

# RECENT DEVELOPMENTS

In our ongoing commitment to shedding light on the evolving landscape of capital punishment in Pakistan, we present a comprehensive update on recent developments since the publication of the first edition of this report. These developments underscore the shifting paradigms and growing awareness surrounding the death penalty in the country.

## CONTROL OF NARCOTICS SUBSTANCES (AMENDMENT) ACT 2023

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The passage of the Control of Narcotics Substances (Amendment) Act 2023 marks a significant milestone in Pakistan's journey towards death penalty reform. On the 25th of July 2023, a joint session of the Senate and National Assembly made a pivotal decision by eliminating the death penalty for narcotics offenses in the country. This legislative change not only demonstrates Pakistan's commitment to aligning with international standards but also reflects a practical approach to justice.

Interestingly, Pakistan had not executed anyone for narcotics offenses since a landmark judgment in PLD 2009 Lahore 362, Ghulam Murtaza and Another vs. The State. This judgment, which was later affirmed by the Supreme Court, was authored by Justice Asif Saeed Khosa. In this judgment, Justice Khosa introduced comprehensive sentencing guidelines that categorized narcotics offenses based on the type of narcotic involved, the specific quantity recovered, and provided clear instructions regarding the appropriate imprisonment and fines for each category of offense.

This ruling played a pivotal role in streamlining the sentences awarded by all courts when trying cases related to narcotics. By doing so, it significantly reduced the number of death sentences handed down for such offenses, aligning the legal framework more closely with international standards. In essence, the Control of Narcotics Substances (Amendment) Act 2023 merely formalizes what had already been a practical reality in Pakistan's justice system—that death penalty for narcotics offenses had effectively been phased out.

## **SABOTAGE OF THE RAILWAYS (AMENDMENT) ACT 2022**

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In August 2022, Section 127 of the 1890 Railways Act underwent significant amendments, omitting the words “death or” from these sections. This critical amendment effectively replaced the death penalty with life imprisonment as the maximum penalty for violators of the law. This change not only symbolizes Pakistan's evolving stance on capital punishment but also represents a broader recognition of the need to bring its legal system in conformity with international human rights principles. The removal of the death penalty from these areas of the law underscores the country's commitment to ensuring that its criminal justice system adheres to the highest standards of fairness, proportionality, and respect for the right to life.

## **THE IMPACT OF THE AMENDMENTS**

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The removal of the death penalty for narcotics offenses represents a bold step, considering the potential controversy surrounding this issue. It reflects a broader effort to reform the systemic and institutional structures of Pakistan's capital punishment regime. Importantly, this legislative change follows the elimination of the death penalty for the offense of railway sabotage, further signalling the government's commitment to bringing the use of capital punishment in line with international standards.

## **RETROACTIVITY AND SENTENCE REVIEW**

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In light of these amendments, there are ongoing discussions regarding whether this legislation is retroactive. There are inquiries into whether individuals still on death row for drug offenses or railway sabotage are eligible to have their sentences reviewed or commuted. This is a critical aspect of ensuring justice for individuals who may no longer face the ultimate punishment for their crimes.

## **A POSITIVE SHIFT IN ATTITUDE**

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The recent developments, combined with the halting of seven executions in October, 2022 represent a significant shift in attitude towards capital punishment in Pakistan. These actions demonstrate a growing willingness in the country to align with international human rights standards and obligations, particularly with respect to the death penalty.

As we move forward, we remain committed to monitoring and advocating for reforms in the realm of capital punishment in Pakistan. We are encouraged by these developments, and they inspire our continued dedication to the pursuit of justice and human rights.

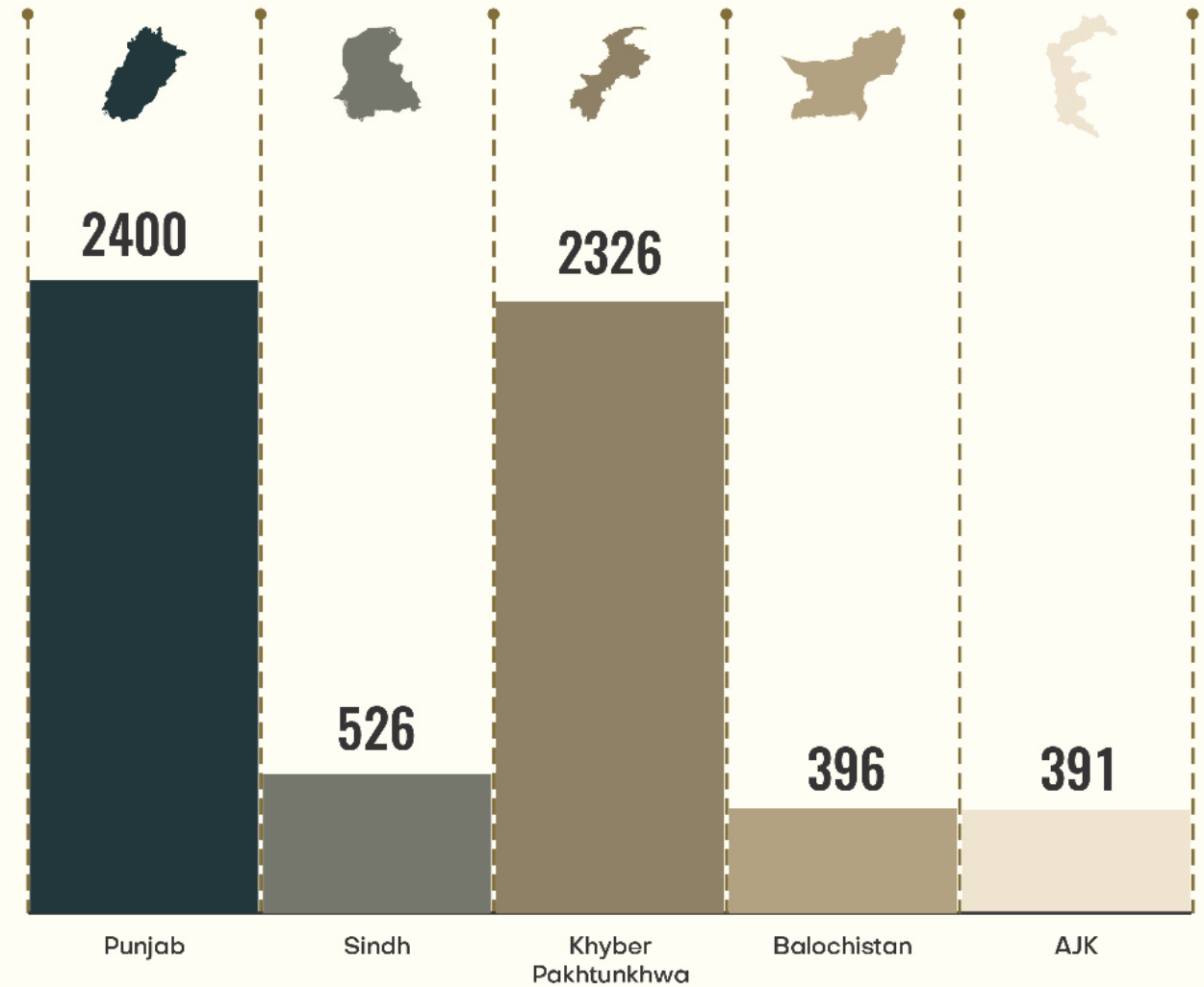
## **INTERNATIONAL IMPLICATIONS**

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It is worth noting that these reforms occur against the backdrop of international reviews, including those related to the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture (UNCAT), as well as Pakistan's reapplication for the Generalized System of Preferences Plus (GSP+) trade scheme. These international considerations have played a pivotal role in shaping Pakistan's approach to the death penalty.

# AGGREGATED STATISTICS OF PRISONERS CURRENTLY ON DEATH ROW

Currently, there are **6,039** prisoners on death row in Pakistan. Province-wise distribution is as follows

