experience difficulties accessing programmes that develop employment skills and support reintegration. Mental health problems are particularly widespread among prisoners, while insufficient healthcare provision contributes to self-harm, suicide, and barriers to successful rehabilitation. The case of *Keenan v United Kingdom* confirmed that inadequate medical treatment in prisons may breach Article 3 obligations.

Furthermore, inequalities remain embedded within the institutional framework. The overrepresentation of Black and minority ethnic groups in prisons, highlighted by the Lammy Review, raises concerns regarding fairness and equal treatment within the criminal justice system. Women prisoners also face specific challenges due to higher levels of trauma and mental health needs, which are not always adequately addressed.

The UK correctional framework demonstrates strong institutional design and a clear commitment to rehabilitation, its effectiveness is restricted by weak enforcement mechanisms, resource constraints, overcrowding, and social inequalities. Open prisons represent a progressive approach to reintegration; however, their success depends upon wider institutional reforms that strengthen accountability, improve prison conditions, and prioritise human dignity.

PART II

6. A Critical Analysis of the Open Prison System of Pakistan

The open prison model represents a significant transformation in contemporary correctional philosophy, shifting imprisonment from a primarily punitive mechanism towards rehabilitation, social reintegration, and preparation for lawful community participation. International experience demonstrates that open prisons, based on principles of trust,

responsibility, and gradual release, can contribute to reduced recidivism and improved reintegration outcomes. However, unlike developed correctional systems such as the United Kingdom and Scandinavian jurisdictions, Pakistan has not developed a comprehensive open prison framework. The limited application of rehabilitative imprisonment in Pakistan reflects broader weaknesses within the correctional system, including outdated legislation, fragmented governance, inadequate institutional capacity, and persistent human rights concerns.

6.1 Critiquing the Laws Governing Correctional System of Pakistan

The legal framework governing Pakistan's correctional system remains largely rooted in colonial-era legislation. The Prisons Act 1894 continues to provide the primary statutory foundation for prison administration, regulating matters such as prison discipline, security, classification, and the authority of prison officials. Although the Act has historically provided administrative structure, its underlying philosophy reflects nineteenth-century priorities of discipline and control rather than modern principles of rehabilitation and reintegration (Ahmed, 2020). Consequently, Pakistan lacks a dedicated legislative framework specifically recognising open prisons as a component of correctional policy.

The Pakistan Prison Rules 1978, enacted under the authority of the Prisons Act 1894, provide detailed administrative procedures relating to prison management, prisoner welfare, visits, healthcare, and classification. However, the classification system, particularly the distinction between "A", "B", and "C" classes of prisoners, has been criticised for institutionalising inequality by allowing privileged prisoners access to superior facilities and treatment compared with ordinary inmates (Human Rights Commission of Pakistan [HRCP], 2023). Rather than promoting equal rehabilitation opportunities, the existing framework has historically reinforced social and economic disparities within prisons.

Constitutional protections provide an important foundation for prisoner rights. Articles 9, 10A, and 14 of the Constitution of Pakistan guarantee the right to life, fair trial, and human dignity. These protections are reinforced by Pakistan's obligations under international instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Pakistani courts have occasionally expanded these protections through constitutional interpretation. In *Shehla Zia v WAPDA*, the Supreme Court recognised a broad interpretation of Article 9, establishing that the right to life includes protection of human dignity and quality of life. However, judicial interventions have generally remained reactive and have not produced comprehensive structural reform of the prison system.

A major weakness of Pakistan's correctional law is the absence of enforceable rehabilitation rights. Although probation, parole, and early release mechanisms exist through instruments such as the Probation of Offenders Ordinance 1960 and the Good Conduct Prisoners' Probation Release Act 1926, these measures remain significantly underutilised. Rehabilitation programmes, vocational training, psychological services, and educational opportunities are largely dependent on administrative discretion and available resources rather

than legal entitlement. This creates a substantial gap between Pakistan's formal commitment to rehabilitation and its practical implementation.

The institutional structure of prison administration further complicates reform efforts. Following the 18th Constitutional Amendment 2010, prison administration became primarily a provincial responsibility. While decentralisation allows provinces to introduce local reforms, it has also created significant variations in prison standards, resources, and rehabilitation initiatives. Provinces such as Sindh have attempted legislative modernisation through the Sindh Prisons and Corrections Services Act 2019, while other provinces continue to rely heavily on outdated prison rules. The absence of a unified national correctional policy has resulted in fragmented governance and inconsistent protection of prisoner rights.

