



**Submission to Report of the Secretary-General to the
General Assembly on the question of a moratorium
on the use of the death penalty, pursuant to
resolution 75/183 of the General Assembly**

1. The right to apply for pardon or commutation

Although the President of Pakistan possesses the constitutional authority to pardon death row defendants¹, in practice such petitions are always denied². Moreover, reviewing mercy petitions in Pakistan is a perfunctory practice, plagued with glaring omissions, lack of transparency and due process violations. All these factors violate Pakistani death row prisoners' constitutional right to have their clemency petitions meaningfully considered. Since the moratorium was lifted, the President has only granted stays of execution, however, no pardons or commutations have been granted to death row prisoners.³

In 2019, the Federal Ministry of Human Rights received approval to reform the mercy petitions procedure.⁴ In October 2019, the Ministry of Interior issued new Standard Operating Procedures (SOPs) for mercy petitions to streamline the process by which they are drafted, submitted and decided.⁵ However, these SOPs, containing only cursory changes, failed to meet international standards or fulfil Pakistan's obligations under international law, and were never implemented uniformly. Thereafter, mercy petitions with strong evidence of humanitarian abuses and violations continue to be wrongfully rejected by the provincial committees as they lack any direction for review under the SOPs.

The Criminal Law and Justice Reforms Bill 2022, drafted by the previous Ministry of Law and Justice, contained a significant set of proposed amendments that aimed to revamp the procedure through which mercy petitions are reviewed in Pakistan in line with the recommendations of the UN Human Rights Committee during Pakistan's state review in 2017.⁶ However, owing to a continued failure to reintroduce this Bill, these reforms remain absent to the mercy petitions procedure.

a. Case Study: Abdul Basit

In 2009, Abdul Basit was sentenced to death. While in Central Jail Faisalabad, in August 2010, he contracted tubercular meningitis, leaving him paralyzed from the waist down due to inaction by jail authorities. His mercy petition to the President was rejected because crucial medical records documenting his condition were not included. Despite two stays of execution in 2015 due to his paraplegic condition, Basit remains in limbo, shuttling between his death

¹ Article 45, Constitution of the Islamic Republic of Pakistan

² "Pakistan Operating a Blanket Policy of Refusing All Mercy Petitions." Daily Times, April 11, 2018. <https://dailytimes.com.pk/226884/pakistan-operating-a-blanket-policy-of-refusing-all-mercy-petitions>

³ Between 2014 and 2019, a period which saw 516 people executed in Pakistan, not a single pardon was granted. See: Justice Project Pakistan, Yale Law School, *No Mercy – A Report on clemency for death row prisoners in Pakistan*, 4, https://www.jpp.org.pk/wp-content/uploads/2018/04/No-Mercy_Final-Report1.pdf.

⁴ Human Rights Committee, *Concluding observations on the initial report of Pakistan, Addendum, Information received from Pakistan on follow-up to the concluding observations* (May 29, 2012), UN Doc. CCPR/C/PAK/CO/1/Add.1, ¶ 7.

⁵ Justice Project Pakistan, *Submission for the United Nations Secretary General's Report on the Question of the Death Penalty* (Mar. 2022), <https://www.ochr.org/sites/default/files/2022-6/DP-HRC51-JPP.pdf>.

⁶ The Committee recommended that "pardon or commutation of the sentence is available in all cases, regardless of the crime committed; and it is never imposed in violation of the Covenant, including in the absence of fair trial procedures". See: Justice Project Pakistan, *Submission for the United Nations Secretary General's Report on the Question of the Death Penalty* (Mar. 2022), <https://www.ochr.org/sites/default/files/2022-6/DP-HRC51-JPP.pdf>.

cell and a hospital. A new mercy petition filed in 2020 by JPP is still pending. This case highlights systemic human rights violations and the President's unwillingness to grant pardons.⁷

2. Data on Pakistan's use of capital punishment

On December 17, 2014, Pakistan lifted a seven-year moratorium on the death penalty in the wake of the tragic attack on the Army Public School in Peshawar. Pakistan subsequently executed 300+ persons on death row within a year followed by 325 in 2015, 88 in 2016, 66 in 2017, 15 in 2018, and 10 in 2019.⁸ As of October 2023, there are 6,039 individuals on death row in Pakistan, nearly double the 3,831 recorded in 2022.⁹ Under a Supreme Court direction, the Federal Ombudsman of Pakistan is required to disclose annual death penalty figures, but the 2023 report does not mention death row prisoners¹⁰. Additionally, data from provincial prison authorities and judiciary is rarely compiled or published. It's crucial for the Ministry of Human Rights and the National Commission for Human Rights (as the national human rights institution) to collate and publish this information.