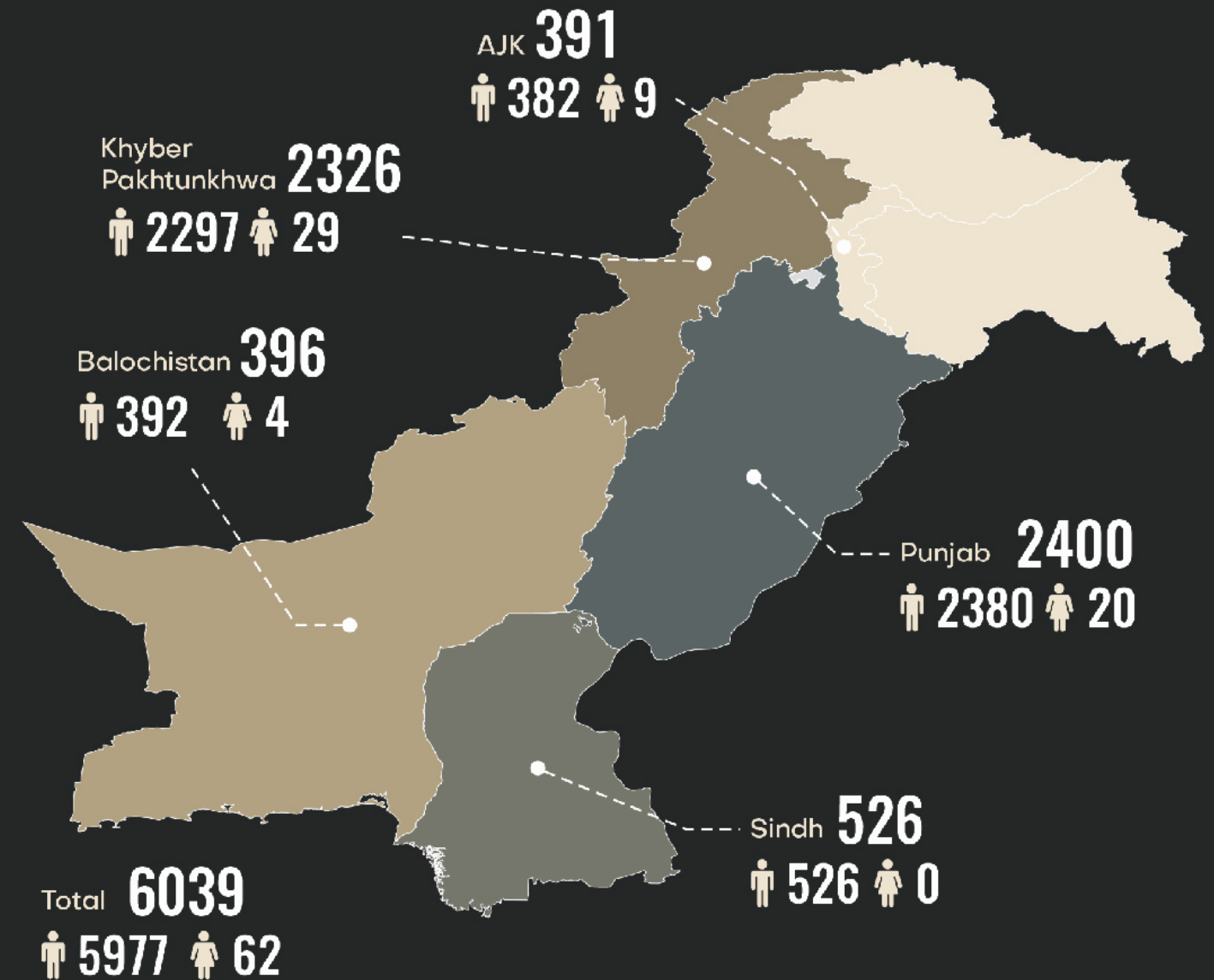


## TOTAL NUMBER OF PRISONERS ON DEATH ROW

These figures offer a comprehensive overview of the distribution of death row prisoners across different provinces and territories.

# GENDER-WISE DISTRIBUTION OF DEATH ROW INMATES

Overall, males make up 99% of the total death row inmates, while females constitute only 1%, with Khyber Pakhtunkhwa having the highest number of female prisoners on death row.

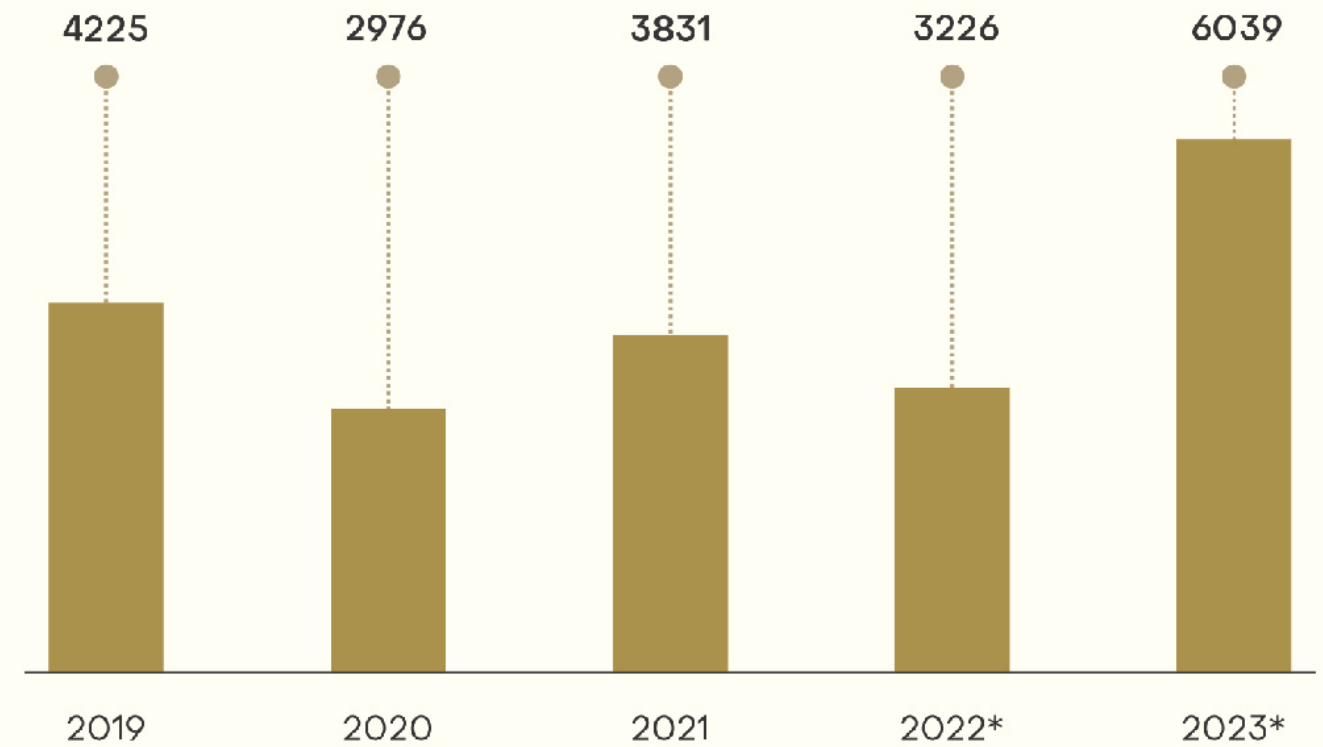




# DEATH ROW POPULATION TRENDS AND ANALYSIS

By the end of 2022, the number of death sentences in Pakistan decreased to 98 individuals, marking a decline from the 129 persons sentenced in 2021, including three women. This decline can be attributed to various factors, including changes in legal procedures, growing awareness of human rights issues, and increased scrutiny of capital punishment. However, the overall death row population did not witness a proportional decrease, largely due to the significant number of appeals rejected by high courts across various provinces. Notably, Baluchistan alone recorded the rejection of 184 appeals, a substantial number. Meanwhile, 1,232 individuals who were previously under trial for murder (s. 302 PPC) were convicted of murder in the past few months, contributing significantly to KP's death row population. This widespread rejection of appeals has led to a significant shift in the death row population, with 2023 showing an alarming increase to 6,039 condemned prisoners, emphasizing the critical role played by the judicial system in shaping the fate of those sentenced to death.

Another factor contributing to the rise is the inclusion of Azad & Jammu Kashmir (AJK) data in 2023, which adds 391 prisoners to the death row population. This highlights the importance of comprehensive data collection methods for a more accurate assessment of Pakistan's capital punishment landscape.

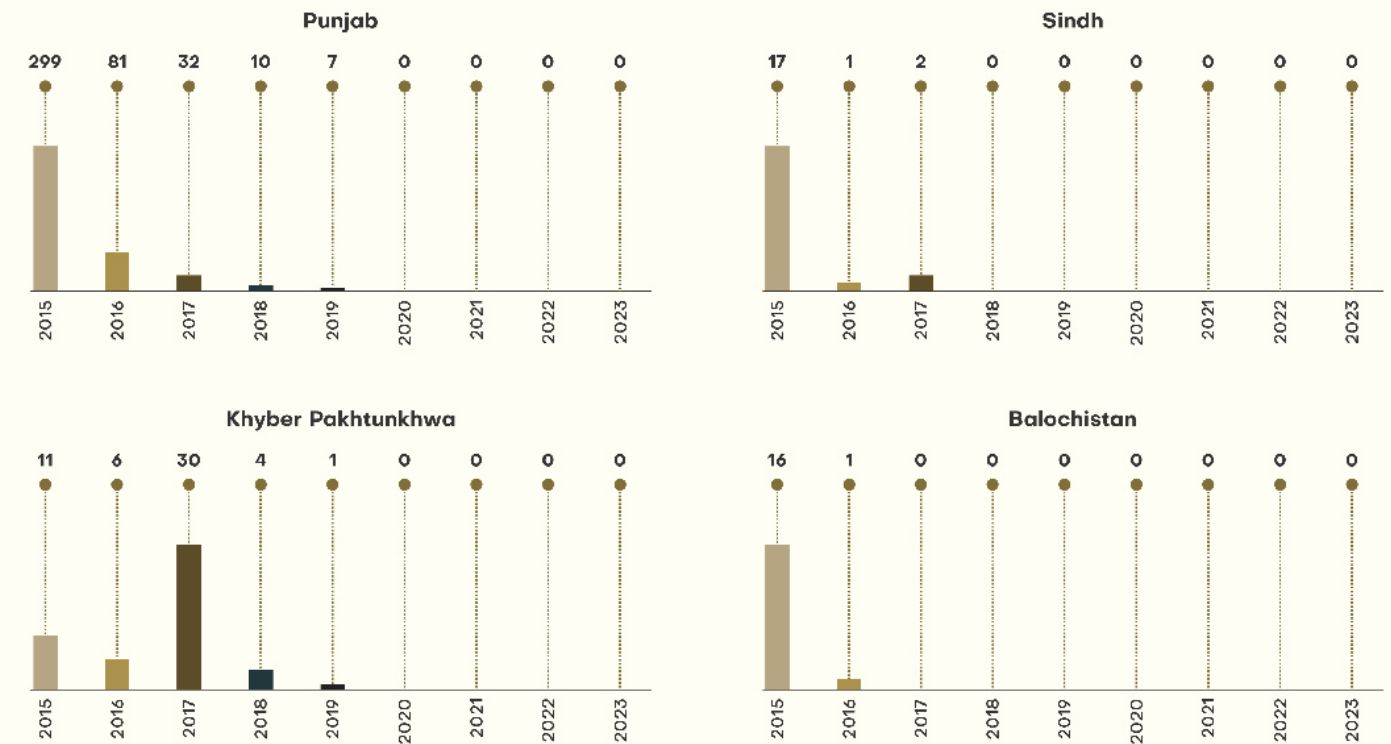


*Year 2023 statistics updated until Oct 05th, 2023*

**YEAR-WISE DISTRIBUTION OF DEATH ROW POPULATION IN PAKISTAN**

# TREND OF EXECUTIONS OVER THE YEARS

No executions were reported to have been carried out since December 2019.



Declining rate of executions or no executions, however, do not deny the possibility of executions in future as currently there are 1,335 prisoners on death row whose appeals are rejected by High Court, according to the provincial prisons departments.