Human rights conditions remain one of the most significant barriers to developing an effective open prison system in Pakistan. Overcrowding, inadequate healthcare, custodial violence, and poor infrastructure continue to undermine the possibility of meaningful rehabilitation. Recent prison data demonstrates that under-trial prisoners constitute a substantial majority of Pakistan's prison population, reflecting systemic delays within policing, prosecution, and judicial processes (Justice Project Pakistan [JPP], 2024). Excessive reliance on pre-trial detention contributes to overcrowding and places significant pressure on already limited prison resources.

Healthcare provision remains particularly problematic. Many prisons lack adequate medical staff, specialised treatment facilities, and mental health services. International organisations have repeatedly highlighted deficiencies in medical care, sanitation, and living conditions within Pakistani prisons (United Nations Human Rights Committee, 2017). Such conditions conflict with the Mandela Rules, which require prisoners to receive healthcare equivalent to that available in the wider community.

Custodial violence and accountability deficits further weaken the legitimacy of the correctional system. Although Pakistan enacted the Torture and Custodial Death (Prevention and Punishment) Act 2022, concerns remain regarding implementation, investigation mechanisms, and institutional accountability. Weak external oversight allows abusive practices to persist, creating an environment inconsistent with rehabilitation and human dignity.

Vulnerable groups face additional challenges. Women prisoners frequently experience inadequate gender-sensitive healthcare, limited rehabilitation opportunities, and insufficient psychological support. Juvenile offenders, despite protections under the Juvenile Justice System Act 2018, continue to experience inconsistent implementation, including detention in facilities lacking appropriate child-focused services. Similarly, minority prisoners and persons with disabilities often face barriers in accessing equal treatment and institutional support.

The absence of reliable institutional mechanisms has also restricted the development of open prisons. Unlike the UK model, where Category D prisons operate through structured risk assessment and gradual release schemes such as ROTL, Pakistan lacks a systematic

framework for categorising prisoners according to rehabilitation readiness. Existing parole and probation mechanisms remain weak, limiting opportunities for gradual reintegration.

Although Pakistan has introduced several reform initiatives, including prison reform committees, proposed amendments to prison rules, and provincial legislative changes, implementation remains inconsistent. Multiple reform committees have recommended modernising prison legislation, reducing under-trial detention, improving healthcare, and introducing rehabilitation programmes; however, many recommendations remain unimplemented due to political instability, financial constraints, and administrative resistance.

Pakistan's open prison system remains largely aspirational rather than operational. The primary challenge is not merely the absence of open prisons but the broader structural weaknesses within the correctional framework. Outdated legislation, weak accountability mechanisms, insufficient rehabilitation rights, and persistent human rights violations prevent the development of a modern rehabilitative prison system. Establishing effective open prisons requires comprehensive legal reform, institutional restructuring, stronger oversight, and a fundamental shift from a custodial model towards rehabilitation and social reintegration.

7. Critiquing the Institutional Framework of Pakistan's Correctional System

The institutional framework of Pakistan's correctional system remains deeply influenced by colonial administrative structures, with the Prisons Act 1894 and Pakistan Prison Rules 1978 continuing to provide the foundation for prison governance. Although constitutional guarantees, judicial interventions, and international human rights commitments have introduced elements of reform, the practical functioning of prisons continues to reflect a predominantly custodial rather than rehabilitative philosophy. The gap between formal legal commitments and institutional realities represents one of the most significant barriers to the development of an effective open prison system in Pakistan.

Following the 18th Constitutional Amendment 2010, prison administration became primarily a provincial responsibility. While decentralisation has allowed provinces to introduce independent reform initiatives, it has also produced significant variations in prison administration, resources, and standards. Some provinces have attempted modernisation through legislative and administrative reforms, such as the Sindh Prisons and Corrections Services Act 2019, whereas others continue to operate largely under outdated rules and practices. This fragmented governance structure has weakened national coordination and contributed to inconsistent implementation of rehabilitation and human rights standards.