Data collected by JPP shows that of these 6,039 condemned prisoners, the highest number are in Punjab (2,400) followed closely by Khyber Pakhtunkhwa (2,326). Sindh holds 526 death row prisoners, with Balochistan holding 396 and Azad Jammu & Kashmir (AJK) holding 391.¹¹

⁷ **Ismail Parvez**, a death row prisoner in Central Jail Rawalpindi with a documented history of severe psychosocial disability and more than one suicide attempt in prison, has had his mercy petition pending before the President since 2020. An Anti-Terrorism Court convicted Parvez under the Anti-Terrorism Act 1997 for killing two individuals in 2014. Since 2007, Parvez has been held in prison, instead of a mental health facility where his illness can be accommodated, despite numerous medical boards and forensic psychiatric facilities. Furthermore, Ismail's detention, trial and incarceration have not adequately taken his psychosocial disability into account, nor were his rights upheld in a way that accommodated said psychosocial disability.

Ghulam Abbas was sentenced to death in 2006 for fatally stabbing his neighbour in Rawalpindi. His appeals in the Lahore High Court and the Supreme Court were rejected in 2010 and 2016 respectively, and his mercy petition was rejected by the President of Pakistan in 2019. His family has a long-rooted history of mental illness, and in 2019, he was declared unfit for execution by a medical board, who found Ghulam to be suffering from epilepsy and depression. In 2020, as result of a petition filed by JPP on behalf of Ghulam and two other clients, Kanizan Bibi and Imdad Ali, the Supreme Court ordered the constitution of a medical board to examine him. The board confirmed that Ghulam was schizophrenic, and the Supreme Court ordered a fresh mercy petition be filed on his behalf that takes his disability into account. While Ghulam has since been moved to Punjab Institute of Medical Health, he is currently being shackled, in violation of the Mandela Rules. His mercy petition has not yet been decided upon.

⁸ Justice Project Pakistan, Death Penalty Database, Library • Justice Project Pakistan - Death Penalty Database <https://data.jpp.org.pk/>

⁹ **For a detailed data breakdown of Pakistan's death penalty landscape, visit:** Justice Project Pakistan. *Death Penalty in Pakistan: Data Mapping Capital Punishment.* (2023) <https://jpp.org.pk/report/death-penalty-in-pakistan-data-mapping-capital-punishment/>. See also: Justice Project Pakistan, Death Penalty Database, Library • Justice Project Pakistan - Death Penalty Database <https://data.jpp.org.pk/>

¹⁰ Federal Ombudsman of Pakistan. Annual Report 2023. <https://mohtasib.gov.pk/SiteImage/Downloads/WMS-Annual-Report-2023.pdf>

¹¹ Justice Project Pakistan. *Death Penalty in Pakistan: Data Mapping Capital Punishment.* (2023) <https://jpp.org.pk/report/death-penalty-in-pakistan-data-mapping-capital-punishment/>. See also: Justice Project Pakistan, Death Penalty Database, Library • Justice Project Pakistan - Death Penalty Database <https://data.jpp.org.pk/>. JPP was unable to obtain data on the death row population of Gilgit & Baltistan.