# ANALYSIS OF UNIVERSAL PERIODIC REVIEW (UPR) RECOMMENDATIONS ON THE DEATH PENALTY IN PAKISTAN

This section offers a comprehensive analysis of recommendations made to Pakistan during the Universal Periodic Review (UPR) sessions across multiple cycles, spanning from the 1st cycle (2008-2012) to the recently concluded 4th cycle (2023-2027). The UPR process, a recurring mechanism overseen by the United Nations Human Rights Council, provides a unique opportunity for countries to receive recommendations and assessments on their human rights practices from the international community. With a particular focus on the death penalty, this analysis examines the recommendations put forth by other countries during the 4th UPR Review held in January 2023 and Pakistan's subsequent response, submitted in June 2023. These recommendations and responses serve as significant indicators of Pakistan's evolving stance and international perspectives on its death penalty policies and practices.



## FIRST CYCLE

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Pakistan's initial UPR in 2008 coincided with the inauguration of the PPP government, which initiated a de-facto moratorium on executions. The government's strong stance against the death penalty was evident in the limited number of recommendations regarding Pakistan's use of capital punishment during this cycle. Both recommendations at this stage advocated for the establishment of an official moratorium on executions, emphasizing the importance of formalizing and sustaining efforts toward concrete policy change regarding the death penalty. A similar sentiment emerged in the questions posed by several countries to Pakistan during the interactive dialogue.

## SECOND CYCLE

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The second UPR cycle in 2012 witnessed an increase in the number of recommendations concerning the death penalty, totalling twelve. These recommendations called for policy changes such as an official moratorium, abolition of the death penalty, and a reduction in the number of capital offenses. Notably, these recommendations arrived despite no executions taking place in Pakistan for five years. This increase in recommendations highlighted the significance of official policy and legislative reforms. During this period, civil society stakeholders and international human rights organizations intensified their advocacy efforts concerning Pakistan's use of the death penalty, which was reflected in media coverage and stakeholder submissions to the UPR Working Group.

## THIRD CYCLE

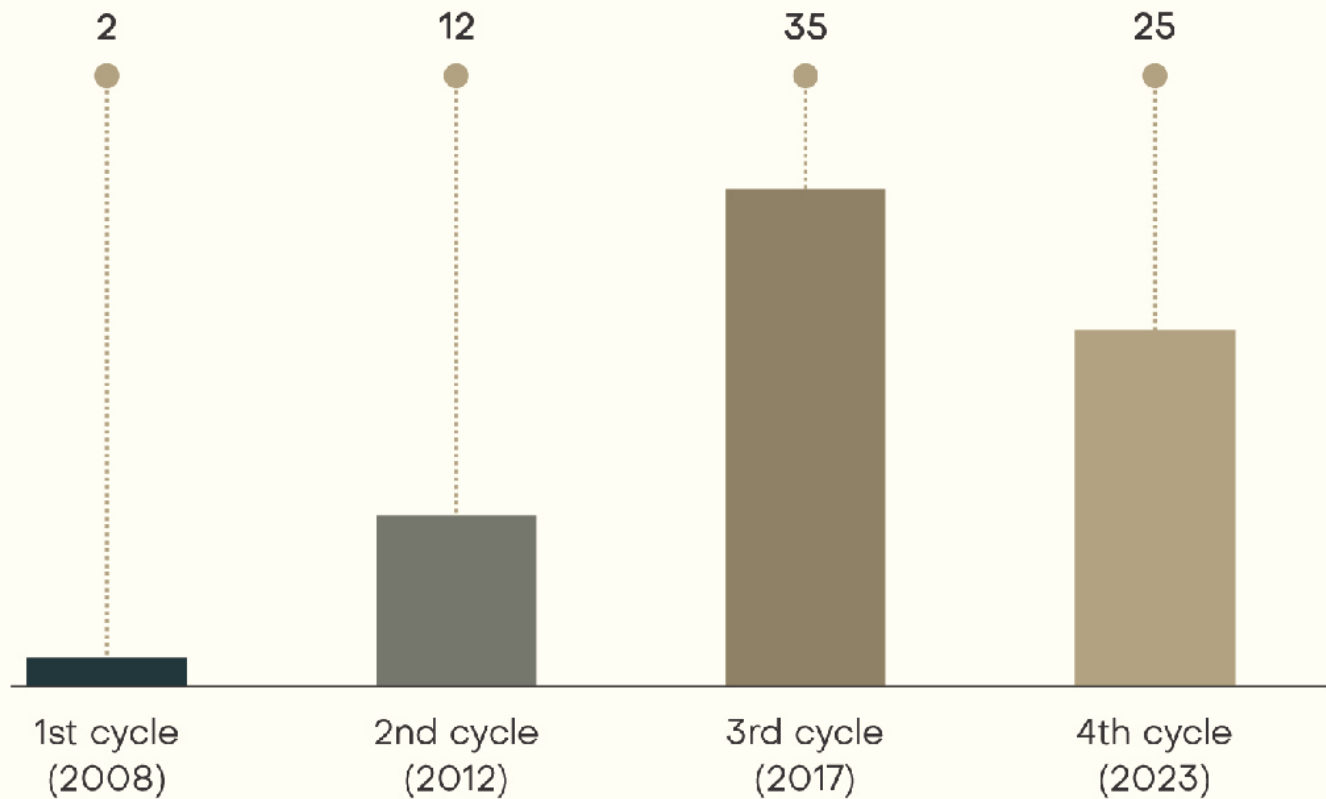
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Following the devastating terrorist attack on a school in Peshawar in December 2014, Pakistan lifted the moratorium on the death penalty. This decision led to a sharp rise in executions, with 325 in 2015, 88 in 2016, and 66 in 2017. Consequently, Pakistan's third UPR cycle in 2017 featured 35 recommendations related to the death penalty. These recommendations called for a moratorium and the abolition of capital punishment, as well as safeguards against executing vulnerable members of society, including juveniles and the mentally ill. Additionally, recommendations urged a reduction in the number of offenses punishable by death. The extensive use of the death penalty during these years drew significant international concern and criticism, with Member States worldwide expressing dismay during the interactive dialogue.

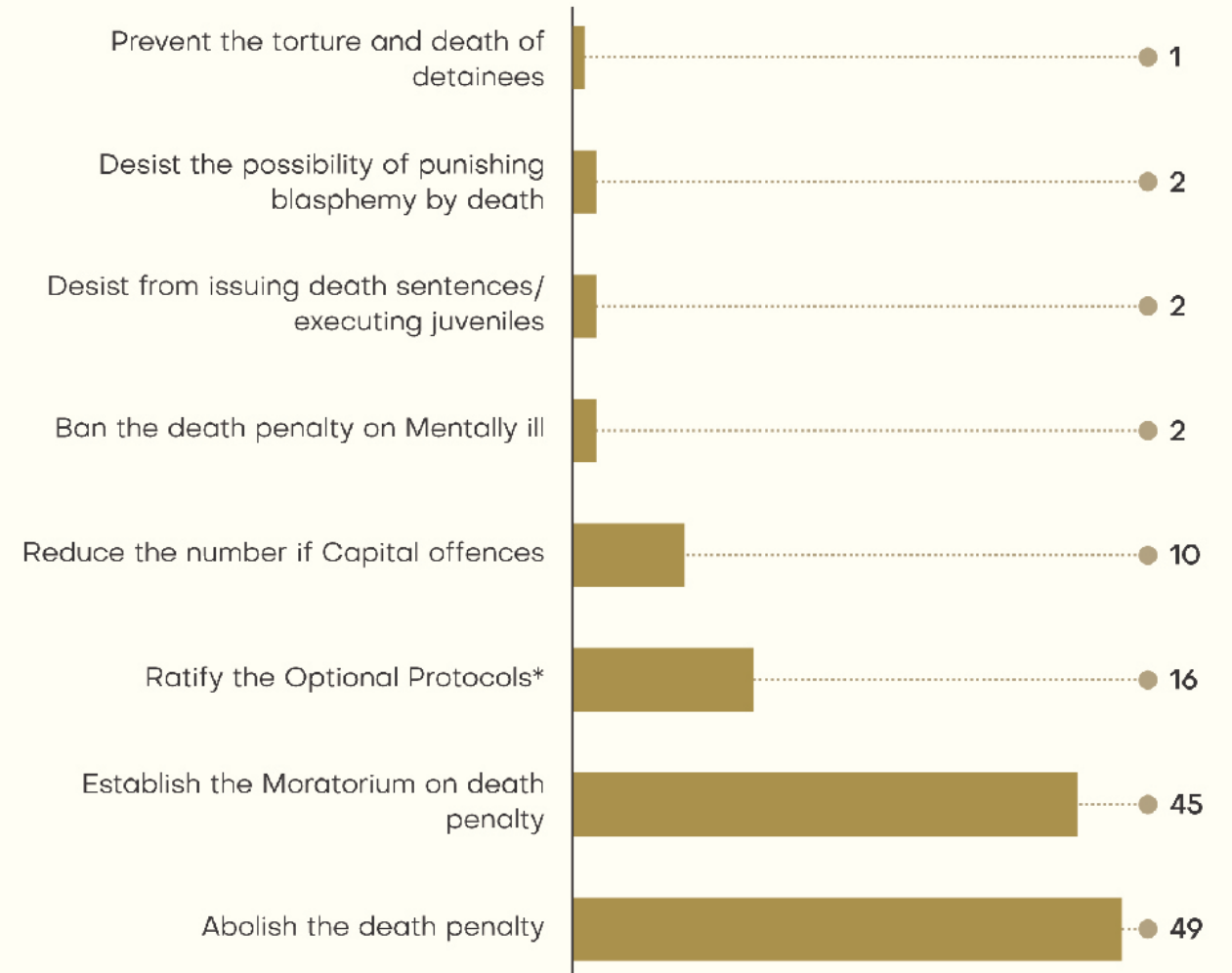
## FOURTH CYCLE

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Driven partly by increased international engagement with forums such as the UPR and UN Treaty Body Reviews, Pakistan ceased executions in 2019. The fourth UPR cycle, held in 2023, witnessed a decrease in recommendations concerning the death penalty. Despite active participation by Member States, only 25 recommendations were issued during this cycle. These recommendations echoed previous calls, emphasizing the alignment of Pakistan's use of the death penalty with international standards, the maintenance of a moratorium, a reduction in capital offenses, and safeguards against executing juveniles and individuals with disabilities.