Unlike the United Kingdom, where institutions such as HM Inspectorate of Prisons, the Prisons and Probation Ombudsman, and Independent Monitoring Boards provide structured external oversight, Pakistan lacks a similarly effective and independent monitoring framework. Although bodies such as the National Commission for Human Rights (NCHR) and provincial prison departments undertake inspections and reviews, their capacity and enforcement authority remain limited. Consequently, many recommendations concerning

prison conditions, prisoner welfare, and institutional accountability remain inadequately implemented (Human Rights Commission of Pakistan [HRC], 2023). The most serious institutional challenge facing Pakistan's correctional system is overcrowding. Pakistan's prisons consistently operate beyond their authorised capacity, with under-trial prisoners constituting a substantial proportion of the prison population. This situation is primarily caused by delays in investigation, prosecution, and judicial proceedings rather than solely by high conviction rates. Excessive reliance on pre-trial detention places significant pressure on prison infrastructure and undermines the principle of presumption of innocence guaranteed under Article 10A of the Constitution of Pakistan (Justice Project Pakistan [JPP], 2024).

Overcrowding has extensive consequences for institutional effectiveness. Excessive prisoner numbers result in inadequate living space, poor sanitation, increased violence, and limited access to healthcare and rehabilitation programmes. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) emphasise that prisoners must be provided with conditions consistent with human dignity; however, overcrowded Pakistani prisons frequently fall below these standards (United Nations, 2015). The inability to maintain humane conditions also directly restricts the possibility of introducing open prison models, which require adequate space, classification systems, and effective prisoner management. Infrastructure deficiencies further weaken institutional capacity. Many Pakistani prisons were constructed during the colonial period and were designed primarily for containment and discipline rather than rehabilitation. These facilities often lack adequate ventilation, sanitation systems, healthcare facilities, educational spaces, and vocational training areas. Reports by human rights organisations have repeatedly highlighted poor prison conditions, including insufficient medical care, limited access to clean water, and inadequate accommodation arrangements (Human Rights Watch, 2023).

Resource limitations represent another fundamental institutional weakness. Prison departments frequently operate with insufficient budgets, inadequate staffing levels, and limited professional training. Understaffing reduces effective supervision, increases security risks, and contributes to poor prisoner-staff relationships. Furthermore, corruption and informal systems within prisons are often linked to institutional resource shortages, where access to basic services may depend on personal influence or financial capacity rather than equal entitlement. A central weakness of Pakistan's correctional framework is the limited development of rehabilitation programmes. Modern correctional systems increasingly recognise education, vocational training, psychological support, and community reintegration as essential components of imprisonment. However, rehabilitation initiatives in Pakistan remain fragmented and available only in selected institutions. Programmes such as vocational training, literacy education, and skill development exist in some provinces, but they lack national coverage and institutional consistency.

The absence of structured rehabilitation has particularly negative consequences for vulnerable groups. Juvenile offenders often lack access to specialised educational and psychological support despite the requirements of the Juvenile Justice System Act 2018. Similarly, women prisoners face inadequate gender-sensitive services, including limited healthcare, childcare support, and vocational opportunities. These institutional failures demonstrate that Pakistan's

correctional framework remains insufficiently responsive to the diverse needs of prisoners. The weaknesses of rehabilitation infrastructure also contribute to higher risks of recidivism. Prisoners are frequently released without employment skills, psychological assistance, or community support mechanisms. Instead of functioning as institutions of reform, prisons often become environments that reinforce social exclusion and economic disadvantage. This contradicts the rehabilitative objectives recognised in international correctional standards and limits the possibility of successful reintegration.

The institutional problems within Pakistan's prison system are interconnected rather than isolated. Overcrowding increases pressure on already inadequate infrastructure; resource shortages restrict rehabilitation; and weak rehabilitation contributes to repeated imprisonment. Therefore, reform efforts focusing on individual problems without addressing broader institutional weaknesses are unlikely to produce meaningful change. For an open prison system to become viable in Pakistan, institutional transformation is essential. This requires improved prisoner classification mechanisms, independent oversight, investment in rehabilitation programmes, professional training of prison staff, and greater coordination between prisons, probation services, and community organisations. Without these reforms, open prisons risk becoming merely a policy aspiration rather than a practical mechanism for rehabilitation and social reintegration. Pakistan's correctional institutional framework suffers from structural weaknesses that significantly limit its ability to fulfil constitutional, human rights, and rehabilitative obligations. Outdated governance structures, overcrowding, inadequate resources, weak oversight, and limited rehabilitation opportunities prevent the emergence of a modern correctional system. A successful transition towards open prisons requires not only legal reform but also a fundamental institutional shift from custodial control towards rehabilitation, dignity, and social reintegration.

