



Home Office

# **Country Information and Guidance**

## **Pakistan: Prison conditions**

**Version 2.0**

**June 2016**

# Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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# Guidance

Updated 9 June 2016

## 1. Introduction

### 1.1 Basis of Claim

1.1.1 Fear of being imprisoned on return to Pakistan and that prison conditions are so poor that they amount to torture or inhuman or degrading treatment or punishment.

### 1.2 Other points to note

1.2.1 This guidance is concerned solely with whether prison conditions are such that the removal of a person who faces a real risk of imprisonment would be a breach of Article 3 ECHR. If so, they should be granted Humanitarian Protection or Discretionary Leave. If the person would be imprisoned for a Convention reason or subject to harsher treatment or punishment for a Convention reason they may be entitled to a grant of Refugee Leave.

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## 2. Consideration of Issues

### 2.1 Credibility

2.1.1 For further guidance on assessing credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Risk of imprisonment

2.2.1 Decision makers must establish the likelihood that the person will be imprisoned on return including if necessary whether the alleged offence constitutes an offence under Pakistan law, and if so, is one which is likely to be punishable by a term of imprisonment. For details on offences punishable by imprisonment, see the [Pakistan Penal Code](#). For information on police access to case records see the Country Information and Guidance on [Pakistan: Background information, including actors of protection, and internal relocation](#).

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### 2.3 Exclusion

2.3.1 If the decision maker believes that the person is likely to face imprisonment on return to Pakistan, consideration must be given as to whether Article 1F – in particular Article 1F(b) – of the Refugee Convention is applicable.

- 2.3.2 For further guidance on the exclusion clauses, discretionary leave and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention, the Asylum Instruction on Discretionary Leave and the Asylum Instruction on Restricted Leave: Article 1F](#).

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## 2.4 Death penalty

- 2.4.1 Pakistan imposes the death penalty for a range of criminal offences. The government ended an unofficial six-year moratorium on judicial executions in December 2014. Hundreds of executions have been carried out since the moratorium ended, including of minors and persons with mental or intellectual disabilities. (See also [Implementation of the death penalty](#)). For information on the judicial system, see the Country Information and Guidance [Pakistan: Background information, including actors of protection, and internal relocation](#).
- 2.4.2 Decision makers must establish the likelihood that the person will be imprisoned on return and whether they could face the death penalty. For details on offences punishable by the death penalty see [Offences punishable by the death penalty](#).
- 2.4.3 For further guidance regarding the death penalty, see section 3.1 of the [Asylum Instruction on Humanitarian Protection](#).

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## 2.5 Prison conditions

- 2.5.1 The country guidance case of [KA and Others \(domestic violence risk on return\) Pakistan CG \[2010\] UKUT 216 \(IAC\) \(14 July 2010\)](#) found that, whilst prison conditions are extremely poor, the evidence before the Tribunal did not demonstrate that in general prison conditions amounted to serious harm or ill-treatment contrary to Article 3 ECHR (paragraph 199).
- 2.5.2 Information indicates that conditions in some prisons have not altered significantly since [KA and others](#) was handed down and that they remain extremely poor, due to overcrowding, leading to health concerns, inadequate food and medical care. The situation in prisons is reportedly worse for detainees from minority communities, those accused of blasphemy, juveniles and those on death row (see [General conditions in prisons and detention centres](#) and [Ethnic and religious minorities](#)). There also continue to be reports of ill treatment and torture of some inmates (see [Custodial torture](#)).
- 2.5.3 Although prison conditions in general are not systematically inhuman and life-threatening so as to meet the threshold of Article 3, they may do so in individual cases. Decision makers must therefore carefully consider each case on its facts. For further guidance and factors to be taken into account see the [Asylum Instruction on Humanitarian Protection](#) and the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.6.2 For further information and guidance on certification, see the appeals instruction on [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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## 3. Policy summary

- 3.1.1 Prison conditions in Pakistan are extremely poor, but in general they are not so systematically inhuman and life-threatening as to meet the threshold of Article 3. Depending on the particular circumstances of the person concerned, prison conditions may however reach the Article 3 threshold in individual cases. The situation in prisons is reportedly worse for detainees from minority communities, those accused of blasphemy and those on death row. Each case needs to be considered on its facts
- 3.1.2 Where in an individual case treatment does reach the Article 3 ECHR threshold, a grant of leave will normally be appropriate.
- 3.1.3 Pakistan retains the death penalty for certain criminal offences. An unofficial six-year moratorium on judicial executions was ended in December 2014, since when hundreds of executions have been carried out. Where there is a reasonable likelihood that the person will face the death penalty, a grant of leave will normally be appropriate.