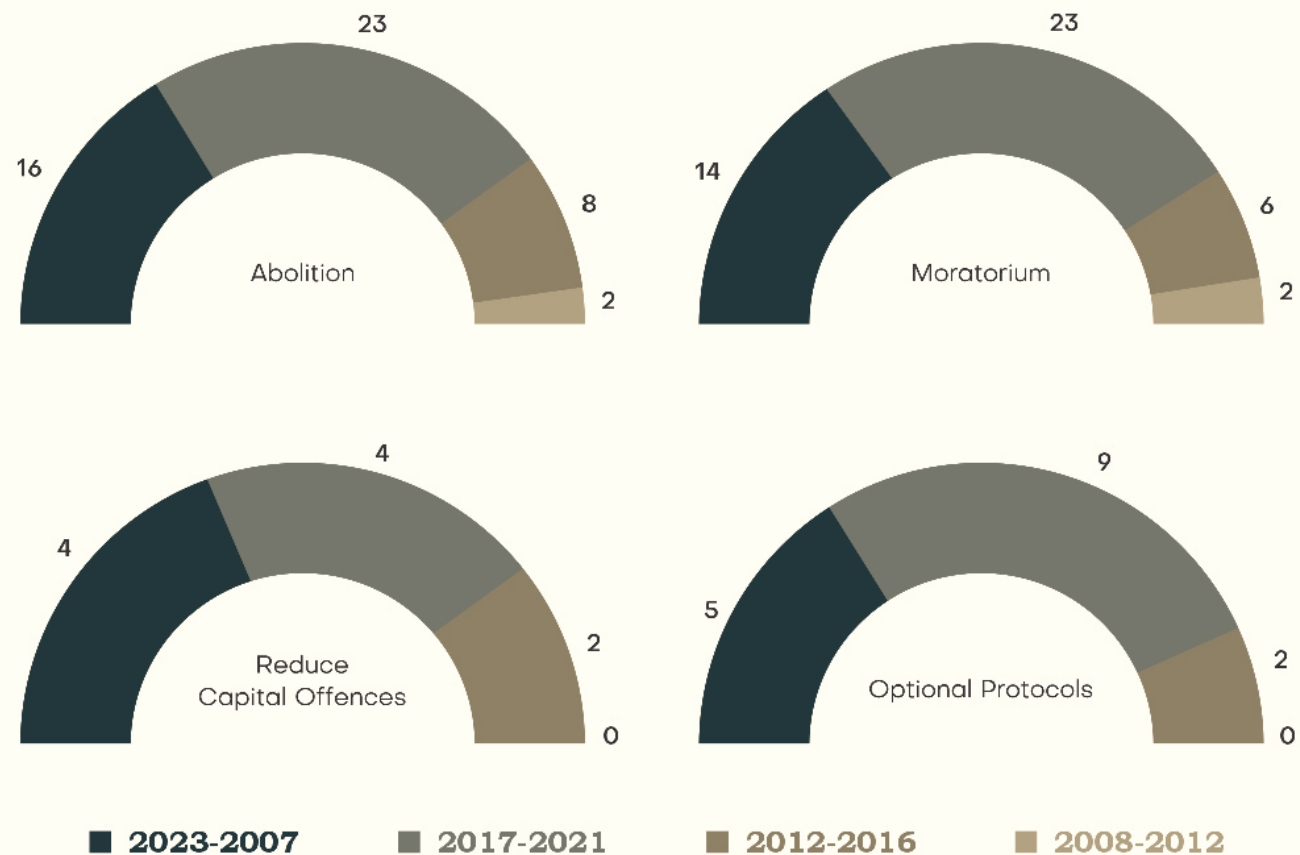
**CYCLE-WISE DISTRIBUTION OF DEATH PENALTY RECOMMENDATIONS MADE TO PAKISTAN**



**THEME-WISE BREAKDOWN OF RECOMMENDATIONS ON THE DEATH PENALTY (ALL CYCLES)**

*\*These Optional Protocols include Second Optional Protocol\**

*to the International Covenant on Civil and Political Rights, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.*



**THEMATIC & CYCLE-WISE BREAKDOWN OF RECOMMENDATIONS RELATING TO THE DEATH PENALTY**

In addition to the overarching themes presented in Figure 3, specific recommendations related to the death penalty were made:

- **Ban the death penalty for mentally ill**

During the third UPR, Germany and the Republic of Moldova recommended banning the death penalty for mentally ill individuals.

- **Reform blasphemy laws**

In the fourth UPR, Poland and Spain recommended reforms to blasphemy laws, particularly addressing the existing legal provision allowing blasphemy to be punished by death.

Overall, recommendations made during Pakistan's fourth UPR cycle primarily emphasized the formalization of the existing moratorium with a view toward eventual abolition. Additionally, there was a focus on reducing the number of capital offenses and encouraging Pakistan to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2). Several recommendations also urged alignment of Pakistan's death penalty regime with international legal standards for the most serious crimes (see Table 1 & 2).

## PAKISTAN'S RESPONSE TO UPR RECOMMENDATIONS ON THE DEATH PENALTY

To date, Pakistan has consistently chosen to "note" rather than "support" any recommendations related to its use of the death penalty. This stance implies that Pakistan has not committed to implementing these recommendations, a somewhat perplexing position given the various measures it has taken over the years to align its use of capital punishment with international norms. Since 2019, Pakistan has refrained from carrying out any executions, effectively aligning itself with the numerous recommendations advocating for a moratorium on the death penalty. The 2021 Supreme Court Safia Bano judgment explicitly prohibited the execution of mentally ill prisoners and introduced safeguards for individuals with psychosocial disabilities throughout the criminal justice system. This ruling mirrored recommendations from Germany and Moldova during Pakistan's third UPR cycle. In 2019, new Standard Operating Procedures (SOPs) were introduced for the drafting and consideration of mercy petitions. While these SOPs did not fully meet international legal standards regarding the right to seek clemency, they did signal a willingness to enhance the review process for these petitions. Furthermore, in November 2022, Pakistan's parliament eliminated the death penalty for the crime of railway sabotage, marking a historic departure from the country's legal framework. This move aligned with numerous recommendations made over the years that called for a reduction in the number of capital offenses.

Pakistan's current policy aimed at restricting the use of the death penalty already reflects its commitment to reform. Explicitly endorsing the relevant recommendations could further highlight these efforts to the international community. However, in response to recommendations received during its fourth UPR cycle, Pakistan continued its practice of neither "supporting" nor "rejecting" any of them, consistent with its approach in previous cycles.

Cycle	Total Recommendations	Noted	Supported
1st cycle (2008-2012)	02	02	0
2nd cycle (2012-2016)	12	12	0
3rd cycle (2017-2021)	35	35	0
4th cycle (2023-2027)	25	25	0

**TABLE 1**  
**PAKISTAN'S POSITION ON RECOMMENDATIONS**  
**(CYCLE-WISE BREAKDOWN)**



Cycle	1st Cycle	2nd Cycle	3rd Cycle	4th Cycle	Total Recommendations
Rank 1	0	0	0	0	0
Rank 2	0	0	1	0	1
Rank 3	1	3	7	4	15
Rank 4	1	1	2	3	7
Rank 5	1	11	26	16	54

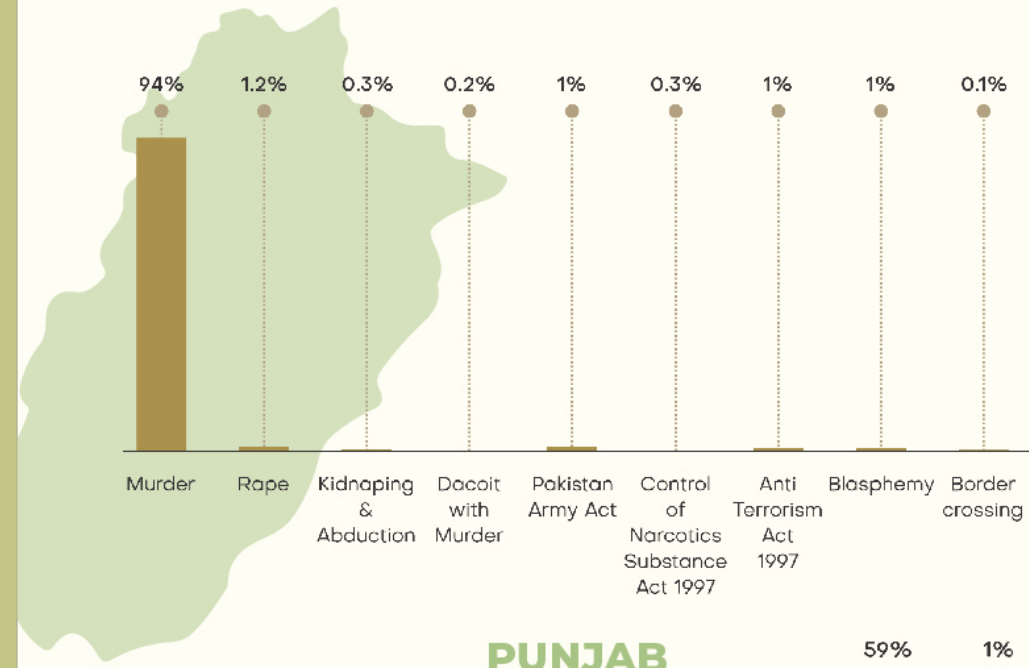
**TABLE 2**  
**RANK WISE DISTRIBUTION OF DEATH PENALTY RECOMMENDATIONS MADE TO PAKISTAN**

*\*According to the Action Category of the UPR info database, the recommendations should be ranked on a scale from 1 (minimal action) to 5 (specific action). The above table depicts that most recommendations regarding the death penalty fall under Rank 5; whereas, Rank 5 refers to 'Recommendation of specific action' (Example of verbs: conduct, develop, eliminate, establish, investigate, undertake as well as legal verbs: abolish, accede, adopt, amend, implement, enforce, ratify). This indicates that specific actions are required from Pakistan, such as bringing use of capital punishment in line with international standards, or reducing the number of capital crimes in Pakistan's penal code.*