PART III

8. Comparative analysis of the Open Prison system of UK and Pakistan.

Dimension	United Kingdom	Pakistan	Comparative Insight
Legal Framework	Prison Act 1952; Criminal Justice Act 2003; Management Act 2007; Human Rights Act 1998 after 18th Amendment. incorporates ECHR.	Prisons Act 1894; Offender Prison Rules 1978; provincial variations retain colonial-era statutes.	UK has modernised framework; Pakistan retains colonial-era statutes.
Institutional Oversight	HM Inspectorate of Prisons, PPO, provide independent monitoring.	Provincial Inspectors; Ombudsman; society often restricted.	Oversight robust in UK; weak and fragmented in Pakistan.

Dimension	United Kingdom	Pakistan	Comparative Insight
Human Rights Compliance	Bound by ECHR; domestic courts enforce prisoners' rights.	CAT and ICCPR ratified but implementation weak; torture and neglect persist.	UK stronger in compliance; Pakistan suffers enforcement deficit.
Overcrowding	Driven by sentencing inflation, restrictions; inmates.	60–70% under-trials; >130% occupancy in many jails.	Both overcrowded, but causes differ.
Under-trial Prisoners	Minority of population due to efficient case management.	65–70% of total prisoners under trial.	Pakistan disproportionately burdened with under-trials.
Rehabilitation Focus	Community sentences, probation, parole, vocational training; gaps remain.	Minimal rehabilitation; few vocational programmes; parole/probation underused.	UK invests in alternatives; Pakistan prison-centric.
Healthcare	NHS provides services; under-resourced mental health care; high suicide/self-harm rates.	Sparse facilities; lack of doctors; high disease prevalence; COVID worsened situation.	Both weak, but Pakistan faces systemic neglect.
Mental Health Support	Legal duty under HRA 1998; inadequate psychiatric care; self-harm incidents rising.	Almost absent; limited psychiatric staff; untreated conditions.	UK partially meets standards; Pakistan fails structurally.
Probation and Reintegration	Offender Rehabilitation Act 2014 extends probation to short sentences.	Probation of Offenders Ordinance 1960 rarely applied; weak reintegration.	UK has structured probation; Pakistan under-utilises.
Judicial Oversight	Courts review prison practices (e.g., R (Simms), Hirst v UK).	Supreme Court/High Courts intervene sporadically (e.g., Shehla Zia).	UK judicial oversight systematic; Pakistan ad hoc.

Dimension	United Kingdom	Pakistan	Comparative Insight
Corruption and Privilege	Concerns in private prisons, but checked by watchdogs.	Bribery for food, healthcare, visits; class-based prison system (A, B, C).	Pakistan plagued by systemic corruption.
Gender and Juveniles	Women's prisons exist; juvenile justice in place but strained.	Women neglected; juveniles often housed with adults; JJS Act in 2018 implemented.	Pakistan severely lags in gender/child-sensitive corrections.
International Standards	Mandela Rules influence HMIP inspections; OPCAT compliance.	Ratified ICCPR, CAT, CRC; compliance gaps noted by UN committees.	UK aligns more closely with standards.
Resource Allocation	Cuts since 2010; staff shortages; infrastructure.	Chronic underfunding; poor outdated colonial jails; poor staffing ratios.	Both under-resourced, Pakistan worse.
Policy Orientation	Mix of punitive "culture of control" and rehabilitative discourse.	Retributive, imprisonment as default sanction; reforms sporadic.	UK balances punishment with rehabilitation; Pakistan remains punitive.