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# Country Information

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## 4. The Penal Code

### 4.1 The Pakistan Penal Code (PPC)

- 4.1.1 See the [Pakistan Penal Code \(Act XLV 1860\)](#), as amended to December 2011.<sup>1</sup>

## 5. Prison conditions

### 5.1 The administration of prisons

- 5.1.1 Under the Prisons Act of 1894, each provincial government has primary responsibility for the accommodation of prisoners and the management of the central, district and special prisons within its territory<sup>2</sup>, subject to the Pakistan Prison Rules of 1978 and certain other ordinances and acts.<sup>3</sup>

### 5.2 Prison occupancy

- 5.2.1 In 2015 there were 88 prison establishments in Pakistan. As of April 2015 the total prison population was 80,169, of whom 69.1 per cent were remand (awaiting trial) prisoners.<sup>4</sup> The official capacity of the prison system in April 2015 was 46,705, so the overall occupancy level that month was 171.6 per cent.<sup>5</sup> In 2014 the extent of prison overcrowding varied substantially from one province to another.<sup>6</sup>

- 5.2.2 The Human Rights Commission of Pakistan's (HRCP) annual report for 2014 considered that:

'In some prison barracks, a few convicts had to stand while the others slept or prisoners could not access the washroom in the night because sleeping prisoners covered the entire barrack floor. Such conditions amount to ill-treatment and are beyond the punishment of penal confinement that prisoners have to bear. Living in such close quarters to each other without

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<sup>1</sup> Pakistan Penal Code (Act XLV 1860), as amended to the Criminal Law (Third Amendment) Act, 28 December 2011 (XXVI of 2011), accessed via <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>, date accessed 5 February 2016

<sup>2</sup> The Prisons Act, 1894, accessed via [https://www.icrc.org/ihl-nationalnsf/a24d1cf3344e99934125673e00508142/2b59eb02419269eec12576fd00331bd5/\\$FILE/Pakistan%20The%20Prisons%20Act%201894.pdf](https://www.icrc.org/ihl-nationalnsf/a24d1cf3344e99934125673e00508142/2b59eb02419269eec12576fd00331bd5/$FILE/Pakistan%20The%20Prisons%20Act%201894.pdf), date accessed 9 February 2016

<sup>3</sup> International Crisis Group: 'Reforming Pakistan's Prison System': Asia Report N°212 – 12 October 2011 [http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf), date accessed 9 February 2016

<sup>4</sup> Institute of Criminal Policy Research: World Prison Brief: Pakistan, undated: Information attributed to the Law and Justice Commission of Pakistan <http://www.prisonstudies.org/country/pakistan> date accessed 8 February 2015

<sup>5</sup> Institute of Criminal Policy Research: World Prison Brief: Pakistan, undated: <http://www.prisonstudies.org/country/pakistan> date accessed 8 February 2015

<sup>6</sup> Human Rights Commission of Pakistan: Annual Report 2014 ('State of Human Rights in 2014'), March 2015 <http://hrcp-web.org/hrcpweb/data/ar14c/2-2%20jails%20and%20prisoners%20-%202014.pdf>, (see table on page 89), date accessed 12 February 2016

access to sunlight for most of the day leads to health concerns like skin diseases and a deterioration of the general hygiene level.’<sup>7</sup>

5.2.3 The US State Department 2015 Country Report on Human Rights Practices (USSD 2015 Report), published 14 April 2016, noted:

‘In the criminal justice system, sentencing alternatives come in the form of bail during pretrial, fines and probation during sentencing, and parole post sentencing. While the courts regularly used fines and bail as an alternative to sentencing nonviolent offenders, courts did not extend probation and parole as readily. There are departments to deal with probationers and parolees, [various] organizations noted these departments were understaffed, underfunded, and lacked material resources.’<sup>8</sup>

5.2.4 The Human Rights Commission of Pakistan (HRCP) stated in its 2015 Annual Report, published in March 2016, that with regard to overcrowding:

‘Most prisons in the country housed more prisoners than they had been built for and some even housed prisoners in excess of twice their capacity ... Overcrowding also did not allow for the separation of prisoners according to the status of their cases .. The separation of various categories of inmates was an issue of fundamental importance that the prison system in Pakistan continued to grapple with. The overcrowding of jails did not allow for the separation of under-trial and convicted prisoners; only male juveniles were separated from adult prisoners. Female juvenile prisoners shared space with adult female prisoners and the convicted prisoners and those awaiting trial were detained together...