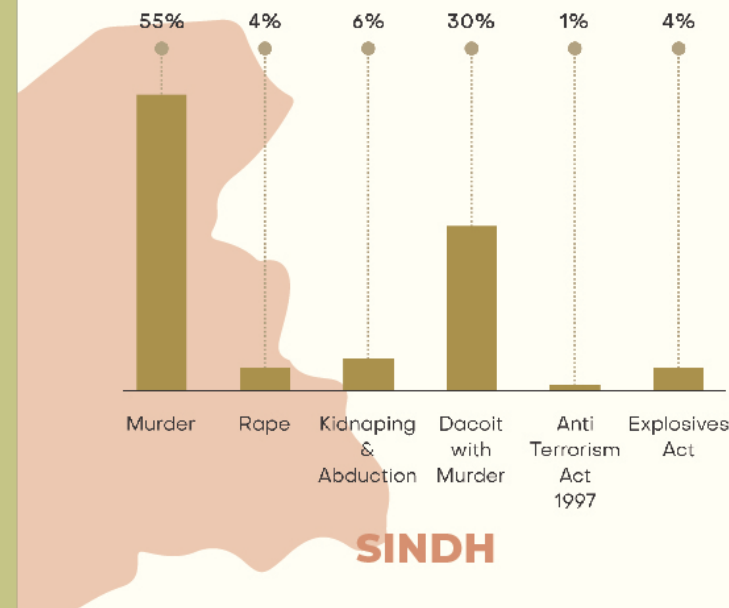
Furthermore, the data in Table 2 also indicates a significant increase in the number of Rank 5 recommendations during Pakistan's 3rd UPR cycle, corresponding to the resumption of executions in 2014. However, this number has subsequently decreased in the 4th UPR cycle, aligning with the absence of executions in Pakistan since December 2019. Despite Pakistan's practical efforts to address these recommendations, its official response to UPR recommendations to bring reform in the use of the death penalty remains unsatisfactory.

# CRIME-WISE FIGURES FOR CURRENT DEATH ROW PRISONERS

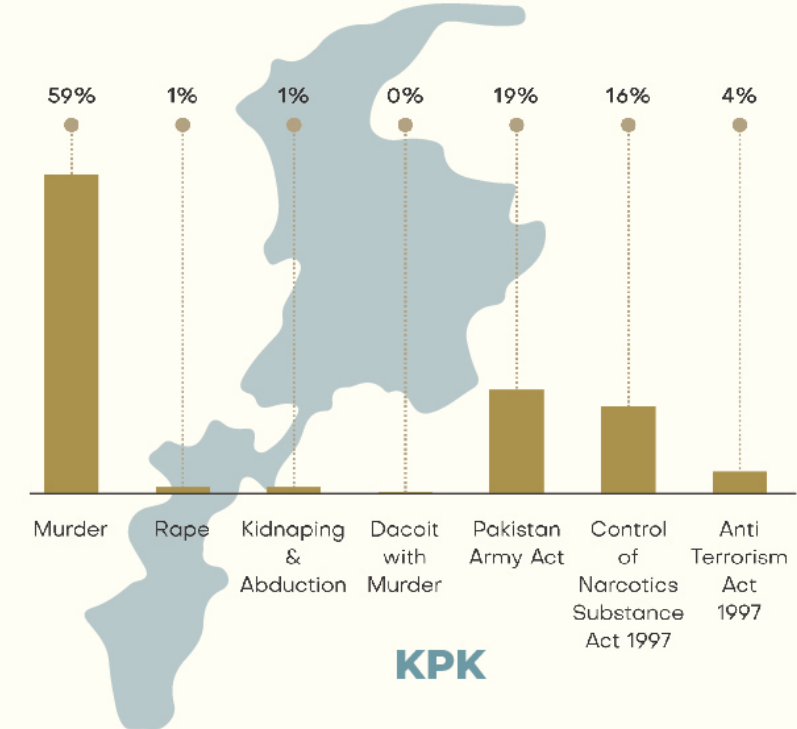
Examining the nature of their offenses and the characteristics of those sentenced to death in Pakistan can provide an overview of the composition of the death row population and shed light on the prevailing patterns in capital punishment cases.



## PUNJAB



## SINDH



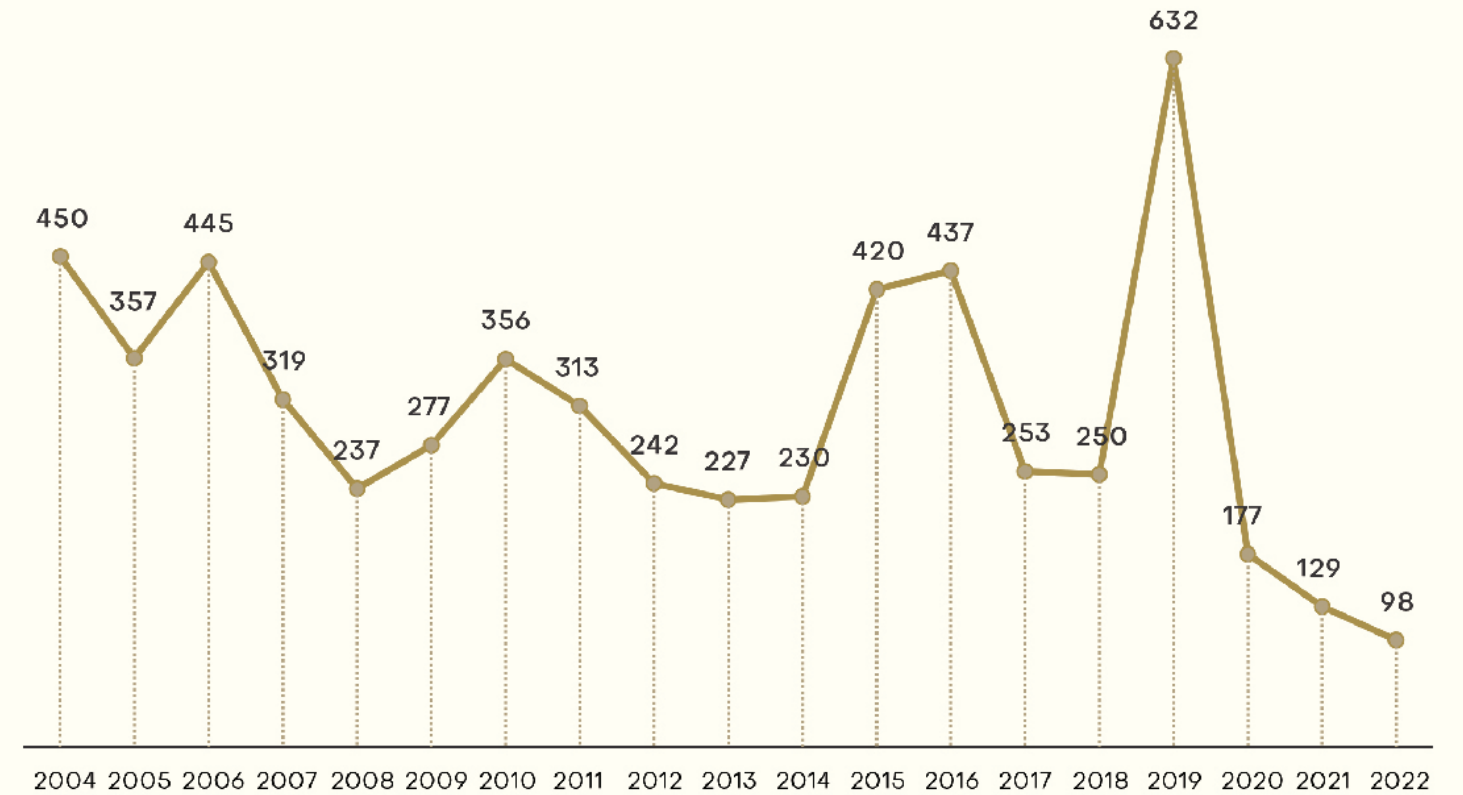
## KPK

In examining the nature of offenses that have led to death sentences in Pakistan, it becomes apparent that the composition of the death row population varies significantly across provinces. Punjab, with its higher death row population, predominantly sentences individuals for murder, constituting a staggering 94% of its death row inmates. In contrast, Sindh sees a more diverse range of capital offenses, with murder accounting for 55%, but also notable percentages for dacoity with murder at 30% and kidnapping and abduction at 6%. Khyber Pakhtunkhwa (KP), on the other hand, presents a unique profile, with murder making up 59% of death sentences, but also with a significant proportion (19%) falling under the Pakistan Army Act. These regional disparities in the types of offenses leading to death sentences underscore the complex landscape of capital punishment in Pakistan.