9. Research Findings

This comparative study demonstrates that open prisons constitute an important component of contemporary correctional philosophy by shifting the purpose of imprisonment from mere containment towards rehabilitation, responsibility, and social reintegration. The findings indicate that open prisons are not simply less restrictive custodial facilities; rather, they represent a distinct penal approach based on trust, gradual restoration of autonomy, and preparation for lawful participation in society. This approach corresponds with the reformative theory of punishment, which views offenders as capable of change and emphasises addressing the social, psychological, and economic factors associated with offending behaviour (Coyle, 2019; Liebling & Maruna, 2023). The research finds that the effectiveness of open prisons depends upon the interaction between legal recognition, institutional capacity, and human rights compliance. The United Kingdom demonstrates that a comprehensive legal and administrative framework, including the Prison Act 1952, Prison Rules 1999, Human Rights Act 1998, and structured offender management mechanisms, provides a strong foundation for rehabilitation. However, the analysis reveals that legal sophistication alone cannot guarantee successful outcomes. Persistent challenges, including overcrowding, staff shortages, resource

limitations, and unequal access to rehabilitative programmes, continue to restrict the full potential of the UK open prison model (HM Inspectorate of Prisons, 2025; Liebling, 2011).

The study further finds that open prisons mitigate many harmful consequences associated with conventional imprisonment. By facilitating employment, education, family contact, and controlled interaction with the community, open prisons reduce institutional dependency and assist prisoners in developing the skills necessary for reintegration. Evidence from rehabilitative criminology demonstrates that gradual transition from custody to community significantly contributes to desistance from crime and reduces the likelihood of reoffending (McNeill, 2016).

The comparative analysis also reveals important differences between the United Kingdom and Pakistan. The UK model represents a relatively advanced system of open imprisonment, supported by risk assessment procedures, probation services, and independent oversight mechanisms. Nevertheless, the system remains influenced by security-oriented approaches, where risk management sometimes limits rehabilitative opportunities. Therefore, the UK model should be viewed as progressive but incomplete, requiring greater emphasis on equal access to rehabilitation, transparency in categorisation decisions, and stronger investment in prisoner welfare. In contrast, Pakistan possesses significant rehabilitative potential but lacks the institutional and legal foundations necessary for effective implementation of open prisons. The research finds that Pakistan's correctional system remains constrained by colonial-era legislation, weak institutional governance, overcrowding, limited rehabilitation programmes, and inadequate monitoring mechanisms. Although constitutional guarantees and international obligations provide a human rights framework, implementation remains inconsistent (Human Rights Commission of Pakistan, 2024; Justice Project Pakistan, 2024). Consequently, open prisons in Pakistan require broader structural reforms, including modern prison legislation, strengthened probation and parole systems, professional training of prison officials, and effective oversight mechanisms.

Overall, the research establishes that neither jurisdiction provides a complete model of open imprisonment. The United Kingdom demonstrates the importance of institutional design and accountability, while Pakistan highlights the necessity of fundamental structural reform. A successful open prison model requires the integration of legal safeguards, rehabilitation programmes, community participation, and respect for human dignity. Therefore, open prisons should be understood as transitional institutions that bridge imprisonment and social reintegration rather than merely alternative forms of custody.

10. Conclusion

This study demonstrates that open prisons represent a progressive correctional model capable of advancing rehabilitation, social reintegration, and the protection of prisoners' human rights. The comparative analysis reveals that the United Kingdom has established a relatively mature legal and institutional framework that supports open imprisonment through structured risk assessment, Release on Temporary Licence (ROTL), educational and vocational opportunities, and independent oversight. However, the effectiveness of this model continues

to be constrained by overcrowding, staffing shortages, uneven access to rehabilitative programmes, and resource limitations. Conversely, Pakistan's correctional system remains predominantly punitive, operating under outdated colonial-era legislation with limited rehabilitative infrastructure, weak institutional capacity, and inadequate mechanisms for implementing open prison principles.

The findings suggest that the effectiveness of open prisons depends not merely on legislative recognition but on the existence of strong institutions, adequate resources, effective oversight, and a sustained commitment to rehabilitation as the primary objective of imprisonment. In this regard, Pakistan should modernise its prison legislation by replacing the Prisons Act 1894 with a contemporary correctional law that expressly recognises rehabilitation and provides a statutory framework for the establishment and regulation of open prisons. Parallel institutional reforms should strengthen probation and parole services, establish independent prison inspection and complaint mechanisms, expand vocational training, education, mental healthcare, and post-release reintegration programmes, and improve the professional capacity of prison staff. Greater alignment with international standards, particularly the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), should guide future legislative and policy reforms. Ultimately, a correctional system founded upon human dignity, accountability, and evidence-based rehabilitation will better promote public safety, reduce recidivism, and facilitate the successful reintegration of offenders into society.

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