‘The country’s first high-security prison was constructed [in 2015 in the province of Punjab].’<sup>9</sup>

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### 5.3 General conditions in prisons and detention centres

5.3.1 The USSD 2014 Report and the USSD 2015 Report stated that ‘Conditions in some prisons and detention centers were harsh and life threatening. Problems such as overcrowding and inadequate medical care were widespread.’<sup>10</sup> According to the reports:

‘SHARP [Society for Human Rights and Prisoners’ Aid, an NGO] reported 46 deaths in jails [in 2014], compared with 69 in 2013. Five of the deaths

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<sup>7</sup> Human Rights Commission of Pakistan: Annual Report 2014 (‘State of Human Rights in 2014’), March 2015 <http://hrcp-web.org/hrpweb/data/ar14c/2-2%20jails%20and%20prisoners%20-%202014.pdf>, page 89, date accessed 12 February 2016

<sup>8</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

<sup>9</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, pages 1, 3 and 4, date accessed 30 March 2016

<sup>10</sup> U.S. Department of State, Country Report on Human Rights Practices for 2014: Pakistan, 26 June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236648>, section 1c; Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016



occurred during pretrial detention. Police stated these deaths occurred when suspects attempted to escape, resisted arrest, or committed suicide.’<sup>11</sup> [CPIT note: It was not stated how many of the 46 deaths were from natural causes. See also paragraph 5.3.6 below].

‘SHARP reported 21 deaths in jails during 2015...’<sup>12</sup>

#### 5.3.2 According to the USSD 2015 Report:

‘Inadequate food and medical care in prisons led to chronic health problems and malnutrition for those unable to supplement their diets with help from family or friends. In many facilities sanitation, ventilation, lighting, and access to potable water were inadequate. Most prison facilities were antiquated and had no means to control indoor temperatures. A system existed for basic and emergency medical care, but bureaucratic procedures slowed access.

‘Prisoners with mental illness usually lacked adequate care, and authorities did not separate them from the general prison population.’<sup>13</sup>

#### 5.3.3 Regarding conditions in detention centres, the USSD 2014 Report observed ‘According to SHARP the government did little to improve conditions in detention facilities and failed to monitor existing conditions... Some police and security forces reportedly held prisoners incommunicado and refused to disclose their location.’<sup>14</sup>

#### 5.3.4 According to the HRCP 2014 Annual Report, ‘The condition of prisoners in Pakistan remained dismal. Chronic issues such as overcrowding, lack of proper healthcare system, inferior quality food, corruption and rampant torture continued in the year under review.’<sup>15</sup> The HRCP stated in its 2015 Annual Report, published in March 2016 that, ‘The harsh conditions of detention in Pakistani prisons remained unchanged in 2015 and a failure to consider alternatives to custodial detention remained the biggest challenges.’<sup>16</sup>

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<sup>11</sup> U.S. Department of State, Country Report on Human Rights Practices for 2014: Pakistan, 26 June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236648>, section 1c; Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

<sup>12</sup> U.S. Department of State, Country Report on Human Rights Practices for 2014: Pakistan, 26 June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236648>, section 1c, date accessed 11 May 2016

<sup>13</sup> U.S. Department of State, Country Report on Human Rights Practices for 2014: Pakistan, 26 June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236648>, section 1c, date accessed 11 May 2016

<sup>14</sup> U.S. Department of State, Country Report on Human Rights Practices for 2014: Pakistan, 26 June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236648>, sections 1b and 1c, date accessed 5 February 2016

<sup>15</sup> Human Rights Commission of Pakistan: Annual Report 2014 (‘State of Human Rights in 2014’), March 2015 <http://hrcp-web.org/hrcpweb/data/ar14c/2-2%20jails%20and%20prisoners%20-%202014.pdf>, page 88, date accessed 12 February 2016

<sup>16</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, page 1, date accessed 30 March 2016

5.3.5 According to Justice Project Pakistan, a human rights law practice, which provides legal and investigative services to “vulnerable” prisoners in the Pakistani justice system:

‘Pakistan death row cells, often measuring 8ft x 12ft, were originally designed to hold one or two prisoners but now typically hold more than six condemned inmates each. Extreme overcrowding sometimes causes nine or more prisoners to be held in each small cell. Prisoners are confined to these small cells for up to 23 hours per day. They suffer from inadequate nutrition, sanitation and lack of exercise. The stress of such degrading living conditions leads to frequent outbursts of violence, sometimes resulting in death.’<sup>17</sup> Similarly the Hands Off Cain Pakistan profile reported that:

‘Prisoners in Pakistan, especially those on death row, live in cramped, overcrowded cells and often face abuse. In Punjab alone, at least 5,260 convicts are on death row in 30 jails. But there are only 812 death row cells to house them. The death row cells are usually small rooms that measure 9x12 feet, have attached toilets and are cordoned off by walls that are approximately three feet high. On occasions, as many as 12 inmates have to crowd into one cell, charge rights groups. A survey by the Law and Justice Commission of Pakistan, an advisory body to the government, says three to six prisoners are usually kept in a single death cell.’<sup>18</sup>