Among the total death row population, only 62 are female, with significantly higher numbers of male inmates across all provinces. Punjab has 2,380 male and 20 female death row prisoners, Khyber Pakhtunkhwa has 2,297 males and 29 females, while Sindh's 526 death row prisoners are all male. Of Balochistan's 396, only 4 are female, and of AJK's 391, 9 are female.¹²

3. Pakistanis on death row abroad

Official estimates indicate 23,506 Pakistanis are jailed globally,¹³ mostly for non-lethal offences such as drug trafficking, theft and violation of immigration laws. Pakistani nationals also face the death penalty in other countries, such as Saudi Arabia and Iran, with 188 executions reported worldwide between 2010 and 2024. Of these, 176 were executed in Saudi Arabia.¹⁴

Pakistanis imprisoned abroad are at the mercy of local courts without access to adequate legal representation, impartial translators, or consular assistance from Pakistani diplomatic missions. These destitute Pakistanis face the harshest punishments due to their lack of understanding of and assistance with the legal process, incapability to communicate directly with the court, and inability to produce evidence from Pakistan in their defence.

Consular assistance, as provided for in the Vienna Convention on Consular Relations 1963, is an important aspect for their protection, particularly in cases where fundamental human rights are at risk, including the potential application of the death penalty.¹⁵ However, there is currently no uniform consular protection policy that regulates how this assistance is provided. In a crucial development, on 20th February 2024, the Senate Standing Committee on Human Rights directed the Ministry of Foreign Affairs to devise a consular protection policy within 90 days, highlighting the urgency of the situation.

4. Reducing the scope of the death penalty

Traditionally, Pakistan's criminal justice system fails to provide meaningful protection to persons suffering from mental illness at all stages such as arrest, trial, sentencing, detention and execution. In 2021, however, the Supreme Court of Pakistan delivered a landmark ruling titled *Safia Bano v. Home Department*¹⁶ establishing key safeguards and protections for defendants with psychosocial disabilities at every stage of the criminal justice system. The Court, in line with the ICCPR, barred the execution of individuals who are severely mentally ill and issued directions to the Federal and Provincial Governments to establish forensic

¹² Ibid.

¹³ According to data provided by the Ministry of Foreign Affairs. Justice Project Pakistan (2024) *Pakistanis Imprisoned Abroad: Interactive Webpage*. <https://jpp.org.pk/overseaspakprisoners/>

¹⁴ Justice Project Pakistan (2024) *Pakistanis Imprisoned Abroad: Interactive Webpage*. <https://jpp.org.pk/overseaspakprisoners/>

¹⁵ Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions. A/74/318. Para 18. Pg. 6

¹⁶ PLD 2021 SC 488

mental health facilities for the assessment, treatment and rehabilitation of under-trial prisoners and convicts with mental ailments.¹⁷

Moreover, Pakistan has taken the important step of reducing the number of capital crimes. Before November 2022, Pakistan applied the death penalty for 33 offences, many of which do not meet the standard laid down in the ICCPR.¹⁸ In its Second Periodic Report to the Human Rights Committee on compliance with the ICCPR, submitted in June 2022, the Government of Pakistan confirmed that it was examining the provisions of its criminal law to narrow the scope of the death penalty.¹⁹ Subsequently, the Government of Pakistan eliminated the death penalty for railway sabotage in November 2022,²⁰ and drug offences in July 2023.²¹

Despite these positive developments in reducing the scope of the death penalty, Pakistan, in its ICCPR state report, contested the definition of the ‘most serious crimes’ as laid down by the Human Rights Committee. Pakistan additionally voted against Resolution L.34 at the 54th Session of the Human Rights Council. This resolution affirmed the Committee’s definition of the ‘most serious crimes’, upheld procedural human rights safeguards that States must apply in their use of capital punishment, and opposed the death penalty for drug offences.

5. Moratorium on executions

Pakistan has not executed since December 2019. Increased domestic and international engagement by the UN Treaty Bodies and the GSP+ Monitoring framework with the Government of Pakistan has raised the political cost of executions, and we have witnessed several positive developments in Pakistan’s capital punishment regime in recent years. Importantly, in February 2024, the Senate of Pakistan rejected a bill seeking public executions for rape and child sexual abuse.²²

¹⁷ The Court commuted the death sentences of Kanizan Bibi and Imdad Ali to life imprisonment. Both prisoners suffered from schizophrenia and had spent 30 and 18 years respectively in prison prior to this ruling. The Court also judicially reviewed the third death row petitioner, Ghulam Abbas’s mercy petition and viewed it as deficient since it did not include material relating to his mental illness. Thereafter, the Court ordered it to be resubmitted in line with the new standards laid down in the judgement.