# TRENDS IN ANNUAL DEATH SENTENCES AWARDED BY LOWER COURTS

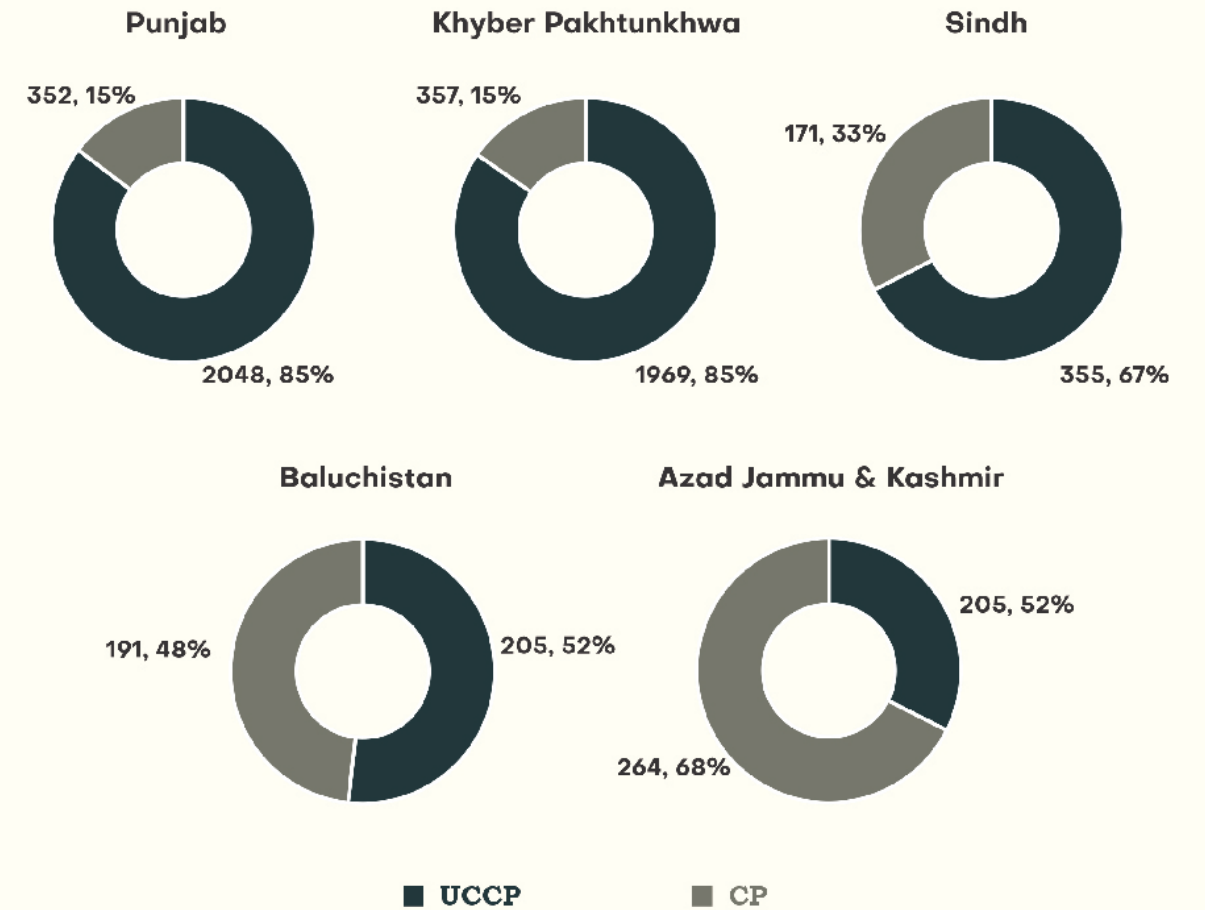
Over the past decade, Pakistan has witnessed significant fluctuations in the number of death sentences awarded each year. The statistics reveal a noteworthy pattern in the country's approach to capital punishment. In the mid-2000s, the number of death sentences stood consistently high, with 450 sentences in 2004 and 445 in 2006, reflecting a punitive stance on criminal offenses. However, as we move into the late 2010s, there has been a notable decline. In 2019, a total of 632 death sentences were handed down, primarily by the model courts established during former Chief Justice Asif Saeed Khosa's tenure. This marked a stark contrast to 2020 when the number of death sentences plummeted to 177, signifying a considerable shift in the country's approach to capital punishment.

This decrease may indicate a growing awareness of international human rights standards, as well as the impact of legal reforms and the establishment of model courts in Pakistan. As the country navigates these changes, it becomes increasingly important to analyse the factors contributing to this decline in death sentences and explore the implications for the future of capital punishment in Pakistan.





# STATUS-WISE DISTRIBUTION OF DEATH ROW PRISONERS



● UCCP  
● CP

*In practice, the legal journey of an individual sentenced to death in Pakistan unfolds in a multi-stage process. Initially, they receive their death sentence from a session court. Upon filing an appeal in the high court, these individuals are referred to as Unconfirmed Condemned Prisoners (UCCP). However, if the high court rejects their appeal, they transition into the category of Condemned Prisoners (CP). Subsequently, if they decide to pursue an appeal in the Supreme Court, their designation as CP persists. If their appeal is denied in the Supreme Court, they remain CP. At this juncture, they may opt to file a Mercy Petition (MP) before the President, seeking clemency.*

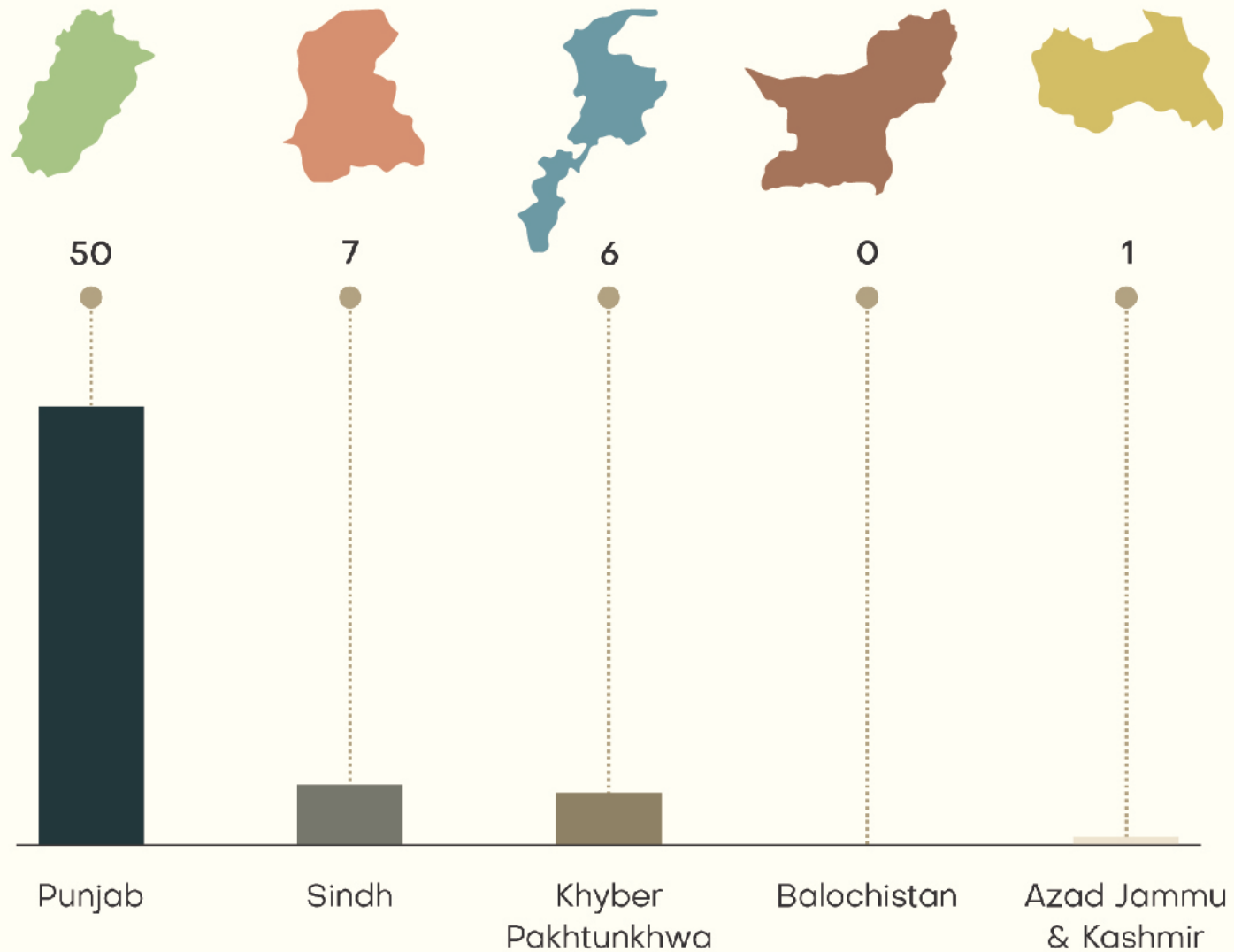
In the current landscape, the legal journey for individuals sentenced to death in Pakistan is marked by significant delays and complexities. As of the latest available data, there are 4,704 appeals pending before the High Court, signifying the substantial caseload awaiting review. High Court decisions have resulted in the rejection of appeals, with 184 cases in Baluchistan, 104 in Punjab, and 12 in Sindh. Subsequently, those individuals find themselves with their cases pending before the Supreme Court, seeking a final verdict on their fate.

Furthermore, the legal process extends to the executive branch, where 64 Mercy Petitions are currently pending before the President of Pakistan, including one before AJK's president. These petitions represent a critical juncture in the legal journey, as the President holds the power to grant pardon, reprieve, or respite and to remit, suspend, or commute any sentence.

The numbers underscore the significant challenges and delays faced by individuals navigating the Pakistani criminal justice system, which often translates into extended periods of uncertainty for those on death row.

The entire process, from being sentenced to death by a session court to the potential consideration of their MP by the President, is marked by significant delays, often spanning an average waiting period of approximately "ten years" for the case to be heard by the Supreme Court and beyond. Due to the consistent imposition of death sentences by lower courts and the substantial backlog of appeal cases in the Supreme Court, death penalty cases often take years to reach their conclusion. This extended duration underscores the complex and protracted nature of the death penalty appeals process in Pakistan, where not only legal appeals but also the MP itself can take years before a final decision is reached.

# PENDING MERCY PETITIONS BEFORE THE PRESIDENT



*Province-wise Breakdown of Mercy Petitions pending before President*

Currently, there are 64 mercy petitions awaiting the President's consideration, representing a pivotal moment in the nation's legal landscape. These petitions, which encompass 50 cases from Punjab, seven from Sindh, six from Khyber Pakhtunkhwa, and one from Azad Jammu and Kashmir, underscore the intricate intersection of justice and compassion. Article 45 of the Constitution empowers the President to exercise clemency by granting pardons, reprieves, and respite, as well as remitting, suspending, or commuting sentences passed by any court or authority. It's worth noting that in October 2022, President Dr. Arif Alvi rejected the mercy petitions of seven condemned prisoners. However, these decisions faced a halt at a later stage, raising questions about the delicate balance between the pursuit of justice and the recognition of human rights.

# TREATMENT & CONDITIONS FOR DEATH ROW PRISONERS – EVIDENCE FROM PAKISTAN

## ALARMING INCIDENTS OF TORTURE AND CIDT IN PAKISTAN

Highlighting several alarming cases that exemplify the harsh realities faced by death row prisoners within the criminal justice system in Pakistan, these incidents serve as stark reminders of the urgent need for reform and human rights protections for those awaiting execution.