5.3.6 The Human Rights Commission of Pakistan (HRCP) stated in their 2015 Annual Report ‘According to media monitoring by HRCP, 65 persons died in the country’s prisons during 2015. Various diseases [perhaps this means illnesses] caused the deaths [of] 46 of these prisoners, while four had died because of torture by prisons staff and one succumbed to beating by fellow inmates.’<sup>19</sup>

5.3.7 The HRCP noted that, despite some improvements in the menus in prisons, ‘numerous food-related problems persisted’. The Technical Education and Vocational Training Authority announced in December 2015 that loans of between 10,000 and 100,000 rupees would be made to prisoners upon the completion of their technical training in jails, so as to enable them to ‘rejoin society as productive citizens.’<sup>20</sup>

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<sup>17</sup> Justice Project Pakistan, The Death Row Phenomenon, undated, <http://www.jpp.org.pk/-the-death-row-phenomenon.html>, date accessed 11 May 2016

<sup>18</sup> Hands Off Cain, Pakistan, undated (regularly updated) <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=8&nome=pakistan>, date accessed 28 April 2016

<sup>19</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, page 4, date accessed 30 March 2016

<sup>20</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, page 4, date accessed 30 March 2016

## 5.4 Custodial torture

### 5.4.1 The Human Rights Commission of Pakistan (HRCP) noted in their 2014 Annual Report:

‘According to the penal code, any piece of evidence acquired through torture cannot be used in a court of law. However, custodial torture remained rampant in jails and police stations across Pakistan.

‘There were reports of the prison officials demanding heavy bribes from the prisoners in order to escort them to court for a hearing. Those who could not pay or refused to do so were severely tortured.

‘As per law, it is the obligation of the state to carry out a medical examination of an accused before and after the physical remand at a judicial lockup in a police station. On the basis of the second report, the court decides whether the evidence is admissible or not depending on whether it was acquired through torture. However, medico-legal reports are rarely accurate and the police officials are known to influence their findings. Medical officers sometimes sign the report without having examined the accused.’<sup>21</sup>

### 5.4.2 The HRCP 2015 Annual Report stated that ‘Custodial torture remained one of the gravest and most pressing human rights issues in Pakistan.’ In January 2015 the Senate Standing Committee on Interior unanimously adopted a draft anti-torture bill and referred it to the Senate; as of the end of the year the bill was pending in the National Assembly. The bill prescribed sentences of life imprisonment and a fine for custodial death or custodial rape and a minimum sentence of 5 years imprisonment and a fine for torture; one of its shortfalls was to require the investigation body to seek instruction from the federal government upon receiving a complaint directed against the military or intelligence agencies.<sup>22</sup>

### 5.4.3 The HRCP 2014 report documented at least 3 deaths as a result of custodial torture.<sup>23</sup> The HRCP 2015 report noted the deaths of 4 prisoners in 2015, allegedly due to torture by prison staff.<sup>24</sup>

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<sup>21</sup> Human Rights Commission of Pakistan: Annual Report 2014 (‘State of Human Rights in 2014’), March 2015, <http://hrcp-web.org/hrcpweb/data/ar14c/2-2%20jails%20and%20prisoners%20-%202014.pdf>, pages 93-95, date accessed 12 February 2016

<sup>22</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, page 5, date accessed 30 March 2016

<sup>23</sup> Human Rights Commission of Pakistan: Annual Report 2014 (‘State of Human Rights in 2014’), March 2015, <http://hrcp-web.org/hrcpweb/data/ar14c/2-2%20jails%20and%20prisoners%20-%202014.pdf>, pages 94, date accessed 12 February 2016

<sup>24</sup> Human Rights Commission of Pakistan: Annual Report 2015 (‘State of Human Rights in 2015’), March 2016, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2016/04/Jails-and-Prisoners.pdf>, page 4, date accessed 30 March 2016

## 5.5 Women and children

- 5.5.1 In 2015 there were estimated to be 1,650 female prisoners in Pakistan, representing 2.1 percent of the total prison population. As of December 2012, juveniles (minors) accounted for about 1.7 per cent of the prison population.<sup>25</sup>
- 5.5.2 The USSD 2015 Report noted that 'Authorities held women separately from men in some, but not all, prisons. Balochistan has no women's prison; officials claimed that they housed women in separate barracks in Quetta and Lasbela district prisons.'<sup>26</sup>
- 5.5.3 The Human Rights Commission of Pakistan (HRCP) stated in their 2014 Annual Report:  
  
'According to a United Nations Office on Drugs and Crime (UNODC) report, 800 or so female prisoners in Pakistani jails were facing harassment, insanitary conditions and lack of proper healthcare. It is widely believed that a majority of the female prisoners experience sexual harassment and sexual violence at the hands of jail wardens. During prison surveys, UNODC found prevalence of suicidal depression, sleep disorders and other mental illnesses among female prisoners. No gynaecologist was available on call to attend to female prisoners in Punjab.  
  