¹⁸A full list of Pakistan’s capital crimes is as follows: murder; robbery resulting in death; terrorism; kidnapping or abduction of a minor; kidnapping for ransom or extortion; abduction to subject someone to unnatural lust; blasphemy; adultery; stripping a woman’s clothes; gang rape; harabaha (robbery, rape or terrorism) with murder; sexual abuse; unnatural offences; mutiny and insubordination; abetment of mutiny; disclosure of parole, watchword, or countersign; giving or fabricating false evidence with intent to procure conviction of a capital offence; high treason; offences against the state; offences in relation to the enemy; arms trading; and hijacking and harboring hijacking.

¹⁹ Human Rights Committee, *Second periodic report submitted by Pakistan under article 40 of the Covenant, due in 2020* (Dec. 7, 2022), UN Doc. CCPR/C/PAK/2, ¶ 63.

²⁰ See *The Railway (Amendment) Bill 2022*; see also Sardar Sikander Shaheen, *Senate passes Railways (Amendment) Bill 2022 unanimously*, Business Recorder (Oct. 12, 2022), available at <https://www.brecorder.com/news/40202520>.

²¹ Gazette of Pakistan, *Control of Narcotics Substances (Amendment) Act 2023*, (2023) https://na.gov.pk/uploads/documents/64d4d874b52c0_506.pdf; Pakistan Today, *Pakistan ends capital punishment for drug trafficking convicts* (July 2023), <https://www.pakistantoday.com.pk/2023/07/26/pakistan-ends-capital-punishment-for-drug-trafficking-convicts/>.

²² The Express Tribune. *Senate shoots down public hanging bill*. (February 20, 2024). <https://tribune.com.pk/story/2457022/senate-shoots-down-public-hanging-bill>

Nonetheless, we have seen in the past that a *de-facto* moratorium can be fragile and fleeting, and runs the risk of being overturned at any time. As such, there remains a need for continued procedural reform to bring Pakistan's application of the death penalty in line with international human rights law.

a. Scheduled executions

On 10th October 2022, in the absence of a concrete policy articulating the Government's decision to halt executions, the President of Pakistan rejected the mercy petitions of seven death row prisoners jailed across Punjab. The first set of executions was scheduled to take place on the 13th of October 2022. However, the Government of Pakistan sprang to action to stop these executions and has since noted in official inter-ministerial communications that executions should be placed on hold indefinitely, in light of Pakistan's international human rights law commitments. Similarly, in September 2023, the High Court of AJK dismissed the writ petition seeking a stay on Muhammad Iftikhar Ahmed's execution, paving way for a death warrant to be issued. The Government of Pakistan, again, stepped in to halt the execution.²³ Iftikhar's mercy petition was filed in August 2023 and remains pending before the President of AJK.

These close calls highlight the dangers of an informal moratorium that has not been adequately communicated across all levels of government, and the need to institute an official moratorium on executions to reflect the Government's position on capital punishment.

6. Recommendations:

- Continue removing the death penalty for all crimes that do not fall within the scope of the 'most serious crimes' and commute the death sentences for all those convicted for these crimes.
- Maintain the official moratorium on executions.
- Commit to providing written reasoning for all decisions relating to the exercise of the power to pardon under Article 45 of the Constitution.
- Urgently consider the mercy petitions submitted on behalf of death row prisoners, especially those with serious psychosocial and/or physical disabilities with a view to commuting their sentences.
- Formulate and notify rules laying down the procedure through which mercy petitions are reviewed in order to ensure transparency, certainty, due process and objectivity in line with Pakistan's international law obligations, and to accord prisoners a meaningful opportunity to seek clemency.
- Enact a uniform consular protection policy for Pakistanis facing imprisonment and/or execution abroad.

²³ Pakistan's Constitution recognizes AJK as a self-governing state. However, according to the Interim Constitution of AJK, 1974, Pakistan holds exclusive jurisdiction over AJK's external affairs, including foreign trade and treaty implementation. As such, any executions carried out in AJK would contravene the Government of Pakistan's current policy on executions, and directly violate Pakistan's obligations under the GSP+.