## ABDUL BASIT A TALE OF CRUEL AND INHUMAN TREATMENT

Abdul Basit's harrowing journey commenced when he was initially incarcerated at Sahiwal jail for 18 months, before being transferred to Central Jail, Faisalabad, in 2009. The year 2010 saw Central Jail, Faisalabad, marred by riots provoked by the persistent brutal treatment inflicted upon inmates by the Superintendent Jail. In response to the turmoil, several prisoners, including Abdul Basit, found themselves confined to the punishment ward of the prison. Inside these punitive confines, Abdul Basit became a victim of "cruel, inhuman, and degrading treatment (CIDT)," enduring unspeakable hardships in appallingly unsanitary living conditions. His ordeal reached its zenith on 29.07.2010 when he was eventually extracted from the punishment ward, having been unconscious for a harrowing week. On 01.08.2010, he was rushed to DHQ Hospital, Faisalabad, classified as an "emergency case."

Tragically, Abdul Basit's condition had deteriorated to such an extent that he could no longer control his bodily functions, yet authorities at Central Jail Faisalabad and the hospital displayed reluctance in providing him basic care, such as changing his clothes or removing his fetters. This neglect flagrantly violated Rule 650(iv)2 of the Pakistan Prison Rules, 1978, and Rule 47 of the Mandela Rules<sup>3</sup>. Amidst his stay at DHQ Hospital, Abdul Basit was diagnosed with Tuberculous (TB) Meningitis, an exceptionally dangerous ailment characterized by inflammation of the membrane surrounding the brain or spinal cord<sup>4</sup>. Untreated, this form of Meningitis inflicts permanent damage<sup>5</sup>. Regrettably, Abdul Basit languished without medical attention for months before being transferred to DHQ Hospital, a delay that significantly contributed to his subsequent paraplegia, a condition that could have been prevented.

In September 2010, following his release from DHQ Hospital, the Medical Officer at Central Jail, Faisalabad, urgently referred Abdul Basit to the Medical Superintendent at DHQ Hospital, stating that his health was deteriorating rapidly. On 01.02.2011, the Lahore High Court, hearing his criminal appeal, directed the Superintendent of Central Jail, Faisalabad, to convene a medical board to evaluate whether Abdul Basit could be treated within the prison. In the board's report, the Medical Superintendent acknowledged the tremendous difficulty in managing Abdul Basit's health while incarcerated.



## **IMTIAZ BIBI VS MOHR PURSUIT OF JUSTICE AMIDST ALLEGATIONS OF CUSTODIAL TORTURE**

The case of Imtiaz Bibi vs. MOHR represents a compelling quest for justice against the backdrop of alleged custodial torture within Central Jail, Rawalpindi. On 15.09.2022, Ms. Imtiaz Bibi, the mother of the purported victim of torture, Mr. Shahab Hussain, filed a grievance before the Honourable Chief Justice of the Islamabad High Court. The complaint detailed severe torture inflicted by the jail authorities upon Mr. Shahab Hussain. Subsequently, the complaint was transformed into Writ Petition No. 3512/2022 on 19.09.2022 by the Honourable Islamabad High Court, initiating legal proceedings.

Remarkably, a medical examination conducted at the Pakistan Institute of Medical Sciences (PIMS) confirmed the allegations of torture outlined in the prisoner's parents' complaint. The examining doctor attributed the marks on the prisoner's body to likely torture. Despite these claims, the Superintendent of Central Jail, Rawalpindi, initially denied any misconduct. However, following further investigation, an initial report submitted by the National Commission for Human Rights (NCHR) on 22.09.2022 suggested a serious abuse of power and mistreatment of inmates within the administration of Central Jail, Rawalpindi, thus warranting a more extensive inquiry.

In response to the initial report, the Honourable Islamabad High Court, on 23.09.2022, directed the NCHR to conclude the investigation promptly and submit a comprehensive final report. On 24.09.2022, the Honourable Chief Justice of the Islamabad High Court visited Central Jail, Rawalpindi, accompanied by three Honourable Justices of the Islamabad High Court, District and Sessions Judges (East & West) Islamabad, Mr. Nadeem Ashraf (Member NCHR Punjab), Mr. Afzal Latif (Secretary Ministry of Human Rights), and Mr. Fazal-ur-Rehman (Special Secretary Home Department Punjab). During this visit, the Honourable Chief Justice interacted with several prisoners who reported instances of torture and inhuman treatment by prison authorities.

Subsequently, on 24.10.2022, the final inquiry report submitted by NCHR affirmed the grave allegations, stating that "35 inmates recorded their statements, 26 prisoners (74%) have alleged torture and inhuman and degrading treatment of different types."

## **GHULAM ABBAS A TROUBLING ORDEAL IN THE NAME OF TREATMENT**

The case of Mr. Ghulam Abbas casts a disconcerting light on the treatment of mentally ill death row prisoners. Since March 2021, Mr. Ghulam has been housed at the Punjab Institute of Mental Health (PIMH). Bafflingly, despite his deteriorating mental state, he is subjected to the constant presence of four police guards stationed outside his room to prevent him from posing harm to others within the institute. Given Mr. Ghulam's incapacitated condition, he poses no genuine threat to either the guards or fellow patients. Nevertheless, he endures the unnecessary restraint of fetters on his ankles throughout the day and night.

Mr. Ghulam, a 39-year-old mentally ill prisoner under strict supervision, should ideally receive rehabilitation and treatment. However, the application of shackles on him, regardless of his condition, constitutes both cruelty and inhumanity. These restraints serve no legitimate purpose and only serve to exacerbate his physical discomfort and mental distress.

Furthermore, these actions violate "Rule 650 of the Pakistan Prison Rules 1978," explicitly stating that bar fetters should not be imposed on prisoners who, due to age, physical infirmity, or serious illness, are unfit, as determined by the Senior Medical Officer. Placing such restraints on an individual with a severe medical condition only worsens their mental and physical health, and Mr. Ghulam should never have been subjected to fetters while in PIMH for treatment.

These actions also contravene "Rule 47" of the UN Standard Minimum Rules on the Treatment of Prisoners (Mandela Rules), which strictly prohibits the use of inherently degrading or painful instruments of restraint. Regardless of his death row status, Mr. Ghulam is entitled to the same professional standards and appropriate treatment as any other patient.

Moreover, international human rights principles, including the "Universal Declaration of Human Rights" (Article 5) and the "Declaration on the Protection of All Persons from Being Subjected to Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CIDTP)" (Article 2), unequivocally condemn torture, cruel, inhuman, and degrading treatment or punishment, emphasizing the obligation of governments to uphold human dignity and respect for all individuals. Additionally, Article 15 of the UNCRPD reinforces these prohibitions, safeguarding persons with disabilities from cruel, inhuman, and degrading treatment, reinforcing the government's duty to treat Mr. Ghulam with the utmost dignity and respect.

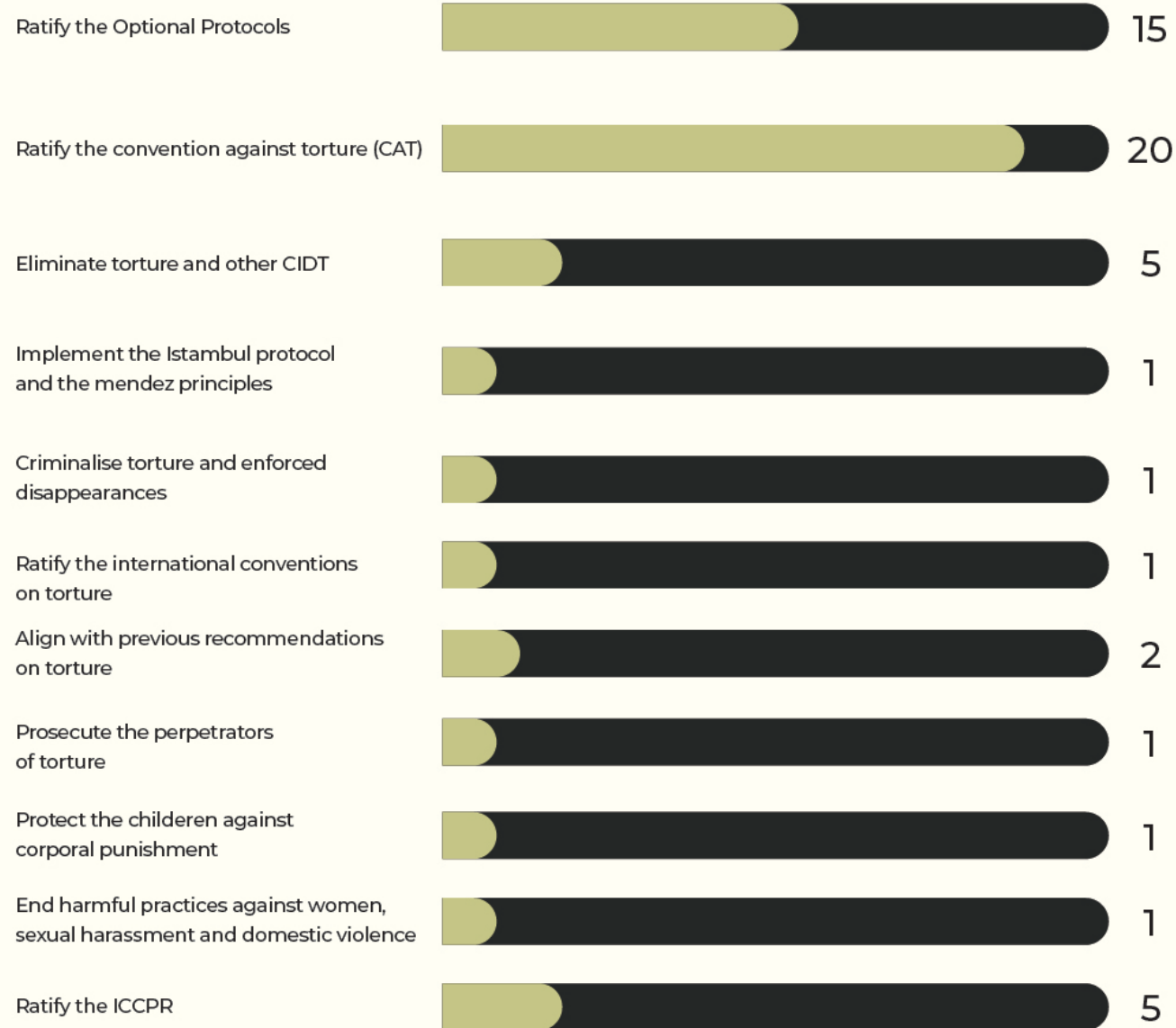
# ANALYSIS

These cases, though deeply disturbing, represent only a fraction of the numerous cases handled by JPP's Legal team. Many others face similar or worse conditions, underscoring the pervasive issue of mistreatment and torture within Pakistan's prison system. The alarming instances of torture, cruel, inhuman, and degrading treatment underscore the necessity of ensuring that the rights and well-being of all prisoners, including those facing the ultimate penalty, are protected and upheld.