'In a survey of selected prisons in Pakistan in 2013-14, HRCP found that... no jail had a full-time female doctor. All serious health issues faced by female prisoners were referred to the local hospital.'<sup>27</sup>
- 5.5.4 Juvenile prisoners fall under the ambit of the Juvenile Justice System Ordinance of 2000 and subordinate rules, that apply to all four provinces but not to the Federally Administered Tribal Areas.<sup>28</sup> The USSD 2015 Report noted that:  
  
'SPARC described conditions for juvenile prisoners as among the worst in the country. Many spent long periods behind bars because they could not afford bail. Rather than being rehabilitated, child prisoners often became hardened criminals by spending long periods in the company of adult prisoners. The Juvenile Justice System Ordinance, which outlines the treatment of juveniles in the justice system, did not extend its protections to juveniles accused of terrorism or narcotics offenses. SPARC reported that in the past, officials arrested children as young as age 12 on charges of terrorism under the Antiterrorism Act. Children convicted under the act could be sentenced to death. There were numerous cases of individuals on death row having been convicted of crimes allegedly committed, and/or tried for,

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<sup>25</sup> Institute of Criminal Policy Research: World Prison Brief: Pakistan, undated <http://www.prisonstudies.org/country/pakistan> date accessed 8 February 2015

<sup>26</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dclid=252973>, section 1c, date accessed 11 May 2016

<sup>27</sup> Human Rights Commission of Pakistan: Annual Report 2014 ('State of Human Rights in 2014'), published March 2015 (pages 85-95) <http://hrcp-web.org/hrpweb/annual-report-2014/>, date accessed 12 February 2016

<sup>28</sup> International Crisis Group: 'Reforming Pakistan's Prison System': Asia Report N°212 – 12 October 2011, page 17 [http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf) date accessed 9 February 2016

while under the age of 18. Lack of documentation continued to be a challenge for verifying questions of legal age, as in the case of Shafqat Hussain who claimed to be 14 when he committed the crime for which he was convicted. SHARP reported that while they had no official reports of current juvenile inmates on death row, they could not rule out the possibility. Different courts made different decisions as to what was “adequate” proof of age.’<sup>29</sup>

5.5.5 Amnesty International noted that it received reports that in 2015 at least five people in Pakistan were executed for crimes committed when they were under 18 years of age.<sup>30</sup>

5.5.6 The USSD 2015 Report recorded that authorities at local, provincial, and national levels permitted some human rights groups and journalists to monitor prison conditions of juveniles and female inmates.<sup>31</sup>

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## 5.6 Ethnic and religious minorities

5.6.1 The USSD 2015 Report stated:

‘Prisoners who were members of religious minorities generally received poorer facilities than Muslims and often suffered violence at the hands of fellow inmates. Representatives of Christian and Ahmadiyya Muslim communities claimed their members were often subjected to abuse in prison. The Center for Legal Aid and Assistance reported that prisoners accused of blasphemy violations were frequently subjected to poor prison conditions. NGOs reported that many individuals accused of blasphemy remained in solitary confinement for extended periods of time, sometimes for more than a year. The government asserted that this treatment was for the individual’s safety.’ The same report noted that ‘The constitution mandates that religious minority prisoners be given places to worship inside jails. It was unclear whether authorities implemented this provision.’<sup>32</sup>

5.6.2 The International Commission of Jurists reported in a November 2015 report that:

‘Overcrowded prisons, torture and other ill-treatment, and inadequate health and hygiene facilities generally plague detention and prison facilities for all crimes. The predicament of individuals accused of blasphemy, who are detained pending trial or appeal or serving sentences for blasphemy, is compounded by the security and safety risks they face as the offence with

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<sup>29</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

<sup>30</sup> Amnesty International, Death sentences and executions in 2015, 6 April 2016 (The use of the death penalty in 2015), <https://www.amnesty.org/download/Documents/ACT5034872016ENGLISH.PDF>, page 8, date accessed 28 April 2016

<sup>31</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

<sup>32</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

which the[y] are accused or have been convicted also makes them also vulnerable to attacks. ... In September 2014, Muhammad Asghar, a 70-year old man convicted for blasphemy was shot in a jail in Islamabad, reportedly by a police constable. He was seriously injured, but survived the attack. ... Ostensibly as a measure to protect those awaiting trial on blasphemy charges and those serving sentences following conviction for blasphemy, individuals have been held in cells separate from other detainees. Usually, the block of cells in which they are held (referred to as “high security barracks”) is at a distance from other prison cells, and they are barred from speaking or interacting with other detainees. In many cases, they also have been prohibited from leaving their cells for exercise or fresh air, recreation or exercise.<sup>33</sup>

- 5.6.3 The International Rehabilitation Council for Torture Victims noted in September 2014 report that ‘Minorities who are frequently falsely implicated under the blasphemy law are detained and tortured. Marginalised groups are the most affected.’<sup>34</sup>
- 5.6.4 The International Crisis Group reported in 2011 that ‘Prisoners from minority communities, particularly Christians and Ahmadis, are generally afforded poorer facilities, are often violently attacked by Muslim inmates and can also be subjected to brutal treatment by prison staff.’<sup>35</sup>

For further information on the general situation for religious minorities and as regard the blasphemy laws, see the [Country Information and Guidance Pakistan: Ahmadis, Christians and Christian converts, and Shia Muslims](#).

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## 5.7 Government oversight and independent monitoring

### 5.7.1 The USSD 2015 Report noted:

‘There is an ombudsman for detainees, with a central office in Islamabad as well as offices in each province. Inspectors general of prisons irregularly visited prisons and detention facilities to monitor conditions and handle complaints.

‘International organizations responsible for monitoring prisons reported difficulty accessing detention sites, in particular those holding security-related detainees. Authorities did not allow international organizations access to detention centers most affected by violence in KP [Khyber Pakhtunkhwa], FATA [Federally Administered Tribal Areas], and Balochistan. Provincial governments in Sindh, Gilgit-Baltistan, and Pakistan-administered Kashmir, however, permitted some international organizations

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<sup>33</sup> International Commission of Jurists (ICJ), On Trial: The Implementation of Pakistan's Blasphemy Laws, November 2015, <http://www.refworld.org/docid/565da4824.html>, page 53, date accessed 28 April 2016

<sup>34</sup> International Rehabilitation Council for Torture Victims, Torture in Pakistan, September 2014 <http://www.irtct.org/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fpublications%2fCountry+factsheets%2fCF+Pakistan+-+PUBLIC+EDIT+pdf.pdf>, date accessed 28 April 2016

<sup>35</sup> International Crisis Group: ‘Reforming Pakistan’s Prison System’: Asia Report N°212 – 12 October 2011, <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf>, pages 14-15, date accessed 9 February 2016

to monitor civil prisons. Leaders of these organizations noted that space for them to operate was becoming more restricted each year.

'By law prison authorities must permit prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. According to SHARP, however, prisoners often refrained from submitting complaints to avoid confrontation...' <sup>36</sup>

5.7.2 According to the International Crisis Group report of 2011:

'Prisoners very seldom raise issues of abuse, fearing that the prison authorities would punish them physically. Moreover, they are fearful of being separated from their families and friends, often their only support network in prison. For instance, the provincial government and the inspector general can order the transfer of prisoners from one prison to another within the province without providing any justification; prisoners have no legal recourse against such arbitrary transfers.' <sup>37</sup>

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## 6. The death penalty

### 6.1 Offences punishable by the death penalty

#### 6.1.1 The Human Rights Commission of Pakistan has listed criminal offences that are punishable by the death penalty in Pakistan (including offences specified in the 'Hudood Ordinances' and in military law):

'Murder – Section 301 of Pakistan Penal Code (PPC)

Aggravated murder – Sec 302 of Pakistan Penal Code (PPC)

Robbery resulting in death – Sec 396 of PPC

Bearing false witness intending or knowing the accused may be convicted of a capital offence, if an innocent person is convicted and executed as a result – Sec 194 of PPC

Acts to strike terror or create a sense of fear and insecurity...resulting in death

Hara'abah [Islamic law - robbery in which a person was murdered] – Sec 15 of the Offences Against Property (Enforcement of Hudood) Ordinance, 1979

A 'scheduled offence' likely to create terror or disrupt sectarian harmony – Sec 7 of the Anti-Terrorism Act, 1997

Hijacking – Sec 402-B, C of PPC

Sabotage of the railway system – Sec 127 of the Railways (Amended) Act, 1995

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<sup>36</sup> U.S. Department of State, Country Report on Human Rights Practices for 2015: Pakistan, 14 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252973>, section 1c, date accessed 11 May 2016

<sup>37</sup> International Crisis Group: 'Reforming Pakistan's Prison System': Asia Report N°212 – 12 October 2011, <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf>, page 15, date accessed 9 February 2016

Rape – Sec 6 of the Offence of Zina Ordinance (Enforcement of Hudood), 1979

Gang rape – Sec 10(4) of the Offence of Zina Ordinance (Enforcement of Hudood), 1979

Stripping a woman's clothes – Sec 354-A of PPC

Abduction to subject someone to 'unnatural lust' – Sec 12 of the Offence of Zina Ordinance (Enforcement of Hudood), 1979