Further, Pakistan's fourth UPR (2023), has seen multiple recommendations issued on torture (see fig 6). In October 2022, Pakistan passed the Torture and Custodial Death (Prevention and Punishment) Act 2022, specifically criminalizing the act of torture for the first time in the country's history. The recommendations issued called for signing and ratifying the Optional Protocol once again, but also included recommendations on promoting compliance with the new law, and formulating comprehensive rules for the investigation and prosecution of torture allegations in line with international standards.

The monumental step taken by the Government of Pakistan last year in passing legislation criminalizing torture reveals the potential space for positive human rights reform in the country, and is indicative of the Government's will to take further steps to curb the endemic issue of torture by public officials. This should be reflected in Pakistan's response to the recommendations it has received in its fourth UPR cycle, in order to reaffirm its commitment to its citizens and the international community on reducing torture in its jurisdiction.





**FIGURE 6: THEME-WISE BREAKDOWN OF RECOMMENDATIONS ON TORTURE & OTHER CID TREATMENT**

### COMMUNICATION RESTRICTIONS FOR CONDEMNED PRISONERS

Condemned prisoners in Pakistan grapple with severe communication constraints, exemplified by limited or no access to phones or Public Call Offices (PCOs). These restrictions exacerbate their isolation, hindering their ability to maintain connections with their families and legal representatives. Such isolation can compound the anguish of death row inmates, further entrenching their vulnerability.

### ABSENCE OF REMISSIONS FOR DEATH ROW PRISONERS

The absence of remissions for death row prisoners in Pakistan is a glaring omission that stands in stark contrast to prevailing penal norms. While other incarcerated individuals may benefit from sentence reductions based on good behaviour or participation in rehabilitation programs, death row inmates are systematically excluded from such opportunities, compounding the severity of their confinement.

### AGE-DETERMINATION PROTOCOL AND PROOF OF JUVENILITY

An enduring concern within Pakistan's criminal justice system is the inadequate implementation of an age-determination protocol, raising questions about the proof of juvenility for certain death row prisoners. This issue highlights the potential violation of international standards that prohibit the execution of individuals who were minors at the time of their alleged offenses.

### DOUBLE PUNISHMENT AND PROLONGED INCARCERATION

An enduring concern within Pakistan's criminal justice system is the inadequate implementation of an age-determination protocol, raising questions about the proof of juvenility for certain death row prisoners. This issue highlights the potential violation of international standards that prohibit the execution of individuals who were minors at the time of their alleged offenses.

### LIMITED HEALTHCARE ACCESS

Healthcare access for death row prisoners in Pakistan remains a pressing concern. These individuals often face significant health challenges, exacerbated by the harsh conditions of incarceration. Limited access to medical care can lead to the deterioration of their physical and mental well-being, perpetuating suffering and human rights violations within the prison system. Addressing this issue is essential to upholding the basic rights and dignity of death row inmates.

# DATA LIMITATIONS AND SOURCES

While compiling the data for this report, it's essential to acknowledge certain limitations and provide insight into the sources of our information.

Firstly, we regret to inform our readers that data from Gilgit Baltistan is notably missing from our dataset. The absence of this region's data underscores the need for comprehensive and standardized data collection practices nationwide.

Secondly, it's important to recognize that most of the prison statistics presented in this report are compiled by the respective prison departments themselves. While efforts are made to maintain accuracy and reliability, inherent biases or variations may exist in the data due to differences in reporting methods and practices across various regions and institutions.

Despite these limitations, we wish to highlight that the data used in this report has been obtained through official channels, primarily via the respective jails and provincial prison departments, ensuring a degree of credibility and transparency in the information presented. However, it's crucial to remain vigilant and continually advocate for improved data collection and reporting practices to facilitate evidence-based policy decisions and promote transparency in the criminal justice system.

# CONCLUSION

The analysis underscores the substantial backlog of appeal cases in the Supreme Court, leading to prolonged delays in the resolution of capital punishment cases. The examination of mercy petitions and the President's role in recent cases emphasizes the need for a closer look at the clemency process. Additionally, fluctuations in the number of death sentences awarded and the impact of various legal provisions on the death row population reveal the dynamic nature of capital punishment in the country.

Statistical analysis shows that Punjab and Khyber Pakhtunkhwa bear the highest proportions of death row prisoners, primarily convicted of murder, with distinct patterns reflecting regional trends. The scrutiny of recommendations during Universal Periodic Review (UPR) cycles underscores international concerns regarding Pakistan's use of the death penalty. While Pakistan has taken steps to align its practices with international standards, supporting these recommendations could enhance its international standing, particularly in relation to its GSP+ status. Stakeholders and policymakers should consider these findings and recommendations for a more equitable and just legal system, while also recognizing the potential impact on Pakistan's trade and international relations under the GSP+ arrangement.



# DATA SOURCES

Balochistan Prison Department

Punjab Prison Department

Khyber Pakhtunkhwa Prison Department

Sindh Prison Department

AJK Prison Department

# REFERENCES

**1** <https://www.prison-insider.com/en/articles/pakistan-conditions-de-detention-des-condamnes-a-mort>

**2** Prisoners exempted absolutely-Rule 650, “Fetters shall not to be imposed on the following:

(i) Women prisoners;

(ii) Civil prisoners;

(iii) Convict officers; and

(iv) Prisoners who by reason of age, physical infirmity or serious illness, are, in the opinion of the Senior Medical Officer, unfit to be placed in fetters”.

**3** Instruments of Restraint- Rule 47 “1. The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited. 2. Other instruments of restraint shall only be used when authorised by law and in the following circumstances: (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority; (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.”

**4** [http://my.clevelandclinic.org/health/diseases\\_conditions/hic\\_Bacterial\\_Meningitis](http://my.clevelandclinic.org/health/diseases_conditions/hic_Bacterial_Meningitis)

**5** <https://emedicine.medscape.com/article/1166190-overview?reg=1#a3>

<https://emedicine.medscape.com/article/1166190-overview?reg=1#a6>

<https://emedicine.medscape.com/article/1166190-overview?reg=1#a5>

**6** <https://jpp.org.pk/pakistans-compliance-with-article-6-the-right-to-life-iccpr/>

# ANNEXURE

SERIAL NO.	OFFENCE	NATURE OF CRIME	COMMENTS
1	Giving or fabricating false evidence with intent to procure conviction of capital offence – s. 194 PPC	Perjury	
2	Stripping of women in public s.354-aA PPC	Stripping a woman in public	
3	Kidnapping for unnatural lust s.367A PPC	Kidnapping for unnatural lust	Added to PPC by Protection of Women Act 2006
4	Punishment for Rape s.376 PPC	Rape	Sub-divided: ss. (1) rape, (2) gang rape
5	Kidnapping for ransom s.365-A PPC	Kidnapping	
6	Kidnapping child under 14 s.364-A PPC	Mutiny	
7	Successful mutiny s.132-A PPC	Mutiny	

SERIAL NO.	OFFENCE	NATURE OF CRIME	COMMENTS
8	Mutiny s.31 of the Pakistan Army Act	Mutiny	
9	Offences of Mutiny s.36 of the Pakistan Navy Ord. 1961	Mutiny	
10	Failure to suppress mutiny s.36 of the Pakistan Navy Ord. 1961	Mutiny	
11	Mutiny s.37 of the Pakistan Air Force Act 1953	Mutiny	
12	Airplane Hijacking s.402-C PPC	Hijacking	
13	Harbouring Hijacking s.402-C PPC	Hijacking	
14	Waging and abetting war against Pakistan s.121 PPC	Waging and abetting war	

SERIAL NO.	OFFENCE	NATURE OF CRIME	COMMENTS
15	Zina s.5 of Offences of Zina (Enforcement of Hudood) Ord. 1979	Zina	Hadd offence
16	Dacoity resulting in Murder 396 PPC		Hadd offence
17	Punishment of Haraabah s.17(4) Offences Against Property (Enforcement of Hudood) Ord. 1979		
18	s.2 High Treason (Punishment) Act 1973	Treason	
19	s.24 of the Pakistan Army Act	Offences in relation to the enemy and punishable by death	
20	s.34 of the Pakistan Air Force Act	Offences in relation to the enemy and punishable by death	
21	Misconduct in action by persons in command s.29 of the Pakistan Navy Ord. 1961	Misconduct in action by persons in command	

SERIAL NO.	OFFENCE	NATURE OF CRIME	COMMENTS
22	Misconduct in action by other officers and men -s.30 of the Pakistan Navy Ord. 1961	Misconduct in action by other officers and men	
23	Obstruction of Operation s.31 of the Pakistan Navy Ord. 1961	Obstruction of Operation	
24	Corresponding with, supplying or serving with the enemy s.32 of the Pakistan Navy Ord. 1961	Corresponding with supplying or serving with the enemy	
25	s.26 of the Pakistan Army Act	Disclosure of Parole or Watchword	
26	s.13A(c)(1) of Pakistan Arms Ordinance 1965	Arms Trading	
27	s.3 of the Explosives Act	Explosives Act	Triable by Anti-Terroris Courts as per s.6(3) and 3rd schedule of the Anti-Terrorism Act 1997
28	Unintentional murder – 301 PPC	Homicide	

SERIAL NO.	OFFENCE	NATURE OF CRIME	COMMENTS
29	Qatal-e-Amad – 302 PPC	Homicide	
30	Punishments for acts of terrorism s.7 of the Anti-Terrorism Act 1997	Terrorism	
31	Blasphemy – s.295-C PPC	Blasphemy	





Justice Project Pakistan (JPP) is a legal action non-profit that provides pro-bono legal representation to the most vulnerable Pakistani prisoners facing harshest punishments. Our clients include those facing the death penalty, the mentally ill and victims of police torture. In December 2016, JPP's Executive Director was presented the National Human Rights Award by the President of Pakistan.