Kidnapping or abduction of minor – Sec 364-A of PPC

Kidnapping for ransom or extortion – Sec 365-A of PPC

Importing, exporting into and from Pakistan dangerous drugs – Sec 13 of the Dangerous Drugs Act, 1930

Importing, exporting inter-provincially or manufacturing drugs – Sec 14 of the Dangerous Drugs Act, 1930

Drug smuggling – Sec 9 of the Control of Narcotics Substances Act, 1997

Adultery – Sec 5 of the Offence of Zina Ordinance (Enforcement of Hudood), 1979

High treason – Sec 2 of the High Treason Act, 1973

Waging or abetting war against Pakistan – Sec 121 of PPC

Mutiny and subordination – Sec 31 of the Pakistan Army Act, 1952

Abetment of mutiny – Sec 132 of PPC

Giving up military passwords, intentionally using unassigned military passwords – Sec 26 of the Pakistan Army Act

Offences in relation to enemy, treachery, mutiny, and cowardice – Sec 24 of the Pakistan Army Act, 1952

Arms trading – Sec 13-A(1) of the Pakistan Arms (Amendment) Ordinance, 1996

Blasphemy – 295-C of PPC.'<sup>38</sup>

- 6.1.2 According to the Cornell University 'Death Penalty Worldwide' database, 'Certain crimes...are tried in Shari'at (Islamic law) courts, which can allow for double jeopardy when a defendant is tried for a secular and a religious offense on the same basic facts.'<sup>39</sup>

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## 6.2 Implementation of the death penalty

- 6.2.1 The government announced an end to an unofficial six-year moratorium on judicial executions in December 2014.<sup>40</sup> Amnesty International noted that

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<sup>38</sup> Human Rights Commission of Pakistan: 'Death penalty offences', undated, <http://hrcp-web.org/hrpweb/death-penalty-offences/> date accessed 8 February 2016

<sup>39</sup> Cornell University Law School: Death Penalty Worldwide database: Pakistan, updated 4 April 2011 <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Pakistan> date accessed 5 February 2016

<sup>40</sup> Human Rights Watch: 'Pakistan: Halt Executions', 16 December 2015,



'More than 320 people were executed in Pakistan in 2015. This was the highest number of executions that Amnesty International ever recorded for Pakistan in one year...'. It also reported that people with mental or intellectual disabilities were executed or under sentence of death in Pakistan.<sup>41</sup> The website of Human Rights Commission of Pakistan put the figure at 389 as of 28 April 2016, of which 56 were in 2016.<sup>42</sup> The AI report added: 'Many death sentences are handed down after trials that do not meet international fair trial standards. These trials are characterised by prisoners not receiving adequate legal counsel and by the acceptance of evidence inadmissible under international law, such as evidence obtained as a result of torture.'<sup>43</sup> As of December 2014 there were estimated to be more than 8,200 prisoners under sentence of death (on death row) in the country, of which 6,770 were in Punjab jails.<sup>44</sup> The HRCP reported that 231 people were sentenced to death in 2014, 105 of them for murder.<sup>45</sup> According to Amnesty International, 'At least 121 new death sentences were imposed during the year [2015], including 64 for murder and 49 for acts of "terrorism". Two people who were below 18 years old when the murders were committed were also among those sentenced to death in 2015. At least 7,000 people were under sentence of death in Pakistan at the end of the year [2015].'<sup>46</sup>

6.2.2 According to a Death Penalty Worldwide webpage updated in April 2011, hanging is the only method of execution employed in Pakistan, although certain other methods of execution (such as stoning) may be legally permissible.<sup>47</sup> An Amnesty International report of April 2015 confirmed that no reports of judicial executions by stoning had been received in 2014, or in previous years.<sup>48</sup>

6.2.3 The following information is also from the Death Penalty Worldwide database:

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<http://www.refworld.org/docid/5672b98b4.html>, date accessed 12 February 2016

<sup>41</sup> Amnesty International, Death sentences and executions in 2015, 6 April 2016 (The use of the death penalty in 2015), <https://www.amnesty.org/download/Documents/ACT5034872016ENGLISH.PDF>, pages 6-8, date accessed 28 April 2016

<sup>42</sup> Human Rights Commission of Pakistan, <http://hrcp-web.org/hrpweb/>; Human Rights Commission of Pakistan, Executions in 2016, <http://hrcp-web.org/hrpweb/executions-in-2016/>, date accessed 28 April 2016.

<sup>43</sup> Amnesty International, 'Pakistan to hit shameful milestone of 300 executions in less than a year', 24 November 2015, <http://www.refworld.org/docid/5656ac294.html>, date accessed 12 February 2016

<sup>44</sup> The Express Tribune (International New York Times): '8,261 prisoners: Hanging in the balance', 18 December 2014 <http://tribune.com.pk/story/808727/6261-prisoners-hanging-in-the-balance/> date accessed 12 February 2016

<sup>45</sup> Human Rights Commission of Pakistan: Annual Report 2014 ('State of Human Rights in 2014'), published March 2015, <http://hrcp-web.org/hrpweb/annual-report-2014/>, page 97, date accessed 12 February 2016

<sup>46</sup> Amnesty International, Death sentences and executions in 2015, 6 April 2016 (Country Developments), <https://www.amnesty.org/download/Documents/ACT5034872016ENGLISH.PDF>, page 38, date accessed 28 April 2016

<sup>47</sup> Cornell University Law School: Death Penalty Worldwide database: Pakistan, updated 4 April 2011 <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Pakistan> date accessed 5 February 2016

<sup>48</sup> Amnesty International: Death Sentences and Executions in 2014 [ACT 50/001/2015], 31 March 2015, page 7 [https://www.amnesty.org.uk/sites/default/files/death\\_sentences\\_and\\_executions\\_2014\\_en.pdf](https://www.amnesty.org.uk/sites/default/files/death_sentences_and_executions_2014_en.pdf) date accessed 12 February 2016

'Capital cases may be tried before a variety of courts, including Special Courts for offenses such as drug trafficking or terrorist offenses. Normally, a capital sentence must be approved by the High Court. Defendants may appeal from the High Court to the Supreme Court primarily if the Supreme Court approves the appeal to address questions of fact or law ... For cases falling under Hudood, appeal from the sentencing court may be to the Federal Shari'at Court (which functions like a High Court) ... [D]ecisions of the Federal Shari'at Court are appealed to the Shari'at bench of the Supreme Court...'

'The President has full constitutional power to pardon, commute or stay a sentence of any tribunal or authority. Under the Penal Code and the Criminal Procedure Code the President or a Provincial Government may commute a sentence of death. The offender's permission is not required, but it is apparent that an offender or interested party can submit a plea for clemency. In addition to the President's power, the family members of murder victims can choose to pardon the offender through a reconciliation process that can, but need not, involve payment of a settlement.'<sup>49</sup>

- 6.2.4 With reference to prisoners on death row, the International Crisis Group reported in 2011 that 'Because of lengthy delays in the dispensation of justice, condemned prisoners often remain in death row cells for years – some for over a decade – as their appeals “make their painstaking way through Pakistan's labyrinthine judicial system”. The conditions under which they are imprisoned are even worse than for other detainees.'<sup>50</sup>
- 6.2.5 The NGO Reprieve stated on its website in March 2015 that, although the execution of juvenile offenders is prohibited under Pakistan law, 'Justice Project Pakistan and Reprieve conducted a study of 30 prisoners close to execution and discovered that 10% were arrested and sentenced to death while still children.'<sup>51</sup> In October 2015 a group of United Nations human rights experts repeated their appeal to the Pakistan government to reinstate a moratorium on the death penalty and to investigate cases where unreliable age determination processes may have resulted in children being sentenced to death. The UN experts' call followed the death by hanging of Ansar Iqbal, who was 15 years old when arrested and condemned to death.<sup>52</sup> According to the Child Rights International Network reporting in October 2015 'At least four child offenders have been executed since Pakistan lifted its unofficial moratorium in March 2015.'<sup>53</sup>

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<sup>49</sup> Cornell University Law School: Death Penalty Worldwide database: Pakistan, updated 4 April 2011 <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Pakistan> date accessed 5 February 2016

<sup>50</sup> International Crisis Group: 'Reforming Pakistan's Prison System': Asia Report N°212 – 12 October 2011, page 20, <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf>, date accessed 9 February 2016

<sup>51</sup> Reprieve: 'An estimated 800 facing hanging in Pakistan were sentenced to death as children', 18 March 2015 <http://www.reprieve.org.uk/press/an-estimated-800-facing-hanging-in-pakistan-were-sentenced-to-death-as-children/>, date accessed 12 February 2016

<sup>52</sup> UN News Service, 'Independent UN rights experts renew appeal to Pakistan to end death penalty', 2 October 2015, <http://www.refworld.org/docid/5612264140a.html>, date accessed 12 February 2016

<sup>53</sup> Child Rights International Network, Inhuman sentencing of children in Pakistan, 20 October 2015 [https://www.crin.org/sites/default/files/inhuman\\_sentencing\\_children\\_pakistan\\_2015.pdf](https://www.crin.org/sites/default/files/inhuman_sentencing_children_pakistan_2015.pdf), date

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# Version Control and Contacts

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

## Clearance

Below is information on when this version of the guidance was cleared:

- Version **2.0**
- valid from **9 June 2016**
- this version approved by **Sally Weston, Head of Legal Strategy Team, International and Immigration Policy Directorate**
- approved on **8 June 2016**

## Changes from last version of this guidance

Updated country information and guidance.

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